

**Interested Party Testimony**  
**Sub. SB 135: Regards state institutions of higher education and free speech**  
**Ohio House of Representatives| Higher Education & Career Readiness Committee**  
**Columbus, OH | Dec. 7, 2021**

Chair Lanese, Vice Chair Young, Ranking Member Ingram, and Members of the Committee:

**Introduction**

Ohio Jewish Communities is the statewide government advocacy, public affairs, and community outreach voice of Ohio's eight Jewish federations and their some 150 member agencies providing cradle-to-grave social services and meeting vital human needs of Ohioans of all faiths – and of none – each day, all across Ohio. We submit this testimony on their behalf.

**Background and Statement of Interest**

Ohio's Jewish federations and foundations, as well as many of our nonprofit agencies, maintain endowment funds to help support their long-term community giving and also special support for unique needs beyond what current fundraising is capable of. Of course they work hard to honor the intent of donors both when donors can actively partner and participate with them and after they are no longer able to do so.

As passed by the Senate, Sub SB 135 recognizes that and sustains those efforts by community nonprofits. Changes contemplated would potentially have a chilling effect both on donations as well as on our nonprofit agencies ability to respond in real-time to crises.

**Private rights of action are not the best method of enforcing donor intent**

Ohio's Attorney General already has the ability to investigate, and to prosecute, violations of a donor agreement. A potential private right of action, even by well-meaning relatives, friends, and coworkers will cause both donors and nonprofits to second guess contributions.

Donors want to know that their contributions will meaningfully impact the cause of the nonprofit and those it serves. Nonprofits as well are focused on their mission, and are hesitant to take on even large gifts that would potentially embroil them in expensive and time-consuming litigation, instead of helping those in need.

Donors will presumably continue to give generously but they will do so in ways that minimizes risk to their charitable gift.

**Arbitrary spending limits threatens nimble crisis response**

Even if donors would continue to give to endowments, and presuming that nonprofits can find ways to continue utilizing them, the potential changes that would create a "safe harbor" on spending is counterintuitive.

Nonprofits have incentive to keep spending prudent; that increases the amount they are reinvesting and increases their endowment or fund total. But nonprofits also exist for a higher purpose.

We have seen in the pandemic how our nonprofit agencies pivoted nimbly to respond – and serve – in crisis after crisis. Sometimes that required dipping into endowments deeply, even at times, into principal.

A recent article details some of what Jewish federations across the United States were doing at the height of the pandemic<sup>1</sup>. In nearby Chicago, they report pulling \$10 million at one time from their endowment<sup>2</sup>. New York’s UJA-Federation reached into their endowment three separate times, for a total of \$50 million<sup>3</sup>. Even a much smaller community, Minneapolis, pulled from its comparatively smaller endowment, taking \$4 million from its \$16 million endowment<sup>4</sup>. That may seem like a highly imprudent twenty-five percent, but the pandemic, and its effect on the local community, made it essential. Those kinds of immediate, large spend downs would be impossible but for prudent investing and careful spending over many years.

But they were also necessary. And, our local community federations here in Ohio were making the same kinds of choices.

This was their moment to step up, and they did.

### **Service to the community is key**

Our communities stepped up in every area: childcare, K-12 education, needs of college students, housing and rental assistance, food and grocery deliveries, senior services, and helping those with disabilities. They worked on digital equity and broadband access, on physical safety and security, and on helping long-time clients as well as those suddenly in need.

They are looking to serve their community. Please let them continue to do so.

The potential revisions to SB 135 would make such service all that much harder, and that would be a true tragedy.

I’m available to answer questions. As well, we, our federations and foundations, along with our partners at Philanthropy Ohio and elsewhere are ready to work with you on this.

Thank you for the opportunity to speak to you today.

Howie Beigelman  
*Executive Director*

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<sup>1</sup> <https://jewishinsider.com/2021/01/jewish-federations-covid-endowment/>

<sup>2</sup> Ibid

<sup>3</sup> Ibid & <https://www.philanthropy.com/article/how-a-big-nonprofit-decided-to-keep-tapping-into-its-endowment-in-the-pandemic>

<sup>4</sup> Ibid