

From Amateur Hour to Prime Time: How Athlete Compensation is Changing the Game

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I. INTRODUCTION

The roar of Kinnick Stadium can be heard for miles on a home football game Saturday. Around the country, a Tiger Hawk logo seen in public is met with a “Go Hawks!” by strangers. It is no secret that collegiate institutions, and their athletic programs, hold a power and pride that is not found anywhere else. While certain athletes come to mind when thinking of Iowa, like George Kittle, Luka Garza, and Sam Laporta, they alone are not to thank for a sold-out stadium or arena.¹ Instead, it is the reputation of the historic programs that pack the stands each season.

College athletics-related topics have become the forefront of recent judicial decisions. Successful court cases have brought sports betting,² name, image, and likeness (NIL) deals,³ and now revenue-sharing,⁴ to the table. Ideas including student-athlete collective bargaining, student-athlete eligibility changes, and the separation of college football entirely from college athletics are potential concepts waiting to be evaluated in the not-so-distant future. Collegiate athletics has undergone a dramatic transformation in the past couple of years. Emerging as one of the most commercially significant sectors in higher education, the evolution is fueled by student-athlete lawsuits against the National Collegiate Athletics Association (NCAA), leading to conference realignments, billion-dollar media rights agreements, and the emergence of NIL compensation.

After decades of control from the NCAA prohibiting the monetization of student-athletes’ NIL, the first development came from the Ninth Circuit case *O’Bannon v. NCAA*.⁵ The *O’Bannon* court held that the NCAA restrictions violated antitrust laws but did not allow direct NIL payments.⁶ The Supreme Court’s decision in *Alston v. NCAA* marked a shift in collegiate athletics by allowing student-athletes to benefit from the use of their NIL by third-party companies.⁷

House v. NCAA emerged after the *Alston* decision, asserting that since member institutions were profiting off the NIL of its student-athletes when they competed, the student-athletes deserved compensation.⁸ *House* is a direct challenge to the historical prohibition on amateur athletes engaging in pay-for-play, dressed as an NIL issue.⁹ As more lawsuits

1. This author would like to note that Caitlin Clark was the primary reason for the rise in Women’s Basketball attendance at Iowa, and nationwide. However, no other athlete has yet to reach the same caliber, and therefore she is excluded from the list for that very reason.

2. *Murphy v. NCAA*, 584 U.S. 453 (2018); see generally Austin R. McLellan, Note, *A Parlay of Problematic Sports Betting Policies*, 50 J. CORP. L. 255 (2024) (arguing that the NCAA should “update its policies on athletes betting” and offering solutions to ensure legalized sports betting will not “corrupt in-state college athletics”).

3. *NCAA v. Alston*, 594 U.S. 69 (2021).

4. See *infra* Part III.

5. *O’Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015).

6. *Id.* at 1079.

7. See *id.*

8. See generally *House v. NCAA*, 545 F. Supp. 3d 804 (N.D. Cal. 2021).

9. NAT’L COLLEGIATE ATHLETIC ASS’N, NCAA DIVISION I MANUAL 2024–25 198 (“Compensation for athletics performance (i.e., pay-for-play) renders a student-athlete ineligible for intercollegiate competition.”) [hereinafter NCAA DI MANUAL].

ensued, the narrative surrounding collegiate athletics shifted from the educational development of student-athletes to the money they can make. Now that the spotlight centers on the commercial value of their athletic performance, more student-athletes are chasing a dollar amount.

The evolving landscape of collegiate athletics has become increasingly sympathetic to the student-athletes, particularly with respect to compensation. Under the current settlement terms of *House*, institutions are permitted to directly compensate student-athletes beginning in the 2025–2026 academic year.¹⁰ The agreement allows for the distribution of up to \$20.5 million per institution, approximately 22% of the average revenue generated by the institutions to the student-athletes.¹¹ The settlement is notably silent on how funds will be allocated, leaving member institutions and the NCAA to further litigate over Title IX, roster limits, and other claims, adding to the list of litigation facing the NCAA.¹²

This Note will not discuss the implications of NIL deals or advocate that student-athletes should not be compensated. Instead, it merely advocates that the avenue taken to get to revenue-sharing and the implementation of the market-share model will put most student-athletes, member institutions, and conferences at a disadvantage, due to the amount of money needed to be paid out each year to stay competitive, showing that NCAA antitrust immunity is imperative.

Part II will first discuss the background of what the NCAA is, the procedural history of the current college athletic climate, NIL deals, and the transfer portal. Part III will discuss the economic implications for member institutions, student-athletes in both revenue generating and Olympic sports, NIL compensation, current legislation in the United States Congress, and other implementation concerns. Part III will also discuss the impact of revenue-sharing on non-athletic students, and other challenges arising from implementation, including alternate models of implementation. This Note will advocate for current legislation to be enacted by Congress to establish the NCAA as a governing body and allow for rules to be included to provide equitable compensation for all student-athletes and a restriction on collective payments to student-athletes.¹³

10. Austin Reid & Andrew Smalley, *What the NCAA Settlement Means for Colleges and State Legislatures*, NCSL (June 9, 2025), <https://www.ncsl.org/state-legislatures-news/details/what-the-ncaa-settlement-means-for-colleges-and-state-legislatures> [https://perma.cc/3C32-5ZWA] (“The *House* settlement permits the NCAA to allow schools to share revenue directly with student-athletes up to an annual cap of \$20.5 million in 2025–26.”).

11. See, e.g., *House v. NCAA Settlement Sparks New Age of Student-Athlete Compensation*, BAKERHOSTETLER (June 25, 2025), <https://www.bakerlaw.com/insights/house-v-ncaa-settlement-sparks-new-age-of-student-athlete-compensation/> [https://perma.cc/8ZGW-GN4Z] (“The NCAA will now allow schools to pay their student-athletes up to a \$20.5 million cap (the equivalent of 22% of the average athletics department revenue for Power Five conference schools) for the 2025–2026 school year and eventually up to a \$32 million cap in 2034–2035.”).

12. See *House*, 545 F. Supp. 3d at 815–18 (deciding that student-athletes have standing against their universities for using their name, image, and likeness); see also *Carter v. NCAA*, No. 23-cv-06325, 2024 U.S. Dist. LEXIS 80005, at *3–4 (N.D. Cal. Apr. 29, 2024) (explaining that student-athletes are fighting for their day in court); Jake Goidell, *The NCAA Antitrust Lawsuits Will Not Pay Off for College Athletes Without a Permanent Players Association*, PROMARKET (July 17, 2024), <https://www.promarket.org/2024/07/17/the-ncaa-antitrust-lawsuits-will-not-pay-off-for-college-athletes-without-a-permanent-players-association/> [https://perma.cc/Q9SV-3SRG] (explaining that with so many ongoing lawsuits, the *House* settlement is not going to solve the problems that student-athletes think it will).

13. See Nicole Auerbach & Justin Williams, *How the House v. NCAA Settlement Could Reshape College Sports: What You Need to Know*, N.Y. TIMES: THE ATHLETIC (May 20, 2024),

II. BACKGROUND

A. What is the NCAA?

The National Collegiate Athletic Association was founded in 1906 as the Intercollegiate Athletics Association to “regulate the rules . . . and protect young athletes.”¹⁴ Since its founding, the NCAA has prided itself on its protections of student-athletes, including concussion research, protections against discrimination, and “modernizing rules surrounding student-athletes’ use of their name, image, and likeness.”¹⁵ In 1910, the NCAA was granted rule-making power, allowing it to make decisions on amateurism and eligibility requirements.¹⁶ Until recently, the NCAA had strict rules regarding paying student-athletes, as NCAA Bylaw 12 shapes the rules regarding amateurism.¹⁷ Since *Alston*, student-athletes can seek outside compensation through NIL deals, but the NCAA bylaws are strict on what universities are allowed to do.¹⁸

The NCAA notes that it is a “self-governing organization” and is “committed to the well-being and development of student-athletes, to sound academic standard, and the academic success of student-athletes”¹⁹ However, the NCAA is not a governing body, but a membership institution.²⁰ Its main job is to oversee college athletics and ensure institutions maintain a level of excellence. In overseeing college athletics, the NCAA has a commitment to amateurism; ensuring “a line of demarcation between student-athletes who participate in the Collegiate Model and athletes competing in the professional model.”²¹ The NCAA previously relied on the idea of amateurism to combat antitrust liability,²² but recent court decisions have shown that is no longer the case.

There is no question that college athletics have served as a temporary step on the way to the professional leagues for many. It has also granted student-athletes both a backup plan pending their professional success and an avenue to receive an education they otherwise might not have been able to receive. The amateurism label for college athletics protected student-athletes and allowed them to focus on their education.

The NCAA takes the academic success of student-athletes seriously, as they have investigated numerous academic fraud infractions, most notably at the University of North Carolina (UNC), where student-athletes were taking “paper courses” to stay eligible to

<https://www.nytimes.com/athletic/5506457/2024/05/20/ncaa-settlement-house-lawsuit-college-sports/> [<https://perma.cc/M6NH-ZFNQ>] (“[T]he final class-action figure could be as high as \$20 billion and force the NCAA to file for bankruptcy.”).

14. *History*, NCAA, <https://www.ncaa.org/sports/2021/5/4/history.aspx> [<https://perma.cc/Z6XW-MJCA>] (explaining the history of the NCAA and why its function is important).

15. *Id.*

16. Wes Gerrie, *More Than Just the Game: How Colleges and the NCAA are Violating Their Student-Athletes’ Rights of Publicity*, 18 TEX. REV. ENT. & SPORTS L. 111, 114–17 (2018).

17. See NCAA DI MANUAL, *supra* note 9, at 33–66.

18. See *id.* at 36 (providing that athletes are stripped of their amateur status and therefore their right to participate within NCAA sporting events if they receive payment for their athletic skills.).

19. *Id.* at 1.

20. *Id.*

21. *Id.* at xii.

22. See *Gaines v. NCAA*, 746 F. Supp. 738, 743–45 (M.D. Tenn. 1990) (holding that the NCAA’s eligibility rules are not subject to antitrust analysis to preserve a level of amateurism for student-athletes).

compete.²³ Despite the recent media narrative that the athletic ability of student-athletes is the most important for their “image,” their academic integrity remains a key pillar of their eligibility. Without academic integrity, their athletic ability becomes moot, as their academics are a key portion in maintaining their athletic eligibility.²⁴ Therefore, the academic success of student-athletes is imperative to putting them on the field, a model that is being disrupted by the *House* settlement terms.²⁵

B. How it all Started—O’Bannon, Alston, and Other Major Cases

Antitrust lawsuits have plagued the court system for decades over various ideas regarding eligibility, compensation, and the “rights” of student-athletes.²⁶ Most notably, one of the first lawsuits holding in favor of the plaintiffs was *NCAA v. Board of Regents of the University of Oklahoma* in 1984.²⁷ In the 21st century, the infamous cases regarding college athletics have changed the game entirely by allowing various forms of athlete compensation that was not previously allowed.

For decades, the NCAA acted as a governing body, dictating the rules of college athletics for member institutions and student-athletes to follow.²⁸ Member institutions won their first case against the NCAA when they caught it violating the Sherman Act,²⁹ a law Congress intended for the courts to protect the ability of markets to “yield the best allocation” of the Nation’s resources.³⁰ In *Board of Regents of OK*, the NCAA attempted to dictate how institutions were going about monetizing athletics in the form of TV programming.³¹ Ultimately, the NCAA’s attempts to restrict member institutions in this instance failed, as they were considered “horizontal restraint on competition”³² and the NCAA had no power to dictate how member institutions made money on athletics. The precedent outlined in *Bd. of Regents of Univ. of Okla.* laid the groundwork being used nearly four decades later to prompt the NCAA to change its stance on student-athlete compensation.³³

The NCAA is no stranger to criticism. The public had been advocating for student-athletes to gain access to more money for decades, and little victories starting in 2001 have led to the current point. In 2001, the NCAA allowed U.S. Olympians to continue competing

23. Bill Chappell, *NCAA ‘Could Not Conclude Academic Violations’ in UNC Athletics Scandal*, NPR (Oct. 13, 2017), <https://www.npr.org/sections/thetwo-way/2017/10/13/557581005/ncaa-could-not-conclude-academic-violations-in-unc-athletics-scandal> [<https://perma.cc/7SNS-EJ6Y>].

24. See NCAA DI MANUAL, *supra* note 9, at 139–70.

25. See *infra* Part III.C.

26. See generally Complaint and Jury Demand, *Jenkins v. NCAA*, No. 3:13-CV-01678, 2014 WL 1008526 (D.N.J. Mar. 17, 2014) (alleging the NCAA and the Power Conferences have placed a ceiling on the compensation that could be paid to men’s basketball and football players).

27. *NCAA v. Bd. of Regents of Univ. of Okla.*, 468 U.S. 85, 120 (1984) (holding that the NCAA’s media deal and the amount of control they had over media deals violated antitrust law).

28. See *NCAA v. Alston*, 594 U.S. 69, 69 (2021) (“The National Collegiate Athletic Association (NCAA) issues and enforces these rules, which restrict compensation for student-athletes in various ways. These rules depress compensation for at least some student-athletes below what a competitive market would yield.”).

29. The Sherman Act, 15 U.S.C. § 1 (2000).

30. *Bd. of Regents of Univ. of Okla.*, 468 U.S. at 104 n.27.

31. See *id.* (explaining that the Sherman Act was meant to preserve the right to unfettered competition as the rule of trade); see also *N. Pac. Ry. Co. v. United States*, 356 U.S. 1, 4–5 (1958).

32. *Bd. of Regents of Univ. of Okla.*, 468 U.S. at 86.

33. See Goidell, *supra* note 12 (explaining the different cases against the NCAA currently being litigated).

in college athletics while pocketing reward money for their performances in the Olympics.³⁴ In 2015, this exception extended to international student-athletes.³⁵ Two-sport student-athletes were even allowed to be considered professional athletes in one sport while maintaining eligibility in the other to compete at the college level.³⁶

O'Bannon v. NCAA was the first major case discussing student-athletes' name, image, and likeness.³⁷ Judge Claudia Wilken, the presiding judge in the district court level, who was also the deciding judge for *Alston* and now *House*, noted that "[t]he association's current rules demonstrate that, even today, the NCAA does not consistently adhere to a single definition of amateurism."³⁸ The plaintiff in *O'Bannon* alleged that the use of his likeness as an avatar in a video game without his consent or payment violated the Sherman Act.³⁹ Despite winning at the district court level, the Ninth Circuit ultimately decided that not paying the plaintiff or other college athletes more than their tuition did not violate antitrust laws.⁴⁰ However, the court noted that offering student-athletes "cash sums untethered to educational expenses is not minor; it is a quantum leap."⁴¹ The court continued by saying, "[o]nce that line is crossed, we see no basis for returning to a rule of amateurism and no defined stopping point; we have little doubt that plaintiffs will continue to challenge the arbitrary limit . . . until they have captured the full value of their NIL."⁴²

The *O'Bannon* court was correct in its assumption that student-athletes would continue to fight for their NIL rights. *NCAA v. Alston*⁴³ came before the Supreme Court in 2021, backed by dozens of student-athletes. At the time, the NCAA was still restricting student-athlete compensation to only the cost of attendance using scholarships.⁴⁴ Student-athletes argued that NCAA regulations unfairly restricted their ability to receive compensation by limiting what universities could offer in exchange for their participation in athletic programs.⁴⁵ Litigated as an antitrust case, the Court held that the NCAA violated federal antitrust laws by collectively agreeing on a limit of opportunities to compensate student-athletes to only education-related expenses.⁴⁶ The Court ultimately sided with the student-athletes, stating that "[t]he national debate about amateurism in college sports is important" but not relevant to the issue before them.⁴⁷ The misconception, however, that

34. Jon Solomon, *The History Behind the Debate Over Paying NCAA Athletes*, ASPEN INST. (Apr. 23, 2018), <https://www.aspeninstitute.org/blog-posts/history-behind-debate-paying-ncaa-athletes/> [<https://perma.cc/W7RZ-BCRG>] (noting that these debates were sparked after "University of Texas swimmer Joseph Schooling had recently received a \$740,000 bonus from Singapore for winning a gold medal at the 2016 Olympics").

35. *Id.* ("The NCAA added an exception in 2015 to also allow international athletes to receive bonuses.").

36. *Id.*

37. *O'Bannon v. NCAA*, 802 F.3d 1049, 1053 (9th Cir. 2015).

38. *O'Bannon v. NCAA*, 7 F. Supp. 3d 955, 1000 (N.D. Cal. 2014).

39. *O'Bannon*, 802 F.3d at 1055.

40. *Id.* at 1079.

41. *Id.* at 1078.

42. *Id.* at 1078–79.

43. *NCAA v. Alston*, 594 U.S. 69 (2021).

44. *See In re NCAA Athletic Grant-in-Aid Cap Antitrust Litig.*, 375 F. Supp. 3d 1058, 1071 (N.D. Cal. 2019) (describing the NCAA bylaws against paying amateurs and the exceptions for cost of attendance).

45. *Alston*, 594 U.S. at 73–74.

46. Michael McCann, *There's a Common Misperception About the Supreme Court and NIL*, SPORTICO (Mar. 31, 2025), <https://www.sportico.com/law/analysis/2025/scotus-alston-antitrust-not-nil-1234845366/> [<https://perma.cc/RDQ5-846T>].

47. *Alston*, 594 U.S. at 107.

Alston was the reasoning behind NIL is not entirely true. The case itself merely stated that the NCAA's rules were a violation; it did not say the NCAA had to allow NIL deals, as the Court left that portion unanswered.⁴⁸ The NCAA itself voted on its own accord to agree to finally allow student-athlete compensation for the use of their name, image, and likeness.⁴⁹ However, the Court missed an opportunity to clearly define amateurism, leaving the issue unresolved and prompting a wave of lawsuits, including *House v. NCAA*.⁵⁰

NIL deals exploded after the *Alston* decision, more so than initially anticipated. The opportunity has allowed many student-athletes the ability to make money on various levels with corporations, private companies, and local spots close to their universities.⁵¹ However, the introduction of the collectives, and the amount of money being paid through them, was more than the NCAA and potentially the Supreme Court anticipated it would be.

C. Everything on NIL: Collectives and the Big Names on Campus

Following *Alston*, the legal landscape surrounding NIL has continued to evolve rapidly. Although the NCAA adopted an interim policy in July 2021, it left significant regulatory gaps that were soon exploited.⁵² The absence of uniform national standards has resulted in a fragmented framework governed primarily by state laws and university policies, creating challenges and inequities across institutions, and for the NCAA to begin putting regulations in place. Litigation initiated by student-athletes and state attorneys general, assert that NIL restrictions unlawfully limit athletes' economic rights.⁵³

High-profile NIL agreements illustrate both the scale and significance of this economic shift. Student-athletes such as Arch Manning, Cooper Flagg, and Carson Beck retained the top three spots of highest-paid student-athletes in 2024–2025, reportedly securing contracts amounting to NIL valuations exceeding \$3 million.⁵⁴ These deals underscore the growing commercial value of student-athletes, and the role NIL has played in facilitating financial independence. NIL opportunities provide critical relief for student-athletes, many of whom must balance rigorous athletic obligations with academic commitments, previously without the economic safety net of being able to hold a job. However, third-party NIL deals, while providing some compensation, typically do not amount to the levels

48. *Id.* at 104–05.

49. *NCAA v. Alston: Comment on:* 141 S. Ct. 2141 (2021), 135 HARV. L. REV. 471, 471 (2021).

50. *See e.g.*, *House v. NCAA*, 545 F. Supp. 3d 804 (N.D. Cal. 2021).

51. Michael Ehrlich, *Nike Introduces Exciting NIL Roster Highlighting Emerging Basketball Stars*, SPORTS ILLUSTRATED (Nov. 15, 2024), <https://www.si.com/fannation/name-image-likeness/nil-news/nike-introduces-exciting-nil-roster-highlighting-emerging-basketball-stars> [<https://perma.cc/UF4D-RNGD>].

52. *See generally* Matthew Glogower, *NIL: How Third-Party Businesses Exploit Collegiate Student-Athletes with Impunity*, 19 BROOK. J. CORP. FIN. & COM. L. 279 (2024) (arguing for better federal protections geared towards student-athletes entering into NIL contracts with for-profit third-party businesses).

53. *See, e.g.*, Complaint, *Tenn. v. NCAA*, 718 F. Supp. 3d 756 (E.D. Tenn. 2024) (No 3:24-cv-00033), 2024 WL 5659202 (alleging NCAA limits on NIL negotiations during recruitment seasons was a violation of antitrust and state law protections).

54. Nate Cunningham, *Highest Paid College Athletes via NIL Deals in 2025-26*, SPORTS ILLUSTRATED (July 14, 2025), <https://www.si.com/college-basketball/highest-paid-college-athletes-via-nil-deals> [<https://perma.cc/2KMZ-X8UC>].

of the top three. The average student-athlete makes between \$1,000–\$10,000 from NIL deals.⁵⁵

One of the most unanticipated consequences of the evolving NIL framework has been the rise of “NIL Collectives.” Collectives are third-party organizations that facilitate compensation for student-athletes through donations, endorsements, and sponsorships.⁵⁶ Although member institutions remain formally prohibited from engaging in a pay-for-play model under NCAA guidelines, NIL collectives operate within a grey area.⁵⁷ “Independent” of member institutions, these organizations often maintain close relationships with athletics departments, effectively blurring the lines between permissible NIL activity and illicit inducements tied to athletic performance or recruitment.

Under the *House* settlement, Collectives now answer to the College Sports Commission (CSC).⁵⁸ The CSC’s job was to review NIL deals, both from Collectives and other businesses to ensure the amount of money paid was comparable to the action the student-athlete was engaging in.⁵⁹ The CSC is attempting to keep member institutions from using their Collectives to “circumvent” the revenue spending cap from the *House* settlement.⁶⁰ Now, Collectives must have a “valid business purpose” for their deals with student-athletes, instead of being pay-for-play in disguise.⁶¹ This has not stopped certain deals that look like pay-for-play from being accepted.⁶² It begs the question of if the future of the CSC will actually prevent pay-for-play deals in disguise or if it will become just another form student-athletes fill out. Currently, five months from the *House* settlement’s approval, the future is unknown.

A particularly notable example involves Bryce Underwood, a top-ranked quarterback at Michigan. Initially committed to Louisiana State University (LSU), Underwood reportedly altered his decision following the intervention from Dave Portnoy and billionaire Larry Ellison and his wife Jolin.⁶³ According to public statements, the Ellisons provided

55. Paul Rudder, *Who is the Highest Paid College Athlete? NIL Endorsement Deal Money in NCAA Sports*, DIARIO AS (Jan. 1, 2025), <https://en.as.com/ncaa/who-is-the-highest-paid-college-athlete-nil-endorsement-deal-money-in-ncaa-sports-n-2> [<https://perma.cc/5FSE-MRF5>].

56. *When One (NCAA) Door Closes, Another (NIL) Door Opens: What Pre-Collegiate Enrollment NIL Deals Mean for Schools & NIL Collectives*, MONTGOMERY MCCracken (Mar. 13, 2024), <https://www.mmwr.com/when-one-ncaa-door-closes-another-nil-door-opens-what-pre-collegiate-enrollment-nil-deals-mean-for-schools-nil-collectives/> [<https://perma.cc/XG5M-BZY6>] (“NIL collectives are 501(c)(3) non-profits that are affiliated with—but operate independently from—a particular school and its athletic department These collectives pool funds from donors, fans, businesses, and other sources to compensate student-athletes in exchange for the student-athlete completing certain services.”).

57. Christina Stylianou & Gregg E. Clifton, *The Game Time Rush to Introduce Federal NIL Bills Continues*, LEWIS BRISBOIS (July 31, 2023), <https://lewisbrisbois.com/blog/category/sports-law/the-game-time-rush-to-introduce-federal-nil-bills-continues> [<https://perma.cc/MQN6-NQFF>] (discussing how the use of collectives and boosters creates a “grey area” for student-athletes to receive benefits without “fear of sanction or loss or eligibility”).

58. Dan Murphy, *College Sports Commission Loosens Prohibition on NIL Payments*, ESPN (July 31, 2025), https://www.espn.com/college-sports/story/_/id/45867746/college-sports-commission-loosens-prohibition-nil-collectives-payments [<https://perma.cc/3MHT-PTFH>].

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. Chris Breiler, *MUST WATCH: Barstool’s Dave Portnoy Discusses Involvement in Bryce Underwood Flip*, SPORTS ILLUSTRATED (Nov. 26, 2024), <https://www.si.com/college/michigan/football/barstool-sports-dave>

significant financial backing to help secure Underwood's commitment to Michigan.⁶⁴ Reports estimate that Underwood will receive between \$10–12 million over four years in NIL compensation—a figure that rivals entry-level contracts in professional sports.⁶⁵

This case exemplifies the regulatory challenge posed by collectives. While they offer student-athletes valuable opportunities for economic advancement, they also threaten to circumvent the NCAA's restrictions on direct inducements and undermine efforts to preserve the educational mission of collegiate athletics. In response, as part of the *House* settlement, the NCAA established an NIL oversight committee tasked with reviewing agreements to determine whether they constitute pay-for-play arrangements and to assess whether compensation is proportionate to the services provided.⁶⁶ However, the efficacy and enforceability of this oversight remain uncertain, particularly in the absence of federal legislation or a unified national standard.

Collectives underscore the broader tension between NIL freedom and institutional control—a tension that courts, lawmakers, and the NCAA must navigate carefully to ensure fairness, transparency, and compliance with both antitrust principles and educational values.

D. *House v. NCAA—Procedural History*

Approved by Federal Judge Claudia Wilken, the settlement agreements between the plaintiffs and the NCAA changes how member institution athletics departments operate.⁶⁷ The plaintiffs allege that “Division I conference and schools would compete amongst each other by allowing their athletes to . . . share in the conferences’ and schools’ commercial benefits received from exploiting student-athletes’ names, images, and likenesses.”⁶⁸ They continued to add that allowing the commercial revenue information to not only be released to student-athletes would create a “competition” between the member institutions, but by creating said competition would benefit the student-athletes.⁶⁹

The potential threat to non-revenue and women's sports has become a pressing issue for many. As member institution athletics departments face pressure to reallocate resources under the emerging market-share value model, fears have mounted that programs outside of football and men's basketball may face “cutting or deprioritizing.”⁷⁰ Some programs are

portnoy-discusses-involvement-in-bryce-underwood-flip-michigan [https://perma.cc/6QTF-UKEK]; see also Larry Lage, *Michigan Flipped QB Bryce Underwood with Some Help from Oracle Founder Larry Ellison and Tom Brady*, ASSOCIATED PRESS (Dec. 4, 2024), https://lewisbrisbois.com/blog/category/sports-law/the-game-time-rush-to-introduce-federal-nil-bills-continues [https://perma.cc/AM68-ZCWK].

64. See Lage, *supra* note 63.

65. *Id.*

66. See Megan Durham Wright, *DI Board of Directors Conditionally Approves House Settlement-Related Rule Changes*, NCAA (Apr. 21, 2025), https://www.ncaa.org/news/2025/4/21/media-center-di-board-of-directors-conditionally-approves-house-settlement-related-rules-changes.aspx [https://perma.cc/LWB4-TNW8] (explaining that the DI Board of Directors received an update for a possible new committee structure in Division I).

67. Dan Murphy, *Judge OK's \$2.8B Settlement, Paving Way for Colleges to Pay Athletes*, ESPN (June 6, 2024), https://www.espn.com/college-sports/story/_/id/45467505/judge-grants-final-approval-house-v-ncaa-settlement [https://perma.cc/C7NM-W89U].

68. *House v. NCAA*, 545 F. Supp. 3d 804, 816 (N.D. Cal. 2021) (quoting the Complaint).

69. *Id.*

70. *10 Female Student Athletes File Objection in NCAA Settlement Over Title IX and Equity Concerns*, HUTCHINSON, BLACK & COOK, LLC. (Feb. 3, 2025), https://www.hbcboulder.com/news-media-

already dealing with the consequences of such actions.⁷¹ Notably, some member institutions have indicated plans to adopt market-share value frameworks in which 90% of revenue-sharing funding would be directed toward football and men's basketball programs, leaving a mere 10% for women's basketball and Olympic sports.⁷²

In contrast, member institutions such as Ohio State have emphasized their commitment to Title IX compliance.⁷³ However, there remains significant uncertainty about how such compliance can be achieved in practice under the new economic realities of collegiate athletics. Even if Ohio State was able to incorporate an equitable distribution of funds, the looming idea of their collective making up for the money lost to football and men's basketball programs is an option most institutions do not have.

Additionally, in early 2025 a federal judge in Tennessee issued a preliminary injunction limiting the NCAA's ability to penalize boosters and student-athletes for engaging in NIL negotiations during the recruiting process.⁷⁴ The preliminary injunction permanently enjoined the NCAA's recruiting ban, meaning they can no longer enforce their recruiting rules, but it does not stop the NCAA from adopting rules.⁷⁵ This development reflects a broader trend: recruitment practices are increasingly mirroring those of professional sports, with student-athletes prioritizing NIL compensation packages offered by collectives over traditional academic considerations. Such a shift directly challenges the NCAA's historic emphasis on academic integrity and the amateurism model that has long underpinned collegiate athletics.

Under the terms of the settlement agreement, NCAA member institutions are authorized to provide direct payments to student-athletes. Notably, the settlement does not mandate a specific formula for the distribution of those funds across different sports or teams, thereby affording universities substantial discretion. The agreement also grants \$2.7 billion in backpay damages to be distributed among affected student-athletes since 2016, in exchange for allowing the NCAA to continue to enforce certain regulatory provisions.⁷⁶

archive/2025/2/3/10-female-student-athletes-file-objection-in-ncaa-settlement-over-title-ix-and-equity-concerns [https://perma.cc/827Z-AQEF].

71. Discussions with numerous current and former student-athletes about the restrictions to their programs include apparel, travel expenses, food expenses, and scholarships (on file with the author).

72. *Id.*; see also Kristi Dosh, *What Schools Are Saying About Their Revenue Sharing Plans*, BUS. COLL. SPORTS (July 26, 2024), <https://businessofcollegesports.com/name-image-likeness/what-schools-are-saying-about-their-revenue-sharing-plans/> [https://perma.cc/8GF2-A8JD] (discussing the comments made by athletics department officials from various universities about their plans for the new revenue sharing policies, including Iowa State's athletics director who commented that "football and men's basketball fund 90 to 95% of what we do in college athletics").

73. See Dosh, *supra* note 72 (quoting Ohio State President: "[Ohio State will] maintain 36 Division I sports").

74. Dan Murphy, *NCAA Can't Enforce NIL Rules After Judge Grants Injunction*, ESPN (Feb. 23, 2024), https://www.espn.com/college-sports/story/_/id/39585390/ncaa-enforce-nil-rules-judge-grants-injunction [https://perma.cc/MMH3-B6TX] ("A federal judge in Tennessee granted a preliminary injunction Friday afternoon that prohibits the NCAA from punishing any athletes or boosters for negotiating name, image and likeness deals during their recruiting process or while they are in the transfer portal.").

75. Darius Walker, Jr., *Landmark Settlement in NCAA NIL Litigation: Federal Judge Approves Settlement Over NIL Recruiting Rules*, NAT'L L. REV. (Apr. 8, 2025), <https://natlawreview.com/article/landmark-settlement-ncaa-nil-litigation-federal-judge-approves-settlement-over-nil> [https://perma.cc/VUY5-FCD6].

76. Dan Murphy, *Federal Judge Will Hear NCAA Settlement Objections Thursday*, ESPN (Sept. 4, 2024), https://www.espn.com/college-sports/story/_/id/41124557/ncaa-house-settlement-objections-hearing-thursday

E. Revenue Differences Between Power 5 Schools Programs

The revenue generated by each Division I member institution depends on various factors, including the popularity of specific sports, school size, and game attendance. However, a key issue facing college athletics today is that much of this revenue is consumed by the rising expenses of athletic programs,⁷⁷ leaving little financial flexibility for universities.⁷⁸ In 2019, only 25 out of 130 schools were able to prove positive profits between expenses and revenue.⁷⁹

In the 2022 fiscal year, the Power 5 conference member institutions estimated billions in revenue.⁸⁰ The Big Ten conference (B1G) had the greatest revenue total at about \$845.6 million.⁸¹ The B1G also had the largest distribution per-school with an estimate of \$58.8 million per school, with a smaller amount going to Nebraska, Rutgers, and Maryland.⁸² However, in the 2023 fiscal year that amount increased to \$880 million, with each of the original 12 schools getting an estimated \$60.5 million.⁸³ Maryland and Rutgers only received \$58.8 million.⁸⁴ The Southeastern Conference (SEC) unsurprisingly came in second

[<https://perma.cc/CGR4-UJYR>] (explaining that enforcing the rules would allow the NCAA to “protect a competitive balance among schools and preserve what makes college sports unique”).

77. *Finances of Intercollegiate Athletics: Division I Dashboard*, NCAA (Dec. 2023), <https://www.ncaa.org/sports/2022/10/14/finances-of-intercollegiate-athletics-division-i-dashboard.aspx> [<https://perma.cc/K2V4-GF6H>].

78. Andrew Zimbalist, *Who is Winning in the High Revenue World of College Sports?*, PBS NEWS (Mar. 18, 2023), <https://www.pbs.org/newshour/economy/analysis-who-is-winning-in-the-high-revenue-world-of-college-sports> [<https://perma.cc/ZY8V-TZD3>] (“[A]thletic expenses surpass revenues at the overwhelming majority of Division I programs.”).

79. NCAA RSCH., 15-YEAR TRENDS IN DIVISION I ATHLETICS FINANCES 9 (2020), https://ncaaorg.s3.amazonaws.com/research/Finances/2020RES_D1-RevExp_Report.pdf [<https://perma.cc/EZH6-WP2X>]; *2019 NCAA Division FBS Football Season*, WIKIPEDIA https://en.wikipedia.org/wiki/2019_NCAA_Division_I_FBS_football_season [<https://perma.cc/GV5N-X8VH>] (showing that in 2019 there were 130 Division I FBS teams).

80. The Power 5 is comprised of the following dominant conferences: the B1G, the Southeastern Conference, the Atlantic Coast Conference, the Big 12, and the Pac-12. Jeffrey May, *What Are the Power 5 NCAA Conferences? What We Know About the Deal to Pay Players*, DIARIO AS (May 24, 2024), <https://en.as.com/ncaa/what-are-the-power-5-ncaa-conferences-what-we-know-about-the-deal-to-pay-players-n/> [<https://perma.cc/4SNY-B4WY>]; see also Mike Aresco, *An Open Letter on Power Five—Group of 5 Branding*, AM. ATHLETIC CONF. (May 9, 2023), <https://theamerican.org/news/2023/5/9/football-an-open-letter-on-power-5-group-of-5-branding.aspx> [<https://perma.cc/8BFX-2KZR>] (criticizing the label as “a self-selected group based mainly on financial clout”). Since the 2024–2025 season, the Pac-12 has been omitted from the Power 5 due to losing all but 2 of its schools to conference realignment. See Kyle Bonagura, *The Pac-12, Almost Dead a Year Ago, Finally Sees a Future for Itself*, ESPN (Aug. 5, 2025), https://www.espn.com/college-football/story/_/id/45898458/pac-12-future-mountain-west-conference-realignment-2025 [<https://perma.cc/RZ4Y-XQ4D>].

81. Steve Berkowitz, *NCAA’s Power Five Conferences Are Cash Cows. Here’s How Much Schools Made in Fiscal 2022*, USA TODAY (May 19, 2023), <https://www.usatoday.com/story/sports/college/2023/05/19/power-5-conferences-earnings-billions-2022/70235450007/> [<https://perma.cc/36TE-TNGB>].

82. *Id.*

83. Will Backus, *Big Ten Remains Power Five Revenue Leader with \$880 Million Haul for 2023 Fiscal Year, per Report*, CBS SPORTS (May 23, 2024), <https://www.cbssports.com/college-football/news/big-ten-remains-power-five-revenue-leader-with-880-million-haul-for-2023-fiscal-year-per-report/> [<https://perma.cc/5FSB-NA8Y>].

84. *Id.*

in terms of revenue, estimating \$802 million, distributing about \$49.9 million per-school.⁸⁵ However, the SEC suffered a decrease in revenue from the previous 2021–2022 academic year.⁸⁶ Opposite the SEC, the Atlantic Coast Conference (ACC) trended upwards from \$617 million in the 2022 fiscal year,⁸⁷ to \$707 million in 2023.⁸⁸ A range between \$37.9 million and \$41.3 million were distributed to schools in 2022.⁸⁹ Notre Dame only received \$17.4 million due to their continued decision to not join a conference for football.⁹⁰ The Big 12 ranked fifth out of all conferences, estimating \$480.6 million in revenue in 2022,⁹¹ with a per-school payout of about \$42 million.⁹² In 2023, the Big 12 brought in \$510.7 million, still being outranked by the now barely existent Pac-12 conference.⁹³

There is no doubt that the recent realignment of schools moving from the Pac-12 and Big 12 to the B1G and SEC is driven primarily by financial incentives.⁹⁴ Member institutions like Oregon and Texas have all transitioned into other conferences, now called the Power 4, with revenue potential playing a key role in their decisions.⁹⁵ While some claim these moves were motivated by the pursuit of “better competition” or the collapse of the Pac-12, such justifications only emerged after the initial wave of realignments had already begun.⁹⁶

Given the substantial revenue generated by Power 5 schools, it is no surprise that member institutions are seeking to align themselves with the most financially lucrative conferences. The B1G and SEC dominate in revenue generation, bringing in together nearly \$550 million more than the ACC and Big 12.⁹⁷ This significant financial gap has made it increasingly attractive for schools like Iowa State, Kansas, and Texas A&M to

85. Berkowitz, *supra* note 81.

86. Steve Berkowitz, *SEC Shows Slight—and Likely Temporary—Revenue Decline in 2022: What it Means*, USA TODAY (Feb. 9, 2023), <https://www.usatoday.com/story/sports/college/2023/02/09/sec-shows-slight-revenue-decline-2022-new-tax-records-show/11219853002/> [<https://perma.cc/D5CU-A85W>].

87. Berkowitz, *supra* note 81.

88. Backus, *supra* note 83.

89. Berkowitz, *supra* note 81.

90. *Id.*

91. *Id.*

92. *Id.*

93. Backus, *supra* note 83.

94. See Colton Pool, *College Football Realignment: Louisiana Tech Goes to the Sun Belt, Texas State Heads to the Pac-12*, HERO SPORTS (Sept. 3, 2025), <https://herosports.com/fbs-college-football-realignment-pac-12-mountain-west-merger-stanford-cal-heading-to-aac-cpcp> [<https://perma.cc/5SDP-D2P9>] (“The college sports world has been scrambling over the past couple years as most of the Pac-12 teams decided to leave the conference. While several factors are at play, money and media deals have been key among them.”).

95. *Making Sense of College Sports Realignment. Which Schools Are Changing Conference Affiliation?*, ASSOCIATED PRESS (June 30, 2024), <https://apnews.com/article/conference-realignment-football-c410c6ad17474176579064096463f9dc> [<https://perma.cc/4FLL-D23N>].

96. Margaret Fleming, *The Huge Money Behind College Football’s Wild Realignment*, FRONT OFF. SPORTS (Aug. 30, 2024), <https://frontofficesports.com/every-college-football-conference-move/> [<https://perma.cc/W98D-5C5U>].

97. See Berkowitz, *supra* note 81 (reporting that the Big Ten and the SEC generated \$845.6 million and \$802 million respectively and the ACC and Big 12 generated \$617 million and \$480.6 million each, showing that the Big Ten and SEC have the two largest revenues of the Power 5).

pursue more profitable conferences.⁹⁸ The allure of larger media rights deals, enhanced recruiting opportunities, and increased national exposure further incentivizes these schools to make the transition, ensuring they remain competitive both financially and athletically in an evolving collegiate landscape.⁹⁹

The amount of revenue generated by Power 5 member institutions is quickly incorporated back into athletic spending.¹⁰⁰ Few member institutions have the discretion in the budget to pay out the \$20.5 million expected to student-athletes. One that has the budget is Ohio State, which, after expenses, has \$25.8 million to spend.¹⁰¹ On the other end of the spectrum, Rutgers only brings in \$109.6 million and spends \$138.4 million,¹⁰² leaving them with a deficit of \$28.8 million. Iowa barely breaks even, bringing in \$151,483,092 and spending \$151,144,861, leaving only \$338,231 left over.¹⁰³ Other schools in the B1G can pay student-athletes, including Indiana, Michigan State, and Penn State.¹⁰⁴ However, others like Michigan, Illinois, and Washington are millions short of the \$20.5 million they are allowed to allocate.¹⁰⁵

SEC member institutions, including Texas, Alabama, and Georgia can provide the same money as Ohio State.¹⁰⁶ While others like Auburn, Oklahoma, and Tennessee align closer with other B1G member institutions.¹⁰⁷ Others in the Big 12, Pac-12, and ACC do not have the capability of producing the same amount of money as the football dominate conferences, showing a disparity between the revenue produced at schools who have different sport programs funding their athletics.¹⁰⁸

Regardless of conference affiliation, a member institution's expenses reveal how much revenue remains after covering operational costs—offering insight into its financial ability to potentially compensate student-athletes. However, the financial realities suggest a different narrative regarding member institutions' capacity to pay student-athletes the millions of dollars they might be entitled to from the *House v. NCAA* settlement.¹⁰⁹ The significant expenses that will be incurred by the member institutions to run athletics

98. Texas A&M joined the SEC, while Iowa State and Kansas have remained in the Big 12. However, notable changes have included Oklahoma and Texas leaving the Big 12 for the SEC, and USC, UCLA, Washington and Oregon leaving the Pac-12 for the Big Ten starting in the 2024–2025 season.

99. *Oklahoma, Nebraska, Texas A&M, Kansas and Iowa State Sought to Join Big Ten in 2010*, FOX SPORTS (July 26, 2015), <https://www.foxsports.com/stories/other/oklahoma-nebraska-texas-am-kansas-and-iowa-state-sought-to-join-big-ten-in-2010> [<https://perma.cc/UZ2X-7HGW>].

100. Steve Berkowitz et al., *NCAA Finances: Revenue and Expenses by School*, USA TODAY (Mar. 14, 2024), <https://sportsdata.usatoday.com/ncaa/finances> [<https://perma.cc/SX6P-4GP5>] (showing that high revenues for college sports come with high expenses).

101. *Id.*

102. *Id.*

103. *Id.*

104. Berkowitz et al., *supra* note 100.

105. *Id.*

106. *Id.*

107. *Id.*

108. These conferences, while producing high level football and basketball programs, do not have the same level of dominance that the B1G and SEC do. For example, the ACC is a basketball dominate conference and does not bring in the same amount of money. Therefore, they do not have the same spending capabilities as the two bigger conferences.

109. *House v. NCAA*, 545 F. Supp. 3d 804 (N.D. Cal. 2021).

programs and pay the student-athletes raises questions about how much money is needed, and what type of restructuring needs to be done to achieve it.

I. Previous Economic Compensation for Student-Athletes

As student-athletes continue to secure landmark victories in their fight for fair compensation, it is important to briefly contextualize these developments by examining the forms of compensation that existed before NIL and revenue-sharing entered the conversations. For decades, member institutions have undoubtedly reaped enormous financial benefits from the labor and visibility student-athletes provided. One scholar noted, “[o]ver the past 150 years, the desire to win at virtually any cost, combined with the increases in public interest in intercollegiate athletics, in a consumer sense, have led inexorably to a highly commercialized world of intercollegiate athletics.”¹¹⁰ Still, it would be inaccurate to claim that student-athletes received nothing in return.

Traditionally, student-athletes were compensated through scholarships, travel opportunities, apparel, food, and better on-campus housing—all benefits that significantly alleviated the costs of getting an education. Courts have recognized that their scholarships are a form of compensation, affirming that student-athletes were not entirely uncompensated.¹¹¹ However, the court’s issue was these benefits did not reflect the market value of student-athletes’ contributions, especially when compared to professional athletes or corporate employees who are paid at least minimum wage based on the revenue generated by their firms.¹¹² For decades, student-athletes have been treated as an exception to fair labor standards, despite generating millions in revenue for their schools.

Not all student-athletes need to be paid the same, just as member institutions do not all compete equally in every sport.¹¹³ Yet across divisions, certain sports clearly generate prestige and revenue, drawing attention and enrollment to the institution. Even programs that did not turn a financial profit still elevated their visibility and brand for that particular sport, which can be seen by various women’s basketball programs across the country. This dynamic led to the current landscape and ultimately to the *House* settlement. As student-athletes began to understand their true market value, they challenged the inequities they viewed the NCAA’s amateurism model to embody.

110. Rodney K. Smith, *A Brief History of the National Collegiate Athletic Association’s Role in Regulating Intercollegiate Athletics*, 11 MARQ. SPORTS L. REV. 9, 21 (2000).

111. Adam Epstein & Paul M. Anderson, *The Relationship Between a Collegiate Student-Athlete and the University: An Historical and Legal Perspective*, 26 MARQ. SPORTS L. REV. 287, 294 (2016) (“Although the amount of scholarship aid that student-athletes can receive continues to evolve, courts have typically found that the scholarship itself is a form of pay.”).

112. David J. Berri, *Paying NCAA Athletes*, 26 MARQ. SPORTS L. REV. 479, 481 (2016) (“In every other business in American society, workers must be paid at least a minimum wage from the revenue generated by the firm.”).

113. *Id.* at 484 (“A small collection of schools dominated. It was not the same schools in each sport, but in each sport, there are a collection of schools that appear to control the competition [C]ollege sports do not have competitive balance.”).

F. Transfer Portal Rules

The NCAA's evolving transfer rules have significantly reshaped the landscape of collegiate athletics.¹¹⁴ Previously, student-athletes were required to sit out a year after transferring more than once, creating substantial barriers to mobility.¹¹⁵ The NCAA eliminated all restrictions on the transfer portal in response to ongoing litigation back in 2024.¹¹⁶ Under this new policy, student-athletes may now "transfer an unlimited number of times" without losing eligibility.¹¹⁷

While this unrestricted mobility offers student-athletes greater freedom, it has also raised concerns regarding competitive balance, institutional loyalty, and legal enforceability of contracts. The case of Kady Proctor—who transferred twice within weeks following coaching changes at Alabama—illustrates the volatility of the new system.¹¹⁸ Similarly, Xavier Lucas's departure from Wisconsin, despite binding revenue-sharing agreements triggered legal disputes over whether schools can enforce such contracts under current NCAA bylaws.¹¹⁹

These developments underscore the tension between student-athlete autonomy and institutional stability.¹²⁰ As NIL collectives and revenue-sharing models grow, the transfer portal risks becoming a tool for financial bidding, shifting the focus of college athletics away from academics and towards a marketplace driven by economic opportunity.¹²¹ The long-term implications of these changes remain uncertain, but the need for regulatory clarity is more pressing than ever.

114. See Nicole Auerbach, *NCAA Changes Transfer Rules, Formalizing Era of Immediate Eligibility: How We Got Here*, THE ATHLETIC (Apr. 16, 2024), <https://www.nytimes.com/athletic/5419130/2024/04/16/college-football-transfer-portal-rule-changes/> [<https://perma.cc/6AZB-X8GG>] (explaining the old transfer portal rules and how they will be changing to benefit student-athletes, eliminating the old, non-academic barriers to transfer).

115. *Id.*

116. Stewart Mandel, *NCAA Agrees to End Transfer Rules Permanently; Athletes Who Lost Eligibility Will Have Year Restored*, N.Y. TIMES (May 30, 2024), <https://www.nytimes.com/athletic/5530608/2024/05/30/ncaa-transfer-rules-banned-permanently/> [<https://perma.cc/Y589-2QV3>].

117. *Id.*

118. Scott Dochterman, *Kady Proctor Expected to Leave Iowa, Re-Enter Transfer Portal: What His Likely Alabama Return Means*, N.Y. TIMES (Mar. 19, 2024), <https://www.nytimes.com/athletic/5354789/2024/03/19/kady-proctor-iowa-alabama-transfer/> [<https://perma.cc/6NMM-H758>]; Kennington Smith III, *Kady Proctor on His Return to Alabama: 'I Just Knew I Had to Work for It'*, N.Y. TIMES (Aug. 22, 2024), <https://www.nytimes.com/athletic/5716027/2024/08/22/kady-proctor-alabama-return/> [<https://perma.cc/6CDR-F532>].

119. Shehan Jeyarajah, *Why Wisconsin DB Xavier Lucas' Transfer to Miami Triggered Tampering Accusations, Potential Legal Battle*, CBS SPORTS (Jan. 19, 2025), <https://www.cbssports.com/college-football/news/why-wisconsin-db-xavier-lucas-transfer-to-miami-triggered-tampering-accusations-potential-legal-battle> [<https://perma.cc/C33F-WK7C>].

120. See Megan Durham Wright, *Division I Council Approves Changes to Transfer Rules*, NCAA (Apr. 17, 2024), <https://www.ncaa.org/news/2024/4/17/media-center-division-i-council-approves-changes-to-transfer-rules.aspx> [<https://perma.cc/H2T5-Q8XK>] (explaining the reasoning behind changing the transfer portal rules and how it benefits both institutions and student-athletes).

121. David Robinson, *The Transfer Portal: The Good, the Bad, and the Ugly*, SCHOLAR CHAMPIONSHIP ATHLETE (Dec. 23, 2024), <https://www.scarecruiting.com/sports-recruiting-blog/the-transfer-portal-the-good-the-bad-and-the-ugly> [<https://perma.cc/H9CV-4HKR>].

III. ANALYSIS

Late on June 6, 2025, Judge Claudia Wilken approved the *House* settlement language, effectively allowing student-athletes to be compensated by their member institutions and conferences for the use of their NIL to generate revenue.¹²² The ongoing legal battle that captivated the nation for over a year has allowed a \$2.8 billion dollar settlement to the student-athletes for back damages as well as the introduction of member institutions being allowed to pay student-athletes collectively up to \$20.5 million dollars annually.¹²³

Previously, Judge Wilken had everyone on their toes, stating that the current agreement gave the NCAA too much power.¹²⁴ After the April 2025 hearing, she argued that the roster-limit provision would put too many student-athletes in a place of uncertainty, as programs were forced to cut many spots.¹²⁵ Judge Wilken threatened that without protections to grandfather in these student-athletes, she would not approve the settlement.¹²⁶ This put the parties in a difficult position, but ultimately, they found a solution. However, critics argue that revenue-sharing policies that went into effect on July 1, 2025, are allowing college athletics to function too closely to professional athletics.¹²⁷

Many have reserved thoughts on the settlement and the implications of what all of this will look like. For example, B1G executives discussed with students from the University of Iowa in April 2025 their thought processes on the settlement, “[i]t’s taking 30–40 years of work and shoving it through an 18-month period. There is a lot of uncertainty of what will happen.”¹²⁸ Even prior student-athletes are upset about the ruling, stating that money “isn’t the reason we sign to play in college . . . and now it will be . . . that’s so sad.”¹²⁹ While some look forward to the contracts they signed and the potential payouts that will occur, others have filed Title IX lawsuits because of the lack of regulation regarding the

122. Andrew S. Dulberg et al., *Final Approval for House v. NCAA Settlement Brings New Era, More Litigation*, WILMERHALE (June 13, 2025), <https://www.wilmerhale.com/en/insights/client-alerts/20250613-final-approval-for-house-v-ncaa-settlement-brings-new-era-more-litigation> [https://perma.cc/N39H-UXBE].

123. *Id.*

124. Billy Witz, *Judge Rejects Key Part of N.C.A.A. Antitrust Settlement with Athletes*, N.Y. TIMES (Sept. 5, 2024), <https://www.nytimes.com/2024/09/05/us/ncaa-antitrust-settlement-athletes-pay.html> [https://perma.cc/BSG9-Y75Z].

125. Dan Murphy, *Judge Delays House Settlement Approval Over Roster Limits*, ESPN (Apr. 23, 2025), https://www.espn.com/college-sports/story/_/id/44823761/judge-delays-house-settlement-approval-roster-limits [https://perma.cc/7W6Y-PEF2].

126. *Id.*

127. Lilly Peacock, *College Sports Have Become Too Professional*, MARQUETTE WIRE (Apr. 15, 2025), <https://marquettewire.org/4136213/sports/college-sports-have-become-too-professional/> [https://perma.cc/44DN-N9A5] (“As the landscape of collegiate sports evolves, industry focus has seemingly shifted towards generating revenue rather than maintaining an image of amateurism, mirroring the larger narratives that make sports and athletes so marketable.”); Michael Rosenberg, *Why It’s Time to Embrace a New Structure for College Sports*, SPORTS ILLUSTRATED (May 29, 2024), <https://www.si.com/college/why-it-is-time-to-embrace-a-new-structure-for-college-sports> [https://perma.cc/D5Q2-H8SQ].

128. Interview with B1G Executives, Panel Discussion with Sports and Recreation Management Students at the B1G Office (Apr. 17, 2025) (notes on file with author).

129. Interview with former B1G Swimmer (June 8, 2025) (notes on file with author) (name withheld by request).

payments.¹³⁰ Even employees in the now Power 4 conferences are preparing for how these payouts will occur and how to best work with the member institutions.¹³¹

Over the next 10 years, member institutions can “opt-in” to the terms of the *House* settlement agreement to share the revenue from college athletics with the student-athletes, starting with a max of \$20.5 million per school which will increase 4% per year.¹³² Salary caps will be placed on the amount a singular student-athlete will be able to make, therefore combating issues of improper allocation.¹³³ This is not pay-for-play because student-athletes are not being paid directly for their “athletic services.”¹³⁴ Partnered with Deloitte, the NCAA has also implemented “NIL Go,” a centralized platform for reviewing marketing deals over \$600 to ensure that there is a fair market value for the compensation provided to the student-athlete.¹³⁵ This is an attempt to regulate NIL deals from third parties and collectives to ensure that pay-for-play does not occur. The NCAA is also in the process of purging and rewriting many of its bylaws, which will be “clarified and tested over time.”¹³⁶ However, the main objective is to align salary cap compliance, player contracts, and other related areas with professional models.¹³⁷

A. *The Effects on Universities*

Member institutions have been preparing for the reality of compensating student-athletes for months, including signing contingent contracts with student-athletes and finding ways to make money to help fund revenue-sharing.¹³⁸ Iowa personally has looked into different options, such as getting a sponsor for the Duke Slater field, similar to the sponsor on Carver-Hawkeye Arena.¹³⁹ Iowa also implemented “Flight Funds” for football and both basketball teams that will allow alumni and students to donate directly to help the programs with revenue-sharing.¹⁴⁰ However, the absence of clear regulatory guidance surrounding

130. *Paused Payouts: Title IX Appeal Delays \$2.8B NCAA Athlete Payments in the House Settlement*, FISHER PHILLIPS (June 17, 2025), <https://www.fisherphillips.com/en/news-insights/title-ix-appeal-delays-ncaa-athlete-payments-in-house-settlement.html> [<https://perma.cc/C2W2-LHV4>] (explaining how the appeals by female student-athletes and Olympic sport athletes halted the \$2.8 billion payout as the market-share value model used to pay athletes favor football and men’s basketball and give them 90% of the allocated \$20.5 million).

131. Conversation with B1G Legal Advisor (May 20, 2025) (notes on file with author) (name withheld by request) (discussing the changes the B1G is making as a conference to help accommodate the pay outs Universities will have to make to athletes and the potential pay outs coming from the conferences themselves).

132. MICHAEL W. GOLDMAN, KMK L., *HOUSE SETTLEMENT—DETAILED BREAKDOWN 1* (2025), https://www.kmklaw.com/media/publication/445_House%20Settlement%20Detailed%20Breakdown%20-%20Michael%20Goldman.pdf [<https://perma.cc/WFQ2-B29T>].

133. *Id.* at 1, 4.

134. *Id.* at 1.

135. *Id.* at 4.

136. *Id.*

137. GOLDMAN, *supra* note 132, at 4.

138. Amanda Christovich, *Schools Are Scrambling to Prepare for the NCAA Revenue-Sharing Era*, FRONT OFF. SPORTS (Nov. 29, 2024), <https://frontofficesports.com/schools-are-scrambling-to-prepare-for-the-ncaa-revenue-sharing-era/> [<https://perma.cc/U57Z-66MV>].

139. Beth Goetz, Director of Athletics Chair, Univ. of Iowa, Panel with University of Iowa College of Law Sports Law Society (Apr. 17, 2025) (notes on file with author).

140. KCRG Staff, *Univ. of Iowa Creates ‘Flight Fund’ Program to Share Revenue with Student Athletes*, KCRG (June 9, 2025), <https://www.kcrg.com/2025/06/09/univ-iowa-creates-flight-fund-program-share-revenue-with-student-athletes/> [<https://perma.cc/J389-Y6K8>].

the settlement parameters has left athletics departments scrambling to determine how to meet these new requirements.¹⁴¹ Previously, student-athlete compensation came through NIL deals brokered by independent collectives.¹⁴² But now institutions may not be able to rely on collectives as heavily with the new oversight College Sports Commission ensuring that NIL deals are fair and equitable.¹⁴³

Although collectives have already demonstrated their value,¹⁴⁴ Ohio State's 2024 National Championship football team shows the clearest example of the inequitable disparity that comes from the money collectives pay out to student-athletes'. The players reportedly cost over \$20 million, mainly paid through Ohio State's collective.¹⁴⁵ Another example rests in their biggest rival, as Michigan secured a \$10 million deal for its incoming quarterback, sponsored by Dave Portnoy of Barstool and billionaire Larry Ellison.¹⁴⁶ Without closer university involvement, the current fundraising infrastructure is likely to create a disparity in the level of competition in the Division I level.

The University of Illinois (Illinois) offers a clear example of the pressures on member institutions. Athletics Director Josh Whitman has openly stated, "[w]e don't have \$22 million just sitting around."¹⁴⁷ Although Illinois has not formally announced which programs might be at risk, its largest net losses come from non-revenue generating sports: a combined loss of over \$4.3 million to run the men and women's track and field teams, and a loss of nearly \$4.5 million for women's basketball.¹⁴⁸ Despite intentions to preserve these programs, the financial burden of revenue-sharing has left member institutions scrambling to reallocate resources toward the high-earning sports at the expense of the non-revenue generating sports.¹⁴⁹

141. Christovich, *supra* note 138 ("[S]chools haven't received much guidance on how to implement revenue-sharing . . .").

142. See Ralph D. Russo, *With Revenue Sharing Coming to College Sports, Are NIL Collectives a Problem or Part of a Solution?*, ASSOCIATED PRESS (May 24, 2024), <https://apnews.com/article/ncaa-settlement-nil-934586dfc58035a79d1477358b9bb339> [<https://perma.cc/7M67-F3WW>].

143. Amanda Christovich, *There's a New NIL Enforcement Entity in College Sports. It's Not the NCAA*, FRONT OFF. SPORTS (June 9, 2025), <https://frontofficesports.com/theres-a-new-nil-enforcement-body-in-college-sports-its-not-the-ncaa/> [<https://perma.cc/22KU-RC2T>] (explaining that the Power 5 created the College Sports Commission to "enforce the terms of the House settlement").

144. See, e.g., Chase Garrett, *What Are NIL Collectives and What Do They Do?*, ICON SOURCE, <https://icon-source.com/blog/nil-collectives/> [<https://perma.cc/Q29V-B85N>] (explaining that collectives "use [their] resources to create and bring paid endorsement opportunities to student-athletes through a variety of activities").

145. See David Kenyon, *Ohio State's \$20 Million Gamble Pays Off in the Only Satisfying Way, a National Title*, BLEACHER REP. (Jan. 20, 2025), <https://bleacherreport.com/articles/10151615-ohio-states-20-million-gamble-pays-off-in-the-only-satisfying-way-a-national-title> [<https://perma.cc/4ZC6-STZZ>] ("[D]onor-led collectives and brand affiliates paid about \$20 million.").

146. *Michigan Lands No. 1 National Football Recruit After Reportedly Offering \$10M NIL Deal*, SPORTS BUS. J. (Nov. 22, 2024), <https://www.sportsbusinessjournal.com/Articles/2024/11/22/michigan-bryce-underwood-nil-deal/> [<https://perma.cc/EJM2-TG5X>]; see *supra* Part II.C.

147. Jeremy Werner, *Revenue-Sharing Costs Forcing Illini to Consider Trimming Other Sports: 'It's A Very Weighty Conversation'*, ILLINI INQUIRER (June 21, 2024), <https://247sports.com/college/illinois/article/illini-athletics-cut-sports-illinois-athletics-director-josh-whitman-233094826/> [<https://perma.cc/6GCF-SYFZ>].

148. *Id.*

149. See *id.* (describing "non-revenue sports' futures" as "uncertain").

1. Effects on Non-Athletic Students

Non-athletic students are also facing repercussions after the *House* settlement's approval. In Minnesota, the Board of Regents approved a fee to help member institutions like the University of Minnesota combat the costs to pay out \$20.5 million to student-athletes.¹⁵⁰ Starting in the 2025–2026 school year, Minnesota students will be required to pay a new \$200 fee to support the athletics department as they pay student-athletes.¹⁵¹

The current estimate is that the money funneled to the athletics department will be about \$3.5 million a semester towards Minnesota's "athletic facility infrastructure."¹⁵² However, this is just the beginning of institutions placing their financial burdens onto the non-athletic students as part of the tuitions and fees they pay. While some member institutions like Iowa have made it clear they will look at any athletics related avenue to pay for the \$20.5 million they committed to paying,¹⁵³ many member institutions will have no choice but to pawn off some of the financial burden to their students.

Putting non-athletic students in this position instead of turning to boosters or alumnae will cause more harm than good. Many students do not attend member institutions for the athletics atmosphere and certainly do not want to pay money that will ultimately go back to their fellow students for being athletes. Instead, if the financial burden continues to be passed onto non-athletic students, there is the potential for more lawsuits to be filed to eliminate these fees or at least attach an opt out section for those who are not interested in football or basketball tickets. However, there is no good process other than finding other ways to shoulder the financial burden. Minnesota has chosen to tap into their student body to fill the financial gap. It may be the beginning of other member institutions following suit.

B. Title IX Problems

Aside from the recent surge in popularity of women's basketball, women's sports have generally not generated the same level of revenue as college football and men's basketball.¹⁵⁴ While the antitrust-based settlement is another landmark in the historical shift of college athletics, the blatant disregard for Title IX compliance and protections has officials on all levels preparing for more lawsuits.¹⁵⁵ Title IX was created to ensure that women

150. Hannah Reynolds & Ash Jones, *UMN to Charge \$200 Fee for Twin Cities Students Following Athlete Pay Settlement*, MINN. DAILY (July 29, 2025), <https://mndaily.com/294940/sports/umn-to-charge-200-fee-for-twin-cities-students-following-athlete-pay-settlement/> [https://perma.cc/K6LX-KXKT].

151. *Id.*

152. *Id.*

153. Beth Goetz, Director of Athletics Chair, Univ. of Iowa, Panel with University of Iowa College of Law Sports Law Society (Apr. 21, 2025) (notes on file with author) (explaining that Iowa's athletics department was looking into different avenues including putting a sponsor on Duke Slater field, similar to the one on the court of Carver Hawkeye Arena. She also noted they would be reaching out to donors, and of course the new Iowa Flight fund program, introduced back in June, will also be a way for students, alumni, and fans to contribute to helping athletic programs with their needs). Iowa's Athletics Department signed a deal with John Deere to put their logo on the field. *UI Athletics Department Extends Relationship with John Deere, Adds Logo to Duke Slater Field*, IOWA HAWKEYE ATHLETICS (Oct. 23, 2025), <https://hawkeyesports.com/news/2025/10/23/ui-athletics-department-extends-relationship-with-john-deere-adds-logo-to-duke-slater-field> [https://perma.cc/M5U4-KCZU].

154. See, e.g., *supra* notes 147–48 and accompanying text.

155. See Andrew Miltenberg & Kristen Mohr, *NCAA Revenue Sharing Will Be Subject to Title IX. Athletes Need to Know Their Options*, NORTHJERSEY (Aug. 7, 2024),

have opportunities in education, including collegiate athletics, equal to the opportunities that men have, and that is now being disrupted.¹⁵⁶ With the *House v. NCAA* settlement now approved, institutions are preparing to implement revenue-sharing models. Yet, without strong Title IX safeguards, female student-athletes are already filing appeals.¹⁵⁷

Eight women—representing soccer, volleyball, and track—have formally appealed the settlement’s back-pay and revenue-sharing structure.¹⁵⁸ They assert that under the current structure, men’s football and basketball will be compensated around 90% of the revenue pool¹⁵⁹—while women’s sports receive little to no share at all.¹⁶⁰ According to the appeal, the disparity could potentially result in female athletes missing out on over \$1.1 billion in revenue over the course of the 10-year settlement period.¹⁶¹

Title IX issues between women’s and men’s sports have already occurred throughout college athletics prior to revenue-sharing. An example is how the NCAA financially rewards schools and conferences for success in the Men’s Basketball Tournament, distributing over \$170 million in 2024 based on performance.¹⁶² However, no such system exists for the women’s tournament, despite “record-breaking viewership.”¹⁶³ Neither South Carolina nor Iowa received compensation for their appearance in the 2024 National

<https://www.northjersey.com/story/opinion/2024/08/07/ncaa-revenue-sharing-will-impact-title-ix/74636714007/> (on file with the *Journal of Corporation Law*) (explaining that with the uncertainty of what will happen if the revenue policies go into effect, student-athletes, especially female, need to know their rights to make sure they are not at the detriment of the male athletes getting more money); Eric Olson, *With College Athletes on Cusp of Revenue Sharing, There Are Title IX Questions That Must Be Answered*, ASSOCIATED PRESS (May 24, 2024), <https://apnews.com/article/ncaa-title-ix-6133381ab633182dd155a6338c781665> [<https://perma.cc/E3WM-3RUD>] (explaining that there is so much uncertainty about what is happening with the state of these revenue policies); Nicole A. Buffalano et al., *From Settlement to Scrutiny: Employment, NIL, and Title IX in College Sports*, MORGAN LEWIS (Aug. 26, 2025), <https://www.morganlewis.com/pubs/2025/08/from-settlement-to-scrutiny-employment-nil-and-title-ix-in-college-sports> [<https://perma.cc/2J8H-WYXT>] (explaining that the settlement is being appealed on a Title IX claim).

156. Title IX, 20 U.S.C. §§ 1681–88 (1990); see also Diane Heckman, *Women & Athletics: A Twenty Year Retrospective on Title IX*, 9 UNIV. MIA. ENT. & SPORTS L. REV. 1, 11 (1992) (describing the history of Title IX, including failed attempts to prevent it from applying to athletics).

157. Ben Nuckols, *Female Athletes Appeal Landmark NCAA Settlement, Saying It Violates Federal Antidiscrimination Law*, ASSOCIATED PRESS (June 12, 2025), <https://apnews.com/article/ncaa-house-settlement-appeal-female-athletes-e2864d7bcd74d0c538c1f2e6c98fe6c> [<https://perma.cc/TG8K-54GU>].

158. Amanda Christovich, *Group of Women Athletes Files Appeal of House v. NCAA Settlement Approval*, FRONT OFF. SPORTS (June 11, 2025), <https://frontofficesports.com/group-of-women-athletes-files-appeal-of-house-v-ncaa-settlement-approval/> [<https://perma.cc/G7PF-D7ZN>].

159. See HUTCHINSON, BLACK & COOK, LLC, *supra* note 70 (explaining that female student-athletes will get a small amount of money compared to their male counterparts).

160. Christovich, *supra* note 158.

161. *Id.*

162. Press Release, Pam Bernard & Len Elmore, Co-Chairs, Knight Comm’n on Intercollegiate Athletics, Statement on NCAA Revenue Distribution and Gender Inequities (Apr. 3, 2024), <https://www.knightcommission.org/2024/04/statement-on-ncaa-revenue-distribution-and-gender-inequities/> [<https://perma.cc/49L4-RBLH>] (criticizing the NCAA’s distribution scheme for wins and participation for providing \$170 million to men’s basketball and \$0 to women’s basketball).

163. *Id.*

Championship game.¹⁶⁴ This highlights a persistent disparity in how men's and women's sports are valued and supported at the college level.

Although Judge Wilken approved the settlement, she acknowledged the Title IX concerns and explicitly preserved the right for plaintiffs to pursue gender equity claims.¹⁶⁵ In her ruling, she stated that member institutions and conferences are not immune to Title IX lawsuits if market-share value distribution is adopted.¹⁶⁶ Iowa officials have already stated they are prepared for the incoming lawsuits and intend to deal with them as they come up, rather than find an equitable distribution for female student-athletes; a model most Power 4 conferences are following.¹⁶⁷

Without clear Title IX guidance from the NCAA, most likely due to the fear of more litigation, or from the Department of Education, institutions are left on their own to balance revenue-sharing with gender equity. Member institutions like Illinois and Iowa State already reported prior to the decision that implementation of this model could deepen inequities and could lead to the dissolution of programs and limit opportunities for those in Olympic sports, most of which are women's sports.¹⁶⁸

The appeals filed signal that the legal battles surrounding the payments of student-athletes are far from over. Member institutions now face a crucial choice: proactively adopt equitable models that comply with Title IX or risk multimillion-dollar litigation that could undo many of the settlement's financial gains.

C. How Student-Athletes Are Affected

Different member institutions have built national reputations around specific athletics programs—UVA does well in women's swimming,¹⁶⁹ Penn State and Iowa consistently lead in wrestling,¹⁷⁰ and powerhouse football programs are typically concentrated in the

164. Doug Feinberg, *Women's Teams in the NCAA Tournament Getting Individual Revenue Share for 1st Time. What's a 'Unit'?*, ASSOCIATED PRESS (Mar. 20, 2025), <https://apnews.com/article/march-madness-ncaa-tournament-units-c52d72a9573304ff75fe8811d80298f2> [<https://perma.cc/3Z4L-KS5L>].

165. See Sean McConnell & Gerald L. Maatman, Jr., *Federal Court Approves Landmark NCAA Settlement, Reshaping College Athletics in the Era of NIL*, DUANE MORRIS LLP: CLASS ACTION DEF. (June 12, 2025), <https://blogs.duanemorris.com/classactiondefense/2025/06/12/federal-court-approves-landmark-ncaa-settlement-reshaping-college-athletics-in-the-era-of-nil/#page=1> [<https://perma.cc/8FNH-XLVV>] (stating that “Judge Wilken acknowledged that the settlement may raise significant gender equity concerns” and “emphasized[] potential challenges related to Title IX . . . fall outside the court’s jurisdiction”).

166. See *In re Coll. Athletic NIL Litig.*, No. 20-cv-03919, 2025 LEXIS 113799, at *130 (N.D. Cal. June 6, 2025) (“[T]o the extent that schools violate Title IX when providing benefits and compensation to student-athletes pursuant to the Injunctive Settlement Agreement, class members will have the right to file lawsuits arising out of those violations.”).

167. Discussion with Iowa Athletics Department Officials, Class Presentation (Feb. 13, 2025) (notes on file with author).

168. Jay Waagmeester, *Athletic Department Budget: Team Revenues, Ticket Sales and More*, IOWA STATE DAILY (Feb. 20, 2024), <https://iowastatedaily.com/290345/news/athletic-department-budget-team-revenues-ticket-sales-and-more/> [<https://perma.cc/2B9E-M85Z>] (showing that like Illinois, Iowa State loses the most money each year on Women's Basketball).

169. See *Best Division I Women's Swimming Colleges*, NCSA COLL. RECRUITING, <https://www.ncsasports.org/best-colleges/best-division-1-swimming-colleges> [<https://perma.cc/WT7W-YWC4>] (showing the University of Virginia near the top rankings).

170. *College Wrestling Rankings: NWCA Coaches Poll*, NCAA, <https://www.ncaa.com/rankings/wrestling/d1/college-wrestling-rankings-nwca-coaches-poll> [<https://perma.cc/P5SM-GFXX>].

B1G and SEC. These athletic distinctions shape recruiting, funding, and national visibility, that directly affect the revenue generated by these programs. However, the emergence of revenue-sharing models and NIL compensation threatens to deepen existing inequalities across collegiate sports. A select group of member institutions have the financial resources, after accounting for current athletic expenditures, to approach the \$20.5 million annual payouts that have taken effect.¹⁷¹

For elite recruits in revenue-generating sports, recruitment is beginning to resemble professional free agency. The promise of compensation now plays a significant role in choosing a school.¹⁷² Meanwhile, most student-athletes, especially those in non-revenue generating sports or those at smaller member institutions are less likely to see meaningful financial benefit. While NIL deals can offer supplemental income, institutional rules currently limit the role of coaches and athletics directors in securing those opportunities.¹⁷³

1. Roster Limits

Where student-athletes choose to commit is increasingly influenced by financial incentives and by the newly imposed roster limits that threaten to reshape the structure of college athletics. The traditional concept of the “student-athlete” especially as a walk-on, will soon be obsolete.¹⁷⁴ As member institutions adjust their rosters to comply with settlement terms, many non-scholarship student-athletes and high school hopefuls may find their paths to collegiate competition effectively closed.¹⁷⁵ This shift has created widespread uncertainty about how college athletics will function going forward and whether club sports could become a default option for those who once had realistic opportunities to compete at the collegiate level.

The impact of these roster limits has not been felt equally. Men’s sports, especially high-profile programs, saw significant cuts—football was reduced to 105, basketball to 15, and baseball to 34.¹⁷⁶ In contrast, women’s sports experienced a modest overall increase in available roster spots, likely to address Title IX equity concerns.¹⁷⁷ Roster caps became a central point of contention during the settlement hearing in April 2025, prompting Judge Wilken to initially withhold approval.¹⁷⁸ She noted, “the settlement agreement is not fair and reasonable to the significant number of class members whose roster spots will be or have been taken away because of the immediate implementation of the settlement

171. See *supra* notes 97–107 and accompanying text.

172. R. Mark McCareins, *The Plan to Pay College Athletes*, KELLOGG INSIGHT (Sept. 20, 2024), <https://insight.kellogg.northwestern.edu/article/plan-to-pay-college-athletes> [https://perma.cc/27ZT-JG3R].

173. *Id.*

174. Doug Tribou et al., *John U. Bacon Examines the House v. NCAA Settlement and How It Changes College Sports*, MICH. PUB. (June 13, 2025), <https://www.michiganpublic.org/sports/2025-06-13/john-u-bacon-examines-the-house-v-ncaa-settlement-and-how-it-changes-college-sports> [https://perma.cc/M79T-PQBL].

175. Gary Adornato, *NCAA Roster Caps Could Squeeze Out High School Recruits Under NIL Settlement*, SPORTS ILLUSTRATED (June 11, 2025), <https://www.si.com/high-school/recruiting/ncaa-roster-caps-could-squeeze-out-high-school-recruits-under-nil-settlement-01jx8mckdc12> [https://perma.cc/58AE-7X5T].

176. James Sutherland, *House Settlement FAQ: Roster Limits Established, NIL Reporting Timeline Revealed*, SWIMSWAM (June 9, 2025), <https://swimswam.com/house-settlement-faq-roster-limits-established-nil-reporting-timeline-revealed/> [https://perma.cc/BDA5-Z2QH] (showing that the roster size fell for some men’s sports).

177. *Id.* (showing that the roster increased for every women’s sport).

178. Adornato, *supra* note 175.

agreement.”¹⁷⁹ As a result, final approval was delayed for two months while the parties introduced a “Designated Student-Athlete” exception, allowing current student-athletes from the 2024–2025 season to retain their roster spots without counting against the new limits until their eligibility is up.¹⁸⁰

While these limits are intended to create more scholarship opportunities and establish a level playing field across member institutions,¹⁸¹ they also introduce significant unknowns. The long-term consequences remain unclear; particularly how many prospective student-athletes will be excluded and whether the pipeline from high school to college athletics will narrow irreversibly. College athletics are now more competitive than ever and access to participation has become more difficult.

2. Non-Revenue Generating Sports

Proponents of revenue-sharing policies argue that the most important priority is ensuring student-athletes are fairly compensated for the value they bring to their member institutions, regardless of where they play.¹⁸² While there is broad consensus that student-athletes deserve a share of the wealth they help generate, the current structure undermines the foundational principles of college athletics. Without clear guardrails, phased implementation, or equity safeguards, revenue-sharing will deepen the existing divide between powerhouse programs and the rest of the collegiate sports landscape.

Since 2014, only six schools have claimed the College Football National Championship, and those same programs are among the few currently capable of paying the maximum \$20.5 million in compensation under the *House* settlement.¹⁸³ Pairing revenue-sharing with a lack of regulation will almost certainly entrench existing dominance, allowing elite programs to corner the market on top recruits while mid-tier and smaller schools struggle to keep pace. The issue runs deeper when considering the effects on non-revenue generating sports.

Illinois has shown Olympic sports that do not generate significant income may be the first to face cuts.¹⁸⁴ These programs risk losing scholarships, resources, and their very

179. *Id.*

180. *Understanding Changes to Your Athletic Scholarship After the House Settlement*, FREDRIKSON (June 25, 2025), <https://www.fredlaw.com/alert-understanding-changes-to-your-athletic-scholarship-after-the-house-settlement> [https://perma.cc/3TAM-LXC6].

181. Charlie Baker, *A Letter from NCAA President Charlie Baker: A New Beginning for Division I Student-Athletes and the NCAA*, NCAA (June 6, 2025), <https://www.ncaa.org/news/2025/6/6/media-center-a-letter-from-ncaa-president-charlie-baker.aspx> [https://perma.cc/5LFC-63X2] (describing the NCAA’s compliance with the settlement as “a change that will enable schools to vastly increase the scholarship opportunities student-athletes receive and potentially double the number of athletic scholarships made available to women”).

182. See, e.g., Cameron Van, *Pay to Play in the NCAA: A Data Driven Playbook on How to Compensate Athletes*, SPORT J. (Oct. 16, 2020), <https://thesportjournal.org/article/pay-to-play-in-the-ncaa-a-data-driven-playbook-on-how-to-compensate-athletes/> [https://perma.cc/6WXE-VU3M].

183. The six schools are Alabama, Ohio State, Michigan, Clemson, LSU, and Georgia. See *College Football Championship History*, NCAA (Nov. 8, 2024), <https://www.ncaa.com/news/football/article/college-football-national-championship-history> [https://perma.cc/TU7J-A2WV]; see *supra* notes 97–107 and accompanying text.

184. See *supra* Part III.A (explaining how Illinois is one of the many programs that will be affected by the revenue policies going into effect and they may have to cut programs to be able to put money into the programs that generate a positive amount of revenue).

existence altogether.¹⁸⁵ Cuts to non-revenue generating sports have already begun. Olympic sport programs at B1G member institutions saw a decrease in the apparel, food provided, and other areas besides scholarships in favor of funding the same luxuries for the revenue-generating sports.¹⁸⁶ An estimated 95% of student-athletes participate in non-revenue generating sports and their programs are at risk under revenue-sharing,¹⁸⁷ not because they lack talent or dedication but because they do not bring in the revenue like football or basketball. Critics often argue that smaller sports should not be entitled to shared revenue since they operate at a financial loss.¹⁸⁸ However, this argument ignores the reality that nearly all sports operate at a deficit or close to it.¹⁸⁹

For example, Iowa's women's swim and dive team generates about \$86,000 in revenue each year but requires \$1.36 million to operate, creating nearly a \$1.3 million deficit.¹⁹⁰ Meanwhile, Iowa's men's wrestling program, arguably one of the "Big 4" programs at the institution and one of the best collegiate wrestling programs in the country also reports a net loss of \$1.1 million.¹⁹¹ These numbers make it clear that even high-profile programs struggle to be self-sustaining. Yet, they still provide value through media attention, school pride, student engagement, and recruitment.

Revenue-sharing without thoughtful policy design will not only favor the few student-athletes competing in revenue-generating sports, but it will also hasten the erosion of the broader collegiate athletic ecosystem. Smaller member institutions, academic opportunities, and access to higher education are at risk. The solution is not to disregard these sports as expendable in tangible and intangible ways.

3. Scholarship Opportunities

Despite the uncertainty surrounding roster limits and the future of non-revenue sports, one silver lining is the expansion of scholarship opportunities. Under the new policies, member institutions are now permitted to increase the number of athletic scholarships they offer, allowing them, if they choose, to provide scholarship support to every student-athlete

185. See Werner, *supra* note 147.

186. Interview with former B1G Swimmer (on file with the author).

187. Ted Cruz: 'Clock Running' on Congress' NCAA Legislation, ESPN (Mar. 12, 2024), https://www.espn.com/college-sports/story/_/id/39716602/ted-cruz-clock-running-congress-ncaa-legislation [<https://perma.cc/36B4-ECDS>] (explaining that the revenue policies in the settlement agreement are being opposed by many in Congress and they need to act to protect the NCAA and the integrity of the collegiate model of athletics) [hereinafter *Ted Cruz on NCAA Legislation*].

188. Marc Novicoff, *The End of Niche College Sports*, THE ATL. (Aug. 19, 2025), <https://www.theatlantic.com/ideas/archive/2025/08/ncaa-student-athletes-trump/683764/> [<https://perma.cc/T4Z2-G9CK>] (arguing that "[c]uts to nonrevenue sports might be a good thing").

189. Werner, *supra* note 147 (providing a list of various sports and showing that they all operate at a loss except football and men's basketball).

190. See *University of Iowa Sports Information*, COLL. FACTUAL, <https://www.collegefactual.com/colleges/university-of-iowa/student-life/sports/> [<https://perma.cc/MGU2-VGED>] (explaining how much money the University of Iowa's sports produce in revenue and how much money it takes to run the program).

191. *Id.*; see also Shannon Scovel, *Iowa Wrestling Championships: History and Records from the Dynasty*, NCAA (July 9, 2025), <https://www.ncaa.com/news/wrestling/article/2020-06-12/iowa-wrestling-championships-history-and-records-dynasty> [<https://perma.cc/3BYC-599Y>] (discussing the championships and the dominance of the University of Iowa's Wrestling Program); *College Wrestling Rankings: NWCA Coaches Poll*, NCAA (Nov. 4, 2025), <https://www.ncaa.com/rankings/wrestling-men/d1/college-wrestling-rankings-nwca-coaches-poll> [<https://perma.cc/34TY-NUFY>] (establishing Iowa as a top 3 wrestling program).

on their roster.¹⁹² This marks a significant departure from the previous limitations imposed by the NCAA, that capped scholarship numbers by program and often left walk-ons and Olympic sports with less financial assistance for everyone with a roster spot.

With this exciting change, “[o]ver 115,000 additional scholarships could be available annually for Division I athletes.”¹⁹³ This would not only enhance educational access and affordability for a broader segment of athletes but also offer a chance to rebalance some of the inequities in the current system. While the implementation of roster limits may reduce participation opportunities for some, the increase in scholarships creates a new pathway for student-athletes to pursue higher education without bearing the full financial burden. For student-athletes in non-revenue sports especially, this policy will represent a much-needed boost in recognition and support.

D. *Economic Relationships Between Member Institutions and Student-Athletes*

In a recent webinar hosted by Husch Blackwell, attorney Jason Montgomery posed a central question facing universities amid the evolving legal landscape of college athletics: “What economic relationship does your school want to have with student-athletes?”¹⁹⁴ He outlined four major issues member institutions will confront under the proposed revenue-sharing model, with two standing out—the classification of student-athletes as employees and how to determine who qualifies for revenue-sharing.¹⁹⁵

Historically, student-athletes were compensated through scholarships, gear, and cost-of-attendance stipends under the NCAA’s amateurism model. The recent *Dartmouth College* decision by the National Labor Relations Board, recognizing men’s basketball players as employees with the right to unionize, marks one of those shifts.¹⁹⁶ Now, member institutions must navigate how to compensate student-athletes fairly while addressing legal risks tied to employment status and Title IX compliance. The future of college sports depends on how member institutions respond to this new reality.

1. *Student-Athletes as Employees*

Following the *Dartmouth College* decision that recognized men’s basketball players as employees under the National Labor Relations Act,¹⁹⁷ the debate surrounding student-

192. See Adornato, *supra* note 175 (“If a school so chooses, every athlete on every team it fields, can be offered a full scholarship.”).

193. House v. NCAA Settlement Approved, *Changing the Landscape of College Sports*, PHELPS (June 10, 2025), <https://www.phelps.com/insights/house-v-ncaa-settlement-approved-changing-the-landscape-of-college-sports.html> [<https://perma.cc/H4TC-6J6H>].

194. Kristina Minor, Jason J. Montgomery & TaRonda Randall, *College Athletics: A Look at the Continued (R)Evolution*, HUSCH BLACKWELL, at 30:18–32:12 (Jan. 22, 2025), <https://www.huschblackwell.com/newsandinsights/college-athletics-a-look-at-the-continued-revolution> [<https://perma.cc/9XPZ-8ZN3>].

195. *Id.*

196. Mark S. Spring, *Efforts to Turn NCAA Student-Athletes into Employees Takes a Major Step Backwards*, CDF LAB. L., LLP. (Jan. 2, 2025), <https://www.cdflaborlaw.com/blog/efforts-to-turn-ncaa-student-athletes-into-employees-takes-a-major-step-backwards> [<https://perma.cc/3T8K-77YW>].

197. See Trs. of Dartmouth Coll., 2024 NLRB Reg. Dir. Dec. LEXIS 17, at *48 (“Because Dartmouth has the right to control the work performed by the Dartmouth men’s basketball team, and the players perform that work in exchange for compensation, I find that the petitioned-for basketball players are employees within the meaning of the Act.”).

athlete compensation intensified amid *House* settlement deliberations. While the decision only applied to private institutions and specific factual circumstances, it set a precedent that could potentially open the door to student-athletes' unionization and collective bargaining. Many institutions have expressed hesitation, not about the idea of salaries, but the benefits and extra layers that come with allowing student-athletes to act as employees.¹⁹⁸ However, some institutions have remained open to the idea of re-evaluating the idea of student-athletes as employees in the future.¹⁹⁹ The employment model that gives student-athletes collective bargaining rights could offer a more equitable alternative to the current revenue-sharing proposal. Under the employment framework, equal salary structures could be developed—mirroring professional models—without relying solely on market value or media exposure.

A central concern in revenue-sharing is Title IX compliance. Without clear federal guidance, member institutions risk litigation if compensation disproportionately benefits male athletes.²⁰⁰ Many member institutions are expected to adopt a market-based compensation model, directing most funds to football and men's basketball programs. Officials at member institutions in the now Power 4 conferences have already discussed being prepared for impending lawsuits.²⁰¹ However, member institutions without dominant football programs or those seeking to avoid Title IX challenges may instead allocate resources more equitably if they so choose. This divergence in strategy could shift recruiting dynamics, leading student-athletes in non-revenue sports to choose programs where funding and opportunity are more evenly distributed.

Ultimately, the *Dartmouth College* decision has become a catalyst for broader reflection. Institutions must now carefully consider the legal, financial, and ethical implications of how they classify and compensate student-athletes. While the *House* settlement does not specify collective bargaining being out of the question, member institutions would likely have to go back to court and argue for one payment plan over another. However, it does not mean collective bargaining is not possible.

198. See, e.g., Julia Rosen & Craig Brophy, *From Amateurism to Employment: Legal, Financial, and Insurance Implications for College Athletes*, MILLIMAN (Sept. 3, 2025), <https://us.milliman.com/en/insight/legal-financial-insurance-implications-college-athletes> [<https://perma.cc/KBH8-SENS>] (“If classified as an employee, [a basketball player] could qualify for workers’ compensation benefits, including wage replacement and medical coverage.”); see also Amanda Christovich, *NCAA Backs Dartmouth Against Unionizing Men’s Basketball Players*, FRONT OFF. SPORTS (June 21, 2024), <https://frontofficesports.com/ncaa-dartmouth-amicus-brief-mens-basketball-union/> [<https://perma.cc/UJ6U-ZGMA>] (describing the NCAA’s opposition to defining college athletes as employees).

199. See Michael McCann, *Fight to Recognize College Athletes as Employees Lives On*, SPORTICO (Jan. 13, 2025), <https://www.sportico.com/law/analysis/2025/college-athlete-employee-legal-fight-1234823597/> [<https://perma.cc/LFL2-RMQ4>] (explaining how student-athletes being considered employees could change college athletics); see generally *Johnson v. NCAA*, 108 F.4th 163 (3d. Cir. 2024) (addressing, on interlocutory appeal, whether student-athletes are precluded from seeking Fair Labor Standards Act protections because of their amateur athlete status).

200. See HUTCHINSON, BLACK & COOK, LLC, *supra* note 70 (describing Title IX concerns in the context of the settlement).

201. See Daniel Libit & Michael McCann, *Colleges Prep for Athlete Title IX Lawsuits of the Revenue-Share Era*, SPORTICO (June 9, 2025), <https://www.sportico.com/leagues/college-sports/2025/colleges-budget-title-ix-lawsuits-revenue-sharing-1234855457/> [<https://perma.cc/BUY5-TVQH>] (“Title IX defense attorneys say colleges are preparing for a potential wave of gender-equity lawsuits from athletes, especially challenges over how that revenue is distributed.”).

E. How NIL Deals Could be Affected

NIL opportunities have undeniably changed the landscape of college athletics by empowering student-athletes to profit from their name, image, and likeness. However, the current NIL model has revealed structural inequities, a lack of rules, and individuals and organizations willing to see how far they can go to get an advantage over others. Though on-field performance does correlate to a student athlete's personal brand value, NIL compensation is largely driven by personal brand value rather than on-field performance,²⁰² meaning some of the most marketable athletes can earn millions regardless of their team's success or athletic contribution.

Take, for example, Shedeur Sanders, who earned an estimated \$5.1 million in NIL deals during the 2023–2024 season despite Colorado finishing with a 4–8 record.²⁰³ Much of this value stemmed from his media presence and relationship with his father and coach, Deion “Prime” Sanders.²⁰⁴ In contrast, Caleb Williams, USC's Heisman-winning quarterback and No. 1 pick in the 2024 NFL draft, earned a comparatively “modest” \$2.7 million, despite playing better and having a better overall record.²⁰⁵ This highlights the reality that NIL rewards visibility, not necessarily athletic ability.

As revenue sharing has begun, many worry that NIL will remain dominated by a select few high-profile athletes, while the majority continue to navigate a complicated and often opaque system. However, the NCAA's new NIL review committee, College Sports Commission, is tasked with addressing growing concerns about fairness, transparency, and competitive equity.²⁰⁶ This committee aims to attack NIL deals that lack market justification or offer a pay-for-play model that is still technically illegal under NCAA bylaws. There is uncertainty, as there are no standardized metrics for what a fair NIL deal looks like. The committee's work is expected to include setting clearer definitions of NIL activity and scoping out red flags that may indicate pay-for-play, especially from collectives.

Added scrutiny underscores why more structured guidance is necessary. As things stand, some student-athletes can command massive NIL payouts. Greater institutional involvement could provide a solution. If student-athletes had access to comparable legal and marketing guidance through their member institutions, the distribution of NIL success could become more equitable and aligned with actual performance. As the NCAA prepares to enforce stricter NIL oversight, institutions must prioritize education, transparency, and athlete empowerment to ensure that NIL continues to provide sustainable contributions to the collegiate athletics economy.

202. See John Altomare, *The Role of Nepotism in NIL Deals*, NEUPRESS (Mar. 25, 2024), <https://learn.neumann.edu/neupress/the-role-of-nepotism-in-nil-deals> [<https://perma.cc/E8TY-ZFYD>] (explaining that those with successful athletes as parents are more likely to get NIL deals because of their last name than the very athletes that were meant to get the deals in the first place and arguing, “NIL deals are not merit-based, but rather popularity-based”).

203. Samantha Dorisca, *College QB Shedeur Sanders Retains Top Spot for NIL Earners in 2024 with an Estimated \$5.1M Valuation*, AFROTECH (Sept. 19, 2024), <https://afrotech.com/shedeur-sanders-top-nil-earner> [<https://perma.cc/ZSY3-36R4>]; Angela Miele, *Colorado's Struggles Spark Overreaction About Deion Sanders' Future*, SPORTS ILLUSTRATED (Sept. 13, 2025), <https://www.si.com/college/colorado/football/deion-sanders-job-buyout-contract-colorado-buffaloes-overreaction-houston-cougars-loss-rick-george-big-12-coach-prime-fire> [<https://perma.cc/4VPZ-E4PA>].

204. See Altomare, *supra* note 202.

205. *Id.*

206. Christovich, *supra* note 143.

F. Legislation Sitting in the Senate

In response to growing public and legal pressure surrounding college athletics, legislation has been introduced to Congress by various legislators from both sides of the aisle. Prior to the *House* settlement decision, these proposals typically aimed to do two separate things: 1) allow revenue-sharing similar to *House*; and 2) protect the NCAA from antitrust lawsuits. Legislation submitted by left-leaning politicians, as will be discussed, aims to provide equitable revenue-sharing to student-athletes to allow them to profit from the revenue they help generate. Right-leaning politicians typically introduce legislation looking to offer the NCAA a broad antitrust exemption through preemption of state law to preserve the idea of amateurism and prohibit student-athletes from being labeled as employees. These two approaches reflect the possibilities of putting continuous lawsuits against the NCAA to rest while balancing student-athlete rights and institutional protection.

1. Revenue-Sharing Legislation

One significant legislative effort aimed at college athletic reform is the “College Athletes Bill of Rights.”²⁰⁷ Introduced in 2020 by Senator Cory Booker and a group of co-sponsors, and since revised and reintroduced in 2022, the bill outlines comprehensive protections and rights for college athletes, including a clear definition of “college athlete.”²⁰⁸ It proposes the creation of a “Commission on College Athletics,”²⁰⁹ that would serve as an oversight body to ensure compliance and fairness in collegiate sports. Additionally, the bill defines Intercollegiate Athletic Association as a “group or organization, including the National Collegiate Athletic Association that (A) exercises authority over intercollegiate athletics; and (B) is engaged in commerce or in any industry or activity affecting commerce.”²¹⁰

The College Athletes Bill of Rights proposes a system where student-athletes would receive direct payments from the total revenue generated by the intercollegiate athletic association’s total revenue, distributed among athletes within a specific division.²¹¹ It differs from the current *House* settlement as student-athletes would be paid in proportion to the revenue generated by their respective sports.²¹² Such a model would certainly benefit high-revenue programs, as the *House* settlement is already doing by allowing schools to provide 75% of the money to their football programs and 15% to their men’s basketball programs.²¹³ It also similarly risks reinforcing existing inequalities by disadvantaging non-revenue generating athletes—mostly female athletes—whose commitments and contributions are the same as those in the revenue generating sports. Senator Booker’s bill would also guarantee health and educational benefits to student-athletes allowing them to

207. College Athletes Bill of Rights, S. 5062, 116th Cong. (2020).

208. College Athletes Bill of Rights, S. 4724, 117th Cong. § 2(4) (2022).

209. *Id.* § 11.

210. *Id.* § 2(17)(A)–(B).

211. *Id.* § 5(b)(2) (providing for required contributions for a medical trust fund).

212. *Id.*

213. Logan M. Gorg, *Title IX and the House Settlement: Playing for Keeps*, SYRACUSE L. REV. (June 19, 2025), <https://lawreview.syr.edu/title-ix-and-the-house-settlement-playing-for-keeps/> [https://perma.cc/2JBP-N6H5].

maintain access to care when injured and ensure that they are getting the very education the NCAA prides itself on providing student-athletes.

The College Athletes Economic Freedom Act was introduced by Congresswoman Lori Trahan was introduced in July 2023.²¹⁴ Different from Senator Booker's bill, it would allow student-athletes to sign NIL deals without any NCAA restrictions.²¹⁵ The current understanding under the *House* decision is the introduction of the College Sports Commission to ensure that student-athletes' deals by boosters and collectives are fair-market value and not pay-for-play.²¹⁶ The NCAA still holds that pay-for-play is against the rules, as under the *House* settlement student-athletes are being paid due to the use of their name, image, and likeness, *not* because of the member institutions they play for.²¹⁷

Senator Booker and Senator Marsha Blackburn also introduced the NCAA Accountability Act.²¹⁸ The legislation is "an important step toward ensuring fairness, transparency, and due process—and will help to strengthen trust in college athletics."²¹⁹ The bill aims to hold the NCAA accountable and ensure the expectations of student-athletes, institutions, and conferences are consistent and fair. The Act requires the NCAA to provide universities with fair notice on "enforcement proceedings, including information about the status of the investigation, alleged violations being investigated, the involved individuals and programs, the potential penalties of each allegation, and the rights and resources available to the accused."²²⁰ It would promote consistency and efficiency while also allowing the DOJ to oversee the NCAA's compliance.²²¹

Collectively, these bills reflect lawmakers' efforts to protect student-athletes' autonomy and compensation and restrict the NCAA. Ultimately, legislative activity underscores the urgent need for a national framework that modernizes college athletics. However, it forgets to protect the very entity needed to ensure rules are followed correctly, the NCAA, which could lead to an increase of student-athletes getting more benefits than they maybe should.

2. NCAA Protective Legislation

Democratic lawmakers have largely focused on advancing legislation that prioritizes the rights and well-being of student-athletes—such as ensuring fair compensation, expanding NIL opportunities, and implementing health and education protections. Republican

214. College Athlete Freedom Act, H.R. 4948, 118th Cong. (2023).

215. *Id.* § 3(a)(1) ("An institution of higher education or intercollegiate athletic association may not enact or enforce any rule . . . that prevents college athletes or prospective college athletes, individually or as a group, from marketing the use of their [NIL].").

216. Christovich, *supra* note 143 ("The settlement allowed for the creation of an 'NIL clearinghouse' to vet any deal over \$600 offered by a collective, booster, or brand with a strong association to a particular school.").

217. *Judge Puts \$2.78B NCAA Settlement on Hold*, REUTERS (Sept. 5, 2024), <https://www.reuters.com/sports/judge-puts-278b-ncaa-settlement-hold-2024-09-06/> [<https://perma.cc/5Z6Q-BHY6>] ("NCAA attorney Rakesh Kilaru . . . insisted pay-for-play remains against the rules.").

218. NCAA Accountability Act, S. 3739, 118th Cong. (2024).

219. Press Release, Cory Booker, Senator, Booker, Blackburn Introduce Bill to Establish Due Process Protections for College Athletes During NCAA Investigations (Mar. 12, 2025), <https://www.booker.senate.gov/news/press/booker-blackburn-introduce-bill-to-establish-due-process-protections-for-college-athletes-during-ncaa-investigations> [<https://perma.cc/Y5ET-B4WE>] (quoting Senator Booker).

220. *Id.*

221. *Id.*

lawmakers have primarily concentrated on safeguarding the NCAA from the wave of ongoing antitrust lawsuits and seek to establish protections for the NCAA. These protections would preempt state law and create a national standard preventing antitrust lawsuits and instating the NCAA as the governing body of collegiate athletics.

Congressmen Russel Fry and Barry Moore introduced the Protect the BALL Act of 2024 to help protect the NCAA from lawsuits, explaining that the NCAA:

[S]hall not be in violation of any law or regulation, and shall not be subject to any manner of claim or cause of action . . . including any Federal or State law for—(1) the adoption of . . . or compliance with any rule . . . of an interstate intercollegiate athletic association . . . that limits or prohibits a student athlete from receiving compensation from an interstate intercollegiate athletic association . . . (2) restricting the eligibility of a student athlete who violates a rule . . . from participation on a varsity sports team; or (3) complying with an agreement, understanding, rule, or bylaw adopted by an institution, conference, or association (or a combination of conferences or institutions) that is reasonably contemplated under Federal law.²²²

The Protect the Ball Act would give the NCAA and conferences protection from lawsuits over NIL, the transfer portal, and eligibility issues. Congressman Fry noted the reasoning behind his legislation, explaining that “[w]e must establish a liability shield on the national level to protect [everyone] as they navigate this new set of circumstances. This legislation is an integral component [to] saving college sports as we know it.”²²³ Creating a national standard for college sports would protect student-athletes as those in different sports and difference conferences would be subjected to the same level of rules and protections. “It is imperative we reach a uniform standard of rules around competition soon.”²²⁴

Other legislation has been introduced in Congress by various lawmakers, each aiming to protect the NCAA from ongoing lawsuits. It is clear Congress must take action to protect student-athletes, member institutions, and the NCAA. Federal legislation has become one of the only avenues that would be able to stop the onslaught of lawsuits from continuing.

Some argue for the dissolution of the NCAA entirely,²²⁵ but without a governing body to make and enforce rules, college athletics would be in a dangerous, Wild West-like predicament.

222. Protect the BALL Act of 2024, H.R. 8304, 118th Cong. § 3(1)–(3) (2024).

223. Ralph D. Russo, *Republican Congressman Introduce Bill That Would Protect NCAA and Conferences from Legal Attacks*, ASSOCIATED PRESS (May 8, 2024), <https://apnews.com/article/ncaa-congress-nil-f8b4d71460b9950694bfc66e2e6479e2> [<https://perma.cc/MK4A-B8XZ>] (quoting Congressman Fry).

224. *Id.* (quoting Morgyn Wynne, former collegiate softball player and former co-chair of the NCAA’s Athlete Advisory Committee).

225. See generally Restore College Sports Act, H.R. 2663, 119th Cong. (2025) (seeking to establish a new association “to oversee and regulate college sports, in replacement of the National Collegiate Athletic Association”).

3. Lawmaker Arguments Against Revenue-Sharing

Qualms about proposed revenue-sharing policies are widespread across Capitol Hill.²²⁶ Senator Ted Cruz has taken a prominent public stance that Congress has the capacity to pass a bipartisan bill to protect the NCAA from the growing number of antitrust lawsuits, but emphasized challenges lie in garnering sufficient support from both parties.²²⁷ Cruz is not alone in his apprehension. Other lawmakers have voiced fears about the unintended consequences of these evolving policies, warning against sweeping reforms like employment classification and how they could alter the very foundation of college athletics.²²⁸ Their concerns reflect a broader unease about preserving the traditional collegiate model while adapting to the legal and economic realities the NCAA faces.

Congress appears increasingly concerned about the long-term implications of the *House* settlement compensation policies and how they reshape the understanding of a student-athlete and the broader landscape of college athletics. Former Senator Joe Manchin warned that the *House* settlement and policies like it will “destroy the student-athlete as we know it.”²²⁹ His sentiments reflect the thoughts of others who fear the disintegration of amateurism and educational priorities. These reforms are framed as a step towards fairness, while actively pushing back many student-athletes—particularly women. They offer little support while high-profile sports are gaining more money and better access to avenues of compensation. Any solution must prioritize student-athletes as a collective body, not only the ones who are marketable.

For decades, critics have argued the NCAA wields excessive control over college athletics, functioning more as a commercial regulator than a neutral governing body.²³⁰ Its broad authority to dictate the terms of competition, athlete eligibility, and compensation has long been a source of controversy. Now, with recent court rulings and mounting pressure on the legislature to act, the NCAA’s future is uncertain. The organization’s influence may be permanently redefined, signaling a potential shift in the balance of power within college sports.²³¹

4. The SCORE and SAFE Acts

On July 19, 2025, the United States House of Representatives introduced the Student Compensation and Opportunity through Rights and Endorsements Act (SCORE Act).²³² Following the *House* settlement, the SCORE Act, if enacted will codify the settlement into

226. See Russo, *supra* note 142.

227. See Ted Cruz on NCAA Legislation, *supra* note 187.

228. *Id.*

229. Ted Cruz on NCAA Legislation, *supra* note 187 (quoting Senator Manchin).

230. See Scott Young, *NCAA, NIL Madness Marches On*, HARV. L. TODAY (Apr. 4, 2024), <https://hls.harvard.edu/today/peter-carfagna-on-the-state-of-the-ncaa-nil-and-amateurism/> [<https://perma.cc/BH8G-XW8Z>] (“The NCAA is the sole organization in control of college sports and, in the past, has not allowed players to receive payments for their efforts.”).

231. See Dominic Keilty, *Courting Fair Play: The Future of the NCAA’s Role in College Sports Governance*, VANDERBILT UNIV.: JETLAW BLOG (Feb. 27, 2024), <https://law.vanderbilt.edu/courting-fair-play-the-future-of-the-ncaas-role-in-college-sports-governance/> [<https://perma.cc/JME9-JL3T>] (explaining how the NCAA’s role is changing and what it could look like in the future).

232. Student Compensation and Opportunity through Rights and Endorsements Act, H.R. 4312, 119th Cong. (2025).

federal law and permit the NCAA to increase the cap on revenue-sharing, require all schools with revenue over \$20 million to maintain at least 16 athletics programs, and require student-athletes be granted benefits, while also addressing other issues.²³³ House Members' intent is to "protect the name, image, and likeness rights of student-athletes to promote fair compensation with respect to intercollegiate athletics, and for other purposes."²³⁴ The Act will allow the NCAA the governing power needed to protect them from the ongoing antitrust litigation.²³⁵ It aims to help with NIL guidelines, put a stop to issues surrounding sports agents, and help student-athletes prepare for a post-athletic career.²³⁶ It is unclear if the SCORE Act will pass, despite the uptick of advertisements for its support online. President Trump stated he would sign it if it made it to his desk, but despite the impact it would have on the NCAA by giving them antitrust immunity, it has been met by resistance from Senate Democrats.²³⁷

The Senators in question introduced the Student Athlete Fairness Enforcement Act in September 2025. The SAFE Act essentially amended the Sports Broadcasting Act to allow for pooling of media rights as a potential avenue to fund the costs athletics departments are facing.²³⁸ These Senators, vocal critics of the SCORE Act, argue that it gives B1G and SEC conferences "too much power and wealth"²³⁹ by consolidating media power, and therefore bigger TV contracts. Their argument rests on the idea that it is possible an imbalance could deepen the economic divide between the Power 4 and other Division I conferences and potentially undermine the competitive integrity of college athletics. These criticisms of the SCORE Act, including the potential for smaller Division I member institutions to be overshadowed by the Power 4 were taken seriously by legislators. Revisions were then made to balance some of these issues, leading to "10-mid-major conferences" pledging their support of the SCORE Act.²⁴⁰

While the SCORE Act is currently awaiting consideration in the Senate, its passage could mark a pivotal moment in the regulation of student-athlete compensation and the broader future of college athletics. The legislation would create a federal framework, reducing the confusion of varying state laws and institutional policies surrounding NIL. This consistency could help ensure fairness across programs, while also giving the NCAA antitrust protections, benefiting all parties involved seeking to maintain the integrity and sustainability of college athletics.

233. *The Goals of the SCORE Act: What Lawmakers Aim to Achieve*, MCGUIREWOODS (Sept. 11, 2025), <https://www.mcguirewoods.com/client-resources/alerts/2025/9/the-goals-of-the-score-act-what-lawmakers-aim-to-achieve/> [<https://perma.cc/T3KP-R6PW>].

234. See H.R. 4312.

235. *Id.*

236. Kevin Hinchey, *The Future of College Athletics: Understanding the SCORE Act*, PACHUB (July 29, 2025), <https://pac-hub.com/the-future-of-college-athletics-understanding-the-score-act/> [<https://perma.cc/3TLA-LC99>] (explaining how student-athletes can be affected if the SCORE act is implemented).

237. Ralph D. Russo, *As SCORE Act Regains Momentum, Senate Critics Launch New Bill to Reshape College Sports*, THE ATHLETIC (Sept. 29, 2025), <https://www.nytimes.com/athletic/6674856/2025/09/29/college-sports-bills-congress-score-safe-act/?redirected=1?camp=9XHYQ> [<https://perma.cc/5PQ9-DS5U>].

238. Student Athlete Fairness Enforcement Act, S. 119th Cong. (2025).

239. Russo, *supra* note 237.

240. *Id.*

IV. RECOMMENDATION

The continued wave of antitrust litigation threatens to dismantle the traditional collegiate athletics model. It is no surprise the discussion has shifted to whether college football will separate from the institutions into its own entity. Student-athletes deserve the opportunity to make money, especially from NIL deals. However, direct compensation, where few student-athletes will profit greatly over the many that will not, currently undermines the mission of collegiate athletics. It also strains the institutional budgets and jeopardizes the survival of non-revenue generating sports. It is clear the judicial branch cannot be called on to force an end to revenue-sharing, and therefore a nuanced legislative solution is required—one that balances the rights of student-athletes to compensation, with the operational and academic missions of the institutions.

Congress should enact federal legislation, different from the SCORE Act to better protect the NCAA and student-athletes. The NCAA needs antitrust immunity to stabilize its role as a governing body, and to keep it out of the judicial system and back to regulating and protecting student-athletes and institutions. Without protections, the NCAA is unable to enforce uniform rules or guard against the slippery slope of violations that give some member institutions an advantage over others. Student-athletes currently oppose the SCORE Act due to the potential ability of the NCAA to “collude against athletes without fear of legal consequences.”²⁴¹ However, without some sort of protection, the NCAA could be sued into bankruptcy, and the values college athletics embody would fall with it.

Within this legislative action, the NCAA should be empowered to standardize NIL policy over Collectives specifically but should not be allowed to touch third-party deals with businesses. While an oversight committee has been established, the ability of member institutions to spend millions through alumni and other donors through Collectives is creating a monopoly on specific member institutions, and caps on the amount of money offered to a singular student-athlete or program should be regulated. Regulations on NIL Collectives need to be strengthened, preventing them from offering more than the equivalent professional league’s minimum salary, and providing extensive documentation into why specific student-athletes are worth this amount of money. While NIL-Go and the CSC are currently “monitoring” deals, the reins on Collectives need to be pulled tighter.

However, many student-athletes and attorneys would push back on this idea because the lack of control the NCAA has is what allows these lawsuits. As a membership body and not a governing body, the NCAA has no actual control to enforce their rules against revenue-sharing. College athletics have become an area where those in revenue-generating programs are starting to look for ways to stay in the space longer, but this federal legislation would prevent lawsuits based on the “fairness” of NCAA bylaws, further protecting student-athletes in non-revenue generating sports who could be at a disadvantage with new revenue sharing policies. Having a governing body is imperative to keep member institutions and student-athletes from committing infractions that directly violate what college athletics are about. Some infractions include member institutions paying student-athletes

241. Letter from Jody Calamine, Dir. of Gov’t Affs., Letter Opposing Legislation That Would be a Bad Deal for College Athletes, AFL-CIO (Oct. 7, 2025), <https://aflcio.org/about/advocacy/legislative-alerts/letter-opposing-legislation-would-be-bad-deal-college-athletes> [<https://perma.cc/6FA5-UBP6>].

under the table,²⁴² committing academic fraud,²⁴³ and forging eligibility for student-athletes that were ineligible.²⁴⁴

As a compromise between revenue-sharing and the outdated compensation bans, the legislative action should include a salary-based model for student-athletes based on institutional size, and overall program revenue. The use of the current revenue-sharing policies will put member institutions in a position to dedicate more money to the select few,²⁴⁵ at the detriment of the rest of the student-athletes and potentially the institutions as a whole.²⁴⁶ Differing from the *Dartmouth College* decision to make student-athletes “university employees”²⁴⁷ and allowing them to unionize, student-athletes should be paid a base rate for their participation in the athletics programs as a whole instead of in individual sports. Collective bargaining would cause labor law issues, whereas base rates to all student-athletes with stipends based on revenue production would provide a level of equity not currently seen in the market share pay out model member institutions are using. The salaries would be nowhere near the amount of money they could potentially make with the *House* settlement, but it would be enough to help with living expenses while they compete.

A salary-based model allows student-athletes of all sports to be paid on a relatively equal basis. Since female student-athletes would be paid similar to that of their male counterparts, it would allow the Title IX issues to disintegrate as many female student-athletes are not after the money, they just want to have the same monetary possibilities. It would allow more student-athletes to earn a higher level of compensation than under the market-share model.

The current revenue-sharing model will benefit the student-athletes who have the best chance of entering the “Big 4” professional leagues. Despite many not having the guarantee of multi-million-dollar contracts,²⁴⁸ they have an opportunity most student-athletes do not have. Those student-athletes, who make up most of collegiate athletics, are not getting the same equitable opportunity to make money since their sports are not considered a priority.

242. See e.g., Michael Brauner, *Major College Football Personality Alleges SEC Was Cheating Before NIL Era*, SPORTS ILLUSTRATED (Jan. 5, 2025), <https://www.si.com/fannation/name-image-likeness/nil-news/major-college-football-personality-alleges-sec-cheating-before-nil-era> [<https://perma.cc/7NLW-CU8X>].

243. See e.g., Sara Ganim & Devon Sayers, *UNC Report Finds 18 Years of Academic Fraud to Keep Athletes Playing*, CNN (Oct. 23, 2014), <https://www.cnn.com/2014/10/22/us/unc-report-academic-fraud/index.html> [<https://perma.cc/LR2Z-Y5AM>].

244. See, e.g., Doug Lederman, *NCAA Punishes Missouri in Blatant Academic Fraud Case*, INSIDE HIGHER ED (Jan. 31, 2019), <https://www.insidehighered.com/news/2019/02/01/ncaa-punishes-missouri-blatant-case-academic-fraud> [<https://perma.cc/UTV4-XFJP>]; Chappell, *supra* note 24.

245. See *supra* Part III (explaining that Universities will be forced to allocate more money towards the few athletes that provide revenue at the detriment of the non-revenue sport student-athletes’ and the rest of the student body).

246. See Michael F. Cavanagh, *Sports Costs Are an Affordability Issue*, INSIDE HIGHER ED (Jan. 12, 2024), <https://www.insidehighered.com/opinion/views/2024/01/12/college-athletics-costs-are-affordability-issue-opinion> [<https://perma.cc/EF58-5F49>] (explaining that to offset the millions of dollars that universities lose to their athletic programs each year, they raise tuition for the rest of the student body).

247. Kelsey Wang, *Landmark Case for Student Athletes Moves Forward*, THE DARTMOUTH (Aug. 2, 2024), <https://www.thedartmouth.com/article/2024/08/wang-landmark-case-for-student-athletes-moves-forward> [<https://perma.cc/N8LS-WTXG>].

248. See, e.g., Elliot Harrison, *The Biggest NFL Draft Busts in Y2K Era*, NFL (2012), <https://www.nfl.com/photos/the-biggest-nfl-draft-busts-in-y2k-era-09000d5d828717ce> [<https://perma.cc/YNY2-HKEN>] (describing NFL players whose professional careers were “disappointing” and mostly short-lived).

A universal salary system also discourages the growing trend of student-athletes transferring or arguing with their schools for their personal financial gain.²⁴⁹ By standardizing the compensation across all sport programs, it reduces the incentive for student-athletes to treat higher education as a marketplace of short-term contracts and a constant interest in where more money could come from. It switches their focus to long-term commitments to institutions to both their teams and their degrees. It would create stability for athletics programs, protect the integrity of competition, and ensure that decisions about transferring institutions remain rooted in academic or athletic development, not in chasing the highest bidder year after year. Importantly, a universal system would also expand access to fair compensation for female student-athletes, who are left behind by the current market-share model of revenue sharing. By creating a baseline of support across all sports, women would not be disadvantaged simply because their teams generate less revenue, reinforcing equity and opportunity across collegiate athletics.

Another aspect of the legislation should discuss the means of generating and distributing the revenue. Given the current economic landscape of college athletics, it is clear that not every member institution will have the money needed to pay student-athletes the money they believe they are entitled to under the settlement agreement.²⁵⁰ Student-athletes at Power 4 member institutions, and many smaller programs, also receive tuition assistance, meal assistance, apparel, state-of-the-art training facilities, and in many cases housing assistance.²⁵¹ It is clear that despite opposing claims, student-athletes receive more economic benefits for their athletic performance than many are led to believe. Therefore, it is hard to believe that the best interest of student-athletes is being thought about when there is a potential detriment of non-athletic students who are attending these universities to get the same education as most student-athletes.

Legislative decisions should not touch the current and incoming NIL deals student-athletes have. Student-athletes should not be restricted to marketing themselves and having the ability to make money through being in ads, commercials, or selling apparel. There is a difference between the marketing value of an individual student-athlete they seek off the field from a third-party and being paid directly by the institution they play for. While there needs to be discussion of payment through collectives and their attachment to institutions, NIL deals should remain the keyway student-athletes from all sports have an equitable opportunity to generate revenue off their identity.

Revenue sharing is the new reality, and legislators must recognize the unique role that higher education plays in shaping student-athletes in both academics and playing ability. Congress needs to enact federal legislation that protects both the student-athletes and the NCAA, allowing for governing to continue once more, with protections in place for student-athletes to maintain their ability to generate revenue from their NIL before the window to preserve the NCAA and the collegiate model closes permanently.

249. Chris Low, Max Olson & Adam Rittenberg, *Why Nico Iamaleava Soured on Tennessee and Ended up at UCLA*, ESPN (Apr. 23, 2025), https://www.espn.com/college-football/story/_/id/44787682/why-nico-iamaleava-left-tennessee-joined-ucla [<https://perma.cc/GGS8-5N6S>] (describing the “drama” around a student-athlete’s transfers and bargaining).

250. *Id.*

251. Tasha Vanden Heuvel, *Top Benefits of Being a Student-Athlete in College*, SCHREINER UNIV. (Mar. 29, 2022), <https://suexp.schreiner.edu/blog/2023/05/18/top-benefits-of-being-a-student-athlete-in-college/> [<https://perma.cc/9MEY-GCLV>].

V. CONCLUSION

Collegiate athletics stands at a potential breaking point. What was once rooted in amateurism with an emphasis on academics, has now been reshaped by market forces, legal challenges, and the growing power student-athletes have over institutions and the NCAA.²⁵² The turning point began with *O'Bannon* and as cases like *Alston* and *House* continue to allow more access to student-athlete compensation, the question is no longer whether student-athletes should be paid, but how much is too much.

While NIL rights addressed long-standing inequities, direct revenue sharing compensation risks unraveling the foundation of collegiate athletics. The harsh reality of revenue-sharing is already being seen in Power 4 schools as Olympic sports are seeing cuts to their programs, and non-athletic students are forced to shoulder the burden by paying more fees for "athletic expenses."²⁵³ These changes threaten access and opportunity for the very communities' collegiate athletics was built to serve.

Congress must act with urgency. Legislative decisions need to be put into effect to protect the NCAA, ensure equitable compensation to all student-athletes, preserve Olympic sports, and safeguard the educational mission of collegiate institutions.²⁵⁴ Without such balance and without a governing body to exercise control, institutions and conferences risk becoming little more than feeder systems for professional leagues and an avenue for quick cash for the few at the detriment of many.

This is not a zero-sum battle between student-athletes and institutions. It is a fight for the future of higher education and preserving the foundations upon which it was built. The pursuit of fairness for the few must not dismantle opportunity for the many. The stakes could not be higher.

252. See *supra* Part III.C.

253. See Werner, *supra* note 147 (explaining how Illinois has been cutting back on spending due to not having the \$20.5 million to pay student-athletes under the *House* settlement).

254. See *supra* Part III.F.