Higher Education Community Recommendations: Tax Proposals to Support Students and Institutions

April 7, 2020

- **Fixes of Provisions in Phase 2 and 3 bills:**
  - **Paid Sick and FMLA Leave:**
    - The recently enacted "Families First Coronavirus Response Act" creates two forms of paid leave for workers impacted by the outbreak: 1) paid emergency Family and Medical Leave Act (FMLA) leave; and 2) paid sick leave. To help employers pay for these leave provisions, the Act created a refundable tax credit, which pubic institutions are not eligible to receive. **The tax credit should be expanded to make public institutions eligible, and also potentially make large private nonprofit institutions eligible for the tax credit if they provide such paid leave.**
  - **Employee Retention Tax Credit:**
    - The CARES Act (Phase 3 bill) creates a refundable payroll tax credit of up to $5,000 for wages paid by employers (including private nonprofits but <u>not</u> public institutions) to employees 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. **The tax credit should be expanded to make public institutions eligible.**

- **Suspend Taxability of Scholarship/Grant Aid:** Since 1986, scholarships and/or grant aid used on non-tuition expenses like room and board have been taxed as a form of unearned income. Temporarily suspending the taxability of scholarship and/or grant aid would permit low- and middle-income students to retain more of this aid, which they rely on to pay for their college education. Suspending taxability of scholarship/grant aid is also important to shield the emergency grant aid to students provided in the CARES Act from being taxable. Congress allocated this emergency student aid to help cover essential expenses like housing, food, childcare, and technology due to the COVID-19 pandemic. To later subject the students to an unexpected tax bill negates not only the benefit of the funds, but also the very intent of Congress to help the most vulnerable students.

- **Temporarily Enhance Institutional Debt Service for Pandemic Response:**
  - **Advance Refunding Bonds –** Temporarily reinstitute Advance Refunding 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. While this would potentially help all institutions, it may be particularly helpful to teaching hospitals.
  - **Expand Debt Issuance –** The COVID-19 pandemic is harming institutions in profound ways, which bond financing could help address in two ways: 1) many of the enormous expenses and revenue losses being incurred now by institutions are operating in nature and not currently eligible for any tax-exempt financing. It would be extremely helpful for colleges and universities to access debt bond financing to partially recover the operating costs of the pandemic. This would help

higher education institutions more quickly supplement lost revenue, absorb sizeable new COVID-19 related expenses, and amortize the costs over the long-term; 2) it would also help support institutions to provide additional debt bond financing instruments for capital infrastructure expenses, the kinds of projects that would inevitably generate and sustain construction jobs for campus capital projects. **As a result, we propose a Pandemic Response Bond 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.**

- **Temporarily Enhance Current Higher Education Tax Credits:** The COVID-19 pandemic has profoundly and adversely affected traditional and nontraditional students, particularly those coming from low and middle-income backgrounds. Just as Congress provided supplemental student grants in the CARES Act, the American Opportunity Tax Credit (AOTC), and Lifetime Learning Tax (LLC) credits should be changed temporarily to provide greater support for these students, many of whom have already lost their jobs or are facing other economic challenges. The AOTC is focused on undergraduate students, while an expanded LLC will be particularly useful to students enrolling in courses to upgrade their skills and better integrate into the changed economy:
    - **American Opportunity Tax Credit (AOTC)** - possible options:
        - Increase credit per year from $2,500 to $3,000;
        - Increase refundability from 40% to 60%.
    - **Lifetime Learning Credit (LLC):**
        - Modify credit to cover 100% 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):** Private college and university endowments permanently hold charitable gifts from private donors to support a range of purposes such as student financial aid, teaching, and research. One of the many challenges from the crisis will be the longer-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. While repeal of this perverse and damaging provision remains our clear goal, the coronavirus bills are emergency in nature and developed around the principle that assistance should be temporary. In line with these goals, we urge a suspension of the tax as well as extending the suggested changes on carryforward and carryback of losses to include those affected by the tax.

*This document was prepared by the American Council on Education in partnership with the American Association of Community Colleges, the American Association of State Colleges and Universities, the Association of American Universities, the Association of Catholic Colleges and Universities, the Association of Governing Boards of Universities and Colleges, the Association of Jesuit Colleges and Universities, the Association of Public and Land-grant Universities, the Council for Christian Colleges & Universities, and the National Association of Independent Colleges and Universities.