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Phase Four COVID-19 Relief and Stimulus Legislative Recommendations to Sustain Research Universities and the Government-University Partnership

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America's leading research universities are at the forefront of the fight against the COVID-19 pandemic. They are developing and administering new diagnostic tests, researching potential treatments and vaccines, and developing new, affordable, and easily mass-produced ventilators and personal protective equipment. These are only a few of the ways research universities and hospitals are using their expertise to confront this national and global health crisis. Research universities and hospitals are doing this at same time they are grappling with the greatest disruption to their operations and attendant financial crisis that they have ever faced.

AAU universities have rapidly adopted public health safety measures, closed classrooms and non-essential facilities, shifted to online instruction, and maintained essential research. The financial impacts are still unknown as the crisis and limited operations continue, but the costs of disruption are extraordinarily high and growing while at the same time the loss of revenues will be very significant. Sustaining our nation's research universities and their undergraduate and graduate students, postdocs, faculty, staff, and research personnel is vital during this time of crisis and fundamental to the strength of the longstanding government-university partnership that has been essential to ensuring our public health, national security, and economic growth and competitiveness for decades.

AAU urges Congress and the administration to implement the following recommendations to provide relief and stimulate economic recovery.[1]

Sustain the critical human infrastructure and research operations that underpin the U.S. scientific enterprise

Provide supplemental appropriations of *at least* $26 billion for the major research agencies funding consistent with H.R. 7308 / S. 4286, the "Research Investment to Spark the Economy Act (RISE) Act." We recommend this funding be apportioned to federal research agencies, at minimum, as follows: Department of Defense (DOD) – $3 billion; Department of Energy (DOE) – $5 billion; National Institutes of Health (NIH) – $10 billion; National Science Foundation (NSF) – $3 billion; National Aeronautics and Space Administration (NASA) – $2 billion; U.S. Department of Agriculture (USDA) – $380 million. As part of the at least $26 billion for federal agencies, we request supplemental appropriations for other federal

[1] AAU's recommendations include and are consistent with the following: AAU, Associations Urge Lawmakers to Include Research Relief in Pandemic Aid Measure, AAU, APLU, AAMC, and ACE Urge Senate to Provide At Least $26 Billion for Research in Next COVID-19 Relief Measure, COVID-19 Institutional and Student Aid Proposal and Assumptions, Higher Ed Tax Proposals: COVID-19 Relief Package, AAU Responds to House Science, Space, and Technology Committee Seeking Input on Future Stimulus Package, AAU, Associations Urge Extension of Student Borrower Benefits, AAU, Associations Urge Lawmakers to Enact Temporary and Targeted COVID-19 Liability Protections.

agencies with a research budget greater than $100 million, including NOAA, NIST, EPA, the Institute for Education Sciences, and others. These supplemental appropriations would cover:

- requests for research grant and contract supplements (i.e., cost extensions) arising from COVID-19 related impact;
- emergency relief to sustain research support personnel and base operating costs for core research facilities and user-funded research services until the facilities can reopen and research activities can return to pre-pandemic activity levels; and
- additional graduate student and postdoc fellowships, traineeships, and research assistantships for up to two years.

Urge or require federal research agencies to immediately implement uniform guidance and policies that provide flexibility for research institutions to cover salaries, benefits, and tuition support for graduate students and research personnel engaged in federally sponsored research grants and contracts. Agencies that have not taken full advantage of the flexibilities provided in the March 19 OMB guidance should issue uniform guidance that implements flexibilities across all funding mechanisms.

Direct OMB and the research agencies to provide *temporary* regulatory and audit flexibility during the pandemic period and for a year afterwards. Subsequent government audits conducted for this period should allow for additional flexibility, particularly as it relates to accounting of time and effort reporting in this unprecedented and extremely challenging context.

- Agencies and their inspectors general should fully recognize that many universities and their faculties have pivoted very quickly to address immediate research issues and needs associated with the pandemic. When conducting audits and accounting for effort, this rapid reorientation must be taken into account and the flexibilities which have been granted by OMB must be recognized. At the same time, universities must take special care to maintain careful financial records and accounting practices during this period.
- Financial and other regulatory audits specific to research grants should be postponed to allow institutions time to address current exigencies brought on by the COVID-19 pandemic.

Support students and higher education as they are essential elements of growing the economy and preserving employment for tens of thousands of Americans

Provide additional funding of $120 billion for higher education institutions in the next supplemental spending bill. Additional relief funds are needed to cover the costs of reopening, lost revenue, and emergency financial aid for students in the coming year. Without federal support, many institutions will be forced to make the type of financial cutbacks that would harm surrounding local and regional communities and a number may be forced to shutter completely, crippling local economies.

- State support for higher education is being slashed as states deal with budget shortfalls that will reach approximately $200 billion, according to some estimates. Higher education is always first among areas of state budgets to be cut, and state financial aid programs are often eliminated as states cut spending, which doubly harms low-income students.
- More than 25 million students are pursuing a postsecondary education, and the majority of them use some federal financial aid to finance their studies. Many of our students and their families are struggling with reduced incomes and job losses, resulting in the need for billions of dollars in increased student aid.

Provide additional student loan borrower relief through a number of short-term and long-term provisions including:

- **Extend the relief provided by the CARES Act by continuing both zero-interest deferred repayments for borrowers and the suspension of collection activities (wage garnishment, offsets, etc.) for borrowers with defaulted loans during until June 30, 2021, or until the unemployment rates falls below 8 percent for three consecutive months.** These provisions should also be extended to all federal student loans, including, FFEL, Perkins, and health education loans through the Department of Health and Human Services.

- **Extend the current six-month grace period for students leaving school to one year until June 30, 2021, or until the unemployment rates falls below 8 percent for three consecutive months.**
    - Students who complete their programs in the near future will be graduating into the worst employment market since the federal student loan programs were created. An extension of the post-graduation grace period will help them gain post-graduation financial footing.

- **Provide a 1.5 percent interest rate and zero origination fee for any loan initially disbursed after enactment of the upcoming fourth supplemental appropriations bull and before the expiration of the specified time frame (until June 30, 2021, or until the unemployment rates falls below 8 percent for three consecutive months.)**
    - At present, the interest rate is 4.53 percent on Stafford loans for undergraduates, both subsidized and unsubsidized. The rate is 6.08 percent for unsubsidized Stafford loans for graduate students, and 7.08 percent for both GradPLUS and Parent PLUS**.**
    - Given that the federal government can borrow money at 0.5 percent it does not make sense to burden borrowers with such high rates in a public policy program designed to develop human capital.
    - This lower interest rate would encourage all students to begin or continue their college careers**.**

Increase institutional access to loans through changes to the Small Business Administration programs created under the CARES Act by addressing three issues:

- **Exemption of student workers under employee threshold eligibility standards.** With most campuses closed for the spring semester, all or most of student employees have left campus and therefore should not be included for the purposes of the employee threshold. Removing student workers from calculations of eligibility for any loan program established to address financial difficulties due to COVID-19 would accurately reflect the size of institutions in their roles of employers and would allow more institutions of higher education to access these important loan programs.

- **Allow small public institutions with fewer than 500 employees to access any future expansion of the Small Business Administration Paycheck Protection Program.** Currently, the overwhelming majority of public institutions are not eligible for PPP due to the fact that they are not categorized as 501(c)(3) organizations. An expansion of this program to smaller public institutions of higher education would help institutions such as community colleges shore up finances, retain employees, and remain financially solvent during the COVID-19 crisis.

- **The size standard for institutions of higher education should be expanded beyond 500 employees for the purposes of the SBA programs.** It should be expanded for the purposes of determining eligibility under the PPP, the EIDL, or any future SBA programs. Given the importance of small colleges and universities to local economies and the ripple effect of these institutions becoming fiscally insolvent to their surrounding communities, it is critical that eligibility standards accurately reflect the average number of employees that colleges and universities maintain.

Ensure that the emergency student financial aid grants authorized by the CARES Act are not subject to taxation.

- The CARES Act authorized the Higher Education Emergency Relief Fund, which allocates approximately $12.5 billion to institutions through the Title IV student financial aid distribution system. At least 50 percent of those funds (or $6.279 billion) awarded to institutions must be used "to provide emergency financial aid grants to students for expenses related to the disruption of campus operations due to coronavirus.
- Unfortunately, under Sec. 117 of the Internal Revenue Code (26 U.S.C. § 117), scholarship or grant aid not spent on "qualified tuition and related expenses" is potentially subject to taxation. As a result, we fear that students who spend this emergency grant aid to help cover permitted essential, non-qualified "tuition and related expenses" will later be taxed on that aid.
- In addition, because the Department of Education has clarified that these funds must first go to the students as cash grants, we believe that even grant awards that a student uses to make a tuition payment could be taxable.
- Taxing this emergency aid would undermine the benefit of the grants to students and negate the intent of Congress in authorizing the aid to help the most vulnerable students. We believe that this is an unintended consequence.

Implement technical corrections to the CARES Act in the following areas:

- **Limitations on eligibility of students for emergency grant aid.** Congress should clarify in statutory language that the CARES Act student grants are not limited to Title IV eligible students
- **Limitations on the use of student emergency grant funds**. Institutions are endeavoring to distribute emergency aid to students as expeditiously as possible but need clarification that these grants may be awarded to students to help them with increased financial need resulting from the pandemic.
- **Limitations on the use of institutional funds**. Congress should clarify that institutions have the authority to use the institutional share of CARES Act funding to address all measures of lost revenue or new expenses incurred as a result of the pandemic's impact, and such flexibility should be included in any additional support for institutions going forward.
- **Use of institutional funds for scholarships**. Congress should clarify that institutions have broader latitude to use institutional funds provided through CARES to provide scholarships or other financial aid to current and incoming students for current or future academic terms.
- **Limitations on liability regarding use of CARES Act funding.** Congress should limit the liability of institutions who acted in accord with Congress's intent, but may not be in full compliance with Departmental guidance, particularly if the institutions disbursed aid consistent with initial Department requirements and before additional requirements were made known.
- **Treatment of grant and stimulus funding to individuals in need analysis.** Congress should clarify in statute that neither grant funding through the Higher Education Emergency Relief Fund in the CARES Act nor the government's stimulus payments to individuals should count as income for purposes of federal student aid eligibility, and neither source of funding should count as financial assistance for aid packaging purposes.
- **Waive the nonprofit share of Federal Work Study (FWS) matching requirement.** While the CARES Act allows institutions to waive the funding match required in FWS, it does not extend this waiver to nonprofit organizations that participate in the program.

- **Suspend requirements related to full-time employment for Public Service Loan Forgiveness (PSLF) eligibility determinations.** Congress should exempt otherwise eligible borrowers from the requirement that they work full-time, while receiving full credit for progress towards completion of their required service, until such time as a suspension of payments expires or the state of national emergency is lifted (if this occurs after payments resume).
- **Clarify the status of the interest suspension for borrowers not currently in repayment.** Congress should clarify in statute that interest is suspended for all student loan borrowers until such time as student loan payments and interest accumulation resume.
- **Waiver of the allowable uses in the Minority Science Engineering and Improvement Program.** The CARES Act allows the Secretary of Education to waive allowable uses for grants awarded under Part A or B of Title III, Chapter I or II of Subpart 2 of Part A of Title IV, Title V, and Subpart 4 of Part A of Title VII of the Higher Education Act, and we request statutory language providing similar flexibility in MSEIP.

Provide a nationwide liability safe harbor to help universities reopen sensibly, safely, and swiftly

Create an immediate, targeted, and temporary safe harbor from COVID-19 exposure liability that will give colleges and universities that are acting sensibly and carefully, and are in good faith following applicable public health standards, the confidence to begin to reopen.

- The safe harbor should not shield gross negligence or willful misconduct. Bad actors will be held accountable by states and municipalities using their police and regulatory powers. The system of federal and state workers' compensation provides additional important protections.
- Although tort law is primarily a state matter, it is well-established that Congress can use its power to regulate interstate commerce to promulgate regulatory schemes that temporarily replace current federal and state statutory and common law liabilities for COVID-19.

Provide relief to students and universities through tax fixes and adjustments

Expand the paid sick and FMLA tax credit from the recently enacted "Families First Coronavirus Response Act" to make public institutions eligible, and potentially make large private nonprofit institutions eligible for the tax credit if they provide such paid leave.

- Individual public institutions employ thousands of individuals across their campuses so this unfunded mandate undoubtedly will be an enormous expense likely to run in the millions of dollars.

Expand the Employee Retention tax credit from the recently enacted "Coronavirus Aid, Relief, and Economic Security Act" to make *public* institutions eligible.

- The CARES Act creates a refundable payroll tax credit of up to 50 percent of $10,000 of the wages paid to each employee by employers during the COVID-19 crisis. Employers whose operations were "fully or partially" suspended due to government orders related to COVID-19 are eligible for the credit. While private nonprofits are eligible for this credit, public institutions are not.

Temporarily suspend the taxability of scholarship and grant aid.

- Temporarily suspending the taxability of scholarship and/or grant aid would permit low- and middle-income students to retain more of this aid.

- It is also important to shield the emergency grant aid to students provided in the CARES Act from being taxable.

Temporarily reinstitute the ability to advance refund tax-exempt bonds, which were eliminated in the Tax Cuts and Jobs Act (TCJA).

- This would permit colleges and universities to take advantage of lower interest rates to reduce their debt service costs.

Create a temporary Pandemic Response Bond program that would allow both public and private nonprofit institutions to issue bond debt for COVID-19 costs (incremental costs and lost revenue) and for capital projects.

- Bond financing would help institutions more quickly supplement lost revenue, absorb new COVID-19 related expenses, and amortize the costs over the long-term.
- Bond financing would also help support institutions to provide additional debt bond financing instruments for capital infrastructure expenses.

Temporarily enhance current higher education tax credits to provide greater support for low- and middle-income students, many of whom have already lost their jobs or are facing other economic challenges.

- American Opportunity Tax Credit (AOTC): possible options: (1) Increase credit per year from $2,500 to $3,000; (2) Increase refundability from 40 percent to 60 percent.
- Lifetime Learning Credit (LLC): modify credit to cover 100 percent of the first $2,000 of the AOTC eligible expenses; currently, LLC covers 20 percent of up to $10,000 of annual eligible expenses (maximum credit of $2,000).

Suspend private nonprofit institutional Investment Income Excise tax (Endowment Tax).

- One of the many challenges from the crisis will be the long-term fallout from the significant losses in the markets. This will not only hurt schools that rely significantly on endowment revenues for operations, but also drive up student and family need and affect both short- and long-term philanthropy.

Ensure international students and researchers can continue their studies and research

Provide sufficient funding for the State Department and USCIS within the Department of Homeland Security to ameliorate as soon as possible the backlog of pending visa renewals and applications for new nonimmigrant visas

- The strain on the U.S. scientific workforce due to restrictions on the international flow of talented students and researchers is growing during the COVID-19 crisis. State Department and USCIS should be given all the resources and funding support necessary to clear visa backlogs. Action in this regard is critical to the U.S. research workforce in the short and long term, and it will also reinvigorate international student tuition revenues to American universities.

Support research and teaching hospitals on the front lines of fighting the pandemic.

AAU supports the [Association of American Medical Colleges (AAMC) April 17, 2020 recommendations](), including increasing relief to support the efforts of teaching and research hospitals and physicians, including the Provider Relief Fund and other types of support so that they have resources to continue providing quality care to COVID-19 and all patients.

- The CARES Act created the Provider Relief Fund, which provides essential relief to health care providers. The pandemic is placing extraordinary demands on research and teaching hospitals and has led to the significant loss of clinical revenues as elective procedures have been stopped in order to help slow the spread of COVID-19 and direct resources to treating those affected by the virus.

Additionally, AAU supports other key recommendations by AAMC to:

- Establish a provider loan program.
- Temporarily increase the Medicare indirect medical education (IME) payment add-on adjustment.
- Clarify CMS policy to ensure that hospitals that temporarily increase inpatient beds do not impact Intern and Resident to Bed (IRB) ratio calculations which would unfairly reduce teaching hospital payments.
- Eliminate scheduled Medicaid Disproportionate Share Hospital (DSH) cuts and provide a Medicaid DSH add-on during the COVID-19 emergency.
- Provide an additional increase in the Medicaid Federal Medical Assistance Percentage (FMAP).
- Ensure health care coverage for vulnerable populations by using federal levers to expand health care coverage access and prevent the finalization of the Medicaid Fiscal Accountability Regulation (MFAR).
- Expand the physician workforce to meet this and future health care challenges.
- Provide a temporary national license for physicians and other health care workers to allow them to practice across state lines for the duration of the public health emergency.
- Provide hazard pay for health care workers.
- Provide a technical fix for the accelerated loan program including a more lenient repayment timeline and a more reasonable interest rate.
- Protect providers responding to the COVID-19 crisis by expanding “Good Samaritan” protections.
- Avoid implementing potentially harmful policies in this time of crisis, such as requiring standards that could inadvertently encourage the rapid depletion of already scarce personal protective equipment (PPE) resources.
- Provide emergency supplemental funding to mitigate COVID-19-related disruptions to federally funded research.
- Allow period of disbursement extensions for RF1, UF1, and other multi-year grants to ensure awardees do not lose current funding or that their grant deadlines expire while labs are closed.
- Invest in public health infrastructure.
- Support the academic medicine community’s efforts to maximize testing capacity.
- Enhance national COVID-19 data collection to better address health disparities.
- Maintain the US health and research workforce by extending visas, streamlining approval of new visas and changes of status, providing flexibility to sponsors in deploying visa holders where they are needed, expanding Conrad 30, and maintaining work authorization for Deferred Action for Childhood Arrivals (DACA) recipients.
- Invest in health professions students and provide tax relief to students, medical schools, and hospitals.

Support cultural institutions through the National Endowment for the Humanities

Provide supplemental appropriations of $425 million to the National Endowment for the Humanities to support:

- Additional graduate student and postdoc fellowships and internships at cultural organizations to ensure humanities scholars facing an uncertain job market can continue their work and sustain the talent pipeline needed to preserve our cultural history and address current and future challenges.
- Development of digital content and infrastructure by colleges and universities that is needed as K-16 education transitions to virtual learning and cultural organizations, particularly in rural communities, work to serve their communities remotely.
- Humanities research critical to our understanding of past pandemics and the current crisis including the intersection of culture and public health.
- Preservation of the human experience during the pandemic so we may study and learn from it in the future.

Support for our nation's research infrastructure

If Congress considers national infrastructure needs as part of the next COVID-19 relief and stimulus bill, we encourage the inclusion of research infrastructure important to addressing the pandemic and to enhancing our nation's overall research capabilities and competitiveness.

- The COVID-19 pandemic is demonstrating the need for more resilient, comprehensive, and efficient research infrastructure. It also is revealing some unmet needs that are hampering to varying degrees the fight against COVID-19 and holding back our nation's research capabilities and those of the entire U.S. innovation system.
- We encourage new investments in research infrastructure important to addressing the pandemic and to enhancing our nation's overall research capabilities and competitiveness for years to come, including, but not limited to:
    - high-speed computation;
    - easily accessible and large-scale research data repositories;
    - laboratory and research working environments with greater resiliency to pandemics; and
    - core facilities upgrades to modernize shared instrumentation and equipment to increase their research capabilities, services, and efficiency.