



MEMBERS ONLY BRIEF

H.R. 6800: The HEROES Act

May 13, 2020

Introduction:

This OESCA Members Only brief is a preliminary overview of the recently introduced HEROES Act. Information was obtained through AASA, mainline news sources, and public websites.

Overview:

On May 12, 2020, Speaker Pelosi and Democrats in the U.S. House of Representatives introduced H.R. 6800, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, their proposal for the latest emergency, supplemental stimulus support in response to the COVID-19 pandemic. This would be the fifth federal stimulus act.

The HEROES Act exceeds over \$3 trillion in aid – a number that will prove politically tricky as it advances through the process and over to the Republican-led Senate. The proposed legislation includes \$1 trillion for states and local governments (including \$62 billion for K-12), in addition to \$10 billion in small business grants, \$175 billion to health care providers to reimburse for coronavirus-related expenses and lost revenue and support testing efforts, and \$100 billion for an Emergency Rental Assistance program to help renters pay rent and utility bills during the pandemic. The bill would also send another round of direct checks to Americans with expanded eligibility for dependents, on top of the \$1,200 approved in March, and extend the additional \$600 a week in enhanced unemployment benefits that will expire at the end of July.

As equally important to what is in the bill is what is not, including some key priorities for Senate Republicans. This, of course, will have both political and practical implications on whether the proposal advances and how long that takes.

Education:

For education overall, the HEROES act calls for \$90 billion in grants to governors to distribute among K-12 schools and public colleges to deal with the coronavirus pandemic as follows:

- **\$58 billion** is for K12 LEAs,
- \$27 billion is for public institutions of higher education, and **\$4 billion** for governors to support K12, higher education and related activities.
- Another \$10 billion is set aside to address coronavirus disruption in higher education, including \$1.7 billion earmarked specifically for historically black colleges and other minority-serving institutions.
- Separate from the state funding, the bill includes *authorizing* language of up to **\$5 billion** aimed at closing the so-called digital Homework Gap by funding Wi-Fi hotspots and other connected devices, set to be administered through the FCC E-rate program (it is rumored that appropriators are capping funding at \$1.5 billion).

Allocation: Funds would be allocated to states based on two things: **61% based on the state's relative share of the population aged 5-24** and **39% on the state's share of low-income** (Title I eligible) children. Of the funds to the governor, **65% must be allocated to LEAs based on their share of Title I funding**, and there is no "set-aside" reserved for state departments of education like the 10% in the CARES Act.

Use of Funding: Under the proposal, LEAs can use funds for any purpose authorized under ESSA, IDEA, Perkins/CTE, McKinney Vento/homeless Education, and more, including activities to address the needs of low-income students, children with disabilities, English learners, racial and ethnic minorities, students experiencing homelessness, and foster care youth, including learning gaps created or exacerbated due to long-term school closures; purchasing educational technology (including internet connectivity as well as assistive technology or adaptive equipment) and providing professional development related to virtual learning; offering summer learning programs, either online or in-person; and implementing activities to maintain the operation and continuity of services and to employ existing staff (like in the CARES Act, to receive funds, districts must, to the greatest extent practicable, continue to pay employees and contractors). Money can be spent until September 30, 2022 and unused funds have to be returned to the U.S. Department of Education.

Requirements on States: States that receive some of the \$90 billion in funding would have to commit to maintaining support for schools and colleges and the terms of collective bargaining agreements. States would also be required to provide assurances that students with disabilities are guaranteed their full rights under the Individuals with Disabilities Education Act. **The bill would prohibit states from using the stimulus money to provide financial assistance to students to attend private K-12 schools, unless the funds are used to provide special education to children with disabilities.**

Technical Fixes to CARES: In making technical fixes to CARES, HEROES rescinds the ability of the Secretary of Education to allocate grants to states hardest hit by COVID (DeVos had indicated using funds for 'micro-grants', aka vouchers). The HEROES act also includes language intended to resolve an issue identified by national education organizations with the deeply flawed equitable services guidance developed by the U.S. Department of Education.

Bottom Line:

The bill is scheduled for a vote in the Democrat-led House as early as this week. However, it is fully expected to stall in the Republican-led Senate. Among other challenges, including the overall price tag, the bill does not include liability protections over pandemic-related suits, which Republican Senate Majority Leader Mitch McConnell has said must be in any future legislation.

Overall, the bill is a mixed bag and represents a patchwork solution focused on additional stimulus for individuals, businesses and state and local government. That being said, it does represent a significant investment in state and local government and a step in the right direction for K-12 education. Despite its enormous price tag, however, the bill only includes up to \$67 billion for K-12 education, which represents only 2.2% of the overall proposed appropriations. This funding, combined with the CARES Act, would still be less than overall federal appropriations in the 2008-2010 timeframe during the Great Recession and is significantly less than the \$204 Billion being requested by a coalition of more than 70 national education organizations.

Given the current political scene, Senate Majority Leader Mitch McConnell’s comments that states should consider filing for bankruptcy, and the overall price tag, the bill is likely to be dead on arrival when it gets to the Senate. Ultimately, the number is way too high to be taken seriously by the Senate, where McConnell has indicated he won’t move a bill till after Memorial Day.

Nevertheless, the House likely wanted to get a bill introduced that reflective of their priorities and effective in communicating their key messages. Capitol Hill budget and policy watchers have expressed concern that because the bill contains so many “non-starters” for the Senate, the Majority Leader and Senate Republicans will move their own bill with little to no overlap with the House version thus prolonging the debate.

Given the size and scope of challenges facing states and local governments, including impact on local tax receipts collections, additional funding for K-12 is absolutely necessary. The funds appropriated to date by the federal government do not match those provided during the Great Recession when all evidence points to an economic scenario that will have far more negative consequences on state and local economies. See comparison below:

Federal Funding: ARRA vs. CARES vs. HEROES				
	ARRA	CARES Act	HEROES Act**	National Education Associations’ Request****
State Stabilization Funds	\$40 Billion	\$0	\$58 Billion	\$175 Billion
Title 1	\$13 Billion	\$13 Billion		\$25 Billion
IDEA	\$12 Billion	\$0		
Incentive Grants	\$5 Billion	\$0		
Early Childhood	\$5 Billion	\$0		
Education Investments (pay for performance, data systems, etc)	\$2 Billion	\$0		
Governor’s Fund	\$0	\$2.9 Billion	\$ 4 Billion	
Broadband Connectivey	\$0	\$0	\$5 Billion*** (authorized)	\$4 Billion
TOTALS	\$77 Billion*	\$15.9 Billion	\$67 Billion***	\$204 Billion

Notes:

*Additional funds were appropriated for K-12 in FFY 2010

** Under the HEROES Act funds would be allocated to states based on two things: 61% bases on the state’s relative share of the population aged 5-24 and 39% on the state’s share of low-income (Title I eligible) children. Of the funds to the governor, 65% must be allocated to LEAs based on their share of Title I funding, and there is no reservation or “set-aside” for state departments of education.

*** Separate from the state funding, HEROES includes authorizing language of up to \$5 billion aimed at closing the digital Homework Gap administered through the FCC E-rate program – Authorization DOES NOT equal allocation.

**** This data is approximate and includes only those funding amounts specifically referenced in the May 5, 2020, letter to Congressional leaders.

Related Links:

- [Text of H.R. 6800, The HEROES Act](#) (Health and Economic Recovery Omnibus Emergency Solutions Act)
- A one-pager on the legislation is [here](#).
- A resource on the state and local relief provisions is [here](#).
- A letter to congressional leaders from a coalition of education organizations can be found [here](#).

Additional information will be provided as it becomes available.

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