



## ANALYSIS OF THE SENATE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

On Wednesday, March 25, Senate Majority Leader Mitch McConnell (R-KY) [released](#) a final negotiated version of the third supplemental spending bill, H.R. 748, the Coronavirus Aid, Relief, and Economic Security (CARES) Act along with a [title-by-title summary](#) and [supplemental appropriations summary](#). The nearly \$2 trillion package—the largest of its kind in history—was a product of five days of tense negotiations between Senate leaders and Treasury Secretary Steven Mnuchin.

Leader McConnell said the package represents, in effect, “a wartime level of investment into our country.”

APLU released a [statement](#) expressing gratitude for investment in both students and institutions but noting the inadequacy of funding levels given the emergency financial condition of public universities. Additionally, the legislation does not address APLU’s priorities for research funding or fix the [problem created](#) in the second emergency supplemental funding bill by excluding state entities from the paid leave tax credit. The legislation is far improved from the first version of the bill, no doubt due to the advocacy of APLU members and the broader higher education community, but the emergency needs of public universities far exceed the funding provided in this legislation. We will continue to work with Congress to seek needed support in future supplemental spending bills.

### I. EDUCATION FUNDING AND POLICY

#### ANALYSIS OF FUNDING PROGRAM

The emergency supplemental measure creates a \$30.75 billion education stabilization fund with 46.3 percent specifically designated to higher education and 43.9 percent to local education agencies. After certain set asides from the \$30.75 fund, this will approximately result in \$14 billion provided by the U.S. Department of Education to colleges and universities through the Title IV disbursement system. At least half of funding provided to institutions must be used for emergency grants to students. The bill sets a few criteria to determine an institution’s share as well as specific additional funds for HBCUs and MSIs and funds for smaller institutions who receive less than \$500,000 under the formula and have significant unmet need.

Additionally, 9.8 percent (approx. \$2.95 billion) of the stabilization fund is provided to governors for use at their discretion to support higher education or local education agencies. A state must provide assurances it will not cut higher education funding below the average of the preceding three fiscal years. However, the Secretary of Education is given waiver authority to the requirement.

With a mix of funding direct to institutions and some discretionary funding to governors, the measure adopts a hybrid approach of the programs in the House Democratic and Senate GOP bills.

**DIVISION B—EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS**

**Title VIII**

**Department of Education**

Sec. 18001. Education stabilization fund allocations.

Creates a \$30.75 billion education stabilization fund administered in part by governors and the Secretary of Education. Two percent of the fund is designated for Indian Education, grants to governors in highly impacted areas and administrative expenses; leaving \$30.135 billion. Sets criteria for a state’s allotment (controlled by governor) and a formula to determine funding levels for funding direct to institutions of higher education from the U.S. Department of Education. 46.3 percent (approx. \$14 billion) of the fund is designated for higher education, 43.9 percent (approx. \$13.2 billion) for local education agencies, and 9.8 percent (approx. \$2.95 billion) provided to governors for use at their discretion (higher ed or K-12). Each governor’s share is determined on basis of 60 percent of population ages 5-24 and 40 percent on population of children counted under ESEA.

Sec. 18004. Higher education emergency relief fund.

Assigns **funding formula** for institutions with funds distributed through the Department of Education’s Title IV disbursement system.

- I. 90 percent (\$12.558 billion) of funding provided to institutions based on a formula taking into consideration numbers of FTE students, Pell and non-Pell
  - a. Number of FTE Pell Grant recipients not exclusively enrolled in distance education prior to coronavirus emergency (75 percent)
  - b. Number of FTE non-Pell students not exclusively enrolled in distance education prior to coronavirus emergency (25 percent)
- II. 7.5 percent (\$992 million) of additional funding provided to HBCUs and MSIs
- III. 2.5 percent (\$331 million) to institutions the Secretary of Education determines have the greatest unmet need relative to coronavirus. The Secretary shall give priority to any institution of higher education that is not otherwise eligible for funding of at least \$500,000 and demonstrates significant unmet needs related to expenses associated with coronavirus.

	<p>Sets <b>Use of Funds</b> criteria.</p> <ul style="list-style-type: none"> <li>I. 50 percent of an institution’s funding required to be provided to students for emergency financial aid and expenses related to the disruption of campus operations due to coronavirus (including eligible expenses under a student’s cost of attendance, such as food, housing, course materials, technology, healthcare, and child care).</li> <li>I. An institution of higher education receiving funds under this section may use the funds received to cover any costs associated with significant changes to the delivery of instruction due to the coronavirus, so long as such costs do not include payment to contractors for the provision of pre-enrollment recruitment activities; endowments; or capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship.</li> </ul>
<p>Sec. 18006. Continued payment to employees.</p>	<p>A local educational agency, State, institution of higher education, or other entity that receives funds under “Education Stabilization Fund,” shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus.</p>
<p>Sec. 18008. Maintenance of effort.</p>	<p>A State’s application for funds shall include assurances that the State will maintain support for elementary and secondary education, and State support for higher education (which shall include State funding to institutions of higher education and state need-based financial aid, and shall not include support for capital projects or for research and development or tuition and fees paid by students) in fiscal years 2020 and 2021 at least at the levels of such support that is the average of such State’s support for elementary and secondary education and for higher education provided in the 3 fiscal years preceding the date of enactment of this Act. The secretary may waive the requirement (a) for the purpose of relieving fiscal burdens on States that have experienced a precipitous decline in financial resources.</p>

**ANALYSIS OF EDUCATION POLICY PROVISIONS**

The CARES Act would provide most of the regulatory flexibilities important to the higher education community, including flexibility to transfer funds from the Federal Work Study (FWS) program to the Supplemental Educational Opportunity Grant (SEOG) program; use excess SEOG funds for emergency grant aid; disburse FWS dollars to students who are not working; provide institutions relief from return

to Title IV (R2T4) requirements; prevent student withdrawal from courses due to an emergency from impacting federal loan limits or Pell eligibility; provide relief from SAP provisions; and more.

Further, the CARES Act would provide relief to student borrowers by halting all student loan payments for six months and pausing interest accrual on those loans. During those six months of non-payment, each month would still count toward a qualifying payment toward an authorized loan forgiveness program, including income-driven repayment plans and public service loan forgiveness (PSLF) program. Finally, it would suspend involuntary collections during this six-month period, including wage garnishment, reductions on tax refunds, and reductions of any other Federal benefits including Social Security payments.

Unlike the bill released by House Democrats, the CARES Act does not address any of the needed regulatory flexibilities for student veteran education benefits.

<b>DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION</b>	
<b>TITLE III—SUPPORTING AMERICA’S HEALTH CARE SYSTEM IN THE FIGHT AGAINST THE CORONAVIRUS</b>	
<b>Subtitle B - Education Provisions</b>	
Sec. 3503. Campus-based aid waivers.	Waives the requirement that a participating institution of higher education provide a non-Federal share to match Federal funds provided to the institution for the SEOG and FWS programs; during a period of a qualifying emergency, allows an institution to transfer up to 100 percent of the institution’s unexpended allotment from FWS to SEOG (but not from SEOG to FWS).
Sec. 3504. Use of supplemental educational opportunity grants for emergency aid.	Allows an institution of higher education to reserve any amount of an institution’s allocation under SEOG for a fiscal year to award, in that fiscal year, emergency financial aid grants to assist undergraduate or graduate students for unexpected expenses and unmet financial need as the result of a qualifying emergency.
Sec. 3505. Federal work-study during a qualifying emergency.	Allows an institution of higher education participating in FWS to make payments to work-study students, for the period of time (not to exceed one academic year) in which affected students were unable to fulfill their work-study obligation for all or part of such academic year due to a qualifying emergency.
Sec. 3506. Adjustment of subsidized loan usage limits.	Excludes from a student’s period of enrollment for purposes of loans made under the Federal direct loan program any semester (or the equivalent) that the student does not complete due to a qualifying emergency.
Sec. 3507. Exclusion from Federal Pell Grant duration limit.	Excludes from a student’s Federal Pell Grant duration limit under any semester (or the equivalent) that the student does not complete due to a qualifying emergency.

<p>Sec. 3508. Institutional refunds and Federal student loan flexibility.</p>	<p>Waives the institutional requirement with respect to the amount of grant or loan assistance (other than assistance received under FWS) to be returned under such section if a recipient of assistance under Title IV withdraws from the institution of higher education during the payment period or period of enrollment as a result of a qualifying emergency (waives institutional requirement with respect to R2T4).</p> <p>Also waives the amounts that students are required to return with respect to Federal Pell Grants or other grant assistance if the student withdrew from the institution of higher education as a result of a qualifying emergency.</p>
<p>Sec. 3509. Satisfactory academic progress.</p>	<p>Allows an institution of higher education, as a result of a qualifying emergency, to exclude from the quantitative component of the SAP calculation any attempted credits that were not completed by such student without requiring an appeal by such student.</p>
<p>Sec. 3510. Continuing education at affected foreign institutions.</p>	<p>Permit any part of an otherwise eligible foreign program to be offered via distance education for the duration of such emergency or disaster and the following payment period for purposes of Title IV.</p>
<p>Sec. 3512. HBCU Capital financing.</p>	<p>Notwithstanding any provision of HEA Title III, or any regulation promulgated under such title, the Secretary may grant a deferment, for the duration of a qualifying emergency, to an institution that has received a loan under part D of Title III.</p>
<p>Sec. 3513. Temporary relief for federal student loan borrowers.</p>	<p>Suspends all student loan borrower payments due for loans made under the Federal direct loan program and Federal family education loan (FFEL) program for 6 months and halt all interest accrual during that time.</p> <p>Will consider each month for which a loan payment was suspended under this section as if the borrower of the loan had made a payment for the purpose of any authorized loan forgiveness program for which the borrower would have otherwise qualified, including both income-driven repayment plans and the PSLF program.</p> <p>Suspends involuntary collections during this six-month period as well, including wage garnishment, reductions on tax refunds, and reductions of any other Federal benefits including Social Security payments.</p>

	Requires ED to provide notice to borrowers of actions taken in accordance with this section and provide at least 6 notices for when payments must resume.
Sec. 3517. Waiver authority and reporting requirement for institutional aid.	Waives Reporting requirements for institutional aid received through Titles III, V, and VII.
Sec. 3519. Service obligations for teachers.	Provides service flexibility for those who received TEACH Grants and Teacher Loan Forgiveness.

## II. RESEARCH FUNDING AND POLICY

APLU, along with the Association of American Universities and the Association of American Medical Colleges, had [recommended](#) approximately \$13 billion in supplemental funding to help support graduate students, post-docs, and other research personnel, ramp down and ramp up cost, and provide upkeep for core facilities in research labs disrupted by COVID-19. While the CARES Act does not include funding for these purposes, it would appropriate additional funds to many research agencies to prevent, prepare for, and respond to coronavirus.

The CARES Act recommends \$75 million for the National Science Foundation to support the agency’s ongoing RAPID grant response, \$945.4 million for the National Institutes of Health to fund centers and institutes related to coronavirus research, \$99.5 million to the Department of Energy’s Office of Science, \$50 million for the Hollings Manufacturing Extension Partnership to help small and medium sized manufacturers, and \$10 million for Manufacturing USA to focus on domestic biopharmaceutical manufacturing, among other allocations.

The bill would also reauthorize Title VII and Title VIII of the Public Health Service Act, which includes various health professions and nursing workforce development programs.

<b>DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIAZATION</b>	
<b>TITLE III—SUPPORTING AMERICA’S HEALTH CARE SYSTEM IN THE FIGHT AGAINST THE CORONAVIRUS</b>	
<b>Subtitle A: Health Provisions</b>	
<b>Part IV: Health Care Workforce</b>	
Sec. 3401. Reauthorization of health professions workforce programs.	Reauthorizes Title VII of the Public Health Service Act for FY2021-2025
Sec. 3404. Nursing workforce development.	Reauthorizes Title VIII of the Public Health Service Act for FY2021-2025

<b>DIVISION B – EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS</b>	
<b>Title I</b>	
<b>United States Department of Agriculture (USDA): Forest Service</b>	\$3,000,000 for Forest and Rangeland Research, which includes USDA Forest Service research as well as funds for Fire Science Research. The funding will prevent, prepare for, and respond to coronavirus, domestically or internationally, including for the reestablishment of abandoned or failed experiments associated with employee restrictions due to the coronavirus outbreak.
<b>Title II</b>	
<b>National Institute of Standards and Technology (NIST): Hollings Manufacturing Extension Partnership and National Network for Manufacturing Innovation</b>	<p>\$50,000,000 for the Hollings Manufacturing Extension Partnership to assist manufacturers to prevent, prepare for, and respond to coronavirus</p> <p>\$10,000,000 for the National Network for Manufacturing Innovation (also known as “Manufacturing USA”) to prevent, prepare for, and respond to coronavirus, including to support development and manufacturing of medical countermeasures and biomedical equipment and supplies.</p> <p>No cost share shall be required for these provisions.</p>
<b>National Oceanic and Atmospheric Administration (NOAA)</b>	\$20,000,000, to prevent, prepare for, and respond to coronavirus, domestically or internationally, by supporting continuity of operations, including National Weather Service life and property related operations.
<b>National Aeronautics and Space Administration (NASA)</b>	\$60,000,000 for “Safety, Security and Mission Services”, to prevent, prepare for, and respond to coronavirus, domestically or internationally.
<b>National Science Foundation (NSF)</b>	\$75,000,000 for RAPID Response Grants to prevent, prepare for, and respond to coronavirus, domestically or internationally.
	\$1,000,000 “Agency Operations and Award Management”, to prevent, prepare for, and respond to coronavirus, domestically or internationally, including to administer research grants and other necessary expenses.
	<p>SEC. 12002. (a) Funds appropriated in this title for the National Science Foundation may be made available to restore amounts, either directly or through reimbursement, for obligations incurred by the National Science Foundation for research grants and other necessary expenses to prevent, prepare for, and respond to coronavirus, domestically or internationally, prior to the date of enactment of this Act.</p> <p>(b) Grants or cooperative agreements made by the National Science Foundation under this title, to carry out research grants and other necessary expenses to prevent, prepare for,</p>

	and respond to coronavirus, domestically or internationally, shall include amounts to reimburse costs for these purposes incurred between January 20, 2020, and the date of issuance of such grants or agreements.
<b>Title III</b>	
<b>Department of Defense, Defense Health Program</b>	\$415,000,000 made available for research, development, test and evaluation to prevent, prepare for, and respond to coronavirus.
<b>Title IV</b>	
<b>Department of Energy, Office of Science</b>	\$99,500,000 to prevent, prepare for, and respond to coronavirus, domestically or internationally, for necessary expenses related to providing support and access to scientific user facilities in the Office of Science and National Nuclear Security Administration, including equipment, enabling technologies, and personnel associated with the operations of those scientific user facilities.
<b>Title VII</b>	
<b>Environmental Protection Agency, Science and Technology</b>	\$2,250,000 for “Science and Technology”, to prevent, prepare for, and respond to coronavirus, domestically or internationally. <i>Provided</i> , That of the amount provided under this heading in this Act, \$750,000 shall be for necessary expenses for cleaning and disinfecting equipment or facilities of, or for use by, the Environmental Protection Agency, and \$1,500,000 shall be for research on methods to reduce the risks from environmental transmission of coronavirus via contaminated surfaces or materials.
<b>National Endowment for the Humanities (NEH)</b>	<p>\$75,000,000 for “Grants and Administration”, prevent, prepare for, and respond to coronavirus, domestically or internationally, to be distributed in grants.</p> <p>40 percent of such funds shall be distributed to state humanities councils and 60 percent of such funds shall be for direct grants.</p> <p>Funds may also be used by the recipients of such grants for purposes of the general operations of such recipients and cost share is waived.</p>
<b>Title VIII</b>	
<b>National Institutes of Health (NIH)</b>	\$103,400,000 for the “National Heart, Lung, and Blood Institute”, to prevent, prepare for, and respond to coronavirus, domestically or internationally.
	\$706,000,000 for the “National Institute of Allergy and Infectious Diseases”, to prevent, prepare for, and respond to coronavirus, domestically or internationally. <i>Provided</i> , That not less than \$156,000,000 of the amounts provided under this heading in this Act shall be provided for the study of, construction of, demolition of, renovation of, and acquisition



	of equipment for, vaccine and infectious diseases research facilities of or used by NIH, including the acquisition of real property.
	\$60,000,000 for the “National Institute of Biomedical Imaging and Bioengineering”, to prevent, prepare for, and respond to coronavirus, domestically or internationally.
	\$10,000,000 for the “National Library of Medicine”, to prevent, prepare for, and respond to coronavirus, domestically or internationally.
	\$36,000,000 for the “National Center for Advancing Translational Sciences”, to prevent, prepare for, and respond to coronavirus, domestically or internationally.
	\$30,000,000 for the “Office of the Director” Common Fund, to prevent, prepare for, and respond to coronavirus, domestically or internationally.

### III. TAX AND BUSINESS POLICY

The CARES Act would not address key APLU and higher education community priorities regarding tax and business policy, except for two changes impacting charitable contributions and Sec. 127 employer-provided education assistance. First, the changes would allow for a partial above-the-line deduction for up to \$300 of charitable contributions and increases the limitations on deductions for individuals who itemize. Additionally, the bill would count Sec. 127 employer-provided education assistance provided prior to January 1, 2021 as a tax-free benefit.

The CARES Act also defers payments of employer payroll taxes through January 1, 2021—employers are required to pay 50 percent of the amount due by December 31, 2021, and the remaining 50 percent by December 31, 2022.

Unlike the bill released by House Democrats, the CARES Act does not expand the paid leave tax credit created in the second supplemental spending bill to cover public universities.

<b>DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION</b>	
<b>TITLE II—ASSISTANCE FOR AMERICAN WORKERS, FAMILIES, AND BUSINESSES</b>	
<b>Subtitle B—Rebates and Other Individual Provisions</b>	
Sec. 2204. Allowance of partial above the line deduction for charitable contributions.	Allows partial above-the-line deduction for charitable contributions. The provision encourages individuals to contribute to churches and charitable organizations in 2020 by permitting them to deduct up to \$300 of charitable contributions, whether they itemize their deductions or not.
Sec. 2205. Modification of limitations on charitable contributions during 2020.	Modifies limitations on charitable contributions during 2020. The provision increases the limitations on deductions for charitable contributions by individuals who itemize, as well as

	corporations. For individuals, the 50 percent of adjusted gross income limitation is suspended for 2020. For corporations, the 10-percent limitation is increased to 25 percent of taxable income. This provision also increases the limitation on deductions for contributions of food inventory from 15 percent to 25 percent.
Sec. 2206. Exclusion for certain employer payments of student loans.	Expands Sec. 127 employer provided education assistance to include student loan repayment made by an employer to the employee or to a lender of principal or interest on any qualified education loan as a tax-free benefit. To qualify, payments must be made before January 1, 2021.
<b>Subtitle C—Business Provisions</b>	
Sec. 2302. Delay of payment of employer payroll taxes.	Defers payment of employer payroll taxes through January 1, 2021, with 50 percent due by December 31, 2021 and the remaining 50 percent due by December 31, 2022. Clarifies that an employer will be treated as having made timely deposits of applicable taxes during the deferral period if all such deposits are made not later than the applicable dates.

#### **IV. INTERNATIONAL AND IMMIGRATION POLICY**

<b>DIVISION B— EMERGENCY APPROPRIATIONS FOR CORONAVIRUS HEALTH RESPONSE AND AGENCY OPERATIONS</b>	
<b>TITLE XI—Department of State</b>	
Administration of Foreign Affairs	Allocates \$324 million for Diplomatic Programs, including for necessary expenses to maintain consular services.
Sec. 21009	Authorizes the Department of State to expend any visa and passport surcharges collected in any fiscal year to consular services, with priority given to U.S. citizen services.

#### **V. STATE STABILIZATION FUNDING**

The legislation creates a block grant program to states to support fiscal stabilization.

<b>DIVISION A—KEEPING WORKERS PAID AND EMPLOYED, HEALTH CARE SYSTEM ENHANCEMENTS, AND ECONOMIC STABILIZATION</b>	
<b>TITLE V—Coronavirus Relief Funds</b>	
Sec. 5001. Coronavirus Relief Fund	Provides \$150 billion to States, Territories, and Tribal governments to use for expenditures incurred due to the public health emergency with respect to COVID-19 in the face of revenue declines, allocated by population proportions, with a minimum of \$1.25 billion for states with relatively small populations.