AICU | MASS

ASSOCIATION OF INDEPENDENT COLLEGES & UNIVERSITIES IN MASSACHUSETTS

JOINT COMMITTEE ON REVENUE
October 18, 2021

OPPOSITION TO HOUSE BILL 2931
TAXING ENDOWMENTS IS BAD PUBLIC POLICY
AND BAD FOR THE COMMONWEALTH

The Association of Independent Colleges and Universities in Massachusetts [AICU Mass] represents the public policy interests of 60 independent colleges and universities throughout the Commonwealth – institutions responsible for educating more than 290,000 students each year and employing more than 98,000 people. Our members include large nationally and internationally renowned research universities, smaller, highly regarded liberal arts colleges, religiously affiliated institutions, and colleges with special missions focused on entrepreneurship or music or allied health services.

At the onset, it is important to note that colleges and universities were at the forefront of responding to the COVID pandemic, investing significant institutional resources to ensure the safety of students, faculty, staff and the entire surrounding community. Early in the pandemic, colleges and universities were first among organizations and businesses to implement social distancing through online learning and partnered with the state, municipalities and other nonprofits to provide critical services in those initial dire days. In addition, these same institutions, working with our incredible partners at the Broad Institute, helped to create a nationally-recognized COVID testing program that have allowed for the safe return to campus, and maintained critical employment, student financial aid and local spending to support small businesses on Main Streets throughout Massachusetts.

AICU Mass opposes in the strongest possible terms House Bill No. 2931, a bill which seeks to impose an annual 2.5 percent excise tax on independent institutions of higher education with endowments having a value in excess of $1B. To impose an unprecedented and misguided tax on Massachusetts colleges and universities as they continue to navigate the disruptions caused by the relentless nature of COVID-19, would have a severe impact on these institutions just as they prepare to lead the Commonwealth's transition to the "new normal" and spur an economic recovery.

For the reasons set forth below, AICU Mass and its member colleges and universities would urge this Committee to reject H.2931.

- **Taxing endowments would harm one of the Commonwealth's most vital ecosystems and its knowledge-based economy.** Private colleges and universities across the Commonwealth generate more than $40 billion in economic activity each and every year. Private colleges/universities employ more than 98,000 people; spend more than $10.2 billion in salaries and benefits, which in turn generates over $400 million in state income taxes for the General Fund; stabilize local procurement and spending; attract more than $2.5 billion in Federal and sponsored research annually, and; generate more than $3.2 billion in international student expenditures. Colleges and universities increasingly rely on endowments to maintain this incredible ecosystem, which serves to anchor the state's economy, attract talented students and researchers, as well as research dollars,

and fund critical research that extends far beyond campus (e.g. cancer, autism, public health, clean energy). The damage caused by H.2931 would be immeasurable.

- **Endowments are essential to affordability, access, and excellence**. Colleges and universities increasingly rely on philanthropy (and endowments) to keep tuition down, provide financial aid, support public and community service, and invest in excellence in research and academic disciplines. Each year, dollars flow from endowments to support education and students; at some of Massachusetts' institutions, endowments and other donor support covers nearly half of their operating budgets. These dollars are at work today – taxing them will quickly diminish some of the Commonwealth's strongest institutions, immediately diverting resources away from programs that serve students and undermining the core missions of teaching and research.

- **Taxing such a small class of tax-exempt institutions is <u>unconstitutional</u>**. Imposing a tax on a small number of tax-exempt institutions (in this case, only 12) by arbitrarily singling out a specific sub-class is unconstitutional. H.2931 lacks any semblance of a link between the amount of the tax and the privilege of operating an institution of higher education in the state, and the bill certainly would face equal protection challenges in court, leading to lengthy and costly litigation. Further, it is striking that this proposal is seeking to ask twelve non-profit, charitable institutions to pay an amount that is almost equal to 80 percent of total FY21 corporate excise tax collection from for-profit businesses. As such, H.2931 is constitutionally flawed and a wholly inequitable effort to raise revenue.

- **This proposal would further exacerbate the damage inflicted by a federal tax on college and university endowments**. In 2017, the federal *Tax Cuts and Jobs Act* included a 1.4 percent tax on the net investment income of private colleges and universities with assets greater than $500k per student. This misguided tax on charitable resources has disproportionally impacted colleges and universities. Instead of furthering support for critical priorities like affordability and access, tens of millions of dollars that would have been spent here in Massachusetts has been diverted out of state. More significantly, unlike the federal tax, H.2931 would tax the entire value of a school's endowment, not just income earned. This distinction results in a dramatically higher tax burden for non-profit colleges and universities, and such a tax would prove devasting to critical programs on campus including student financial aid and life-saving medical research.

- **A significant percentage (sometimes as high as 75%) of a college endowment is restricted to specific donor-designated educational activities.** Colleges/universities must adhere to these specified terms, or they risk investigations and the imposition of penalties by the AG's Office. An endowment is not an appropriate source from which to pay the proposed tax and institutions have few other choices of where to derive the funds necessary to pay such a tax with raising tuition, cutting essential programs or considering staff reductions.

- **Donor giving will quickly erode.** Donors have choice in where and whether to give. With this tax eroding charitable gifts and education, donors will stop giving to a college affected by this devastating tax. Imposing this excise tax would make it incredibly difficult for colleges and universities to raise money, because donors will not want to see their investment diverted to pay for a tax that does nothing to support the teaching and research missions of the college. Funds that would have been spent in MA to hire residents, to support critical financial aid, and to purchase MA products/services, will instead go elsewhere or not to education at all. Nonprofits throughout Massachusetts are already experiencing a decline in charitable giving due to the 2017 federal tax reform that disincentivizes charitable giving; this tax would further undermine these institutions. .

- **Proposals like H.2931 weaken the competitiveness of MA universities**. Universities appeal to donors to support research, fund student financial aid, enhance educational programs, create professorships, and renovate facilities. That money is used locally to hire staff, to conduct research and purchase equipment. For most colleges and universities, salaries and financial aid are the two largest expenses, and imposing an annual excise tax will divert crucial resources from where they are needed most. Last year AICU Mass institutions **awarded more than $670M in financial aid to Massachusetts students**. Rather than using their endowments on financial aid, cutting-edge research, and other spending that provides a direct benefit to MA, its students, and businesses, colleges and universities would have to raise money just to pay a tax. **No donors will sign up for that.**

- **Taxing endowments shortchanges students today and tomorrow.** Endowments are dollars dedicated to higher education. Institutions have a legal obligation to safeguard this investment in education by donors so that the needs of the current generation of students are balanced against the needs of the generations of students to come, thus ensuring that all generations will be able to benefit from such donations. By law, they are spent each year and into the future to meet the tax-exempt educational mission of these colleges and universities. Taxing them is inappropriate, short-sighted and will hurt students and damage these foundational institutions in communities across the commonwealth.

For the reasons set forth above, AICU Mass would respectfully request that the Joint Committee on Revenue reject House Bill No. 2931. We stand ready to work with the Committee members and their staff to further explain our concerns with this legislative proposal.

Robert J. McCarron
President and CEO
AICU Mass