LEGISLATIVE MEMO

HIGHER EDUCATION PROVISIONS IN THE "CORONABUS"

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Background

For months Congress has been working on finalizing the fiscal year 2021 appropriations bills and, in the most recent weeks and days, working on a COVID relief bill. This past weekend, it was announced that a deal had finally been realized. Late Monday night, right before the extended deadline, the Senate passed a $1.4 trillion fiscal year 2021 spending measure in order to keep the federal government open. The House had passed the measure earlier in the evening. A COVID relief package of $900 billion was included with that spending, as well as additional items such as tax extenders and policy items that consisted of several higher education provisions.

In the fiscal year 2021 appropriations bill, most of the higher education accounts were level funded or saw small increases. The maximum Pell Grant was increased by $150 raising the maximum award to $6,495 for the 2021-2022 academic year, which begins July 1, 2021. The $900 billion COVID relief package included $82 billion for education, of which $22.7 billion is for higher education. Finally, the biggest higher education provision included in this final bill before the conclusion of the 116th Congress was FAFSA simplification. It was coupled with allowing incarcerated persons to receive Pell, also known as second chance Pell, forgiveness of loans issued through the HBCU Cap Financing program, and the elimination of the 150% Rule or Subsidized Usage Limit Applies (SULA), which limits the time a federal student loan borrower may receive a subsidized loan. Notably, the bill doesn't extend the pause in payments and interest accumulation for student loans held by the federal government, which will expire on Jan. 31, 2021, or apply the pause to other loans. The incoming Biden Administration will have 11 days to extend the pause before payments restart.

Fiscal Year 2021

For fiscal year 2021, higher education accounts were generally level funded. The Pell Grant maximum award was increased by $150 to $6,945 for academic year 2021-2022. In addition, the campus-based programs consisting of Federal Work Study and the Supplemental Education Opportunity Grants received a combined $25 million increase. The bill also increased funding for the Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions by $32 million. Finally, the measure includes a $7 million increase for TRIO programs and a $3 million increase for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP).

COVID-19 Relief

Congress provided $82 billion for education in the latest round of COVID-19 relief. Of that amount, $22.7 billion is for higher education, $54.3 billion for elementary and secondary education, and $4.1 billion for governors' use. This is structured very similarly to the CARES Act. The breakdown of the $22.7 billion is as follows:

- $20.2 billion for institutions of higher education, but only public and private, not-profit institutions, which is distributed by formula
- $1.7 billion for HBCUs and other Minority Serving Institutions
- $113.5 million for the Secretary to provide funds to institutions that have "greatest unmet needs related to coronavirus"
- $680 million for proprietary institutions distributed using the same formula as public and private, non-profit institutions

Funds are allocated to public, private non-profit, and for-profit institutions based on the following formula:

- 37.5 percent of the funds based on full-time equivalent (FTE) of Pell students not taking 100% of on-line courses prior to COVID
- 37.5 percent of the funds based on the number of Pell students not taking 100% of on-line courses
- 11.5 percent of the funds based on FTE of non-Pell students not taking 100% of on-line courses
- 11.5 percent of the funds based on the number of non-Pell students not taking 100% of on-line courses
- One percent of the funds based on FTE of Pell students taking 100% of their courses on-line
- One percent of the funds based on the number of Pell students taking 100% of their courses on-line

Institutions may use these funds to defray costs associated with coronavirus, including lost revenue, reimbursement for previous incurred expenses and technology needs for distance education. They may also use these funds to provide student support services to address needs related to coronavirus or to provide financial aid grants to students for any expense related to cost of attendance, with a preference and priority for students who have the greatest need. Further, institutions that have unspent CARES Act monies may also use those funds for the purposes outlined here, but are still obligated to meet the 50% requirement of providing financial aid and grants to students with those CARES Act funds. Finally, institutions that are required to pay the endowment tax will receive only 50% of their funds and may only use those funds for making grants to students to defray educational costs.

Congress did NOT extend the period of no-payment/no interest accrual for federally held student loans past the current January 31, 2021 time period. The CARES Act provided student loan relief for borrowers of federally held student loans such that borrowers were not required to make monthly loan payments through September 30, 2020. In addition, interest did not accrue on those loans during that same time period. In September, President Trump extended those provisions through the end of the year and in early December, Secretary DeVos further extended the relief until January 31, 2021. Without further extension, borrowers will be required to resume payments on February 1, 2021; however, it is anticipated that President-elect Biden will extend this deadline when he enters office January 20.

The legislation includes an extension to the waiver permitting online education for students enrolled at foreign schools that was originally passed in March as part of the CARES Act. The new legislation includes the section from the House-passed COVID relief bill from September (called HEROES 2.0) that allows foreign institutions of higher education to offer unlimited instruction via online education and to have written arrangements with institutions in the United States through the later of 30 June 2022 or the payment period after the payment period during which the local governmental emergency ends.

Additional Provisions

HIGHER EDUCATION ACT

FAFSA Simplification – The bill contains language that would amend the Higher Education Act to restructure the Needs Analysis formula in order to simplify the Free Application for Student Financial Aid (FAFSA). The current application contains 108 questions. This measure would reduce those questions to about 33 depending on Department implementation. The new FAFSA will be available for the 2023-2024 academic award year.

Currently, the responses from the FAFSA are entered into the Needs Analysis formula to produce a student's Expected Family Contribution (EFC) which is then used to determine eligibility for federal Pell Grants, subsidized loans, and state and institutional aid. EFC has been a confusing term for students and families over the years, and this measure changes that name to the Student Aid Index. The measure maintains the Needs Analysis formula but makes changes to how some of the information reported on the FAFSA is calculated in that formula. These changes allow an applicant to rely solely on the information provided on their annual tax filings to determine their Student Aid Index. An applicant need only provide demographic information so the Department may retrieve their data from the IRS. Applicants that do not need to complete the annual tax filing simply qualify for a maximum Pell Grant.

Pell Grants – In addition to simplifying the FAFSA, the measure also creates a new formula for students to qualify for a Pell Grant. Beginning in the 2023-2024 academic year, eligibility for a Pell Grant will be based on income, factoring in family size, and whether the family has a single parent or not. Here is an outline of how this will work:

Single independent student, no dependents – A student who is single, independent and has no students would qualify for a maximum Pell Grant if their income is at or below 175% of the poverty line (currently $22,330) and would not be eligible for a Pell Grant if their income was above 275% of the poverty line (currently $35,090).

Single independent student with dependent(s) – A student who is single and a parent would qualify for a maximum Pell Grant if their income is at or below 225% of the poverty line (currently $38,790 for a family of 2) and would not be eligible for a Pell Grant if their income was above 400% of the poverty line (currently $68,960 for a family of 2).

A married independent student with dependent(s) – A student who is married and a parent would qualify for a maximum Pell Grant if their income is at or below 175% of the poverty line (currently $38,010 for a family of 3) and would not be eligible for a Pell Grant if their income was above 350% of the poverty line (currently $76,020 for a family of 3).

Dependent student with a single parent – A student who is a dependent of a single parent would qualify for a maximum Pell Grant if their income is at or below 225% of the poverty line and would not be eligible for a Pell Grant if their income was above 325% of the poverty line (currently $56,030 for a family of 2).

Dependent student with married parents – A student whose parents are married would qualify for a maximum Pell Grant if their income is at or below 175% of the poverty line and would not be eligible for a Pell Grant if their income was above 275% of the poverty line (currently $59,730 for a family of 3).

Or in chart form:

Student Status	Marital Status	Children?	Max Pell Eligibility	Pell Eligibility
Independent	Single	No	At or below 175%	At or below 275%
	Single	Yes	At or below 225%	At or below 400%
	Married	No	At or below 175%	At or below 275%
	Married	Yes	At or below 175%	At or below 350%
Dependent	Single Parent	No	At or below 225%	At or below 325%
	Married Parents	No	At or below 175%	At or below 275%

Second Chance Pell – With the revisions to the Pell Grant, Congress eliminated language that prevents anyone who is incarcerated from receiving a Pell grant. Thus, beginning in the academic year 2023-2024, any prisoner who enrolls in postsecondary programs offered within the prison system by an institution of higher education will be eligible to receive a Pell Grant.

Subsidized Usage Limit Applies (SULA) – In order to find savings to extend interest rates in 2012, Congress included a provision as a way to pay for the extension that prevented students to receive a subsidized loan in years that student exceeded 150% of the time length of their program. In other words, if a student was enrolled in a 4-year bachelor's degree program, they were limited to receive a subsidized loan for only 6 years. After that they would need to rely solely on unsubsidized loans. This provision has caused a great deal of angst for institutions and students. It is eliminated with the passage of this bill.

HBCU Capital Financing – Congress established a low-interest loan program for Historically Black Colleges and Universities in order to help these colleges build, improve, and maintain capital projects on campus. Typically, these institutions are some of the poorest institutions and struggle to find reasonably priced financing in the lending market. As such, HBCUs have used this program over the years. The bill passed this week would forgive all the debt currently held by HBCUs from this program.

TAX PROVISIONS

Section 127 – The CARES Act included a provision that allows employers to make tax deductible student loan payments on behalf of their employees under Section 127. Previously, Section 127 benefits were used for employers paying tuition and fees on behalf of an employee. The CARES Act provision broadening this authority expires at the end of the year. The measure that passed Congress this week would extend the broadened use of Section 127 through 2026. Thus, employers may take deductions for any payments toward tuition or student loans during over those years.

Qualified tuition and related expenses deduction – Section 104 of the tax extender portion (Division EE) of the recently passed legislation would eliminate the tax deduction for qualified tuition and related expenses after 2020, but allows for an expanded Lifetime Learning credit. A qualified tuition deduction is capped at $4,000 for an individual with an AGI of $65,000 or less ($130,000 for married couples). This deduction will not be available after 2020, but would increase the phase out limits on the Lifetime Learning credit from individuals making $58,000 or less ($116,000 for couples) to $80,000 ($160,000 for couples).

For further explanation of the education provisions in the measure please click here.

For a chart providing a general summary of the COVID relief bill please click here.