



Legislative Bulletin.....July 31, 2008

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Conference Report H.R. 4137 –College Opportunity and Affordability Act of 2007

**Conference Report H.R. 4137—College Opportunity and Affordability Act of 2007
(Miller, D-CA)**

This Conference Report authorizes over 45 new programs, numerous new studies, and a dramatic expansion of higher education policy. A list of new programs and studies can be found on pages 11-17 of this document.

In addition, please note the Conservative Concerns on page 17, and those highlighted throughout the bulletin.

Order of Business: On July 31, 2008, the House will consider the Conference Report on the College Opportunity and Affordability Act of 2007. The rule for consideration of the conference report to accompany H.R. 4137 ([H.Res. 1389](#)) waives all points of order against the conference report and against its consideration.

On February 7, 2008, the House considered H.R. 4137, the College Opportunity and Affordability Act of 2007, and passed the bill by a vote of [354-58](#). On July 24, 2008, the Senate passed S. 1642, with amendment, by unanimous consent. On July 29, 2008, the Senate and the House appointed conferees and met to vote on the conference report. One amendment was considered by Rep. Tierney (D-MA) to reinstate the maintenance of effort provision, and was agreed to by the conferees. On July 30, 2008, the conference report was filed.

Background: The College Opportunity and Affordability Act is the second of the two major higher education bills acted on by this Congress. The College Cost Reduction and Access Act of 2007 ([H.R. 2669](#)) was passed by the House on July 11, 2007, and signed into law on September 2007. The HEA serves to reauthorize the Higher Education Act for five years (through FY 2014).

The Higher Education Act of 1965 (HEA) authorizes the federal government’s major federal student aid programs (Title IV), as well as other programs which provide institutional aid and support (Titles II, III, and V). HEA also authorizes services and support to disadvantaged students (programs within Title IV), and to students pursuing international education and certain graduate and professional degrees (Titles VI and VII).

According to CRS, the 108th and 109th Congresses each considered but did not complete the HEA reauthorization process. In the 110th Congress, the Higher Education Amendments of 2007 ([S. 1642](#)) was introduced by Senator Kennedy on June 18, 2007, approved by the Senate Health, Education, Labor, and Pensions (HELP) Committee on July 10th, and passed by the full Senate on July 24, 2007. H.R. 4137 was introduced in the House Committee on Education and Labor on November 9, 2007, and was approved by the Committee on November 15, 2007.

To see the RSC Legislative Bulletin on H.R. 4137, which the House voted on in February, visit this webpage:

http://www.house.gov/hensarling/rsc/doc/lb_020708_highered.doc

To see the RSC Legislative Bulletin on the conference report on H.R. 2669 from the 110th Congress, visit this webpage:

http://www.house.gov/hensarling/rsc/doc/lb_090707_educationreconciliationconfprt.doc.

Cost: While no CBO estimate is available for the conference report, CBO estimates that enacting H.R. 4137 would increase direct spending by \$75 million in 2008 and decrease it by \$27 million over the FY 2008-2017 period. Most of those effects stem from changes affecting eligibility for federal student loan programs and the Academic Competitiveness and SMART Grant programs. According to CBO, “the bill would reauthorize and amend many of the discretionary programs previously authorized by the Higher Education Act of 1965 and would authorize a number of new discretionary programs. In total, CBO estimates that implementing this legislation would increase discretionary outlays by **\$97.4 billion** over the 2008-2012 period, assuming the appropriation of the necessary amounts.”

Key Provisions: Due to the fact that this legislation is very detailed and comprehensive, the RSC staff has devoted this section to highlighting the most essential provisions of the bill. This summary of key provisions **does not** include new programs authorized in the Conference Report, for which there is a separate section devoted in this document.

Title I

Homeschool Students: The bill includes a provision which protects institutions from losing their student aid eligibility if they admit and/or provide aid to homeschool students.

Academic Bill of Rights: The bill includes sense of Congress language that encourages an institution to promote free, indiscriminate speech and design its academic program in accordance with its individual mission.

Diploma Mills: The bill defines “diploma mill” as an institution that offers, for a fee, degrees, diplomas, or certificates, that may be used to represent to the general public that the individual possessing such a degree, diploma, or certificate has completed a program of postsecondary education or training; requires such individual to complete little or no education or coursework to obtain such degree, diploma, or certificate; and lacks accreditation by an accrediting agency or association that is recognized as an accrediting agency or association of institutions of higher education. The bill requires the Secretary of Education to maintain a website containing information and resources to assist the public in how to identify and avoid diploma mills. The bill would continue to encourage the Secretary to work with other federal agencies to prosecute diploma mills.

Federal Student Aid (FAFSA) Web Improvement: This provision would require the Department of Education to display a link to the federal student aid website on their website, and this provision requires that the Department also display other federal assistance opportunities for students. In addition, the provision requires the Secretary to create a website that contains information on financial aid for military members and veterans.

National Database on Financial Assistance for Study of Science, Technology, Engineering, and Mathematics (STEM): The bill requires the Secretary to develop a website that includes information on scholarships, fellowships, and other forms of financial assistance for the study of STEM subjects.

Provisions to Address College Costs

1. College Affordability and Transparency Lists: The bill would require that the Secretary publish the following transparency lists:
 - The 5% most expensive institutions in the country, determined by sticker price;
 - The 5% most expensive institutions in the country, determined by net price;
 - The 10% least expensive institutions in the country, determined by sticker price;
 - The 10% least expensive institutions in the country, determined by net price;
 - The top 5% institutions that have the largest percentage increase in price over the last three years, determined by sticker price; and
 - The top 5% institutions that have the largest percentage increase in price over the last three years, determined by net price.

Institutions on the percentage increase lists will have to report the average price of room and board, report and examine their expenditures, and move forward with efforts to decrease costs. If an institution is placed on the list for two or more consecutive years, the institution will be required to provide a description of the progress made on the cost reduction steps. The bill specifies that institutions will be exempt from placement on the list if the dollar increase over the 3-year period is less than \$600.

2. Net Price Calculator: The bill requires each institution to publish their average net price by income category and post a net price calculator on their website.
3. College Information Website: The Secretary will make public approximately 26 different pieces of information regarding college costs, and publish such information on the Department's College Navigator website.
4. Maintenance of Effort: This provision would require that states maintain a level of funding for higher education equal to the average of the five preceding years. The Secretary may waive this provision due to "uncontrollable circumstances, such as a natural disaster or the precipitous decline in the financial resources of a state". In addition, if a state does not meet the requirements of the "maintenance of effort" provision, the Secretary will be able to withhold Access and Persistence Grant funds (a formula grant program designed to entice states into partnerships with institutions and other outside entities in order to increase the access of low-income students). **The National Governors Association weighed in on this provision, stating: "The nation's governors, state legislators, and higher education officials oppose the proposed 'Maintenance of Effort' (MOE) mandate ... and urge Congress to remove the provision from the bill ... state budgeting decisions should be made by state officials. The decision to fund a new building or campus, expand student aid, help low-**

income families to access health care, or improve high schools, must remain with the officials closest to the needs of their specific communities.” Many conservatives may be concerned that by enacting the MOE requirement, the federal government would be overstepping its authority by dictating the way states spend/allocate their state funds. Earlier this year, 46 governors signed a letter strongly opposing the MOE and asked that the mandate be removed in conference.

Rep. Bishop (R-UT) and Rep. Hoekstra (R-MI) authored a Member letter to conferees on Tuesday encouraging them to keep this provision out of the final conference report. Some of the concerns that were noted in the letter were the following:

We are concerned, however, that efforts may be made to offer the MOE provision as an amendment during final conference negotiations. We strongly believe that it will likely have unintended negative consequences. State budgets are cyclical and shortfalls often result from economic conditions outside the control of the state. If state officials recognize that an investment into higher education during a surplus year will constrain budgetary decisions in every future year, they will choose to spend extra funds elsewhere and funding into higher education will suffer.

Even if this likely effect were not a concern, the MOE provision would still represent a dangerous breach of our system of federalism. The decision to determine a particular state’s needs during a given period of time is wholly the responsibility and prerogative of that state’s elected leaders. They are close to the needs of the state and are qualified to make appropriate funding decisions. Allowing the Secretary of Education to second guess a state’s commitment to higher education is unprecedented and intrusive. Numerous state leaders across the country have already expressed alarm and echoed these concerns.

Unfortunately, the only amendment considered by the conferees on Tuesday was an amendment sponsored by Rep. Tierney (D-MA), which reinstated the MOE provision.

Textbooks: A provision would require textbook publishers to provide faculty members with the following information, to ensure transparency in the costs of college textbooks:

- The price at which the publisher would make the textbook available to the bookstore and, if available, the price at which the publisher would make the textbook available to the public;
- The copyright dates of the three previous editions of the textbook;
- A description of the substantial revisions between current edition and the previous edition of the textbook; and
- Whether the textbook is available in any other format and at what cost.

In addition, this provision sets a new mandate for publishers, requiring that they sell textbooks and other materials in an unbundled format.

Lender and Institution Requirements: The bill requires several disclosures from lenders and institutions. It would require the lender to provide the information on the model form (a format developed by the Secretary) to institutions and to the Department. The bill would also require that institutions provide the information contained in the model form to the Secretary for each lender on their preferred lender list. Furthermore, these provisions require that the institutions inform students that they are not limited to use the lenders on the preferred list and disclose to students the maximum amount of federal grant and loan aid available. The bill sets the penalty for not following these “sunshine provisions” at no more than \$25,000, and grants the Secretary the ability to terminate the participation of any lender who does not follow the provisions.

In-State Tuition for Military: A provision in the bill requires that states provide in-state tuition to all members of the military, as well as their spouses or their dependent children.

Lobbying Prohibition: The bill prohibits institutions of higher education from using any funds under this act for lobbying purposes or fundraising activities.

Title II

Authorizes Teacher Quality Partnership Grants: This grant program consolidates existing state grants, partnership grants, and teacher recruitment grants into one grant program designed to fund partnerships to improve teacher training and professional development. Note: This provision includes a rule of construction protecting this provision from being construed as affecting collective bargaining agreements. The bill also requires that partnerships that receive grants under this program establish performance measures to ensure effectiveness, and requires any institution that receives federal aid under the HEA—and institutes a teacher preparation program—to publish a report on the quality of the program. The bill authorizes this grant program at \$300 million for FY 2009 and such sums for each of the following two years. **Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has demonstrated insufficient results.**

Protecting private and homeschools: The bill continues prohibitions on a national teacher certification program, which will effectively protect private and homeschools from onerous certification requirements.

Preparing Teachers for Digital Age Learners: The bill rewrites the existing program, and authorizes the Secretary to award grants to institutions of higher education who partner with another entity with expertise in technology for the goals of improving teacher preparation. The bill authorizes such sums for FY 2009 and each of the following five years.

Title III

Changes to Current Programs: The bill makes several changes to the Historically Black Colleges and Universities capital financing program, and increases the loan cap for the program. The bill also provides the Secretary the authority with respect to institutions in areas affected by disasters (including Hurricanes Rita and Katrina) to waive their requirements.

For more on Title III, see “New Programs Authorized” below.

Title IV

Part A

Federal Pell Grants: The bill increases the maximum Pell grant authorization incrementally through 2015 (from \$6,000 to \$8,000). The bill also allows students to receive Pell grants year round, and prohibits sex offenders who are residing in an “involuntary civil commitment program” from receiving Pell grants while in the facility. In addition, the bill incorporates [an amendment](#) offered by Rep. E. B. Johnson (D-TX) which would allow children of soldiers in Iraq and Afghanistan to receive the maximum Pell Grant if one of their parents died in combat (the amendment was passed by voice vote on February 7, 2008). Furthermore, the bill limits the maximum amount of semesters a student can receive Pell grants to 18 semesters. **Some conservatives may be concerned that this provision would expand federal Pell grant amounts.**

Academic Competitiveness Grants (ACG): The bill makes several technical and other corrections to the ACG/SMART grant program. The bill also ensures that students who participate in dual enrollment programs, or are eligible for Pell grants, are eligible for ACG grants. Allows students who are studying a “critical foreign language”, or are part-time students, to obtain SMART grants.

Changes to the TRIO program: The provision expands the [TRIO program](#) by adding new target populations for the use of TRIO funds (including foster care youth and homeless youth). In addition, the bill permits reservists who served on active duty for less than 180 days to be eligible to participate in the Upward Bound program. The bill also requires the Secretary to establish “outcome criteria” for determining the effectiveness and quality of TRIO programs and prohibits the Secretary from implementing the “absolute priority” for Upward Bound. According to the Republican Committee staff, “Based on analysis that students are more likely to succeed if they receive Upward Bound services for a longer period of time, the Department issued a priority for applications that demonstrated that they were admitting students into the program no later than 9th and 10th grade, one-third of which need to be at high risk of academic failure. The Department also required applicants to agree to participate in an evaluation whereby students who receive services would be compared to students who did not receive services.” The bill authorizes the TRIO program at \$900 million for FY 2009 (\$15 million above previous appropriations), and such sums for the following five years.

Some conservatives may be concerned that this provision seeks to expand the TRIO program, instead of cutting it back and ensuring that it remains a competitive grant program. The Administration states in their Statement of Administration Policy for H.R. 4137, “The Administration also strongly opposes provisions in H.R. 4137 that would prohibit the Department of Education from ever rigorously evaluating the effectiveness of the Upward Bound or TRIO programs. In addition, the Administration strongly opposes provisions that would nullify Upward Bound’s FY 2007 grant competition requirement that grantees target their activities to the neediest students and give rejected TRIO applicants special appeal rights not available in other grant programs.” Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has not demonstrated ineffective results.

Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) grants: The bill amends GEAR UP grants to set the minimum scholarship amount GEAR UP grantees are required to award to eligible students to the minimum federal Pell grant rather than the maximum federal Pell grant. Furthermore, the bill reduces from 33 percent to 25 percent the amount that is required to go to a partnership grantee and a state grantee. The bill authorizes \$400 million for FY 2009 and such sums for each of the following five years for these programs.

Grants for Access and Persistence: These formula grants to states are designed to expand college access and increase college “persistence” through “coordination and cohesion among federal, State, and local governmental and private efforts that provide financial assistance to help low income students attend college.”

Special Programs for Students Whose Families are Engaged in Migrant and Seasonal Farmwork: The bill defines ‘families’ as ‘immediate families,’ as opposed to ‘parents’ in current law. In addition, it sets a goal for these programs to encourage students who are attending two-year institutions to transfer to four-year institutions. The bill authorizes \$75 million for FY 2009 and such sums for the following five years for these programs.

Byrd Scholarship Program: The bill makes technical changes to clarify that homeschooled students are eligible to receive a scholarship under this program. The bill authorizes such sums for FY 2009 and the following five years to fund these programs. **Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has demonstrated insufficient results.**

Child Care Programs: The bill replaces the authorization amount for the Child Care Access Means Parents In Schools program with “such sums.”

Part B

Federal Family Education Loan (FFEL) Program: The bill amends a loan forgiveness program, established in reconciliation legislation ([H.R. 2669](#)), by adding the following occupations to the list of “national need” occupations: early childhood educators; nurses; foreign language specialists; librarians; highly qualified teachers serving students who are limited English proficient, low income, or underrepresented; child welfare workers; speech language pathologists; school counselors; public sector employees; nutrition professionals; mental health professionals; medical specialists; and public sector/public health employees.

Some conservatives may be concerned that this expansion of “national need” occupations is too broad. While no CBO score for the Conference Report exists, it may be important to note that the CBO estimated that this provision in H.R. 4137 would increase discretionary costs by \$7.8 billion over the FY 2008-2012 period.

Cohort Default Rate: Cohort default rates are the percentage of a school’s borrowers who enter repayment on certain Federal Family Education Loan (FFEL) Program or Federal Direct Loan Program loans during a particular federal fiscal year, and default or meet other specified conditions prior to the end of the next fiscal year. The bill expands the time during which institutions are held accountable for the default rates of their graduates from two years to three years, but defers the implementation of this expansion until 2011.

Some organizations, such as technical colleges and proprietary schools, are concerned that more schools would be penalized under this provision, as a three year time period would catch more students who have defaulted on their loans. The argument made by many school groups is that this provision disproportionately hurts technical schools since they tend to have poorer students, and that it unfairly punishes schools for the mistakes of the borrowers.

Federal Work Study: The bill authorizes the federal work study program at such sums for FY 2009 and the following five years.

Direct Loan Program: The bill clarifies that the time served as a Member of Congress does not count toward the ten year requirement to receive loan forgiveness under the provision passed in the [College Cost Reduction Act](#). The bill also requires the Secretary to ensure that monthly billing statements for direct loan repayments do not contain the borrowers Social Security numbers. The bill would prevent interest from accruing on Direct Loans made to active duty members of the military. For more information on the Direct Loan program, see [this RSC document](#).

Perkins Loan Program: The bill increases the loan limits for Perkins loans from \$4,000 to \$5,500 and from \$6,000 to \$8,000. The bill also alters the newly published regulations that relate to the collections of defaulted Perkins loans to require that any amount collected by the Secretary for defaulted loans be returned to the institution within 180 days. The bill also adds the following four new categories of loan forgiveness: full-time fire fighter, full time faculty member at a Tribal College or University, librarian, and full-time

speech pathologist. The bill authorizes \$300 million for FY 2009 and such sums for the following five years to fund these programs.

While the cost of attending college has risen rapidly in the last decade, federal aid provided for postsecondary education has almost doubled in the same timeframe, reaching \$94 billion in FY 2006. Despite the claim that Republicans had conducted a “raid on student aid” in recent years, Congress has substantially increased federal loan limits. Some experts contend that the significant rise in federal aid has actually contributed to increased college tuition. As the federal and state governments absorb cost increases and thus stimulate demand, institutions of higher education must ensure enough supply, and do so by raising tuition prices at taxpayers’ expense.

Some conservatives may be concerned that this provision expands the Perkins Loan program, and unnecessarily expands the categories of loan forgiveness. While no CBO estimate is available for the Conference Report, CBO estimates that this provision contained in H.R. 4137 would increase discretionary costs by \$735 million over the FY 2009-2012 period.

FAFSA Improvements: The bill requires the development of EZ-FAFSA, a more accessible and user-friendly application for federal student aid. The bill also outlines methods to be used in order to achieve a more “streamlined” system.

Drug Provision: This provision permits students who, as a result of a conviction for a drug offense lost their federal student aid eligibility, to regain such eligibility after passing two random drug tests.

Military Students: The bill requires a policy justification from an institution that imposes a reapplication for admission on a military student who is deployed during school.

Piracy Issues: The bill includes several provisions designed to combat illegal downloading on college campuses. **See “New Programs Authorized” section**

Campus/Fire Safety: Provisions in the bill require that institutions develop immediate emergency response and evacuation procedures. The bill requires that institutions publish a fire safety report providing campus statistics. The bill also requires that institutions do more to combat missing persons, and that institutions provide the results of any on-campus disciplinary action taken against an alleged perpetrator of a crime.

Integrity and Code of Conduct Provisions: This provision would require that institutions who either participate in Title IV, or have students who take out private loans, develop a code of conduct.

Preferred Lender Lists: The bill would require that institutions with preferred lender lists maintain at least three lenders on the list, as well as disclose why each lender is on the list. In addition, the provision would require that the institution inform students that they need not borrow from only those lenders.

90/10 Rule: This provision would require proprietary schools to receive 10% of their revenues from non-Title IV sources. Under current law, any school which violates the 90/10 rule loses their student aid. The bill codifies the rule and defines what revenues may be counted toward the 10% of non-federal share (i.e. tuition, activities conducted by the institution, etc). In addition, the bill also specifies that an institution can be in violation of the rule for two consecutive years before losing all student aid.

The bill includes a “temporary fix” for institutions that will exceed the 90/10 threshold because of the higher loan limits established in H.R. 5715. This represents an admission on the part of Congress that the increases in loan limits have in fact caused turmoil in the proprietary school sphere.

Accreditation: The bill includes numerous provisions to ensure that accreditation is more transparent, including clarifying that an accredited agency applies and enforces standards that respect the stated mission of the institution, including religious missions.

Title V

See “New Programs Authorized” below.

Title VI

International and Foreign Language Studies: The provision makes changes to certain programs that are designed to promote partnerships with institutions in other countries. The changes are also meant to encourage student achievement in foreign languages at earlier ages. The bill authorizes such sums for FY 2009, and such sums for the following five years to fund the program. **Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has demonstrated insufficient results.**

Institute for International Public Policy: According to the Republican Committee staff, “This program is designed to provide federal funds to an institution to develop an Institute for International Public Policy, which would conduct a program to increase the number of African–Americans and other underrepresented minorities in international service through the development of programs leading to masters degrees in the field, internships, study abroad programs. Refocuses and renames the Minority Foreign Service Professional Development Program to the Program for Foreign Service Professionals in order to have the Institute focus more broadly on ensuring that underrepresented populations participate in international service, including private international voluntary organizations.” The bill authorizes such sums for FY 2009, and such sums for the following five years to fund the program. **Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has demonstrated insufficient results.**

Business and International Education Programs: The bill adds a new permitted use of funds to encourage partnerships between foreign countries and institutions of higher education in the United States to better understand the cultural, technological and software systems practices instituted by those countries. The bill authorizes such sums for FY 2009, and such sums for the following five years to fund the program.

Title VII

Javits Fellowship Program: The bill authorizes this program at \$30 million for FY 2009, and such sums for the following five years. \$9.7 million was appropriated for the Javits Fellowships in FY 2007, and the program supported 226 fellows (making the average grant amount \$42,000). The President requested \$9.8 million for this program in FY 2008.* **Some conservatives may be concerned that this program is being authorized at three times the previous appropriations levels.**

Graduate Assistance in Areas of National Need (GAANN): The bill prioritizes grant assistance to individuals who will become college professors and “train highly qualified elementary and secondary mathematics and science teachers, special education teachers, and teachers who provide instruction for limited English proficient individuals.” The bill authorizes this program at \$35 million for FY 2009, and such sums for the following five years. \$30 million was appropriated for the GAANN program in FY 2007, and the President requested \$30 million for GAANN in FY 2008.*

Thurgood Marshall Legal Education Opportunity Program: The bill authorizes this program at \$5 million for FY 2009, and such sums for the following five years. In the President’s FY 2008 budget request, the President recommended that this program be cut.*

*This [CRS document](#) contains more information on these programs, as well as their historical funding levels.

Fund for the Improvement of Postsecondary Education (FIPSE): According to the Republican Committee staff, the bill “adds several uses of funds in this program to encourage institutions to develop innovative methods for promoting educational opportunity for all students, including nontraditional students, and to develop programs based on distance education. In addition, the bill includes a provision which gives institutions that set targets/goals to meet energy standards priority for receiving FIPSE funds. The bill would also do the following:

1. Encourage the reform and improvement of postsecondary education, including expanding opportunities for nontraditional students;
2. Create programs that involve paths to careers and training, including efforts to provide academic credit for such programs that utilize combinations of academic and experiential learning;
3. Encourage the establishment of programs or efforts to utilize distance education to educate and train college students;
4. Encourage reforms designed to expand individual opportunities for entering and reentering postsecondary institutions and pursuing programs tailored to students’ individual needs;
5. Encourage reforms in remedial education;
6. Support efforts to develop partnerships between institutions and secondary schools with a significant population of students identified as late-entering limited English proficient students;
7. Support the creation of consortia that design and offer curricular interdisciplinary programs that focus on poverty and human capital;
8. Encourage demonstration projects to provide comprehensive student services to homeless and foster youth;
9. Encourage the advancement and understanding of cultural, social, and technological issues between IHEs in the US and around the world;
10. Support a nonprofit organization that works to provide scholarships to members of the military and their families; and
11. Support best practices to support single parent students.

Some conservatives may be concerned that many reform advocates argue that FIPSE tends to predominantly fund higher education earmarks, and that this provision expands the uses of the Fund. According to the [Heritage Foundation](#), “In the FY 2002 appropriations act, FIPSE bore 272 earmarks worth \$149.7 million, or 83 percent of its \$180.9 million appropriations.”

Title VIII

See “New Programs Authorized” below.

Title IX

Education for the Deaf Act: The bill recognizes the Rochester Institute of Technology as the institution responsible for operating the National Technical Institute for the Deaf. The bill also reauthorizes a study on the education of the deaf, and requires the Secretary to establish a Commission to conduct such a study. The bill authorizes such sums for FY 2008 and FY 2009 for these programs.

Institute of Peace: The bill authorizes such sums for FY 2008 and FY 2009 for the Institute. The Institute was first authorized in 1984, via the Defense Authorization Act of 1985. According to the Institute’s [website](#), grants are made available for “supporting peacebuilding projects managed by non-profit organizations including educational institutions, research institutions, and civil society organizations.”

Grants for Training for Incarcerated Individuals: The bill authorizes such sums for the funding of grants to develop a program for youth offenders (serving individuals up to age 35).

Underground Railroad: This provision reauthorizes the Underground Railroad program at \$3 million for FY 2009, and such sums for the following five years.

Olympic Scholarships: The bill reauthorizes the Olympic Scholarship program at \$5 million for FY 2009, and such sums for the following five years. **Some conservatives may be concerned that the [Office of Management and Budget](#) has found that this grant program has demonstrated insufficient results.**

Indian Education: The bill increases the grant amount from \$6,000 to \$8,000 and reauthorizes the Navajo Community College Act. The bill reauthorizes the Navajo Community College Act, and the bill permits two tribally controlled postsecondary career and technical institutions to receive assistance to help cover the costs of educating Indian students at tribally controlled career and technical institutions.

Title X

Preventing Unfair and Deceptive Private Educational Lending Practices and Eliminating Conflicts of Interest: The bill institutes a ban on gifts from private lenders to institutions and their employees. In addition, the bill adds more disclosure requirements for private educational loans, including a requirement that a lender obtain a written certification that the borrower received the disclosures. The bill also applies the Truth in Lending Act (15 U.S.C. 1603(3)) to such activities.

Title XI

See “New Studies/Reports Authorized” below.

New Programs Authorized: The following are new programs authorized in the bill (accounting for over \$1 billion in new spending, not including “such sums” authorizations):

Title I

State Higher Education Information Pilot Program—This program would authorize the Secretary to provide grants to states to develop a state-level postsecondary education student data system. The bill authorizes this program at such sums for FY 2009, and for the following five years.

Title III

Predominantly Black Institutions (PBI)—The bill authorizes a new program for a new category of minority serving institutions (that serve a student population of at least 40 percent African American students and whose students are low-income) through this grant program. The bill provides formula grants to assist Predominantly Black Institutions in expanding educational opportunity to assist in the institution’s capacity to serve more low- and middle-income black American students. A Predominantly Black Institution is defined in the bill as an institution with a minimum of 1,000 undergraduate students, at least 50 percent of whom are low income individuals or first generation college students enrolled in an educational program leading to a bachelor’s or associate’s degree. The bill authorizes \$75 million for FY 2009, and such sums for the following five years to fund the program.

Asian-American and Native American Pacific Islander-serving Institutions—The bill creates a program for institutions that serve a student population composed of at least 10% Asian American and native American Pacific Islander students. In addition, such students must be low-income. According to the bill, an example of “authorized activities” under this program would be “academic instruction in disciplines in which Asian Americans and Native American Pacific Islanders are under-represented.” The bill authorizes \$30 million for FY 2009, and such sums for the following five years to fund the program.

Native American-serving, Non-tribal Institutions—The bill provides formula grants to Native American serving and Non-tribal institutions for increasing their capacity to serve Native Americans. Eligible institutions must not be a Tribal College or University, and must have an undergraduate enrollment that is at least 10% Native American. The bill authorizes \$25 million for FY 2009, and such sums for the following five years to fund the program.

Partnerships for Youth Engagement in STEM Fields—The bill provides five year grants of no less than \$500,000 for partnerships supporting “underrepresented youth” and their studies in science, technology, engineering, and mathematics (STEM fields) through outreach and hands-on, experiential based learning projects. The bill also sets a federal match of 50% for such programs. The bill authorizes this grant program at such sums for FY 2009, and such sums for the following five years.

Title IV

Loan Forgiveness for Civil Legal Assistance Attorneys—The bill creates a new discretionary program to provide \$5,000 of loan forgiveness to civil legal assistance attorneys who agree to work for a non-profit that provides civil legal assistance to low-income individuals for three years. The bill authorizes this program at \$10 million for FY 2009, and such sums for the following five years.

Off-Campus Community Service in the Federal Work Study Program—The bill authorizes the Secretary to award work study grants to institutions in order to supplement off campus community service employment. The bill authorizes this program at such sums for FY 2009, and such sums for the following five years.

Campus-Based Digital Theft Prevention—The bill authorizes the Secretary to provide grants to institutions to “develop, implement, operate, improve, and disseminate programs of prevention, education, and cost-effective technological solutions to reduce and eliminate the illegal downloading and distribution of intellectual property.” The bill authorizes this program at such sums for FY 2009, and such sums for the following five year.

Title V

Promoting Post-baccalaureate Opportunities for Hispanic Americans—The bill authorizes the Secretary to make five year competitive grants to Hispanic-serving institutions in order to “expand post-baccalaureate educational opportunities for, and improve the academic attainment of, Hispanic students; and to expand the post-baccalaureate academic offerings and enhance the program quality in the institutions that are educating the majority of Hispanic college students and helping large numbers of Hispanic and low-income students complete postsecondary degrees.” The bill authorizes this program at \$100 million for FY 2009, and \$100 million for each of the following five years.

Title VI

Science and Technology Advanced Foreign Language Education Grant Program—The bill creates a grant program encouraging institutions to develop innovative programs for teaching foreign languages and to develop “an understanding of science and technology in coordination with foreign language proficiency.” The bill also creates a program to encourage students to develop proficiency in science, technology, and foreign language. The bill awards grants to institutions for the development of innovative programs to teach foreign language and study science and technology developments in other (non-English speaking) countries. The bill authorizes this grant program at such sums for FY 2009, and such sums for the following five years.

Title VII

Masters Degree Programs as Historically Black Colleges and Universities (HBCU) and Other Minority Serving Institutions: The bill creates new programs for eighteen HBCUs and five PBIs that have Masters’ degree programs but do not have doctoral programs. Each program is authorized at such sums in FY 2009, and for the following five years.

National Center for Information and Technical Support for Post-Secondary Students with Disabilities—H.R. 4137 requires the Secretary to establish a national information and technical assistance center for postsecondary students with disabilities. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Advisory Commission on Accessible Instructional Materials—The bill authorizes the Commission to conduct a study of ways to improve the delivery of high-quality accessible instructional materials for post-secondary students with print disabilities. The program is authorized at such sums in FY 2009, and for the following four years.

Model Demonstration Programs for Accessible Instructional Materials—The bill authorizes the Secretary to make grants to institutions of higher education, in partnership with a private entity with expertise in creating accessible instructional materials, to develop processes to facilitate the “timely delivery of instructional materials in accessible formats to postsecondary students with print disabilities.” The program is authorized at such sums in FY 2009, and for the following four years.

Transition Programs for Students with Intellectual Disabilities—The bill authorizes the Secretary to award grants to institutions of higher education to develop comprehensive education programs for students with cognitive disabilities.

Coordinating Center—The bill authorizes the Secretary to establish a technical assistance center to assist institutions of higher education in developing and implementing comprehensive education programs for students with cognitive disabilities. The center is authorized at such sums in FY 2009, and for the following four years.

Title VIII

Some conservatives may be concerned that Title VIII alone contains 29 new programs.

Project GRAD—The bill authorizes a program to improve high school graduation rates and college attendance and completion rates for disadvantaged individuals. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Mathematics and Science Scholars Program: The bill authorizes the Secretary to award grants to states to encourage students in secondary and postsecondary schools to pursue degrees in STEM or health-related fields. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Business Workforce Partnerships: The bill provides grants to institutions that partner with employers to provide job training in industries to non-traditional students. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Nursing Education—The bill creates a program to award grants to institutions that offer nursing programs. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

American History for Freedom: The bill authorizes the Secretary to award three-year grants to postsecondary programs that focus on traditional American history and Western civilization studies. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Teach for America: The bill authorizes Teach for America as a standalone program, and authorizes the Secretary to provide a five-year grant to the program. Currently, Teach for America is funded through AmeriCorps. The bill authorizes \$20 for the program in FY 2009, \$25 million for FY 2010, and such sums for the following four years.

Patsy T. Mink Fellowship Program—The bill creates a fellowship program for minorities and women to receive a terminal degree in academic areas underrepresented by minorities and women. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Improving College Enrollment by Secondary Schools: The bill requires the Secretary to contract with a nonprofit organization to publish college enrollment trends and identify at least 50 urban local education agencies and five states with significant rural populations to determine what promotes improved college enrollment rates. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Early Childhood Education Professional Development and Career Task Force—H.R. 4137 authorizes the Secretary to award grants to States to establish a State Task Force to coordinate improved training and professional development for early childhood educators. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Improving Science, Technology, Engineering, and Mathematics Education with a Focus on Alaska-Native and Native-Hawaiian Students—The bill provides five year grants to eligible partnerships to develop or expand programs for the development of professionals in STEM fields for Alaska Native and Native Hawaiian students. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Pilot Program to Increase College Persistence and Success: The bill would provide a competitive grant program to assist low-income students complete postsecondary programs. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Student Safety and Campus Emergency Management—The bill provides two year competitive grants to enable institutes of higher education or consortia to pay 50 percent of the cost of carrying out safety initiatives. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

- Best Practices—The bill requires the Secretary of Education to disseminate best practices for campus safety.
- Preparation for Future Disasters Plan by Secretary—The bill requires the Secretary to develop a disaster relief plan.
- Guidance on Mental Health Disclosures for Student Safety—The bill requires the Secretary to provide guidance on what information institutions can reveal to a parent or guardian if a student demonstrates that the student poses a significant risk of harm.

Low Tuition—The bill provides a competitive grant to institutions who keep their net tuition changes below the percentage change in the Higher Education Price Index for that year. Institutions that meet this requirement will be provided bonus funds that must be given to Pell eligible students. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Cooperative Education—The bill authorizes the Secretary to award grants to institutions that “restrain tuition increases” and that develop work experiences for their students. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

College Partnership Grants—The bill provides grants to develop and implement articulation agreements. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Jobs to Careers—The bill provides competitive grants to institutions where no less than 50% of the institution’s first year students are enrolled in developmental courses to bring reading, writing, or mathematics skills to college level. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Rural Development Grants for Rural Universities—The bill permits the Secretary to make grants to rural institutions to increase enrollment and graduate rates from rural institutions, to improve high school graduate rates in rural areas, and to provide career training. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Campus-Based Digital Theft Prevention—The bill authorizes the Secretary to provide grants to institutions to “develop, implement, operate, improve, and disseminate programs of prevention, education, and cost-effective technological solutions to reduce and eliminate the illegal downloading and distribution of intellectual property.” The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Training for Realtime Writers—The bill provides competitive grants of up to \$1,500,000 to promote the training and placement of individuals as realtime writers in order to meet the requirements for closed captioning of video programming. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Centers of Excellence in Veteran Student Success—The bill provides grants to institutions designed to support veteran student success in college. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

University Sustainability Programs—The bill provides grants to establish environmental sustainability programs and to implement sustainability practices on campus. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Modeling and Simulation Programs—The bill requires the Secretary to establish a task force to study modeling and simulation and to support the development of the model and simulation field. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Path to Success: The bill will provide grants to community colleges partnered with juvenile detention centers in order to assist individuals who pursue a certificate of completion or an associate’s degree. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

School of Veterinary Medicine Competitive Grant Program: The bill authorizes the Secretary of Health and Human Services to award grants to eligible entities for the purpose of increasing the number of veterinarians in the workforce. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Early Federal Pell Grant Commitment Demonstration Program: The bill authorizes the Secretary to carry out an Early Federal Pell Grant Commitment Demonstration Program and allows the Secretary to award grants to four State educational agencies that participate in the demonstration. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Henry Kuualoha Giugni Kupuna Memorial Archives: The bill would provide a grant to the University of Hawaii Academy for Creative Media for the establishment and maintenance of the memorial archives. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years. **Some conservatives may be concerned that the language of this program may be construed as a legislative earmark designed primarily to aid one specific institution in Hawaii.**

Master's and Postbaccalureate Programs: The bill provides \$11.5 million in mandatory funds for FY 2009 and for each of the following five years for institutions that are eligible for grants under the Masters Degree Programs for HBCUs and PBIs and the Hispanic-Serving Graduate Institutions program. **Many conservatives may be concerned that this provision alone represents \$69 million in mandatory spending.**

National Center for Research in Advanced Information and Digital Technologies: The bill creates an entity to provide a research and program development to study the increasing capacity of advanced information and digital technologies and its effects on learning. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Pilot Program for Course Material Rental: The bill authorizes the Secretary to provide grants to institutions to support a pilot program to allow for college bookstores to operate textbook rental programs. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Title IX

Cultural Experience Grants: The bill authorizes the Secretary to provide grants for cultural experiences for deaf and hard-of-hearing children and adults. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Loan Repayment for Prosecutors and Public Defenders—The bill authorizes the Attorney General to provide loan forgiveness for direct loans of up to \$10,000 a year (for a total of \$60,000) for borrowers employed as a prosecutor or public defender. In addition, the bill requires that the borrower must not be in default of the loan.

Minority Serving Institution Digital and Wireless Technology Opportunity Program—The bill requires the Secretary to develop a Minority Serving Institution Digital and Wireless Technology Opportunity Program to help institutions acquire and further develop their digital and wireless networking technologies. The bill authorizes such sums for the program in FY 2009, and such sums for the following five years.

Title XI

Some conservatives may be concerned that Title XI contains 24 new studies and reports by the federal government and higher education institutions.

Committee Action: H.R. 4137 was introduced on November 9, 2007 and referred to the House Committee on Education and Labor. On November 15, 2007, the Committee held a mark-up on H.R. 4137 and reported the bill, as amended, by a vote of 45-0. It subsequently passed the House on February 7, 2008 by a vote of [354 to 58](#), and went on to pass the Senate, with an amendment, by unanimous consent on July 29, 2008.

Conservative Concerns: The conference report authorizes dozens of new programs and dramatically expands the size and scope of the federal government. In addition, there are numerous new programs created to address cultural and race based groups, which many conservatives may feel raise constitutional concerns.

As noted by a recent [Heritage paper](#),

The College Opportunity and Affordability Act of 2008 (COAA, H.R. 4137) is the latest budget-busting bill from a Democratic Congress that has found few parts of government undeserving of massive new deficit spending. What makes this bill unique is the overwhelming House Republican complicity in making this bill—among the largest authorized discretionary spending hikes in American history—bipartisan, non-controversial, and generally unnoticed. Nor has the Senate, which takes up the bill next, expressed much concern over COAA’s price tag and new programs.

Although federal outlays for higher education have nearly tripled since 2001, COAA would authorize extensive new spending, dozens of new programs, and more Washington control of the daily operation of America’s colleges and universities. It would expand grants even though student loans can increase college access with less taxpayer burden. And it would boost federal student aid without addressing the link between increased student aid and tuition hikes.

Overall, since 2001, inflation-adjusted higher-education spending has nearly tripled from \$9.4 billion to \$27.6 billion. Adding \$34 billion a year would represent an immediate 123 percent increase and a staggering 555 percent increase over the 2001 level.

Given America’s other budget priorities—the 77 million baby boomers scheduled to begin collecting Social Security, Medicare, and Medicaid over the next two decades (which by itself would require a near-doubling of income taxes); America’s defense requirements in the Middle East; homeland security obligations; and other large budget increases for health research, farm subsidies, K–12 education, veterans, and highways—increasing federal spending on student financial aid by 555 percent over the 2001 level is excessive, unaffordable, and a sign that Congress refuses to make any realistic trade-offs among priorities.

Administration Position: While no Statement of Administration Policy (SAP) exists for the Conference Report, many of the concerns expressed in the SAP on H.R. 4137 remain. According to the President’s [Statement of Administration Policy](#) on H.R. 4137, “the Administration strongly opposes House passage of H.R. 4137 ... because it would restrict the Department of Education’s authority to regulate on accreditation; create nearly four dozen new, costly, and duplicative Federal programs; condition receipt of Federal grant funding on tuition price; and restrict the Department’s ability to evaluate and effectively manage Upward Bound and other TRIO programs.”

Furthermore, “The Administration also strongly opposes the bill’s creation of many new Federal programs, many of which are narrow in purpose, duplicative, burdensome, and poorly targeted. For example, H.R. 4137 would create a new research organization that would likely duplicate the work of other Federal entities, such as the Institute of Education Sciences, without being subject to the same high standards for scientifically based research.

“In addition, the Administration is concerned that many of the bill’s new Federal programs would prioritize or restrict eligibility to institutions or groups defined by racial or ethnic criteria, including express racial enrollment quotas. These provisions raise significant constitutional concerns under the equal protection component of the Due Process Clause.

“However, the Administration strongly opposes the ‘Incentives and Rewards for Low Tuition’ program that would condition receipt of Federal grant funds on tuition price. While college affordability is a worthy goal,

the Administration opposes tuition price controls or any attempt to require the justification of pricing to the U.S. Government instead of to consumers who are best able to decide such issues, especially when armed with adequate information. Pricing of services like higher education is complicated, and government regulation of pricing comes with unintended consequences such as penalizing institutions for making investments in quality improvements.”

Cost to Taxpayers: While CBO has not performed a complete cost analysis, they have noted that the conference report would decrease mandatory spending by \$60 million over five years. However, it may be important to note that with over 45 new programs authorized, and dozens of new reports and studies authorized, discretionary spending may increase beyond \$97.4 billion (the estimate for discretionary amounts in H.R. 4137).

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill authorizes over 45 new programs and expands the Department of Education immeasurably.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: Yes. According to the CBO analysis of H.R. 4137, CBO confirms that the bill contains several intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the aggregate costs to state, local, and tribal governments and private entities to comply with those mandates would not exceed the thresholds established in UMRA (\$66 million in 2007 and \$131 million in 2007, respectively, adjusted annually for inflation).

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No House Report exists. However, some conservatives may be concerned that a new program authorized in the bill may be construed as a legislative earmark designed primarily to aid one specific institution in Hawaii.

Constitutional Authority: No House Report exists, however, according to [House Committee Report 110-500](#) for H.R. 4137, “The Committee believes that the amendments made by this bill are within Congress’ authority under Article I, section 8, clause 18 of the U.S. Constitution” (the “necessary and proper” clause).

House Rule XIII, Section 3(d)(1), requires that all committee reports contain “a statement citing the *specific powers* granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.” *[emphasis added]* **Note:** Article VI, Clause 3 of the U.S. Constitution states that, “The Senators and Representatives...and all executive and judicial Officers...shall be bound by Oath or Affirmation, to support this Constitution.”

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