Education

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EXECUTIVE SUMMARY

Education is the cornerstone issue that must be sound if we are to solve the other problems facing our country. Education is critical to our economic well-being and the future success and happiness of our children. It is commonly accepted that every American deserves the opportunity to receive a quality education. We are living in a world of rapid change and increasing global economic competition. As a nation, we are slipping further and further behind in our ability to compete in the global marketplace. Years of little accountability within America's public school system have left students largely unprepared to compete in today's global economy. The real problem lies in the opposition to reform and competition from Democrats and the entrenched special interests in the education sector.

In the United States, education has historically been and should primarily remain a state and local responsibility. Of the hundreds of billions of dollars being spent nationwide on education at all levels annually, about 90 percent comes from state, local and private sources. That means that the federal contribution to national education expenditures is about nine to 10 percent.

Elementary and Secondary Education

While providing a small but increasing percentage of all K-12 education funding, the federal role has grown significantly over the last 45 years. To make matters worse, despite the near tripling of overall per pupil funding since 1965, national academic performances have not improved. Math and reading scores have largely gone flat, graduation rates have stagnated and researchers have found serious shortcomings with many federal education programs.

The Elementary and Secondary Education Act (ESEA) is the principal law governing K-12 education and authorized the Title I program which provides additional funds to states and school districts with high concentrations of poor students to assist in their education. Like other Great Society programs, the ESEA sought to alleviate the effects of poverty with a government spending program. For more than four decades since ESEA, Congress has continually sought to improve public education in America by increasing federal intervention in education by creating new federal programs and increasing federal spending on education to the tune of approximately $2 trillion since ESEA was enacted in 1965.

Congress passed No Child Left Behind (NCLB) in 2001, in an effort to incorporate standards-based accountability provisions into the underlying ESEA law. It included some valuable reform principles, such as reducing bureaucracy, promoting state flexibility and expanding parental choice in education. These valuable reforms, however, were either watered down or eliminated during the legislative process. The bill that emerged from Congress greatly expanded federal power in education while doing little to achieve President Bush's intended goals. It did maintain the very important philosophical element of holding both students and teachers accountable by measuring results so that schools, parents and the government can understand who is succeeding and who is not.

No one cares more about a child's education than his or her parents and that means no one is better equipped than parents to make educational decisions. Empowering parents is a key component in the fight to ensure our nation's children are receiving a quality education. Republicans have advocated that all parents – not just the wealthy – have an opportunity to make a real choice when it comes to their children's education. By expanding parental choice, we are encouraging competition to provide the highest quality education at all schools – public or private.

Perhaps the biggest question for supporters of school choice policies is the future of the D.C. Opportunity Scholarship Program (OSP). D.C. OSP is a "test case" federally funded program that enables poor students in the District of Columbia to attend private schools with scholarships of up to $7,500. Signed into law by then-President George W. Bush in 2003, the D.C. OSP was the first federally-funded, private school scholarship program in the country and has been unquestionably successful and immensely popular. Under the program the District receives funding to improve the public school system, funding to expand and enhance the city's successful charter school movement and funding to provide scholarships to low-income families who wish to send their children to private schools. While the Democrat-controlled 111th Congress and the Obama Administration effectively ended the program for new students by mandating in 2009, Republicans were able to move and enact legislation to fund the program through 2012. The debate over the future of the D.C. OSP is indicative of the broader struggle over the future of American education.

Higher Education

In 2009, the U.S. Department of Labor announced that, among other things, the price of education increased faster than the price of medical care over the last year. Additionally, the cost of tuition is increasing far faster than the rate of inflation and U.S. student loan debt, surging above $1 trillion, has surpassed credit card and auto-loan debt in the United States. While there are varying opinions of the role the federal government plays in assisting citizens in achieving higher education, the reality is that every year, billions of dollars of federal, state, institutional and private aid is made available to students. Despite (and some economists would argue, because of) the prevalence of aid, tuition costs have continued to go up.

Most federal student aid is given in the form of grants and loans – either directly to students or indirectly through campus-based grants and loans. In 2009, in conjunction with the Democrat's government takeover of health care, the Democrat-controlled 111th Congress and President Obama made what would be the most dramatic change to federal student loan programs in a decade. As part of the health care budget reconciliation bill, the Federal Family Education Loan (FFEL) program was eliminated and the "savings" from eliminating it was used to provide funding for Pell Grants, minority-serving institutions, health care and "deficit reduction." Under the FFEL program, loan capital was provided by private lenders and the federal government guaranteed lenders against loss through borrower default, etc. In a nutshell, eliminating the FFEL program made the federal government the provider of all student loans, cutting out the role of private companies as middlemen in the loan-making process.

In addition to the government takeover of the student loan industry, which wiped out jobs in the private lending industry, is yet another job-killing item of the Democrats' partisan agenda. It is even more troubling that they would pass such a significant and divisive piece of legislation with a health care overhaul, without the chance for its own debate or a straight up-or-down vote. In times of trillion dollar deficits, we simply cannot continue creating additional federal subsidies or enacting temporary solutions that kick the can down the road.

EDUCATION IN AMERICA

It is commonly accepted that every American deserves the opportunity to receive a quality education. However, education is at a crisis in our country. It was 1983 when, "A Nation at Risk" was published by then-President Ronald Reagan's National Commission on Excellence in Education. That report laid out a case that our public education system was failing by explaining that American students were at risk of falling behind students from around the world, thus imperiling our national security and future prosperity. And yet, 28 years later, little has been done to address the underlying problems causing this failure. Every year, thousands of students enroll in our schools that we know will drop out, that will not be properly educated and whose lives will be ruined as a result.

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"All, regardless of race or class or economic status, are entitled to a fair chance and to the tools for developing their individual powers of mind and spirit to the utmost. This promise means that all children by virtue of their own efforts, competently guided, can hope to attain the mature and informed judgment needed to secure gainful employment, and to manage their own lives, thereby serving not only their own interests but also the progress of society itself."

~ President Ronald Reagan, A Nation at Risk report, 1983

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Competing in a Global Economy

We are living in a world of rapid change and increasing global economic competition. As a nation, we are slipping further and further behind in our ability to compete in the global marketplace. Years of little accountability within America's public school system have left students largely unprepared to compete in today's global economy. No matter how much money that local, state and federal governments designate for education, many children in the United States are seemingly unable to improve their test scores on performance exams. This proves that education is not a problem at which we can just throw money. High standards, accountability for results, local control, transparency and parental choice are essential to achieve that aim.

In this time of geopolitical and economic challenges, we know that we must take action now to ensure the next generation of American workers is equipped to compete in an ever-expanding global marketplace. Our students must increase their proficiency in the fields upon which the economy of the future is being built: science, technology, engineering and mathematics.

Obstruction to Reform

The real problem lies in the opposition to reform and competition from Democrats and the entrenched special interests in the education sector. Teacher labor unions furiously oppose meaningful reforms that could increase competition, including the expansion of school-choice options for parents and the increase of teacher accountability.

Failing to prepare tomorrow's leaders with a quality education is a threat to our country's global standing, making education not only a social issue but an economic and national security issue as well.

The Role of the Federal Government

In the United States, education has historically been and should primarily remain a state and local responsibility. In fact, the United States Constitution neither touches on the subject nor does it give Congress any specific authority over public education. Therefore, under the 10th Amendment, that authority is constitutionally reserved to the states. The Founding Fathers thought it best to keep education in state and community hands, even though they prized it highly.

Early American schools were organized at the community level and placed under the direction of popularly elected school boards. It is states and communities, as well as public and private organizations of all kinds, that to this day establish schools and colleges, develop curricula and determine requirements for enrollment and graduation.

Due to a combination of factors, however, from constituent request to simple government intervention, the federal government has become increasingly involved in funding and regulating American public schools since the 1960s. Today, it is expected by many that the federal government should be involved and provide funding towards education.

Interestingly, of the hundreds of billions of dollars being spent nationwide on education at all levels annually, about 90 percent comes from state, local and private sources. That means the federal contribution to national education expenditures is about nine to 10 percent. This funding comes not only from the Department of Education, but also from other federal agencies such as the Department of Health and Human Services' (HHS) Head Start program and the Department of Agriculture's (USDA) School Lunch program. Subtract these other dollars and the Department of Education is left with less than eight percent of total education spending.

The U.S. Department of Education currently operates more than 150 programs which totaled more than $63.1 billion in fiscal year (FY) 2010. Three of the Department's programs – Title I, special education state grants and Pell Grants – make up more than 76 percent of its budget. The Department's budget is expected to dramatically grow in the coming years as it assumes control over student loans administered by private banks and more students qualify for student assistance under the Pell Grant program.

ELEMENTARY AND SECONDARY EDUCATION

Federal Role

The federal government has an active role in most facets of public education. While providing a small, but increasing, percentage of all K-12 education funding, the federal role has grown significantly over the last 45 years with the passage of the Elementary and Secondary Education Act (ESEA) in 1965, the Individuals with Disabilities Education Act (IDEA) in 1975 and the No Child Left Behind Act (NCLB) in 2001 (which was the last rewrite of ESEA).

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"It is all the more necessary under a system of free government that the people should be enlightened, that they should be correctly informed, than it is under an absolute government that they should be ignorant. Under a republic the institutions of learning, while bound by the constitution and laws, are in no way subservient to the government."

~ President Calvin Coolidge, Foundations of the Republic, Jan. 17, 1925

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As mentioned above in regard to education in America in general, it was not always the case that the federal government has such a hands-on role in elementary and secondary education. Prior to the 1950s, from time to time the federal government created programs to address national concerns that had arisen, but these were strictly temporary. As such, national education policy largely supported the concept that the control and operation of public schools were reserved to the individual states. The then-Office of Education focused on collecting information, including conducting research, on schools and teaching practices that would help states establish effective school systems.

With the launch of the Sputnik satellite in the late 1950s and the civil rights movement in the 1960s and 1970s, the federal government began to take a more active role in K-12 education. First, Congress created a host of new national initiatives and then expanded them through passage of the ESEA to promote its goal of improving educational opportunities for low-income and disadvantaged students. Unlike in the past where the funding went to a select few, every state and hundreds of school districts across the country received additional funding under this new law. But, by accepting federal funds for any aspect of the school, the school was then open to federal regulation on all fronts.

This was followed by the creation of several agencies, some outside of the purview of the Office of Education, focused on enforcing the myriad of federal laws. During this time, the U.S. Supreme Court began to increase its influence over education, taking a more activist role after the 1954 *Brown v. Board of Education of Topeka* decision, especially in the area of school desegregation, affirmative action and educational rights to students with disabilities. This new set of controls, regulations and judicial decisions, manifested by the creation of a cabinet-level U.S. Department of Education, extended a whole range of federal initiatives to schools transforming the federal role from support to compliance and enforcement.

While this expansion of federal education programs and regulations began to decline in the 1980s, the release of "A Nation at Risk," the call for national education standards and passage of Goals 2000 and NCLB dramatically expanded the reach and the goal of federal elementary and secondary education policy beyond that established in the 1960s. While states and local school districts continue to have autonomy over most of the decisions occurring at the school level, especially those involving what curriculum and instructional practices teachers use in the classroom, the growing federal share of K-12 funding and federal requirements are reducing state and local ownership of public education. To make matters worse, despite the near tripling of overall per pupil funding since 1965, national academic performances have not improved. Math and reading scores have largely gone flat, graduation rates have stagnated and researchers have found serious shortcomings with many federal education programs.

Below are selected federal elementary and secondary education programs under the Department of Education:

Editor's Note: *The program funding amounts are enacted FY 2012 federal appropriations amounts.*

Title I (Aid to the Disadvantaged): Created by the ESEA of 1965, the Title I program is the main federal program that provides grants to states and school districts to assist them in education disadvantaged and low-income students. Title I currently receives $14.52 billion.

Special education state grants: Created under the IDEA passed in 1975, the state grant program provides grants to states to help them pay the additional costs of providing special education and related services to children with disabilities aged three through 21 years. Special education state grants currently receive $11.6 billion.

Impact Aid: Created in 1950, the Impact Aid program provides funding to school districts to replace the lost revenue from the presence of federal property like military bases, Native American reservations, etc., that are exempt from local property taxes. Impact Aid currently receives $1.29 billion.

Improving Teacher Quality (ITQ): The ITQ program provides funding to state and school districts to improve teacher and principal quality and increase the number of highly qualified teachers in the classroom. The ITQ program currently receives $2.9 billion.

Teacher Incentive Fund (TIF): Created through the appropriations process, TIF awards competitive grants to states and school districts to implement performance pay systems. TIF currently receives $300 million.

Charter School Grants: Created in 1996, the Charter School Grants program provides funding to states to start and replicate high-quality charter schools. The Charter School Grants program currently receives $256 million.

21st Century Community Learning Centers: This program provides funding to states to create and/or administer after-school programs. The 21st Century Community Learning Centers currently receives $1.15 billion.

Rural Education: Created by the NCLB in 2002, the Rural Education Initiative provides funding to small and rural school districts to help them meet the requirements of the law. Rural Education currently receives $180 million.

Race to the Top: Created under the American Recovery and Reinvestment Act (ARRA), otherwise known as the 2009 economic stimulus package, the Race to the Top Fund is a competitive grant program that aims to reward those states that have created comprehensive reforms to their education systems. Race to the Top currently receives $550 million.

Elementary and Secondary Education Act of 1965 (ESEA): As previously mentioned in this chapter, the ESEA is the principal federal law governing K-12 education. Signed into law by then-President Lyndon B. Johnson in 1965, the law authorized the Title I program, which provides additional funds to states and school districts with high concentrations of poor students to assist in their education. ESEA also provided funding for more than 90 additional programs, including those to support reading initiatives, teacher and principal recruitment and retention efforts, afterschool programs, education technology grants, AP classes, civic education, American history and other programs geared toward increasing student academic achievement. Signing the 34-page law, President Johnson proudly stated, "No law I have signed or will ever sign means more to the future of America."

Like other Great Society programs, the ESEA sought to alleviate the effects of poverty with a government spending program. Then, as now, children from low-income and minority families generally did not do as well in school as their peers. On national tests such as the National Assessment of Educational Progress (NAEP), administered by the U.S. Department of Education, there are significant achievement gaps between African-American and white students and between low-income and higher-income students.

For more than four decades since ESEA, Congress has continually sought to improve public education in America by increasing federal intervention in education by creating new federal programs and increasing federal spending on education. According to the House Education and Workforce Committee, American taxpayers have spent approximately $2 trillion in federal funds on K-12 public education since the ESEA was enacted in 1965.

No Child Left Behind Act of 2001 (NCLB): In 2001, Congress passed the NCLB in an effort to incorporate standards-based accountability provisions into the underlying ESEA law based on the education reform efforts begun by then-President George W. Bush in Texas when he was governor. The Bush Administration's original blueprint for NCLB, the last rewrite to date of the ESEA, included some valuable reform principles, such as reducing bureaucracy, promoting state flexibility and expanding parental choice in education.

However, these valuable reform ideas were either watered down or eliminated during the legislative process on Capitol Hill in 2001. The bill that emerged from Congress greatly expanded federal power in education while doing little to achieve the president's goals. It did maintain the very important philosophical element of holding both students and teachers accountable by measuring results so that schools, parents and the government can understand who is succeeding and who is not. The program also instituted an unprecedented level of choice for parents to remove their children from underperforming or failing schools.

NCLB's implementation has been met with mixed reviews by Republicans and Democrats alike, and many local educators have been conditioned to demean the bill and assign blame for various problems in education to the passage of NCLB, whether that criticism is truly warranted or not, even though the bill originally passed with bipartisan support that was spearheaded by the late Senator Ted Kennedy (D-Mass.).

Democrats liked to claim, as they often do, that the law was "underfunded," but the reality is that inflation-adjusted Education Department elementary and secondary spending under President Bush grew to $37.9 billion from $28.3 billion. NCLB-specific funding rose by more than 40 percent between 2001 and 2008. The claim the bill was "underfunded" comes from the fact that Congress did not "appropriate" all the money that was "authorized" in the original NCLB legislation. This is actually a common practice in legislating, but the "underfunded" description of NCLB remained despite the increase in "real" federal dollars for education.

While the federal government provides only between nine and 10 percent of the funding for public education, NCLB gave Congress and the Department of Education new powers to set policies governing America's public schools. This increased power has resulted in unintended consequences and problems that need to be addressed in the reauthorization of NCLB.

As Congress considers reauthorization of the NCLB, a fundamental question in the debate is whether to continue to increase the federal government's management authority over education or to restore citizen ownership of America's schools.

Shifting greater policymaking authority back to the state level would protect academic transparency in American education. Parents, citizens and policymakers would continue to receive the information about students' and schools' performance through state testing.

Republicans want to focus on what's best for students, parents, teachers and communities. The Republican principles for the reauthorization of NCLB and ensuring student success in the 21st century are as follows:

- Help each child achieve his or her full and unique potential
- Give students the tools and knowledge to succeed in the 21st century
- Ensure America's educational system is the best in the world

Republicans will achieve these objectives by:

- **Restoring Local Control:** Academic standards, testing systems and curriculum should be set by states and local educators – without coercion from the federal government – to ensure those who know our children best are able to shape their education to excel in college and the workplace.
- **Empowering Parents:** Parents should have a greater role in selecting and participating in the learning environment that best serves their children's needs.
- **Letting Teachers Teach:** Onerous federal requirements should be removed to ensure our teachers and local schools have the freedom to operate and innovate as they think best.
- **Protecting Taxpayers:** Taxpayer dollars should be spent wisely, eliminating ineffective programs and making investments that help students achieve success on an increasingly competitive world stage.
- **School Choice:** Continuing to provide parents with choice between successful and underperforming or failing schools.

Individuals with Disabilities Education Act (IDEA): Along with the ESEA/NCLB, the IDEA is the other largest source of federal funding for elementary and secondary education. While both the ESEA/NCLB and IDEA aim to improve the educational outcomes for disadvantaged students, there is a difference in specifically which disadvantaged students target. The ESEA/NCLB provides funding and services, through its Title I program, for a broad population of students, including disadvantaged students, migrant students, neglected and delinquent students and students with limited English proficiency. Approximately six million students with disabilities ages six through 21 attend elementary and secondary schools. However, they are not afforded special services under the ESEA/NCLB due to their disability status. The IDEA provides funding and services specifically for those students with disabilities.

Since 1975, the IDEA has provided federal funding to states and school districts to assist in the provision of a free appropriate public education (FAPE) in the least restrictive environment (LRE) to students with disabilities. This law was a major milestone in the quest to end the chronic exclusion and mis-education of students with exceptional needs.

The IDEA is both a grants law and a civil rights law. As a grants law, IDEA provides federal funding for the education of children with disabilities and requires, as a condition for the receipt of this funding, the provision of a FAPE – specially designed instruction provided at no cost to parents that meets the needs of a disabled child. As a civil rights law, IDEA contains procedural safeguards intended to protect the rights of parents and disabled children.

IDEA has four parts:

Part A: This defines various terminology used throughout the law, including the definition of a "student with a disability" which is used throughout federal laws that grant special protections to disabled students.

Part B: This includes the main state grants program and contains provisions related to the education of preschool-and school-aged children with disabilities (ages three through 21), including requirements that each child must have an individualized education plan (IEP) that details the range of services to be provided and where a student's education is to take place. Part B also includes procedural safeguards and due process requirements, including how to discipline students with disabilities. Additionally, the funding formula to states is established here and it includes language in which the federal government has agreed to pay 40 percent of the excess cost of special education. Currently the federal government provides about 17 percent.

Part C: This part covers state programs for infants and toddlers.

Part D: Part D authorizes national activities such as professional development and research designed to improve the education of children with disabilities.

Congress last reauthorized the law in 2004. Currently, it is unclear what level of legislative activity is expected to occur during the 112th Congress regarding the IDEA. To date, the regulations governing the law were released in October 2006 and seem to be largely working. The law and its subsequent regulations aimed to improve special education by:

- **Making special education stronger for students and parents** by focusing on academic achievement through the development of the child's IEP, giving parents more control and new options regarding the educational decisions affecting their child and focusing on programs with proven results to enhance services provided to students.

- **Ensuring school safety and reasonable discipline** by simplifying the discipline provisions so that all students can be treated fairly and equitably. School officials can now ensure that all students in the classroom are safe, and the rules are clear for teachers, parents and students.

- **Reducing unnecessary lawsuits and litigation** by fostering better communication between parents and school district officials, focusing the complaint process on substantive matters and instituting a more effective monitoring and enforcement system to focus on results.

- **Supporting teachers and schools** by establishing clear standards for identifying highly qualified teachers, providing greater flexibility with federal funds to increase innovation at the local level and supporting better professional development and more effective research designed to help teachers and parents directly in the classroom.

Republican Position on the Federal Role in Elementary and Secondary Education: Republicans are committed to reevaluating the federal role in elementary and secondary education. Over the last four decades, our nation's federal education policies have demonstrated that massive amounts of federal funding and top-down interventions are not the way to create a high-quality K-12 education system in America. The federal government is too involved in matters that govern our nation's classrooms. State and local school districts should have the primary responsibility for public education.

Republicans aim to reduce the size and scope of the U.S. Department of Education, eliminate federal bureaucratic requirements and regulations to empower parents, teachers and school administrators who know best how to educate students and consolidate and eliminate ineffective and duplicative federal education programs to help balance the budget and get the federal deficit and debt under control.

<u>**School Choice**</u>

No one cares more about a child's education than his or her parents. And that means no one is better equipped than parents to make educational decisions. Empowering parents is a key component in the fight to ensure our nation's children are receiving a quality education.

Republicans have advocated that all parents – not just the wealthy – have an opportunity to make a real choice when it comes to their children's education. By expanding parental choice, we are encouraging competition to provide the highest quality education at all schools – public or private.

Republicans believe and will continue to promote new options for parents and ensure that all parents have the opportunity to choose what is best for their children's education.

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"But the debate unfolding on Capitol Hill isn't about facts. It's about politics and the stranglehold the teachers unions have on the Democratic Party. Why else has so much time and effort gone into trying to kill off what, in the grand scheme of government spending, is a tiny program? Why wouldn't Congress want to get the results of a carefully calibrated scientific study before pulling the plug on a program that has proved to be enormously popular? Could the real fear be that school vouchers might actually be shown to be effective in leveling the academic playing field?"

~ Editorial, *The Washington Post*, March 2, 2009

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D.C. Opportunity Scholarship Program: Perhaps the biggest question for supporters of school choice policies is the future of the D.C. Opportunity Scholarship Program (OSP). For years, blocking school choice and ending the D.C. OSP has been a priority for the teachers' unions and their advocates on Capitol Hill.

The D.C. OSP is a "test case" federally funded program that enables poor students in the District of Columbia to attend private schools with scholarships of up to $7,500. It has been unquestionably successful and immensely popular. Signed into law by then-President George W. Bush in 2003, the D.C. OSP was the first federally-funded, private school scholarship program in the country.

Despite ballooning education budgets and some of the highest amounts of tax dollars spent per student of any school district in the nation, D.C. public schools notoriously underperform. Beyond the low performance in the classroom, D.C. schools are often violent or dangerous. A federal government study found that 12 percent of D.C. students were threatened or injured by a weapon on school property during a recent school year - well above the national average. According to *The Washington Post*, Anacostia High School alone saw 61 violent offenses, including three sexual assaults and one instance of the use of a deadly weapon.

More than 3,000 low-income children have had their lives changed thanks to the D.C. OSP and are now experiencing the benefits of an effective education. Under the program the District receives funding to improve the public school system; funding to expand and enhance the city's successful charter school movement; and funding to provide scholarships to low-income families who wish to send their children to private schools. The three-sector approach is rooted in the belief that different families will choose different educational paths, but that all children deserve a quality education. These scholarships were offered to District students entering kindergarten through 12th grade whose family income was less than 185 percent of the federal poverty line. The program was so popular that a lottery system had to be implemented to randomly select recipients. Evaluation of the D.C. OSP showed "markedly improved important education outcomes for low-income inner-city students," yielding a 91 percent graduation rate for students who were offered and used their scholarships.

D.C. OSP Action in the 111th Congress: Despite the success of the D.C. OSP and widespread problems remaining in D.C. Public Schools, the Democrat-controlled 111th Congress effectively ended the program for new students by mandating in the FY 2009 Omnibus Appropriations bill that future funds could only be used for the OSP if both Congress and the DC government reauthorized the program. Then, in April 2009, U.S. Education Secretary Arne Duncan then rescinded scholarships promised to 216 new students who were set to begin participating in the program in the 2009 to 2010 school year. Despite strong support locally for the scholarships, many Democrats in Congress have continued to try to viciously undermine the program.

What is more troublesome is the hypocrisy of the issue: close to 40 percent of Members of Congress have at some point sent a child to private school. The President sends his children to private school and the Secretary of Education Arne Duncan bought a home in Virginia so his children would not have to attend D.C. public schools.

D.C. OSP Action in the 112th Congress: Republican leaders have continued their efforts to reauthorize these federally-funded vouchers for low-income parents in D.C. In the current 112th Congress, H.R. 471, the Scholarships for Opportunity and Results (SOAR) Act, was introduced in the House by Speaker John Boehner (R-Ohio). The SOAR Act would reauthorize the D.C. OSP as well as funding for the previously mentioned three-sector school reform approach. In addition to resuming the issuance of vouchers to new students that were previously rescinded, the SOAR Act would increase the $7,500 maximum award to $8,000 for students in kindergarten through eighth grade and to $12,000 for high school students.

On March 30, 2011, the House passed H.R. 471 by a vote of 225 to 195. You can see how they voted here.

The SOAR Act ended up not moving any further in the legislative process as a standalone bill, but it was included as a provision in H.R. 1473, the Department of Defense and Full-Year Continuing Appropriations Act of 2011, and included funding for the program through 2012.

Editor's Note: *H.R. 1473 was the final continuing resolution, or CR, passed by Congress to fund the remainder of FY 2011. For more information on H.R. 1473 and CRs, in general, please see the Budget and Federal Spending Chapter.*

Selected vote hits on Democrats who voted against H.R. 471:

- **Voted against a bill that would have reauthorized the D.C. Opportunity Scholarship program and provided economically-disadvantaged youths in D.C. with scholarships to attend private schools for K-12th grades**

  - Voted against passage of the bill that would reauthorize and modify the D.C. Opportunity Scholarship program, which provides low-income students with scholarships, or school vouchers, that allow them to attend the school of their choice within the District of Columbia. It would authorize $60 million annually from fiscal 2012 through fiscal 2016, of which $20 million would be provided for the scholarship program and $40 million would be provided for public school improvement and charter school expansion. (Passed:225-195; D: 1-186; R: 224-9)[1]

- **Funding for the scholarship program was eliminated by the Democrat controlled congress and the Obama administration in 2009, despite the program being supported by a majority of the members of the D.C. City Council and Mayor Adrian Fenty**

  - In a Feb. 16, 2011, article, *The Washington Post* reported, "In 2004, a Republican-led Congress created the $14 million voucher program, which provides $7,500 annual vouchers to low-income families who want to send their children to private school. As part of the deal, Congress agreed to boost spending on city public and charter schools.

    "The program, long decried by teachers unions and some District officials as diverting resources from efforts to reform public schools, was essentially suspended by the Obama administration in 2009.

    "Although students enrolled in the program as of last year are allowed to keep their annual vouchers through graduation, no new students are being offered the federal support."[2]

  - In a June 22, 2009, letter, DC City Councilman Marion Berry wrote, "We, the undersigned members of the Council of the District of Columbia, write you to express our support for the continuation of the Opportunity Scholarship Program (OSP)."[3]

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[1] H.R. 471, CQ Vote #204, March 30, 2011
[2] Tim Craig, "U.S. funding for D.C. schools tied to reviving scholarship program," *The Washington Post*, Feb. 16, 2011, http://www.washingtonpost.com/wp-dyn/content/story/2011/02/16/ST2011021605225.html?sid=ST2011021605225
[3] Marion Berry, "Letter to Education Secretary Arne Duncan and DC Mayor Adrian Fenty," June 22, 2009, http://www.dcchildrenfirst.org/website/download.asp?id=77

Editor's Note: *Marion Berry's letter was addressed to U.S. Education Secretary Arne Duncan and then D.C. Mayor Adrian Fenty and was signed by the following 7 members of the D.C. city council, Marion Berry, Harry Thomas Jr., Michael Brown, Muriel Bowser, David Catania, Yvette Alexander, Kwame Brown*

- According to the D.C. City Council the 2008-2009 council period had 13 members[4]

➢ **When the program was being eliminated, *The Washington Post* editorial board said that the decision to end the scholarship "isn't about facts" but that it was "about politics and the stranglehold the teachers unions have on the Democratic Party"**

- In a March 2, 2009, editorial, *The Washington Post* wrote, "REP. DAVID R. Obey (Wis.) and other congressional Democrats should spare us their phony concern about the children participating in the District's school voucher program. If they cared for the future of these students, they wouldn't be so quick as to try to kill the program that affords low-income, minority children a chance at a better education. Their refusal to even give the program a fair hearing makes it critical that D.C. Mayor Adrian M. Fenty (D) seek help from voucher supporters in the Senate and, if need be, President Obama."[5]

- According to the same editorial, "But the debate unfolding on Capitol Hill isn't about facts. It's about politics and the stranglehold the teachers unions have on the Democratic Party. Why else has so much time and effort gone into trying to kill off what, in the grand scheme of government spending, is a tiny program? Why wouldn't Congress want to get the results of a carefully calibrated scientific study before pulling the plug on a program that has proved to be enormously popular? Could the real fear be that school vouchers might actually be shown to be effective in leveling the academic playing field?"[6]

➢ **According to the most recently available historical data, 11.3 percent of D.C. public school students reported being threatened or injured with a weapon on school property, the second highest percentage of any state and 3.5 percent higher than the national average**

- According to the U.S. Department of Education data table entitled "Indicators of School Crime and Safety," 11.3 percent of students attending public schools in the District of Columbia in 2007 reported being threatened or injured with a weapon on school property. Additionally the report indicated that the nationwide average percentage of students who reported being threatened or injured with a weapon on school property in 2007 was 7.8 percent and Utah reported 11.4 percent.[7]

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[4] "Previous Councils, Council of the District of Columbia website, http://www.dccouncil.washington.dc.us/previouscouncils, accessed March 29, 2011
[5] Washington Post Editorial Board, "'Potential' Disruption?," *The Washington Post*, March 2, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/03/01/AR2009030101617_pf.html
[6] Washington Post Editorial Board, "'Potential' Disruption?," *The Washington Post*, March 2, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/03/01/AR2009030101617_pf.html
[7] Institute of Education Sciences, "Indicators of School Crime and Safety: 2010," U.S. Department of Education, 2010, http://nces.ed.gov/programs/crimeindicators/crimeindicators2010/tables/table_04_2.asp

- **Parents whose children used scholarships were more satisfied with their child's school and considered them safer**

  - In an April 4, 2009, article, *The Washington Post* reported, "A U.S. Education Department study released yesterday found that District students who were given vouchers to attend private schools outperformed public school peers on reading tests, findings likely to reignite debate over the fate of the controversial program." [8]

  - According to the same article, "The study, conducted by the Education Department's research arm, the Institute of Education Sciences, compared the performance and attitudes of students with scholarships with those of peers who were eligible but weren't chosen in a lottery. Parents of students in the program were more satisfied with their children's new schools and considered the schools safer, the report found. Students showed no difference in their level of satisfaction."[9]

- **Students who used the scholarships were 12 percent more likely to graduate from high school and were more advanced in reading than their peers who attended D.C. public schools**

  - According to the U.S. Department of Education website, "The DC Opportunity Scholarship Program (OSP) is the first federally funded voucher program in the United States, providing scholarships of up to $7,500 for low-income residents of the District of Columbia to send their children to local participating private schools.

    "The congressionally mandated evaluation of the Program compared the outcomes of about 2,300 eligible applicants randomly assigned to receive or not receive an OSP scholarship through a series of lotteries in 2004 and 2005. This final report finds that the Program had mixed longer-term effects on participating students and their parents, including:

    - No conclusive evidence that the OSP affected student achievement overall, or for the high-priority group of students who applied from 'schools in need of improvement.'

    - The Program significantly improved students' chances of graduating from high school, according to parent reports. Overall, 82 percent of students offered scholarships received a high school diploma, compared to 70 percent of those who applied but were not offered scholarships. This graduation rate improvement also held for the subgroup of OSP students who came from 'schools in need of improvement.'

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[8] Maria Glod, "U.S. Study Compares D.C. Students in Voucher Program With Public School Peers," *The Washington Post*, April 4, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/04/03/AR2009040302987.html

[9] Maria Glod, "U.S. Study Compares D.C. Students in Voucher Program With Public School Peers," *The Washington Post*, April 4, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/04/03/AR2009040302987.html

- Although parents had higher satisfaction and rated schools as safer if their child was offered or used an OSP scholarship, students reported similar ratings for satisfaction and safety regardless of whether they were offered or used a scholarship."[10]

- In an April 4, 2009, article, *The Washington Post* reported, "A U.S. Education Department study released yesterday found that District students who were given vouchers to attend private schools outperformed public school peers on reading tests, findings likely to reignite debate over the fate of the controversial program.

  "The D.C. Opportunity Scholarship Program, the first federal initiative to spend taxpayer dollars on private school tuition, was created by a Republican-led Congress in 2004 to help students from low-income families. Congress has cut off federal funding after the 2009-10 school year unless lawmakers vote to reauthorize it.

  "Overall, the study found that students who used the vouchers received reading scores that placed them nearly four months ahead of peers who remained in public school. However, as a group, students who had been in the lowest-performing public schools did not show those gains. There was no difference in math performance between the groups."[11]

➢ ***The Washington Post* editorial board accused the Obama administration of making up facts and letting "ideology trump evidence" in its opposition to reinstating the scholarship**

- In a March 30, 2011, editorial, *The Washington Post* wrote, "WITH THE HOUSE poised to vote Wednesday on legislation to reestablish a voucher program that allows low-income D.C. students to attend private schools, the Obama administration issued a strongly worded statement of opposition. The White House of course has a right to its own opinion, as wrongheaded as we believe it to be. It doesn't have a right to make up facts.

  "'Rigorous evaluation over several years demonstrates that the D.C. program has not yielded improved student achievement by its scholarship recipients compared to other students in D.C.,' President Obama's Office of Management and Budget proclaimed Tuesday, in response to H.R. 471, sponsored by House Speaker John A. Boehner (R-Ohio).

  "That dismissal might come as a surprise to Patrick J. Wolf, the principal investigator who helped conduct the rigorous studies of the D.C. Opportunity Scholarship Program and who has more than a decade of experience evaluating school choice programs.

  "Here's what Mr. Wolf had to say about the program in Feb. 16 testimony to the Senate Committee on Homeland Security and Governmental Operations. 'In my opinion, by demonstrating statistically significant experimental impacts on boosting high school graduation rates and generating a wealth of evidence suggesting that students also benefited in reading achievement, the DC OSP has accomplished what few educational interventions

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[10] "Evaluation of the Impact of the DC Opportunity Scholarship Program: Final Report," U.S. Department of Education, http://ies.ed.gov/ncee/pubs/20104018/index.asp, accessed March 28, 2011
[11] Maria Glod, "U.S. Study Compares D.C. Students in Voucher Program With Public School Peers," *The Washington Post*, April 4, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/04/03/AR2009040302987.html

can claim: It markedly improved important education outcomes for low-income inner-city students.'"[12]

- According to the same editorial, "We understand the argument against using public funds for private, and especially parochial, schools. But it is parents, not government, choosing where to spend the vouchers. Given that this program takes no money away from public or public charter schools; that the administration does not object to parents directing Pell grants to Notre Dame or Georgetown; and that members of the administration would never accept having to send their own children to failing schools, we don't think the argument is very persuasive. Maybe that's why an administration that promised never to let ideology trump evidence is making an exception in this case."[13]

The debate over the future of the D.C. Opportunity Scholarship program is indicative of the broader struggle over the future of American education. For too long, American schools have failed to deliver a quality education to millions of children. Yet policymakers continue to delay needed reforms like school choice that can ensure that all children have access to a quality education.

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[12] *Washington Post* Editorial Board, "White House Ignores Evidence of How D.C. Vouchers Work," *The Washington Post*, March 30, 2011, http://www.washingtonpost.com/opinions/white-house-ignores-evidence-of-how-dc-school-vouchers-work/2011/03/29/AFFsnHyB_story.html

[13] *Washington Post* Editorial Board, "White House Ignores Evidence of How D.C. Vouchers Work," *The Washington Post*, March 30, 2011, http://www.washingtonpost.com/opinions/white-house-ignores-evidence-of-how-dc-school-vouchers-work/2011/03/29/AFFsnHyB_story.html

HIGHER EDUCATION

In 2009, the U.S. Department of Labor announced that, among other things, the price of education increased faster than the price of medical care over the last year, according to its July Consumer Price Index report. This continues to be the case according to the Labor Department's most recent (at the time of this writing) January 2012 Consumer Price Index report. Additionally, the cost of tuition is increasing far faster than the rate of inflation – and has been for several years. At the time of this writing, U.S. student loan debt, surging above $1 trillion, has surpassed credit card and auto-loan debt in the United States. The rising cost of college, even before the recession, threatens to put higher education out of reach for most Americans.

Federal Role

While there are varying opinions of the role the federal government plays (positively or negatively) in assisting citizens in achieving higher education, the reality is that every year, billions of dollars of federal, state, institutional and private aid is made available to students. Despite (and some economists would argue, because of) the prevalence of aid, tuition costs have continued to go in only one direction…up.

Since the early 1800s, but more significantly since the enactment of the Higher Education Act in 1965, the federal government has had a role in providing funds to students to help them pay for college and to some institutions that serve specific missions like community colleges and minority serving institutions.

Higher Education Act: The Higher Education Act (HEA) authorizes programs and activities that generally fall into four main categories: student financial aid, support services to help students complete high school and enter and complete postsecondary education, aid to strengthen institutions and aid to improve K-12 teacher training at postsecondary institutions. There are ten titles within the HEA, with the core being the student aid programs. These programs include grant, loan and work assistance, the largest of which are the Pell Grant program and the Direct Loan (DL) program. The latest HEA reauthorization, the Higher Education Opportunity Act of 2008, was signed into law on Aug. 14, 2008, and most programs under HEA are authorized through FY 2014 (the Pell Grant program was reauthorized through FY 2017).

Figure I: Major Aid Programs for Undergraduate Students, Academic Years (AYs) 1999-2000, 2003-2004 and 2007-2008			
(In millions of AY 2008-09 constant dollars)			
	1999-2000	**2003-2004**	**2007-2008**
Federal Stafford Loans	$23,783	$30,745	$36,224
Federal Pell Grants	9,312	14,881	15,173
Federal PLUS Loans	4,244	7,299	7,955
Federal tax benefits	4,590	5,550	5,890

State grants	5,119	6,841	8,111
Institutional grants	14,240	18,170	22,160
Private loans	3,110	7,580	17,670

***Source*: Government Accountability Office**

Most federal student aid is given in the form of grants and loans – either directly to students or indirectly through campus-based grants and loans. Other federally funded programs provide eligible students with preparation and support. Please see **Figure I** for a breakdown in millions of dollars of the major federal aid programs for undergraduate students.

A key aspect of the federal student aid system is that the federal funds flow directly to students, who can then select an eligible institution to attend. The student aid programs have played a direct role in helping millions of students attend college each year.

The primary student aid programs are as follows:

Pell Grants: The Pell Grant program, authorized by Title IV of the Higher Education Act of 1965 (HEA) is the single largest source of federal grant aid supporting postsecondary education students. Pell Grants are need-based aid that is intended to be the foundation for all federal student aid awarded to undergraduates. Pell Grants are essentially federal vouchers that can be used at any eligible institute of higher education. While there is no absolute income threshold that determines who is eligible or ineligible for Pell Grants, Pell Grant recipients are primarily low-income. It is estimated that approximately 70 percent of all Pell Grant recipients had a total family income at or below $30,000 in FY 2010. Currently, the total maximum Pell Grant award is $5,550.

The Pell Grant program provided more than $35.7 billion to approximately 9.7 million undergraduate students in FY 2011. The program is funded mostly through annual discretionary appropriations, although in recent years mandatory appropriations have played a smaller yet increasing role in the program. Most recently, the FY 2012 Consolidated Appropriations Act (P.L. 112-74) provided $22.8 billion in discretionary funding for the Pell Grant program for FY 2012 and an additional $3.1 billion in mandatory funding for general use in the program from FY 2012 to FY 2021, of which $612 million is available beginning in FY 2012.

The Pell Grant program, often referred to as a "quasi-entitlement," has for the most part been operated as an appropriated entitlement given the infrequency of reductions in students' awards or imposed recipient caps since the 1990s. Funding shortfalls in the Pell Grant program have been, for the most part, accepted as "common occurrences," but the ways employed to deal with them have varied.

From FY 2006 to FY 2010, the Pell Grant program experienced a mix of accumulated shortfalls and surpluses. From FY 2006 to FY 2008, the Pell Grant program experienced a cumulative funding shortfall of approximately $2.7 billion. In 2009, the economic stimulus package and the FY 2009 Omnibus Appropriations Act (P.L. 111-8) provided a combined discretionary funding level of $32.9 billion that was used to retire the total funding shortfall amount, increase the discretionary base maximum Pell Grant award by $619 to $4,860 for 2009 and 2010 and provide for a surplus of funds totaling $3.4 billion available for use through 2011. Then, in December 2009, the Democrat-controlled Congress provided another $17.5 billion in discretionary funds for the program in the Consolidated Appropriations Act of FY 2010 (P.L. 111-117). Soon after, and even in spite of the additional stimulus funding, the Pell Grant program showed a cumulative funding shortfall of $10.7 billion through the end of FY 2010. In response to this, the Democrats passed and enacted the Student Aid and Fiscal Responsibility Act (SAFRA), which they tacked onto their health care bill, which provided $13.5 billion in advance mandatory appropriations for general use in the Pell Grant program.

Editor's Note: *Please refer to the section found later in this chapter dedicated SAFRA and its specifics.*

Coupled with this additional, temporary funding, these pieces of legislation also made Pell Grants more generous than the federal budget could afford. Republicans generally believe that the Pell Grant program is on an unsustainable path and believe that the back-to-back short-term funding patches and the continued increases in Pell Grant awards are irresponsible and should not continue. This irresponsible spending serves only to put the program at greater risk of ultimately being unable to fulfill its promises to students. Since President Obama has been in office, he has increased the maximum Pell Grant by more than $900, to $5,635 for the 2013-2014 award year. Recent studies have shown that increases in Pell Grants appear to be matched nearly one for one by increases in tuition at private universities. Additionally, there has been a dramatic rise in the number of eligible students due to the recession. All these factors combined has caused program costs to more than double since 2008 – from $16.1 billion in 2008 to an estimated $36.4 billion in FY 2013.

The Department of Education warned in 2012 that without changes to reduce program costs, Pell Grants would have an ending shortfall of $20.4 billion. The combination of advance funding provided by the current 112th Congress for use in FY 2013, expected reductions in program costs due to recent changes enacted by the current Congress (including eliminating the ability for students to receive up to two Pell Grant awards in one award year in H.R. 1473, the final FY 2011 continuing resolution, which effectively reduced the need for discretionary funding in FY 2012 by approximately $3.2 billion) and preliminary data showing a decrease in the demand for Pell Grant aid suggests that the program may not experience another discretionary funding gap in FY 2013.

The Congressional Budget Office (CBO), in a March 2012 report, indicated that the Pell Grant program is estimated to have a funding surplus at the end of FY 2012 of approximately $2.1 billion that will be used to pay for program costs in FY 2013. But, by FY 2014, the program is likely to require significant additional funding based on the annual discretionary spending caps enacted in the Budget Control Act of 2011 (P.L. 112-25) and the lack of advance mandatory funding currently available to augment the discretionary funding needs in the program. Congress may need to consider ways to address this funding gap in FY 2013 or earlier to ensure funding for the Pell Grant program is available in FY 2014.

In the current 112th Congress, Republicans have made several reforms to the Pell Grant program's eligibility criteria and award rules with the goal being to ensure cost-savings and that the program can continue to fulfill its promises to students over the long-term. Some of the reforms were made in the FY 2012 Consolidated Appropriations Act (P.L. 112-74) and include:

- Effective July 1, 2012, the qualifying minimum Pell Grant award will now equal 10 percent of the total maximum Pell Grant. Until then, students qualify at the five percent level and automatically receive an additional five percent in Pell aid.

- Effective July 1, 2012, the cumulative lifetime eligibility for Pell Grant aid will be reduced from 18 semesters to 12 semesters. Any Pell aid received prior to July 1, 2012, will count towards a student's lifetime limit as of July 1, 2012.

In addition to these reforms, House Republicans have also proposed further reforms to the program. Specifically, the FY 2013 House budget resolution recommended that the following reforms be made to the Pell Grant program:

Editor's Note: *For more information on the FY 2013 House budget resolution and the Budget Control Act of 2011, please refer to the Budget and Federal Spending chapter of the 2012 Issues Book.*

- Roll back certain recent expansions to the needs analysis to ensure aid is targeted to the truly needy. The Department of Education attributes at least 14 percent of program growth since 2008 to recent legislative expansions to the needs analysis formula. The biggest cost drivers come from changes made in the College Cost Reduction and Access Act of 2007 (P.L. 110-84), which, among other things, expanded the level at which a student qualifies for an automatic zero "Expected Family Contribution" and the income protection allowance.

- Eliminate administrative fees paid to participating institutions. The government pays participating schools $5 per grant to administer and distribute Pell awards, but schools already benefit from the Pell Grant program because the aid makes attendance at those schools more affordable.

- Consider a maximum income cap. Currently, there is no fixed upper-income limit for a student to qualify for a Pell Grant – figures are simply plugged into a formula to calculate the amount for which students qualify with higher income students receiving a smaller grant than lower income students.

- Eliminate eligibility for less-than-half-time students – funding should be reserved for students with a larger commitment to their education.

- Adopt a sustainable maximum award level. The Department of Education attributed 25 percent of recent program growth to the $619 increase in the maximum award done in the stimulus bill that took effect in the 2009-2010 academic year. To get program costs back to a sustainable level, the budget recommends keeping the maximum award amount at the current level of $5,550 and to fully fund it through discretionary spending only.

Direct Loan Program: The William D. Ford Federal Direct Loan (DL) program, authorized under Title IV, Part D of the Higher Education Act is the primary federal student loan program administered by the Department of Education. 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.

In the prior 111th Congress, the Democrats eliminated the DL program's competitor, the Federal Family Education Loan (FFEL) program. Until July 1, 2010, the Stafford Loans, PLUS Loans and Consolidation Loans were all also available through the FFEL program. The Student Aid and Fiscal Responsibility Act (SAFRA), as paired with health care provisions in the Democrats' budget reconciliation bill, H.R. 4872, the

Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), terminated the authority to make new loans under the FFEL program after June 30, 2010. (More information on the specifics of this major change to federal higher education student aid programs can be found later in this chapter under the SAFRA section.)

The DL program (now the sole provider of these loans) offers several types of loans:

- **Subsidized Stafford Loans (or, Federal Direct Stafford Loans) -** Stafford Loans are the primary federal student loans. Subsidized Stafford Loans are only available to undergraduate, graduate and professional (currently) students demonstrating financial need. While borrowers are in school on at least a half-time basis, during a six-month post-enrollment grace period or during authorized periods of deferment (i.e. period during which borrower is able to suspend loan repayment like qualifying military service, economic hardship, etc.), the Department of Education pays the loan's accrued interest. Interest rates for the loans differ depending on what type of student a borrower is as well as when the first loan disbursement was received. **For periods of instruction beginning on or after July 1, 2012, Subsidized Stafford Loans will no longer be available to graduate and professional students.** This availability was eliminated by the Budget Control Act of 2011, and effectively reduced the need for discretionary funding for this program in FY 2012 by an additional $10 billion. Also, the six-month post-enrollment grace period interest subsidies were eliminated for the time period of July 1, 2012, through June 30, 2014, by the FY 2012 Consolidated Appropriations Act. Borrowing limits vary by borrower dependency status and grade level.

- **Unsubsidized Stafford Loans (or, Federal Direct Unsubsidized Stafford Loans) -** These are available to undergraduate, graduate and professional borrowers and are non-need-based loans. Borrowers are responsible for paying all the interest that accrues on this loan. The fixed interest rate on all Unsubsidized Stafford Loans made on or after July 1, 2006, is 6.8 percent. Borrowing limits vary by borrower dependency status and grade level.

- **PLUS Loans (or, Federal Direct PLUS Loans) -** These are only available for graduate and professional students and **the parents of dependent undergraduate students**. But, like Unsubsidized Stafford Loans, PLUS Loans are non-need-based loans and the federal government does not pay the interest on the loan for the borrower. Although PLUS Loans have jumped back and forth between having a fixed or variable interest rate since first being introduced in 1981, currently there is a fixed interest rate of 7.9 percent on DL program PLUS Loans for which the first disbursement is made on or after July 1, 2006. There is no specified borrowing limit amount through PLUS Loans.

- **Consolidation Loans (or, Federal Direct Consolidation Loans) -** Borrowers may combine their loans into a single loan payable over a longer term, which varies according to the combined loan balance. Currently, these are being disbursed as fixed rate loans. The interest rate for Consolidation Loans is based on the weighted average interest rate of the loans being consolidated, rounded up to the nearest higher one-eighth of one percent, with a maximum interest rate of 8.25 percent. Borrowers can qualify for these regardless of financial need.

A common feature of all of these loans is that the federal government assumes the risk for losses that may occur through borrower default, and pays for the discharge of loans in cases of borrower death, disability and other limited instances. Another common feature they share is that, for each type of loan, maximum interest rates and fees that can be charged are established by law.

In FY 2012, [the Department of Education estimates] that 25.1 million new DL program Stafford Loans and PLUS Loans, averaging $4,948 each and totaling $124.3 billion, will be made to undergraduate and graduate students and the parents of undergraduate dependent students. It also estimates that 609,000 Consolidation loans, averaging $37,323 and totaling $22.7 billion, will also be made.
Going hand in hand with the rapidly growing cost of college, in order to cope with it, more students are relying on bigger loans. According to data from the New York Federal Reserve and the Bureau of Economic Analysis, student loans have grown by 511 percent since 1999. Meanwhile, disposable income has grown by just 73 percent. Additionally, (as shown in **Figure 2**) most outstanding student loan debt, approximately 82 percent, was accrued by students over just the past decade.

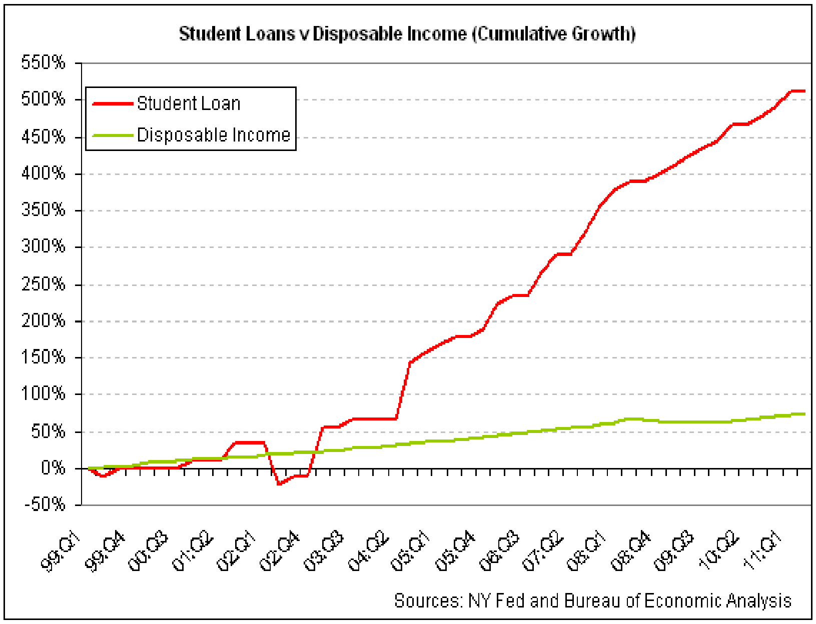

Figure 2

Campus-Based Aid Programs: The Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS) and the Federal Perkins Loan programs are collectively referred to as the campus-based programs. Here, discretionary funds are guided through a set formula to institutions of higher education. These programs are unique among the need-based federal student aid programs because institutions then have flexibility to allocate the funds to eligible students as financial aid officers see appropriate. These programs are among the oldest of the federal postsecondary aid programs, but now operate amidst a host of other aid programs and tax benefits. Currently, a relatively small proportion of all students receive financial aid through these programs.

- **FSEOG program -** It provides grant aid only to undergraduate students with exceptional financial need and is awarded as part of their financial aid packages. The maximum FSEOG award amount per academic year is the lesser of the student's financial need or $4,000. The minimum value of an FSEOG award is $100 per year. Since 1990, this program has served more students each year than either of the other two campus-based programs. More than 1.4 million students have received FSEOG awards annually since 2005. While more students have been served by FSEOG, the average amount of aid provided per student is the lowest among the three campus-based programs.

- **FWS program -** It provides undergraduate, graduate and professional students the opportunity for part-time employment in a field related to what they are studying or in community service. Unlike the FSEOG and Perkins Loan programs, FWS aid can be provided to any student demonstrating financial aid (rather than first to students with exceptional financial need). For most of the past two decades, between 675,000 and 750,000 students were served each year through FWS.

- **Perkins Loan program -** It authorizes federal funds to assist higher education institutions in capitalizing revolving loan funds for the purpose of making low-interest loans to undergraduate, graduate and professional students with exceptional financial need. These revolving loan funds are created with a combination of federal and institutional capital contributions. After making the Perkins loans, institutions recapitalize their loan funds by depositing the principal and interest repaid by students who borrowed under the program. The maximum amount a student can borrow per academic year is $5,500 for undergraduate students and $8,000 for graduate and professional students. The maximum aggregate amount an undergraduate student (who has completed two years of study) can borrow is limited to $27,500 in unpaid principal; $60,000 for graduate and professional students. Interest on Perkins Loans is fixed at a rate of five percent per year. From 1990 through 2008, the annual number of students served has ranged from 640,000 to 760,000. But, by 2010, the number dropped to approximately 442,000.

College Access: The Higher Education Act also provides funds to entities to conduct college access and persistence activities to increase college enrollment and graduation rates among low-income or underserved populations. The primary source of funds is spent through the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) program, a program designed to reach middle-school students and assist them through their first year of college, and the TRIO programs, a set of seven programs that address college preparation and preparation for doctoral degrees.

Student Aid and Fiscal Responsibility Act (SAFRA) and Elimination of the Federal Family Education Loan (FFEL) program: In 2009, the House passed what would be the most dramatic change to federal student loan programs in a decade. The House passed H.R. 3221, the Student Aid and Fiscal Responsibility Act (SAFRA), on Sept. 17, 2009. You can see how they voted here. The Senate did not act on H.R. 3221 as a standalone bill, but instead added near identical language contained in the House-passed bill to the larger health care reform legislation that was passed through Congress with a process called reconciliation.

★★★★★★★★★★

"The Secretary of Education is now one of the top financial executives in the U.S., and Congress spent nearly all of the over-estimated 'savings' on the President's health care reform and unaffordable education entitlements and will add more than a trillion dollars of risky loans to the national balance sheet by 2017."

~ former CBO Director Douglas Holtz-Eakin, Opinion, July 28, 2011

★★★★★★★★★★

Editor's Note: *For more information on the budget reconciliation process, please refer to the Budget and Federal Spending chapter of the 2012 Issues Book.*

The budget reconciliation bill, H.R. 4872, the Health Care and Reconciliation Act of 2010 (P.L. 111-152), passed the House on March 21, 2010. You can see how they voted here. The Senate took up this bill, made changes and passed it a few days later on March 25. That same day, the House passed the Senate version. You can see how they voted here. The final bill was signed into law on March 30, 2010. This law eliminated the FFEL program and used the "savings" to provide funding for Pell Grants, minority-serving institutions, health care and "deficit reduction."

In a nutshell, **this legislation made the federal government the provider of all student loans, cutting out the role of private companies as middlemen in the loan-making process.** The federal government has already taken a more active role in the student loan market since 2008, buying up a growing share of private loans to keep the market liquid when the recession was causing a freeze in credit lending of all kinds.

As described earlier, the federal government has traditionally provided both subsidized and unsubsidized loans for higher education. Prior to SAFRA, this was done through two main programs – the Federal Family Education Loan (FFEL) program and the Direct Loan (DL) program. The Higher Education Act set the terms and conditions on DL and FFEL loans, including the interest rate, repayment periods, default and forbearance capabilities. Under the FFEL program, loan capital was provided by private lenders and the federal government guaranteed lenders against loss through borrower default and other circumstances. As previously detailed, under the DL program the federal government provides the loans to students and their families using federal capital and different administrative structures.

The FFEL program has existed since 1965, whereas the DL program, which has always been a favorite of the two programs for Democrats, was created under President Clinton in 1993. At the height of the FFEL program, it originated 80 percent of all federal student loans. The DL program only captured about 34 percent of the total loan market at its height and has proven to be less efficient and less responsive than the FFEL program. In 1997, Congress was forced to pass emergency legislation to bail out the DL program when it could not provide Consolidation Loans to borrowers.

During the 110th Congress, when the credit markets crashed and became frozen, lenders in the FFEL program had a hard time accessing liquidity to make loans to students. As a result, a bipartisan bill, H.R. 5715, the Ensuring Continued Access to Student Loans Act (ECASLA) was enacted that increased the unsubsidized loan limits by $2,000 and provided the Secretary of Education with authority to temporarily purchase loans or enter into forward commitments with lenders to purchase loans during the 2008 to 2009 academic year (and was later extended by one year to cover the 2009 to 2010 academic year). Any proposal under H.R. 5715 was also required to be budget neutral. This was one of the only economic stabilization bills that actually ended up saving the federal government money. Under ECASLA, the FFEL program successfully originated approximately $70 billion in loans and every student who needed a loan received one during the 2008 to 2009 academic year.

Unfortunately, Democrats used the market instability as an excuse to push through the elimination of the FFEL program. SAFRA, as paired with the health care provisions in the Democrats' budget reconciliation bill, H.R. 4872, terminated the authority to make new loans under the FFEL program after June 30, 2010. While new loans may no longer be made through the FFEL program, as of this writing, approximately $384 billion in FFEL program loans are outstanding and are due to be repaid over the coming years.

The Congressional Budget Office (CBO) stated the elimination of the FFEL program would save approximately $61 billion over 10 years. Of these funds, Democrats spent $36 billion over 10 years to provide mandatory money for the otherwise discretionary Pell Grant program. Specifically, it ensured the maximum Pell Grant would increase by a percentage equal to the Consumer Price Index (CPI). The majority of the remaining funds from the elimination of the FFEL program were spent in the following ways:

- **College Access Challenge Grant program** – Provided $150 million each year for five years for a program that requires the Department of Education to distribute a formula grant to states (that they can sub-grant to philanthropic organizations) to improve information sharing about the benefits of a college education and financing options for college

- **Minority Serving Institutions** – Provided $225 million each year for 10 years in mandatory funds to minority serving institutions. These institutions already receive discretionary funds through the regular appropriations process.

- **Servicing of Direct Loans** – Required the Department of Education to contract with eligible non-profit entities to service a limited number of Direct Loans. The CBO estimated this will cost approximately $1.4 billion over 10 years. It provides $25 million for each of FY 2010 and 2011 for the Department of Education to provide a payment to servicers for retaining jobs in locations where servicers existed under the FFEL program.

- **Payments to schools** – Provided $50 million for the Department of Education to provide technical assistance to schools making the transition to the Direct Loan program

- **Income-Based Repayment Plan** – Effective July 1, 2014, this ensured that a borrower's monthly repayment amount is capped at 10 percent, rather than 15 percent, of their discretionary income in the Income-Based Repayment Plan. The government writes off any unpaid loan amounts remaining after 20 years. The Income-Based Repayment Plan was originally created in the Democrats' reconciliation bill in the 110th Congress, H.R. 2669, the College Cost Reduction and Access Act (P.L. 110-84), and originally went into effect on July 1, 2009. This original plan capped the monthly repayment amount at 15 percent and forgave any remaining loans after 25 years of repayment.

SAFRA is part of a disturbing trend toward a bigger, more intrusive federal government. Even the few private sector participants able to maintain some small role in loan servicing will not be able to use the creative, personalized approaches available today. They will simply be administering a one-size-fits-all approach dictated by the federal government. Republicans believe that effectively eradicating the private sector completion in the student loan industry and shifting all student loans to the DL program kills jobs and greatly expands the federal government's control of the education loan market. By eliminating the FFEL program, Democrats have limited choices for parents and students seeking educational loans and decrease the quality of service historically provided by private lenders.

As an alternative to SAFRA, Republicans proposed preserving existing subsidies for private lenders through 2014 and creating a commission to develop a new private sector model for student lending.

Republican Position on the Federal Role in Higher Education: Republicans are committed to reevaluating the federal role in higher education. Any federal intervention in higher education should increasingly be focused not solely on financial aid, but on policies that maximize innovation and ensure a robust menu of institutional options from which students and their families are able to choose. Such policies should include reexamining the data made available to students to make certain they are armed with information that will assist them in making their postsecondary decisions. Additionally, the federal government should act to remove regulatory barriers in higher education that act to restrict flexibility and innovative teaching, particularly as it relates to non-traditional models such as online coursework.

Helping students realize the dream of higher education cannot be accomplished solely at the federal level. In times of trillion dollar deficits, we simply cannot continue creating additional federal subsidies or enacting temporary solutions that kick the can down the road. It is time for a new direction, one in which institutions, states and the students themselves play a key role in helping control costs and making responsible choices. Meanwhile, leaders in Washington must continue to pursue sensible policies that encourage competition, enhance transparency and simplify the regulatory burden that often contributes to cost increases on campus.

HEAD START/EARLY CHILDHOOD EDUCATION

Since 1965, Head Start has provided comprehensive early childhood development services targeted to low-income preschool children (ages four and five) and their families with federal taxpayer dollars. Administered by the Department of Health and Human Services (HHS), Head Start serves approximately 900,000 children at a cost of about $7 billion annually. HHS awards Head Start funds directly to local public and private grantees. Currently, roughly 1,600 agencies receive Head Start grants. In 1994, Head Start was expanded to include an Early Head Start program to serve infants, toddlers up to age four and pregnant women.

Services provided to preschool-aged children include: child development, educational, health, nutritional, social and other activities. These services are designed to prepare children to enter kindergarten and to improve the conditions necessary for their success in school and life. Program performance, fiscal management and the long-term impact on children, particularly with respect to educational attainment, however, continue to be areas of focus and concern for Congress. In fact, the Head Start National Impact Study, a report mandated by the 1998 Head Start Act reauthorization law, published in January 2010, found that Head Start has had little to no effect on cognitive, socio-emotional, health and parenting outcomes of participating children. According to the report, "…the benefits of access to Head Start at age four are largely absent by 1st grade for the program populations as a whole." Head Start's disappointing results cast doubt over the effectiveness of federal preschool interventions and highlights the need to review the effectiveness of the federal government's education programs.

Head Start was last reauthorized in 2007 during the 110th Congress under the Improving Head Start for School Readiness Act (P.L. 110-134). Therefore, the Head Start program is not expected to require any significant legislative movement in the 112th Congress.

RECENT OBAMA ADMINISTRATION ACTIONS

Race to the Top (RTTT)

In February 2009, Congress passed the American Recovery and Reinvestment Act (ARRA), the so-called economic stimulus package, which provided $4.5 billion to create a new Race to the Top (RTTT) competitive federal grant program designed to encourage and reward states that are creating the conditions for education innovation and reform. According to the Obama Administration, RTTT would only reward those states that raise their academic standards, improve teacher quality and expand the reach of charter schools. The Department of Education's application for the program required states to meet more than 100 new requirements not previously included in law. More specifically, RTTT required that states that want the money must commit to closing historic achievement gaps and getting more kids into college – but they must also show that they are addressing other issues including:

- Tying teacher and principal pay – and school assignments – to student test scores
- Adopting internationally benchmarked academic standards
- Turning around their lowest-performing schools
- Building long-term student tracking systems
- Loosening legal caps on the number of charter schools that states allow each year

While many of the goals of RTTT are laudable, the program follows the same path of top-down federally controlled education policy, which experience has shown, such as with NCLB, can have mixed results and unintended consequences.

Delaware, the District of Columbia, Florida, Georgia, Hawaii, Maryland, Massachusetts, New York, North Carolina, Ohio, Rhode Island and Tennessee received funding under the program in 2009 and 2010.

In the aftermath of the RTTT competition, numerous reports surfaced questioning the peer review process that the Department of Education had used to determine grantees. The application, as well as the membership of the peer reviewers, had supported or opposed applications based on their ability to get union buy-in. It was also revealed that every state that was a finalist – and hence, a winner – had adopted the common core standards developed by the National Governors Association and the Council of Chief State School Officers as required in the application. As of today, 44 states have adopted the standards.

"A Blueprint for Reform: The Reauthorization of the ESEA"

On March 13, 2010, the Obama Administration released, "A Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act (ESEA)," which included a new framework for the law last reauthorized in 2001 through the NCLB. The Administration's vision for reauthorization integrated many of the reforms included in the ARRA and the requirements included in RTTT into ESEA.

While this blueprint included some long-sought changes to federal education policy, it still contained proposals that would limit parental options and expand federal involvement in academic standards. For one, it proposed to make tutoring and transfer options elective rather than mandatory for parents of children trapped in underperforming schools.

Here is a brief look at some of the principles of this 2010 Obama Administration proposal:

College- and Career-Ready Standards: States would be required to adopt academic standards in English and mathematics that are deemed College- and Career-Ready. One way to fulfill this new mandate would be to join a significant number of other states in adopting common standards. Putting the federal seal of approval on a set of common academic measures creates de facto national standards and usurps the power of local superintendents, school boards, and teachers to develop and implement standards, assessment, curriculum, and professional development based on the unique needs – and in the best interest – of their students.

Accountability and Testing: States, districts and schools would be required by 2020 to ensure all students graduate high school ready for college or to enter the workforce. This target would not be tied to annual performance goals like the current Adequate Yearly Progress (AYP) measure, which would be repealed. However, annual testing would continue to be a federal requirement. States would recognize progress and growth over time.

School Improvement: States would focus school improvement efforts on "challenge" schools and school districts, classified as the lowest performing five percent of schools and/or school districts in each state. These schools would be required to choose one of four school turnaround models (i.e. close the school; convert to a charter school; replace the principal and half of the school staff; or replace the principal, strengthen the school staff, and implement a new instructional program). "Challenge" schools, districts, and states would face additional restrictions on the use of ESEA funds and may be required to work with an outside organization. The proposal properly refocuses the federal, state, and local governments on turning around persistently low-performing schools, but the four turnaround models are overly prescriptive and unworkable for many schools, including those in rural areas.

Teachers and School Leaders: States would be required to create statewide definitions of "effective teacher," "effective principal," "highly effective teacher," and "highly effective principal," along with an evaluation system that measures teacher effectiveness. States and school districts would be required to ensure equitable distribution of "effective" and "highly effective" teachers and principals between high-poverty and low-poverty schools.

Race to the Top/Investing in Innovation: The blueprint extends, expands, and permanently authorizes the competitive Race to the Top Fund and Investing in Innovation Fund, both of which were created as one-time programs in the ARRA.

Expanding Educational Options: Under the new Expanding Educational Options program, states, charter school authorizers, charter management organizations, and others would receive funding to expand charter schools and other "autonomous public schools."

<u>No Child Left Behind (NCLB) Conditional Waivers for States</u>

In August 2011, Education Secretary Arne Duncan announced that the Obama Administration would be releasing details of a plan to grant waivers to states that wished to be exempted from No Child Left Behind (NCLB). Duncan said the waivers would be granted to states that adopt standards designed to prepare high school graduates for college and careers, use a "flexible and targeted" accountability system for educators based on student growth and make "robust use of data," among other things. Any state could apply for a waiver, and its application would be reviewed by a panel of peers. The final decision would fall to Duncan.

According to a Sept. 22, 2011, *Washington Post* article about the Obama Administration waiver proposal:

> "States will be required to launch "rigorous" campaigns to turn around their lowest-performing schools – the bottom five percent. And they will have to devise ways to focus on students with the greatest needs in another 10 percent of schools with low graduation rates or large achievement gaps between students of different races. States will also have greater flexibility with about $1 billion in funding for schools attended by poor children.
>
> "States will still be required to test all children in grades three through eight and once in high school and report results by subgroups – including race, English learners and students with disabilities – so it is clear how every student is faring."

Below is a *Washington Post* opinion piece written by Monty Neill, executive director of FairTest, the National Center for Fair & Open Testing, a Boston-based non-profit, analyzing the NCLB waiver plan put forth by President Obama:

> The Washington Post
>
> Sept. 26, 2011
>
> **Obama's NCLB waivers: Do flaws outweigh benefits?**
> By Monty Neill
>
> "The Obama administration's new No Child Left Behind "flexibility" plan offers our struggling public schools a leap from the frying pan to the fire.
>
> "President Obama and Education Secretary Arne Duncan provide no relief from No Child Left Behind's massive over-use of testing — more testing than in any other advanced nation. In fact, they are demanding more, not less, testing. They provide no relief from NCLB's mandated misuse of test scores for school accountability. And their plan will push states into adopting highly flawed and inaccurate uses of student test results to judge teachers and principals.
>
> "In these ways, the administration perpetuates the discredited policies that have so damaged American education. The waiver version of NCLB will continue the pressure to narrow the curriculum and teach to multiple-choice tests — pressures that have caused the recent explosion of cheating scandals. The flaws in the waiver plan may well outweigh the benefits to states of no longer having to meet unattainable "adequate yearly progress" goals.
>
> "Congress must intervene and make the fundamental changes to NCLB the administration has been unwilling to make. It should:
>
> " * significantly reduce the amount of mandated testing;

“ * help states design fundamentally different assessment systems;

“ * focus on evidence-based school improvement efforts; and

“ * provide the resources needed so that every child has a strong and equitable opportunity to acquire knowledge, skills and dispositions to be an effective, engaged citizen.

“Let’s look more closely at the waiver details:

“States will continue annual testing in reading and math of all children in grades 3-8, only with new tests based on “college and career standards.” Unfortunately, the new tests are likely to resemble current tests — but be harder to pass. Especially in schools serving low-income youth, this means schooling that is little more than test prep, a growing problem even in wealthier areas.

“The waivers require states to adopt “student growth” measures and make them a “significant factor” in teacher and principal evaluation. This will push states to adopt statistical techniques that evidence shows are grossly inaccurate. It will put even more focus on boosting test scores instead of ensuring the all-around education of the whole child.

“Dangerously, the administration says that for subjects in which a state does not have tests, in order to measure “growth” it will need to have, if not more tests, then “measures that are comparable” within a district. This could push districts to buy or create dozens of new exams, at great expense and likely great damage to now-untested subjects.

“Educator evaluation systems will be expensive if done well. There is no evidence that spending large sums of money in this way is a better use of resources than are other, evidence-based efforts to improve schools. Perhaps cynically, states could commit to developing this, then go slow in the absence of funding and even drop it should Congress ever actually reauthorize ESEA.

“The waiver plan does allow some wiggle room in some places. A state could, for example, not give student scores a fixed weight in a teacher’s evaluation but use low student scores as a reason for a closer look at the individual’s overall practice. A state could evaluate schools and educators using far richer evidence of student learning than standardized tests provide, such as samples of the work students do in school. To get that information, a state would have to build a different sort of assessment system. Congress and the administration have completely avoided helping states do this.

“The NCLB testing requirements opened a “Pandora’s Box” of pests that keep proliferating: standardized tests in more subjects, interim and benchmark tests, and falsely named “formative” tests that are supposed to help improve instruction but mostly take more time away from it. This swarm of tests has frequently caused teaching and learning to succumb to multiple-choice questions, scripted curricula and constant monitoring of educators.

“There are no indications that the administration intends to turn away from schooling that serves tests and test makers more than children. The pests will be very hard to put back into the box, and Duncan’s waivers help that not at all.”

On Feb. 9, 2012, President Obama announced the first states to "win" the controversial waivers: Colorado, Florida, Georgia, Indiana, Kentucky, Massachusetts, Minnesota, New Jersey, Oklahoma and Tennessee. Along with the 10 states granted waivers, 30 other states, the District of Columbia and Puerto Rico have signaled that they will submit waiver applications. You can view more information regarding the Administration's NCLB waiver program on the Department of Education's website here.

Republicans want NCLB reform, but believe that this conditional waiver "scheme" merely exchanges a few of NCLB's most onerous mandates for new requirements dictated by the Department of Education. In fact, this waiver program is not simply a waiver program, but "conditional" waiver program.

Editor's Note: *Please see the section regarding education reform legislation in the 112th Congress for information regarding NCLB-reform legislation introduced by House Republicans.*

Special Direct Consolidation Loans Executive Order

On Oct. 26, 2011, in a speech at the University of Colorado-Denver, President Obama announced, as part of his "We Can't Wait" unilateral stimulus effort, a new plan he claimed would significantly lower student loan payments. The President's plan, to be done through a two-fold executive order, is dealing with both a loan consolidation incentive and a reduction above and beyond the existing Income-Based Repayment Program.

First, students who currently hold both a FFEL program loan and a DL program loan can receive up to a .5 percent reduction in their interest rates if they consolidate their debt into the DL program. According to the House Education and Workforce Committee, **of our Nation's roughly 36 million student loan holders, only about 16 percent of loan holders can take advantage of this consolidation incentive.** According to an analysis done by *The Atlantic*:

> "For the average borrower, the impact would be small. In 2011, Bachelor's degree recipients graduating with debt had an average balance of $27,204, according to an analysis done by finaid.org, based on Department of Education data. That average has ballooned from just $17,646 over the past decade.
>
> "Using these values as the high and low bounds of average student debt over the last ten years, the monthly savings for the average student loan borrower would be between $4.50 and $7.75 per month. Clearly, this isn't going to save the economy. While borrowers with bigger balances would save more, this is the average. And even someone with $100,000 in loans would only cut their monthly payments by $28.50."

The second part of President Obama's plan is his attempt to change the rules of an existing program. Under current law, student loan holders can limit their monthly repayments to 15 percent of their discretionary income, and the federal government will forgive any outstanding loan balance after 25 years. President Obama's plan will cap monthly payments at ten percent and forgive the loan balance after 20 years. However, this portion of the plan is only applicable to students who took out a loan in 2008 or later and will be taking out new loans in 2012. According to the White House's own fact sheet, only 1.6 million students will benefit from this program in 2012 – this is only four percent of the Nation's student loan holders. As previously detailed in this chapter, this change to the Income-Based Repayment Program has already been enacted under the SAFRA provisions in the health care reconciliation law, but in 2014. President Obama's executive order would instead simply make this change go into effect as of 2012.

Program Integrity and Gainful Employment

Following passage of the Higher Education Opportunity Act (P.L. 110-315), the most recent reauthorization of the Higher Education Act, in the 110th Congress, the Department of Education spent the last few years promulgating regulations to the law. Since February 2009, the Department has been engaged in this process and has produced several packages of regulations. The most controversial two regulations packages were done in the latest round of negotiated rulemaking taking place from November 2009 through January 2010. These regulations are commonly referred to as the "program integrity" regulations and the "gainful employment" regulations. Both Democrats and Republicans have expressed concerns about these regulations.

Under the Higher Education Act, to be eligible to participate in the Title IV federal student aid programs, any program at a proprietary, or for-profit, school must be "…an eligible program of training to prepare students for gainful employment in a recognized occupation." Congress has never defined "gainful employment" and did not change this phrase in the 2008 reauthorization. Historically, the Department of Education has granted eligibility to programs if they were training students for a career listed in the Department of Labor's Occupational Informational Network.

In a dramatic departure from past practice, however, the Department of Education published regulations that would negatively impact certain types of schools by specifically defining "gainful employment." The Department began this process with three rounds of negotiated rulemaking over 14 "program integrity" issues, including gainful employment. The draft regulations for the 13 program integrity issues were published on June 18, 2010. Additionally, on July 26, 2010, the Department published the second draft of regulations, referred to as the "gainful employment" regulations," which contained the substantive proposal defining "gainful employment." When the Department of Education published these proposed rules in the summer of 2010, it received an unprecedented volume of comments (more than 90,000 comments), with approximately three-quarters opposed to the rules and one-quarter in support. Many were concerned that the new rules would increase regulatory burden and potential adverse effects from programs losing eligibility to participate in the Title IV federal student aid programs.

On Oct. 29, 2010, the final program integrity rules were published. Under the final program integrity regulations, proprietary or for-profit institutions must publish information for students regarding the cost of the program, median student loan debt for students, among other things, on their website and report information to the Department of Education. Also included in this package is a requirement that for-profit institutions notify the Department of Education 90 days in advance of the opening of a new educational program. The Department will approve or disapprove the new program 30 days prior to the start of the program. This timeframe is particularly problematic for some institutions as students will already be accepted into the program by the 30-day timeframe. The Department has a number of factors it will look at when determining whether to approve the programs. These final rules became effective July 1, 2011.

On June 13, 2011, the final gainful employment performance measures and performance thresholds for the measures were published. Under these gainful employment regulations, each program at a proprietary institution, and some short-term programs at nonprofit institutions, will be required to calculate a debt-to-income ratio and a loan repayment rate for students. Based on the results of the calculations, programs will fall into one of three categories:

- eligible for Title IV aid
- eligible but restricted; and
- ineligible for Title IV aid.

If a program falls into the "eligible but restricted" category, it remains eligible for all Title IV aid with the following restrictions:

- The institution must alert former and prospective students they may experience difficulty repaying their loans;
- The institution must provide documentation from employers affirming the curricula align with occupations at the employers' businesses and there are projected job vacancies or expected demand for those occupations; and
- The Department of Education will limit the number of Title IV eligible students enrolling in the restricted programs.

If a program fails both the debt burden and repayment rate tests, it falls into the "ineligible for Title IV aid" category and will lose eligibility for all Title IV aid programs. During the first year of enforcement, the Department of Education will limit the number of programs eliminated so that no more than five percent of the lowest performing programs will be affected. In the second year, and each year thereafter, any program that falls into the "ineligible" category will be eliminated. These rules are set to become effective July 1, 2012.

Both Republicans and Democrats alike have a number of concerns with the proposal. It is overly complex, has nothing to do with the quality of programs being offered and is a back-handed way of imposing cost controls on colleges.

In the 112th Congress, there have been several attempts to stop or overturn the rules on gainful employment. Among other things, H.R. 1, the Full-Year Continuing Appropriations Act of 2011, if enacted, would have prohibited the Department of Education from using funds appropriated under the act to implement, administer or enforce the final rules on Oct. 29, 2010 and to issue or implement additional final rules on gainful employment based on the proposed rules published on July 26, 2010 (H.R. 1 was passed by the House on Feb. 19, 2011, therefore, the additional final rules on gainful employment had not yet been finalized). Unfortunately, the Senate failed to take action on H.R. 1.

LEGISLATIVE ACTIVITY IN THE 112th CONGRESS

Editor's Note: *The information below regarding legislation and votes in the 112th Congress regarding education reform is up-to-date as of this writing. Please keep in mind that the details surrounding and the status of these measures may have since changed.*

H.R. 2445, State and Local Funding Flexibility Act

As outlined earlier in this chapter, the federal government operates a host of elementary and secondary education programs, each with their own set of rules dictating exactly how funds may be spent by local school teachers. Republicans believe the manner in which funding is funneled through separate streams can severely limit states' and school districts' ability to apply federal funds toward local education priorities and initiatives to meet the unique needs of their students.

States and local school districts should have the ability to use federal dollars on education programs that best serve the needs of their students. House Education and Workforce Committee Chairman John Kline (R-Minn.) introduced H.R. 2445 to the House on July 7, 2011. At the time of this writing, H.R. 2445 has not yet been brought up for a Floor vote.

The following summary of H.R. 2445 is provided by the House Education and Workforce Committee:

> **Providing Funding Flexibility for Every State and School District**
>
> The State and Local Funding Flexibility Act will provide every state and school district in the country the flexibility currently provided to rural school districts under the Rural Education Achievement Program, which is currently authorized under Title VI of ESEA. That authority, commonly known as REAP Flex, has been widely used by rural school districts to direct federal resources to meet the needs of their students. The bill will build upon the success of this program by applying it to all states and school districts and expanding the program to include ESEA formula funds (except the Impact Aid program) and the EduJobs Fund. This will allow states and school districts to use those funds on state and local activities authorized under ESEA.
>
> The bill defines the list of programs that states and districts could use for an alternative purpose if it chooses to do so.
>
> States could use funds from:
>
> - School Improvement Grants (State Administration)
> - Aid for the Disadvantaged (State Administration)
> - Migrant Education
> - Neglected and Delinquent Programs
> - Teacher Quality State Grants
> - English Language Acquisition Grants
> - 21st Century Community Learning Centers
> - Education Jobs Fund

School districts could use funds from:

- Aid for the Disadvantaged
- Migrant Education
- Neglected and Delinquent Programs
- Teacher Quality State Grants
- English Language Acquisition Grants
- Indian Education
- Education Jobs Fund

Activities for which the funds could be used include:

- School Improvement Grants
- Aid for the Disadvantaged (State Administration) – States only
- Aid for the Disadvantaged – school districts only
- Reading First
- Migrant Education
- Neglected and Delinquent Programs
- Teacher Quality Grants
- Math and Science Partnerships
- English Language Acquisition Grants
- 21st Century Community Learning Centers
- Innovative Programs
- Grants for State Assessments – States only
- Rural and Low-Income School Program
- Indian Education
- Early Intervening Services under Section 613(f) of the Individuals with Disabilities Education Act – school districts only

For example, if a state or school district receiving formula funds under the Teacher Quality State Grant program wanted to use those funds to purchase new computers or create a new literacy program for English Language Learners, it could do so unencumbered by federal requirements dictating how federal funds are to be spent. The State and Local Funding Flexibility Act will maintain monitoring, reporting, and accountability requirements for states and school districts under existing ESEA programs. This ensures states and school districts continue to focus on improving the academic achievement of special populations of students, including disadvantaged students, migrant students, at-risk students, and English Language Learners (ELLs).

The State and Local Funding Flexibility Act also includes a reasonable annual notification requirement, similar to what is currently included in REAP Flex. Under the proposal, school districts will notify the state how they plan to use their funds and states will notify the Secretary of Education how they plan to use their funds. The bill does not require an application or approval process to utilize the flexibility. Further, the legislation ensures states and school districts intending to exercise funding flexibility will receive their allocations at the same time as those choosing not to utilize the authority, an assurance also included under the existing rural flexibility program.

H.R. 2218, Empowering Parents through Quality Charter Schools Act

Charter schools empower parents to play a more active role in their child's education, open doors for teachers to pioneer fresh teaching methods, encourage state and local innovation and help students escape underperforming schools. Despite high demand and an estimated 420,000 students on charter school wait lists, significant barriers to quality charter school growth exist.

Charter schools are public schools created through a contract with state agencies or local school districts. The federal government supports public charter schools through competitive grants issued by the ESEA's Charter Schools Program. The current Charter School Program does not support funding for the replication or expansion of high-quality charter schools. Many charter schools also have difficulty securing financing to build or rehabilitate facilities. Additionally, few guidelines exist to monitor charter school quality and assist the replication of successful charter schools.

As work is done to improve the Nation's education system and raise student achievement levels, Republicans believe much can be gained from expanding access to high quality charter schools.

Part One of House Republicans' efforts to reauthorize ESEA/NCLB, H.R. 2218, the Empowering Parents through Quality Charter Schools Act, would streamline and modernize the Charter School Program to support the start-up, replication and expansion of high-quality charter schools; streamline program funding and administration at the federal and state levels; and promote choice, innovation and excellence in education.

The following summary of H.R. 2218 is provided by the House Education and Workforce Committee:

State Grants to Support the Development of Charter Schools

The current Charter School Program provides funds for states to plan and start new charter schools, as well as disseminate information about existing charters in states with charter school laws. Grants are awarded to state educational agencies, which then award subgrants to charter school operators in the state. Since the program is outdated and not currently meeting the needs of the charter school community, the annual Labor/Health and Human Services/Education Appropriations Act includes language authorizing funds to support the replication and expansion of high-quality charter schools.

H.R. 2218 consolidates funding streams into the existing state grant program, allowing state educational agencies, state charter school boards, or governors to award subgrants to support new charter school start ups in addition to the replication and expansion of high-quality charter schools and new charter school models.

To receive funds under the program, grantees must describe how they will work with charter schools to instruct all prospective students, including students with disabilities and English Language Learners, and how they will provide technical assistance to ensure proper monitoring of authorizers and the charter schools in the state. The grant period is expanded from three years to five years to ensure enough time for planning and effective implementation.

Incentives to Support the Development and Expansion of Successful Charter Schools

Under the leadership of Republican Governors, states are promoting education reform policies that increase access to high-quality charter schools. Indiana, North Carolina, Maine, Michigan, and other states are pushing laws to lift arbitrary caps on the growth of charter schools, which can stifle options for parents and students trapped in low-performing schools.

H.R. 2218 gives priority in accessing funding to those states that agree to repeal caps on the number or percentage of charter schools permitted or the number or percentage of students that may attend charter schools in the state. The bill also provides priority to states that: (1) allow more than a state educational agency or a local educational agency to be a charter school authorizer; (2) provide financing to charter schools that is comparable to traditional public schools; (3) support full-blended or hybrid-online charter school models; (4) use charter schools to help improve struggling schools.

Facilities Financing Assistance

Public charter schools often have a difficult time securing financing to build or rehabilitate facilities. Unlike traditional public schools, public charter schools typically do not receive facilities funding and cannot raise funds through the imposition of local property taxes. Although some states have established per-pupil facilities aid funding to assist schools with their needs, many public charter schools are forced to use already limited operational funds to address facilities needs.

The Elementary and Secondary Education Act (ESEA) authorizes two grant programs that provide financial assistance to charter schools: the Credit Enhancement Grant and Facilities Incentive Grant programs. The Credit Enhancement grant program provides funds to public and private non-profit entities to help charter schools secure private sector capital to buy, construct, renovate, or lease appropriate school facilities. The grant has been awarded to one national project in each of the past few years, due to the lack of funding. Facilities Incentive Grants help states establish or enhance and administer "per-pupil facilities aid" for charter schools. These grants have not been awarded since FY 2009.

H.R. 2218 consolidates both programs into the existing Charter School Program, allowing the Secretary of Education to compete a portion of the funds to State Educational Agencies or another eligible entity to support credit enhancement activities. If enough funds are available, the Secretary may award one or more grants to support charter school facilities activities.

National Activities

Under current law, the Secretary of Education awards grants to individual charter schools in states that do not receive a grant under the state competition. H.R. 2218 would continue to provide authority to the Secretary to award funds directly to charter schools in states that did not win a quality charter school grant or did not compete in the competition to support the expansion and replication of high-quality charter schools, as well as new charter school models in these states as well. The bill would also support technical assistance to applicants and the dissemination of best practices of charter schools. The bill supports an evaluation of the program to measure its impact on charter schools.

On Sept. 13, 2011, the House passed H.R. 2218 by a vote of 365 to 54. You can see how they voted here. As of this writing, the Senate has failed to take up H.R. 2218 for consideration.

H.R. 3989, Student Success Act

No Child Left Behind (NCLB) has been due for reauthorization since 2007. Despite its best intentions, there is widespread agreement that the current law is no longer effectively serving students. Under NCLB's accountability system, known as Adequate Yearly Progress, all schools that fail to meet target proficiency levels for two or more consecutive years are required to undergo the same series of prescriptive federal interventions, regardless of the unique circumstances or challenges facing each school. Experts predict that all schools could be labeled as failing by 2014.

Part Two of House Republicans' efforts to reauthorize ESEA/NCLB, H.R. 3989, the Student Success Act, would return responsibility for student achievement to states, school districts and parents while maintaining high expectations, invest limited taxpayer dollars wisely, strengthen programs for schools and targeted populations and maintain and strengthen long-standing protections for state and local autonomy. House Education and Workforce Committee Chairman John Kline (R-Minn.) introduced H.R. 3989 to the House on Feb. 9, 2012. At the time of this writing, H.R. 3989 has not yet been brought up for a Floor vote.

The following summary of H.R. 3989 is provided by the House Education and Workforce Committee:

Returning Responsibility for Student Achievement to States, School Districts, and Parents, While Maintaining High Expectations

The Student Success Act dramatically reduces the federal role in education by returning authority for measuring student performance and turning around low-performing schools to states and local officials. Across the country, states and school districts are leading efforts to reform the nation's troubled education system. As these bold reformers step up, the federal government can step back, limiting its role to ensuring parents have the information they need to judge the quality of their schools. The bill includes a number of key revisions to the current Title I program to increase state and local flexibility and restore local control of education.

- Academic Standards: Similar to current law, the bill requires states to establish academic standards that apply to all students and schools in the state in at least reading and math, while allowing states to develop standards in other subjects at their discretion.

  Achievement standards used for judging student and school performance must align with content standards, but the bill removes federal requirements for basic, proficient, and advanced levels of achievement. States are also allowed to establish alternate achievement standards aligned to the content standards for students with the most significant disabilities. Finally, the bill consolidates the requirements for English proficiency standards into the main Title I program.

- Academic Assessments: Similar to current law, the bill requires states to develop and implement a set of annual assessments in reading and math, the foundation for student learning. To reduce the burden of over-testing on our nation's students, the bill eliminates the federal requirement that states administer assessments in science. States retain the option to develop assessments in science and other subjects at their discretion. States are required to give the same reading and math assessments to all students in the state in each of grades 3-8 and once in high school. Assessments still must include reasonable accommodations for students with disabilities. States are allowed to adopt alternate assessments for students with the most significant cognitive disabilities and computer adaptive assessments, and have the flexibility to use multiple measures of student achievement. The bill maintains requirements on disaggregating subgroup data, assessing the English proficiency of English learners, and ensuring 95 percent participation rates for all students and each subgroup,

- Accountability: The bill eliminates Adequate Yearly Progress (AYP) and replaces it with a state-determined accountability system that must:

    - Annually measure the academic achievement of all public school students against the state's academic standards (including growth toward the standards) using the statewide assessment and other academic indicators determined by the state.
    - Annually evaluate and identify the academic performance of each public school in the state based on student academic achievement, including the achievement of all students and achievement gaps between student subgroups.
    - Include a school improvement system implemented by school districts that includes interventions in poor performing Title I schools.

- School Improvement: The bill requires states to include, as part of their statewide accountability structure, a system of school improvement interventions implemented at the local level for Title I schools that the state determines to be poorly performing. The bill repeals the federally mandated interventions included in sections 1116 and 1117 of current law, giving states and districts maximum flexibility to develop appropriate school improvement strategies and rewards for their schools. The bill increases the state set-aside for school improvement to 7 percent (up from 4 percent), but eliminates the local set-asides, meaning more Title I money will flow directly to school districts. The bill eliminates the School Improvement Grants (SIG) program that the Secretary of Education used to create four unworkable turnaround models, instead using those funds to increase the authorization level for the Title I program.

- Parent Information: The bill maintains the current requirement that states and school districts issue and distribute annual report cards, but streamlines the data reporting to ensure meaningful information is easily available to parents and communities. States and districts must report disaggregated student achievement data on the state assessment and other academic indicators used in the statewide accountability system, participation rates on those assessments, the adjusted cohort graduation rate, each school's evaluation under the statewide accountability system, English language proficiency, and results on the 4th and 8th grade reading and mathematics National Assessment of Educational Progress (NAEP). The bill maintains parents' right to know their students' achievement levels, and moves the right to know teacher professional qualifications from Title I to Title II of the ESEA.

- Direct Student Services: The bill requires states to set aside 3 percent of Title I money to provide competitive grants to school districts that wish to offer tutoring or public school choice to their students, including those in poor performing schools.

- Highly Qualified Teachers: The bill repeals section 1119 of current law, which sets federal requirements around teachers and paraprofessionals and removes the requirement that teachers be highly qualified. H.R. 3990, the Encouraging Innovation and Effective Teachers Act, includes requirements for locally developed teacher evaluations, enabling federal teacher policy to move from onerous and meaningless burdens to strategies that will reassure parents that their students' teachers are effective.

- State Laws on Parent Authority: The bill includes a provision stating that nothing in the law should be interpreted to impact state laws on parent exercise of authority over low-performing schools.

Providing States and School Districts Greater Flexibility to Meet Students' Unique Needs

- Funding Flexibility: Consistent with H.R. 2445, the State and Local Funding Flexibility Act, the bill allows states and school districts to use funds for certain special population programs for any activity authorized under any of the other programs. This allows state and local officials to use federal funds to meet their own unique needs. While school districts will not be allowed to use funds received for Title I schools outside of those schools, they can move additional funding to low-income schools. The bill maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, and Indian Education programs, but merges them into Title I.

- Schoolwide Programs: The bill eliminates the 40 percent poverty threshold for schoolwide programs, allowing all Title I schools to operate whole school reform efforts. This change, included in the Obama administration's waiver package, will allow low-income schools greater flexibility to consolidate programs and focus their efforts on raising the achievement of all students.

Investing Limited Taxpayer Dollars Wisely

- Authorization Levels: The bill limits funding authorizations to the FY 2012 appropriated levels. Consistent with the charge to increase public transparency and end the use of "such sums," the bill ties potential funding increases to inflation. It also consolidates authorization levels into one section in the law.

- Reducing Department Bureaucracy: The bill requires the Secretary to eliminate the full time equivalent (FTE) employee positions associated with the eliminated and consolidated programs under the bill. Specifically, the Secretary would have two months to identify how many FTEs work on or administered programs that have been eliminated or consolidated under the legislation; he would then have one additional year to reduce the Department's workforce by that number.

- State and Local Spending Decisions: The bill removes all "Maintenance of Effort" (MOE) requirements, allowing states and school districts to set their own funding levels for elementary and secondary education. These requirements are removed for four reasons:

    - Dictating how states and school districts spend their tax revenues as a condition of receiving federal funds is not an appropriate federal role.
    - MOE requirements assume that increased education spending will improve educational outcomes. Decades of data prove this argument false.
    - MOE requirements provide disincentives for states and school districts to innovate and deliver better educational services more efficiently.
    - Data from the U.S. Department of Education show that, since enactment of No Child Left Behind, nearly every school district request to waive MOE has been granted. The bill acknowledges this reality and eliminates the burden for districts.

At the same time, the legislation maintains the law's "supplement, not supplant" requirements, which ensure that federal dollars are used on top of state and local resources, protecting the traditional federal role in education. Maintaining these provisions will ensure states and districts will not be able to dramatically cut education spending and fill in the gaps with federal dollars.

Strengthening Programs for Schools and Targeted Populations

The Student Success Act maintains separate funding streams for the Migrant Education, Neglected and Delinquent, English Language Acquisition, Rural Education, and Indian Education programs, but merges them into Title I of the law. The bill strengthens each program in key ways.

- Education of Migratory Children: The bill provides a reservation of funds to assist states in supporting high-quality educational programs and services to address the unique educational needs of migratory children, including during summer periods. The legislation strengthens how migrant student counts are determined in each state, basing state allocations on the average number of eligible full time equivalent migratory children from the previous three years and a count of the number of migratory children who receive services under summer programs. The bill also allows states, school districts, and other public and private entities to improve intrastate and interstate coordination and information exchanges regarding migratory children.

- Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk: The bill provides a reservation of funds to improve educational services for students in state and local institutions or for those children who are transferring out of institutionalization. The legislation emphasizes receipt of a regular high school diploma to the extent feasible, and makes minor technical and clarifying changes to improve the operation of the program.

- English Language Acquisition, Language Enhancement, and Academic Achievement: The bill includes a reservation of funds to provide services to help non-English speakers learn English and meet state academic standards. The bill consolidates accountability and reporting requirements for English learners into the Title I program to encourage greater alignment, while maintaining student achievement expectations for these students and public reporting of progress. The bill changes how the Secretary of Education determines immigrant student and English learner counts, to ensure states and school districts receive accurate and reliable data and stabilize funding. Consistent with H.R. 1891, the Setting New Priorities in Education Spending Act, the bill eliminates the Improving Language Instruction Educational Programs, which have never been funded and are duplicative of the main program.

- Rural Education: The bill reserves funds for rural school districts and schools in both the Small Rural School Achievement (SRSA) Program and the Rural and Low-Income School (RLIS) Program. The legislation updates current locale codes, which determine eligibility of rural districts and schools under both programs, and includes a sliding scale hold harmless formula for districts that would become ineligible under the SRSA program because of the new codes. The bill allows school districts to apply for funding under both the SRSA and the RLIS Programs.

- Indian Education: The bill reserves funds to meet the unique educational and cultural needs of American Indian students and encourages Indian tribes, communities, and parents to participate in the education of their children. The bill allows school districts and Indian tribes applying for formula grants to apply in consortia to maximize the use of federal funds. Consistent with H.R. 1981, the Setting New Priorities in Education Spending Act, the bill eliminates the Native Hawaiian Education and Alaska Native Education Equity programs, which are duplicative of other services and funds provided to these populations under Title I. The bill also eliminates the Fellowships for Indian Students program and the Improvement of Educational Opportunities for Adult Indians program, which have not been funded since 1995. It also eliminates the In-Service Training for Teachers of Indian Children Grant, the Gifted and Talented Indian Students program, and the Grants to Tribes for Education Administrative Planning and Development program, which have never received federal funding.

Maintaining and Strengthening Long-Standing Protections for State and Local Autonomy

The Student Success Act includes the General Provisions of ESEA, but moves them from the current Title IX to a new Title V. The bill maintains and strengthens these important protections for students, parents, communities, states, and school districts while eliminating other burdensome and duplicative requirements.

- Private School Students: The bill strengthens provisions to ensure the participation of private school students and teachers in the programs funded under the ESEA. The bill improves the consultation and negotiation processes to provide clearer procedures and faster notice for private school officials. These changes will better protect access for private school students.

- Secretary's Authority: The bill protects state and local autonomy over decisions in the classroom and limits the authority of the Secretary of Education. The legislation: (1) prohibits the Secretary from imposing conditions on states and school districts in exchange for a waiver of federal elementary and secondary education law; (2) prevents the Secretary from creating additional burdens on states and districts through the regulatory process, particularly in the areas of standards, assessments, and state accountability plans; (3) prohibits the Secretary from demanding changes to state standards and influencing and coercing states to enter into partnerships with other states; and (4) outlines specific procedures the Secretary must follow when issuing federal regulations and conducting peer review processes for grant applications, including publicly releasing the identity of peer reviewers, that will bring greater transparency.

- Military Recruiters: The bill improves the military recruiting provisions in current law by ensuring military recruiters have the same access to high schools as institutions of higher education.

H.R. 3990, Encouraging Innovation and Effective Teachers Act

Part Three of House Republicans' efforts to reauthorize ESEA/NCLB, H.R. 3990, the Encouraging Innovation and Effective Teachers Act, would reduce burdensome federal mandates and regulations, grant states and school districts freedom to innovate and support more effective teachers in the classroom. House Education and Workforce Committee Chairman John Kline (R-Minn.) introduced H.R. 3990 to the House on Feb. 9, 2012. At the time of this writing, H.R. 3990 has not yet been brought up for a Floor vote.

The following summary of H.R. 3990 is provided by the House Education and Workforce Committee:

The Encouraging Innovation and Effective Teachers Act offers a better way forward for education reform by:

- Supporting local efforts to measure teacher effectiveness.
- Engaging parents in their child's education.

- Increasing state and local innovation to reform public education.
- Eliminating unnecessary and ineffective federal programs.
- Supporting Impact Aid.
- Providing services for homeless students.
- Strengthening the Troops-to-Teachers program.

Supporting Local Efforts to Measure Teacher Effectiveness

The Encouraging Innovation and Effective Teachers Act builds on the repeal of the Highly Qualified Teacher (HQT) requirement in the Student Success Act. Parents know the best teachers are the ones who keep students motivated and challenged in the classroom. Instead of relying on teacher credentials or tenure requirements, which provide little information about teachers' ability to help students excel in the classroom, states and school districts should have the tools to measure an educator's influence on student achievement.

- Teacher Evaluations: The bill rewrites the main teacher quality program authorized under Title II of current law to support the development and implementation of state- and locally-driven teacher evaluation systems. Contrary to the provisions in the Obama Administration's Race to the Top program or the waiver package (which impose specific and onerous mandates on states and school districts), the bill sets five broad parameters that must be included in any teacher evaluation system. This gives greater flexibility to school districts, or states, to develop a system that best meets the specific needs of their teachers and students. The evaluation systems must:

    - Make student achievement data a significant part of the evaluation.
    - Use multiple measures of evaluation in assessing teacher performance.
    - Have more than two rating categories for the performance of teachers.
    - Make personnel decisions based on the evaluations, as determined by the school district.
    - Seek input from parents, teachers, school leaders, and other staff in the school in the development of the evaluation system.

- Uses of Funds: The bill allows states that have already developed statewide teacher evaluation systems to use teacher quality funds to work with their school districts to implement the system. Funds may also be used to train school leaders in how to evaluate teachers under the system; provide evidence-based, job-embedded, and continuous professional development for teachers and schools leaders focused on core academic subjects or specific student populations; and provide additional support to teachers identified as in need of additional assistance. States and school districts can also use teacher funds for class size reduction, but the bill caps this use at 10 percent. A substantial amount of teacher quality funds under current law are used to reduce class size, which has little to no effect on student learning.

- Teacher and School Leader Innovation: The bill consolidates the remaining teacher quality programs, including the Teacher Quality Partnership Grant program authorized under the Higher Education Act, into a new Teacher and School Leader

Flexible Grant. The program awards grants to states and school districts to increase student achievement through evidence-based innovative initiatives. School districts, solely or in partnership with institutions of higher education and other entities, can receive funding to:

- Increase access to or develop alternative certification or licensure routes.
- Recruit, hire, and retain effective teachers.
- Implement performance-based pay systems and differential incentive pay.
- Create teacher advancement and multiple career paths.
- Establish new teacher or school leader induction programs and teacher residency programs.
- Provide additional professional development activities or other evidence-based initiatives likely to increase teacher effectiveness.

- Teacher and School Leader Academies: The bill includes an optional state set-aside of up to 3 percent so states can award grants to eligible entities for the establishment or expansion of teacher or school leader preparation academies.

- Teacher Liability: The bill maintains liability protections included in current law that protect school employees (including teachers, administrators, and school board members) acting to control, discipline, expel, or suspend a student or to maintain order in the classroom or school through reasonable actions.

Engaging Parents in their Child's Education

The Encouraging Innovation and Effective Teachers Act builds on the successful passage of the Empowering Parents through Quality Charter Schools Act, which passed the House in September 2011, to support the replication and expansion of high-quality charter schools. The bill maintains and strengthens the existing Magnet School and Parent Information and Resource Center programs, which provide states, school districts, and other entities with federal support so parents can identify quality options and participate in their children's education. The legislation moves these programs from the current Title V to a new Title III.

- Magnet Schools: The bill continues to provide funds to support the development and implementation of innovative education methods and practices that promote diversity and increase choices in public education. The legislation makes minor changes to improve the operation of the program.

- Family Engagement Centers: The bill renames and makes improvements to the existing Parental Information and Resource Centers (PIRC) program, which helps implement family engagement policies, programs, and activities that lead to improvements in student academic achievement. It also strengthens partnerships among parents, teachers, school leaders, administrators, and other school personnel designed to meet the educational needs of children. The legislation promotes the better sharing of effective strategies and increases coordination between states, family engagement centers, and parents.

Increasing State and Local Innovation to Reform Public Education

- State and Local Innovation: The bill creates a new Local Academic Flexible Grant to provide funds to states and school districts to support initiatives based on their own unique priorities. While ensuring the funds are spent to increase student achievement as part of in-school or after-school activities, states and school districts will have maximum flexibility to spend their resources on any activity authorized under state law. Instead of Washington bureaucrats making the decisions for superintendents, school leaders, and teachers, local officials will be able to make funding decisions based on what they know will help improve student learning.

- Private Sector Initiatives: Under the Local Academic Flexible Grant, states will reserve 10 percent of their funds to support state and local programs that operate outside of traditional public school systems. This infusion of private sector innovation will support states and districts in improving student achievement.

Eliminating Unnecessary and Ineffective Federal Programs

- Streamlining Education Spending: Consistent with the Setting New Priorities in Education Spending Act passed by the committee in May 2011, the bill eliminates more than 70 existing elementary and secondary education programs, many of which have never been funded, are too small to have a meaningful impact on student achievement, or have been deemed ineffective by the federal government. This will restore fiscal discipline and promote a more appropriate federal role in education.

- Earmarks: The bill eliminates all of the current programs and special provisions targeted to specific national organizations to comply with the House earmark ban.

Supporting Impact Aid

The Encouraging Innovation and Effective Teachers Act strengthens the three existing Impact Aid programs, which provide direct funding to school districts impacted by the presence of the federal government. The programs reimburse districts located near, or serving students from, military bases, federal lands, and Indian reservations for the loss of property taxes. The legislation moves the programs from Title VIII of current law to a new Title IV.

- Payments for Federal Property: The bill reauthorizes Payments for Federal Property and rejects the Obama administration's recent budget request to eliminate this important program that provides critical resources to school districts that lack revenue due to federal ownership of land. The legislation updates the formula by which school district allotments are determined for a district and enables alternative verification of tax data for districts that cannot provide original tax records, including facsimiles or other reproductions of the records. It also establishes an initial payment for districts eligible for federal property compensation based on 90 percent of the 2006 applications.

- Payments for Federally Connected Children: The bill streamlines provisions for Heavily Impacted school districts, which are districts with high percentages of military, Native American, or other federally connected-children. The legislation standardizes eligibility criteria for these districts at 45 percent enrollment of federally-connected children, bases per pupil expenditure eligibility requirements on state average expenditures rather than national average expenditures, and maintains the tax rate requirement for eligible districts of at least 95 percent of the average tax rate for general fund purposes of comparable districts in the state. The bill also allows federally-connected children to be counted in enrollment numbers in the case of open enrollment policies in a state, but does not allow children to be counted if they are enrolled in a distance education program located outside of the boundaries of the district. The bill also provides equal prorated payments greater than 100 percent of Learning Opportunity Threshold for eligible districts. The bill extends from three to four years the timeline for which a district may count children relocated to off-base housing due to authorized Department of Defense housing renovations and demolitions.

- Timely Payments: The bill requires the Secretary to provide Impact Aid payments within three years. This addresses long-standing concerns that have been raised by school districts about the lack of on-time payments coming from the Department of Education.

Providing Services for Homeless Students

The Encouraging Innovation and Effective Teachers Act reauthorizes the McKinney-Vento Homeless Assistance Act, the primary federal law that provides funding to states and school districts to educate homeless children and youth.

- Improved Collaboration: The bill places a greater emphasis on improved identification of homeless children and youth, and provides better collaboration and information sharing among federal and state agencies to provide services for homeless students.

- School Stability: The legislation strengthens provisions in current law to provide greater school stability and protections for homeless youth and parents.

Strengthening the Troops-to-Teachers Program

- Transfer to DOD: The bill transfers Troops-to-Teachers, a longstanding program that provides opportunities to military personnel to transition into the teaching profession, to the Department of Defense, where it is currently administered.

<u>H.R. 2117, Protecting Academic Freedom in Higher Education Act</u>

As previously detailed in this chapter, Republicans recognize the need to reduce federal regulations that can lead to higher costs for colleges and students, and are working to reduce the regulatory burden and bolster innovation at the postsecondary level. Two particularly troublesome regulations released by the Department of Education in late 2010 (these regulations were part of the program integrity and gainful employment regulations detailed earlier in this chapter) – the credit hour and state authorization regulations – not only put the federal government in the middle of issues that have historically been the responsibility of academic institutions or states, but could also have significant implications on college costs and student choice.

The credit hour regulation establishes a federal definition of a credit hour. Republicans believe this attempt to measure student learning at the federal level will restrict innovation, limit flexibility and obstruct innovative teaching methods that could help students save money by graduating early.

The state authorization regulation forces states to follow federal requirements when deciding whether to grant a college or university permission to operate within the state. Republicans believe this one-size-fits-all requirement piles unnecessary cost on states, colleges and students, and could pave the way for future overreach into higher education.

In an effort to prevent federal intrusion in academic affairs, protect student choice in higher education and reduce the regulatory burden on colleges and universities, H.R. 2117 would permanently repeal the unnecessary credit hour and state authorization regulations.

On Feb. 28, 2012, the House passed H.R. 2117 by a vote of 303 to 114. You can see how they voted here. As of this writing, the Senate has failed to take up H.R. 2117 for consideration.

TIMELINE OF MAJOR EDUCATION ACTIONS AND LAWS

Editor's Note: *This timeline compilation of major education actions and laws was put together by the House Education and Workforce Committee.*

1787 · The Norwest Ordinance provides grants of federal land for the establishment of educational institutions.

1862 · The Morrill Act provides grants of land to states, which may be sold to fund colleges that focus on agricultural and mechanical studies.

1867 · Congress appropriates $15,000 for the creation of a Department of Education in response to lobbying by the National Teachers Association, which later became the National Education Association. The Department has four employees and acts as a clearinghouse of data for educators and policymakers.

1868 · Congress downgrades the new department to an Office of Education within the Department of Interior after a bitter fight over federal encroachment in education.

1890 · A second Morrill Act empowers the Office of Education to provide regular funding to land-grant colleges.

1907 · The Morrill Acts are amended to add federal funding for vocational education.

1917 · The Smith-Hughes Act funds vocational schools.

1930 · The New Deal funds an array of educational activities, including school construction and repairs, the hiring of teachers, loans to school districts, and grants to rural schools.

1939 · The Office of Education is moved to the new Federal Security Agency.

1941 · The Lanham Act provides temporary "impact aid" to school districts that host defense facilities.

1944 · The Servicemen's Readjustment Act – the G.I. Bill – is enacted to pay for the educational costs of World War II veterans.

1950 · Congress approves permanent impact aid for school districts that have a large presence of federal facilities. In the first year, the government distributes $30 million to 1,172 school districts.

1953 · The Office of Education is moved to the new Department of Health, Education, and Welfare.

1958 · The National Defense Education Act is passed in response to the Soviet Union's launch of Sputnik. The Act funds higher education loans, vocational teaching training, and various courses in K-12 schools.

1963 · A series of laws expands federal subsidies for the health professions, vocational education, and higher education facilities.

1964 · The Civil Rights Act authorizes the federal government to aid schools and higher education institutions to deal with problems related to desegregation.

1965 · The Elementary and Secondary Education Act (ESEA) is created to provide aid to K-12 schools in high-poverty areas and subsidies for teacher training, educational research, school libraries, textbooks, student literacy, school technology, school safety, and other items. The Act creates a huge increase in federal education spending and regulations.

1965 · The Higher Education Act is passed, creating a number of student loan and grant programs, college library aid, and teacher training programs and fellowships.

1965 · The Office of Education has 2,113 employees and a budget of $1.5 billion.

1972 · Amendments to the 1965 education laws add a number of new programs for K-12 and higher education. In addition, Title IX is added, which bars gender discrimination in colleges and universities.

1975 · The Individuals with Disabilities Education Act (IDEA) is passed requiring states to ensure free public education to all disabled students, and spelling out the services that school districts are required to provide.

1976 · Presidential candidate Jimmy Carter promises to create a Department of Education, and is endorsed by the National Education Association. This is first time the NEA has endorsed a presidential candidate in more than a century of existence.

1979 · Congress narrowly passes legislation to split off a new Department of Education from the existing Department of Health, Education, and Welfare. The NEA and American Federation of Teachers provide powerful lobbying support for its creation. The Department begins operations in 1980 with 6,400 employees.

1983 · A blue-ribbon commission releases the influential report "A Nation at Risk," which sharply criticizes the mediocre state of the nation's public schools. The report sets back President Ronald Reagan's efforts to eliminate the Department of Education and reduce federal intervention.

1990 · President George H.W. Bush pushes for the creation of "national goals" for K-12 schools.

1993 · Congress passes the Student Loan Reform Act, which creates federal direct lending for student loans as an alternative to the private student loan program.

1994 · President Bill Clinton signs into law the Goals 2000: Educate America Act to promote "national education goals," building on ideas proposed by President Bush. Clinton also signs into law the Improving America's Schools Act, which requires states to develop federally approved education plans coordinated with Goals 2000 and adopt a system of tests to ensure students make yearly progress.

1986 · The Drug-Free Schools Act funds various anti-drug initiatives.

2002 · President George W. Bush signs the No Child Left Behind Act (NCLB), requiring states to annually assess students in reading and math and implement federal interventions in low-performing schools. The law represents a major new federal expansion into local classrooms. The law triggers a huge expansion in the Department's K–12 spending: from $20 billion in 2000 to $37 billion in 2005.

2007 · Congress passes the America COMPETES Act creating a range of new science and math programs.

2008 · The Department's budget doubles from 2000 (from $33 billion to $68 billion).

2009 · Congress passes the American Recovery and Reinvestment Act, which provides almost $100 billion to states and school districts. The Act authorizes the Secretary to create a Race to the Top program.

2010 · Congress passes the Student Aid and Fiscal Responsibility Act (SAFRA), tucked into the healthcare reform law, to dramatically expand the Department's direct lending program and ending the private sector-based Federal Family Education Loan Program.

U.S. EDUCATION STATISTICS

Editor's Note: *The following information is provided by the National Center for Education Statistics for the 2012 school year unless otherwise indicated.*

Elementary and Secondary Education

It is projected that in fall 2012, nearly 49.6 million students will attend public elementary and secondary schools. Of these, 35.1 million will be in prekindergarten through 8th grade and 14.5 million will be in grades nine through 12 (source). An additional 5.2 million students are projected to attend private elementary and secondary schools this fall.

Nearly 1.2 million children are expected to attend public prekindergarten this fall. Enrollment in kindergarten, at approximately 3.8 million, is projected to be at an all-time high (source).

Public school systems will employ about 3.3 million teachers this fall (source), resulting in a pupil/teacher ratio of 15.2 (source). Approximately 422,000 teachers will be working in private schools this fall (source), where the pupil/teacher ratio is estimated to be 12.5 (source).

In the 2008-2009 school year, there were about 13,800 public school districts (source) containing nearly 99,000 public schools, including close to 4,700 charter schools and at least 3,000 magnet schools (source). In the 2007-2008 school year there were approximately 33,700 private schools offering kindergarten or higher grades (source).

Approximately 4.1 million public school students are expected to enroll in ninth grade this fall, a typical entry grade for many high schools (source).

The total expenditure amount for all students enrolled in public elementary and secondary school is projected to be about $550 billion (in current dollars) for the 2012-2013 school year. The estimated per student expenditure amount is projected to be $11,081, up from $10,297 in actual per student expenditures in the 2007-2008 school year (last available actual data) (source).

The 2008 and 2009 high school dropout percentages among 16- through 24-year-olds of 8.0 percent and 8.1 percent, respectively, are the lowest dropout rates over the past 40 years. The dropout rates for black and Hispanic high school students have begun to decline in recent years, but remain consistently higher than those for whites. The 2009 Hispanic dropout percentage of 17.6 is more than three times the percentage of 5.2 for whites for the same year (source).

About 3.2 million students are expected to graduate from high school in the 2012-2013 school year, including 2.9 million from public high schools and more than 280,000 from private high schools (source).

The percentage of high school completers enrolling in college in the fall following high school graduation was 70.1 percent in 2009. The rate for females (73.8) was higher than the rate for males (66.0 percent) (source).

College and University Education

In fall 2012, a record 20.7 million students are expected to attend our Nation's two-year and four-year colleges and universities (source).

Females are expected to comprise the majority of college students in fall 2012: 11.8 million females will attend, compared with 8.9 million males. Although the majority of students will attend full-time, an estimated 12.9 million for fall 2012, about 7.9 million are expected to attend part-time (source).

About 7.8 million students are expected to attend public four-year institutions (source) with 5.3 million projected to attend private four-year institutions (source) in fall 2012. Approximately 7.1 million will attend public two-year institutions (source) while 420,000 are projected to attend private two-year institutions (source) in fall 2012.

The record college enrollments have been driven by both increases in the traditional college age population and rising enrollment rates. Between 2000 and 2009, the 18- to 24-year-old population rose from approximately 27.3 million to approximately 30.1 million (source) and the percentage of 18- to 24-year-olds enrolled in college also was higher in 2009 (41.3 percent) than in 2000 (35.5 percent) (source and U.S. Department of Commerce, Census Bureau, Current Population Survey, October 2009).

Increasing numbers and percentages of Black and Hispanic students are attending college. Between 2000 and 2008, the percentage of college students who were Black rose from 11.3 to 13.5 percent, and the percentage of students who were Hispanic rose from 9.5 to 11.9 percent (source). The increases reflect growing numbers of college-age Blacks and Hispanics (source) and higher enrollment rates for Hispanics (source).

For the 2009-2010 school year, annual prices for undergraduate tuition, room and board were estimated to be $12,804 at public institutions and $31,284 at private institutions (source).

During the 2012-2013 school year, colleges and universities are projected to award 899,000 associate's degrees (source), 1.8 million bachelor's degrees (source), 741,000 master's degrees (source), 80, 200 doctor's degrees (source) and 104,000 first-professional degrees (source).

EDUCATION TALKING POINTS

- Education is the bedrock of success. We must ensure our future workforce has the training and tools necessary to succeed in a global economy.

- Democrats want to throw more money at the same programs that have produced disappointing results – 30 percent of U.S. high school students fail to graduate from high school.

- Parents, not government bureaucrats, should have the tools and options available to them in order to provide the best possible education for their children.

Elementary and Secondary Education

- Under No Child Left Behind (NCLB), states should be granted greater authority over how funds are used to improve education.

- Schools should be afforded real transparency to hold schools and policymakers accountable for results.

- We cannot have a system that protects bad teachers and stifles the creativity of good teachers. On an individual basis, teachers and schools need the freedom to operate and innovate in ways they think will improve their students' academic achievement.

Higher Education

- Under failed Democrat leadership, half of recent college graduates are unemployed or underemployed.

- Democrats have enacted policies that limit students' access to affordable higher education options.

- We need to ensure higher education is more accessible and affordable for working familes.

ADDITIONAL INFORMATION AND RESOURCES

- The Condition of Education (the annual report to Congress on important developments and trends in U.S. education) – http://nces.ed.gov/programs/coe/
- The Digest of Education Statistics – http://nces.ed.gov/programs/digest/
- Federal Student Aid information on the Web – http://studentaid.ed.gov
- House Education and the Workforce Committee website – http://edworkforce.house.gov
- Projections of Education Statistics to 2020 – http://nces.ed.gov/programs/projections/projections2020/
- State Education Data Profiles – http://nces.ed.gov/programs/stateprofiles/
- U.S. Department of Education website – http://www.ed.gov