On May 12, House Democrats introduced the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, legislation aimed at responding to the COVID-19 pandemic. This $3 trillion package is expected to move to a vote in the House as early as Friday. The Senate is not expected to take up the legislation in its current form and the White House has indicated that they will not begin negotiations on another supplemental package until the end of May or post-Memorial Day.

UC Federal Governmental Relations and the Office of Legislative Analysis continue to review and analyze the legislation to assess and determine its impact on the University.

Included in the legislation are several funding measures of importance to the University of California, which are detailed below.

**Health and Clinical Affairs**

- Appropriates an additional $100 billion in health care provider relief to the Public Health and Social Services Emergency Fund.
- Codifies into law the provider relief fund established in the initial CARES Act as the Public Health and Social Services Emergency Fund and includes clear guidance to ensure that this Fund’s dollars are distributed to providers in the most equitable and efficient way. Providers will be reimbursed on a quarterly basis for all COVID-19-related expenses and a portion of their lost revenues.
- Increases the Federal Medical Assistance Percentage (FMAP) for the Medicaid program by 14 percent through June 30, 2021.
- Increases Medicaid Disproportionate Share Hospital (DSH) allotments by 2.5 percent through Sept. 30, 2021.
- Authorizes states, like California, with expiring Medicaid section 1115 demonstration waivers to, at their request, require Health and Human Services (HHS) to extend their waivers until 2021.
- Precludes the HHS secretary from implementing the Medicaid Fiscal Accountability (MFAR) rule during the COVID-19 emergency.
- Permits state Medicaid programs to assume the costs of treating uninsured COVID-19 patients.
- Enhances the terms of the Medicare Accelerated Payments and Advance Payments loan programs keeping health care providers afloat during the COVID-19 pandemic by lowering the loans’ interest rate, extending the payment period, and lowering the amount of per claim recoupment, while also ensuring Medicare Part B premiums are not adversely impacted.
- Provides enhanced traditional Medicare payments to cover excess costs hospitals incur treating more expensive COVID-19 patients until Jan. 31, 2021.
- Establishes zero cost-sharing for COVID-19 treatment under Medicare Parts A and B during the COVID-19 public health emergency.
• Strives to keep workers laid off or furloughed during the economic downturn eligible to retain their employer-sponsored health care coverage by providing federal subsidies of COBRA health insurance premiums and creates open enrollment periods for state health care exchanges and Medicare.

• Provides $2.1 billion for the Centers for Disease Control and Prevention (CDC) to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus, including
  o $2 billion for public health departments; and
  o $130 million for public health data surveillance and analytics infrastructure modernization.
  o CDC will provide a minimum level of support for each state, local, tribal and territorial health department, with prioritization of additional funding for areas with high numbers and surges of COVID-19 cases.

• Requires the CDC to coordinate with, issue guidance and technical assistance to, and provide grants to state, local, tribal and territorial health departments to establish and implement a system for testing, contact tracing, surveillance, containment, and mitigation of COVID-19, including providing guidance on voluntary isolation and quarantine of positive COVID-19 cases.

• Authorizes up to $1 billion under Title VII Health Workforce funding in grants to schools of medicine in rural, underserved or minority-serving institutions. Grants can be used to build new schools of medicine and expand, enhance, modernize, and/or support existing schools of medicine. Applicants have no matching requirements.

• Requires the Government Accountability Office (GAO) to conduct a study to investigate gaps, challenges, and recommended steps for improvement associated with the Federal, State, local, Tribal, and territorial public health workforce.

• Establishes the Public Health Workforce Loan Repayment Program to enhance recruitment and retention of state, local, tribal and territorial public health department workforce.

• Authorizes grants to expand the use of technology-enabled collaborative learning and capacity building models to respond to COVID-19. Health entity grantees must have experience providing services to rural, frontier, health professional shortage areas, medically underserved populations or Indian Tribes.

Research
• Provides $4.75 billion for the National Institutes of Health (NIH). Specifically, for the following:
  o $4.021 billion for the Office of the Director:
    ▪ $3 billion for universities to offset the costs related to reduction in lab productivity resulting from the coronavirus.
    ▪ $1.021 billion for additional COVID-19 research
  o $500 million for the National Institutes of Allergy and Infectious Diseases
  o $200 million for the National Institutes of Mental Health
  o Includes a provision that provides flexibility for NIH to extend, by one year, any research grants that were nearing the end of their five-year duration (rather than return the money to the U.S. Treasury).

• Provides $125 million for the National Science Foundation for research grants to address COVID-19

• Provides $4.5 billion for the HHS’ Biomedical Advanced Research Authority. Specifically, for the following:
  o $3.5 billion for therapeutics and vaccines;
- $500 million to support U.S.-based next generation manufacturing facilities;
- $500 million to promote innovation in antibacterial research.

- Provides $300 million for the Department of Agriculture to support animal health surveillance and laboratories.
- Provides $50 million for the United States Geological Survey for biosurveillance of wildlife and environmental persistence studies and related research and database development.
- Provides $10 million each to the National Endowment for the Arts and National Endowment for the Humanities for grants to respond to the impacts of the coronavirus.
- $50 million for the Environmental Protection Agency for grants investigating links between pollution exposure and the transmission and health outcomes of coronavirus.
- $21 million for U.S. Fish and Wildlife Service for research, listing of species and electronic permitting system development.
- Authorizes $100 million to the Food and Drug Administration award grants or cooperative agreements to Institutions of Higher Education to be designated as a National Center in Continuous Pharmaceutical Manufacturing to support the advancement and development of continuous manufacturing.
- Provides the Department of Agriculture’s Supplemental Nutrition Assistance Program for Education (SNAP-Ed) flexibility needed to respond to and address the increase in eligible SNAP participants by promoting local food access, healthy eating and food security through safe and nutritious food preparation and distribution.

The bill also includes funding to support agriculture interests, including:
- $300 million to support animal health surveillance efforts including laboratories which may be performing COVID-19 testing services in support of the Animal Health Protection Act related activities;
- $100 million to assist with efforts to support specialty crop supply chain issues; and
- $16.5 billion for direct payments to agricultural producers.

Education

- $100.15 billion in grants to states to support education needs for states, school districts and institutions of higher education, including:
  - $90 billion in flexible funding for a State Fiscal Stabilization Fund that will provide grants to States. The breakdown: 65 percent ($58 billion) to governors to distribute among K-12 schools; 30 percent ($26.7 billion) to public colleges to deal with the coronavirus pandemic; 5 percent ($4.5 billion) up to discretion of governors. Governors must apply for funds and agree to maintenance of effort provisions.
  - $10.15 billion for colleges and students, including:
    - $1.7 billion for minority-serving institutions (MSI) and Historically Black Colleges and Universities.

- Explicitly states that any student that has applied for, or is receiving, unemployment benefits at the time that they submit an application for federal financial aid, will be treated as a dislocated worker on the FAFSA. This will qualify a FAFSA applicant for the simplified needs test or an automatic zero Expected Family Contribution (EFC). This provision is effective for the duration of the COVID-19 emergency and the following financial aid award year.
- Creates a new Institutional Stabilization Program for severely cash-strapped private, nonprofit higher education institutions to avoid additional financial penalties in exchange for ensuring students can complete their education if the institution is forced to close.
- Extends no interest accrual on Federal Direct Loans until Sept. 30, 2021. Additionally, for commercially held FFEL and institutionally held Perkins loans, the secretary is required to pay the amount of interest due on the unpaid principal to the holder on a monthly basis.
- Provides flexibility into the fall that allows institutions of higher education to pay federal work-study students even if they are unable to complete their jobs due to COVID-19.
- Clarifies that emergency financial aid provided to a student in response to the COVID-19 emergency will not impact that student’s eligibility for federal financial aid.
- Prohibits the Secretary of Education from imposing restrictions on the populations of students who may receive funds under section 18004 of the CARES Act, which creates the Higher Education Emergency Relief Fund.
- Clarifies that colleges and universities are permitted to provide the U.S. Census Bureau with information about students living on campus for purposes of responding to the 2020 Census. The relevant section requires that schools provide 10 days public notice and an opportunity for students to opt-out before transmitting this information.
- Provides $10,000 of up-front debt relief for all Direct Loan borrowers. Borrowers owing less than $10,000 will receive up to the amount owed on their balance.
- Removes the requirement that a borrower must be employed in a public service employer at the time of forgiveness under the Public Service Loan Forgiveness (PSLF) program. This legislation also allows a borrower with a full-time job as a health care practitioner working at a public or non-profit hospital or health care facility but prohibited by State law from being employed directly by the hospital or health care facility to be eligible for PSLF, which is something that is important for Californians who are currently affected by this prohibition.
- Provides States the authority to waive limits on providing housing assistance to older foster youth, who may have lost their current housing due to university and other closings.

Tax and Other Key Provisions
- $500 billion in state fiscal relief funding is provided to establish a Coronavirus State Fiscal Relief Fund to assist state governments with response efforts and fiscal impacts related to COVID-19. This funding could in part flow to public schools and universities and/or public hospitals, helping them mitigate fiscal harms caused by COVID-19.
- $375 billion in local fiscal relief is provided to establish a Coronavirus Local Fiscal Relief Fund to assist local governments with fiscal impacts related to COVID-19.
- The bill also includes funding for states, localities and community based organizations for emergency aid and services, including $9.6 billion for the Social Services Block Grant.
- The bill includes an extension of Federal Pandemic Unemployment Compensation (FPUC) benefits of $600 per week supplements to state and local unemployment benefits, through Jan. 31, 2021, and adds a transition rule to allow benefits to continue through March 31, 2021, in certain cases.
- The bill includes additional economic stimulus recovery payments of up to $1,200 per eligible individual. The eligibility criteria for determining economic stimulus fund payments is expanded to include $500 per dependent, rather than per qualifying child under age 17, as had been the case under the CARES Act.
- Additional funding is provided for small business grants and loans through the Paycheck Protection Program and through other means to assist with COVID-19 recovery efforts.
- Clarifies the discharged amount of student loan relief (up to $10,000) is excluded from gross income and not required to be reported to the Internal Revenue Service.
Clarifies that emergency financial aid grants provided to students, awarded by an institution of higher education under section 3504 of the CARES Act, are to be considered as amounts excluded from gross income for students, and holds students harmless for purposes of determining eligibility for higher education tax incentives.

Provides governmental entities, including federal, state, and local governments with the ability to receive payroll tax credits for certain sick leave and family and medical leave benefits which were made available under the Families First Coronavirus Response Act and the Employee Retention Tax Credit under the CARES Act.

- Pending further analysis, UC may be considered an eligible entity for purposes of receiving benefits.

The bill allows for a temporary waiver of minimum distribution requirements from Individual Retirement Accounts for individuals age 72 or older.

For 2020 and 2021, the bill eliminates the limitations on the deduction of state and local taxes imposed under the Tax Cuts and Jobs Act.

The bill also includes certain refundable payroll tax credits for fixed expenses of eligible employers subject to closures due to COVID-19, but governmental entities may be excluded.

The bill makes changes to net operating loss tax provisions previously enacted as part of the CARES Act.

The bill expands the criteria used in the Main Street Lending Program established by the Federal Reserve, to ensure it considers non-profit organizations as being eligible borrowers (but it is unlikely UC would qualify under the current language due to its overall number of employees).

The bill also provides for emergency relief to state, territorial, tribal and local governments, by allowing the Federal Reserve to purchase bills, notes, revenue bonds, and warrants issued by any state, county, district, political subdivision, municipality or certain other entities.

The bill also includes new lending facilities for borrowers and creditors to receive access to low-cost loans through access to Federal Reserve facilities.

The bill also includes assistance for renters, and for homeowners to address issues concerning evictions and foreclosures.

$1.3 billion is provided to Federal Emergency Management Agency (FEMA) to assist with COVID-19 response efforts.

The Department of Labor is provided with $2 billion to support worker training; $925 million to assist states with processing unemployment claims.

Supplemental Nutrition Assistance Program (SNAP) benefits are increased by a minimum of $30 and additional changes are made to assist beneficiaries.

Outstanding Areas of Concern
As this legislation moves forward, and as Congress, the Administration and federal agencies continue to develop proposals to respond to the pandemic, UC will continue to advocate for the following priorities, as well as other priorities that are identified as UC continues to respond to the COVID-19 pandemic:

Health and Clinical Affairs
- Codify into law directing some already-appropriated COVID-19 health care provider relief funding towards safety net providers with a Medicaid DSH designation. UC Health’s
academic medical centers have prepared for and treated many COVID-19 patients. Our mission necessitates that we serve all patients who walk through our doors during and after the COVID-19 pandemic.

- Lift the Graduate Medical Education (GME) cap. The UC Health system currently exceeds its residency cap by over 800 medical residents. Consequently, at a time when there is a physician workforce shortage coupled with more Americans needing medical services, UC Health’s public safety net academic medical centers are absorbing nearly $70 million annually to train the next generation’s physicians. The GME cap, which was put into place during the early 1990s, does not reflect the present-day demographics of limited physician supply and heightened patient demand.
- Double the Indirect Medical Education (IME) add-on payment adjustment for teaching hospitals throughout this emergency period. This would provide targeted and immediate funding for teaching hospitals to address increased patient care demands and complexity.

Research
- While the HEROES Act provides $3 billion for NIH, UC urges additional emergency supplemental funding for all the sciences agencies to cover cost extensions for grants and cooperative agreements to allow researchers to meet their commitments on existing projects. Lost resources include ramp down/up costs and graduate and postdoc extensions.
- Provide additional funding for the Department of Agriculture’s National Institute of Food and Agriculture (NIFA) program for the specific purpose of carrying out cooperative extension and education programs in response to exigent circumstances created by COVID-19 in terms of allowing for continued programming.
- Provide federal departments that grant research funds to use expedited contracting models—including Other Transaction Authority—when possible.

Education
- While we are thankful the first CARES Act provided direct aid to students and institutions and this package makes further investments through additional funding to states and localities, it is clear that many students will need additional financial assistance to continue their education. We call on Congress to make continued strong investments in the pillars of federal financial aid programs as the FY 2021 appropriations process continues.

Tax and Other Key Provisions
- Access to Low-Cost Capital: Access to affordable capital is a necessary lifeline for institutions of higher education and the communities they serve if they are to return to normal operations. Providing access to zero-interest loans and/or grants with the opportunity to refinance existing debt would allow institutions of higher education to have a better chance of recovering from COVID-19 related financial losses.
- Re-instatement of Advance Refunding Bonds: UC supports the reinstatement of Advance Refunding Bonds that would be helpful as a COVID-19 recovery mechanism. Reinstating these bonds would help ensure that governmental entities, including state and local governments, are able to invest in infrastructure projects and to recover from financial losses associated with COVID-19.
- Hospital Infrastructure and Life Safety Loans: In order to help build and preserve hospital bed capacity, legislation should be enacted to allow for interest-free loans to be provided to hospitals. The loans would be intended to be used for capital projects related to expanding the number of beds or deferred maintenance or life safety construction for
existing beds to keep them in service. Proceeds would need to be spent within a certain
time-frame and could not be invested for arbitrage. The terms of the loans would be up
to 30 years interest free, with the ability to extend the loan at a rate tied to the 30-year
U.S. Treasury Rate.

- **Main Street Lending Program**: The Main Street Lending Program should be updated to allow for entities such as public universities, with over 10,000 employees to be eligible to apply for loans under the program. If the Main Street Lending Program is not revised to allow for such entities to become eligible to apply, then UC requests that legislation be considered allowing such entities to participate in suitable lending programs.

- **Suspension of Taxation for Scholarships and Grant Aid**: Provide for a temporary suspension of tax rules that require the taxation of scholarship and grant aid used for non-tuition related expenses.

- **Unrelated Business Income Taxation “Basketing” Issues**: Eliminate Unrelated Business Income Taxation (UBIT) changes made in the Tax Cuts and Jobs Act that require tax-exempt entities to calculate UBIT losses and gains on a by each activity basis, rather than allowing for UBIT calculations to be made on an aggregate losses and gains basis.

- **Universal Charitable Deduction**: Provide for a universal charitable deduction that would go beyond the temporary universal deduction amount of $300 per tax-payer, enacted as part of the CARES Act.