

*The Coming Showdown Over University Endowments:
Enlisting the Donors*

Sarah E. Waldeck

The presidents of America's most prosperous colleges and universities are likely looking ahead with a mixture of delight and dread. By financial measures, educational institutions have never done better. In 2007, 76 universities had endowments in excess of one billion dollars, up from 62 in 2006.¹ Schools with billion dollar endowments saw record returns on their investments, with an average rate of 21.3 percent.² More than 25 institutions are in the midst of capital campaigns that seek to raise a billion dollars or more.³ At these fortunate and elite universities, the coffers are substantial and still growing.

At the same time, however, many observers are deeply troubled by the state of higher education in the United States. Tuition has outpaced inflation for more than thirty years; if the prices of milk and gasoline had risen at a similar rate, today a gallon of milk would cost \$15, and a gallon of gas would cost \$9.15.⁴ In 2007, private universities charged an average of \$32,000 each year in tuition and other fees, with some schools charging almost \$50,000.⁵ Even as tuition has risen across all of higher education, a pronounced disparity in institutional wealth has emerged. This rich-poor gap affects everything from the quality of classroom instruction to the infrastructure and divides college students into the haves and have-nots. The discordance between massive endowments and the general state of higher education has caught the attention of the Senate Finance Committee, which held hearings on the matter in 2006 and 2007.

The Committee is interested in endowment spending policies because colleges and universities receive enormous subsidies from the federal government. Some of these

¹ NAT'L ASS'N OF COLLEGE & U. BUS. OFFICERS, 2007 NACUBO ENDOWMENT STUDY 54-56, available (for a fee) at <http://www.nacubo.org> (also on file with author) (hereinafter 2007 ENDOWMENT STUDY). This article uses the terms "university," "college," and "school" interchangeably.

² *Id.* at 4.

³ Brennen Jensen, *Three Universities Seek \$3 Billion or More*, CHRON. OF PHILANTHROPY, Oct. 12, 2006, at B18.

⁴ Jane Norman, *Grassley to colleges: Use riches for tuition*, DES MOINES REG., Jan. 21, 2008 (quoting Senator Charles Grassley, the ranking Republican on the Senate Finance Committee).

⁵ COLLEGE BOARD, TRENDS IN COLLEGE PRICING 2 (2007), available at http://www.collegeboard.com/prod_downloads/about/news_info/trends/trends_pricing_07.pdf.

subsidies are based on a school's organizational form under section 501(c)(3) of the Internal Revenue Code.⁶ These include the tax-free status of income earned from activities related to a university's educational function,⁷ the tax-free status of investment income,⁸ the right to issue tax-exempt bonds to finance activities related to the educational function,⁹ and the ability of donors to deduct gifts to universities made during life or at death.¹⁰ The cumulative value of these tax subsidies is beyond substantial. In 2007, for example, the exemption from a tax on endowment investment cost the Treasury as much as \$18 billion.¹¹ In 2008, the deductibility of gifts to educational institutions will cost over \$4.26 billion just in forgone income taxes.¹²

There are also a host of other tax subsidies that benefit colleges and universities by helping create demand for their services.¹³ Among these are the HOPE tax credit (projected to cost the Treasury \$3 billion in 2008),¹⁴ the Lifetime Learning tax credit (\$2 billion),¹⁵ the tax treatment of education individual retirement accounts (\$140 million),¹⁶ state prepaid tuition plans (\$710 million),¹⁷ employer-provided educational assistance (\$660 million),¹⁸ the deductibility of student loan interest (\$820 million),¹⁹ and the tax-

⁶ Evelyn Brody, *Charities in Tax Reform: Threats to Subsidies Overt and Covert*, 66 TENN. L. REV. 687,697 (1999) (outlining categories of charitable subsidies).

⁷ I.R.C. sec. 501 (2007).

⁸ *Id.*

⁹ I.R.C. sec. 103 (2007). The requirements for qualified 503(c)(3) bonds are in section 145.

¹⁰ I.R.C. sec. 170 (2007) (income tax); I.R.C. sec. 2055 (2007) (estate tax).

¹¹ Memorandum from Jane G. Gravelle, Senior Specialist in Economic Policy, Government and Finance Division, to Senators Max Baucus and Charles Grassley, Senate Finance Committee (Aug. 20, 2007) [hereinafter Gravelle Memorandum].

¹² EXECUTIVE OFFICE OF THE PRESIDENT OF THE UNITED STATES, 2007 TAX EXPENDITURE BUDGET 288.

¹³ Brody, *supra* note 6, at 695.

¹⁴ 2007 TAX EXPENDITURE BUDGET, *supra* note 12, at 288. HOPE allows certain taxpayers a 100 percent credit for the first \$1000 of tuition and fees, and a 50 percent credit for the next \$1000 in tuition and fees. HOPE only covers tuition and fees paid during the first two years of a student's post-secondary education. *Id.* at 311.

¹⁵ *Id.* at 288. The Lifetime Learning Credit allows certain taxpayers a credit for 20 percent of a student's tuition and fees, up to a maximum per return of \$2000. The credit applies to both undergraduate and graduate education. *Id.* at 311.

¹⁶ *Id.* at 288. Investment income earned by education IRAs is not taxed when earned. The income is also tax-exempt when withdrawn to pay for a student's tuition and fees. *Id.* at 311-12.

¹⁷ *Id.* at 288. Investment income earned by prepaid state tuition plans is not taxed when earned, and is tax-exempt when withdrawn to pay for qualified expenses. *Id.* at 312.

¹⁸ *Id.* at 288. Employer-provided educational assistance is excluded from gross income even though the employer's costs are a deductible business expense. *Id.* at 312.

¹⁹ *Id.* at 288. During the first five years in which interest payments are required, taxpayers are entitled to a \$2500 above-the-line deduction on interest paid for an educational loan. *Id.* at 312.

free discharge of student loan indebtedness (\$20 million).²⁰ All of these tax expenditures may lead a student to conclude that she can afford to attend college, or that she can afford to enroll at a more expensive institution than she otherwise could. Some have even suggested that universities directly capture the benefit of these demand-generating tax expenditures by raising their tuition to account for the subsidy available to the prospective student.²¹

The Senate Finance Committee is not alone in questioning whether the public is receiving adequate benefit in exchange for the favorable tax treatment granted to universities and colleges. Articles about large endowments and related issues have become commonplace in industry publications like *The Chronicle of Higher Education* and in the popular press. Between January and March 2008, for instance, *The New York Times* published almost 15 pieces that discussed endowments, college tuition, or the growing wealth gap between institutions of higher education. All this attention has created tremendous pressure for wealthy universities to increase endowment spending. Thus far these schools have responded by defending their spending policies or by taking modest measures designed to defuse criticism.

Despite the lofty rhetoric and inflamed passions, the public debate has lacked detailed analysis of three key issues. First, university critics agree that any Congressional action should affect only the wealthiest institutions. But there has been no studied analysis of which institutions have excessively large endowments. Second, critics have not carefully explained the effects of mega-endowments, both on the institutions who hold them and on higher education in general. Instead, the usual argument is “some universities have large reserves, ergo they should spend more.” The debate has also lacked thorough evaluation of the arguments that universities raise in defense of their endowment policies. Third and finally, while critics have floated multiple proposals for Congressional action, there has been no careful evaluation of the rationale for and effects of these proposals.

²⁰ *Id.* at 288. Certain professionals who work in underserved areas and thus receive a discharge from their student loans may not have to recognize the discharge as income. *Id.* at 312.

²¹ Brody, *supra* note 6, at 710; See *Higher Education Tax Exemptions and Incentives: Hearing Before the Senate Finance Committee*, Dec. 5, 2006 (statement of James Duderstat (President Emeritus of the University of Michigan and member of the Spellings Commission on the Future of Higher Education)).

This essay injects academic analysis into the public debate over university endowments. Part I analyzes absolute endowment values, the amount of endowment per student, and expense-endowment ratios at 60 private universities. It concludes that a small number of schools have an excess endowment, and then suggests a convenient proxy for determining when an endowment is large enough to warrant less-preferential tax treatment. Part II explains the effect that large endowments have at their home institutions and throughout higher education, with a special emphasis on tuition. Part III critiques the university defense of endowments and offers alternative explanations why institutions accumulate excessive endowments, ones that are rooted in cognitive psychology instead of economic theory. Part IV recommends that policymakers change the charitable deduction for gifts to mega-endowment universities in ways that will encourage present spending and direct donors away from gifts that may inadvertently contribute to rising tuition. It also critiques other proposals for Congressional action.

I. Determining Which Endowments Are Too Big

The vast majority of universities are unlike the ones described in the Introduction: that is, they have modest endowments at best. In 2007, 785 schools responded to the annual endowment survey conducted by the National Association of College and University Business Officers (NACUBO). While 76 had endowments of more than one billion dollars, 709 did not.²² The average endowment for all participating schools was almost \$524 million; the median endowment was just over \$91 million.²³ Although there is great wealth at the top, it drops off quickly.

While Congress is acutely interested in endowment policies at places like Harvard (with an endowment of \$34 billion), no one would suggest that institutions like Vermont Law School (with an endowment of \$12.9 million) or SUNY Buffalo (\$16.9 million) are hoarding their assets.²⁴ Indeed, there is widespread consensus that any new tax policy

²² 2007 NACUBO ENDOWMENT STUDY, *supra* note 1, at 54-80.

²³ *Id.* at 79.

²⁴ See *Higher Education Tax Exemptions and Incentives: Hearing Before the Senate Finance Committee*, Dec. 5, 2006 (statement of Patricia McGuire, President, Trinity Washington University) (discussing management of less-wealthy universities).

should apply only to the nation’s wealthiest universities.²⁵ The difficulty lies in determining what constitutes a super-sized endowment and, therefore, to which schools any new approach should apply. Like Goldilocks, policymakers have three choices for evaluating endowments: absolute size, the expense-endowment ratio, and the amount of endowment per full-time student.. While none can be described as “just right,” the endowment per full-time student is the best alternative.

The first measure—absolute size—is what has dominated in Congressional discussions and media accounts. Commentators frequently invoke \$1 billion as the number that should trigger a change in tax treatment.²⁶ For university critics, this figure undoubtedly has appeal in part because it *sounds* so large and therefore is useful in helping to shock the public conscience. But the absolute size of an endowment is a crude measure of its strength. The primary value of an endowment stems from its ability to subsidize university operations. Because the magnitude of activity is smaller at a liberal arts college, it needs fewer resources than a large research university. In relative terms, \$1 billion buys more at a small institution than at a large one.

The endowment-to-expense ratio acknowledges that the strength of an endowment depends on the extent to which it can pay for institutional activities. Because the ratio compares the endowment to an institution’s actual costs, it is the most sophisticated measure available to policymakers. Some economic research has defined any ratio of more than 2:1 as evidence of an excessive endowment;²⁷ such research has included, but not been limited to, educational institutions. One commentator considering

²⁵ Part IV discusses proposals to revise Form 990, which private universities annually file with the IRS. See *infra* notes 107–110 and accompanying text. Any changes in reporting requirements would apply to all schools, regardless of endowment size. Unlike the other measures discussed in Part IV, a revised Form 990 would not directly affect a university’s endowment spending policies.

²⁶ See e.g. *Offshore Tax Issues, Hearing Before the Senate Finance Committee*, Sept. 26, 2007 (statement of Lynne Munson, Adjunct Fellow, Center for College Affordability; statement of Jane Gravelle, Senior Specialist, Government and Finance Division).

²⁷ John E. Core et al., *Agency problems in excess endowment holdings in not-for-profit firms*, NBER Working Paper (December 2005), at 8. See also Raymond Fisman & R. Glenn Hubbard, *The Role of NonProfit Endowments*, in EDWARD L. GLAESER, *THE GOVERNANCE OF NOT-FOR-PROFITS ORGANIZATIONS* 217, 229 (noting that among arts and educational organizations, the top 10 percent of organizations have a ratio of more than 10:1).

only universities has suggested that, depending on institutional circumstances, an endowment can exceed its ideal size once it surpasses a ratio of 5:1.²⁸

Impressions of institutional wealth change when endowments are compared to institutional costs. The Appendix contains four tables, all of which use 2006 data.²⁹ Table 1 lists, by rank, the private universities with the 60 highest absolute endowment amounts.³⁰ Harvard is in first place with \$28.9 billion; Grinnell is in twenty-fifth place with \$1.47 billion. Table 2 ranks the same private universities by their endowment-expense ratios. Grinnell leaps to first place (with a ratio of 15:1), while Harvard falls to number nine (with a ratio of 9.6:1). Even more important, some colleges (for example, Bowdoin and Hamilton) have endowments that are significantly less than \$1 billion (\$673 million and \$587 million, respectively), but endowment-expense ratios that exceed 5:1. On the flip side, some institutions (for example, the University of Pennsylvania and Cornell) have endowments well over \$1 billion (\$5.3 billion and \$4.3 billion, respectively), but endowment-expense ratios below 2:1. If absolute endowment value determined whether an institution was subject to new tax policies, some extraordinarily prosperous schools would remain untouched, while significantly poorer ones would be affected.

The foregoing suggests that policymakers should rely on endowment-expense ratios to determine which universities warrant their attention. Unfortunately key disadvantages make the ratio an unpractical choice. First, an institution adjusts its operating budget in response to changes in its endowment. Such adjustments can significantly change the ratio from year-to-year,³¹ making it a moving target. Second, universities presumably will prefer to remain immune to any Congressional action. As such, they will be eager to lower their ratios. One way to accomplish this would be to

²⁸ Mark B. Schneider, *Endowments Can Become Too Much of a Good Thing*, THE CHRON. OF HIGHER EDUC., June 2, 2006, at B18.

²⁹ Expense information is not yet available for 2007, hence the use of 2006 data. The endowment information is taken from the 2006 NACUBO Endowment Study. NAT'L ASS'N OF COLLEGE & U. BUS. OFFICERS, 2006 NACUBO ENDOWMENT STUDY 61-90, available (for a fee) at <http://www.nacubo.org> (also on file with author). The expense data comes from Line 17 of an institution's 2006 Form 990, as reported in *The Chronicle of Education. Compensation of Presidents of Private Institutions*, THE CHRON. OF HIGHER EDUC., Nov. 16, 2007, at B21-B34.

³⁰ In these tables, the "endowment" consists of "the total of all [funds] held for the institution's long-term benefit." It does not include operating funds, plant fund assets, pension funds, working capital or pledges. See 2007 NACUBO ENDOWMENT STUDY, *supra* note 1, at 1099 (defining endowment).

³¹ Schneider, *supra* note 28.

spend more—exactly the behavior Congress is seeking to encourage. But one can also imagine a series of Enron-like maneuvers designed to manipulate the ratio.

This leaves policymakers with the measure of endowment per full-time student. Like the endowment-expense ratio, this measure acknowledges that some schools are more expensive to run than others. Rather than use actual costs, however, the measure relies on the number of full-time students as a rough proxy for institutional expenses.³² Table 3 (which ranks institutions by endowment per full-time student) shows that while the measure is not as sensitive as the endowment-expense ratio, it nonetheless provides a sense of relative wealth. In Table 3, for instance, Grinnell is ranked number seven, as compared to 25 when ranked by absolute wealth. Moreover, while the amount of endowment per full-time student is less precise than the endowment-expense ratio, it is also more difficult to manipulate and less likely to vary significantly from year to year.

There has been almost no discussion of what amount of endowment per full-time student is indicative of an excessive endowment.³³ Table 4, which lists expense-endowment ratios and the amount of endowment per full-time student, provides some insight. Recall that some economic researchers have suggested that an expense-endowment ratio of more than 2:1 is excessive; others have suggested that ratios should not exceed 5:1.³⁴ Table 4 suggests that schools with endowments per full-time student of \$300,000 or more will have expense-endowment ratios that are in the range of at least 5:1. Thus an endowment per full-time student of at least \$300,000 suggests that a university could spend more without jeopardizing its long-term prospects. These are the universities with endowments that warrant Congressional attention and a potential change in tax treatment.

This \$300,000 trigger is by no means perfect. Table 4 shows that some institutions with endowment-expense ratios of less than 5:1 have endowments per full-time student in excess of the \$300,000. All but one of these institutions, however, is

³² This measure includes both undergraduate and graduate students. *Id.* at 43.

³³ One commentator suggests that an endowment of \$500,000 per student is an appropriate trigger, but no evidence suggests that the relative merits of this number were carefully considered. See Herbert A. Allen, *Gold in the Ivory Tower*, N.Y. TIMES, December 21, 2007 (suggesting figure in op-ed about the advantages of taxing endowment investment income.)

³⁴ See *supra* notes 27-28 and accompanying text.

above 2:1.³⁵ On the flip side, some institutions with endowment-expense ratios that are tantalizing close to 5:1 (for example, Lafayette at 4:9:1) will be immune from any changes in tax policy. For the reasons already discussed, however, the use of endowment-expense ratios is impractical. The amount of endowment per full-time student is therefore the best measure available to policymakers.

II. The Concerns About Super-Sized Endowments

As suggested, the sheer magnitude of \$1 billion probably would have led to questions about whether the wealthiest universities still need the tax subsidies noted in the Introduction, as well as whether the public receives adequate benefit in exchange for those subsidies. But other factors are also fueling concerns about mega-endowments, including rising tuition, a growing rich-poor gap between institutions, and the inefficiencies that mega-endowment may create at the institutions which hold them. This Part discusses these concerns.

First and foremost, it is the combination of endowment values and the ever-rising costs of tuition that have made endowment spending policies the focus of Congressional attention.³⁶ Average tuition increases have been outpacing inflation for at least 30 years.³⁷ In academic year 2006-2007, the average published tuition and fees at four-year private colleges and universities were up 6.3 percent (for an average total charge of \$32,307). At four-year public colleges and universities, costs were up by 6.6 percent for in-state students (for an average total charge of \$13,589) and 5.5 percent for out-of-state students (for an average total charge of \$24,044).³⁸ Net tuition—that is, what students actually pay after grant aid and tax benefits—has grown at about the same rates.³⁹ As a general matter, mega-endowment universities and colleges tend to increase tuition at rates

³⁵ The exception is the California Institute of Technology, which has an expense-endowment ratio of .75:1 and an endowment per student of \$729,871. The reason for this anomaly is unclear, but Cal Tech is a dramatic outlier.

³⁶ Members of the Senate Finance Committee began to express interest when Grinnell announced a 12.6% tuition increase for the 2007-2008 academic year. Norman, *supra* note 4.

³⁷ COLLEGE BOARD, TRENDS IN COLLEGE PRICING 2 (2007), available at http://www.collegeboard.com/prod_downloads/about/news_info/trends/trends_pricing_07.pdf (College Board has only been collecting data for about 30 years).

³⁸ *Id.*

³⁹ *Id.*

consistent with other institutions, although there are exceptions.⁴⁰ Critics of endowment spending policies want universities to use more of their endowments to help offset the cost of an education.⁴¹ One study of 20 universities and 10 liberal arts colleges suggests that small increases in endowment distribution could “mitigate or eliminate tuition growth and substantially expand student aid.”⁴²

There is also concern that mega-endowments affect tuition at less-prosperous schools. This is because the spending at mega-endowment universities affects the priorities of less-wealthy institutions. Rich colleges are able to spend ample funds on classroom instruction, and still build campus amenities “like fitness centers and wireless-Internet hot spots.”⁴³ These amenities raise students expectations and may be particularly important to eighteen-year-olds who are deciding where to go to college. Less-wealthy institutions are thus pressured to add similar amenities by diverting funds from other purposes, including those more directly related to education.⁴⁴ As a general matter, the gap in instructional spending between rich and poor institutions continues to grow. In the past 10 years, average instructional spending at institutions in the top quartile of wealth has grown by 37 percent; while spending by those schools in the bottom quartile has grown by only 6 percent.⁴⁵ At the same time, the amount of debt carried by poorer institutions continues to increase.⁴⁶

There is a related concern about a pronounced rich-poor gap between mega-endowment universities and their less-wealthy counterparts. All universities and colleges compete within the marketplace for higher education. Vast resources make it possible for mega-endowment institutions to “buy” the most desirable faculty and students. For faculty, these institutions can offer total compensation packages that other schools cannot begin to rival. For students, these universities can offer a campus experience that most find irresistible—prominent professors, state-of-the-art facilities, ample beyond-the-

⁴⁰ See *infra* notes 89 and 96 and accompanying text.

⁴¹ See e.g. *Offshore Tax Issues, Hearing Before the Senate Finance Committee*, Sept. 26, 2007 (statement of Lynne Munson, Adjunct Fellow, Center for College Affordability).

⁴² Gravelle Memorandum, *supra* note 11.

⁴³ Jeffrey Selingo & Jeffrey Brainard, *The Rich-Poor Gap Widens for Colleges and Students*, THE CHRON. OF HIGHER EDUC. April 7, 2006.

⁴⁴ *Id.* (quoting William G. Bowen, former president of Princeton University and president of the Andrew W. Mellon Foundation).

⁴⁵ *Id.*

⁴⁶ *Id.*

classroom opportunities, and amenities galore. The end result is an extraordinary concentration of talent, but society-at-large might be better off if some of this talent were more dispersed throughout the marketplace. Moreover, the most sought-after professors often begin at less-wealthy universities and are “plucked” by more-wealthy ones once their talent becomes widely apparent. This means that the wealthier institution is able to reap the return on the investment made by its poorer counterpart.⁴⁷

Beyond concerns about tuition and the rich-poor gap, mega-endowments may also have disadvantages for the institutions that hold them. A large-scale study of non-profits has suggested that organizations with excess endowments are inefficient, such that the percentage of program expenditures for the charitable good tends to be lower than at other organizations, while expenditures for fundraising and other administrative expenses tend to be higher.⁴⁸ Excess endowments also increase the spending discretion of the non-profit’s managers.⁴⁹ One commentator has worried that this will lead to “mission drift,” because more key decisions will be made by a powerful few instead of being painstakingly hammered out by faculty, as is the tradition at most universities with long histories.⁵⁰ Critics of universities argue that all of these concerns—inefficiency, the effects of a wealth gap, and, especially, rising tuition—warrant a change in the tax treatment of the nation’s most prosperous universities.

III. In Defense (And Rebuttal) of Mega-Endowments

Universities have responded to this heightened scrutiny by emphasizing four factors: (1) the importance of intergenerational equity; (2) the need for predictable and stable sources of funding; (3) the donor restrictions attached to the many individual funds that, together, comprise the endowment; and (4) the good use to which endowment funds are already put, particularly with respect to student financial aid. As an initial matter, this last argument is almost beside the point. The issue is not whether endowment spending furthers the public good. The question is whether, in the aggregate, increased endowment

⁴⁷ See e.g., Patrick E. Hobbs, *Guidelines for Quality Legal Education Around the World*, 43 S. TEX. L. REV. 727, 729 (2002) (noting frustration of having most successful faculty members hired away by other institutions).

⁴⁸ Core et al., *supra* note 27, at 30.

⁴⁹ *Id.* at 7.

⁵⁰ Schneider, *supra* note 28.

spending would do even *more* good. The other three arguments most often advanced in defense of mega-endowments, however, deserve more extended discussion.

A. Intergenerational Equity

When an institution strives for intergenerational equity, it embraces the principle that “future students should be able to benefit from an endowment to the same degree that current students do.”⁵¹ As a formal matter, endowment managers assume that the university will endure forever and adopt a spending rate that ensures the endowment can support the same activities in 2058 as it does in 2008. This means that endowment managers have to reinvest a portion of investment earnings, so that the endowment can support the same activities even after their costs have risen over time. Under this approach, the endowment can support additional activities only after it is enlarged by additional capital gifts⁵². More liberal spending policies would compromise the interests of future students for the benefit of current students, in direct contradiction to the principle of intergenerational equity.

Most Americans would subscribe to at least limited-term intergenerational equity; that is, we care about the interests of our children and grandchildren as much as we care about our own. The problem, as Professor Henry Hansmann has identified through some simple economic modeling, is that intergenerational equity “provide[s] very doubtful support for current endowment policies.”⁵³ The economy is likely to grow in the future just as it has in the past. Thus future students are likely to be more prosperous than today’s students, just as today’s students are more prosperous than yesterday’s.⁵⁴ It is also likely that the alumni of tomorrow will contribute to endowments, just as the alumni of today. Because future gifts are likely, universities should take them into account as it plans for the financial horizon.⁵⁵ In addition, saving for the future assumes that a university’s expenditures will yield the same or increased productivity over time. But

⁵¹ See e.g. *Offshore Tax Issues, Hearing Before the Senate Finance Committee*, Sept. 26, 2007 (joint statement of the American Council of Education, National Association of Independent Colleges and Universities, Association of American Universities and the National Association of State Universities and Land-Grant Colleges) [hereinafter *University Joint Statement*].

⁵² James Tobin, *What is Permanent Endowment Income*, 64 AM. ECON. REV. 427, 427 (1974).

⁵³ Henry Hansmann, *Why Do Universities Have Endowments?*, 19 J. LEGAL STUD. 3, 14 (1990).

⁵⁴ *Id.*

⁵⁵ *Id.* at 16.

demand for the institution's services might instead decrease with time, because of increased competition, changes in educational technology, or for a host of other reasons. Such risks justify applying a positive discount rate to future expenditures.⁵⁶ Moreover, because demand for education is elastic—that is, demand varies with quality, quantity or both—efficiency considerations argue against reinvesting investment earnings as the costs of education are rising. If education will be more costly in the future than today, we should not do without now to consume later; that is the equivalent of substituting a more expensive good for a cheaper one.⁵⁷ Finally and most fundamentally, it is not at all clear that endowment savings is the best way for a university to benefit future generations. As Hansmann puts it, “[W]hen a university adds a dollar to its endowment for the purpose of making an intergenerational transfer, it is implicitly making the judgment that the dollar will have a higher rate of return if invested in stocks and bonds than in educating an undergraduate, or doing research in biophysics, or adding books to the library.”⁵⁸

Hansmann's debunking of intergenerational equity as a basis for endowment spending policies was published nearly 20 years ago, in an essay that ended with the counsel that universities consider whether “their policies toward endowment accumulation are reasonable in light of the ends to which their institutions are dedicated.”⁵⁹ Since then, his critique of intergenerational equity and endowment policies has been repeated in articles that have appeared in *The Chronicle of Higher Education*, a staple publication for university administrators.⁶⁰ To my knowledge, not a single university has attempted to explain why its endowment policies are a sound means of furthering intergenerational equity. Instead, they announce intergenerational equity as a goal and then state the spending rule they have adopted in light of it:⁶¹ endowments must spend less in the present, so that the amount earned by the endowment keeps pace with

⁵⁶ *Id.*

⁵⁷ *Id.* at 17-18.

⁵⁸ Hansmann, *supra* note 53, at 18.

⁵⁹ *Id.* at 40.

⁶⁰ See e.g., Schneider, *supra* note 28; Henry Riggs & Timothy Warner, *Boards Should Reconsider What They Mean by Intergenerational Equity*, THE CHRON. OF HIGHER EDUC., Aug. 5, 2005, at B21; Henry Hansmann, *Bigger is Not Necessarily Better*, THE CHRON. OF HIGHER EDUC., May 28, 2004, at B26.

⁶¹ See e.g., University Joint Statement, *supra* note 51; *Should Colleges Be Required to Spend More of Their Endowments*, THE CHRON. OF HIGHER EDUC., March 14, 2008, at A33 (quoting remarks of Charles Miller, former chairman of the Texas Board of Regents and chairman of the U.S. Department of Education's Commission on the Future of Higher Education); Dana G. Mead & Jeremy M. Jacobs, *Don't Require Colleges to Spend More of Their Endowments*, THE CHRON. OF HIGHER EDUC., Nov. 9, 2007, at B20.

inflation. This is different than explaining why the goal *actually justifies* the spending rule. On the current state of the economic evidence, endowment spending policies do not support intergenerational equity. As such, intergenerational equity is not a reason for allowing universities to continue endowment management as usual.

B. Saving for a Rainy Day

Another common justification for large endowments is that they serve as a predictable and stable source of funding—a hedge against a “rainy day.”⁶² Rain might fall on a university for several reasons, including a decrease in the number of qualified students who can afford tuition; a drop in alumni giving, a downturn in financial markets, cutbacks in government aid, or a sharp increase in costs. Any prudent university will elect to guard against these risks.

But Table 2 in the Appendix suggests that mega-endowment institutions have built far too large an ark. More than half of the institutions in Table 2 have an endowment that could cover their operating budgets for more than three years; those in the upper quartile have more than a six-year reserve; and those in the top 10 percent have more than a ten-year reserve.⁶³ Moreover, an endowment does not include the value of a university’s physical assets, which can be used as security on a loan to help carry an institution through financial difficulties.⁶⁴

This is not to suggest that institutions are being disingenuous when they make rainy day arguments. Universities are mostly the equivalent of their human parts. Surveys have shown that when it comes to an individual’s financial well-being, *perceived* security is highly subjective. For example, in a survey of 112 individuals with net worth of over \$5 million, respondents were asked to rank themselves on a scale of 0 to 10, with a 10 indicating that they felt completely financially secure.⁶⁵ Thirty-six percent of respondents rated themselves as a 10. Respondents who rated themselves as an 8 or 9

⁶² See, e.g., Hansmann, *supra* note 53, at 21; Mead & Jacobs, *supra* note 61.

⁶³ As discussed in the next section, some endowment funds are restricted to particular uses. A university is thereby limited in its ability to put these funds to general use, at least in the absence of a release granted by the donor or a court. See *infra* at notes 67-73 and accompanying text.

⁶⁴ Hansmann, *supra* note 53, at 22.

⁶⁵ Paul G. Schervish & John J. Havens, *Gifts and Bequests: Family or Philanthropic Organizations*, in *DEATH AND DOLLARS: THE ROLE OF GIFTS AND BEQUESTS IN AMERICA* 130, 140 (Alicia H. Munnell & Annika Sounden, eds. 2003).

indicated that they would require an average of an additional 60 percent of their net worth to feel completely financially secure; respondents who rated themselves lower than 8 indicated that they would require an average increase of 285 percent.⁶⁶ While respondents were presumably accustomed to the standard of living their wealth provided (just as universities are with their endowments), their subjective view likely bore little resemblance to economic reality. A similar dynamic may be in play here, with the human leaders of universities reacting to institutional wealth in much the same way they would react to individual wealth.

C. Donor Restricted Funds

Universities also defend endowment spending policies by pointing to donor restrictions. An endowment consists of many different gifts. The donors of at least some of these gifts have provided legally-binding instructions about how universities can use the money. Even if an institution wanted to, say, provide free tuition for every student, it could not tap all of its endowment to do so; some of the funds would be restricted for professorships, building projects, and other uses that are far removed from free tuition. A study by NACUBO estimates that, in 2006, an average of 80 percent of endowment funds were restricted at public universities, and an average of 55 percent at private universities.⁶⁷

Donor- restrictions undoubtedly limit a university's discretion, but there is reason to suspect (1) that some universities overstate the magnitude of restrictions; and (2) that the restrictions are partially of the university's own making. As an initial matter and as the NACUBO study cited above suggests, what is loosely referred to as "the endowment" does not consist entirely of restricted funds. An endowment also is comprised of unrestricted gifts (or portions of unrestricted gifts) which the university has elected to save rather than spend.⁶⁸ A study of annual giving at private research universities suggests that richer institutions, as measured by endowment-per-student and as compared to poorer institutions, tend to direct a larger share of their unrestricted annual gifts toward

⁶⁶ *Id.* at 143-144.

⁶⁷ 2006 NACUBO ENDOWMENT STUDY, *supra* note 29, at 78.

⁶⁸ 2007 NACUBO ENDOWMENT STUDY, *supra* note 1, at 1100 (defining "endowment").

building the endowment and a smaller share towards current operations.⁶⁹ This sort of policy is one of the reasons for the ever-widening gap between rich and poor institutions,⁷⁰ and also is likely to yield an endowment with ample unrestricted funds. Indeed, the NACUBO study suggests that 45 percent—nearly half—of the endowment funds at private institutions are unrestricted.⁷¹

Universities and colleges also exert considerable influence over whether gifts are restricted or unrestricted, and, if restricted, the precise terms of the restriction. For example, institutions expend significant resources cultivating donors and helping to shape their giving preferences. These cultivated gifts often pay for expenditures the university would have made even without a gift, thereby allowing the institution to redirect funds to current expenses or to the endowment.⁷² Furthermore, corporations, foundations and alumni each tend to favor different sorts of projects, with corporations and foundations more likely to give to current operating expenses.⁷³ Thus the allocation of development staff can help determine the kinds of gifts that an institution receives. In sum, while donor restrictions limit the use of some endowment funds, such restrictions do not necessarily mean that universities cannot spend more. Even more important, as universities and Congress plan for the future, they should recognize that institutions themselves exert considerable control over the composition of their endowments.

D. Beyond the Proffered Justifications

As the previous discussion suggests, upon close examination the common justifications for mega-endowments are unpersuasive. Yet universities are passionate about the correctness of their endowment spending policies.⁷⁴ Because mega-endowment institutions are at the epicenter of American intellectual life, it is puzzling to find universities offering defenses that do not withstand academic scrutiny. Perhaps “building

⁶⁹ Ronald G. Ehrenberg & Christopher L. Smith, *The Sources and Uses of Annual Giving At Private Research Universities*, NBER Working Paper 7307, at 17 (2001), available at <http://www.nber.org/papers/w8307>.

⁷⁰ *Id.* at 20.

⁷¹ *See supra* note 67 and accompanying text.

⁷² Ehrenberg & Smith, *supra* note 69, at 5.

⁷³ *Id.* at 6.

⁷⁴ *See e.g.*, *Hearing on Offshore Tax Issues, Hearing Before the Senate Finance Committee*, Sept. 26, 2007 (statement of Robert K. Durkee, vice president and secretary of Princeton University) (defending Princeton’s approach to its endowment).

the endowment” has been a goal for so long that university leaders have not paused to consider whether it is still rational in light of billion dollar endowments.⁷⁵ What is most likely, however, is that endowment spending policies are rational, but not for reasons that warrant deference or support from Congress or American taxpayers.

Measuring the overall quality of a university is a difficult task, as the endless criticism of the *U.S. News* rankings illustrates.⁷⁶ The factors that are typically relevant when evaluating a college—the classroom experience, faculty, campus life, and post-graduation opportunities—have values that are at best subjective. In contrast, the value of an endowment is a concrete measure of a university’s success. Among other things, the amount of the endowment: (1) reflects the enthusiasm that alumni and other donors have for the university, (2) provides evidence of institutional permanence, and (3) suggests a means for meeting goals and surmounting short- and long-term challenges. The amount of the endowment (and often its yearly increase or decrease) is reported to ranking entities such as *U.S. News*, to alumni, to professional associations like NACUBO, and in industry publications like *The Chronicle of Higher Education*. In short, the amount of the endowment is the most concrete and visible sign of a university’s success. Institutions that do well by this measure are understandably loathe to adopt policies that might compromise the absolute value of their endowments.

The concreteness of the endowment is also important for boards of trustees and the presidents whom they hire. Professor Hansmann has noted that trustees “generally come from the business world rather than the academic world” and that therefore overseeing financial investments is often closer to their areas of expertise than guiding the operations of an education institution.⁷⁷ Just as outsider observers use the endowment as a proxy for institutional success, boards of trustee are inclined to use the size of the endowment as a measure of their success in managing the university.⁷⁸

⁷⁵ Hansmann, *supra* note 53, at 29-30 (noting that Harvard and Yale began building endowments around 1825).

⁷⁶ For extended criticism of the rankings, see the papers from *The Next Generation of Law School Rankings*, a symposium held at Indiana Law School in 2006 and reported in 81 IND. L. J. (2006).

⁷⁷ Hansmann, *supra* note 53, at 37.

⁷⁸ *Id.*

The size of the endowment is important for university presidents as well. In recent years, more presidents have come from corporations,⁷⁹ making their expertise more similar to that of trustees. But even those without a corporate background are increasingly viewed as the non-profit equivalents of chief executive officers, with compensation packages that reflect this corporate mindset. In 2006, 81 presidents of private institutions made more than \$500,000, a 200 percent increase from five years earlier;⁸⁰ 12 presidents made more than \$1 million, almost twice the number as in 2005.⁸¹ At public research universities, the “minimum compensation among big players is \$450,000.”⁸² Eight public institutions pay their presidents at least \$700,000, up from just two in 2005. While these salaries still pale in comparison to what can be earned in the private sector, they were nonetheless “inconceivable” just twenty years ago.⁸³ Boards of trustees justify these salaries by pointing to “intense competition to hold onto talented executives necessary to help build institutional wealth and prestige.”⁸⁴ Predictably, institutional wealth is measured by the rate of endowment growth. The endowment thus has become the primary yardstick by which board of trustees judge not just themselves, but also their top administrators.⁸⁵ In a large study of almost 9,000 non-profits, including more than 2000 educational institutions,⁸⁶ researchers found a positive correlation between executive compensation and an excess endowment, with the amount of compensation increasing as the amount of excess endowment increased.⁸⁷

Of course, whether an institution has a “successful” endowment should be judged on more than just the value of the endowment on the financial markets. A better measure would reflect the size of the endowment, the percentage of earnings and assets spent each year, and how the spending reflects the institution’s short- and long-term priorities. This

⁷⁹ *Presidential Pay is Increasing Fastest At the Largest Institutions*, THE CHRON. OF HIGHER EDUC., Nov. 16, 2007, at B3.

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ Jonathan D. Glater, *Increased Compensation Puts More College Presidents in the Million Dollar Club*, N.Y. TIMES, Nov. 12, 2007.

⁸⁴ *Id.*

⁸⁵ *Id.* (citing the chairman of the University of Delaware board, who “in a statement described the growth in his institution’s endowment . . . during the tenure of David P. Roselle, who retired this summer as the university president and who was the [second-most] earner at a public institution.”).

⁸⁶ John Core et al., *supra* note 27, p. 11

⁸⁷ *Id.* at 27

sort of individualized assessment, however, would involve the same sort of subjectivity that is inherent in evaluating the overall quality of a university. In other words, to look beyond an endowment's absolute amount compromises its value as a concrete indicator of success.

None of this to suggest that boards of trustees or university administrators are more concerned about the absolute size of the endowment than about the well-being of the institution itself. But when so much emphasis has been placed on the endowment, and for so long, at some point the endowment begins to *become* the university. Thus Congressional or other outside criticism of endowment spending policies are perceived as striking at the very heart of the institution. Moreover, when endowment management is the leading performance measure for university leaders, a retreat from existing spending policies may seem tantamount to a confession of professional misjudgment. This provides all the more reason for mega-endowment institutions to hunker down and defend spending (or not spending) as usual. But when the university's proffered justifications for its spending policies are unconvincing, and when other plausible explanations do not warrant deference, Congress needs to rethink its tax treatment of university endowments.

IV. Changing Tax Treatment of Mega-Endowment Universities (and their donors)

Since the Senate Finance Committee began rattling its saber in 2006,⁸⁸ some mega-endowment schools have announced measures to help defray tuition costs. For example, Princeton did not raise tuition for the 2007-2008 academic year.⁸⁹ In 2008, Yale raised tuition by 2.2 percent, the "lowest increase in recent memory."⁹⁰ Most notably, several schools have recently announced that lower-income students (those with, depending on the institution, annual family incomes between \$40,000 and \$100,000) will receive grants instead of loans.⁹¹ In 2008, Harvard expanded its financial aid program to

⁸⁸ See generally, *Higher Education Tax Exemptions and Incentives: Hearings Before the Senate Finance Committee*, Dec. 5, 2006.

⁸⁹ Karen Arenson, *Princeton Won't Raise Tuition in Coming Year*, N.Y. TIMES, Jan. 22, 2007.

⁹⁰ Alexandra Perloff-Giles, *Yale & Princeton Limit Tuition Hike*, THE CRIMSON, Feb. 5, 2008, available at <http://www.thecrimson.com/article.aspx?ref=521706>.

⁹¹ *Brown Ends Tuition for Lower Income Students*, N.Y. TIMES, Feb. 25, 2008, at A21 (noting similar policy changes by Harvard, Yale, Dartmouth and Stanford). Princeton has followed such a policy for a decade. Jonathan Glater, *Stanford Set to Raise Aid for Students in Middle*, N.Y. TIMES, Feb. 21, 2008.

include families with annual incomes up to \$180,000 and Yale quickly followed suit.⁹² Yale also has recently announced that it will increase endowment spending to at least 4.5 percent and at most 6 percent, up from about 3.8 percent this year.⁹³ Stanford similarly has stated that it will increase its endowment spending to 5.5 percent.⁹⁴ All of these measure are signs “that the nation’s wealthiest universities are trying to fend off action by members of Congress who question why universities raise tuition faster than the rate of inflation while the value of their endowments soar.”⁹⁵

Without doubt, Congress should take heart that its inquiries are prompting concrete changes on the part of universities. But this does not mean that universities should be allowed to police themselves. First, universities have a long history of conservative spending policies. A spate of Congressional interest is probably not enough to permanently change institutional predispositions. For example, in 2000 and 2001, Congress took a similar interest in endowments. Willams College responded by freezing tuition rates for a year. But it has increased tuition in subsequent years and today has tuition comparable to that of its competitors.⁹⁶ Second, it is difficult for institutional outsiders to appreciate the broader context in which change occurs. When Princeton held tuition steady in 2007, it also had an “unusually high” increase in other fees, which resulted in a 4.2 percent overall increase for students with a full meal contract.⁹⁷ Third, given the magnitude of the tax benefits granted to universities (and their donors),⁹⁸ Congress has a heightened responsibility to ensure that the public is receiving adequate benefit.

To date, three potential Congressional actions have emerged during the course of the public debate: (1) making mega-endowment universities subject to the same five percent spending rule as private foundations, (2) revising Form 990, which is filed

⁹² See Roger Lehecka & Andrew Delbanco, *Ivy-League Letdown*, N.Y. TIMES, Jan. 22, 2008 (expressing concern that policy will work to the detriment of poor students, because institutions would rather give partial scholarships to middle-income students than full scholarships to poor students).

⁹³ Alan Finder, *Yale Plans to Increase Spending From Its Endowment*, N.Y. TIMES, Jan. 8, 2008.

⁹⁴ Glater, *supra* note 91.

⁹⁵ Finder, *supra* note 93.

⁹⁶ *Princeton Freezes Tuition*, Jan. 22, 2007, available at <http://www.insidehighered.com/news/2007/01/22/princeton>.

⁹⁷ Arenson, *supra* note 89. At the time of this writing, Princeton had not yet announced its tuition for academic year 2008-2009. It has announced that it will increase other fees by 3.9 percent. Perloff-Giles, *supra* note 90.

⁹⁸ See *supra* at notes 6-20 and accompanying text.

annually with the IRS by all private universities and some organizations that are related to public universities; and (3) taxing the investment income earned by mega-endowments. As discussed below, revising Form 990 and taxing investment income are meritorious proposals; a five-percent spending rule is more dubious. Congress should also consider an avenue that has not previously been suggested: attempting to influence donor behavior.

A. Five Percent Spending Rule

Universities are not required to report their rates of endowment spending, but industry surveys provide a sense of common practices. In 2007, 792 colleges and universities reported spending rates to NACUBO (which codes its results so that users cannot identify the spending rate of any particular institution). Between 2000 and 2007, the average endowment spending rate ranged from 4.6 to 5.1 percent.⁹⁹ When the average was dollar-weighted—that is, institutions with larger endowments had a relatively greater effect on the average—the spending rates decreased, with ranges from 4.0 to 5.0 percent.¹⁰⁰ For 2007, the equal-weighted average was 4.6 percent, while the dollar-weighted average was 4.2 percent.¹⁰¹ At a minimum, the survey shows that many mega-endowment universities are annually spending less than five percent of their endowments.

Unlike colleges and universities, private foundations are required to make annual distributions for charitable purposes—at least five percent of the value of the foundation’s non-charitable assets and the minimum investment return.¹⁰² One proposal is that Congress make universities subject to the same requirement.¹⁰³ While this proposal would boost spending at some institutions and makes for a convenient threat, it nonetheless is unclear whether the five percent rule is an appropriate response to mega-endowments.

⁹⁹ 2007 NACUBO ENDOWMENT STUDY, *supra* note 1.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² IRC sec. 4942 (2007).

¹⁰³ Goldie Blumenstyk, *College Groups Discourage Forced Endowment Payouts*, THE CHRON. OF HIGHER EDUC., October 17, 2007, at A19. A variation on this proposal is to set a payout rate that would vary with the rate of investment return. Gravelle Memorandum, *supra* note 11.

The five percent rule and questions about whether universities are hoarding their endowments have a superficial similarity, in that both aim to ensure that the public receives benefits in exchange for the tax subsidies given to charitable organizations. But the five percent rule also reflects policy concerns that are largely absent in the university context. There is real risk that a private foundation will be organized primarily for the private good; that is, for the benefit of its donors (who receive tax breaks for funding the foundation and who may be able to capture benefits by serving in an administrative capacity) and board members (who similarly may benefit from their administrative roles).¹⁰⁴

This risk is compounded by a private foundation's lack of accountability. Because private foundations typically are funded by a single individual or family, they are far less accountable than colleges and universities, which usually receive funding from government, corporations, foundations, and private donors. This lack of accountability magnifies the risk that a private foundation will serve the private, and not the public, good. Indeed, the five percent rule is just one of a series of measures aiming to ensure that private foundations do not just advance private interests. Other measures include prohibitions on self-dealing¹⁰⁵ and limitations on the ability to acquire or retain holdings in business enterprises.¹⁰⁶

While we can question whether universities can make better use of their endowments, no one would seriously argue that institutions like Harvard and Grinnell primarily benefit private interests. The five percent rule may guarantee some basic level of charitableness, but universities have already achieved that. Given the magnitude of educational tax subsidies, and the hurdle that tuition poses for most families, universities should strive for more: to provide the greatest possible level of public benefit without jeopardizing their long-term health.

¹⁰⁴ See CHRISTINE AHN ET AL., FOUNDATION TRUSTEE FEES: USE AND ABUSE 16 (The Center for Public and Nonprofit Leadership, Georgetown Public Policy Institute (Sept. 2003) (showing that, in study of 62 small foundations, over 25 percent spent more than 40 percent of their administrative fees on trustee compensation.)

¹⁰⁵ I.R.C. sec. 4941(d)(1) (2007); see John M. Strefeler & Leslie T. Miller, *Exempt Organizations: A Study of Their Nature and the Applicability of the Unrelated Business Income Tax*, 12 AKRON TAX J. 225, 242 (1996) (elaborating on ban on self-dealing).

¹⁰⁶ I.R.C. sec. 4943(c)(2)(A) (2007).

B. Form 990

The IRS requires private universities and colleges to annually file Form 990, which requests information about programs and finances. Form 990 is currently undergoing revisions,¹⁰⁷ and some have suggested that it should include questions designed to shed light on endowment practices.¹⁰⁸ Such questions include: (1) what is the size of the endowment; (2) on what is the endowment being spent; (3) which endowment funds are restricted to specific purposes and what are those purposes; (4) how are endowment funds invested; and (4) what are the costs of managing the endowment.¹⁰⁹ These sorts of revisions would be both sensible and useful.

Revisions to Form 990, of course, would not compel any particular changes in endowment spending policies. Indeed, a revised Form 990 is the only proposal discussed here that would apply to all universities and colleges, regardless of endowment strength. Because Form 990s are publicly-available, however, the answers to these questions would add transparency to a particular institution's policies, as well as illuminate standard practices. A university, knowing its information was public, might feel compelled to spend more. In any event, a revised Form 990 would be useful to a Congress that periodically reevaluates its treatment of universities. The rare donor who is diligent enough to seek out the Form 990 might find the revisions useful as well. Moreover, the answers to at least some of the revised questions are likely to find their way into the media and thereby color perceptions of particular institutions. For example, Form 990 contains information about executive compensation. This salary data is reported by industry publications and then regurgitated in the popular press.

Universities may not like the increased scrutiny, but they have little grounds on which to object. While a revised Form 990 may cost more to complete, such an expenditure is unlikely to be significant factor in a university budget.¹¹⁰ In addition, many institutions already report similar information to NACUBO (where it is compiled

¹⁰⁷ See Internal Revenue Service, *IRS Releases Discussion Draft of Redesigned Form 990 for Tax-Exempt Organizations*, June 17, 2007, available at <http://www.irs.gov/newsroom/article/0,,id=171329,00.html>.

¹⁰⁸ Letter from Senators Charles Grassley and Max Baucus to Secretary of Treasury Henry Paulson, May 29, 2007, available at <http://grassley.senate.gov/public/index.cfm>.

¹⁰⁹ *Id.*

¹¹⁰ Paul Fain, *A Tax Expert Explains What's in Store for the IRS Form 990*, THE CHRON. OF HIGHER EDUC., Nov. 16, 2007, at B14.

and reported in ways that often shield the identity of particular schools). For these schools, a revised Form 990 is likely to pose little additional burden.

C. Taxing Investment Returns

Another idea is to make endowment investment returns subject to the corporate income tax. This proposal has a couple of iterations. The most straightforward would earmark the funds generated for congressional measures designed to alleviate tuition costs. The more complex would create a revenue-sharing scheme, with funds distributed directly to poorer institutions on pro rata basis, as determined by the size of an institution's student-to-endowment ratio.¹¹¹ Over the past 10 years, endowments of at least one billion dollars have had an average compounded investment return rate of 11.1 percent, net of all management fees and expenses.¹¹² With a corporate tax rate of 35 percent,¹¹³ a tax on endowment investment returns could raise substantial funds—\$18 billion, according to one estimate.¹¹⁴ It would do so, of course, by eliminating the bulk of one of the subsidies granted to universities: exemption from the corporate income tax. (Some institutions collect more in tuition and other fees than they pay out in expenses, but the differential is usually small.)¹¹⁵

Such an approach has some real advantages. First, the amount of tax will be calibrated to the well-being of the endowment. In 2007, mega-endowments had banner rates of returns, 21.3 percent.¹¹⁶ But as any Wall Street observer knows, future returns are likely to be lower, and in some cases, even negative. When the endowment is doing well, it will pay more tax; when the endowment is doing poorly, it will owe less. Second, unlike with the five percent rule, universities cannot complain that they are being forced to dip into a rainy day fund; the tax simply means that they can accumulate less. Third, the proposal—particularly the iteration that provides for direct revenue sharing—may help mitigate the effects of the wealth gap between mega-endowment universities and their poorer counterparts. In particular, the funds may allow poorer colleges to offer aid

¹¹¹ Allen, *supra* note 33.

¹¹² 2007 NACUBO ENDOWMENT STUDY, *supra* note 1, at 4.

¹¹³ I.R.C. sec. 11(b)(1)(D) (2007).

¹¹⁴ Gravelle, *supra* note 11.

¹¹⁵ See *Compensation of Presidents of Private Institutions*, THE CHRON. OF HIGHER EDUC., Nov. 16, 2008, at B21-B34 (listing both expenditures and revenues for private institutions).

¹¹⁶ 2007 NACUBO ENDOWMENT STUDY, *supra* note 1, at 4.

packages that would allow them to compete for desirable students or retain up-and-coming faculty.

There are, however, reasons for Congress to proceed cautiously as it considers whether to tax investment income. First, congressional interest is fueled by spiraling tuition costs. As discussed previously,¹¹⁷ some commentators have suggested that when Congress offsets the cost of tuition (as with the HOPE tax credit), institutions respond by increasing tuition or fees, thereby capturing the benefit for themselves. If Congress used a tax on investment income to create new tuition-relief measures, or distributed funds directly to poorer schools, it is not certain that families would have lower out-of-pocket expenses. Another concern is potential objections from donors, who are likely to perceive investment returns as the “fruit” of their gifts. Such donors may be interested in advancing the interests of (for example) Harvard, and not at all concerned about the general state of higher education. But since the federal government also subsidizes the gifts of these donors (at least those who itemize deductions or die with substantial wealth), donors should not have the only say in how their gifts are used. These objections, however, suggest a part of the puzzle that has been mostly missing from discussions about mega-endowments: the donors who contribute to them. The next section turns to them.

D. Influencing the Behavior of Donors

Neither Congress nor commentators have identified donors as a potential means of encouraging endowment spending, although universities have pointed to donor restrictions as one reason why they cannot spend more.¹¹⁸ The relative silence about donors is curious, as their continuing gifts are one reason that endowments prosper. Moreover, donors directly benefit from educational tax subsidies, because they can deduct lifetime gifts from their annual taxable incomes and bequests from their taxable estates.¹¹⁹ To the extent that Congress wants to spur spending at mega-endowment universities, it should enlist (or conscript) donors.

¹¹⁷ See *infra* note 21 and accompanying text.

¹¹⁸ See *supra* at notes 67-73 and accompanying text.

¹¹⁹ I.R.C. sec. 170 (2007) (income tax deduction); I.R.C. sec. 2055 (2007) (estate tax deduction).

Congress has a very large carrot with which to influence donor behavior: the charitable deduction from income and estate taxes. One possibility is that Congress could deny a deduction for any gift to a mega-endowment institution that does not specify that the gift must be spent within, say, 25 years.¹²⁰ A revised Form 990 would provide a means of tracking whether universities honor these time restrictions; those that did not could pay substantial penalties. In addition, Congress could cap the amount of deduction available for gifts that are restricted for the purchase or construction of the kinds of assets that businesses typically depreciate, such as buildings, machinery, or equipment.¹²¹ These simultaneous changes would encourage present spending and help direct donors away from gifts that may inadvertently contribute to the rising costs of education.

Begin with a rule that would limit the deduction (to, say, \$5,000 annually or \$10,000 per estate) for gifts that contribute to the purchase or construction of depreciable assets. Many observers have concluded that some endowment gifts have the unintended consequence of *raising* tuition. They point to an “edifice complex,” where some major donors prefer to put their names on new buildings that require “massive additional investment in both construction and long-term maintenance.”¹²² Moreover, when a mega-endowment institution improves its infrastructure or offers students amenities like high-end workout facilities, dining halls or dormitories, they fuel an arms race in which other institutions feel compelled to make similar investments, thereby raising their tuitions as well.¹²³ With a limit on the available deduction, a university could still use donations to improve its infrastructure, but not as easily as at present. (This is because few donors will be willing to forgo a deduction on the sort of multi-million dollar gifts behind so many campus improvements). This does not mean, of course, that mega-endowment universities will be unable to make improvements, but they likely will have to go about it in the same way as poorer institutions, that is, by borrowing. This would

¹²⁰ As a practical matter, universities (who will be eager to reassure their potential donors of the availability of a deduction) are likely to structure giving arrangements so that they promise to spend the gift within the specified time, unless the donor opts out.

¹²¹ See Internal Revenue Service, *A Brief Overview of Depreciation*, available at <http://www.irs.gov/businesses/small/article/0,,id=137026,00.html>.

¹²² See *Higher Education Tax Exemptions and Incentives: Hearing Before the Senate Finance Committee*, Dec. 5, 2006 (statement of James Duderstat President Emeritus of the University of Michigan and member of the Spellings Commission on the Future of Higher Education).

¹²³ *Id.*

slow the growth of physical improvements that inadvertently raise tuitions across higher education. Over time, such a limit on deductions also may decrease the most visible signs of the wealth gap between rich and poor colleges.

Now take the rule that would deny a deduction unless a gift specified that it had to be spent within 25 years. A requirement that a gift be spent in the same year it is made is generally meaningless, as an institution can simply retain other funds in its place.¹²⁴ But as the length of the time restriction increases, such shell games become more difficult. Without the rule that limits the deduction for gifts to depreciable assets, universities might respond by encouraging the kinds of gifts that contribute to the edifice complex, that is, the construction of new buildings or general campus beautification. But in absence of that possibility, universities would have to spend more on initiatives that would reduce tuition or otherwise relate very directly to the educational mission. Depending on the magnitude of the gift, universities might have to think creatively about reaching beyond their own borders in ways that further their educational missions.¹²⁵ This would provide another avenue for mega-endowment universities to share their wealth.

Some would argue that donors are already intimately and appropriately involved in creating endowment spending policies. This sentiment reflects a market-based approach to endowments: donors are aware of the enormity of university endowments and contribute to them anyway. These continuing contributions signal that the market for charitable gifts endorses university policies, or at least that, despite spending policies, the market finds universities more attractive than others who compete for charitable dollars.¹²⁶ From a pure market perspective, this argument has appeal. While there are occasional signs that universities fear the size of their endowments will decrease alumni giving,¹²⁷ and economic research suggests that large endowments might crowd out some

¹²⁴ Hansmann, *supra* note 53, at 35.

¹²⁵ See Stephanie Strom, *How Long Should Gifts Just Grow*, N.Y. TIMES, Nov. 12, 2007 (discussing how the Gates Foundation, which must spend multi-billion dollar gifts from Warren Buffet within one year, has helped build additional outlets for its money).

¹²⁶ See e.g. Jack Siegel, *The Coming Tax on Charities: An Interesting Confluence*, Nov. 26, 2007, available at http://www.charitygovernance.com/charity_governance/2007/11/the-new-tax-on.html (last visited March 8, 2008).

¹²⁷ See e.g., Ben Stein, *Three Cheers (and a Big Question for Yale)*, N.Y. TIMES, Oct. 23, 2005 (questioning why he should give to Yale instead of poorer non-profits); Ben Stein, *All Right, Already: A Second Look at*

gifts,¹²⁸ mega-endowment institutions continue to launch and complete multi-billion dollar fundraising efforts.¹²⁹ The market favors these universities enough that the gifts keep coming in.

But this “leave-to-the-market” argument would be more powerful if studies showed that the typical donor carefully evaluates the relationship between a university’s mission, its endowment, and its spending policies. Instead research has suggested numerous reasons why people make charitable gifts; very few of which involve a careful weighing of an institution’s intrinsic merits. At the simplest level, contributing to a charity usually makes the donor feel good. This “warm glow” provides utility to the donor and acts as an incentive to give.¹³⁰ More specific to the university context, graduates who give to their alma mater may perceive themselves as repaying a deferred debt with interest (or a discount) to reflect the value of their degree;¹³¹ those who attend college are likely to hear, somewhere along the way, that tuition only partially covers the cost of an education. Donations can also serve as means of purchasing social status or prestige.¹³² In this regard, a university is doing more than just conveying information when it publishes a list of donors. Instead, it hopes that alumni will purchase the ability to signal that they are civic-minded enough to support their school or successful enough to give at a certain level. In addition, large donations might allow donors to influence institutional policy.¹³³ Donors might be particularly interested in securing favorable admissions decisions for their children or grandchildren. Economists from Princeton and Stanford analyzed alumni contributions at a “selective” university and found that alumni with children gave more and that giving increased as the children neared 18. Giving dropped off after the child was accepted and declined even more sharply if the child was

Yale, N.Y. TIMES, Nov. 6, 2005 (deciding, after a barrage of mail, that he would continue to give, not because doing so was sound economic policy, but because he “loves” Yale.)

¹²⁸ Sharon M. Oster, *The Effect of University Endowment Growth on Giving: Is There Evidence of Crowding Out?*, Yale School of Management Working Paper Series #10, Feb. 2001, at 16-18 (available at http://papers.ssrn.com/paper.taf?abstract_id=271597.)

¹²⁹ See *supra* note 3 and accompanying text.

¹³⁰ James Andreoni, *Impure Altruism and Donations to Public Goods: A Theory of Warm-Glow Giving*, 100 THE ECON. J. 464, 473 (1990); James Andreoni, *Giving With Impure Altruism, Applications to Charity and Ricardian Equivalence*, 97 J. POL. ECON. 1447, 1448-49 (1989).

¹³¹ Henry Hansmann, THE OWNERSHIP OF ENTERPRISE 233 (1996).

¹³² Eric A. Posner, LAW & SOCIAL NORMS 49-68 (2000). See also Richard H. McAdams, *The Origin, Development and Regulation of Norms*, 96 MICH L. REV. 338, 365-66 (1997) (suggesting that in certain instances charitable giving might be necessary in order to avoid a loss in prestige).

¹³³ Francie Ostrower, WHY THE WEALTHY GIVE 37 (1995).

rejected.¹³⁴ Although legacy admissions are increasingly under fire, such donations can yield the results that alumni seek. In 2002, for instance, Texas A & M admitted 321 students of alumni who would not have been admitted without the help of parents' donations.¹³⁵

Of course, some donors—particularly those who give large gifts—thoroughly evaluate their options before deciding which institution will benefit from their largesse. These individuals often think of themselves as more like “charitable investors” than mere donors. But sometimes the donation to the university is a “default gift,” in that a contributor wishes to make a substantial donation and has difficulty finding organizations that can absorb and manage a large influx of resources.¹³⁶ This sort of approach is hardly a ringing endorsement of university endowment policies.

Some donors use charitable giving as a means of obtaining immortality, although recent trends in philanthropy suggest that the numbers of these kinds of donors are shrinking.¹³⁷ At present, charitable gifts and their gains can remain in an endowment long after the donor has died. Some donors take special satisfaction in the idea that they continue to contribute or to exert control after their deaths. But the reality is that perpetual control is more a myth than a reality. Every estates and trusts student knows about the safety valve of cy pres, which allows a court to modify the terms of a charitable gift to account for changed conditions.¹³⁸ In addition, a number of cases suggest that charities ignore donor restrictions much more often than donors realize.¹³⁹ Moreover, a

¹³⁴ Jonathan Meer and Harvey S. Rosen, *Altruism and the Child-Cycle of Alumni Giving* (June 2007). NBER Working Paper No. W13152 (available at <http://ssrn.com/abstract=992155>); see *Higher Education Tax Exemptions and Incentives: Hearing Before the Senate Finance Committee*, Dec. 5, 2006 (Statement of Daniel Golden, Wall Street Journal Deputy Bureau Chief and author of *THE PRICE OF ADMISSION* (2006)).

¹³⁵ Adam Liptak, *A Hereditary Role the Founding Fathers Failed to Anticipate*, N.Y. TIMES, at A12 (Jan. 15 2008).

¹³⁶ Strom, *supra* note 125. (“One of the great lines from our experience was when we were sitting with a donor who said, “I know how to give \$100 million to my Ivy League university, but I don’t know how to give \$100 million to help kids in the city,” recalled H. Peter Karoff, founder of the Philanthropic Initiative, a strategic planning and consulting firm. “We told him he would have to hire 20 people to do that well, and he wrote his check to the Ivy League school. Many of these huge gifts are what I call default gifts.””)

¹³⁷ See Strom, *supra* 125 (noting growing number of major philanthropists who require that their gifts be spent in a short period of time).

¹³⁸ UNIFORM TRUST CODE, sec. 413 (2003).

¹³⁹ See Iris. J. Goodwin *Donor Standing to Enforce Charitable Gifts: Civil Society vs. Donor Empowerment*, 58 VAND. L. REV 1093, 1093 (2005) (collecting cases and noting, “The cat is out of the bag:

time period such as the 25 years suggested here allows donors to influence events throughout the education of both the present generation and the next. As an actual matter, many of us have difficulty seeing beyond that horizon. Universities, of course, will continue to ensure that donors who value immortality have a means of appearing to achieve it, either through naming rights for particular initiatives or through other commemorative opportunities on campus. Finally, it is not at all clear why donor preferences for perpetual gifts should determine Congressional policy. So long as a donor itemizes or dies with an estate that exceeds the applicable exclusion amount,¹⁴⁰ the public subsidizes the charitable gift. As such, donor judgments and preferences should not control.

The 25 year spending rule and the limit on the deduction on gifts for depreciable assets might cause some donors to reevaluate whether to give to mega-endowment universities. But the majority of the reasons for giving—warm glow, repayment of an implicit loan, prestige among peers, policy-making access, and influence over admissions decisions—would remain unchanged. Of course, institutions with super-sized endowments will vehemently oppose any tax changes that might make them less attractive to donors, even if such risk is low. But if some donors did migrate away from mega-endowment institutions, however, society-at-large might actually benefit.

To state the obvious, the United States is not lacking for 501(c)(3) institutions that are capable of creating great good. If donors who dislike these proposed tax changes redirect their charitable dollars, less-rich (and often financially strapped) charities are likely to benefit. Researchers who have studied giving patterns describe “identification with the fate of others” as the “primary variable” that explains why donors give to give charities.¹⁴¹ In visual terms, donors are at the center of a series of concentric circles, with the smallest circles representing the individuals and organizations closest to the donor, and the larger circles representing those a bit more removed. Donors tend to provide for

Donors are fast discovering what was once a well-kept secret in the philanthropic sector--that a gift to a public charity donated for a specific purpose and restricted to that purpose is often used by the charity for its general operations or applied to other uses not intended by the donor.”)

¹⁴⁰ In 2008, an estate that is worth \$2 million or less will pay no tax; in 2009, an estate that is worth \$3.5 million or less will pay no tax. I.R.C. sec. 2010 (2007).

¹⁴¹ Schervish & Havens, *supra* note 65, at 134.

those on the inner circles before moving on to those on the outer circles.¹⁴² If a mega-endowment institution is an inner circle and the donor desires, say, perpetual control (and a tax deduction), she will likely move to the outer circles more quickly than she otherwise would. The mega-endowment institution's loss is likely another charity's gain.

Conclusion

There is an ever-increasing discordance in higher education. It is sometimes tempting to use mega-endowments as a metaphor for larger society: the wealth is concentrated at the top. Harvard alone, for instance, holds almost nine percent of all university endowment assets, and the five institutions with the largest endowments have 25 percent of all endowment assets, even though they comprise less than one percent of all institutions of higher education.¹⁴³ But while one can invoke familiar phrases about the rich getting richer, it is particularly disturbing to do so when discussing the nation's universities. They are supposed to be places that are about promise and opportunity, not economic stratification.

This essay has made two key contributions to the ongoing debate about mega-endowments. First, the correlation between expense-endowment ratios and the amount of endowment per full-time student provides a convenient proxy for determining when an endowment is so large that it should receive less-preferential tax treatment. Second, the essay suggests that policymakers modify the charitable deduction for gifts to universities with mega-endowments, as part of a multi-faceted effort to spur endowment spending and control tuition. While mega-endowments necessitate revising the tax code, these changes must be ones that are rooted in the twin goals of controlling tuition and decreasing the institutional wealth gap. They also must be aimed at schools who truly can afford to spend more. When such changes are in place, however, they will improve higher education across the board.

¹⁴² *Id.* at 138.

¹⁴³ Gravelle Memorandum, *supra* note 11.

APPENDIX

TABLE 1, Private Institutions Ranked By Absolute Endowment Value

| | Institution Name | State | 2006 Endowment Values |
|----|-----------------------------------|-------|-----------------------|
| 1 | Harvard University | MA | \$28,915,706,000.00 |
| 2 | Yale University | CT | \$18,030,600,000.00 |
| 3 | Stanford University | CA | \$14,084,676,000.00 |
| 4 | Princeton University | NJ | \$13,044,900,000.00 |
| 5 | Mass. Inst. Of Technology | MA | \$8,368,066,000.00 |
| 6 | Columbia University | NY | \$5,937,814,000.00 |
| 7 | University of Penn. | PA | \$5,313,268,000.00 |
| 8 | Northwestern University | IL | \$5,140,668,000.00 |
| 9 | Emory University | GA | \$4,870,019,000.00 |
| 10 | University of Chicago | IL | \$4,867,003,000.00 |
| 11 | Duke University | NC | \$4,497,718,000.00 |
| 12 | University of Notre Dame | IN | \$4,436,624,000.00 |
| 13 | Cornell University | NY | \$4,321,199,000.00 |
| 14 | Rice University | TX | \$3,986,664,000.00 |
| 15 | Dartmouth College | NH | \$3,092,094,000.00 |
| 16 | University of Southern California | CA | \$3,065,935,000.00 |
| 17 | Vanderbilt University | TN | \$2,946,392,000.00 |
| 18 | John Hopkins University | MD | \$2,350,749,000.00 |
| 19 | Brown University | RI | \$2,290,646,000.00 |
| 20 | New York University | NY | \$1,774,700,000.00 |
| 21 | The Rockefeller University | NY | \$1,771,954,000.00 |
| 22 | Case Western Reserve University | OH | \$1,598,566,000.00 |
| 23 | California Inst. Of Technology | CA | \$1,580,922,000.00 |
| 24 | University of Rochester | NY | \$1,491,275,000.00 |
| 25 | Grinnell College | IA | \$1,471,804,000.00 |
| 26 | Williams College | MA | \$1,462,131,000.00 |
| 27 | Pomona College | CA | \$1,457,213,000.00 |
| 28 | Boston College | MA | \$1,447,887,000.00 |
| 29 | Wellesley College | MA | \$1,412,410,000.00 |
| 30 | University of Richmond | VA | \$1,380,439,000.00 |
| 31 | Amherst College | MA | \$1,337,158,000.00 |
| 32 | Yeshiva University | NY | \$1,273,327,000.00 |
| 33 | Swarthmore College | PA | \$1,245,281,000.00 |
| 34 | Smith College | MA | \$1,156,350,000.00 |
| 35 | Tufts University | MA | \$1,148,868,000.00 |
| 36 | Baylor College of Medicine | TX | \$1,059,393,000.00 |
| 37 | Wake Forest University | NC | \$1,042,558,000.00 |
| 38 | Texas Christian University | TX | \$1,016,353,000.00 |
| 39 | George Washington University | DC | \$963,697,000.00 |
| 40 | Berea College | KY | \$948,738,000.00 |
| 41 | Carnegie Mellon University | PA | \$941,525,000.00 |
| 42 | Lehigh University | PA | \$939,473,000.00 |

| | Institution Name | State | 2006 Endowment Values |
|----|-----------------------------|-------|-----------------------|
| 43 | Boston University | MA | \$916,017,000.00 |
| 44 | Syracuse University | NY | \$908,371,000.00 |
| 45 | Baylor University | TX | \$874,364,000.00 |
| 46 | Tulane University | LA | \$858,323,000.00 |
| 47 | Georgetown University | DC | \$834,497,000.00 |
| 48 | Saint Louis University | MO | \$824,851,000.00 |
| 49 | University of Tulsa | OK | \$816,980,000.00 |
| 50 | Trinity University | TX | \$814,672,000.00 |
| 51 | Middlebury College | VT | \$775,753,000.00 |
| 52 | Vassar College | NY | \$741,655,000.00 |
| 53 | Bowdoin College | ME | \$673,346,000.00 |
| 54 | The Juilliard School | NY | \$663,886,000.00 |
| 55 | Lafayette College | PA | \$648,292,000.00 |
| 56 | University of Miami | FL | \$620,431,000.00 |
| 57 | Wesleyan University | CT | \$619,761,000.00 |
| 58 | Hamilton College | NY | \$587,582,000.00 |
| 59 | Washington & Lee University | VA | \$586,968,000.00 |
| 60 | Bryn Mawr College | PA | \$579,747,000.00 |

TABLE 2, Private Universities Ranked by Endowment-Expense Ratio

| | Institution Name | State | 2006 Endowment Value | 2005-2006 Expenditures | Endowment-Expense Ratio |
|----|-----------------------------|-------|----------------------|------------------------|-------------------------|
| 1 | Grinnell College | IA | \$1,471,804,000.00 | \$98,000,000.00 | 15.01840816 |
| 2 | Berea College | KY | \$948,738,000.00 | \$67,000,000.00 | 14.16026866 |
| 3 | Pomona College | CA | \$1,457,213,000.00 | \$117,000,000.00 | 12.45481197 |
| 4 | Princeton University | NJ | \$13,044,900,000.00 | \$1,100,000,000.00 | 11.859 |
| 5 | Rice University | TX | \$3,986,664,000.00 | \$371,000,000.00 | 10.74572507 |
| 6 | Swarthmore College | PA | \$1,245,281,000.00 | \$123,000,000.00 | 10.12423577 |
| 7 | The Juilliard School | NY | \$663,886,000.00 | \$68,000,000.00 | 9.763029412 |
| 8 | Amherst College | MA | \$1,337,158,000.00 | \$137,000,000.00 | 9.760277372 |
| 9 | Harvard University | MA | \$28,915,706,000.00 | \$3,000,000,000.00 | 9.638568667 |
| 10 | University of Richmond | VA | \$1,380,439,000.00 | \$151,000,000.00 | 9.141980132 |
| 11 | Yale University | CT | \$18,030,600,000.00 | \$2,000,000,000.00 | 9.0153 |
| 12 | Williams College | MA | \$1,462,131,000.00 | \$178,000,000.00 | 8.214219101 |
| 13 | Trinity University | TX | \$814,672,000.00 | \$109,000,000.00 | 7.474055046 |
| 14 | Wellesley College | MA | \$1,412,410,000.00 | \$203,000,000.00 | 6.957684729 |
| 15 | The Rockefeller University | NY | \$1,771,954,000.00 | \$260,000,000.00 | 6.815207692 |
| 16 | University of Notre Dame | IN | \$4,436,624,000.00 | \$776,000,000.00 | 5.717298969 |
| 17 | Smith College | MA | \$1,156,350,000.00 | \$206,000,000.00 | 5.613349515 |
| 18 | Bowdoin College | ME | \$673,346,000.00 | \$121,000,000.00 | 5.564842975 |
| 19 | Bryn Mawr College | PA | \$579,747,000.00 | \$106,000,000.00 | 5.469311321 |
| 20 | Hamilton College | NY | \$587,582,000.00 | \$116,000,000.00 | 5.065362069 |
| 21 | Lafayette College | PA | \$648,292,000.00 | \$131,000,000.00 | 4.948793893 |
| 22 | Washington & Lee University | VA | \$586,968,000.00 | \$120,000,000.00 | 4.8914 |
| 23 | Stanford University | CA | \$14,084,676,000.00 | \$2,900,000,000.00 | 4.856784828 |
| 24 | University of Tulsa | OK | \$816,980,000.00 | \$170,000,000.00 | 4.805764706 |
| 25 | Vassar College | NY | \$741,655,000.00 | \$160,000,000.00 | 4.63534375 |
| 26 | Dartmouth College | NH | \$3,092,094,000.00 | \$712,000,000.00 | 4.342828652 |
| 27 | Wake Forest University | NC | \$1,042,558,000.00 | \$263,000,000.00 | 3.964098859 |
| 28 | Texas Christian University | TX | \$1,016,353,000.00 | \$271,000,000.00 | 3.750380074 |
| 29 | Middlebury College | VT | \$775,753,000.00 | \$207,000,000.00 | 3.747599034 |
| 30 | Northwestern University | IL | \$5,140,668,000.00 | \$1,400,000,000.00 | 3.671905714 |
| 31 | Mass. Inst. Of Technology | MA | \$8,368,066,000.00 | \$2,300,000,000.00 | 3.638289565 |
| 32 | Brown University | RI | \$2,290,646,000.00 | \$699,000,000.00 | 3.277032904 |
| 33 | Wesleyan University | CT | \$619,761,000.00 | \$202,000,000.00 | 3.068123762 |
| 34 | University of Chicago | IL | \$4,867,003,000.00 | \$1,600,000,000.00 | 3.041876875 |
| 35 | Lehigh University | PA | \$939,473,000.00 | \$315,000,000.00 | 2.982453968 |
| 36 | Duke University | NC | \$4,497,718,000.00 | \$1,700,000,000.00 | 2.645716471 |
| 37 | Emory University | GA | \$4,870,019,000.00 | \$2,100,000,000.00 | 2.319056667 |
| 38 | Boston College | MA | \$1,447,887,000.00 | \$648,000,000.00 | 2.234393519 |
| 39 | Columbia University | NY | \$5,937,814,000.00 | \$2,700,000,000.00 | 2.19919037 |
| 40 | Yeshiva University | NY | \$1,273,327,000.00 | \$588,000,000.00 | 2.165522109 |
| 41 | Baylor University | TX | \$874,364,000.00 | \$404,000,000.00 | 2.164267327 |
| 42 | Tufts University | MA | \$1,148,868,000.00 | \$558,000,000.00 | 2.058903226 |
| 43 | Cornell University | NY | \$4,321,199,000.00 | \$2,300,000,000.00 | 1.878782174 |

| | Institution Name | State | 2006 Endowment Value | 2005-2006 Expenditures | Endowment-Expense Ratio |
|----|---------------------------------|-------|----------------------|------------------------|-------------------------|
| 44 | Case Western Reserve University | OH | \$1,598,566,000.00 | \$878,000,000.00 | 1.820690205 |
| 45 | University of Penn. | PA | \$5,313,268,000.00 | \$3,300,000,000.00 | 1.610081212 |
| 46 | University of So. California | CA | \$3,065,935,000.00 | \$2,000,000,000.00 | 1.5329675 |
| 47 | Saint Louis University | MO | \$824,851,000.00 | \$619,000,000.00 | 1.33255412 |
| 48 | Syracuse University | NY | \$908,371,000.00 | \$770,000,000.00 | 1.179702597 |
| 49 | Carnegie Mellon University | PA | \$941,525,000.00 | \$812,000,000.00 | 1.159513547 |
| 50 | Vanderbilt University | TN | \$2,946,392,000.00 | \$2,600,000,000.00 | 1.133227692 |
| 51 | Tulane University | LA | \$858,323,000.00 | \$761,000,000.00 | 1.127888305 |
| 52 | George Washington University | DC | \$963,697,000.00 | \$908,000,000.00 | 1.061340308 |
| 53 | Baylor College of Medicine | TX | \$1,059,393,000.00 | \$1,000,000,000.00 | 1.059393 |
| 54 | Georgetown University | DC | \$834,497,000.00 | \$845,000,000.00 | 0.987570414 |
| 55 | University of Rochester | NY | \$1,491,275,000.00 | \$1,800,000,000.00 | 0.828486111 |
| 56 | John Hopkins University | MD | \$2,350,749,000.00 | \$3,100,000,000.00 | 0.758306129 |
| 57 | California Inst. Of Technology | CA | \$1,580,922,000.00 | \$2,100,000,000.00 | 0.75282 |
| 58 | New York University | NY | \$1,774,700,000.00 | \$2,500,000,000.00 | 0.70988 |
| 59 | Boston University | MA | \$916,017,000.00 | \$1,500,000,000.00 | 0.610678 |
| 60 | University of Miami | | \$620,431,000.00 | \$1,500,000,000.00 | 0.413620667 |

TABLE 3, Private Universities Ranked by Endowment Per Full-Time Student

| | Institution Name | State | Endowment per Full-Time Student |
|----|---------------------------------|-------|---------------------------------|
| 1 | The Rockefeller University | NY | \$8,859,770 |
| 2 | Princeton University | NJ | \$1,910,501 |
| 3 | Yale University | CT | \$1,589,159 |
| 4 | Harvard University | MA | \$1,504,616 |
| 5 | Stanford University | CA | \$1,070,671 |
| 6 | Pomona College | CA | \$954,427 |
| 7 | Grinnell College | IA | \$944,675 |
| 8 | The Juilliard School | NY | \$862,190 |
| 9 | Swarthmore College | PA | \$844,831 |
| 10 | Amherst College | MA | \$820,846 |
| 11 | Mass. Inst. Of Technology | MA | \$820,399 |
| 12 | Rice University | TX | \$795,107 |
| 13 | Baylor College of Medicine | TX | \$779,539 |
| 14 | California Inst. Of Technology | CA | \$729,871 |
| 15 | Williams College | MA | \$724,545 |
| 16 | Wellesley College | MA | \$627,738 |
| 17 | Berea College | KY | \$610,121 |
| 18 | Dartmouth College | NH | \$534,965 |
| 19 | Emory University | GA | \$409,865 |
| 20 | Smith College | MA | \$406,022 |
| 21 | Bowdoin College | ME | \$404,898 |
| 22 | University of Notre Dame | IN | \$392,379 |
| 23 | University of Chicago | IL | \$384,106 |
| 24 | Bryn Mawr College | PA | \$371,633 |
| 25 | University of Richmond | VA | \$348,877 |
| 26 | Duke University | NC | \$337,768 |
| 27 | Middlebury College | VT | \$333,564 |
| 28 | Hamilton College | NY | \$325,350 |
| 29 | Northwestern University | IL | \$320,690 |
| 30 | Vassar College | NY | \$316,541 |
| 31 | Trinity University | TX | \$303,869 |
| 32 | Lafayette College | PA | \$284,588 |
| 33 | Columbia University | NY | \$279,954.00 |
| 34 | Washington & Lee University | VA | \$269,870 |
| 35 | Brown University | RI | \$268,148 |
| 36 | Vanderbilt University | TN | \$265,680 |
| 37 | University of Penn. | PA | \$252,029 |
| 38 | Cornell University | NY | \$222,204 |
| 39 | University of Tulsa | OK | \$211,270 |
| 40 | Wesleyan University | CT | \$204,542 |
| 41 | University of Rochester | NY | \$195,219 |
| 42 | Yeshiva University | NY | \$186,552 |
| 43 | Case Western Reserve University | OH | \$186,552 |

| | Institution Name | State | Endowment per Full-Time Student |
|----|------------------------------|-------|---------------------------------|
| 44 | John Hopkins University | MD | \$179,446 |
| 45 | Wake Forest University | NC | \$157,439 |
| 46 | Lehigh University | PA | \$154,189 |
| 47 | Texas Christian University | TX | \$138,543 |
| 48 | Tufts University | MA | \$137,896 |
| 49 | Boston College | MA | \$113,222 |
| 50 | Carnegie Mellon University | PA | \$103,353 |
| 51 | University of So. California | CA | \$99,019 |
| 52 | Saint Louis University | MO | \$79,054 |
| 53 | Tulane University | LA | \$74,327 |
| 54 | Georgetown University | DC | \$65,471 |
| 55 | Baylor University | TX | \$62,280 |
| 56 | Syracuse University | NY | \$53,620.00 |
| 57 | New York University | NY | \$52,292 |
| 58 | George Washington University | DC | \$49,398 |
| 59 | University of Miami | FL | \$41,570 |
| 60 | Boston University | MA | \$37,202 |

TABLE 4, Private Institutions Ranked By Endowment Per Full-Time Student, With Endowment-Expense Ratios

| | Institution Name | State | Endowment-Expense Ratio | Endowment Per Full-time Student |
|----|--------------------------------|-------|-------------------------|---------------------------------|
| 1 | The Rockefeller University | NY | 6.815208 | \$8,859,770 |
| 2 | Princeton University | NJ | 11.859 | \$1,910,501 |
| 3 | Yale University | CT | 9.0153 | \$1,589,159 |
| 4 | Harvard University | MA | 9.638569 | \$1,504,616 |
| 5 | Stanford University | CA | 4.856785 | \$1,070,671 |
| 6 | Pomona College | CA | 12.45481 | \$954,427 |
| 7 | Grinnell College | IA | 15.01841 | \$944,675 |
| 8 | The Juilliard School | NY | 9.763029 | \$862,190 |
| 9 | Swarthmore College | PA | 10.12424 | \$844,831 |
| 10 | Amherst College | MA | 9.760277 | \$820,846 |
| 11 | Mass. Inst. Of Technology | MA | 3.63829 | \$820,399 |
| 12 | Rice University | TX | 10.74573 | \$795,107 |
| 13 | Baylor College of Medicine | TX | 1.059393 | \$779,539 |
| 14 | California Inst. Of Technology | CA | 0.75282 | \$729,871 |
| 15 | Williams College | MA | 8.214219 | \$724,545 |
| 16 | Wellesley College | MA | 6.957685 | \$627,738 |
| 17 | Berea College | KY | 14.16027 | \$610,121 |
| 18 | Dartmouth College | NH | 4.342829 | \$534,965 |
| 19 | Emory University | GA | 2.319057 | \$409,865 |
| 20 | Smith College | MA | 5.61335 | \$406,022 |
| 21 | Bowdoin College | ME | 5.564843 | \$404,898 |
| 22 | University of Notre Dame | IN | 5.717299 | \$392,379 |
| 23 | University of Chicago | IL | 3.041877 | \$384,106 |
| 24 | Bryn Mawr College | PA | 5.469311 | \$371,633 |
| 25 | University of Richmond | VA | 9.14198 | \$348,877 |
| 26 | Duke University | NC | 2.645716 | \$337,768 |
| 27 | Middlebury College | VT | 3.747599 | \$333,564 |
| 28 | Hamilton College | NY | 5.065362 | \$325,350 |
| 29 | Northwestern University | IL | 3.671906 | \$320,690 |
| 30 | Vassar College | NY | 4.635344 | \$316,541 |
| 31 | Trinity University | TX | 7.474055 | \$303,869 |
| 32 | Lafayette College | PA | 4.948794 | \$284,588 |
| 33 | Columbia University | NY | 2.19919 | \$279,954 |
| 34 | Washington & Lee University | VA | 4.8914 | \$269,870 |
| 35 | Brown University | RI | 3.277033 | \$268,148 |
| 36 | Vanderbilt University | TN | 1.133228 | \$265,680 |
| 37 | University of Penn. | PA | 1.610081 | \$252,029 |
| 38 | Cornell University | NY | 1.878782 | \$222,204 |
| 39 | University of Tulsa | OK | 4.805765 | \$211,270 |
| 40 | Wesleyan University | CT | 3.068124 | \$204,542 |
| 41 | University of Rochester | NY | 0.828486 | \$195,219 |
| 42 | Yeshiva University | NY | 2.165522 | \$186,552 |

| | Institution Name | State | Endowment-Expense Ratio | Endowment Per Full-time Student |
|----|---------------------------------|-------|-------------------------|---------------------------------|
| 43 | Case Western Reserve University | OH | 1.82069 | \$186,552 |
| 44 | John Hopkins University | MD | 0.758306 | \$179,446 |
| 45 | Wake Forest University | NC | 3.964099 | \$157,439 |
| 46 | Lehigh University | PA | 2.982454 | \$154,189 |
| 47 | Texas Christian University | TX | 3.75038 | \$138,543 |
| 48 | Tufts University | MA | 2.058903 | \$137,896 |
| 49 | Boston College | MA | 2.234394 | \$113,222 |
| 50 | Carnegie Mellon University | PA | 1.159514 | \$103,353 |
| 51 | University of So. California | CA | 1.532968 | \$99,019 |
| 52 | Saint Louis University | MO | 1.332554 | \$79,054 |
| 53 | Tulane University | LA | 1.127888 | \$74,327 |
| 54 | Georgetown University | DC | 0.98757 | \$65,471 |
| 55 | Baylor University | TX | 2.164267 | \$62,280 |
| 56 | Syracuse University | NY | 1.179703 | \$53,620 |
| 57 | New York University | NY | 0.70988 | \$52,292 |
| 58 | George Washington University | DC | 1.06134 | \$49,398 |
| 59 | University of Miami | FL | 0.413621 | \$41,570 |
| 60 | Boston University | MA | 0.610678 | \$37,202 |