

MANS&C

QUARTERLY

Massachusetts Association of Nonprofit Schools and Colleges

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PRESIDENTS' LETTER



At MANS&C's recent meeting in Deerfield, State Senate President Pro Tem Stanley C. Rosenberg had some important advice for MANS&C members in these turbulent economic times.

This veteran legislator's insightful comments un-

derscore an ongoing campaign by MANS&C. We believe that every nonprofit school, college and university in Massachusetts should create and annually update a Community Impact Statement detailing the many contributions we make to the state and to our local communities.

Sen. Rosenberg believes that, in the near future, the financial difficulties the state finds itself in could lead to a reduction in state aid to local communities. Without a doubt, the result will be increased pressure on nonprofit schools and colleges to "pay their fair share" for local services, such as police and fire protection and public works.

With a Community Impact Statement in hand, we can respond immediately and directly, with facts and figures, when the need arises. The MANS&C Web site, www.mansac.org, has an example from Wellesley College, along with information that can guide you in the process of creating your own statement.

For our part, in the coming weeks MANS&C will be conducting our periodic Economic Impact Survey to tally the impressive contributions our members make to the state economy. Members will receive information shortly about how they can take part.

The survey will be an important tool for MANS&C Legislative Counsel John J. Spillane when the new legislative session opens in January. John was instrumental in turning back many troublesome bills this past session but, given the economic times, we expect that many of them will resurface.

To continue our success on Beacon Hill, MANS&C needs your support. If you haven't already sent in your membership form, we urge you to do so today. Now, more than ever, our institutions must speak with a strong, unified voice.

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Senator Urges Members to Document Their Benefits to Local Communities

With more state budget cuts likely in the coming weeks, nonprofit schools and colleges will face increased pressure to make voluntary payments to their communities, State Sen. Stanley C. Rosenberg believes.

"Do yourselves a favor by considering how you participate in the life of the community and how you would document that," he said. "You need to do a better job in communicating what you do."



Sen. Rosenberg

The veteran senator made his remarks at a MANS&C meeting on Oct. 21 at the Deerfield Inn. The meeting was the first of several regional sessions that will be held around the state during this school year for the benefit of MANS&C members.

Rosenberg advised MANS&C members to negotiate if their local communities raise the issue of

payments in lieu of taxes.

"Everybody recognizes the indirect benefits you provide," he said. "The problem is that [the community] is talking about things like roads, police and fire protection. Find ways of negotiating things that work for you in the community.

"It doesn't have to be at some exorbitant level," Rosenberg added. "Find your own path."

The senator urged members to take action before the relationship becomes adversarial and towns file Home Rule petitions in the legislature to get what they want.

"These petitions almost always die in the legislature," he said, "but they almost always result in voluntary payments by the school to the community." He advised members to "keep it out of the legislature."

"You need to do a better job in communicating what you do."

Speaking before the Nov. 4 election, Rosenberg expressed his concerns about Ballot Question 1, which went on to be defeated by voters. The measure would have phased out the state income tax and if passed, he said, would have led to "dynamic and dramatic questions on the tax-exempt status of all nonprofit institutions, including educational institutions."

Sen. Rosenberg cont. page 2

Rosenberg is a Democrat who lives in Amherst and represents 24 towns in the Hampshire and Franklin District.

He is a member of the Joint Committee on Higher Education and maintains a leadership role in legislation involving education, the environment, health care and human services.

In 2004, Rosenberg was named co-chair of the Senate's Task Force on Public Higher Education, which was charged with outlining a comprehensive strategy to address shortfalls in the state's higher education system.

Its report laid the groundwork for linking public higher education with the creation of high-tech jobs.

Making Your Point with Your State Legislator

Rosenberg offered the following tips to MANS&C members:

- **Make sure your information is accurate**, if you have a specific concern.
- **Visit them at the State House.** All legislators have office hours in their districts but spend most of their time at the State House.
- **Develop a relationship with their staff.**
- **Say it in your own words and explain how it will affect you.**

A postcard campaign is slightly less effective and a petition with numerous signatures is the least effective way to get your point across.

Legislative Report

With the current session drawing to a close, MANS&C is pleased to report that state legislators have failed to take action on several more bills that would have placed financial burdens on our members or eroded our Dover Amendment rights.

Thanks to the efforts of MANS&C Legislative Counsel John J. Spillane, the following bills were either sent to study or no further action was taken on them:



John J. Spillane

- **Senate Bill 151** – Strengthened the site plan review powers of local planning boards.
- **Senate Bill 1781** – Gave communities the right of first refusal when schools and colleges want to sell any tax-exempt property or convert it to residential, industrial or commercial use.
- **Senate Bill 1412** – Required schools and colleges to paint the interiors of all student housing with fire-resistant paint manufactured in Massachusetts within one year of the law's passage.
- **Senate Bill 1705** – Provided for the taxation of college textbooks.
- **Senate Bill 2657** – Mandated public disclosure, under the Massachusetts public records law, of all reports generated by campus police at colleges.
- **House Bill 590** – Required public and private schools to provide asthma screening for students.
- **House Bill 2300** – Required seat belts on school buses purchased in the future.

Another bill of interest to nonprofit schools and colleges, **House Bill 4811 or Jessica's Law**, was approved and signed by the governor. This measure imposes mandatory minimum prison sentences for six new crimes of rape or sexual abuse of a child. The new crimes include mandatory 10-year prison sentences.

It also defines rape as when a weapon is used; a child is kidnapped, drugged or forced to appear in child pornography; or when the perpetrator is in a position of authority, including teachers, clergy, coaches and doctors.

Senator May Be Backing Off from Threats to College Endowments

A leading critic of low spending from endowments, Sen. Charles E. Grassley of Iowa, appears to be softening his stand.

The Senate Finance Committee member had been threatening legislation requiring colleges and universities with endowments exceeding \$500 million to spend at least 5 percent of their endowments annually. In a recent statement, however, Grassley instead asked federal agencies to develop a Form 990 for colleges and universities that would include information about student populations or costs.

The senator delivered his remarks on Sept. 8 at a roundtable entitled "Maximizing the Use of Endowment Funds and Making Higher Education More Affordable." The following excerpts are from his statement:

.... In recent weeks, college campuses once again became overrun with students, both new and returning. Many of the students, and their families, are weighed down with the accompanying bills for tuition, room, board and other miscellaneous fees. The Congressional Research Service reports that, on the basis of mean household income of a household in the bottom fifth of the population, the price of college in 2005 was over 70 percent of the household's income. While some students received grants and scholarships, the majority were required to take out loans to finance their education.

CRS states that, according to the College Board's 2007 Trends in Aid report, private loans grew by 989 percent while private grants grew only by 206 percent in the past decade. NACUBO's [The National Association of College and University Business Officers] 2007 endowment survey of 785 institutions indicated a one-year average rate of return of 17.2 percent for endowments while the average annual calculated spending rate from these endowments was 4.6 percent in fiscal year 2007. This rate of return is admirable, given the sluggish economy. It will be interesting to see if this trend continues when the new numbers come out this fall.

Costly Benefits

The majority, if not all, of the colleges and universities participating in NACUBO's survey are tax exempt – either public, government institutions, or private, not-for-profit institutions. These institutions do not pay taxes on their net operating income or on the investment income earned within their endowment funds. These subsidies alone cost taxpayers billions of dollars. These institutions are also able to raise monies by issuing tax-exempt bonds and by soliciting tax deductible contributions. Students attending these institutions, and their families, are also

eligible for deductions and various tax credits against their income tax liabilities. The Joint Committee on Taxation estimates, for fiscal year 2007, the cost of these tax benefits and incentives for individuals only to be over \$17 billion . . .

In addition to these tax benefits, many of these institutions are eligible for and receive numerous federal grants. Given the impressive investment returns of college endowment funds, even in years of economic downturn and as tuition has steadily increased, Congress would be remiss if it didn't question what benefits tax-exempt colleges and universities provide in return for all of the federal benefits they receive.

Since I believe that endowment funds are comparable to private foundations, I would like to provide a brief history of the payout requirement for private foundations, as reported in a 2005 Joint Committee on Taxation publication that chronicles the history of tax exemption for charities and other organizations.

Private Foundations

First, the Revenue Act of 1950 stripped certain organizations of their tax-exempt status for "unreasonable income accumulations." This was followed by the 1954 House "Reece Committee" report which found that foundations were rapidly increasing in number, and that the increase was due to the tax-favored status of foundations and not charitable intent and therefore recommended a mandatory distribution of income.

In the 1960s, Congressman Wright Patman issued a series of reports, one of which included recommendations to limit foundation life to 25 years and to apply the corporate accumulated earnings tax to certain foundations. Then, in 1965, in response to requests by the Ways and Means and Senate Finance Committees, the Treasury Department issued a report identifying six major problems with private foundations, one of which was the delay in benefit to charity. Treasury's solution to the "delay in benefit" issue was to recommend a mandatory payout. Thus, the Tax Reform Act of 1969 imposed a payout requirement on private foundations as well as several other new excise taxes, including

the tax on net investment income.

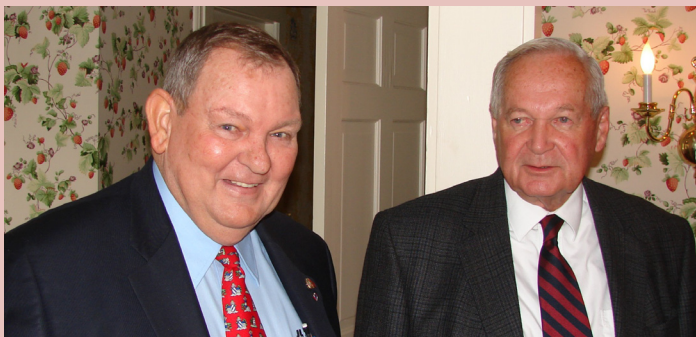
The questions Congress faced regarding private foundations are the same as those we now face regarding college endowment funds. If an institution could educate all of its undergraduate students, regardless of need, free of charge with a payout of just 1 percent of its assets, is its endowment an unreasonable accumulation of taxpayer-subsidized funds? The question was raised by the Filer Commission in 1977 and resulted in a recommended payout for college endowments. The Joint Committee on Taxation in 1987 also recommended an excise tax on all investment income of all tax exempt organizations, including college endowments.

Differences

Endowments are very different from private foundations in one significant way. Unlike private foundations which are funded by very few contributions, and in many cases only one, endowments are funded through continuous, aggressive fundraising by colleges and universities. Thus, while a private foundation grows its assets through investment income, an endowment grows through investment income and through additional contributions.

This raises questions that are not applicable to private foundations. Do colleges and universities have fundraising plans with specific goals for not only raising money but also for spending it? To what extent is fundraising for student aid included in these goals? If the endowment per student at an institution is greater than or equal to the price of tuition, room, board and all fees per student, should contributions to such an endowment still be tax-deductible to the donor? If the endowment per student includes graduate students, shouldn't endowment spending include assistance for graduate students so that future teachers, social workers and health care professionals can work in underserved areas without worrying about their debt load? . . .

Western Mass. Members Meet at the Deerfield Inn



MANS&C board members William Conley of the College of the Holy Cross, left, and William Phinney of Dexter and Southfield Schools



MANS&C Co-Presidents Bruce T. Amsbary, left, and Julaine McInnis talk with Sen. Rosenberg



Left to right are Jan Kari of Deerfield Academy; Leslie Brown of Stoneleigh-Burnham School; Maggie Streibel and Jean Simanski, both of Northfield Mount Hermon School

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SAVE THE DATE!

State Sen. Harriette L. Chandler of Worcester will be the guest speaker at the Jan. 21 MANS&C meeting at the College of the Holy Cross. For details, go to the MANS&C Web site, www.mansac.org.

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