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Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act

NAICU Summary of Funding Components and Key Provisions

BACKGROUND

On May 12, 2020, the Democrats in the U.S. House of Representatives released their next COVID-19 relief package, called the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, which they plan to vote on this Friday. In total, the bill provides \$37 billion for higher education, of which \$7 billion is reserved for private, nonprofit colleges and \$27 billion for public colleges. This is roughly the same proportion as the sector shared under the CARES Act. While the higher education community requested \$46.6 billion, this would still be a significant second wave of funding.

FUNDING

The HEROES Act provides:

- \$7 billion for private, non-profit colleges via the Department of Education.
- \$27 billion for public colleges via State Fiscal Stabilization Fund to the governors.

Under each of these funding streams, allocations to institutions are made based on 75 percent of the relative share of Pell Grant recipients and 25 percent of the relative share of non-Pell Grant recipients. This is different than the CARES Act, which allocates based on Pell FTE and Non-Pell FTE.

Under each of the private and public college funding streams, institutions that are not eligible for at least \$1 million under the formula are eligible to receive the lesser of their total loss of revenue and increased costs associated with coronavirus or \$1 million. To qualify for these funds, the institution must have at least 500 students.

The HEROES Act also provides:

- \$1.7 billion for HBCUs and Minority Serving Institutions.
- \$1.4 billion for public or private colleges, including those exclusively online, to meet unmet need related to coronavirus. To qualify for these funds, institutions will need to apply to the Secretary and demonstrate unmet need due to such things as dramatic decline in revenue, exceptional costs for implementing distance education, and large numbers of students without access to technology. For-profit colleges are not included in these funds.

KEY POLICY CHANGES FROM THE CARES ACT

The HEROES Act:

- Provides more flexibility for the use of funds for private, nonprofit colleges than the division between “student” and “institutional” funds in the CARES Act. Funds can be used for emergency grants to students who attended at any point during the coronavirus emergency, and can be used for any component of the student’s cost of attendance, including tuition. Institutions may also use funds to defray expenses including lost revenue, reimbursement for expenses already incurred, technology costs associated with a transition to distance education, faculty and staff training, and payroll.
- Prohibits the Secretary of Education from imposing restrictions on the populations of students who may receive funds under the CARES Act or HEROES. This would reverse the guidance that international students and DACA students are not eligible for the student grants, and override the need for attestations by students who have not filed a FAFSA.
- Codifies the Treasury Department’s guidance that the grants to students are indeed tax-free.
- Includes several provisions related to the Small Business Administration’s Paycheck Protection Program, including:
 - Making all non-profits (any 501(C)) eligible for the PPP without regard to employee size, except that 501(c)(4)s that make political contributions are not eligible. Adds flexibility in the covered period for borrowers by extending the 8-week period to 24 weeks and extends the covered period from June 30 to December 31, although no new funding is provided for the program. The bill includes a carve-out of 25 percent of the existing funds on the date of enactment solely for the use of all nonprofits, no matter their size or type. However, the Act also requires that at least half this amount go to small nonprofits under the 500-employee threshold.
 - Creating a safe harbor for borrowers who cannot rehire in the prescribed timeframe and eliminates the 75/25 rule on the use of loan proceeds.
 - Clarifying the coordination between the Employee Retention Tax Credit and the PPP loans to ensure borrowers can take advantage of both types of assistance.
- Requires that the Main Street Lending Program be made available to non-profits within five days of the bill’s enactment, and specifically includes all private, nonprofit and public institutions of higher education. It is unclear what restrictions the Federal Reserve may be able to put on eligibility such as loan size, repayment terms or credit worthiness.

Extends the financial relief provided to reimbursable employers in the CARES Act through January 31, 2021, and makes a technical correction to ensure that states can simply waive 50 percent of the amount owed by such employers. This corrects recent Department of Labor guidance that would have required states to bill self-insured nonprofits 100 percent of their UI amounts, and only allowed for a 50 percent reimbursement back to the nonprofits from the states.



OTHER KEY PROVISIONS

The HEROES Act:

- Includes a Maintenance of Effort provision that protects state aid to private colleges and state grants that go to students regardless of need.
- Makes the employer retention credit more generous, and extends nearly all the previous paid sick and family leave provisions in prior stimulus bills.
- Extends student loan repayment relief to private student loans and clarifies that all federal and private loans are included (including all FFEL and Perkins Loans). Makes loan payments for students through the end of September 2021, or until such time as \$10,000 in loan payments have been made, for borrowers who were economically distressed as of March 12, 2020.
- Extends Federal Work-Study flexibility into the fall to ensure funds in the campus-based aid programs can be flexible, and student workers can still be paid.
- Ensures emergency grants to students from the federal government, institutions or outside scholarship organizations do not count for the purposes of need analysis.
- Authorizes a waiver of the requirement for nonprofit institutions that fall below a 1.0 on their federal financial responsibility scores to secure a letter of credit, if those institutions chose instead to enter into a COVID-19 provisional participation agreement that requires them to submit either a teach out agreement (if they have less than 90 days of liquidity) or teach out plan (if they have 180 days or less of liquidity) to their states and accreditors. Authorizes (but does not provide) \$300 million in funding to assist institutions that chose these provisional agreements to increase their economic stability.

RESEARCH AND THE ARTS

The HEROES Act provides a disappointing level of support for research funding and the arts and humanities, including:

- \$4.7 billion for the National Institutes of Health (most of which is to offset lab reductions because of the COVID-19 crisis).
- \$125 million to the National Science Foundation for immediate coronavirus needs.
- \$10 million each to the National Endowment for the Arts and the National Endowment for the Humanities.