ANALYSIS OF THE AMERICAN RESCUE PLAN ACT OF 2021

On March 10, the House passed H.R. 1319, the American Rescue Plan Act of 2021, on a 220-211 vote. The Senate previously cleared the measure on March 6 by a vote of 50-49. President Biden is expected to quickly sign the bill as enhanced unemployment benefits expire on March 14.

The legislation was developed and passed through the budget reconciliation process, which directed authorizing committees to draft sections of a budget reconciliation bill based on President Biden's COVID-19 relief proposal released shortly after his inauguration.

The nearly $1.9 trillion package—approximately equal to the Coronavirus Aid, Relief, and Economic Security Act enacted last March and $1 trillion below the Coronavirus Response and Relief Supplemental Appropriations Act enacted this past December—provides another round of supplemental relief funding for institutions of higher education to address the needs of students and institutions, funding for the National Science Foundation and the National Institute of Standards and Technology to help address setbacks to the science and technology enterprise, aid to state and local governments, equal access for public universities to tax relief provided through previous COVID-19 relief bills, funding for COVID-19 vaccines, testing and tracing, and more.

Below is a summary of provisions of most direct significance to public universities.

I. EDUCATION FUNDING AND POLICY

The American Rescue Plan Act includes $39.58 billion in funding dedicated to higher education for another Higher Education Emergency Relief Fund (HEERF). Unlike previous bills, the American Rescue Plan Act specifies in statute that funds will be available for use through September 30, 2023.

The bill continues to use the HEERF funding formula compromise reached in CRRSAA to allocate funds based upon several student FTE and headcount measures. Compared to CRRSAA, the bill increases the portion of funds dedicated to public and private nonprofit institutions from 89 to 91 percent ($36.02 billion), while decreasing funds dedicated to for-profit institutions to 1 percent ($396 million).

The bill continues to reserve 7.5 percent of funds ($2.97 billion) for Historically Black Colleges and Universities (HBCUs) and other Minority-Serving Institutions (MSIs), as well as 0.5 percent of funds ($198 million) for institutions the Secretary of Education determines have the greatest amount of unmet need.

APLU projections of funding for institutions under the 91 percent of HEERF are available here and projections of funding for HBCUs, MSIs, and institutions eligible under the Strengthening Institutions Program are available here.

Like the CARES Act, institutions are required to use at least half of the new funds for emergency financial aid grants to students (this is a key difference from CRRSAA). Further, all funds allocated for exclusively online students must be allocated for emergency financial aid grants. The bill maintains the broader use of funds included in CRRSAA for both institutional aid and emergency financial aid grants to students.

Unfortunately, the bill no longer specifies that institutions would solely determine which students are eligible for emergency grants—the language was cut from the bill due to Byrd Rule concerns, leaving it open to the Department of Education to provide guidance on which students are eligible for funds.

Finally, the bill includes new requirements that IHEs receiving funds under this section implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines. Institutions would also agree to conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances.

Title II: Education and Labor	
Subtitle A—Education Matters	
Part 1—Department of Education	
Sec. 2003. Higher Education Emergency Relief Fund. Pg. 44	Under the bill, public and private nonprofit institutions receive funds via a formula and process resembling CRRSAA; paragraph (1) would increase the portion reserved for these institutions from 89 to 91 percent of HEERF funding ($36.02 billion). Specifically, the funds will be distributed as follows: • 37.5 percent based on FTE Pell recipients, not exclusively enrolled in distance education courses prior to the emergency; • 37.5 percent based on headcount Pell recipients; • 11.5 percent based on overall FTE students; • 11.5 percent based on overall headcount of students; • 1 percent based on FTE Pell exclusively online recipients (may only be used for student grants); and • 1 percent based on headcount Pell exclusively online recipients (may only be used for student grants). Institutions must provide at least half of funding in emergency financial aid grants to students, as was required under CARES. Further, all funds allocated for exclusively online students must be allocated for emergency financial aid grants. In comparison to CRRSAA, paragraph (2) decreases the portion reserved to for-profit institutions of higher education from 3 to 1 percent of funding ($396 million), which may only be used for student grants. The bill reserves 7.5 percent of funding ($2.97 billion) for HBCUs, MSIs, and institutions qualifying for the Strengthening Institutions Program.

	The bill reserves 0.5 percent of funding ($198 million) for IHEs the Secretary determines to have "greatest unmet needs" including "with large populations of graduate students and institutions of higher education that did not otherwise receive an allocation." Paragraph (5) requires that IHEs receiving funds under this section implement evidence-based practices to monitor and suppress coronavirus in accordance with public health guidelines. Institutions must also agree to conduct direct outreach to financial aid applicants about the opportunity to receive a financial aid adjustment due to the recent unemployment of a family member or independent student, or other circumstances.
Sec. 2004. Maintenance of Effort and Maintenance of Equity. Pg. 47	The bill requires each state receiving K-12 funds to maintain spending in fiscal year 2022 and 2023 on higher education, at least at the proportionate levels of the state's spending on those categories relative to the state's overall spending, averaged over fiscal years 2017, 2018, and 2019. The Secretary of Education may waive maintenance of effort requirements for the purpose of relieving fiscal burdens incurred by states in preventing, preparing for, and responding to the coronavirus.
Sec. 2005. Outlying Areas. Pg. 53	The bill provides $850 million for grants to the outlying areas.
Sec. 2013. Modification of Revenue Requirements for Proprietary Institutions of Higher Education. Pg. 57	The bill modifies the requirement in Sec. 487 of the Higher Education Act (HEA) to require proprietary institutions to derive not less than ten percent of revenue from funds other than federal education assistance funds, including from the GI Bill. The Senate amended the provision to delay implementation, requiring the Department of Education to start negotiated rulemaking after October 1, 2021 and specifying that the change applies to institutional fiscal years beginning on or after January 1, 2023.

II. RESEARCH FUNDING AND POLICY

The American Rescue Plan Act contains funding for the Institute of Education Sciences to study learning loss, the National Endowment for the Humanities to support humanities organizations and programming, and the National Institutes of Standards and Technology for research or response related to the pandemic. While the bill does not address the higher education research community's full research relief request of $26 billion, the bill does include $600 million for the National Science Foundation for purposes such as grant extensions, scholarships, fellowships, and related administrative expenses.

Title VII: Committee on Commerce, Science and Transportation	
Subtitle A—Education Matters	
Part 1—Department of Education	
Sec. 2010. Institute of Education Sciences. Pg. 56	The bill provides $100 million for the Institute of Education Sciences (IES) to study learning loss.
Part 2—Miscellaneous	
Sec. 2022. National Endowment for the Humanities (NEH). Pg. 60	The bill provides $135 million to the NEH. 40 percent of funding is directed to state and humanities councils that support humanities organizations programming. 60 percent is allocated to grants and relevant administrative expenses that support humanities organizations and programming.
Title VII: Committee on Commerce, Science and Transportation	
Sec. 7501. National Institute of Standards and Technology (NIST). Pg. 273	The bill provides $150 million to fund awards for research, development, and testbeds to prevent, prepare for, and respond to coronavirus. None of the funds provided by this section shall be subject to cost share requirements.
Sec. 7502. National Science Foundation (NSF). Pg. 273	The bill provides $600 million to fund or extend new and existing research grants, cooperative agreements, scholarships, fellowships, and apprenticeships, and related administrative expenses to prevent, prepare for, and respond to coronavirus.

III. AGRICULTURE FUNDING AND POLICY

The American Rescue Plan Act provides $5 billion to the Secretary of Agriculture for emergency grants for rural health care as well as aid to socially disadvantaged farmers, ranchers, forest landowners, and groups. This section includes $1 billion to provide outreach, mediation, financial training, capacity building training, cooperative development training and support, and other technical assistance to socially disadvantaged groups. Specifically, the provision includes support and supplement of research, education, and extension, as well as scholarships and programs that provide internships and pathways to federal employment, at 1890s, 1994, Alaska Native serving, Native Hawaiian serving, Hispanic serving, and 1862 insular area institutions.

Title I: Committee on Agriculture, Nutrition, and Forestry	
Subtitle A—Agriculture	
Sec. 1002. Emergency Grants for Rural Health Care. Pg. 13	This section provides $500 million to the Secretary of Agriculture for emergency grants for rural health care for: vaccine distribution; drugs and medical supplies to increase medical surge capacity; reimbursement for COVID19 related

	expenses; telehealth capabilities; temporary or permanent structures to provide health care services; staffing needs to vaccine administration or testing; and other efforts determined to be critical to address the pandemic. Also, included in the bill is section 1006, which aids socially disadvantaged farmers, ranchers, forest landowners, and groups.
Sec. 1006. Assistance and support for socially disadvantaged farmers, ranchers, forest landowners, and operator groups. Pg. 17	The bill provides the Secretary of Agriculture $1.01 billion to provide outreach, mediation, financial training, capacity building training, cooperative development training and support, and other technical assistance to socially disadvantaged groups. Subsection (a)(6) provides that at least 5 percent of funds are to support and supplement research, education, and extension, as well as scholarships and programs that provide internships and pathways to federal employment. The following institutions are to receive at least one percent of the $1.01 billion for these purposes: 1890s colleges, 1994 institutions, Alaska Native serving institutions and Native Hawaiian serving institutions, Hispanic-serving institutions, and insular area institutions.

IV. TAX AND BUSINESS POLICY

The American Rescue Plan Act includes several tax provisions of interest to institutions of higher education, as well as changes to the third round of stimulus payments that will now provide additional relief for families with college-aged students who are dependents.

The bill includes one of APLU's top tax priorities, ensuring public institutions of higher education have equal access to tax relief provided through previous COVID-19 relief bills. The bill essentially creates a new paid leave tax credit with new eligibility rules that do not exclude public sector employees from claiming the credit. Unfortunately, due to limitations with the budget reconciliation process, access to the tax credit was not made retroactive. Importantly, while the tax credits have been extended, the paid leave mandate in the FFCRA has not been extended in the bill. Institutions that choose to continue offering paid leave to their employees would be able to claim the credit from March 31, 2021 through September 30, 2021.

The Senate also added a provision to the bill that ensures any student loan debt discharged between December 31, 2020 and January 1, 2026 would not be subject to taxation. Qualifying student loans would include all federal student loans, and certain private education and institutional loans. This move sets up potential efforts to forgive student loan debt either through additional legislation or executive action.

Finally, the third round of stimulus payments for $1,400 provides an additional $1,400 per dependent, including non-child dependents. While previous bills limited stimulus payments to children aged 17 and under, families with college-aged children would now be able to receive support for these dependents as well. Also of note, the Senate lowered the income eligibility thresholds for stimulus payments by $20,000 for both individuals and joint filers, phasing out relief for individuals at $80,000 and for joint filers at $160,000.

For a more in-depth look at the tax provisions included in the bill, see the following [Congressional Research Service report](#) published March 8, 2021.

Title IX: Committee on Finance	
Subtitle G—Promoting Economic Security	
Part 1 – 2021 Recovery Rebates to Individuals	
Sec. 9601. 2021 Recovery Rebates to Individuals. Pg. 342	The bill provides a credit of $1,400 for a single taxpayer ($2,800 for joint filers), in addition to $1,400 per dependent. In the case of this bill, a dependent includes both children and non-child dependents. A taxpayer is eligible for a credit with respect to any individual in the household for whom a Social Security number is associated with such individual on the tax return.
Part 5 – Credits for Paid Sick and Family Leave	
Sec. 9641. Payroll Credits. Pg. 403	The bill extends the expiration of the credits to September 30, 2021. The bill increases the amount of wages for which an employer may claim the paid family credit in a year from $10,000 to $12,000 per employee. The bill would allow state and local governments and instrumentalities, including public universities, to claim the tax credit. (There are no limitations placed on number of employees.)
Part 6 – Employee Retention Credit	
Sec. 9651. Extension of Employee Retention Credit. Pg. 446	The bill extends the employee retention tax credit, as added by the CARES Act and expanded and extended in P.L. 116-260, through December 31, 2021. After June 30th, the credit will be structured as a refundable payroll tax credit against the hospital insurance tax. (Changes made in CRRSAA now allow public universities to claim the employee retention tax credit.)
Part 8 – Miscellaneous Provisions	
Sec. 9675. Modification of Treatment of Student Loan Forgiveness. Pg. 469	The bill excludes from gross income qualifying student loans for postsecondary education discharged, for almost any reason, between December 31, 2020, and January 1, 2026. Qualifying student loans would include all federal student loans, and certain private education and institutional loans. These amounts of discharged student loan debt would not be subject to taxation.

V. STATE AND LOCAL GOVERNMENT FUNDING AND POLICY

The American Rescue Plan Act includes $350 billion dedicated to state and local government emergency relief. The bill creates new State and Local Coronavirus Relief Funds, with $219.8 billion (60 percent) reserved for states and $130.2 billion (40 percent) reserved for local governments. Funding for state and local governments is available to spend through December 31, 2024.

State and local funds have broad eligible uses, including: 1) COVID-19 response or negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality; 2) to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers or by providing grants to eligible employers; 3) the provision of government services to the extent of the reduction in revenue; and 4) investments in water, sewer or broadband infrastructure. The bill specifies that funds cannot be spent on pensions, nor can they be used to directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period.

Finally, the Senate added a provision to establish a new Coronavirus Capital Projects Fund. The fund would distribute $10 billion to states to carry out critical capital projects to enable "work, education, and health monitoring" in response to COVID-19. There is no statutory deadline for states to spend down funds.

Title IX: Committee on Finance	
Subtitle M—Coronavirus State and Local Fiscal Recovery Funds	
Sec. 9901. Coronavirus State and Local Fiscal Recovery Funds. Pg. 569	The bill establishes a new fiscal recovery fund for state and local governments, which includes the following subsections:
Sec. 602. Coronavirus State Fiscal Recovery Fund. Pg. 569	The bill reserves 60 percent of overall funds ($219.8 billion) for the Coronavirus State Fiscal Recovery Fund, which includes support for states, Washington D.C., Tribes, and Territories. Of these funds, 195.3 billion for states and Washington D.C. Every state would receive a minimum of $500 million, up to a total $25.5 billion. Washington D.C. would receive $755 million. The bill would further reserve $4.5 billion for territories and $20 billion for tribal governments. State funds are allocated based on unemployment data.
Sec. 603. Coronavirus Local Fiscal Recovery Fund. Pg. 583	The bill reserves 40 percent of overall funds ($130.2 billion) for the Coronavirus Local Fiscal Recovery Fund, with funding divided evenly between cities and counties. The funds are divided between counties, metropolitan cities, and other non-entitlement cities and towns: • Counties: $65.1 billion

	• Metropolitan cities: $45.57 billion • Non-entitlement cities / towns: $19.53 billion County funding is allocated based on population data. Funding for metropolitan cities is based upon the existing formula for the Department of Housing and Urban Development's Community Development Block Grant (CDBG) Program. States will distribute funding for non-entitlement cities and towns based on population.
Sec. 604. Coronavirus Capital Projects Fund. Pg. 598	The bill establishes a new Coronavirus Capital Projects fund, to be administered by Treasury, "for making payments to States, territories, and Tribal governments to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency with respect to the Coronavirus Disease (COVID–19). The funds are available until expended. Treasury has 60 days to establish the program and distribute funds to states.

FEMA Funding

The bill replenishes FEMA's Disaster Relief Fund with $50 billion, available until September 30, 2025.

Title IV—Committee on Homeland Security and Governmental Affairs	
Sec. 4005. Federal Emergency Management Agency Appropriation. Pg. 188	The bill provides $50 billion for reimbursement to state, local, tribal, and territorial governments dealing with ongoing response and recovery activities from COVID-19, including vaccination efforts, deployment of the National Guard, providing personal protective equipment for critical public sector employees, and disinfecting activities in public facilities such as schools and courthouses.