



AAU SUMMARY OF THE HEROES ACT

Last Updated September 29, 2020

GENERAL OVERVIEW:

On May 12, House Democrats introduced [H.R. 6800](#), the “Health and Economic Recovery Omnibus Emergency Solutions Act,” a \$3 trillion package of COVID-19 relief. On Friday, May 15 the bill passed in the House 208-199. Senate Majority Leader Mitch McConnell (R-KY) has said he does not support the measure, and the White House has asked to pause further relief efforts.

On September 28, House Democrats introduced an [updated version](#) of the HEROES Act to address needs that have developed since the House passed the earlier version of the legislation and reflecting recent negotiations. The House is expected to vote on this \$2.2 trillion package later this week.

RESEARCH AND DEVELOPMENT OVERVIEW:

National Endowment for the Humanities (NEH): The bill includes \$10 million for NEH grants to respond to the impact of the coronavirus.

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National Institutes of Health (NIH): The bill includes \$4.745 billion to expand COVID-19-related research on the NIH campus and at academic institutions across the country and to support the shutdown and startup costs of biomedical research laboratories nationwide. Of the \$4.745 billion, \$3 billion is designated for offsetting the costs related to reductions in lab productivity resulting from the coronavirus pandemic or public health measures related to the coronavirus pandemic and up to \$1.02 billion is designated for scientific research or the programs and platforms that support research funding. These programs include \$500 million for the National Institute of Allergy and Infectious Diseases, \$200 million for a longitudinal NIH study over ten years on the short- and long-term impact of COVID-19 on infected and recovered individuals, and \$200 million for National Institute of Mental Health (NIMH) to support research on the mental health consequences of COVID-19, including the impact on health care providers.

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Institute of Mental Health (NIMH) to support research on the mental health consequences of COVID-19, including the impact on health care providers.

National Science Foundation (NSF): The bill includes \$125 million to the National Science Foundation Research and Related Activities to prevent, prepare for, and respond to coronavirus. This funding includes \$1 million for the National Academies to conduct a study on the spread of COVID-19-related disinformation. Up to two percent of funds may be transferred to the Agency Operations and Award Management account for administration.

The bill includes \$2.9 billion for the National Science Foundation. Of this amount, \$2.537 billion is for Research and Related Activities (R&RA) and \$300 million for Education and Human Resources (EHR) to prevent, prepare for, and respond to coronavirus including for extensions of existing research grants, cooperative agreements, scholarships, fellowships, and apprenticeships. This funding includes \$1 million for the National Academies to conduct a study on the spread of COVID-19-related disinformation. Up to two percent of funds may be transferred to the Agency Operations and Award Management account for administration.

Department of Defense (DOD):

The bill includes \$320 million for Operation and Maintenance Funding to prevent, prepare for, and respond to coronavirus domestically or internationally. This funding is to be apportioned as follows: Army (\$100 million), Navy (\$100 million), Marine Corps (\$10 million), Air Force (\$100 million), Defense-wide (\$10 million). The bill also includes \$705 million for the Defense Health Program of which \$175 million shall be for operation and maintenance and \$530 million shall be for research, development, test and evaluation, to prevent, prepare for, and respond to coronavirus domestically or internationally.

Department of Energy (DOE):

The bill includes \$144.3 million to support activities to prevent, prepare for, and respond to coronavirus, including \$143 million for the Office of Science to address cost impacts due to the coronavirus pandemic for the following projects: Core Facility Revitalization, Large Synoptic Survey Telescope Camera, Linac Coherent Light Source II, Muon to Electron Conversion Experiment, and Super Cryogenic Dark Matter Search. The bill also includes \$1.3 million for Department Administration including necessary expenses related to personal protective equipment.

National Institute for Standards and Technology (NIST):

The bill includes \$20 million for the National Network for Manufacturing Innovation (“Manufacturing USA”) to support development and manufacturing of medical countermeasures and biomedical equipment and supplies to address the coronavirus. The bill also includes \$50 million for the Manufacturing Extension Partnership Program to help small and medium-sized manufacturers prevent, prepare for, and respond to coronavirus, including a waiver of the cost share requirement for fiscal year 2021.

National Oceanic and Atmospheric Administration (NOAA):

The bill includes \$392 million to address coronavirus-related needs.

STUDENT AND HIGHER EDUCATION OVERVIEW:

The bill includes funds for public universities under the State Fiscal Stabilization Fund and funds for private universities are in a separate fund. Both would use the same formula to determine funding: 75 percent based on relative share of enrollment of Pell recipients, and 25 percent based on relative share of total enrollment of non-Pell recipients. The formula is relative to an institution's share of students within the state.

The bill includes funds for public universities under the State Fiscal Stabilization Fund and funds for private universities are in a separate fund. Both would use the same formula to determine funding: 75 percent based on relative share of enrollment of Pell recipients who are not exclusively enrolled in distance education courses prior to the coronavirus pandemic, and 25 percent based on relative share of total enrollment of non-Pell recipients who are not exclusively enrolled in distance education courses prior to the pandemic. The formula is relative to an institution's share of students within the state.

State Fiscal Stabilization Fund: The bill provides \$90 billion in grants for the State Fiscal Stabilization Fund to support education, \$900 million for the Bureau of Indian Affairs, and \$30 million for administrative expenditures. The remaining \$89.07 billion is allocated to states.

Of the \$89.07 billion, 65 percent, or \$58 billion, will go to governors to distribute among K-12 schools; 30 percent, or \$26.7 billion will go to public colleges and universities to manage the coronavirus pandemic; and 5 percent, or \$4.45 billion is left to the discretion of governors. Governors must apply to receive these funds. Of the funds left to the discretion of the governors, they may be used for *“additional support to elementary, secondary, and postsecondary education, including supports for under resourced institutions, institutions with high burden due to the coronavirus, and institutions who did not possess distance education capabilities prior to the coronavirus emergency.”*

Institutions may use these funds for a wide range of purposes, including *“education and general expenditures (including defraying expenses due to lost revenue, reimbursement for expenses already incurred, and payroll) and grants to students for expenses directly related to coronavirus and the disruption of campus operations (which may include emergency financial aid to students for food, housing, technology, health care, and child care costs that shall not be required to be repaid by such students) or for the acquisition of technology and services directly related to the need for distance education and the training of faculty and staff to use such technology and services.”* The bill also includes a Maintenance of Effort (MOE) provision that requires an assurance that state support for higher education will be equal to at least the average of the three preceding years and that state funding on a per-full-time equivalent (FTE) basis shall be equal in FY20-21 to what it was in FY19. Finally, the bill requires institutions to continue to *“pay its employees and contractors during the period of disruptions or closures”* related to the virus *“to the greatest extent practicable.”*

The bill includes \$208.058 billion for the State Fiscal Stabilization fund to support education, \$2 billion for the Bureau of Indian Affairs, and \$30 million for administrative expenditures. The remaining funds are allocated to states based on a combination of the number of school-aged children (61 percent) and the number of Title I eligible children (39 percent). The state grants can support elementary, secondary, and postsecondary activities.

The funding is divided as follows: \$175 billion for K-12 schools, \$27 billion for public colleges and universities to manage the coronavirus pandemic, and \$4 billion is left to the discretion of governors. Governors do not have to apply for grants. The money is distributed to states on the basis of the same allocation formula they used in HEROES. Then, of the state allocation, they are required to distribute 85% of the funding to K-12, 13% of the funding to public postsecondary institutions, and then reserve 2% for governors' discretionary use. Governors are required to return any unallocated funds after 2 years, but they don't have to apply to receive the money.

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Higher Education: The bill provides \$10.15 billion to alleviate burdens associated with the coronavirus for colleges and students. Of this \$10.15 billion, \$7 billion is allocated for private nonprofit institutions, \$1.7 billion for historically black colleges and universities and minority serving institutions, and \$1.4 billion would be left for the Department of Education to use for schools with “unmet needs” which will be disbursed through the Fund for the Improvement of Postsecondary Education (FIPSE). The Secretary will create an application for the \$1.4 billion in which institutions will demonstrate unmet need including *“a dramatic decline in revenue as a result of campus closure, exceptional costs or challenges implementing distance education platforms due to lack of a technological infrastructure, serving a large percentage of students who lack access to adequate technology to move to distance education, serving a region or community that has been especially impacted by increased unemployment and displaced workers, serving communities or regions where the number of coronavirus cases has imposed exceptional costs on the institution, and other criteria that the Secretary shall identify after consultation*

with institutions of higher education or their representatives.” DACA and international students would be eligible for the education funds in the bill and it would apply retroactively to the CARES Act.

The bill provides \$11.9 billion for private institutions of higher education. Of this, \$7 billion is for private, nonprofit institutions, \$3.5 billion is for historically black colleges and universities and minority serving institutions, and \$1.4 billion would be left for the Department of Education to use for schools with “unmet needs” related to the coronavirus including higher education institutions that offer their courses exclusively through distance education. The Secretary will create an application for the \$1.4 billion in which institutions will demonstrate unmet need including *“a dramatic decline in revenue as a result of campus closure, exceptional costs or challenges implementing distance education platforms due to lack of a technological infrastructure, serving a large percentage of students who lack access to adequate technology to move to distance education, serving a region or community that has been especially impacted by increased unemployment and displaced workers, serving communities or regions where the number of coronavirus cases has imposed exceptional costs on the institution, and other criteria that the Secretary shall identify after consultation with institutions of higher education or their representatives.”* DACA and international students would be eligible for the education funds in the bill and it would apply retroactively to the CARES Act.

Institute of Education Sciences (IES):

The bill provides \$32 million to prevent, prepare for, and respond to coronavirus for carrying out the National Assessment of Educational Progress Authorization Act for reading and math assessments in 2021.

Department of Education: The Department of Education is prohibited from “establishing a priority or preference” for how to distribute stimulus funding beyond what’s specified in the law or “imposing limits on the use of such funds” that aren’t described in the law.

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Student Loans: The bill provides \$10,000 of loan forgiveness per borrower for individuals who have both federal and private student loans. The bill also expands the student loan payment and interest suspension to include all types of federal student loan borrowers rather than just those with federally held loans.

For private student loans, the bill includes a \$45 billion program for the federal government to pay the monthly payments of borrowers until the end of September 2021 with a maximum cap of \$10,000 in loan forgiveness. For federal student loans, the bill calls for the Department of Education to forgive up to \$10,000 per borrower up-front within 30 days. It also extends until at least the end of September 2021 the suspension of monthly payments and interest on federal student loans. These provisions of the CARES Act are currently set to expire this October.

The bill expands loan relief to all federal student loan borrowers by amending the CARES Act to define the term “Federal student loan” to include Direct Loans, Department- and commercially-held Federal Family Education Loans (FFEL), Department- and institutionally held Perkins loans, and Health and Human Services (HHS) student loans under subpart II of part A of Title VII and part E of Title VIII of the Public Health Service Act that are eligible for consolidation with Direct Loans under the HEA.

The bill also amends the CARES Act to extend the suspension of payments for federal student loans through September 30, 2021 and adds a 30-day transition period where any missed payments after payment suspension ends do not result in collection fees and are not reported to consumer reporting agencies. This section requires the Secretary to make the borrowers with loans that were excluded from the CARES Act (i.e., commercially held FFEL, institutionally-held Perkins loans, and HHS student loans) whole as if those loans had been covered by applicable provisions of the CARES Act. Allows borrowers repaying under an income-driven repayment plan to not recertify their income or family size until after December 30, 2021.

The bill amends the CARES Act to extend no interest accrual on federal student loans, regardless of repayment status, until September 30, 2021 or until the economy shows initial signs of recovery. The bill clarifies that accrued interest prior to March 13, 2020 cannot be capitalized as a consequence of the implementation of pause payments or the no interest accrual provisions.

Notice to Borrowers: The bill requires the Secretary of Education to provide notice to borrowers of their eligibility to consolidate, move to income-driven repayment loans, and any changes in the terms of their loans from the CARES Act to HEROES. Additionally, the Secretary is required to provide at least six notices to borrowers of their restored obligations once the suspension period has ended.

The bill requires the Secretary of Education to provide notice to borrowers on the benefits and information about consolidating.

Public Service Loan Forgiveness: The bill provides health care workers in certain states that do not allow healthcare workers to be directly employed by hospitals eligibility for the Public Service Loan Forgiveness program.

The bill removes the HEA requirement that a borrower must be employed in a public service employer at the time of forgiveness under PSLF. The bill also provides health care workers in certain states that do not allow healthcare workers to be directly employed by hospitals eligibility for the Public Service Loan Forgiveness program.

Institutional Stabilization Program: The bill establishes a program that private nonprofit institutions can voluntarily enter if they would fall below a 1.0 on their financial responsibility score and are concerned about their financial stability. Participating institutions that fall at or below 90 days of liquidity must sign a COVID-19 Provisional Participation Agreement which mandates the institution implement a teach-out plan and a records retention policy on an expedited basis. Institutions can enroll in the program for up to three years. During an institution’s enrollment in the program, the institution is eligible for grant

funding from a \$300 million fund authorized by the HEROES Act and is not required to file a letter of credit.

Digital Homework Gap: The bill includes a measure titled *Supporting Connectivity for Higher Education Students in Need Act*, which would allocate \$1 billion for the Commerce Department to subsidize home internet connections for college students in need and address the digital homework gap.

The bill includes \$12 billion to close the homework gap by providing funding for Wi-Fi hotspots and connected devices for students and library patrons, \$3 billion for emergency home connectivity, \$200 million for telemedicine grants, and \$24 million for broadband mapping.

Application of Campus-Based Aid Waivers:

The bill clarifies that the Secretary will waive the non-federal match requirement for nonprofit employers. The bill also extends the requirement for the Secretary to waive the non-federal match requirement for institutions and non-profit employers and the authority to reallocate funds from Federal Work-Study to the Federal Supplemental Educational Opportunity Grant (FSEOG) during any award year that includes any portion of a qualifying emergency.

Supplemental Education Opportunity Grants for Emergency Aid:

The bill extends the flexibility for an institution to use FSEOG funds to provide emergency financial aid during a qualifying emergency period.

Extension of Federal Work Study During a Qualifying Emergency:

The bill extends flexibility to allow institutions of higher education to pay federal work-study students even if such students are unable to complete their jobs due to COVID-19 during a qualifying emergency period.

Institutional Access to Loans:

- **Main Street Lending Program:** The bill calls for expanding the Main Street Lending Program so that nonprofits are made eligible and requires the Federal Reserve to set up a low-cost loan option to nonprofits. Additionally, loans for nonprofits predominately serving low income communities (but are ineligible for a Paycheck Protection Program) could be forgiven. The bill expands the Main Street Lending Program so that nonprofit organizations and public universities are made eligible and requires the Federal Reserve to set up a low-cost loan option to nonprofits.
- **Paycheck Protection Program:** The bill expands eligibility of the Paycheck Protection Program to all nonprofits regardless of size and extends the coverage period from June 30 to December 31. The bill also creates a “set aside” of 25 percent for nonprofits, with 17.5 percent specifically for nonprofits with less than 500 employees. The bill does not include any funding for the program. The bill expands the definition of nonprofits to include all nonprofits no matter their size or type of nonprofit, with a revenue reduction requirement for nonprofits larger than 500 employees.

The bill also makes critical access hospitals, regardless of bankruptcy status, eligible for a PPP loan. Additionally, the bill creates a prioritized PPP loan product to give second PPP loans of up to \$2 million to certain small entities.

OTHER SIGNIFICANT PROVISIONS:

Tax Provisions:

- **FMLA Tax Credit:** The bill includes a repeal of the public employer exclusion from the paid sick leave/FMLA tax credit.
The bill includes a repeal of the public employer exclusion from the paid sick leave/FMLA tax credit and temporarily suspends, until December 31, 2022, the current 1,250-hour eligibility requirement and reduces the tenure eligibility requirement from 12 months to 90 days under non-emergency Family and Medical Leave Act (FMLA). This will ensure rampant unemployment and furloughs do not leave workers unable to qualify for FMLA benefits in the near future.
- **Taxability of CARES Act Grants:** The bill exempts all CARES Act emergency student financial aid grants and any institution-provided emergency student financial aid grants from taxation while also holding harmless students who receive these grants for eligibility under higher education tax credits
- **Employee Retention Credit:** The bill makes public institutions eligible for an expanded employee refundable payroll tax credit of up to 80 percent of \$15,000 in the wages.
The bill is renamed to the Employee Retention and Rehiring Credit. The bill incorporates the original HEROES Act language and makes public institutions eligible for an expanded employee refundable payroll tax credit of up to 80 percent of \$15,000 in the wages.

Biomedical Advanced Research and Development Authority (BARDA): \$3.5 billion is included for BARDA for therapeutics and vaccines.

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Research Infrastructure: The bill includes \$500 million for BARDA to support next generation manufacturing facilities based in the U.S. and \$500 million for BARDA to promote innovation in antibacterial research and development.

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Immigration Matters: The bill protects certain aliens who were lawfully present in the U.S. when health emergency was declared from negative immigration consequences due to an inability to meet filing deadlines or leave the country. The bill also allows for temporary immigration status and work authorization to be automatically extended if it is set to expire during the emergency. This would include those under DACA. The bill calls for temporary protections for essential critical infrastructure workers.

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the country. The bill also allows for temporary immigration status and work authorization to be automatically extended if it is set to expire during the emergency. This would include those under DACA. The bill calls for temporary protections for essential critical infrastructure workers.

The Scientific Integrity Act: Within the Manager's Amendment, Title XVI – The Scientific Integrity Act was previously approved by the House Science Committee on October 17, 2019 ([HR 1709 as reported](#)). The Scientific Integrity Act requires federal science agencies to establish and maintain clear scientific integrity principles and appoint a Scientific Integrity Officer at each agency. These policies state that science should determine policy without the influence of politics, ideology, or financial conflicts of interest. Finally, it creates new standards for federal scientists while also guaranteeing their rights and protections under the law.

Census: The bill provides a targeted and limited waiver under the Family Educational Rights and Privacy Act (FERPA) by enabling higher education institutions to provide the Census Bureau with information requested on the 2020 census form. Before this information can be provided, the institution must give public notice of the categories of information that it plans to provide, and students will have ten days to opt out of having their information released. Institutions have the option of using this but are not required. The bill also prohibits institutions from sharing the immigration or citizenship status of students with the Census Bureau.

The bill provides \$10 million to Current Surveys and Programs for expenses incurred as a result of the coronavirus and \$400 million for expenses due to delays in the 2020 Decennial Census in response to the coronavirus.