Legal scholarship carries a high price tag
By Karen Sloan
April 20, 2011

What is the total cost of a law review article written by a tenured professor at a top-flight law school?

It's in the neighborhood of $100,000, according to Hofstra University School of Law professor Richard Neumann. His estimate factors in the salary and benefits for a tenured professor at a high-paying school who spends between 30% and 50% of his or her time on scholarship and publishes one article per year.

It also takes into account possible research grants, which many schools offer professors to help fund their scholarly work, and the costs for research assistants.

Neumann delivered that staggering estimate during a panel discussion on leveraging tenured faculty during the Future Ed conference in New York on April 16; the meeting drew more than 100 academics to discuss innovation in legal education. The conference was sponsored by New York Law School and Harvard Law School.

Tenure is a touchy subject these days at the law schools, with the American Bar Association's Standards Review Committee considering new accreditation standards that wouldn't require schools to maintain tenure systems (there is disagreement over whether the existing standards actually require tenure).

The panel also included Loyola University Chicago School of Law Dean David Yellen, who also sits on the ABA committee. Yellen said the committee is trying to cut down on the number of requirements for law schools and that mandating certain terms of employment is not the proper role of an accrediting body. Opponents have argued that tenure is essential to protecting intellectual freedom.

The focus during the conference was not tenure per se, but rather on how to best use tenured faculty. Neumann made the case that extensive and expensive research does not necessarily benefit the students footing the bill through hefty tuition.

Even articles written by assistant professors at lower-paying law schools come with a price tag between $25,000 and $42,000, he estimated.

Neumann also pointed to research suggesting that 43% of law review articles are never cited by anyone. "At least a third of these things have no value," he said. "Who is paying for that? Students who will graduate with six figures of debt."

That faculty time would be better spent in the classroom, especially since teaching loads have dropped significantly in recent decades, he argued. It's time to break the model of large--and cost
effective--lecture classes that subsidize reams of research, Neumann said. And only a faculty with tenure will have the freedom to think creatively about new methods of teaching, he said.

Yellen agreed that the era of supporting both theoretical work and more skills training through tuition increases is over, and that historically low teaching loads were "a bit unfair to our students."

However, he argued that law deans would run the risk of losing talented young faculty members if they tried to discourage scholarly research and instead added to their teaching loads. "I'm not looking to change the model or the amount of scholarship, but I do want to pay more attention to the education," he said.

New York Law School Dean Rick Matasar urged legal educators to consider the possibility of new, lower-cost law schools that rely heavily on untenured faculty and adjuncts to teach rather than write law review articles.

"Students are saying, 'I don't want to pay for it anymore,' " he said. "How do we explain how our scholarly mission helps them?"