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May 15, 2020

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin McCarthy
Republican Leader
U.S. House of Representatives
Washington, DC 20515

Re: The “Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act” - H.R. 6800

Dear Speaker Pelosi and Leader McCarthy:

As you are aware, public schools are in crisis working to offer a quality education to millions of students during an unprecedented time. For the first time in history, school buildings across the nation have been forced to close to protect the health and lives of students and their families forcing instruction to be provided online. Restoring education for students under these circumstances requires a significant investment by the federal government to help local school districts and states provide instruction and services for their students. We urge Congress to work together in a spirit of bipartisanship to help public schools recover so we can prepare our students with the high-quality resources and instruction necessary for America to have a strong economy and prosperous future.

On behalf of our state associations and the 90,000 school board members who govern our country’s 14,000 local public school districts, the National School Boards Association (NSBA) appreciates your leadership to attempt to address this international crisis of COVID-19 that has drastically affected our nation’s more than 50 million public school students, our educators, and our communities. As we work to restore educational services in safe learning environments, we realize that this massive effort is not a return to the past normality. We are committed to an effective recovery that will help ensure the safety and success of our students, educators, and community partners.

The “Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act” is a start to help equip our students and schools with several supports needed towards restoring educational services. However, many more resources and assistance are required to ensure students receive the education they deserve and need to succeed in their lives during this crisis and beyond. Given the magnitude of this pandemic and its effects on K-12 education, we are aware of circumstances that persist far beyond the scope of this measure. We will continue to assess and provide further recommendations.

We are grateful for your continued direct engagement in this nationwide recovery to protect our children and communities. But each of the priorities we raise, and others, will continue to warrant significant resources as our schools work towards reopening in a new post-coronavirus environment. As such, NSBA provides the following response regarding applicable provisions of the HEROES Act impacting public elementary and secondary education.

- *State Fiscal Stabilization Fund for grants to States to support statewide and local funding for elementary and secondary schools and public postsecondary institutions* ~ The funding allocation for education stabilization among PreK, K-12, and higher education will help advance recovery efforts. However, the amount authorized will not address the scope of needs prevailing throughout all levels of education. For example, school districts are learning that the costs for personal protective equipment could quickly absorb these resources, along with other demands, such as retrofitting infrastructure, hiring additional personnel as needed, purchasing equipment, providing counseling and trauma-informed care, and delivering appropriate services to students with special needs. The funding level provided in the legislation for K-12 public education is a start towards recovery, but still far below what is required to successfully move forward. We urge increased investments in any final version of the legislation that can better address the many needs of public schools and our students to help local schools and states that are bearing most of the burden during the crisis.

Additionally, the local and state revenues collected in most states to fund K-12 education are experiencing severe declines from this crisis, including the two largest revenue sources ~ income and sales taxes ~ according to the National Association of State Budget Officers. Additional direct aid to school districts will be needed to ensure adequate funding for the essential public service of elementary and secondary education that is a critical component of economic recovery and growth.

- *Full Funding for the Individuals with Disabilities Education Act (IDEA)* ~ Currently, the federal share of funding for the nation’s investment in children who are educated through IDEA is 13 percent – well short of the federal share (up to 40 percent) called for under the IDEA law. Even during usual circumstances, the federal investment in IDEA was inadequate; and, the number of students educated through IDEA has increased significantly in recent years. Compounded by the intervening factors of the coronavirus pandemic that have impacted education, such as the precipitous decline in local and state revenues that finance the majority of special education services, the federal investment in special education must be doubled to address this urgent need for the more than seven million students with individualized education plans under IDEA. NSBA encourages any final legislative package to include full funding for IDEA, or short of that number, at least \$13 billion in direct funding for the immediate crisis until a process for full funding can be implemented.

- *Temporary, Targeted Flexibility Regarding the Individuals with Disabilities Education Act* ~ Numerous services, such as physical and occupational therapy, provided within individualized education plans (IEPs) for students educated through IDEA cannot be provided currently because of public health directives. Students with disabilities can be among the most vulnerable during this health emergency. Further, any possible exposure from outside individuals such as special education professionals conducting home visits could risk the health of the students, their family, and the staff. The lack of an adequate federal investment due to the failure to fully fund IDEA only adds to the challenges local schools are facing.

School districts are encountering other challenges that are interrupting the delivery of certain special education services, such as confidentiality protections for students regarding services delivered online; shortages of qualified staff caused by health and safety concerns; closure of school buildings where certain equipment and technology are housed and cannot be relocated; and, lack of Internet access and/or necessary hardware to connect service providers and instructional staff to students. For these and other reasons, NSBA urges Congress’ intervention to clarify that school districts will not be liable for failure to provide free appropriate public education during this COVID-19 pandemic, *if they are making a good-faith effort to provide it.*

Upon the resumption of full operations, school districts look forward to uninterrupted delivery of special education and related services in the amount and type required by a student’s IEP. Then, temporary targeted flexibility to districts would be discontinued following any federal, state, and local clearances needed for a district to resume its regular schedule and delivery of education services.

- *Closing the “Homework Gap”/ E-Rate Support for WiFi Hotspots, Other Equipment, and Connected Devices-*
~ As school districts work to provide a level of continuity in educational services to our children, a persistent barrier remains in that millions of students do not have access to the Internet to receive online instruction from their teachers during this pandemic. Nor do many families have a computer or sufficient technology needed for students to complete assignments, participate in virtual field trips, or receive differentiated instruction within an online setting. According to the Pew Research Center, more than one-third of households with school-age children that earn less than \$30,000 annually lack high-speed Internet access. This inequity spans across vulnerable populations and socio-economic levels, with a harmful effect on concerted efforts throughout our school districts to raise student achievement and support greater equity in education.

Given the length and severity of this pandemic that has disrupted the normal delivery of educational services, a bold investment in online learning is needed, along with resources for a broader contingency to assist public school districts, should another emergency warrant shelter-in-place or stay-at-home orders to save lives and protect our children and communities. We thank the leadership of many Members who are supporting efforts to close the homework gap. Further, we urge Congress to provide the \$5 billion investment that would be authorized by the HEROES Act and administered through the E-Rate program, to address this acute need. Likewise, the emergency assistance programs that would be funded by this legislation to help prevent utility disconnections among indigent populations would be helpful to support continued educational opportunities for students during this public health emergency. We urge all members of Congress to come together and provide the necessary support millions of students must have to allow them to learn during this situation and to improve equity by closing the homework gap.

- *Continued Flexibility to Administer Child Nutrition Programs* ~ We appreciate the inclusion of \$3 billion in additional funding to provide emergency financial relief to school meal providers. In addition, the extended flexibilities for the Supplemental Nutrition Assistance Program and related assistance will help address food insecurities and provide nutritious meals to students. We also acknowledge the work of Congress and the U.S. Department of Agriculture to swiftly address the needs of schoolchildren in many communities by granting flexibility for the area of eligibility requirement in the second emergency supplemental, which has been helpful to many school districts as they work to continue alternative meal services throughout this national crisis. Additionally, we urge that Congress extend this waiver, and others as needed, to help ensure that the nutritional needs of vulnerable students are addressed.

- *Educational Choice* ~ We urge you to reject provisions that would expand 529 plans, and instead support the range of choices that are currently offered by our nation’s public school districts, such as magnet schools, charter schools authorized by local school boards and public specialty schools, such as those offering specialized curricula for science, technology, engineering, the arts, and mathematics (STEAM).

Moreover, NSBA opposes vouchers, tax credits, and subsidies that would provide a type of tax-advantaged investment account for private school tuition and divert public funds from the eighty-seven percent of our nation’s school-aged children who attend public schools.

Similarly, we appreciate the provision in the HEROES Act that would clarify how education stabilization funds are to be utilized for equitable services to eligible students enrolled in private schools, with these funds being reserved only for children identified under section 1115 of the Elementary and Secondary Education Act, who are enrolled in private elementary and secondary schools.

- *Allowance of Paid Sick Leave and Paid Family Medical Leave for Public Employees* ~ NSBA and other organizations representing public school districts and other units of state and local government applaud the legislation’s provision to repeal the public employer exclusion from the emergency paid sick leave and family medical leave tax credits that were only extended to private sector employers in the previous “Families First Coronavirus Response Act.” This repeal would allow eligibility for school districts and other public employers to receive the payroll credits. Collectively, school districts are the largest employer within the United States.

- *Reinstatement of Advance Refunding* ~ NSBA and other organizations representing state and local governments urge Congress to restore advance refunding as part of the federal tax code, that would allow school districts, counties and other state and local governments to refinance outstanding municipal bonds at lower interest rates; thereby, enabling governments to redirect the savings to critical needs such as coronavirus response, mitigation, and recovery efforts.

Again, we appreciate the provisions of the HEROES Act that will provide the assistance our students and public school districts need for an effective recovery; but, we urge a stronger investment in any final legislation. We welcome the opportunity to discuss the additional recommendations that have been informed by NSBA’s membership. Please contact Deborah Rigsby at drigsby@nsba.org regarding any further information needed for this request.

Thank you for your consideration and bipartisan leadership to address this crisis.

Sincerely,



Thomas J. Gentzel
Executive Director and CEO