

**THE U. S. CONGRESS: New Hope
for Constructive Engagement with the
NCAA and Intercollegiate Athletics**

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The Drake Group

The Montana Professor

Vol. 17, No2-Spring 2007

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BACKGROUND

The increasing commercialization of big-time (Div I-A) intercollegiate athletics and its negative impact on America's higher education enterprise has become evermore apparent to academic leaders, elected public officials, the sports press, and to a growing fraction of the public. After a century of ineffective efforts to reform college sports, there is a growing concern over out-of-control commercialization that is driven by the college-sports entertainment industry to further its financial interests – exploiting college sports and its participating athletes while limiting access to higher education by real students. There is also concern about compromised academic integrity and the distracting influence of overly commercialized college sports on school officials, on America's youth, and on the nation's prospects as a leader in the 21st century's global economy.

There follows some historical perspectives that help get at the truth about big-time college sports ... the brutal truth that is often obfuscated by myths, misrepresentations, and misinformation promulgated by ardent defenders of the status quo. To begin, the negative impact of college sports on higher education is not a new story. In 1929, the *Chicago Tribune* featured a headline column on the Carnegie Report's indictment of college sports.¹ This report focused on the need for reform based on the negative influence of big-time college sports on higher education.

(College football) is not a student's game as it once was. It is a highly organized commercial enterprise. The athletes who take part in it have come up through years of training; they are commanded by professional coaches; little if any initiative of ordinary play is left to the player. The great matches are highly profitable enterprises. Sometimes the profits go to finance college sports, sometimes to pay the cost of the sports amphitheater; in some cases the college authorities take a slice for college buildings.

Some seven years after publication of the *Chicago Tribune* story, Paul Gallico gave up a successful sports-writing career with the *New York Daily News* to devote himself to full-time writing. His first book was *Farewell to Sport*, published in 1938.² As the title suggests, it was his farewell to sports writing, but it was much more than a farewell. It illuminated the increasing professionalism in sports during the 1930s, and bemoaned the loss of sport in its original sense. The following statements from Gallico's 68-year-old book provide additional context for this essay.

- College football today is one of the last great strongholds of genuine old-fashioned American hypocrisy....There are occasionally abortive attempts to turn football into an honest woman, but, to date, the fine old game that interests and entertains literally millions of people has managed to withstand these insidious attacks. (208)
- It is a curious thing that the college to which a boy goes, not only for an education, but for the set of morals, ethics, and ideals with which to carry on in later life, is the first place he learns beyond any question of doubt that you can get away with murder if you don't get caught at it or if you know the right people when you do get nabbed. His university is playing a dirty; lying game and it doesn't take him long to find out. (218)
- If there is anything good about college football it is the fact that it seems to bring entertainment, distraction, and pleasure to many millions of people. But the price, the sacrifice to decency, I maintain is too high. (221)

Robert Maynard Hutchins, President of the University of Chicago and a contemporary of Gallico, deplored undue emphasis on nonacademic pursuits, condemning “sham” courses for college athletes and the pervasive cheating by schools to fashion winning teams. In 1938, Hutchins said: “Since this country needs brains more than brawn at the moment, proposing football heroes as models for the rising generation can hardly have a beneficial effect on the national future.”³ Hutchins, then president of the University of Chicago, wrote those prescient words during the time of the gathering storm prior to the outbreak of World War II. Guided by his personal beliefs and, perhaps, triggered by Gallico’s remarks, he abolished football at the University of Chicago in 1939. When asked why he did this he replied with the simple statement, “To be successful, one must cheat. Everyone is cheating, and I refuse to cheat.” As former Tufts University Provost Sol Gittleman opined in 2005, “A Robert Hutchins comes only once in a lifetime.”⁴

Fast forward to 2003, past the deterioration of college sports during the years of World War II, past the scandal years of the late 1940s and early 1950s, and through the following trouble-filled years that eventually led to the formation of the Knight Commission on Intercollegiate Athletics—a disturbing transition story exhaustively documented by Murray Sperber, retired Indiana University professor of English and American Studies,⁵ and Jim Duderstadt, President Emeritus and University Professor of Science and Engineering at the University of Michigan.⁶ It was in May 2003 that I first spoke with Duderstadt—telling him his book, *Intercollegiate Athletics and the American University*, piqued my interest in college sports reform. In 2004, Duderstadt, who has been working in multiple domains of higher education—most recently as a member of the Secretary of Education’s Commission on the Future of Higher Education—wrote the foreword to my “The Faculty-Driven Movement to Reform Big-Time College Sports.”⁷

PROBLEMS WITH COMMERCIALIZED INTERCOLLEGIATE ATHLETICS

America’s Obsession with Sports

NCAA President Myles Brand has said, “Americans love their sports. ... it should not be doubted that sports have a central place in American popular culture. There is great interest in professional teams; but nothing rivals interest in intercollegiate athletics.”⁸ James Michener provided deep insights into this apparent national obsession with college sports in his 1976 best seller, *Sports in America*.⁹ Among other things, Michener said sports are a major factor in American life and in the life of other countries as well. There was nothing to worry about at the time, but today America has the most to lose as it confronts new global realities with its continued obsession with sports—especially big-time college football and men’s basketball.

As I said in my essay “Sports in America 2005,”¹⁰ you can ask many Americans about big-time college sports and they will be willing to tell you three things: first, it’s great entertainment; second, they know most schools cheat; and third, they don’t want to be bothered with the details of issues such as the corruption of college football and related reform efforts.¹¹ Also, for many, the most important page in their newspaper is the one carrying the betting line; and, very often the target for major contributions by wealthy alumni is not for academics, but rather for their alma mater’s athletics fund that helps fuel the athletics arms race. It seems that only in sports-obsessed and seemingly complacent America can we find a general public that views sports as super cool while the study of science, technology, engineering, and mathematics (STEMs) are considered to be nerdy, and where athletes have a definite edge when it comes to college admission and retention—often in ‘diploma-mill-like’ alternative education programs with questionable accreditation.

By contrast, in China, which educates approximately one-half of the world’s engineers, engineering education is valued as a preparation for contributions in government, policy, innovation, intellectual property, broad engineering disciplines, and manufacturing, while the study of STEMs is considered to be a patriotic duty—providing a robust pipeline of human resources for R&D. Also, enormous investments are being made not to build and/or upgrade stadiums, but to build schools and to upgrade its university system. STEM students have a definite edge, and English instruction is becoming big business as the China’s growing middle class pays to learn the language of global commerce.

Growing Commercialism Destroying a Precious Resource

America's love affair with big-time college-sports entertainment in combination with excessive cynicism, apathy (if not purposeful ignorance), and gambling, has been a recipe for growing commercialization at America's institutions of higher learning. Excessive commercialization has brought academic corruption, financial shenanigans, increasing expenditures on athletics, and money-focused presidents who often view sports programs as an economic necessity and undergraduate education as an expensive nuisance and who have little patience with reform efforts by their faculty.

Given the enormous broadcasting revenues at stake, the NCAA faces a conflict between its sometimes-contradictory roles as promoter and governor of intercollegiate athletics. Consequently, the NCAA cartel is incapable of reforming itself to stem the growth of commercialism. Worse yet, reform is impeded by greed, fanatic sports fans, a mostly apathetic public and inconsistent government tax policies that benefit not only the NCAA, but also wealthy sports-crazed donors, many of whom are influential trustees who use their school's athletic programs as ego-boosting playthings.

Tax breaks help fund 'stadium wars'¹² and have allowed the commercially driven college-sports enterprise to grow unchecked. This is because the federal government weakly enforces its Unrelated Business Income Tax (UBIT) law.¹³ Strong enforcement will require standing up to the very powerful legal and lobbying forces as well as to the huge amount of money at the command of the NCAA cartel. A sense of the magnitude and the ubiquitous nature of this power can be obtained from Allen Sack's and Ellen Staurowsky's chronicle of the NCAA's suppression of the 1977 UBIT case brought against Texas Christian University by the Dallas office of the IRS.¹⁴ Also, IRS rulings allow boosters to deduct most of the donations they make to lease skyboxes, estimated to account for hundreds of millions of dollars to Division I universities—all but guaranteeing distracted, booster-beholden university administrators who have learned to look the other way and an expanding set of fun-loving consumers for their entertainment business that has hijacked the academic mission of many universities.

If all of this is coupled with the rising costs of residential higher education (without corresponding improvements in academics) and improved technology-driven competitive education delivery systems, we are led to the conclusion that America's higher education enterprise is rapidly becoming untenable—unable to survive, just as predicted by Peter Drucker back in 1997. It is also ironic that the government's subsidy of college sports via favorable tax policies has helped fuel the destruction of what has been one of our most precious resources.

A Great Distraction Undermining America's Leadership Position

The technology-driven, global economy is both expanding and becoming evermore complex. There will be no place in this global game for societies that remain clueless—asleep at the switch, not knowing what is at stake, or, preoccupied with other things such as stadium wars and the current problems in collegiate athletics. Members of top-ranked BCS football teams and the NCAA's Final-Four basketball teams will not likely be eligible to play in the technology-driven global 'game.' America's colleges and STEMs literally need to be thought of in a global context. Little did Michener know that an obsession with sports in America would help lubricate a slip not only from its position of global economic and business leadership, but also from its leadership position in higher education—a cultural catastrophe?

How could America ever lose its leadership position in higher education? Murray Sperber tells in painstaking detail just how big-time college sports are crippling undergraduate education.¹⁵ America's love affair with sports, its high tolerance for misbehavior by its heroes, inconsistent government policies, and the money, has helped bring us today's highly commercialized, college-sports, entertainment business, a horrific mess characterized by unrestrained growth in spending with a corresponding desperate, death-spiral-like need for additional revenues—a great distraction to school officials, to say the least.

Inadvertently or willingly, college and university presidents, chancellors, regents and boards of trustees have conspired with the NCAA and the media to tap into the ocean of money associated with the big-time college sports entertainment industry. All the schools need do is manage and tout government subsidized minor league

teams for the NFL and the NBA. “There is nothing that’s more positive for our alums and our long-term friends than a good football team. Everyone cares about the Buckeyes,” says Karen Holbrook, Ohio State University president.¹⁶

The cost of this operation comes in the form of problems relating to: 1) institutional goals and priorities; 2) educational principles, values and ethics; 3) fundraising methods; and 4) resource management, not to mention limiting access to higher education by real students and the overall negative impact on America’s K-16 education system. Compounding these problems is the lack of rigorous financial, accountability, and oversight structures within the higher education enterprise.

Lack of Oversight and Control

Skip Rosin’s September 5, 2005, *Wall Street Journal* column, “The Brutal Truth About College Sports,”¹⁷ focused needed public attention on a serious problem in America’s system of higher education—the mess in big-time college sports. The related Sept. 24, *Letters to the Editor*, aptly headlined, “Can Colleges Control the NCAA Beast?”¹⁸, led to my letter, “Who Wants to Tackle Biggest Man on Campus.”¹⁸

Can colleges control the NCAA beast? The answer, plain and simple, is no—so too with the Knight Foundation Commission on Intercollegiate Athletics, the (faculty) Coalition on Intercollegiate Athletics (COIA), and school presidents.¹⁹ As a general rule, big-time university and college presidents cannot advocate true reform without risking termination driven by a storm of protest about economic impact and assorted tradition-based arguments by trustees/regents, wealthy boosters and alumni, as well as rabid fans. But there can be exceptions. For example, Birmingham Southern University went from Div. I to Div. III – enabling the provision of more athletic and educational opportunities for its students.²⁰

Most tenured faculty members seem too busy to work for reform, doing research shunning involvement in controversial nonacademic affairs where they have no real power. But here again there are a few exceptions to this general rule, for example, Tom Palaima at the University of Texas-Austin, Jim Gundlach at Auburn University, as well as Nathan Tublitz and James Earl at the University of Oregon.^{21, 22, 23} The latter’s initiative triggered a swift defense of the status quo by Dave Frohnmayer, the university president who argued that excellence in athletics does not preclude excellence in academics, but did not address the expressed concerns of the 90 faculty members who endorsed the document.²⁴

Almost all untenured faculty members are too busy working to get tenure and are not in a position to challenge administrative policy on intercollegiate athletics. In either case, faculty members who defend academic integrity can be considered subversive²⁵—inviting intimidation and career-threatening retaliation by school administrations. Also, the fear of being ostracized looms large.

Unfortunately, with the NCAA’s apparently successful co-option of the Knight Commission on Intercollegiate Athletics,²⁶ there is now nobody responsible for oversight, let alone the control, of big-time college sports. The NCAA has exploited college athletes, provided weak rules enforcement, shown a lack of concern with regard to violence by college athletes (and the connection of this violence to the use of performance enhancing drugs), become expert at resisting true reform, and shrouded its nefarious conduct in a veil of secrecy ostensibly provided by the Buckley Amendment to the Family Educational Rights and Privacy Act (FERPA).²⁷ The NCAA continues to perpetuate its myth of amateurism with the incessant use of the contrived ‘student-athlete’ term, deceptively portraying itself as a nonprofit institution of higher education.^{14, 28} Simply stated, the NCAA appears to be running “foot loose and fancy free.”

ADDRESSING THE PROBLEMS

Some three years ago, Terry Holland, East Carolina University Athletic Director, former University of Virginia coach, and one of the most thoughtful persons in intercollegiate athletics, said, “It is time to put aside our individual and institutional agendas, denials, and rationalizations to create a vision for intercollegiate athletics that will enhance the experience for future generations of young people in our colleges and universities.” Here’s

what The Drake Group²⁹ and the Congress are doing to stimulate serious reform in collegiate athletics to do just that:

The Drake Group (TDG)

Skip Rozin not only called attention to Rep. Jan Schakowsky's March 17, 2005, remarks in the Congressional Record,³⁰ but also to TDG's congressional initiative, a grassroots, quid-pro-quo initiative encompassing disclosure and related financial mechanisms that would help restore academic and financial integrity in our institutions of higher education. Over the past three years, TDG members have been working to provide and stimulate truth-telling stories in the media, beginning with its website and beyond to *The Chronicle of Higher Education*, *InsideHigherEd.com*, *CollegeAthleticsClips.com*, and elsewhere. The aim has been to provide TDG's position and proposals on key problems and issues for easy availability to all concerned parties—especially to members of Congress and their staffs. Other parties included the media, the Knight Commission, and COIA. The collection of publications that can be found at the TDG Website²⁹ chronicle the story outlined in the previous sections of this essay and more.

The House Committee on Ways and Means

Congressman William Thomas (R-CA), past Chair of the House Committee on Ways and Means, addressed some areas of concern with big-time college sports in his sharply-worded October 2, 2006 letter to NCAA President Myles Brand.³¹ The chairman's questions were aimed at ascertaining the justification for the tax-exempt status of the NCAA and its member schools. For example, in the words of one question, "Why should the federal government subsidize the athletic activities of educational institutions when that subsidy is being used to help pay for escalating coaches' salaries, costly chartered travel, and state-of-the-art facilities?" The Thomas letter triggered a number of issue-amplifying news columns and editorials in *The New York Times*, *The Wall Street Journal*, *USA Today*, *The Boston Herald*, *The Washington Post*, *The Indianapolis Star*, *The Dallas Morning News*, and *The Birmingham News*, among many others.

Some of Brand's Nov. 13 letter reply³² was responsive and interesting. Much of it, however, ducked and dodged questions, for example, by hiding behind the statistics characterizing all sports programs rather than addressing the far more alarming results of the revenue sports of football and men's basketball. And much of the response seemed to fall back on the status quo, portraying earlier legislation, policy, or court rulings as unchallengeable, seemingly taken as perpetual entitlements. Predictably, Brand did not give cogent answers to questions related to the academic life of college athletes—taking refuge in the FERPA's privacy provisions. And there is a disturbing question as to how serious the NCAA took the Thomas letter. For example, when asked about the scrutiny by the Committee on Ways and Means at a Dec. 6, 2006, panel session at Street & Smith Publications' 5th *Annual Intercollegiate Athletics Forum*, Brand was quoted as saying, "We believe it was staff driven." Then, when asked why by the panel moderator, Abraham Madkour, Brand said, "I suppose they had a bee under their bonnet." For more, see *Inside Higher Ed's* Elia Powers summary of Brand's response in his Nov. 16, 2006, column.³³

In a related event, the NCAA released its Presidential Task Force Report "The Second-Century Imperative,"—covering the future of Division I Intercollegiate Athletics at Brand's National Press Club speech on Oct. 30, 2006.³⁴ Interestingly, this was the original due date for his response to Chairman Thomas. Brand used the occasion to hark still another NCAA reform measure long on high-sounding rhetoric but short on substantive workable/enforceable initiatives. The report provides a good example of how college and university presidents work to maintain the status quo. It lays a good part of the blame for the troubled state of intercollegiate athletics on the faculty, for example, saying, "Critical to the future of re-establishing institutional accountability for intercollegiate athletics is the underdeveloped potential for informed faculty engagement in support of presidential leadership. Hampering such engagement for decades has been uninformed, biased faculty members who attack athletics unfairly." According to the report, faculty are not only uninformed, but also need to, "understand the intercollegiate athletics enterprise—the facts of the matter—and not merely accept pre-existing

biases.” See Palaima³⁵ for more on the blaming of faculty for the problems that arose under the authority of college and university presidents, chancellors, regents and boards of trustees.

Multimillion dollar coaching contracts make for headlines and stories that get the attention of Congress.³⁶ However, the core of the issue surrounding the tax-exempt status of the NCAA cartel and so-called ‘student-athletes,’ is this: lacking tangible and verifiable evidence, the government must presently take the word of school administrators that athletes are really students on track to receive a bona fide, rather than a “pretend,” college education. Course tracks for many athletes who must pretend to be students are usually engineered by academic support center staff members who work at the behest of the school’s athletic department. This is a blatant conflict of interest and a surefire recipe for academic corruption since the primary motivation for the athletic department is not education, but winning and revenue generation. As Walter Byers, who served as NCAA executive director from 1951 to 1987, said when speaking of a college’s reporting on the necessary progress that has been made on the rehabilitation of at-risk high school graduates, “Believe me, there is a course, a grade, and a degree out there for everyone.”³⁷ The following excerpt from the previously cited *New York Times* editorial²² “Top Grades, Without the Classes,” makes the point:

The House Ways and Means Committee sent shock waves through college sports when it asked the National Collegiate Athletic Association to justify its federal tax exemption by explaining how cash-consuming, win-at-all-cost athletics departments serve educational purposes. The short answer is that they don’t. Indeed, they often undermine the mission of higher education by recruiting athletes who aren’t prepared, then encouraging grade-padding and preferential treatment to keep them eligible for sports.

That process has been on vivid display at Auburn University, which is embroiled in a scandal involving athletes who are said to have padded their grades and remained eligible to play by taking courses that required no attendance and little if any work. This summer, James Gundlach, an Auburn sociology professor, laid out the problem in startling detail, telling reporters that corruption at the university was pervasive.... Auburn’s administration promised swift and decisive action to address the problem. But it has also taken pains to point out that the suspect courses were open not just to athletes, but to all students.

That’s no reason to feel relieved. The deeper and more alarming lesson is that the unethical behavior often associated with big-time college sports doesn’t always end with athletes. It can easily seep outward, undermining academic standards and corrupting behavior in the university as a whole.

As incredible as it may seem, without transparency, oversight and accountability mechanisms, the government is in a position where it must trust schools that, in many instances, give every appearance of not only being secretive, but untrustworthy as well. Most, likely, Auburn is simply representative of what’s going on in big-time college sports—the tip of an iceberg of widespread academic corruption³⁸ Besides the potential loss of big-money, there is a compelling need for some schools to report very high graduation rates to justify their high-profile programs and their extraordinary investments in staff and facilities for alternative education programs for their athletes.

The above, combined with self assessment and reporting, as well as weak enforcement, and even weaker penalties for infractions, provide an enormous incentive for these and other less conflicted schools to scheme and cheat. After all, the schools apparently believe that it’s only wrong if they get caught. But, who’s going to catch them and what’s to lose if they do get caught?

Furthermore, many school officials seem to believe that outcomes assessment is none of the government’s business and are quick to appeal to FERPA’s privacy provisions to avoid disclosure, especially in the case of the academic performance of the athletes in their money making sports programs. However, FERPA’s privacy provisions do not apply so long as individual students are not identified in aggregated data.

In his Oct. 15, 2006, *New York Post* column, reporter Richard Tedesco, said that if the Democrats win the House, then the NCAA's tax-exempt status – and the \$503 million it gets from CBS to televise its March Madness basketball tourney – could face a full-court press from Rep. Charles Rangel (D-NY) who would be the new Chairman of the House Committee on Ways & Means. Next, during the course of his Jan. 7, 2007, *This Week* program, George Stephanopoulos addressed Congressman Rangel, saying: “.... Your predecessor, Bill

Thomas, had real questions about whether or not the NCAA still deserved its tax exemption because college sports have become so much like pro sports. Is that something that concerns you? Will you be taking a look at that tax exemption?" Congressman Rangel responded by saying: "I will be taking a look at all tax exemptions. And that, certainly, I join with Bill Thomas on that in taking a hard look at that as well as many, many other tax-exempt organizations." Although past positions taken by Congressman Rangel on taxation matters suggest that he will most likely follow up on Thomas' initiative, only time will tell whether his committee can withstand the very powerful legal, economic, political, and lobbying forces that can be mustered by the NCAA cartel to protect its financial interests.

The Senate Finance Committee

Duderstadt testified at the December 5, 2006, Senate Finance Committee Hearing "Report Card on Tax Exemptions and Incentives for Higher Education: Pass, Fail, or Need Improvement?"^{16, 39} Re: the failure of our financial aid programs at the federal, state, and institutional level to address adequately the needs of low and middle-income students, he said,

"Federal tax policy can and does play a role in the support of higher education. Current tax policies both assist parents in saving and paying for the college education of their children. It also provides strong incentives for donors to contribute to a variety of purposes in higher education. Yet while most of these tax benefits contribute substantially to our colleges and education, some have drifted rather far from the tax-exempt purposes of education and scholarship. I have written in the past about my concerns about intercollegiate athletics and argued that tax policy is fueling an arms race in stadium construction, coaching salaries, and student exploitation in big time sports such as college football and basketball.

However there remain problems with current tax policy, resulting both from the susceptibility of the tax code to manipulation by special interests and because of the law of unintended consequences.

An example of the former is the perverse treatment of intercollegiate athletics, in which mandatory fees for athletic events such as luxury skybox leases and licenses to purchase season tickets are treated, in part, as charitable contributions by the current tax code. Ironically these revenue streams are now fueling an arms race in college sports, driving universities to debt-finance massive stadium expansion projects, exploit young student-athletes, and tolerate multimillion dollar coaches salaries, all demanded by big-time college football and basketball programs that have been transformed into commercial entertainment businesses with only marginal relevance to the educational (and, I might add, tax-exempt) mission of the university.

Ironically, the broader higher education tax policies concerning private gifts, endowment income, and tuition and other college expenses may also be having some unintended consequences of a very similar nature. For example, the "edifice complex" that stimulates naming gifts from donors for new capital facilities frequently results in campus monuments such as museums, theaters, or sports facilities only marginally related to the academic mission of the university, yet requiring massive additional investment in both construction and long-term maintenance."

Chairman Grassley questioned each of the panelists to obtain clarification or extensions of their remarks—saying that although not a direct focus of this hearing, the tax-exempt status of the NCAA has been the subject of a great deal of scrutiny by the House Committee on Ways and Means and is certainly relevant to their work. He asked Duderstadt if he thought the NCAA's response to the letter from Chairman Thomas was adequate, and, if not adequate, he said he would appreciate getting any additional questions or information that would help the committee better consider the matter.

Duderstadt began by saying there is a growing concern among a great many people, both within higher education and beyond, that the increasing commercialization of big-time college football and basketball programs is beginning to distort the academy; for example, the rate of increase in athletics costs over the last decade is 3-times that of academic costs. He said part of that may be due to some of the perversity of the tax code—treating quid pro quo transactions such as the leasing of luxury skyboxes or the ability to purchase season tickets as a

charitable contribution which of course they are not, but it also relates to a broader array of commercial activities engaged in by the NCAA and by the institutions; and went on to say the Thomas letter very effectively challenged this growth in commercialization; and, that the NCAA took great care in its response, much of which was useful and informative, but it was somewhat of a mixed bag. In effect it said that: 1) To some degree the NCAA passed off concerns to the institutions, claiming it really had no influence and raising the question: Should they? 2) Some of the responses hid behind the vast array of sports that do not suffer from the drawbacks of the commercialized football and men's basketball programs.

Duderstadt also said he thinks it's always important to have those involved with intercollegiate athletics operations step back and really think deeply about whether their decisions are being made in the best interest of the educational opportunities of the athletes participating in their programs and in the best interests of their academic institutions, saying, "That's what the (Thomas) letter did." He concluded his remarks by saying he thinks that the Thomas letter will lead to further debate and concerns—hopefully persuading the NCAA and the institutions themselves to take steps to reconnect intercollegiate athletics with the academic objectives of their institutions. Perhaps cleaning up some of the tax policy, perhaps further investigations will provide the stimulus to do just that.

Senator Grassley's questions and interest that has stimulated further research into the federal tax exemption that colleges and universities use to help finance athletics was certainly noted in his home state of Iowa. A prominent front-page story in *The Des Moines Register* was headlined "Grassley: Do college-athletic donations merit tax deductions?"⁴⁰ It is expected that Senator Max Baucus (D-MT), the new chair of the Senate Finance Committee, will continue with Senator Grassley's research initiative. However, he will likely place special emphasis on the reduced access to higher education by academically qualified students occasioned by the thousands of college and university scholarships granted to academically unqualified athletes – a consequence of taxpayer supported educational institutions that often place a premium on athletic rather than academic ability. See Golden⁴¹ for insights into this and other aberrations in the admission process in America's system of higher education. It is to be noted that Pulitzer Prize winning author Dan Golden, the deputy bureau chief at the *Wall Street Journal's* Boston bureau, gave extensive testimony at the December 5, 2006, Senate Finance Committee Hearing – ultimately leading to his incisive article "Tax Breaks for Skyboxes."¹²

The Congress and the National Academies

The National Academies have responded to a request from concerned members of Congress with a call-to-arms report,⁴² stating, "This nation must prepare with great urgency to preserve its strategic and economic security." The report (aka the Augustine report) goes on to say that America faces an enormous challenge because of its disadvantage in labor costs; and, that science and technology provide the opportunity to overcome that disadvantage by creating scientists and engineers with the ability to create entire new industries. It is estimated that a coordinated and sustained response to the challenge would cost the country about \$9 billion a year.

In his opening statement for a congressional hearing on the Augustine report, Congressman Sherwood Boehlert (R-NY) said, "Science programs still have to scrounge around for every additional cent; young scientists still have to beg for funds; our education system is still producing too many students who cannot compete with their counterparts around the world; and the federal government is still ignoring our fundamental energy problems while wasting money pandering to special interests." A salient example of this pandering is the government's favorable tax policies on college sports, particularly the NCAA that is treated as an institution of higher education. As mentioned by Duderstadt in his testimony before the Senate Finance Committee, quid pro quo contributions from boosters and the boom in the leasing of stadium skyboxes by corporations and other big-money contributors as well as extortion-like seat taxes, are fueling the uncontrolled growth of the big-time college-sports entertainment business.¹²

A PATH FORWARD

Taken together, the NCAA's weak Presidential Task Force report, its less than forthright response to Chairman Thomas' questions, and Jim Duderstadt's candid testimony at the Dec. 5, 2006, Senate Finance Committee Hearing, provide the basis for a compelling argument for a focused congressional hearing on intercollegiate athletics. Such a hearing would fully expose the NCAA and its secretive ways to the light of day, revealing the true professional nature of big-time college sports, its tight connection to the entertainment business, and its marginal relevance to the educational, tax-exempt mission of its member institutions, as well as its negative impact on America's K-16 education system.

It should be clear that just as it would be unwise for the Congress to micromanage intercollegiate athletics; it would be even more unwise for the Congress not to be managing them at all. Without government intervention and oversight there will be no serious reform, only a veil of secrecy shrouding a continuing national scandal that is characterized by a distortion of the mission of our institutions of higher education, institutions that are now beholden to the out-of-control college sports entertainment business.

Priorities need to be set right at our nation's colleges and universities. Addressing the perverse government subsidization of the NCAA and big-time intercollegiate athletics would be a good start, as it would not only help flip the apparent athletics-over-academics priority at many schools—reconnecting athletics with the academic objectives of the schools—but also provide substantial incremental tax revenues that could aid the implementation of the Augustine report's recommendations. The latter could help to finance a boost in the federal investment in basic research, recruitment of future STEM teachers, and scholarships for undergraduate STEM and other students that want to go to college to learn.

Congress could begin by taking steps to hold the NCAA cartel accountable for the substantial financial support it receives from America's taxpayers—giving serious consideration to conditioning the continuation of the NCAA's tax-exempt status on the NCAA meeting specific requirements aimed at increasing the transparency, accountability and oversight of its operations and that of its member institutions. It can also take a hard look at tax policies governing seat licenses, luxury skyboxes, corporate sponsorships and other unrelated business income. Furthermore, the NCAA should be required to take steps that will permit athletes to function as real students—providing tangible evidence that the athletes in its member institutions attend regular classes on accredited degree tracks and that they are maintained as an integral part of the institution's student body where academic standards of performance for athletes are the same as for all other students.

America's higher education enterprise should be focused on academics, not athletics, meaning tax code benefits with emphasis on learning and research, not on commercialized sports entertainment and health-spa-like facilities. These will be the arsenals and 'tools' for the defense of America's democracy. There should be concern at the highest levels of our government, concern that things are moving in a direction where America could very well lose its position as a world leader. There is much to learn about changes in the world about us and from past societies that destroyed themselves by destroying their resource base. Increased awareness of these matters on the part of faculty members, students and the general public is critical to America's future; a good part of this awareness can be gained from Friedman and Diamond.⁴³

Finally, a democracy has as one of its fundamental strengths the ability to bring great ideas, innovation and individual initiative, into what could otherwise be a failing system. But the higher education enterprise, just as a democracy, is only as strong as the people who are willing to keep it vital and ever evolving. Faculty members need to become more aware of the problems besetting their segment of the enterprise and then, hopefully enabled and supported by government intervention, rise to the challenge of reclaiming academic primacy in higher education.⁴⁴

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⁴⁴ This essay is an outgrowth of a 'brief' prepared for the April 2005, National Science Foundation (NSF) sponsored workshop *What Does it Mean to be Educated in the 21st Century?*. It also reflects experience working with the International Engineering Consortium and the Electrical and Computer Engineering Department Heads Association on the November 2005, NSF sponsored workshop, *Globalization Effects on ECE Education for the Engineering Profession*. Portions of the commentary have been posted on *InsideHigherEd.com* and *CollegeAthleticClips.com*, and published in *THE INTERFACE*, the joint newsletter of the IEEE Education Society and the ASEE Electrical and Computer Engineering Division.