

December 8, 2017

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

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

The Honorable Orrin Hatch  
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

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

During the tax reform debate, the American Council on Education and nearly 50 other higher education associations have expressed serious concerns with both the House- and Senate-approved versions of H.R.1, the Tax Cuts and Jobs Act. Overall, the House and Senate bills would make college more expensive and erode the financial stability of public and private, two-year and four-year colleges and universities. We have attached our previous letters outlining our concerns in both bills.

As you begin conference negotiations, the Senate bill does represent an improvement over the House measure, and we appreciate the Senate's recognition of the importance of many of the provisions important to students and their families. However, we reiterate our strong concerns about proposals in both bills that change the standard deduction in ways projected by the Joint Committee on Taxation to significantly reduce the use of the charitable deduction, with a concomitant loss of charitable gifts. This will harm all nonprofit institutions, including colleges and universities, and the beneficiaries of the public goods they provide. Moreover, the changes to the state and local tax deduction would harm state budgets, likely leading to decreased state investment in public higher education.

Below are provisions of concern in the conference.

### **Higher Education Incentives**

Unfortunately, the House-passed bill would repeal the Lifetime Learning Credit (LLC) without substantially increasing the American Opportunity Tax Credit (AOTC) (Sec. 1002); repeal the Student Loan Interest Deduction (SLID) (Sec. 1204); repeal the qualified tuition reduction (Sec. 117 (d)); and repeal educational assistance programs (Sec. 127). The proposed changes to these benefits would be a large step backwards, not an improvement, for many students and their families who benefit under current law. Thankfully, the Senate bill retains the current law version of these education benefits that help millions of middle- and lower-income students and families to finance and repay their college educations. We urge the conference committee to follow the Senate's approach by not making any changes to these education benefits in the final tax bill.

### **Excise Tax Based on Investment Income of Private Colleges and Universities**

Both the House and Senate bills include an unprecedented and misguided excise tax on investment income of certain private colleges and universities. While the Senate bill reduces the overall number of institutions potentially affected by the proposed excise tax, both approaches would take away critical funds that colleges and universities otherwise would devote to student financial aid; student services like career counseling and internships; instruction and support; and medical research. In fact, both approaches would send the tax

revenue generated directly to the U.S. Treasury rather than ensure those funds are directed to helping students and patients that benefit from medical research. Thus we believe the concept of a tax on college endowments is fundamentally flawed and urge that any final legislation remove this tax entirely. Moreover, these provisions would set a disastrous precedent—eventually, less well-resourced private institutions and public institutions could be made subject to the tax, too. If the conference committee ultimately chooses to include a provision affecting endowments, we urge you to consider alternatives that do not impose an unprecedented tax that takes much-needed resources away from students, teaching, and medical research, among other educational activities.

### **Repeal of Private Activity Bonds and Advance Refunding Bonds**

The House bill repeals both private activity bonds and advance refunding bonds, both of which help public and private universities to lower overall costs on capital projects, such as building new dormitories and state-of-the-art science labs and classrooms. The Senate version of the bill, fortunately, would only repeal advance refunding bonds. We urge the conference committee to closely examine this issue and preserve bond programs as much as possible for public and private higher education institutions. If fundamental changes are made to these bond programs, at a minimum the final tax bill should include transition relief such as a two-year phase-in.

### **Unrelated Business Income Tax (UBIT)**

The Senate bill contains changes to unrelated business income tax (UBIT) and would require institutions to compute unrelated business taxable income separately for each trade or business, in a so-called “basketing” fashion. This would require all losses and gains to be calculated by activity rather than in the aggregate (something not applicable in corporate taxation) and would result in disparate treatment for nonprofit organizations by holding them to standards and rules not applicable to corporations. Furthermore, creating a new regime solely applicable to nonprofits would complicate rather than simplify the tax code. The House bill does not include this provision and we urge the conference committee to accept the House approach.

In sum, we write today to express our continued strong opposition to the provisions in the House and Senate bills that would negatively impact students and their families and would impede the innovative research that helps drive our local, state, and national economy. It is possible to offer tax relief to hard-working middle-class and lower-income Americans in a way that does not increase college costs and does not make a quality higher education less accessible. We are eager to work with the conference committee to ensure that any final tax legislation accomplishes that goal.

Sincerely,



Ted Mitchell, President

Cc: Members of the House Committee on Ways and Means and the Senate Committee on Finance

On behalf of:

AccessLex Institute  
ACPA-College Student Educators International  
American Association of Colleges for Teacher Education  
American Association of Colleges of Osteopathic Medicine

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

American Indian Higher Education Consortium

American Psychological Association

American Society for Engineering Education

Association for Student Conduct Administration

Association of American Colleges and Universities

Association of American Medical Colleges

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

Association of Teacher Educators

Coalition of Higher Education Assistance Organizations

College and University Professional Association for Human Resources

Commission on Independent Colleges and Universities

Consortium of Universities of the Washington Metropolitan Area

Council for Advancement and Support of Education

Council for Christian Colleges & Universities

Council of Graduate Schools

Council of Independent Colleges

Council on Governmental Relations

Council on Undergraduate Research

EDUCAUSE

Hispanic Association of Colleges and Universities

National Association for College Admission Counseling

National Association of College and University Business Officers

National Association of College Stores

National Association of Independent Colleges and Universities

National Association of Student Financial Aid Administrators

National Collegiate Athletic Association

Society for College and University Planning

The Common Application

The Phi Beta Kappa Society

Thurgood Marshall College Fund

UNCF (United Negro College Fund)