Association of American Universities
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HIGHER EDUCATION & TAX

PHASE 4 COVID-19 RELIEF AND STIMULUS LEGISLATIVE RECOMMENDATIONS

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Education Stabilization Fund

COVID-19 Institutional and Student Aid Proposal and Assumptions

Provide additional funding of $46.6 billion for higher education students and institutions in the Education Stabilization Fund. The CARES Act established a higher education emergency relief fund as part of the Education Stabilization Fund. The fund divides relief equally between students and the institutions that serve them. Additional relief funds are needed as the impacts and duration of the pandemic have increased.

- Provide emergency grants to students totaling $23.3 billion to enable them to begin or continue their education. Student financial needs have increased due to lost jobs and changes in student and family incomes, as well as unanticipated costs attributable to the pandemic.
- Provide emergency grants to research universities and other higher education institutions totaling $23.3 billion to enable them to begin filling financial gaps caused by the pandemic. Conservative estimates predict enrollment for the next academic year will drop by 15 percent, including a projected decline of 25 percent for international students. Colleges and universities are also experiencing plummeting revenues from auxiliary services.

Student Borrower Relief

AAU, Associations Urge Extension of Student Borrower Benefits

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. An extension of the post-graduation grace period will help students gain post-graduation financial footing in a difficult economy.

- 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.) This lower interest rate would encourage all students to begin or continue their college careers**.**

Institutional Relief Loan Programs

AAU and Higher Ed Community Ask Congress to Include Colleges, Universities in Future Covid-19 Relief Loan Programs
AAU Joins Organizations to Submit Comments on Main Street Lending Program

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. Removing student workers from calculations of eligibility for any loan program established to address financial difficulties due to COVID-29 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. 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.

Taxability of Emergency Student Financial Aid Grants

AAU Joins Higher Ed Community Letter to Prevent Taxation of Emergency Student Financial Aid
AAU, Associations Urge Treasury Department Not to Tax Student Grant Aid

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.

CARES Act Technical Corrections

AAU, Associations Urge Congress to Make Technical Corrections to CARES Act

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).

Tax Fixes and Adjustments

[Higher Ed Tax Proposals: COVID-19 Relief Package]

- **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.

- **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.

- **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.