April 3, 2020

"Coronavirus Aid, Relief, and Economic Security Act" (CARES Act)

Summary of Education, Workforce, and Child Care Provisions

Overview

H.R. 748, the "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), provides $2 trillion in emergency relief through cash payments to individuals as well as critical support for hospitals, employers, states, K-12 and postsecondary education, unemployed workers, schools, libraries, and child care providers.

The following highlights provisions related to education, particularly higher education, workforce, and childcare.

Secretary of Education Higher Education Act Regulatory Relief

The bill provides flexibility of certain student aid and related provisions under the Higher Education Act:

- The non-federal share requirement for campus-based aid programs would be waived by the U.S. Department of Education (ED) for the 2019-2010 and 2020-2021 award years.
- During COVID-19 emergency, an institution of higher education can transfer unexpended funds from Federal Work Study to the Supplemental Educational Opportunity Grant (SEOG) for emergency aid.
- Institutions of higher education are permitted to use SEOG funds to provide emergency financial aid grants to assist students with unexpected expenses due to the COVID-109 emergency.
- For up to one academic year, institutions of higher education are permitted to continue to make Federal Work Study payments to individuals who were participating in work study, but are unable to fulfill their work student obligation due to the COVID-19 emergency.
- For the purpose of usage limitations on subsidized loans, ED is required to exclude any period of enrollment during which a student is unable to complete due to the COVID-19 emergency. (As a reminder, current Direct Loan borrowers are generally limited to receiving subsidized loans for up to 150% of the length of program. For example, for a two-year program, the limit would be three years.)
- ED is required to exclude any semester in which a student is unable to complete due to the COVID-19 emergency from the student's Pell Grant lifetime usage limits (if the Secretary is able to administer the policy in a manner that limits complexity and burden on the student).
- Institutions of higher education may provide a student with an approved leave of absence due to a qualifying emergency under certain conditions.
- Institutions of higher education may exclude any attempted credits not completed by a student from the student's Satisfactory Academic Progress calculation due to the qualifying emergency.

- Foreign institutions may offer programs via distance learning to Title IV eligible students during a qualifying emergency for the payment period during such emergency and the following payment period. Programs offered via distance education from March 1, 2020 through the date of enactment of the bill are covered by the previous sentence.
- A foreign institution may enter into an agreement with a U.S.-based institution to allow a student of the foreign institution to take courses at the U.S.-based institution due to a qualifying emergency.
- ED may modify service requirements related to TEACH Grants and teacher loan forgiveness due to the COVID-19 emergency.
- ED may modify matching requirements and required and authorized uses of funds under certain Higher Education Act (HEA) programs, including waiver authority and reporting requirements for institutional aid and authorized uses and other modifications for grants.

Education Stabilization Funding

The bill includes $30.75 billion for Education Stabilization Funding divided as follows:

- $3 billion (or 9.8%) for the Governor’s Emergency Relief Fund
- $13.5 billion (or 43.9%) for Elementary and Secondary School Emergency Funding
- $14.25 billion (or 46.3%) for Higher Education Emergency Relief Fund

Funding is also taken off the top of this amount for highly impacted states and other impacted programs.

Governors’ Emergency Relief Fund

The ED Secretary will make Emergency Education Relief grants to Governors with an approved application, which must be available in 30 days.

Funding will be allocated to states based on their population:

- 60% on the basis of the relative population of individuals ages 5 through 24
- 40% on the basis of the relative number of children under section 1124(c) of the Elementary and Secondary Education Act

These grants can go to K-12 and institutions of higher education based on the determination of the Governor, i.e., to the most significantly impacted Local Education Agencies (LEAs) to support ongoing functionality of the district; the most significantly impacted institutions of higher education to continue the ongoing functionality of the institution; and any other education related entity deemed by the Governor as essential for carrying out emergency educational services, including pre-K, social and emotional support, and protection of jobs.

Higher Education Emergency Relief Fund

Secretary will allocate 90% of funds to each institution of higher education (including, public, private and for-profits) funds based upon:

- 75% of their share of Full-Time Equivalent Pell Grant recipients who are not exclusively online prior to the pandemic, and
- 25% based on their share of Full-Time non-Pell recipients who are not exclusively online prior to the pandemic.

Institutions of higher education are required to use at least 50% of the funds for emergency grants that go directly to students related to COVID-19 issues, including those related to cost of attendance, food, housing course materials, technology, health and childcare. Remaining institutional funds may be used to cover costs associated with significant changes to the delivery of instruction due to the coronavirus.

- The remaining 10% is allocated as follows: 7.5% for Minority Serving Institutions and 2.5% for institutions of higher education with the greatest unmet need (with priority given to higher education institutions not getting at least $500,000 under the other institutions of higher education allocations).
- Funds may not be used for pre-enrollment and recruitment contracts, capital outlays, athletics or religious worship; in addition, documentation as to how funds are spent is necessary because there will be reporting required to ED on the use of these funds.

Student Loan Payment Suspension

The bill also includes several provisions which would suspend payment and interest on Direct Loan and Federal Family Education Loan (FFEL) loans held by ED. These include:

- ED would automatically suspend payments on these loans until September 30, 2020, and no interest would accrue during this period of suspension. Months for which payments are suspended will be deemed as counting for the purposes of Public Service Loan Forgiveness, other loan forgiveness programs and for those borrowers who are rehabilitating their loans.
- ED would ensure that any payment that is suspended would be treated as a payment made by the borrower for consumer reporting agency purposes.
- ED would suspend involuntary collections during the suspension period described above (such as wage garnishment).

The bill would also provide income tax exclusion for individuals who are receiving student loan repayment assistance from their employer.

Tax Benefit Pertaining to Companies that Contribute Toward Student Loans of Employees

Under the bill, employers could provide a student loan repayment benefit to employees on a tax-free basis. An employer would be able to contribute up to $5,250 annually toward an employee’s student loans, and such payment would be excluded from the employee's income. The provision applies to any student loan payments made by an employer on behalf of an employee after date of enactment and before January 1, 2021.

The bill defers payments of employer payroll taxes through January 1, 2012 – employers are required to pay 50% of the amount due by December 31, 2021, and the remaining 50% by December 31, 2022.

The bill does not expand the paid leave tax credit from the second stimulus bill to higher education institutions. (The national associations will likely ask for this in a fourth stimulus bill.)

Additional Provisions

Continue Payment to Employees: Requires that "A local educational agency, state, institution of higher education, or other entity that received funds under the '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."

Maintenance of Effort: States must provide an assurance they will maintain support for elementary and secondary education and postsecondary education in FYs 2020, 2021, with ED being able to waive this requirement for states that have experienced a precipitous decline in financial resources.

Additional Education Funding

The bill also provides $8.8 billion to the Food and Nutrition Services at USDA for child nutrition programs to prevent, prepare for, and respond to COVID-19.

Funding for Workforce

The bill includes $345 million in new funding for the Department of Labor's Dislocated Workers National Reserve to provide training and support services for dislocated workers, seniors, migrant farm workers, and homeless veterans.

Funding and Flexibility for Child Care Development Block Grant

Funding of $3.5 billion for the Child Care Development Block Grant is provided to assist providers due to decreased enrollment, closures, or to remain open. States are encouraged to place conditions on providers to use a portion of funds to continue to pay staff wages. Funds are authorized to provide workers without regard to income eligibility requirements. Funds can be available to providers even if providers were not receiving Childcare Development Block Grant assistance prior to COVID-19. Funds can be used for expenses incurred prior to the bill's enactment for previously mentioned purposes.

Funding of $750 million is provided for Head Start to meet emergency staffing needs.

Funding of $5 billion for the Community Development Block Grant for states, counties, and cities is provided to rapidly respond to COVID-19 and the economic and housing impacts caused by it, including the expansion of community health facilities, child care centers, food banks, and senior services.

Institute for Museums and Libraries

The bill provides $50 million to remain available until September 30, 2021, to prevent, prepare for, and respond to coronavirus, including grants to states, territories and tribes to expand digital network access, purchase internet accessible devices, and provide technical support services. Matching funds are not required.

Provisions to Support Small Business and Nonprofits

The bill makes various changes to charitable contributions which will benefit our institutions and employer-provided education assistance. It allows individuals to make contributions up to $300 to qualifying charities and deduct the contribution "above the line" in computing adjusted gross income, and modifies the adjusted growth income limitations on charitable contributions for 2020, to 100% of adjusted gross income for individuals, and 25% of taxable income for corporations.

The bill provides for an employee retention credit – a credit against social security payroll taxes (6.2%) for any business – including nonprofits – that close or suspend its operations due to the virus.

Employers, including nonprofits, struggling to make payroll would be able to pay their share of the 6.2% Social Security tax that would otherwise be due from now until the end of the year.

The bill includes a paycheck protection plan of $350 billion for 8 weeks of cash-flow assistance to small business and small non.profits (under 500 employees) through guaranteed loans. Loans may be forgiven if the business/non-profit largely maintains its payroll. Loans equate to lesser the of 2 ½ months of payroll or $10 million.

An Economic Injury Disaster Loan provision creates expedited access to capital by establishing a $10-billion program for small businesses, including nonprofits who have applied for an Economic Injury Disaster Loan to request an advance of up to $10,000 on the loan to provide paid sick leave to employees, maintain payroll, and other debt obligations.

Questions

If you have questions, please contact:

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