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TESTIMONY BEFORE THE TAX REVISION COMMISSION

PUBLIC INPUT ON RESEARCH AGENDA

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Consortium of Universities of the Washington Metropolitan Area

Chairman Williams. Members of the Commission and Staff, good afternoon. I am pleased to be here this afternoon testifying on behalf of the Consortium of Universities of the Washington Metropolitan Area. The Consortium is comprised of fourteen higher education institutions in the Washington, D.C. region including eleven located in the District of Columbia. My testimony today is on behalf of the nine public and private members of the Consortium with main campuses located within the boundaries of the District of Columbia. They are: American University; Catholic University of America; the Corcoran College of Art + Design; Gallaudet University; The George Washington University; Georgetown University; Howard University; Trinity Washington University and the University of the District of Columbia.

I am here primarily to testify about one element of the Commission's Research Agenda—specifically item 20, on page 20 described as "Exempt Properties including PILOTS." Also, as part of my testimony, I will address a letter recently sent to the Commission advocating the implementation of a Payment in Lieu of Tax system in the District of Columbia.

I am familiar with the literature reviewing PILOT programs and their effectiveness because since May of 2012, I have taught a four hour online course as part of the International Town Gown Association Certificate Program. I have now taught the PILOT module twice to a class comprised of university staff and municipal officials from around the country. Because of this work, I have remained current of new developments in non-profit tax activity. I have also reviewed much of the available literature about PILOTS and their policy underpinnings.

With this background, I would recommend that the Commission consider amending its policy paper to exclude topic 20, or, at the very least, that the "initial comments" note that TRC not review in detail the "cost benefit analysis of non-profits' non-tax contributions to the D.C. community" be deleted. Let me give you some context for these two recommendations.

PILOTS are rare and of relatively modest value to most of the municipal governments that have instituted them.

In a 2010 law review article about property tax exemptions and charities, Evelyn Brody[1], a nationally known scholar on this topic, wrote that if politics is all about public perception then the public perception of PILOTS differs sharply from the reality. Specifically, while many PILOT advocates view nonprofits as a great source of revenue, tax exempt property is only a small fraction of total property that can be taxed. In the District of Columbia, for example, the value of land owned by nonprofits that would likely be included in any PILOT program makes up about 3% of the overall value of taxable property as compared to Philadelphia (11%) and Boston (9%).

PILOTS are perceived as more common than they are because, as Ms. Brody has pointed out, they receive extensive press coverage when they are introduced, discussed, and in some cases implemented. In reality, the number of jurisdictions with PILOT programs is dwarfed by the number of jurisdictions in the United States. According to the Lincoln Institute of Land Policy, as of 2010, of the 117 municipalities that have instituted PILOTS, more than 80 were located in the Commonwealth of Massachusetts. Another 4 to 8 could be found in Pennsylvania and Illinois, and virtually all others were scattered throughout the country. To put it into even clearer context, more than 80% of PILOTS are assessed by jurisdictions located in the Northeast; primarily because that region of the country is substantially more reliant on property taxes as its main (and in some instances only) revenue source; many of the nation's most historic and most densely placed nonprofits are located there; and, at least in Massachusetts, cities with PILOT programs have become models for neighboring jurisdictions. It is no accident that an experiment that began in Boston and Cambridge has been replicated in 86 other Massachusetts municipalities. The lesson of Massachusetts, however is not necessarily a model for other jurisdictions.

Even in jurisdictions with a large number of nonprofits on which PILOTS have been assessed, PILOTS account for less than one percent of revenue. In a soon-to-be released paper from the Lincoln Land Institute, it is reported that Boston generated 0.58% of its municipal revenue from the 33 nonprofits making Payments in Lieu of Tax in the most recent calendar year.

Boston has spent years designing its PILOT program because of the great complexity inherent in designing a fair and balanced program. In many jurisdictions with PILOT programs, they are sporadic, subjective and fraught with political implications. They are frequently spawned by land use disputes,

[1] See "All Charities are Property-Tax Exempt, But Some Charities are More Exempt Than Others," Evelyn Brody, *New England Law Review*, Vol 44, June 24, 2010.

neighborhood conflicts or because of fiscal duress. As a result, PILOTS are often haphazard, secretive and calculated in an ad-hoc manner that can prompt years of legal battles, raise limited revenue and generate ill will between municipalities and the nonprofits in their midst. Indeed, at their heart, PILOT programs undercut the social compact that provides nonprofit tax exemption from the government in exchange for the charitable and socially supported mission of the nonprofits. Many of this work would require government funding if the nonprofits did not exist.

PILOTS are particularly ill-suited for the District of Columbia

PILOTS were first considered by local jurisdictions that were given governmental responsibilities but insufficient revenue to pay for those services as the state reserved most taxing authority to itself. It is no surprise that Boston, followed shortly by Cambridge, became the first U.S. municipalities to institute PILOTS in the 1920's because Massachusetts reserved virtually all taxing authority to the state leaving its cities to rely solely on property taxes. Because Boston and Cambridge were home to two of the largest and best know private universities in the country—Harvard and MIT—it is also not surprising that that both institutions pay some of the largest PILOTS in the nation to their home jurisdictions.

The District of Columbia is not similarly predominated by one or two large universities. While the Consortium is proud of its varied and diverse D.C. membership, none of our members are remotely on the size and scale of either Harvard or MIT and certainly don't boast endowments with anything like what those two universities possess. Moreover, none of the District's colleges or universities receive the level of state support received by Harvard, MIT and many other private universities in the U.S.

Massachusetts, along with other states, has a plethora of programs supporting its higher education structure from state-funded student aid programs to capital programs aimed at improving university infrastructure. Alumni in the Massachusetts state legislature assure Boston universities abundant access to state funded research projects and assist these universities as they pursue federal grants.

In contrast, the District of Columbia has only recently debuted a modestly funded financial aid program to enable D.C. students to attend university in the District of Columbia. Another financial aid program--the D.C. TAG program--is federally funded and actually sends $11 of each $12 spent out of state. Moreover, the percentage of TAG dollars received by D.C. institutions has decreased every year since the program began in 1999.

There are no similar programs in D.C. to what other states invest in their public and private higher education systems. Indeed, funding for higher education in

the District has only grown by modest amounts over the past decade even as funding for K-12 has doubled.
Moreover, through its zoning rules, the District limits the ability of D.C. universities to expand their enrollment and therefore generate more revenue. The District's campus plan process caps enrollment—both undergraduate and graduate--at the District's largest universities, including its public university. These caps are unique in the country and have grown more restrictive. Over the past 20 years, the District government has moved to restrict graduate student enrollment--generally an area of greater financial returns to the university. Moreover, the zoning rules permit caps on university employees. Employee caps, like enrollment caps, are unique to the District of Columbia.

The District is also unique in other ways in comparison to other jurisdictions that have imposed PILOTS. Unlike Boston, its tax base is much more diverse. Unlike Providence, it is not facing bankruptcy. And, unlike Cambridge, it is not overshadowed by two large institutions. Rather, the federal government is the dominant employer in the District followed, in aggregate, by universities and hospitals.

In one way, D.C. is not unique. Like virtually all jurisdictions who investigate implementing a PILOT program, D.C. will face a difficult challenge in designing a PILOT program that is fair and equitable. How will the city select nonprofits to participate in the PILOT program? All nonprofits? Some nonprofits? How will the city set the value of the property underlying the PILOTS? Is the city prepared for battles around real property tax assessments that nonprofit organizations could ignore in the past, but would be forced to challenge in the future? Would PILOTS be voluntary and thus inherently unstable as a source of income, or mandatory and possibly the subject of legal challenge?

Given such a modest potential revenue stream and the difficulty posed by designing a fair PILOT program, it seems the better course for the Commission to take would be to focus on evaluating other proposals.

PILOTS could reduce valuable services provided by universities even as they collect limited revenue.

There has never been more collaboration between the D.C. government and local colleges and universities. In February of 2012, the presidents of the nine public and private universities in the District signed a pledge with Mayor Gray to meet sustainability goals jointly set by the Mayor and the universities. Under the pledge rubric, universities have been developing campus-wide sustainability plans to support the District's commitment to green goals.

Last month, the Mayor unveiled a five-year economic development plan representing a partnership between the Office of the Deputy Mayor for Economic Development and the deans of five of the District's university business schools.

It has been estimated that had the plan been bid out to the private sector, its cost would have been $4 million. Instead, with a $400,000 investment, the District was able to use the academic capabilities of some of the brightest minds in business—the five business deans and more than a dozen MBA students who collected, analyzed and produced data for the plan.

Among the sectors identified in the plan as a source for growth in the District was the Eds/Meds sector. Mayor Gray extolled universities as a source of great economic vitality to the city recognizing greater benefits from government-university partnerships than the relatively meager returns that might be expected from PILOTS. Indeed, District government officials have repeatedly reached out to colleges and universities seeking a research-oriented partner in development plans focused on the St. Elizabeths campus in southeast. If the economic development plan and the St. Elizabeths project produces anything close to the 100,000 new jobs that Mayor Gray is anticipating, the academic investment by the District's colleges and universities will generate returns of great magnitude for the District.

Universities, of course, have always contributed "sweat equity" in a variety of ways. Perhaps most well-known are the volunteer hours provided by our students and faculty. Attached for your review to my testimony is a chart the Consortium completed in 2010 documenting the value of student volunteer hours. At almost $20 million, this number far exceeds what the District could collect from a PILOT. However, should a PILOT be instituted, it could have the direct impact of reducing the amount of resources available for schools to use to subsidize such volunteer efforts. On a broader basis, it would damage the relationship between universities and the government that has developed over the years as these partnerships and volunteer opportunities were created.

As it relates to the Research Agenda, the staff recommendation that the "Commission's scope cannot extend to a detailed analysis of the cost benefit analysis of non-profit's non-tax contribution" is not only unfair but it is also wrong. As the Consortium has demonstrated in the attached document, the value of social services is quantifiable. Moreover, just a few weeks ago, the Campus Compact, a national organization focused on social service projects, pairing universities with their home municipalities, initiated a first-in-the-nation joint jurisdiction campus compact. The DC-Maryland campus compact will work together going forward to promote projects pairing members, including six DC universities, to maximize community service. D.C. schools will focus on District-based projects. As part of that work, the schools will be asked to objectively quantify the value of the service, numbers we would be happy to share with the Tax Revision Commission as they become available.

I have one comment on a recommendation that PILOTs be used to subsidize scholarships for the District's Community College. As noted earlier, the District should review its policy decisions behind the funding of its public university. The

District's community college, like any public university, needs a predictable source of funding now and for its future. It would be unfair, however, to transfer that public responsibility to private entities.

Summary

The Lincoln Land Institute makes the following suggestion to municipalities that are considering PILOTS:

> "The most important guideline for localities considering PILOTS is that collaboration is better than conflict—local government officials should work with nonprofits to reach mutually beneficial PILOT agreements instead of relying on heavy-handed pressure tactics to compel nonprofits to make payments." "Payments in Lieu of Taxes by Nonprofits: Which Nonprofits Make PILOTs and Which Localities Receive Them," Adam H. Langley, Daphne A. Kenyon, and Patricia C. Balin, Lincoln Institute of Land Policy, Working Paper, 2012.

We would ask the Tax Revision Commission to consider, as it contemplates its research agenda, the value in allowing the ongoing collaboration between universities and the District of Columbia government to continue to blossom. We believe this is the best approach to serve the District's needs and the universities' missions.

Thank you for this opportunity to testify. I am happy to answer any questions you may have.

SERVICE

IN THE DC REGION

College students, faculty and staff are **dedicated** to service.

600,000+
HOURS OF COMMUNITY SERVICE COMPLETED

100+
EDUCATIONAL ACTIVITIES

100+
COMMUNITY SERVICE PROJECTS

$18.9 MILLION
VALUE OF COMMUNITY SERVICE

Sample Projects

American University	DC Reads
The Catholic University of America	Homeless Outreach
Gallaudet University	Tax Assistance for the Elderly
George Mason University	Alternative Spring Break
Georgetown University	After School Kids Program
The George Washington University	Jumpstart
Howard University	DC Area Writing Project
Marymount University	Special Olympics
Trinity Washington University	Byte Back – Tech Training
University of the District of Columbia	HIV/AIDS Legal Clinic
University of Maryland	Terps for Change

In addition to general community service, the six law schools in the DC region operate 61 clinics serving more than 1,000 low income and underrepresented clients. Additional students are working in other nonprofits to serve low income residents.