

# **University Endowment Reform**

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A Dialogue

**Charles Miller**  
**Lynne Munson**

Remarks from the American Enterprise Institute conference  
"University Endowments: Their Role in Higher Education  
and Possibilities for Reform," February 1, 2008



Center for College Affordability and Productivity

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### About the Authors

**Charles Miller** was chairman of the Secretary of Education's Commission on the Future of Higher Education in 2005–06. He is the former chairman of the University of Texas System Board of Regents. Mr. Miller served as chairman of the Texas Education Policy Center, chairman of the education committee of the Governor's Business Council during George W. Bush's governorship, and was a member of the Bush-Cheney transition team.

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### Center for College Affordability and Productivity

The Center for College Affordability and Productivity (CCAP) is a nonprofit research center based in Washington, DC, that is dedicated to research on the issues of rising costs and stagnant efficiency in higher education, with a special emphasis on developing market-based solutions.

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## Foreword

In late September 2007, the issue of wealthy university endowments became front page news. Members of the Senate Finance Committee, most notably Sen. Charles Grassley (R-IA), questioned why some endowments were amassing vast amounts of tax-subsidized wealth while simultaneously raising tuition on average families to greater and greater levels.

The Center for College Affordability and Productivity (CCAP) was pleased to work with the American Enterprise Institute in January of 2008 to host a conference on this intriguing topic. The conference included both those who have called for endowment reform and others that oppose such action. This policy paper includes the remarks of two panelists from that conference, each of whom has very different views on the obligations of university endowments and the necessity for reform.

Presenting the case against greater government intervention in endowments is Charles Miller, the chairman of the Spellings Commission on the Future of Higher Education. Mr. Miller, who also served as chairman of the University of Texas Board of Regents, claims that endowments are governed by their fiduciary duties to donors and the university and that the endowment reforms proposed, including a mandatory payout, would conflict with these tenets. Mr. Miller firmly believes that focusing so much attention on endowments is a distraction from broader higher education reform ideas that would more directly help students.

Arguing in favor of endowment reform is Lynne Munson, executive director of Common Core, and an adjunct research fellow at the Center for College Affordability and Productivity. Ms. Munson claims that far from the myth of higher education being cash-strapped, endowments have in fact hoarded tremendous wealth over the years. Ms. Munson cites statistical evidence that suggests using a small portion of this wealth could help alleviate the tuition burden felt by an increasing number of students.

While not the foremost issue facing higher education today, the proper role of endowments remains a hotly contested debate, as our two panelists' remarks will show. The possibility of Congressional action raises fundamental questions about the role of government in regulating nonprofits, the importance of federalism, and the investment responsibilities of endowment money managers. At the same time, higher education's inability to contain costs in a meaningful way has led many to reasonably argue that universities should begin to spend some of their own resources before asking the taxpayers for even more government dollars.

We hope that you enjoy this dialogue between Mr. Miller and Ms. Munson. CCAP will continue to follow this issue into the future as part of its larger goal of making our system of higher education more accountable, efficient, productive, and less dependent on taxpayer support.

Richard Vedder  
Bryan O'Keefe



# **Endowment Reform: Why Federal Mandatory Payouts Are Unnecessary, Legally Dubious, and Counterproductive to Larger Higher Education Reform**

Charles Miller

I am honored to join Richard Vedder and his colleagues at the Center for College Affordability and Productivity and at the American Enterprise Institute to discuss college endowment investment and payout policies.

The issue seems to arise from the fact that a number of elite universities have accumulated vast sums of endowment assets and have simultaneously been slow to pay out significant percentages of those assets. They are simultaneously charging students very high tuition and fees to enroll and attend. The implication is that these universities could increase these endowment payout ratios and use the new current income to reduce the tuition costs to students. A related implication is that the federal government might require by law or regulation a minimum payout of 5 percent per annum, which is similar to the legal requirement for private and public foundations. The objective of this requirement would be to reduce the current levels of tuition charged to students.

For the sake of some early clarity, I want to begin by stating that I am unalterably opposed to any requirement by the federal government of a minimum endowment payout ratio or any other similar intervention into payout or investment policy. There are numerous clear reasons for my position, which I will expand on. There have been benefits from raising these issues, however, and from uncovering the enormous wealth contained in a number—maybe a couple of dozen—of university endowments. The resulting discussion has raised the visibility of the serious inequities in the financing of U.S. universities and colleges. The fundamental issue raised by this visible accumulation of riches was defined in the Spellings Commission Report:

Our higher education financing system is increasingly dysfunctional . . . tuition is rising . . . cost per student is increasing faster than inflation or family income. . . . Affordability is directly affected by a financing system that provides limited incentives for colleges and universities to take aggressive steps to improve institutional efficiency and productivity.

Using the payout ratios to deal with the overwhelming problems in financing higher education would be totally ineffective, and the time and energy focused on attempting to do so would detract seriously from more urgent and more significant reforms.

Let me outline my reasoning. It is just fundamentally not sound public policy for the federal government to directly intervene at this level of institutional management.

In addition, there are numerous specific issues beyond the broad public policy issue of direct federal intervention.

Funds derived from endowment income are part of a complex stream of income to institutions, and those funds become fungible, or interchangeable, when pooled with other income sources. In other words, it is ineffective for the federal government to direct income toward the goal of reducing some other stream of income, such as tuition. For example, colleges can just raise tuition by that amount of additional endowment payout, reduce other financial aid funds, or many other accounting tricks.

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Endowment income is very commonly dedicated to a variety of specific institutional and academic purposes, such as infrastructure, research, teaching positions, and scholarship funds, among others. This income is legally dedicated for specific purposes under trust statutes or other legal instruments and cannot be redirected without inappropriate intervention—abrogation of prior contracts—by the federal government. As a portion of total income, endowment income varies greatly among colleges, as does access to other sources of income. Intervening in the use of this income would have an essentially random impact and certainly a deleterious impact on different institutions.

One of the most important purposes of endowments is to provide very long-term—often perpetual—financial support for various specific or general institutional purposes. Extremely important to understand is that this structure produces multigenerational beneficiaries, beneficiaries a generation or more in the future. Under common law or statute, fiduciaries who manage endowments must take into consideration all beneficiaries—not just today’s students, for example, but students in the future, as well. That fiduciary duty clearly leads to certain investment and payout policies that, in the final analysis, drive the ultimate decisions. Paying out “too much currently”—no matter how that is defined—may deprive future beneficiaries. Alternatively, paying out “too little currently”—no matter how that is defined—may be depriving current beneficiaries. It is the duty of the endowment fiduciaries, not the federal government, to determine the correct payout policy.

There are two real constraints on the fiduciaries’ choices. One constraint is determined by the prudent person or the prudent expert “rule.” The “rule” could be imbedded in common law or defined in state trust laws. It means essentially that managers of endowments must do what other fiduciaries do or would do in similar circumstances. As vague as that sounds, it is an ancient and well-established practice, and it leads to common practices among institutions and their endowments. In practice in recent years, that payout number has varied in a small range around a central 4.5 to 5 percent payout ratio for endowments.

The other constraint derives from investment practices of endowment funds, which in turn are also governed by prudent person or prudent expert standards. Investment policies of endowments are generally set to allow for a reasonable total return and to allow for some future growth of the funds above inflation, after current payouts. A common, simplified approach would be to project a 9-percent total return annually expected over a long time period (probably determined by an 80-percent portfolio allocation to equities with a return of 10 percent, and a 20-percent portfolio allocation to bonds with a return of 5 percent, which is a blended return of 9 percent annually). With inflation projected at 3 percent and an annual growth factor at 1 percent, the payout ratio is derived at 5 percent. Some variations in any of these assumptions could change the residual payout ratio. Rarely would the payout ratio be the starting point or the long-term policy determinant.

Market cycles good and bad can persist for extended periods, however, and variability of market returns annually can be very high. Stability of the dollars paid annually to beneficiaries becomes an important secondary objective, so payout ratios are usually based on a three- or five-year moving average of total asset value. In periods such as the eighteen-year bull market of the 1980s and '90s, a five-year moving average might drag the current payout ratio down below a target ratio and seem to be too low.

However, the current dollars flowing to beneficiaries are maintained and even grow, and when the markets reverse to the downside, funds are available to sustain the current dollars for beneficiaries without invading the principal of the fund. Recent anxiety about a “low” payout ratio is attributable in part to the strong rise in asset prices between 2002 and 2007, reducing the current ratio, but it is a ratio which is still higher on a three- or five-year basis. Based on very weak recent market trends, using the moving average payout ratio has been demonstrated to be sound policy.

To demonstrate further the impact of a long-term horizon in managing the endowments—long-term being a foreign concept in public policy—we can make several simple assumptions. Assume that we have a \$100,000,000 endowment which is projected to earn a total return of 9 percent annually over the next two generations, or the next forty years (the last ten-year return on endowments was +8.6 percent per annum). Let us make two assumptions about the possible payout ratios: one ratio of 4 percent annually and a second ratio of 5 percent annually. Over the full forty-year period, the total dollars paid out with a 5-percent payout ratio would be \$475 million. The total dollars paid out with a 4-percent payout ratio would be \$483 million, slightly higher or virtually the same. However, at the end of forty years, the total assets in the endowment fund with a 5-percent payout ratio would be \$480 million, while the total assets in the endowment fund with a 4-percent payout rate would be \$704 million. Fiduciaries have a duty to understand and make decisions on these kinds of outcomes. Arbitrary payout requirements are unsound and imprudent and remove major operating discretion from institutional managers.

The total asset value in college and university endowments last year was \$411 billion. A one-half of 1 percent difference in the annual payout rate would be \$2 billion annually, with most of the additional revenue going to a limited number of institutions. Out of an estimated \$350 billion in annual spending in post-secondary education, a short-term increase of \$2 billion in endowment payouts is six-tenths of 1 percent. At a 4.5-percent payout ratio, endowments provide only 5.3 percent of the total expenditures. Tinkering with the decimals in the payout rate is a *de minimis* result with a large expenditure of energy.

There is also a fundamental states' rights issue for public university endowments, such as at my University of Texas's endowment, the Permanent University Fund, incidentally set up by the Republic of Texas in 1839. What gives the federal government the right, in Texas language, to put their cotton pickin' hands on our money?

I think it is clear from all that, that to focus primarily on the payout ratio, especially on mandating the payout ratio, is fool's gold. It has had the merit of raising other issues, and for that analysts might be commended, but it is definitely not a promising policy path to follow, in my opinion.

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There are plenty of other problems with the system of financing higher education in America on which we should be putting much more focus. The current financial structure has created elite classes of institutions with essentially monopolistic characteristics. If one looked at the top twenty universities in the *US News & World Report* ranking, for example, one would find that they are all well-endowed but still receive enormous tax subsidies, direct and indirect. Perhaps a better policy issue might be to question whether these subsidies would be better utilized elsewhere but still for higher education.

Or, another example, is the Association of American Universities, which is composed of sixty U.S. and two Canadian universities. The U.S. institutions brag about receiving 60 percent of the federal funding for research, yet membership is highly restricted and many states in America lack a top-tier research university. The policy question might be: Why should additional research dollars be directed to these institutions, especially those with enormous endowments per student? Why don't we consider creating new research institutions? Why is it better to have only sixty instead of a hundred such institutions? Are

research dollars really productive if they are primarily available to this oligopoly? Isn't innovation likely to be stifled by this closed, elite structure where those who do the peer reviews are those who receive research dollars?

I believe the financing structure of higher education is elitist and is contributing to socially elite classes of students and academics. Some examples of that elitism from the academy include a recent *Business Week* article called "The Dangerous Wealth of the Ivy League," which examines the wealth gap between Ivy-plus schools and public universities. One consequence of the wealth gap is that elite schools are increasingly able to raid public universities for their best and brightest scholars and fund luxurious campus infrastructure. When *Business Week* asked Drew Faust, the new president of Harvard University, for her response to this phenomenon, she responded that non-Ivy-plus schools should "really emphasize social sciences or the humanities and have science endeavors that are not as ambitious as those of Harvard and its peers." Wow! She's a historian. She must have gotten this straight from Marie Antoinette: "Let them eat cake." That elite attitude is not unique. It represents reality: a real economic separation among sets of colleges and universities.

A few years ago, Albert Carnesale, chancellor of the University of California at Los Angeles and a former provost of Harvard College, after pointing out the contributions of our top universities, wrote:

Growing disparities between the financial resources of private universities and those of public universities are creating inequities that could have damaging repercussions—not only for economic advancement and social mobility in our own country, but also for the ability of America to compete internationally.

And, from the book *Universities and Business: Partnering for the Knowledge Society*, by Luc E. Weber, a leading official in the European Union on higher education, and James J. Duderstadt, former president of University of Michigan, a member of the National Academy of Sciences, and a former member of the Spellings Commission:

The highly competitive nature of higher education in America, where universities compete for the best faculty, the best students, resources from public and private sources, athletic supremacy and reputation, has created an environment that demands

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excellence. However, it has also created an intensely Darwinian, “winner-take-all” ecosystem in which the strongest and wealthiest institutions have become predators, raiding the best faculty and students of the less generously supported and more constrained public universities and manipulating federal research and financial policies to sustain a system in which the rich get richer and the poor get devoured.

There is substantial evidence that higher education exists is an elitist structure, aided and abetted by its dysfunctional financing system. If the funding system for higher education is essentially rigged, providing extreme advantages to elite, very wealthy institutions, is that not the most important issue? In an era of limited funding for all of our needs, we should question the entire financial structure of higher education. We should consider reallocating resources to innovative and productive institutions rather than putting more and more resources into a limited number of very rich, elite, and elitist institutions. With another key finding from the Spellings Commission—that “the entire financial aid system . . . is confusing, complex, inefficient, duplicative, and frequently does not direct aid to students who truly need it”—and a generally dysfunctional system of financing higher education, it is time for a comprehensive, from-the-ground-up, no-sacred-cows overhaul of that financial aid and financing system.

### **Addendum**

As reported in the 2006 NACUBO endowment study, the University of Texas (UT) System has endowment holdings totaling \$13.23 billion. Of that total, \$6.67 billion (50.4 percent) is limited by the state constitution to capital construction (with the exception of one institution), \$1.1 billion (8.4 percent) is in the form of perpetual land holdings, \$781 million (5.9 percent) is restricted to research at public health institutions, \$1.68 billion (12.7 percent) belongs to the UT health institutions, and \$746 million (5.6 percent) is dedicated to scholarships. The remaining \$2.24 billion (16.9 percent) has restrictions placed by donors on how 97 percent of the income produced by those funds may be spent.

As a result, less than half of a percent of the total endowment is in the form of unrestricted monies that could be used directly to offset tuition expenditures at the academic institutions. Increasing the endowment distribution rate would be of limited use due to the constitutional restriction on PUF debt capacity and the restricted nature of the vast majority of other endowments.

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## **Endowment Reform: Why Universities Should Share Their Vast Wealth and in the Process Make Higher Education More Affordable**

Lynne Munson

I am very happy to be back here at AEI and am particularly glad the occasion is to talk about higher education endowment spending, an issue that is finally enjoying the level of public, policy, and media scrutiny that it deserves.

I say finally because this is a conversation that is at least a decade overdue. Colleges and universities were in fact earning slightly better returns on their endowments ten years ago than they are now. Returns averaged 18.6 percent in 1998 and 23.8 percent in 2000. In 1998 Harvard University's endowment was already over \$12 billion and Yale University's was almost \$6 billion. So our colleges and universities have had at least a decade to come up with a strategy for tapping into their not-so-newfound wealth and to putting those monies to work for students, families, and taxpayers.

Yet it is only in the last few months, after Congress signaled an interest, that a few schools announced plans to spend more endowment monies. As I will explain in a moment, much of what we have heard thus far—from Harvard, Yale, and Dartmouth—is not nearly as impressive as it sounds. But the good news is that endowment funds are now on the table for discussion, no longer locked away in a treasure chest where they languished for so long, helping almost no one.

Endowment spending practices are deeply ingrained. But just as colleges and universities learned to change their longstanding conservative approach to investing, they can update their payout practices, too.

Our colleges and universities rank among the wealthiest institutions in the history of our nation. Richer than private foundations, higher education endowments tower over their peers across the non-profit world. As earlier speakers mentioned, the number of schools with endowments over a billion dollars now stands at seventy-six. In 2003 there were only thirty-nine schools with endowments so large. Billion-plus schools span thirty-one states and enroll 1.4 million undergraduates, 1.1 million of whom are at public institutions. But even as more schools move into the top ranks, spending from endowment funds is at an all-time low. Recent media reports cite 4.6 percent as the average endowment payout last year. But this number includes management and custody fees and actually gives an inflated impression of how much schools are spending on education.

Colleges and universities distributed just 3.9 percent of their endowment last year on activities related to their mission. That's a .3 percent drop from 2006. Either way you look at it, colleges and universities are spending less now than they have in decades and that means they are hoarding more.

Defenders of minimal endowment spending repeatedly raise two arguments.

First, they claim that these funds are needed to protect institutions against fiscal rainy days. This rainy-day claim is actually an old one, left over from a time when it was impossible to predict donation levels

from year to year, long before today's nonstop fundraising. With a constant, steady stream of donations that has hovered for some time around 3 percent, proponents of low spending have refashioned the rainy-day argument and now claim that it applies to protecting the endowment from market fluctuations.

But it is good management, not miserly spending, that protects endowments from risk, and higher education endowments are among the best-managed pots of money in the country. Because of their size they attract first-rate talent. That is why they weathered the post-9/11 downturn far better than most, experiencing just a 4.2 percent average drop in value even as the S&P plunged 18 percent.

There are at least two more reasons the rainy-day argument does not hold water. First, Yale professor Henry Hansmann found that schools are far more likely to cut educational expenditures than to tap into endowments when the budget does not balance. So endowments are not being used as rainy-day funds in that sense.

And finally, decades of hoarding have resulted in many endowments growing so large that it would take a rainy day of Biblical proportions to require significantly tapping into these stockpiles. Another

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claim made by defenders of current rates of endowment payout is that endowments are too constrained by donor restrictions to allow for additional spending. Not only is this rather transparently false, as I will explain in a moment, but an argument can be made that higher payouts would increase adherence to donor wishes, not void them.

Forty-five percent of endowment funds at private institutions are completely unrestricted, as are 20 percent of funds at public schools. And, as most of the talk about more spending deals with increasing access for undergraduates, it is worth noting that the Council for Aid to Education finds that financial aid is the number one restriction chosen by donors—outpacing all other areas, including research, athletics, and faculty salaries combined. Donors who restrict their gifts designate 34 percent of those donations for financial aid. So there is plenty of room to increase payouts, particularly for aid.

I thought it was important to address these claims from the top, but what I am most eager to do today is share some analysis that I hope begins to answer the question I am asked most often. That is: what could more endowment spending do to defray the cost of attending college? The answer, in short, is an awful lot for an increasing number of students.

Harvard and Yale are so wealthy that it would take less than 1 percent endowment spending for their students to attend tuition-free. Two percent spending would add Stanford, Princeton, MIT, and Rice students to that list. So far, we are just talking about the elite private schools, and even then. But we are also not spending much. At just 3 percent spending, things get more interesting. Three percent spending would allow a total of 53,000 students at schools including Pomona College and the University of Virginia to get free tuition. Three percent spending would also allow tuition bills to be slashed in half for more than 180,000 undergraduates attending the University of Michigan, Georgia Tech, the University of North Carolina, and twenty-nine other schools in all. We will go up just one more percentage point. At 4 percent spending, twenty institutions could offer free tuition to 114,000 students and forty-four institutions could cut tuition by half for more than 400,000 undergraduates. Many of the schools that could slash tuition with 4 percent spending have endowments under \$1 billion. They include the University of Miami, the University of Tulsa, and little, 1,100-student Haverford College, which has a \$540 million endowment.



Our expectations for what colleges and universities can do and indeed should do—particularly in the area of aid—are simply outdated. We think of colleges and universities as needy, though many are not. And we assume that they are doing all they can to make themselves accessible, though the research suggests otherwise.

The recent public discussion of endowments will adjust expectations somewhat. But if we are truly going to be able to understand the potential benefit of endowment wealth, we need more information. Until Senators Max Baucus and Chuck Grassley wrote to the wealthiest schools last week, the government had never officially requested any significant information from schools about their endowments. Unlike private foundations, colleges and universities are not required to share almost any information with the public about what they do with their monies. They enjoy tax-free status without many of the responsibilities that normally go along with it.

The kind of information the senators have requested will help to determine both what level and what type of spending is commensurate with the extraordinary tax benefits colleges and universities receive. Private foundations are required to spend 5 percent of their value annually in exchange for their tax-free status. Currently, colleges and universities are not required to spend a cent.

Let me close with a word about donor intent, which, as I mentioned earlier, would be better served through increased payouts. I am going to illustrate my point by talking about Harvard only because it is such a stark example. But the principle I am describing applies to many other schools, which I'll name.

Harvard has approximately \$6.5 billion in its endowment that donors have restricted for financial aid. Let me explain how I arrived at this number, because the university does not make this information public. As I mentioned earlier, on average, 55 percent of the funds in private school endowments are restricted, and 34 percent of restricted donations are designated for financial aid. Applying both of those percentages to Harvard's \$34.6 billion endowment gives us \$6.5 billion, which amounts to nearly \$1 million aid-restricted dollars per undergraduate. Under its new, much-touted aid plan, Harvard will spend \$120 million. That is just one-ninth of the increase in the aid-restricted portion of Harvard's endowment last year. At its current rate of spending, billions of dollars in donations that Harvard promised donors it would spend on aid will just sit unused for generations, serving no purpose. All the while the university will keep charging tuition, raising tuition, and even continuing to charge an application fee. This in my opinion amounts to a complete violation of donor intent.

There are nineteen colleges and universities that have more than \$1 billion in their endowments restricted for financial aid:

- Harvard
- Stanford
- Princeton
- University of Texas

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## University Endowment Reform

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- Massachusetts Institute of Technology
- Columbia
- University of Michigan
- University of Pennsylvania
- Texas A&M
- Northwestern
- University of California
- University of Chicago
- Notre Dame
- Duke
- Cornell
- University of Virginia
- Yale
- Washington University
- Emory

Each of these schools is in a position to show leadership with regard to endowment spending on aid, and indeed has a responsibility to donors to do so.

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