SUMMARY OF THE HIGHER EDUCATION PROVISIONS IN THE CONSOLIDATED APPROPRIATIONS ACT OF 2021

The Consolidated Appropriations Act of 2021 (H.R. 133) is massive legislative package containing several substantial bills, including a package of federal funding bills for FY 2021 (known as an omnibus); an emergency spending bill to address the impact of COVID-19; and numerous other pieces of legislation, including a measure that simplifies the process of applying for federal student aid and changes how aid is awarded.

This high-level summary provides a brief overview of the key provisions in H.R. 133.

Federal Funding for Students and Institutions

Overall, the bill provides $22.7 billion for higher education institutions and students. That money is divided among four pots:

- $20.002 billion (89 percent of the total) for the Higher Education Emergency Relief Fund (HEERF).
- $1.702 billion (7.5 percent of the total) dedicated to historically Black colleges and universities (HBCUs), Hispanic Serving Institutions, and other minority serving institutions (MSIs).
- $113.5 million (.5 percent of the total) dedicated to grants through FIPSE to institutions particularly impacted by the pandemic or disadvantaged by the formula for institutional aid.
- $680.9 million (3 percent of the total) for student emergency aid for students at for-profit institutions

The bill also provides just over $4 billion to governors to use for education at all levels.

Key provisions for the largest pool of funding include:

- The formula for allocating funds relies on several measures of an institution's enrollment, including the number of Pell and non-Pell students; full-time enrollment (FTE) and headcount; and students who were or were not exclusively online at the start of the pandemic.
- Institutions are required to use the same amount of funding for student emergency aid as they were required to under the CARES Act. The funding is not split by percentage, so institutions will need to refer to their CARES allocations to determine how to properly comply.
- Student emergency funding can be used for a broad range of purposes, including anything that is covered under cost of attendance.
- Similarly, institutional funds can be used for a wide range of purposes, including replacing lost revenue or paying for new expenses.
- The bill does not define which students are eligible to receive emergency aid, and current guidance restricts eligibility only to those students who are currently eligible to receive Title IV aid. It is expected that the Biden administration will expand eligibility more broadly when it takes office.
- The bill also imposes limitations on institutions that paid the endowment tax in 2019. Those schools

will receive only 50 percent of their allocation, and that funding may only be used for student emergency aid and specific expenses related to addressing COVID on campuses (such as personal protective equipment and cleaning). Institutions impacted by this limitation can pursue an appeal with the Secretary of Education if they can demonstrate a need for the full amount of the allocation, and the Secretary is required to make a public determination of the appeal.

Broadband Connectivity

The bill provides $285 million for a new Connecting Minority Communities Pilot Program that will distribute grants to HBCUs, tribal colleges and universities, and other MSIs to expand broadband networks and connections to their surrounding communities.

Research Support

The bill does not include the $26 million requested in supplemental funds for the federal science agencies to address disruptions and delays to research as a result of the COVID pandemic. The bill does include $1.25 billion for the National Institutes of Health to support research and clinical trials related to COVID-19, including the long-term effects of the virus and the rapid acceleration of diagnostics.

State Relief Funds

The bill provides an extension until December 31, 2021, for states and localities to spend funds provided through the Coronavirus Relief Fund established in the CARES Act.

Tax Provisions

The bill includes a number of tax provisions, including:

- Extends the CARES Act provision permitting employers, including public and private nonprofit colleges and universities, to delay repayment of deferred FICA payroll taxes until January 1, 2022.
- Extends until March 31, 2021, the refundable tax credit for private employers (public institutions are not eligible) that provide paid sick and family and medical leave. The requirement to provide such paid leave expired December 31, 2020.
- Replaces the tuition deduction with an expanded Lifetime Learning Credit, which now shares the same higher income limitations of the American Opportunity Tax Credit. Both credits begin phasing out at $80,000 for individuals and $160,000 for couples.
- Extends until January 1, 2026, expanded employer provided educational assistance permitting employers to pay up to $5,250 toward an employee's federal student loans as a tax-free benefit.
- Extends until July 1, 2021, the Refundable Employee Retention Tax Credit and expands it to cover up to 70 percent of $10,000 in the wages paid to each employee per quarter. In addition, public colleges and universities are now eligible for this credit.
- Extends until December 31, 2021, the non-itemizer universal charitable tax deduction up to $300 per individual ($600 per couple) and suspends the adjusted gross income limits on cash contributions.

FAFSA Simplification

Attached to the other bills was a measure championed by former Sen. Lamar Alexander to significantly rework the processes for determining federal financial aid eligibility and awards. A large component of this is a significant simplification of the Free Application for Federal Student Aid (FAFSA) form. Other significant provisions include:

- Makes numerous changes to the needs analysis, such as eliminating the expected family contribution calculation and replacing it with a "Student Aid Index."
- Expands eligibility for Pell Grants and provides for easier prediction of eligibility for the Pell Grant and the maximum award.
- A congressional analysis of the bill projects that it will increase the overall number of Pell recipients as well as the number of student receiving the maximum award.
- Restores Pell Grant eligibility for incarcerated students.
- Restores semesters of Pell eligibility to students who have successfully asserted a borrower defense to repayment.
- Repeals the limitation on lifetime subsidized loan eligibility, known as "Subsidized Usage Limit Applies" (SULA).
- Provides for the cancellation of existing HBCU Capital Financing Loans.

These provisions will take effect on July 1, 2023.

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