



HEROES ACT 2.0: KEY FUNDING AND PROVISIONS OF INTEREST TO APLU INSTITUTIONS

On September 28, House Speaker Nancy Pelosi (D-CA) and House Democrats introduced the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act 2.0, their updated Phase IV COVID-19 relief bill. The \$2.2 trillion package, more than \$1 trillion below the original HEROES Act passed this past May, would provide relief for state and local governments, healthcare workers, K-12 and institutions of higher education, small businesses, federal agencies, and other critical segments of the economy impacted by the COVID-19 pandemic. See [bill text](#), [section by section summary](#), [one-pager](#), and [state and local relief provisions](#).

Of particular note, HEROES 2.0 would provide \$39 billion to institutions of higher education, approximately \$2 billion above what is included in the HEROES Act, but far below the higher education community's [updated request](#) of \$120 billion to cover reopening costs, address substantial losses and expenses of institutions, and provide support to students. The additional higher education funding in HEROES 2.0 is targeted toward HBCUs and MSIs. HEROES 2.0 also includes \$3 billion in research relief funding for the National Institutes of Health (NIH) and an additional \$1 billion for NIH to expand COVID-19 research. In a positive change from the original HEROES Act, HEROES 2.0 would appropriate \$2.9 billion to the National Science Foundation to prevent, prepare for, and respond to coronavirus, including to fund research grants, extensions of existing research grants, cooperative agreements, scholarships, and fellowships. Unfortunately, the bill does not include research relief funding for other federal science agencies.

The House is expected to vote on the legislation as soon as this week. Although Speaker Pelosi and Treasury Secretary Steve Mnuchin have resumed Phase IV negotiations, it is unclear if a compromise will be reached. Speaker Pelosi and White House Chief of Staff Mark Meadows [expressed](#) new optimism yesterday.

APLU's analysis of the original HEROES Act is available [here](#).

Education Funding and Policy

Analysis of Funding Program

The HEROES 2.0 Act increases the state stabilization fund for education from \$90 billion to \$208 billion (pg. 149), with most of the increased funding going to K-12 education. The bill allocates 13 percent of funds, or approximately \$27 billion, for the Higher Education Emergency Relief Fund (HEERF). Additionally, the bill increases funding for Tribally Controlled Colleges and Universities, Bureau of Indian Education-funded schools, and education in the outlying areas from slightly less than \$1 billion to just over \$2 billion. Finally, the bill provides \$4 billion for the Governor's Emergency Relief Fund for educational needs, down slightly from what was

allocated to the fund in the original bill. The remaining \$175 billion would go to K-12 to address an array of needs.

HEERF dollars would continue to be given to governors to be disbursed, as opposed to flowing through the U.S. Department of Education (ED). HEROES 2.0 also continues to distribute funds based on the relative proportion of Pell students enrolled at the institution (75 percent) and the relative proportion of total students enrolled (25 percent). The bill also maintains the use of total student enrollment numbers instead of a Full Time Equivalent measure.

The bill includes an additional \$11.9 billion to higher education to help alleviate burdens associated with the coronavirus for both colleges and students: \$3.5 billion for Historically Black Colleges and Universities (HBCUs) and other Minority-Serving Institutions, (increased from approximately \$1.7 billion in the original HEROES Act), \$1.4 billion for institutions with unmet need related to the coronavirus, and \$7 billion for private, non-profit institutions of higher education.

HEROES 2.0 adds a few restrictions on use of funds, including that funding cannot be used to increase an institution's endowment, nor can funds be used for capital outlays associated with facilities related to athletics, sectarian instruction, or religious worship. No changes were made to the language on state maintenance of effort (MOE) requirement (pg. 155).

Education Policy Provisions

Education policy provisions in HEROES 2.0 are separated into four parts within Division B of the bill (beginning on pg. 264): CARES Act amendments, financial aid access, federal student loan relief, and a newly included section on protecting students. Overall, the first three parts are substantively similar to the HEROES Act as it was originally introduced, while the new section on student protections includes some reporting requirements that will impact public colleges and universities. Finally, the debt forgiveness provisions were moved to a new section in the bill. First, the CARES Act amendments (pg. 265) continue to provide technical corrections and extend the time period for many changes in the law. One new section extends the flexibility for an institution to use Federal Supplemental Education Opportunity Grant funds to provide emergency financial aid during a qualifying emergency period.

The part on financial aid access (pg. 278) continues to ensure that student emergency aid is not counted toward a student's estimated family contribution (EFC) for the purpose of determining federal financial aid eligibility; prohibits ED from placing limitations on students who can receive emergency aid; and codifies the definition of distance education that was included in ED's proposed rule on Distance Education and Innovation published on April 2, 2020. For institutions at risk of closure, the bill also includes new provisions related to teach-out plans and teach-out agreements that would remain in place until the next HEA reauthorization (pg. 302).

Further, the federal student loan relief part (pg. 311) continues to extend the borrower relief provisions provided under the CARES Act through September 30, 2021—this includes the suspension of payments, accrual of interest, and halting all collections activities. The bill would also continue to extend these provisions to borrowers who have commercially-held Federal

Family Education Loans (FFEL) as well as institutionally-held Perkins Loans and loans through the U.S. Department of Health and Human Services. Unlike the original HEROES Act, however, the bill eliminates the provision calling for \$10,000 in student debt relief for all borrowers. The newly added section on protecting students (pg. 343) requires the Secretary to notify Congress when HEA provisions are modified or waived due to COVID-19 and aims to protect students from predatory recruitment. On this last point, the section requires each institution that participates in Title IV of the HEA to include a clear statement regarding the incentive compensation ban in all internal recruitment documents and when hiring a new employee or entering into a new contract with a third-party contractor.

Finally, Division O of the bill (pg. 1664) includes additional provisions to protect private student loan borrowers. First, it extends existing CARES Act student loan payment and consumer protections, such as debt collection prohibitions, to private student loan borrowers. This section also requires the Treasury Department to make monthly payments for economically distressed private student loan borrowers until February 1, 2021, with an aggregate cap of \$10,000 in relief. This part also instructs Treasury to apply any unused portion of the up to \$10,000 forgiveness amount to any remaining outstanding private loan balance when borrower payments resume.

Tax and Business Policy

HEROES 2.0 does not significantly modify any of the existing tax priorities that were included in the original legislation. The bill continues to allow public universities to claim the paid leave tax credits created in the Families First Coronavirus Response Act (FFCRA). Further, the bill would allow institutions to access the employee retention credit. The bill also maintains the change allowing households to claim full-time students below the age of 24 and adult dependents, receiving the \$500 qualifying child amount for each dependent.

State and Local Stabilization Funding

HEROES 2.0 cuts back on the amount of stabilization funding provided to state and local governments to help mitigate the fiscal effects stemming from the spread of COVID-19 (pg. 40). State funding was reduced from \$500 billion to \$238 billion, local government funding was reduced from \$250 billion to \$179 billion, and funding for Tribal governments and the Territories were reduced from \$20 billion to \$9.5 billion each. HEROES 2.0 continues to state that these funds may be used for COVID-related expenses, to replace foregone revenues not projected on January 31, 2020, or to respond to negative economic impacts of COVID-19.

Research Provisions

The new version of the HEROES Act adds research relief funding for the National Science Foundation (NSF) not provided in the first version of the bill. The updated House bill includes \$2.537 billion for “Research and Related Activities” at the NSF and \$300 million to NSF’s Education and Human Resources Directorate. NSF is instructed to use this funding for COVID-19 related expenses, including extensions of existing research grants, cooperative agreements, scholarships, fellowships, and apprenticeships.

The updated HEROES Act continues to allocate \$3 billion in funding to the National Institutes of Health (NIH) for offsetting the costs related to reductions in lab productivity resulting from COVID-19. HEROES 2.0 does not grant research relief to other federal agencies other than NIH and NSF. As a reminder, the higher education community [continues](#) to advocate for \$26 billion in total research relief for federal research agencies.

The updated House HEROES Act also makes investments in COVID-19 related research and infrastructure needs at federal agencies. Some of the funding may flow to institutions of higher education in the form of new grants or contracts. For example:

- The Department of Energy Office of Science would receive \$143 million to address cost impacts due to the coronavirus pandemic on certain construction projects and \$1.3 million for personal protective equipment for DOE personnel.
- The NIH would receive ~\$1 billion to expand COVID-19 related research.
- The Biomedical Advanced Research and Development Authority (BARDA) would receive \$20 billion for the research, development, and procurement of vaccines and therapeutics.
- The HEROES Act would allocate \$9.2 billion to the Health Resources and Services Administration to support expanded health care services for underserved populations.
- The Defense Health Program would receive \$705 million in funding to complete expansion efforts of manufacturing capability to quickly maximize doses of prophylactics and therapeutics needed to protect the warfighter population from COVID-19, as well as acquiring personal protective equipment for medical personnel and patients in military treatment facilities.
- The National Endowment for the Arts and the National Endowment for the Humanities would each receive \$135 million for grants to support the general operations of recipients and language to permit the waiver of matching requirements.
- The Environmental Protection Agency would receive \$50 million for environmental justice grants.

The National Institute for Standards and Technology (NIST) would receive \$20 million for National Network for Manufacturing Innovation (also known as “Manufacturing USA”) to support development and manufacturing of medical countermeasures and biomedical equipment and supplies to address the coronavirus. In addition, the NIST Manufacturing Extension Partnership Program (MEP) would also receive \$50 million to help small and medium-sized manufacturers prevent, prepare for, and respond to coronavirus, including a waiver of the cost share requirement for fiscal year 2021. As a reminder these programs received supplemental funding through the CARES Act - the Manufacturing USA program received \$10 million and the MEP received \$50 million.

Cooperative Extension and Animal Health Programs

The revised text of HEROES contains two programs which APLU member institutions would be eligible to compete for to assist local farmers, businesses, and families overcome COVID-19 impacts. Section 303 provides up to \$50 million in cooperative agreements or contracts with eligible entities, including public universities, that have demonstrated experience providing agricultural education or other services to beginning, socially disadvantaged, and veteran farmers

and ranchers. Additionally, Farm Stress programs, which cooperative extension is eligible for, are funded at \$84 million, a \$56 million increase over the original HEROES bill. Finally, in addition to these programs, the revised text of the HEROES Act includes funding of \$300 million for the Animal Disease Prevention and Management Response program, which supports improved animal health and surveillance and laboratories including the National Animal Disease Preparedness and Response program and the National Animal Health Laboratory Network.