American Council on Education

April 9, 2020

The Honorable Richard Neal
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable Charles Grassley
Chairman
Committee on Finance
U.S. Senate
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate
Washington, DC 20510

RE: Higher Education Community Tax Proposals to Support Students and Institutions in Phase 4 COVID-19 Legislation

Dear Chairman Neal, Ranking Member Brady, Chairman Grassley, and Ranking Member Wyden:

On behalf of the American Council on Education and the undersigned higher education associations, I am writing today to urge you to include the tax proposals set out below, which are intended to support students and institutions of higher education in the Phase 4 COVID-19 pandemic relief legislation.

All colleges and universities, public and private nonprofit, two- and four-year, are facing unprecedented challenges as a result of the COVID-19 pandemic. The pandemic is causing massive disruption to students, many of whom are grappling with sudden changes to their financial circumstances, and to institutions, resulting in closed campuses, wholesale shifts to online instruction, and enormous unforeseen expenses and revenue losses. For some institutions, the crisis is creating an existential threat, with the potential for closure on the horizon.

The impact of the pandemic to higher education will reverberate far beyond our campuses. Colleges and universities are often the largest employers in many areas, and serve as economic, civic, and cultural hubs for their communities. Efforts to stimulate the economy must necessarily include just over 4,000 degree-granting, two-year and four-year, public and private colleges and universities. These institutions educate roughly 20 million individuals, generate total revenues of about $650 billion (in 2016-17 according to Department of Education data) providing a corresponding economic

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impact in their communities, and employ nearly 4 million Americans across campuses in every state and congressional district.

Fixes of Provisions in Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security Act (CARES Act):

- **Paid Sick and FMLA Leave:**

The recently enacted “Families First Coronavirus Response Act" creates two forms of paid leave for workers impacted by the outbreak: 1) paid emergency Family and Medical Leave Act (FMLA) leave; and 2) paid sick leave. To help employers pay for these leave provisions, the Act created a refundable tax credit, which public institutions are not eligible to receive. Individual public institutions employ thousands of individuals across their campuses so this unfunded mandate will undoubtedly be an enormous expense likely to run into the millions of dollars. For example, the Illinois public four year universities, with more than 48,000 employees, estimated that the cost to comply with the leave mandate would be approximately $195 million. The University of Wisconsin-Madison, with about 24,000 employees, could be facing an estimated range of $34-$65 million in costs for the leave mandate.

- **The paid sick and FMLA tax credit should be expanded to make public institutions eligible, and also potentially make large private nonprofit institutions eligible for the tax credit if they provide such paid leave.**

- **Employee Retention Tax Credit:**

The CARES Act creates a refundable payroll tax credit of up to 50% of $10,000 in the wages paid to each employee by employers during the COVID-19 crisis. Employers whose operations were “fully or partially” suspended due to government orders related to COVID-19 are eligible for the credit. Private nonprofits are eligible for this credit but <u>not</u> public institutions.

- **The Employee Retention tax credit should be expanded to make public institutions eligible.**

Suspend Taxability of Scholarship/Grant Aid:

Since 1986, scholarships and/or grant aid used on non-tuition expenses like room and board have been taxed as a form of unearned income. Temporarily suspending the taxability of scholarship and/or grant aid would permit low- and middle-income students to retain more of this aid, which they rely on to pay for their college education. Suspending taxability of scholarship/grant aid is also important to shield the emergency grant aid to students provided in the CARES Act from being taxable. Congress allocated this emergency student aid to help cover essential expenses like housing, food, childcare, and technology due to the COVID-19 pandemic. To later subject the students to an unexpected tax bill negates not only the benefit of the funds, but also the very intent of Congress to help the most vulnerable students in authorizing this aid.

Temporarily Enhance Institutional Debt Service for Pandemic Response:

- **Advance Refund Tax-Exempt Bonds:**

Temporarily reinstitute the ability to advance refund tax-exempt bonds, which were eliminated in the Tax Cuts and Jobs Act (TCJA). This would permit colleges and universities to take advantage of lower interest rates to reduce their debt service costs. While this would potentially help all institutions, it may be particularly helpful to teaching hospitals.

- **Expand Debt Issuance:**

The COVID-19 pandemic is harming public and private nonprofit institutions in profound ways, which bond financing could help address in two critical respects: 1) many of the enormous expenses and revenue losses being incurred now by institutions are operating in nature and not currently eligible for any tax-exempt financing. It would be extremely helpful for colleges and universities to access debt bond financing to partially recover the operating costs of the pandemic. This would help higher education institutions more quickly supplement lost revenue, absorb sizeable new COVID-19 related expenses, and amortize the costs over the long-term; 2) it would also help support institutions to provide additional debt bond financing instruments for capital infrastructure expenses, the kinds of projects that would inevitably generate and sustain construction jobs for campus capital projects.

- **Create a temporary Pandemic Response Bond program that would allow both public and private nonprofit institutions to issue bond debt for COVID-19 costs (incremental costs and lost revenue) and for capital projects.**

Temporarily Enhance Current Higher Education Tax Credits:

The COVID-19 pandemic has profoundly and adversely affected traditional and nontraditional students, particularly those coming from low- and middle-income backgrounds. Just as Congress provided supplemental student grants in the CARES Act, the American Opportunity Tax Credit (AOTC), and Lifetime Learning Credit (LLC) should be changed temporarily to provide greater support for these students, many of whom have already lost their jobs or are facing other economic challenges. The AOTC is focused on undergraduate students, while an expanded LLC will be particularly useful to students enrolling in courses to upgrade their skills and better integrate into the changed economy.

- **American Opportunity Tax Credit (AOTC)** - possible options:
    - Increase credit per year from $2,500 to $3,000;
    - Increase refundability from 40% to 60%.

- **Lifetime Learning Credit (LLC):**
    - Modify credit to cover 100% of the first $2,000 of the AOTC eligible expenses; Currently, LLC covers 20 percent of up to $10,000 of annual eligible expenses (maximum credit of $2,000).

Suspend private nonprofit institutional Investment Income Excise tax (Endowment tax):

Private college and university endowments permanently hold charitable gifts from private donors to support a range of purposes, such as student financial aid, teaching, and research. One of the many challenges from the crisis will be the longer-term fallout from the significant losses in the markets. This will not only hurt schools that rely significantly on endowment revenues for operations, but also drive up student and family need and affect both short- and long-term philanthropy. While repeal of this perverse and damaging provision remains our clear goal, the coronavirus bills are emergency in nature and developed around the principle that assistance should be temporary. In line with these goals, we urge a suspension of the tax as well as extending the suggested changes on carryforward and carryback of losses to include those affected by the tax.

We strongly urge Congress to include these tax proposals to support students and institutions in the so-called Phase 4 COVID-19 response legislation.

Sincerely,

Ted Mitchell
President

On behalf of:

Achieving the Dream
ACPA - College Student Educators International
American Association of Collegiate Registrars and Admissions Officers
American Association of Community Colleges
American Association of State Colleges and Universities
American College Health Association
American Council on Education
American Dental Education Association
APPA, “Leadership in Educational Facilities”
Association of American Colleges and Universities
Association of American Universities
Association of Catholic Colleges and Universities
Association of Community College Trustees
Association of Governing Boards of Universities and Colleges
Association of Jesuit Colleges and Universities
Association of Public and Land-grant Universities
Association of Research Libraries
Coalition of Urban and Metropolitan Universities
College and University Professional Association for Human Resources
Consortium of Universities of the Washington Metropolitan Area
Council for Advancement and Support of Education
Council for Christian Colleges & Universities
Council for Higher Education Accreditation
Council for Opportunity in Education
Council of Graduate Schools
Council of Independent Colleges
Council on Social Work Education
EDUCAUSE
ETS
Hispanic Association of Colleges and Universities
International Association of Campus Law Enforcement Administrators
NASPA - Student Affairs Administrators in Higher Education
National Association for College Admission Counseling
National Association for Equal Opportunity in Higher Education
National Association of College and University Business Officers
National Association of Colleges and Employers
National Association of Independent Colleges and Universities
National Association of Student Financial Aid Administrators
National Collegiate Athletic Association
TMCF