

**UNITED STATES OF AMERICA
AMICUS BRIEF
FOR THE NATIONAL LABOR RELATIONS BOARD**

NORTHWESTERN UNIVERSITY
Employer

and

Case 13-RC-121359

COLLEGE ATHLETES PLAYERS
ASSOCIATION (CAPA)
Petitioner

**BRIEF OF *AMICUS CURIAE* ON INVITATION BY THE
NATIONAL LABOR RELATIONS BOARD**

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Affiliationu noted y kj kp"for identification purposes. The views presented here do not represent the position of any particular university.

I. Executive Summary	1
II. Revenue and Profit abound in FBS Football and Finances do not create an Outside Constraint to the question of Employee Status (Amicus Question 6)	3
A. College Football is an immensely popular consumer product, and the NCAA and its member conference and universities treat it as such.	3
<i>Figure 1: FBS Revenue and Tuition Growth (Nominal), 2002-2010</i>	4
<i>Figure 2: Football Attendance between NFL, FBS, and AFL</i>	5
<i>Table 1: Current television contracts for the major college conferences</i>	5
<i>Table 2: Revenue and Expenses for Northwestern University from 2003 to 2012</i>	9
B. The Spending of FBS Profits Should Not Be Confused with Actual Expenses	9
1. Rent-seeking behavior: Excessive spending on facilities and coaches.....	11
2. Universities' Accounting Tends to Understate Revenues and Overstate costs.....	15
<i>Table 3: Related Party Transactions within College Athletics</i>	17
C. NCAA members themselves recognize the benefits of having FBS football (as well as other sports) well beyond the accounting profits these programs show.....	17
D. Empirical evidence of profits are everywhere: Rising revenue, rising pay, schools joining FBS	19
E. Current full-scholarship recipients would not receive less under a bargained outcome.....	20
III. Giving some schools the freedom to negotiate with a recognized union will not create a competitive balance constraint within FBS football. (Amicus Question 6).....	21
IV. No matter how the relationship between Title IX and the NLRA is interpreted, economically the two laws are not in conflict. (Amicus Question 5)	24
V. Conclusion	25

I. Executive Summary

1. We are a group of economists and professors of sport management who focus specifically on the economics of college athletics. Together, we have published more than two hundred articles, book chapters, and books focused on college sports.

2. We write this *amicus* brief to help inform the NLRB of the economic facts underpinning several of the questions on which the Board has asked for assistance, especially the question of whether outside constraints (the cost of implementing potential union demands or the potential economic impact of other laws applying to intercollegiate athletics such as Title IX), are an impediment to fruitful collective bargaining.

3. We understand the issue of outside constraints to include the finances of FBS football. Leaving aside whether a firm's lack of profits provides an exemption from the country's labor laws, we demonstrate there is no basis to the claim that FBS football is somehow too poor to afford any envisioned increase in costs from having student-employee-athletes, whether they form a union or remain employees outside of the collective bargaining context. We also document the broad consensus within sports economics establishing that allowing some or all schools' athletes to unionize is unlikely to impact the current level of competitive balance in FBS football. Finally, we address the economics of a spending-match law such as Title IX and demonstrate that the potential for increased benefits to male athletes through collective bargaining will not result in reduced funding for women, and to the contrary may increase funding for women's sports.

4. As will be seen below, the concerns that (a) college sports is too poor to afford unionization, (b) the competitive balance among teams will be fatally disrupted by unionization, and (c) the advances by women athletes through Title IX will be arrested are all dubious claims based on the existing body of economic research on intercollegiate athletics. Although schools with FBS football are

non-profit, Northwestern included, their football programs generate substantial revenue and profit,¹ increasing annually at a steady rate. Rather than being resource constrained, FBS football is flush with revenue.

5. Unionization and competitive balance are not antithetical. Sports economics and sport management find that existing competitive balance is extraordinarily low in FBS football and FBS may have become less balanced by existing restrictions on economic competition. Because of the absence of bargaining and price (remuneration) competition, athletes tend to choose schools based on winning, and thus winning begets winning. Over fifty years of economic research has shown that rules limiting athlete compensation do not change the structural elements of a sport that drive balance among teams.

6. Similarly, as an empirical economic matter, the current implementation of Title IX is compatible with collective bargaining by the Northwestern football athletes who earn a Grant-in-Aid (GIA).² Depending on what is bargained for and how those new benefits are interpreted under the law, either women's funding will be unchanged (if the elements of collective bargaining are outside the scope of Title IX law) or will actually rise (if some or all of the elements of collective bargaining fall within that scope). Those in favor of increased funding for women's sports should push hard for more economic freedom for male athletes combined with enforcement of existing gender equity laws.

7. We discuss mainstream economics, based on a long-agreed-upon consensus. If it appears counter-intuitive, that is because it has been in the interest of the NCAA, member conferences, and schools to perpetuate a narrative that "feels" correct despite little-to-no theoretical or empirical support.

8. Much of the material included in this *amicus* brief comes from peer-reviewed academic publications written by one or more of the signers, as well as consulting projects, and litigation. No confidential materials or materials provided under seal were relied on.

¹ As defined in this brief, we use profit to mean the excess of revenues over total economic costs. In the context of a sports enterprise housed within a larger non-profit organization, some prefer the terms "net revenue" or "surplus." "Profit" captures the idea that revenues exceed the expenses needed to produce those revenues, independent of how the surplus is spent.

² Grant-in-Aid is the NCAA term of art for what is commonly referred to as an "athletic scholarship."

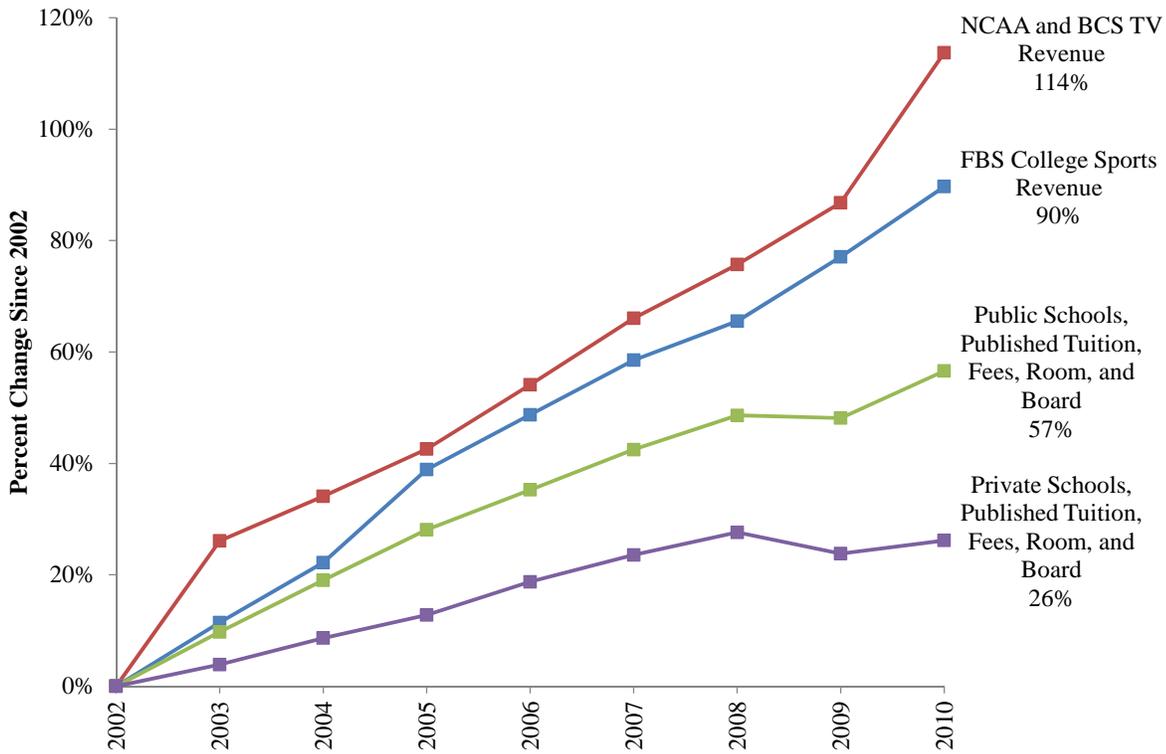
II. Revenue and Profit abound in FBS Football and Finances do not create an Outside Constraint to the question of Employee Status (Amicus Question 6)

9. As a backdrop to the question of whether the FBS football athletes at Northwestern have a legal right to employee status under the NLRA, and thus to choose whether to bargain collectively, some have suggested the claimed poverty of the FBS industry should be seen as a constraining factor on those rights. As economists, we know of no other industry where claims of financial losses have served to shape how workers in that industry were considered employees under the NLRA, but to the extent the issue is relevant, we wish to dispel the myth that FBS football is not a thriving industry, generating revenues far in excess of the costs of their production (i.e., profits) despite being housed within a larger non-profit university environment.

A. College Football is an immensely popular consumer product, and the NCAA and its member conference and universities treat it as such.

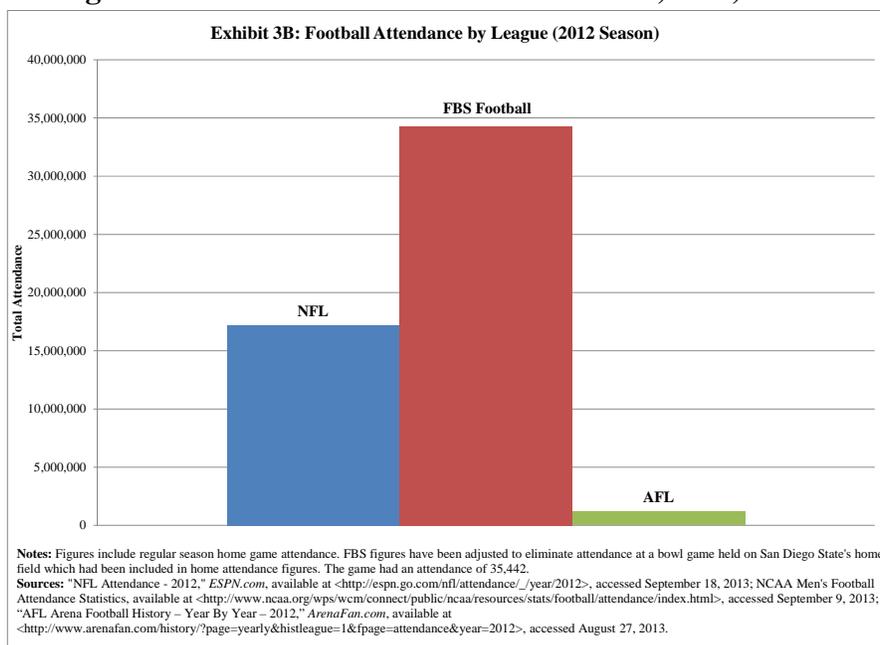
10. Consistently over the last 30 years, FBS football has experienced 7- to 8-percent annual revenue growth, far outpacing the listed cost of a GIA. In the last decade, this divergence of revenues and (listed) GIA costs has continued apace.

Figure 1: FBS Revenue and Tuition Growth (Nominal), 2002-2010



11. FBS football is a highly successful consumer product, far more comparable to other major football products, like the NFL, than to minor league football such as the Arena Football League (AFL), as can be seen from public material advanced by the NCAA in recent litigation:

Figure 2: Football Attendance between NFL, FBS, and AFL



12. In addition to drawing millions of fans at the gate, FBS football is also a highly successful television product, whose growth was spurred when the Supreme Court ended a decades-long antitrust violation.³ Once treated as the commercial product it is, the FBS industry flourished and today the FBS television business is thriving, as is high-level Division 1 basketball.

Table 1: Current television contracts for the major college conferences⁴

Conference	Total Dollars	Average per year	Average per school, per year
Big Ten Conference*	\$4.017 billion	\$248.2 million	\$20.7 million
Atlantic Coast Conference	\$3.6 billion	\$240 million	\$17.1 million
Southeastern Conference	\$3.075 billion	\$250 million	\$14.6 million ⁵
Pac 12 Conference	\$3 billion	\$250 million	\$20.8 million
Big 12 Conference	\$2.6 billion	\$200 million	\$20.0 million

* - Northwestern is in the Big Ten, so Northwestern shares in these media dollars

³ National Collegiate Athletic Ass'n v. Board of Regents of University of Oklahoma, 468 U. S. 85 (1984).

⁴Dosh, Kristi. 2013. "A comparison: Conference television deals." ESPN.com. (March 19)

http://espn.go.com/blog/playbook/dollars/post/_/id/3163/a-comparison-conference-television-deals. These data include both FBS football and each conference's companion men's basketball broadcast contracts.

⁵ The Southeastern Conference has since renegotiated its television agreements: "... the new television and digital rights deal between ESPN and the SEC, which runs from 2014-'34, will bring each school in the conference as much as \$35 million each fiscal year." <http://www.jsonline.com/sports/sec-hits-bigtime-paydirt-with-network-deal-pc9qf24-206126081.html>

13. With the revenues earned both at the gate and via various broadcast deals described above, it is not surprising that FBS schools see millions of dollars in revenue from college football. And these revenues have increased dramatically over time, far outpacing inflation. As one example, the Big Ten figures reported above are already obsolete. On May 16, 2014, the Big Ten released its 2012 tax forms to USA Today, which reported⁶

- “The 12-school Big Ten reported \$318.4 million in total revenue for a fiscal year that ended June 30, 2013. That is just ahead of the \$314.5 million reported by the 14-team SEC”
- “Each Big Ten school received about \$25.9 million from the conference in fiscal 2013 except Nebraska ... and Penn State.”
- “The Big Ten Network generated an after-tax profit of \$13.4 million for the conference in fiscal 2013, up about \$2.4 million from fiscal 2012.”

14. “Commercial activity associated with intercollegiate athletics is not new, and it is not going away.”⁷ These are the words of the NCAA’s own “Task Force on Commercial Activity.”⁸

Similarly, in his 2006 State of the Association speech, then-NCAA President Myles Brand explained college sports had a duty to maximize its revenue, like any revenue-generating business:

Athletics, like the university as a whole, seeks to maximize revenues. In this respect, it has an obligation to conduct its revenue-generating activities in a productive and sound business-like manner. Anything less would be incompetence at best and malfeasance at worst. ... Commercial activity, meaning, for example, the sale of broadcast rights and logo licensing, is not only acceptable, but mandated by the business plan, provided that it is done so in a way that fully respects the underlying principles of the university. Instances in which advertising is offensive, in which it is crass or overwhelming, are incompatible with these values. But commercialism per se is not.”⁹

⁶ <http://www.usatoday.com/story/sports/college/2014/05/16/big-ten-conference-highest-revenue-college-sports/9190139/>

⁷ See “Final Report of the NCAA Task Force on Commercial Activity in Division I Intercollegiate Athletics,” available in public docket of Case4:09-cv-01967-CW Document922-13, p. 16

⁸ The Report also states: “There is a temptation in the modern era of intercollegiate athletics to perceive that commercial activity is a recent development fostered by television and embraced by athletics administrators to swell coffers, build ever-expanding programs, and increase payrolls to coaches and personnel. ... But the presence of commercial activity within the context of intercollegiate athletics is as old as the enterprise itself and it is growing. ... Because of the high interest, advertisers and marketers at local, regional and national levels are eager for an association with such events and with the institutions of higher education that sponsor the teams ... corporations are willing to pay premium prices for the opportunity to put their products before the eyes of an enormous audience across a broad spectrum of media.

⁹ Myles Brand, 2006, “The Principles of Intercollegiate Athletics.” Available at http://fs.ncaa.org/Docs/NCAANewsArchive/2006/Association-wide/brand%2Bcharts%2Bcourse%2Bfor%2Bcollegiate%2Bmodel_s%2Bnext%2Bcentury%2B-%2B1-16-06%2Bncaa%2Bnews.html

15. Brand explained the schools could then spend the resulting revenue as it chose, specifically on other goods and services within the educational system, but economically, the commercial nature of that original revenue generation does not depend on the use of the profits, any more than would the commercial nature of the sale of an automobile hinge on whether the dealership's owner donated the profits to charity or spent them on a yacht.

16. Another former NCAA President from 1994-2003, Cedric Dempsey, called Division II an "educational model" but argues that "Division I programs ... function on more of a 'business model'."¹⁰ In a report prepared for the University of California-Davis, Dempsey explained:

In the late 1970's, NCAA Division I institutions established a principle of self-sufficiency for its ICA [Intercollegiate Athletics] programs. As a result, the Division I top tier level moved away from the "educational model" of athletics toward the "business model". **At many institutions, especially those at the highest Division I level, athletics programs are treated as auxiliary enterprises within the university.** This model has resulted in successful programs placing an emphasis upon potential revenue generating sports by reinvesting their resources to insure those sports that have the potential to generate income receive competitive funding to be successful.¹¹

17. The NCAA has also advanced the argument (through the use of former CBS President Neil Pilson as an expert witness) in litigation that the growing popularity since the 1970s of Division I sports as a broadcast product is a basic economic phenomenon of high demand in a market economy and one of the inevitable consequences of developments in the for-profit broadcast industry:

"... changes in technology and the structure of the broadcast industry, not changes in NCAA rules or conferences' and schools' priorities, explain the significant increase in telecast licensing fees and opportunities. Broadcasters offered higher fees and expanded opportunities in a competitive, free market economy because college football and basketball are extraordinarily popular among the American viewing public."¹²

"This fact reflects the American public's consistent desire to watch college football and college basketball more than most sports programming on television. ... Accordingly, advertisers are willing to pay higher and higher prices to telecast college football and basketball and this helps fund the broadcasters' willingness to pay higher license fees."¹³

¹⁰ UC Davis Athletics Strategic Audit 2011, Cedric Dempsey Consulting, p. ES1.

¹¹ UC Davis Athletics Strategic Audit 2011, Cedric Dempsey Consulting, p. ES2. (emphasis added)

¹² Rebuttal Expert Report of Neal H. Pilson, November 5, 2013 (Case4:09-cv-01967-CW Document925-18, pp. 29-32.)

¹³ Rebuttal Expert Report of Neal H. Pilson, November 5, 2013 (Case4:09-cv-01967-CW Document925-18, p. 35).

18. In all, the assessments of these former NCAA Presidents, of the NCAA's expert on the business of television, and of the NCAA Task Force on Commercial Activity are consistent with the economic fact that FBS football programs function as business enterprises designed for the purpose of generating profitable surpluses which the University then chooses to spend on other activities, athletic and non-athletic. And while the NCAA acknowledges those that "wish intercollegiate athletics to be devoid of any and all commercial influences" will find it "disheartening," nevertheless the NCAA itself is clear that "commercial activity associated with intercollegiate athletics (including ticket sales, sale of merchandise, royalties from the sale of media rights, and the development of corporate sponsorships)" is "as historic as college sports itself."¹⁴

19. As a result, even with accounting practices that in many ways obscure the actual economic success of FBS football, top-tier FBS Football programs, including Northwestern, consistently self-report¹⁵ revenues in excess of cost from their FBS football programs in their official filings to the Federal government. As seen in the Appendix to this report, of the 69 FBS programs in the power conferences as of 2012-13, 65 showed revenues in excess of reported costs, with only one showing losses.¹⁶ The data self-reported by Northwestern indicates Northwestern University's revenues from college football also greatly exceed the school's expenses. From 2003 to 2012, Northwestern's revenues – in 2012 dollars – were \$76.3 million more than its expenses.

¹⁴ See "Final Report of the NCAA Task Force on Commercial Activity in Division I Intercollegiate Athletics," available in the public docket of the O'Bannon case at Case4:09-cv-01967-CW Document922-13 Filed12/12/13 Page16 of 39, emphasis added

¹⁵ These reports do not follow generally accepted accounting principles, but rather are based on an NCAA self-defined set of practices.

¹⁶ Three schools reported football revenues exactly equal to expenses.

Table 2: Revenue and Expenses for Northwestern University from 2003 to 2012¹⁷

Year	Total Revenues Football	Expenses Football	Difference in Revenues and Expenses
2003	\$18,690,928	\$11,879,018	\$6,811,910
2004	\$17,986,965	\$12,282,972	\$5,703,993
2005	\$20,176,448	\$12,755,758	\$7,420,691
2006	\$17,685,590	\$12,682,649	\$5,002,940
2007	\$23,399,250	\$13,446,480	\$9,952,769
2008	\$25,628,420	\$16,812,789	\$8,815,630
2009	\$24,294,306	\$16,834,896	\$7,459,410
2010	\$29,608,707	\$20,402,209	\$9,206,499
2011	\$28,098,638	\$20,551,371	\$7,547,267
2012	\$30,143,982	\$21,722,796	\$8,421,186
TOTALS	\$235,713,233	\$159,370,938	\$76,342,295

B. The Spending of FBS Profits Should Not Be Confused with Actual Expenses

20. Do not confuse the fact that FBS is a tremendously profitable commercial enterprise with the fact that the recipients of those profits, non-profit Universities and their Athletic Departments, have dissipated those profits. Two competing theories have developed to explain the continuous upward spiral of university costs (per-student costs of education) in general over time. These, acknowledged and analyzed by Archibald and Feldman,¹⁸ are the “cost disease” theory¹⁹ of William Baumol and William Bowen and the revenue theory of cost of Howard Bowen.²⁰

21. The cost disease theory maintains the escalation of college expenditure is reflective of an economy-wide phenomenon.²¹ The revenue theory of cost, in contrast, is based on idiosyncratic behavior by non-profit universities: costs are restrained only by revenue as they lack a profit motive.

¹⁷ Data on Revenue and Expenses comes from the U.S. Department of Education. “The Equity in Athletics Data Analysis Cutting Tool.” <http://ope.ed.gov/athletics/Index.aspx>. The numbers reported are in 2012 dollars (adjusted via the BLS Inflation Calculator: www.bls.gov/data/inflation_calculator.htm).

¹⁸ Robert B. Archibald and David H. Feldman. Explaining Increases in Higher Education Costs, *Journal of Higher Education*, 79 (May/June 2008), 268-295. .

¹⁹ The cost disease theory is not presented in a specific paper, but is rather derived from an amalgamation of several of the authors’ works, all listed in Archibald and Feldman’s (2008) bibliography.

²⁰ Howard R. Bowen. *The Costs of Higher Education: How Much Do Colleges and Universities Spend per Student and How Much Should they Spend?* (1980) San Francisco, CA: Jossey-Bass Publishers.

²¹ Archibald and Feldman explain that the cost disease theory suggests that colleges are not different from other service industries with highly skilled labor for which technology has minimal impact on productivity. These industries are likewise inflicted with cost disease.

Moreover, revenue maximization becomes the primary objective and enables more spending; institutions raise as much revenue as possible then spend what is available.²²

22. Archibald and Feldman establish empirical support for cost disease, finding rates of increase in college costs parallel those in similar service industries, throughout the economy. However, this finding does not explain intercollegiate athletics where per-unit expenditures have far outpaced general university spending (Desrochers, 2013).²³ Athletics spending mirrors the substantial revenue growth documented in this report, suggesting that revenue (in the broadest sense) does drive spending, thus the revenue theory of cost is the more appropriate description of athletic spending.²⁴ This finding is consistent with a series of reports commissioned by the NCAA²⁵ showing high correlation between increases in revenue and increases in cost, without a determination of any causal link.

23. Martin (2009) refers to this as the revenue-to-cost spiral.²⁶ Former NCAA President Myles Brand stated as much in his State of the Association²⁷ Speech in 2006 at the NCAA Convention, “Universities attempt to maximize their revenues and redistribute those resources according to their educational mission. Universities are nonprofit corporations, and as such, they do not generate profits for private owners or shareholders. But they do have an obligation to generate significant amounts of revenue to pursue their mission.”

²² Brett A. Powell, Diane Suitt Gilleland, and L. Carolyn Pearson, “Expenditures, Efficiency, and Effectiveness in U.S. Undergraduate Higher Education: A National Benchmark Model,” *Journal of Higher Education*, Vol. 83 No. 1 (January/February 2012), p. 105.

²³ Donna M. Desrochers. Academic Spending Versus Athletic Spending: Who Wins Washington, DC: Delta Cost Project at American Institutes for Research (January 2013). Retrieved from <http://chronicle.com/blogs/players/files/2013/01/deltacost.pdf>

²⁴ Malcolm Getz., John J. Siegfried, Hao Zhang Estimating Economies of Scale in Higher Education. *Economic Letters*, 37 (1991), among others, propose that explanations of spending behavior specific to higher education are sound.

²⁵ These NCAA-commissioned reports include Robert E. Litan, Jonathan M. Orszag, and Peter R. Orszag, “The Empirical Effects of Collegiate Athletics: An Interim Report” (available at <http://www.sc.edu/faculty/PDF/baseline.pdf>) and Jonathan Orszag and Mark Israel, “The Empirical Effects of Collegiate Athletics: An Update Based on 2004-2007 Data,” (available at http://fs.ncaa.org/Docs/DI_MC_BOD/DI_BOD/2009/April/04,%20_Empirical_Effects.pdf)

²⁶ Robert E. Martin, “Revenue to cost spiral in higher education”, *Pope Center for Higher Education Policy*, July 2009.

²⁷ Brand notes “The basic business plan for the university is one of massive redistribution of revenues on the basis of the institution’s mission and strategic directions.” http://fs.ncaa.org/Docs/NCAANewsArchive/2006/Association-wide/brand%2Bcharts%2Bcourse%2Bfor%2Bcollegiate%2Bmodel_s%2Bnext%2Bcentury%2B-%2B1-16-06%2Bncaa%2Bnews.html.

24. The dissipation of FBS profits can be broadly divided into two major categories: spending related to indirect competition for greater FBS profits (also known as rent-seeking behavior) and spending related to institutional use-it-or-lose-it incentives that encourage wasteful spending (similar to gold-plating) where costs increase simply because there is money available to spend.

1. Rent-seeking behavior: Excessive spending on facilities and coaches

25. “Rent” is a venerable concept in economics. Defined as a return in excess of an owner’s opportunity cost, economic rent has played a prominent role in the history of economic analysis (‘corn is not high because rent is paid, rent is paid because corn is high’).”²⁸ When economists speak of monopoly “rents,” we mean the price paid in a market in excess of what is required to get the asset to engage in production.²⁹ As an example, Clemson head coach Dabo Swinney recently explained³⁰ his current pay bears no relationship to the much smaller amount it took to draw him into the profession. The excess between his true bottom line and his much higher salary, which he captures thanks to competition in a free-market, represents economic rents.

26. Typical NCAA analyses make the mistake of attributing all payments to college coaches or on facilities as true costs of production. Clearly they are not. Nobel Laureate and Presidential Medal of Freedom winner Gary Becker explained that unlike true costs, rents increase because of increases in prices, and not vice versa: “The most important [point] is that rents are **price-determined**, not price-determining, as are labor, capital, and other conventional costs.”³¹

²⁸ Robert Tollison, “Rent Seeking: A Survey,” *Kyklos* 35(4) (Dec. 1982:575-604), here page 575. The quotation from Tollison’s article comes from *Principles of Political Economy and Taxation*, written by David Ricardo in 1817.

²⁹ R. H. Wessel, “A Note on Economic Rent,” *American Economic Review*, (1967):1222. Wessel goes on to point out how recipients of rents often justify their privilege in moralistic tones. He says about rent, “It is oriented to the motives of the supplier of resources and presumably may serve as the basis of moral judgments approving or condemning their rewards.” (page 1222.)

³⁰ “I didn’t get into coaching to make money - coaches weren’t making any money when I got into coaching. It’s what I wanted to do with my life, and I was able to do it because of my education.” <http://www.sbnation.com/college-football/2014/4/13/5610580/ncaa-talking-points-memo>.

³¹ Becker, page 78, emphasis added.

27. This is why, as an example, when Nick Saban's pay increased from \$5.5 million to a reported \$6.9 million,³² there was no reason to expect a ticket price increase. A portion of Saban's pay consists of rents -- sharing in the profits from those tickets sales -- rather than true costs. In professional sports (for athletes and coaches alike) and college sports (for coaches but not for athletes), pay is high because high consumer demand generates high revenue and athletes/coaches have economic rights that allow them to bargain for and receive a high share of those revenues.

28. Thus, rather than thinking of the rising expenditures on facilities or coaching as a sign of increased costs that explain a lack of profit, these phenomenon are best understood as a classic case of firms effectively sharing those profits with some of the producers (coaches, construction firms) as an indirect means of attracting talent. They represent a dissipation of profits, rather than a cost of producing them.

a) Practice facility expenditures are currently inflated by inefficient, rent-seeking behavior

29. Because direct economic competition for athletes is prohibited by NCAA cartel practices, universities turn to second-best means of attracting valuable athletes. Andrew Zimbalist noted:

“The cartel members found new ways to compete and new leaks were opened. ... The new recruiting showpieces have become mammoth training complexes, led by the University of Georgia's \$12 million Heritage Hall opened in 1987. The University of Tennessee followed with its own \$10 million state-of-the-art sports complex.”³³

30. As one example of rent-seeking behavior, consider the so-called “arms race” in facilities spending,³⁴ where schools spend much more on practice facilities than seems necessary. The cause is

³² “Alabama's Nick Saban will make \$6.9 million per year,” Jon Solomon, June 3, 2014, <http://www.cbssports.com/collegefootball/writer/jon-solomon/24579816/alabamas-nick-saban-will-make-69-million-per-year>.

³³ Andrew Zimbalist, “Unpaid Professionals,” p. 44 (1999).

³⁴ The authors of this document do not agree with this characterization -- it is economic competition, not an arms race, in that there need not be just one winner. See Rodney Fort and Jason Winfree, *15 Sports Myths and Why They're Wrong*, Stanford University Press, 2013, pp. 22-40.

that training/practice facilities are often used to lure recruits; the result is that colleges spend much more on practice facilities than in the NFL as a percentage of revenue.³⁵

31. These facilities are not simply a means of providing athletes with an opportunity to train. An imported foosball table is unlikely to offer much in terms of actual, additional utility to a recruit over a domestic one,³⁶ but by being able to show the recruit the program is willing to spend money to attract him, the program signals its seriousness. The emphasis on facilities is a consequence of agreements to cap compensation to athletes; in their absence, that same level of commitment to the recruit could be made by meeting union demands or through individual negotiations.

32. Program after program spends millions of dollars on training facilities in the name of recruiting. As a handful of the dozens of examples (bold emphasis added):

- “McKay Center Gives USC ‘Huge’ **Recruiting** Edge.”³⁷
- Baylor: “Along with the impact it will have on the experience of current Baylor athletes, the new complex will help boost **recruiting** efforts, McCaw says.”³⁸
- West Virginia: “For **recruiting** purposes it is essential that our facilities exceed the expectations of prospective student-athletes and compare favorably to other schools in the BIG 12 and the nation.”³⁹
- Nebraska: “As part of the \$8.7 million renovation of the West Stadium, \$1.8 million was designated for updating Nebraska's historical displays in Memorial Stadium. These updates enhance the game day environment for fans at Memorial Stadium and assist the Huskers' **recruiting** efforts for future student-athletes.”⁴⁰
- Kansas State: “this facility will provide a showcase for our coaches to **recruit** the best and brightest student-athletes in the country, complementing our incredible game day atmosphere, ideal college town and world-class university experience.”⁴¹

³⁵ NFL teams spent on average 14% of total annual revenue to build/renovate a practice facility compared to 65% of FBS football revenue (or 30% of total athletic department revenue).

³⁶ Forde, Pat. “Plenty of guilt to go around for Grambling’s plight.” October 22, 2013. Yahoo Sports. <http://sports.yahoo.com/news/ncaaf--forde-yard-dash--who-s-to-blame-for-grambling-s-sad-situation--052734791.html>.

³⁷ Michael Lev, “McKay Center Gives USC ‘Huge’ Recruiting Edge,” Orange County Register, August 22, 2012. Available at: <http://www.ocregister.com/sports/usc-369193-center-mckay.html>, accessed April 19, 2013.

³⁸ “Home Field Advantage.” Baylor Magazine. April 27, 2007. Available at: <http://www.baylor.edu/alumni/magazine/0503/news.php?action=story&story=45614>.

³⁹ “Current Projects.” Mountaineer Athletic Club. Available at: <http://www.mountaineerathleticclub.com/page.cfm?storyid=103>.

⁴⁰ “Nebraska Student Life Complex.” Available at: http://www.huskers.com/ViewArticle.dbml?DB_OEM_ID=100&ATCLID=1513079.

⁴¹ “Why Build? Reasons for the Facility.” <http://www.kstatesports.com/trainingfacility/why.html>, accessed April 19, 2013.

- Syracuse: “The renovations to our facility will directly impact the accomplishments of our football program, as well as provide an enormous positive effect on our **recruiting** endeavors,’ Marrone [Syracuse Coach] said in a statement.”⁴²
- Alabama: “Through generous private support, we now have some of the finest facilities in the country. These facilities provide Alabama Athletics with a **recruiting** tool to attract elite student-athletes from around the world”⁴³
- Wisconsin: “While these facilities have had a positive impact on our athletic program, a number of our sports remain at a competitive and **recruiting** disadvantage due to inadequate athletic facilities as compared with our peer institutions.”⁴⁴
- Iowa State: “Sukup Basketball Complex ... Erected at a cost of \$8 million, the facility offers all of the amenities a program needs to attract top **recruits**.”⁴⁵

33. Since the schools cannot compete for athletes with financial offers, they engage in non-price competition. “Chris Kennedy, senior associate athletic director at Duke, said the nationwide boom in facility construction is not good for college athletics, but is necessary to attract recruits and give athletes the tools necessary to succeed.”⁴⁶

b) Coaching expenditures are currently inflated by inefficient, rent-seeking behavior

34. Another symptom of rent-seeking behavior by universities is the upward spiral in coaching pay, far above what would occur in a market that did not prevent direct competition for athletes. Coaches’ pay has risen so dramatically in the last ten years because coaches are a substitute means of persuading an athlete to decide to attend a particular school. Not only does recruiting matter to winning,⁴⁷ but coaches are key drivers of recruiting and persuading athletes to choose one’s school.⁴⁸

⁴² Anderson, Andrea. “Syracuse, Louisville improving facilities.” ESPN, April 23, 2012. http://espn.go.com/blog/bigeast/post/_id/32171/syracuse-louisville-improving-facilities.

⁴³ Moore, Mal. “A Letter from Mal Moore.” <http://www.rolltide.com/sports/crimson-tide-foundation/spec-rel/ctf-body.html>, accessed April 19, 2013.

⁴⁴ “Our Need.” <http://www.uwbadgers.com/sapc/>.

⁴⁵ Sukup Basketball Complex http://www.cyclones.com/ViewArticle.dbml?DB_OEM_ID=10700&ATCLID=3761589.

⁴⁶ Lees, Kevin, “Recruitment competition spurs facilities ‘arms race’,” *The Chronicle*, September 5, 2001. <http://dukechronicle.com/article/recruitment-competition-spurs-facilities-arms-race>.

⁴⁷ Langelett, George. “The Relationship between Recruiting and Team Performance in Division IA College Football.” *Journal of Sports Economics*, 2003.

⁴⁸ See Gabert, T., Hale, J., and Montalvo, G. (1999), “Differences in College Choice Factors Among Freshmen Student-Athletes,” *Research Spotlight*. Klenosky, D., Templin, T., and Troutman, J. (2001), “Recruiting Student Athletes: A Means-End Investigation of School-Choice Decision Making,” *J. of Sport Management*). Charles T. Clotfelter, *Big-Time Sports in American Universities*, Cambridge University Press, 2011, p. 121: “So as university athletic departments vie to recruit among the limited number of potential star players – whether with coaches or handsome facilities – spending more and more resources to sign them up makes sense if the funds are available. This is the logic of the athletic arms race.”

Coaches' pay is, in large part, a function of their usefulness as a recruiting tool.^{49,50,51,52,53,54,55} The economics literature agrees with this conclusion: recruiting matters to coaching success.^{56,57,58} But such spending, above the amount that would prevail absent the restraints in suit, is inefficient.^{59,60,61}

35. In 2007, coaching pay in college football captured 3.5% of a team's revenue, while in the NFL coaching pay represented only 1.5% of team revenues. Similarly for the 2008-2009 season, men's Division I basketball coaches captured 11.1% of revenue, but in the NBA they received only 3.2%.⁶² Not only do college coaches receive a higher share of their teams' revenue, but their pay is growing at a much faster rate than NFL and NBA coaches. The average annual growth in coaches' pay in college football from 2007 to 2012 was 9.7% compared with 4.5% in the NFL.

2. Universities' Accounting Tends to Understate Revenues and Overstate costs.

36. On a university campus there are often significant related-party transactions (RPTs) that mask the true underlying economics of FBS football programs (as well as athletics departments more broadly), and cause the standard published accounting to understate substantial sources of profit. This

⁴⁹ Brennan, Eamonn. "How far recruiting has come." ESPN. June 24, 2013,

<http://espn.go.com/blog/collegebasketballnation/print?id=85773>.

⁵⁰ Dauster, Rob. "John Calipari's hidden recruiting weapon: ties with Jay-Z, Drake." October 2, 2012. Sports Illustrated.

http://sportsillustrated.cnn.com/2012/writers/rob_dauster/10/02/John-Calipari-Jay-Z-recruiting/.

⁵¹ "Buzz Williams Named Head Men's Basketball Coach At Marquette." April 8, 2008,

<http://www.gomarquette.com/sports/m-baskbl/spec-rel/040708aaa.html>.

⁵² Chan, Mike. "2012 NFL Draft: On Pete Carroll, USC, Recruiting, and the 2012 Draft Class." SB Nation, Field Gulls. 28-Mar-12, <http://www.fieldgulls.com/2012/3/26/2904892/2012-nfl-draft-on-pete-carroll-recruiting-and-the-2012-draft-class>.

⁵³ "Chat with Billy Donovan." ESPN. 15-Feb-11. <http://espn.go.com/sportsnation/print?id=36980>.

⁵⁴ Crabtree, Jeremy. "Elite teams show value of recruiting." ESPN.. <http://espn.go.com/college-football/hot?id=9395142>.

⁵⁵ Gleeson, Scott. "Starting Five: The best recruiting college hoops coaches." USA TODAY. 12-July-2013.

<http://www.usatoday.com/story/sports/ncaab/2013/07/12/starting-five-the-best-recruiting-coaches/2511697/>

⁵⁶ Langelett, George. "The Relationship between Recruiting and Team Performance in Division IA College Football." *Journal of Sports Economics*, 2003.

⁵⁷ Lloyd, Nathan S. "NCAA Division I Football Bowl Subdivision: The Importance of Recruiting and Its Relationship with Team Performance." Utah State University. 1-Aug-2011.

<http://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=1056&context=gradreports>.

⁵⁸ Maxcy, J. (2013). Efficiency and Managerial Performance in FBS College Football: To the Employment and Succession Decisions, which Matters More, Coaching or Recruiting? *Journal of Sport Economics*.14 (4) 368-388

⁵⁹ Douglas, G, & Miller, J. (1974), "Quality competition, industry equilibrium, and efficiency in the price-constrained airline market" in *American Economic Review*, p. 657.

⁶⁰ Viscusi, K, Vernon, J, & Harrington, J. (1997), *Economics of Regulation and Antitrust*, MIT Press, p. 531.

⁶¹ Viscusi, K, Vernon, J, & Harrington, J. (1997), *Economics of Regulation and Antitrust*, MIT Press, p. 529.

⁶² The reported income of college head coaches is typically missing bonuses, incentives, deferred compensation and non-taxable benefits See Dosh, Kristi (May 16, 2012). "Bill Belichick highest-paid coach – again."

http://espn.go.com/blog/playbook/dollars/post/_id/719/bill-belichick-highest-paid-coach-again.

accounting isn't inherent nefariously – the internal accounting procedures of a University are simply not designed for external analysis of FBS profitability. However, because often those numbers are used by FBS programs to demonstrate a lack of FBS profit, it is important to understand the data's deficiencies for analyzing profit or loss.

37. In a recent study, Goff and Wilson conclude that:

“athletic ‘deficits’ reflect the accounting practices of universities or the flow of revenues back into expenses rather than the inability of revenues to meet costs...Within athletic departments it can flow into salaries for athletic staff (coaches, athletic directors, support personnel) or into facilities. Beyond the athletic department, it can appear in the general revenue fund as a transfer for grants-in-aid or be embedded in any number of intra-university transactions between athletic accounts and other accounts.”⁶³

38. As shown in Table 3 below, there are many possible instances when the revenues listed in an athletics budget are under-valued compared to their true impact and expenses over-valued. For example, a study of Western Kentucky University found concessions revenues from athletics events were credited to the Food Service budget, rather than athletics.⁶⁴ More recently, in 2011-12, the Ohio State University transferred over \$32 million of athletics department revenue (disguised as expenses) to the university.⁶⁵ As one example, the Athletic Department's listed expenses included a payment to the University of \$1 million for “Library Renovation.”⁶⁶

⁶³ Brian Goff & Dennis Wilson “Estimating the MRP of College Athletes from Professional Factor Shares” (March 2013 – presented at the *Southern Economics Association*), p. 17.

⁶⁴ Melvin V. Borland, Brian L. Goff, and Robert W. Pulsinelli, “College Athletics: Financial Burden or Boon?” *Advances in the Economics of Sport*, Volume 1, pp. 217-218.

⁶⁵ Dosh, Kristi (2013), “Saturday Millionaires: How Winning Football Builds Winning Colleges,” pp. 9-10, referring to the 2011-12 academic year.

⁶⁶ Dosh, Kristi (2013), “Saturday Millionaires: How Winning Football Builds Winning Colleges,” p. 10.

Table 3: Related Party Transactions within College Athletics⁶⁷

<u>Revenues under-valued</u>	<u>Expenses over-valued</u>
Concessions	GIA
Sports Camps	Food (40% of listed cost)
Licensing	Books (80% of wholesale)
Merchandise (book store)	Room (may be very low cost if not excess demand)
Parking	Tuition (no out-of-pocket cost unless blocks full-paying non-athlete student)
	Gold-plating (use it or lose it)
<u>Revenues not listed</u>	<u>Expenses not listed</u>
Athletic donations directly to tuition	Cleaning & security for events
Marketing arm of University	Capital costs (<i>though often rent is charged</i>)
Applicants (Flutie Effect...double digit % increases)	Student services and compliance costs for 'specific athletic related work' (Registrar office, Admissions, Financial Aid, & Data Services)
Enrollment	
Freshmen quality (increase in GPA & SAT)	
Retention/Graduation (few studies, but positive effects)	
Higher tuition (capacity-constrained schools)	
Diversity	
Donations (total donations up)	
Media coverage (WKU 90%, Northwestern 70%, 87% of BCS schools' coverage is sports; 38% of elite non-football schools' coverage is sports Recent: USF 56%, St. Mary's \$9MM in Sweet 16 coverage, Butler claims over \$600MM; TAMU claims over \$37MM)	

C. NCAA members themselves recognize the benefits of having FBS football (as well as other sports) well beyond the accounting profits these programs show

39. The belief in the overall benefit of NCAA athletics to university development is widely held by many university executives. During his 17-year tenure at Kansas State University, University President Jon Wefald has seen his college football team grow from the ranks of the worst in D1 to a perennial top-10 powerhouse. As he put it:

“When I got here, there was a sense of futility...If the old administration had stayed on here for three more years, I think football would have been dropped. We would have no marching band, and we'd be at about 12,000 students today” By 2003, Kansas State's enrollment had increased from about 13,000 in 1986 to 23,000, its fundraising had gone from \$7 million a year to \$83 million and the city of Manhattan's economy had grown exponentially.⁶⁸

⁶⁷ Sources: Howell and Rascher “An Analysis and Assessment of Intercollegiate Athletics at the University of San Francisco” (June 27, 2011); Publicity Value Report for St. Mary's College of California by Cission (undated); <http://www.butlersports.com/sports/m-baskbl/2010-11/releases/040111aab>; <http://tamutimes.tamu.edu/2013/01/18/study-end-of-football-season-produced-37-million-in-media-exposure-for-texas-am/>; Clotfelter, “Big-Time Sports in American Universities (2011), p. 60; Borland, Goff, and Pulsinelli, “College Athletics: Financial Burden or Boon?” *Advances in the Economics of Sport*, Volume 1; <http://www.uwsa.edu/audit/textbookcosts.pdf>.

⁶⁸ Patrick Hruby, “The NCAA's Anti-social Behavior,” May 22, 2013 Available at: <http://www.sportsonearth.com/article/48177900/ncaa-laboratories-of-hypocrisy-in-college-sports-ncaa-bans-twitter-hashtags-on-football-fields#!7hfoB> citing Stewart Mandel, *Sports Illustrated*, 2003.

40. Recruiting non-athlete students is an example of benefits (both financial and non-financial) to universities from athletics that does not show up on the books of the athletics department. In 2007, a senior Portland University administrator stated: “Because of the success of our soccer teams, we have received literally hundreds of thousands of dollars in free publicity. In addition, when the press covers sports we are often on the first or second page of the sports section. The other local private schools barely get mentioned, or if so on the back page.”⁶⁹ Similarly for Gonzaga University in regards to increases in applications, the university President said, “Without trying to get too precise, because we don't have the quantitative data to support it, you'd have to say that certainly well over 50% of the application rise” is due to public relations. “And that PR is attributable in great part to basketball.”⁷⁰

41. Studies by schools with recent athletic success further support this idea. After its first of its two appearances in the NCAA National Championship game in basketball in 2010, Butler University estimated its first tournament success had produced “\$639,273,881.82 in publicity value for the University.”⁷¹ Texas A&M found that when its star quarterback, Johnny Manziel, won the Heisman trophy, the school garnered “\$37 million in media exposure for Texas A&M.”⁷² Dayton University estimates it's 2014 “Elite Eight” run garnered \$71 million in media exposure benefits.⁷³

42. The fact that most FBS schools claim they rely on the profits from football to support other sports and campus activities should make clear football itself is profitable at the FBS level. Any policy argument that begins with the premise that “most” of the schools in FBS football program lose money rests on a distorted picture with little relationship to the true, profitable, state of FBS football. Taking NCAA claims of poverty at face value without bringing a critical economic eye to the validity of the

⁶⁹ Rascher, Daniel and Jeremy Howell, “An Analysis and Assessment of Intercollegiate Athletics at the University of San Francisco” (June 27, 2011), p. 32.

⁷⁰ Ron Lieber, “Score! Gonzaga University was struggling financially. Then it started winning basketball games.” *WallStreetJournal.com*, March 15, 2004. Available at: <http://online.wsj.com/article/0,,SB107902127016752673,00.html>.

⁷¹ “Butler Reaps Publicity Value from Final Four Run,” *Butlersports.com*, April 1, 2011. <http://www.butlersports.com/sports/m-baskbl/2010-11/releases/040111aab>, accessed April 19, 2013.

⁷² “Study: End of Football Season Produced \$37 Million in Media Exposure for Texas A&M,” *TAMU Times*, January 18, 2013. Available at: <http://tamutimes.tamu.edu/2013/01/18/study-end-of-football-season-produced-37-million-in-media-exposure-for-texas-am/>.

⁷³ <http://collegebasketballtalk.nbcsports.com/2014/05/23/publicity-wise-elite-eight-run-proves-lucrative-for-dayton-video/>

NCAA's tailored analyses causes one to completely miss the fact that on a purely monetary basis, FBS football schools show high profits. Moreover, nothing in the standard NCAA analyses captures the strong positive contributions of FBS football (and other sports) to the universities at which those sports are played. There is no economic basis to rely on the NCAA's self-adjusted accounting for an assessment of the true health of the relevant FBS football programs and/or the ability of those programs to thrive in a world where athletes had the right to negotiate, whether as individuals or through collective bargaining.

D. Empirical evidence of profits are everywhere: Rising revenue, rising pay, schools joining FBS

43. When economists have been able to look inside the numbers at a particular university, they have found football and basketball programs tend to be more profitable than claimed. The behavior of market participants is a good indicator of their most-preferred choice among available options, a concept known as "revealed preference." Economists expect firms that do not anticipate a reasonable probability of profits to exit a market or not to enter the market at all. Industrial Organization teaches that the profitability of an industry can often be inferred from the market participants' tendency to enter or exit a market.

- "Microeconomic theory predicts that profit-maximizing firms will enter an industry if the net present value of expected profits, appropriately adjusted for risk, is positive."⁷⁴
- "The simplest model-one you learned in microeconomics-is that potential entrants look at the current economic profits of incumbents and enter if those profits are positive."⁷⁵
- "Some economists have developed more complex models of the formation of expectations. Highfield and Smiley hypothesized that potential entrants look not just at the level of current profits but also at the trend in profits over recent years. Falling profits may discourage entry even in an industry in which incumbents' current profits are high."⁷⁶

44. Put simply – a market in which all but a dozen or two programs out of 350-plus are losing money does not experience the sort of entry seen in Division I sports since the *Board of Regents* case ended the NCAA's television cartel in 1984. In fact, since 1984, more than 85 schools have entered (or

⁷⁴ Don E. Waldman and Elizabeth J. Jensen, "Industrial Organization – Theory and Practice," p. 116.

⁷⁵ Don E. Waldman and Elizabeth J. Jensen, "Industrial Organization – Theory and Practice," p. 117.

⁷⁶ Don E. Waldman and Elizabeth J. Jensen, "Industrial Organization – Theory and Practice," p. 117.

re-entered) Division I with a basketball program, while only 15 have left. Over the same time period, 28 schools have entered or re-entered FBS football, while six have left. No school has left FBS football since 1996.⁷⁷ In 2007 the NCAA instituted a moratorium preventing schools from jumping up into Division I showing there was excess demand. Following the end of the moratorium in September 2011, six then-current members of the FCS announced they would transition to the FBS and more have entered since, bringing the total to 128 for 2014-15.⁷⁸

45. One can assume that all of these schools are acting irrationally, but the more likely inference is that when they evaluate the full set of costs and benefits of joining FBS, they have made a rational decision that the higher tiers are more lucrative on a total benefit basis. Among the factors schools consider are “money and prestige.” There is simply more of both in the bottom half of the FBS than in the top half of the FCS.⁷⁹ While the costs of participating in FBS are higher, “there are also more revenue streams in the FBS because the conference shares the money made from bowl games, TV packages and the NCAA basketball tournament.”⁸⁰

E. Current full-scholarship recipients would not receive less under a bargained outcome

46. The economic behavior of the NCAA and its schools provide clear evidence that every FBS athlete who receives an athletic scholarship is worth at least that much to the school. Two economic facts make this clear. The first is there is no minimum required scholarship in FBS football, and yet FBS schools rarely if ever give out partial scholarships⁸¹ even to their least talented scholarship athlete. Schools rarely use fewer than the full allotment of such scholarships (save for frictional issues

⁷⁷ Tony Barnhart, “Conference shuffle creating room for upstarts to make jump to FBS,” CBSSports.com, May 21, 2012. Available at: <http://www.cbssports.com/collegefootball/story/19112305/conference-shuffle-creating-room-for-upstarts-to-make-jump-to-fbs>, accessed April 19, 2013.

⁷⁸ Dennis Dodd, “Sun Belt will grow by four in 2013,” CBSSports.com, March 25, 2013. <http://www.cbssports.com/collegefootball/blog/dennis-dodd/21949121>.

⁷⁹ Tony Barnhart, “Conference shuffle creating room for upstarts to make jump to FBS,” CBSSports.com, May 21, 2012. <http://www.cbssports.com/collegefootball/story/19112305/conference-shuffle-creating-room-for-upstarts-to-make-jump-to-fbs>.

⁸⁰ Tony Barnhart, “Conference shuffle creating room for upstarts to make jump to FBS,” CBSSports.com, May 21, 2012. <http://www.cbssports.com/collegefootball/story/19112305/conference-shuffle-creating-room-for-upstarts-to-make-jump-to-fbs>.

⁸¹ It is possible to see an FBS football athlete with a partial scholarship but this is almost always the case of an athlete receiving a full-scholarship for part of the school year, rather than a partial scholarship for the entire school year.

related to year-to-year roster balancing). Most tellingly, when the NCAA chooses to punish a school, it often revokes scholarships.⁸² If the last scholarship offered were not profitable to a school, being prohibited from offering that scholarship would serve as a reward, rather than a punishment. After all, schools make a substantial effort to recruit these talents.⁸³ Rascher and McEvoy have shown when compared to the NFL, the importance of talent to attendance and to ratings is much higher in FBS than NFL football.⁸⁴

47. The conduct of FBS schools is consistent with an economic interpretation that every scholarship athlete is worth, at minimum, the actual cost of his scholarship to the school at the time of recruitment. At the same time the behavior is utterly inconsistent with the premise that some portion of the recruited athletes are recognized to be worth less to the university than the cost of their scholarships at the time they are offered a full GIA.⁸⁵

III. Giving some schools the freedom to negotiate with a recognized union will not create a competitive balance constraint within FBS football. (Amicus Question 6)

There is little factual content to the claim fixing prices enhances competitive balance in a system where the revenue-generating value of talent differs so dramatically across the full spectrum of FBS schools. Fans of FBS football already know there are perpetual powerhouses and perpetual creampuffs; competition is not balanced. Of the 1,000 top recruited athletes over 2002-2011, 99.3 percent went to power conference schools.⁸⁶ Multiple economic publications have concluded that, rather than improving competitive balance, the NCAA's price-fixing scheme—whereby schools collude to set the

⁸² To the extent scholarships are a measure of output, capping a school's number of scholarship, and/or further lowering that cap through sanctions is a clear agreement to limit output.

⁸³ Fort and Winfree (*15 Sports Myths*, p. 83): "Let's start from an indisputable point. College athletes generate millions of dollars for their athletic departments and their universities. Nobody will pay to watch administrators administer, or coaches coach. Athletic directors collect the value generated from boosters, sponsors, media providers, and the university administration through institutional support. Under current amateur rules, athletes see some of it in the form of a grant-in-aid (tuition, room, board, and books)."

⁸⁴ Daniel A. Rascher and Chad D. McEvoy, "The Impact on Demand from Winning in College Football and Basketball: Are College Athletes More Valuable than Professional Athletes?" Selected Proceedings of the Santa Clara University Sports Law Symposium, (September 2012), pp. 74-80.

⁸⁵ With all recruiting markets, it is difficult to measure *ex ante* expectations through *ex post* results. Some players get hurt, for example. The stats of a five-star athlete injured in practice who never plays a down are bad evidence that his expected value was less than the cost of his scholarship.

⁸⁶ Schwarz, Andy, "Excuses, Not Reasons: 13 Myths About (Not) Paying College Athletes," Selected Proceedings of the Santa Clara University Sports Law Symposium, (September 2011), pp. 46-74.

wages of their athletes at below-market rates—either has no effect on balance, or makes it worse. These include:

- **Baird, Katie, “Dominance in College Football and the Role of Scholarship Restrictions,” *Journal of Sport Management* Vol. 18, No. 3 (2004):**
 - “No statistically significant change in competitive balance has occurred in college football since greater restrictions over paying athletes have been introduced. ... In short, little evidence supports the claim that NCAA regulations help level the playing field; at best they appear to have had a very limited effect, and, at worst, they have served to strengthen the position of the dominant teams.”
- **Berri, David J., “Is There a Short Supply of Tall People in the College Game?” in Fizel, John and Rodney Fort, “Economics of College Sports,” 2004**
 - “Competitive balance, a factor believed to be of great importance to the health of a sports league, is not primarily controlled by the institutions and policies adopted by the league. Rather, the underlying population of players the sport can employ primarily determines competitive balance.”
- **Carroll, Kathleen and Brad Humphreys, “Opportunistic Behavior in a Cartel Setting: Effects of the 1984 Supreme Court Decision on College Football Television Broadcasts,” *Journal of Sports Economics*, 2014:**
 - “Our findings on competitive balance before and after the [1984] Supreme Court decision depend on the metric employed. The increase in AMV [Average Margin of Victory] in the postdecision period indicates a decrease in competitive balance However, changes in winning percentage, and changes in measures of competitive balance related to winning percentage, show no change in competitive balance.”
- **Depken, Craig A. and Dennis P. Wilson “The impact of Cartel Enforcement in Division I-A Football,” in Fizel, John and Rodney Fort, “Economics of College Sports,” 2004**
 - “NCAA sanctions tend to reduce competitive balance, on average.”
- **Eckard, Woodrow E., “The NCAA Cartel and Competitive Balance in College Football,” *Review of Industrial Organization* 13, 1998**
 - “The NCAA regulates college football player recruiting, eligibility, and compensation. The economic theory of cartels suggests that one consequence may be reduced competitive balance. The enforced restrictions inhibit weak teams from improving, and protect strong teams from competition. A 'stratification' is implied which should be evident over time as less 'churning' in national rankings and conference standings, and fewer schools achieving national prominence. ... The hypothesis is supported by all measures at both the national and conference levels.”
- **Fort, Rodney “Sports Economics” (2005)**
 - “Competitive imbalance exists in college sports ... Just as with pro leagues, a cursory analysis reveals that none of the restrictions on players actually have anything to do with competitive imbalance. Instead, they transfer value produced by players away from the players and toward the athletic department. ... Interestingly, many believe that these recruiting restrictions create a level playing field that enables poorer athletic departments to compete with richer ones for talent. Nothing could be farther from the truth. Instead,

these restrictions entrench power at departments at the top end of the winning percent distribution.”

- **Peach, Jim, “College athletics, universities, and the NCAA,” *The Social Science Journal* 44, 2007**
 - “... there is little evidence that the NCAA rules and regulations have promoted competitive balance in college athletics and no *a priori* reason to think that eliminating the rules would change the competitive balance situation.”
- **Schwarz, Andy, “Excuses, Not Reasons: 13 Myths About (Not) Paying College Athletes,” *Selected Proceedings of the Santa Clara University Sports Law Symposium*, (September 2011), pp. 46-74.**
 - “The current collusive cap on wages has not in any way created a level playing field with respect to the distribution of talent. We don’t need to speculate; the proof is in the numbers. Over the last ten years, more than 99% of the Top 100 high school prospects chose BCS AQs.”
- **Sutter, Daniel and Stephen Winkler, “NCAA Scholarship Limits and Competitive Balance in College Football,” *Journal of Sports Economics* Vol. 4, No. 1 (February 2003), pp. 3-18:**
 - “Conventional wisdom holds that parity is greater in college football today than ever before and that scholarship limits have fostered today’s competitive balance. A variety of measures indicate that the stylized fact is false; indeed, several measures indicate that college football has been less balanced since the imposition of scholarship limits.”

These findings are robust across many studies; fixing prices for athletes does not help balance college sports. Rigorous statistical analysis confirms what every fan of any powerhouse team already knew: Teams with recruiting success tend to remain successful year after year and teams without much success tend to remain unsuccessful. Why? One obvious candidate theory for this imbalance is that as the power conferences' resources grow, their ability to use money to acquire talent grows, too. Rather than justifying price-fixing or a legal exemption from unionization as a means to prevent power schools from using their money to imbalance the recruiting market, these data show the money flowing in already correlates almost perfectly with year-to-year recruiting success. The money-yields-talent equation is supported despite the price-fixing that prevents direct price competition. Sports economists already knew this;⁸⁷ as early as 1956 Simon Rottenberg explained⁸⁸ talent flows where it is most valued. Some college administrators understand this; consider the conclusions of Big 12 Commissioner Bob

⁸⁷http://law.psu.edu/_file/Sports%20Law%20Policy%20and%20Research%20Institute/No11%20Sports%20Economics%20at%20Fifty.pdf

⁸⁸ <https://www.suu.edu/faculty/berri/RottenbergJPE1956.pdf>

Bowlsby: “The concept of competitive equity through rules management is largely a mirage. It hasn’t worked at any level.”⁸⁹

If anything, the economics of price competition argues that using money directly as a tool in attracting talent might empower mid-level schools to splurge on a would-be starter who might otherwise ride the bench at a powerhouse. At fixed prices, there is no way for a smaller school to signal higher interest in an athlete than the big school, which is free to stockpile talent. Both schools can claim they want the player, both can send 700 letters in one day, etc. Price competition cuts out what economists call “cheap talk” and yields clearer signals that make for a more efficient outcome. Rather than promoting balance in college football, the existing price-fixing more likely prevents better balance from emerging.

IV. No matter how the relationship between Title IX and the NLRA is interpreted, economically the two laws are not in conflict. (Amicus Question 5)

Title IX (as applied to college sports) is primarily about equality of opportunity⁹⁰ for athletic participation, but also contains provisions on financial aid and other equitable treatment.

Title IX offers three ways to comply with respect to participation,⁹¹

- Substantial proportionality with the male/female ratio on campus;
- Continued progress in offering opportunities to women;
- Meeting the demand for opportunities of all interested women on campus.

48. With respect to Financial Aid:

- Title IX does not require that individual men’s and women’s scholarships be equal.⁹²
- Title IX does not require equal overall funding to men and women’s sports.⁹³
- Title IX does require scholarships/financial aid be substantially proportional to participation.⁹⁴
- Title IX has been ruled not to require equality of pay if based on “a business decision to allocate... resources to the team that generates the most revenue.”⁹⁵

⁸⁹ <http://www.businessweek.com/news/2013-08-30/college-football-powers-look-leeway-to-flex-muscle-through-rules>.

⁹⁰ <http://www2.ed.gov/about/offices/list/ocr/docs/clarific.html>

⁹¹ <http://www2.ed.gov/about/offices/list/ocr/docs/clarific.html#two>

⁹² <http://www2.ed.gov/about/offices/list/ocr/docs/bowlgrn.html>

⁹³ <http://www2.ed.gov/about/offices/list/ocr/docs/bowlgrn.html>

⁹⁴ <http://www2.ed.gov/about/offices/list/ocr/docs/bowlgrn.html>

⁹⁵ Stanley v. University of Southern California, No. 93-56185, http://www.leagle.com/decision/1994132613F3d1313_11121: “Coach Stanley contends that the failure to allocate funds in the promotion of women’s basketball team demonstrated gender discrimination. She appears to argue that USC’s failure to pay her a salary equal to that of Coach Raveling was the result of USC’s “failure to market and promote the women’s basketball team.” The only evidence Coach Stanley presented in support of

Finally, Title IX also covers a wide variety of additional topics, generally stating male and female teams must be treated equitably on what's called the "laundry list" of issues, such as equity in the provision of locker rooms and training space, supplies, coaching, etc.⁹⁶

Thus, the question of how Title IX would apply with respect to future collective bargaining by FBS football athletes depends on DOE interpretations. To the extent the elements bargained for fall under the financial aid or the "laundry list," then schools would expect each dollar's worth of benefits to male athlete to generate benefits to female athletes in proportion to financial aid ratios (which for programs with FBS football are approximately 56/44 as of 2012-13).

To the extent any specifically bargained-for benefit achieved by male athletes is viewed as subject to Title IX, the most equitable outcome would cause Title IX to act like a 100-percent payroll tax. In most cases, the result of this tax would make the optimal bargaining outcome less lucrative for male athletes, and instead create additional funding opportunities for female athletes. Moreover, to the extent these bargained-for benefits fall outside of the equity provisions, much as coaching pay does, any increases gained through collective bargaining would have no impact on the cost of Title IX compliance for women's sports.

V. Conclusion

49. As economists and professors of sport management, none of what we have outlined above is particularly controversial in the academic research literature. College Football's economic environment reflects a thriving, profitable business that happens to be housed within a non-profit sector and thus finds uses for the profits within and/or outside the sport itself. The sponsorship of a profitable sports enterprise by a non-profit university is entirely rational, rent-seeking behavior. As long as these schools continue to use these profits to compete for talent, rules designed to enhance competitive balance by eliminating forms of compensation to athletes, including unionization, will not overcome the built-in structure of the sport that results in high revenue schools capturing the lion's share of talent.

this argument is that USC failed to provide the women's team with a poster containing the schedule of games, but had done so for the men's team. This single bit of evidence does not demonstrate that Coach Stanley was denied equal pay for equal work. Instead, it demonstrates, at best, a business decision to allocate USC resources to the team that generates the most revenue."

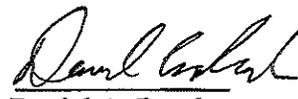
⁹⁶ <http://www2.ed.gov/about/offices/list/ocr/docs/interath.html>

Economically, Title IX's linkage of men's and women's sport means that efforts to allow higher expenditure on college football athletes will increase, not decrease, the spending on the women athletes at those same schools. Unionization need not result in higher compensation for FBS football players -- indeed we understand their current demands to be more focused on health and safety issues. But to the extent the NLRB harbors concerns that the possibility of payments to a unionized labor force might be fatal to college football or women athletics, as a matter of economics those concerns are truly misplaced.

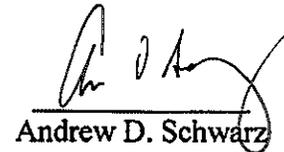
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Appendix 1: Federally-filed Revenue and Expense numbers for major conference schools, 2010-11

School	Football Revenue	Football Expenses	Football Net Surplus
The University of Texas at Austin	\$95,749,684	\$24,507,352	\$71,242,332
Pennsylvania State University-Main Campus	\$72,747,734	\$19,519,288	\$53,228,446
University of Georgia	\$74,888,175	\$22,036,338	\$52,851,837
Louisiana State University	\$68,510,141	\$21,492,741	\$47,017,400
University of Michigan-Ann Arbor	\$70,300,676	\$23,552,233	\$46,748,443
University of Florida	\$72,807,236	\$26,263,539	\$46,543,697
The University of Alabama	\$76,801,800	\$31,580,059	\$45,221,741
University of Notre Dame	\$68,782,560	\$25,164,887	\$43,617,673
The University of Tennessee	\$56,831,514	\$19,135,650	\$37,695,864
Auburn University	\$76,227,804	\$39,069,676	\$37,158,128
University of Arkansas	\$61,131,707	\$24,059,193	\$37,072,514
University of Oklahoma Norman Campus	\$58,811,324	\$23,191,402	\$35,619,922
University of Nebraska-Lincoln	\$54,712,406	\$20,147,302	\$34,565,104
Texas A & M University-College Station	\$45,414,074	\$15,560,216	\$29,853,858
Michigan State University	\$45,040,778	\$17,420,499	\$27,620,279
Ohio State University-Main Campus	\$60,837,342	\$34,373,844	\$26,463,498
University of Iowa	\$44,506,832	\$20,510,807	\$23,996,025
University of South Carolina-Columbia	\$45,464,058	\$22,482,479	\$22,981,579
University of Kentucky	\$34,020,276	\$14,352,110	\$19,668,166
University of Wisconsin-Madison	\$43,296,599	\$23,662,925	\$19,633,674
Oklahoma State University-Main Campus	\$33,213,396	\$13,787,271	\$19,426,125
University of Washington-Seattle Campus	\$39,405,237	\$21,306,380	\$18,098,857
Florida State University	\$35,870,789	\$18,689,809	\$17,180,980
University of Illinois at Urbana-Champaign	\$28,079,694	\$12,910,507	\$15,169,187
Virginia Polytechnic Institute	\$35,083,799	\$20,009,657	\$15,074,142
Clemson University	\$31,730,042	\$17,992,943	\$13,737,099
University of Minnesota-Twin Cities	\$30,524,945	\$16,985,182	\$13,539,763
University of Southern California	\$31,148,724	\$19,423,723	\$11,725,001
University of North Carolina at Chapel Hill	\$26,385,760	\$15,050,721	\$11,335,039
Arizona State University	\$27,842,879	\$16,564,598	\$11,278,281
Mississippi State University	\$22,575,985	\$11,766,024	\$10,809,961
Texas Tech University	\$26,569,287	\$15,788,943	\$10,780,344
University of Mississippi Main Campus	\$28,515,471	\$17,764,174	\$10,751,297
North Carolina State University at Raleigh	\$21,856,742	\$11,329,718	\$10,527,024
University of Louisville	\$25,658,653	\$15,582,161	\$10,076,492
University of Colorado Boulder	\$25,955,136	\$16,308,544	\$9,646,592
University of Oregon	\$27,713,278	\$18,198,476	\$9,514,802
Oregon State University	\$21,690,794	\$12,282,221	\$9,408,573
Iowa State University	\$21,862,535	\$12,513,317	\$9,349,218
Kansas State University	\$19,731,620	\$10,867,052	\$8,864,568
Northwestern University	\$28,198,769	\$19,430,675	\$8,768,094

School	Football Revenue	Football Expenses	Football Net Surplus
Indiana University-Bloomington	\$24,230,741	\$16,112,930	\$8,117,811
University of Arizona	\$25,448,212	\$17,965,169	\$7,483,043
Georgia Institute of Technology	\$22,557,020	\$15,463,243	\$7,093,777
University of California-Berkeley	\$24,328,784	\$17,398,649	\$6,930,135
West Virginia University	\$19,960,732	\$13,230,226	\$6,730,506
Vanderbilt University	\$22,455,110	\$16,507,997	\$5,947,113
Purdue University-Main Campus	\$18,359,413	\$12,420,742	\$5,938,671
University of California-Los Angeles	\$23,017,910	\$17,913,658	\$5,104,252
University of South Florida-Main Campus	\$17,017,821	\$12,657,523	\$4,360,298
University of Missouri-Columbia	\$24,694,807	\$20,806,778	\$3,888,029
Stanford University	\$19,521,092	\$15,888,069	\$3,633,023
Washington State University	\$12,741,698	\$9,193,553	\$3,548,145
Duke University	\$18,243,589	\$14,837,825	\$3,405,764
Syracuse University	\$18,783,752	\$16,420,281	\$2,363,471
University of Cincinnati-Main Campus	\$13,357,060	\$11,148,347	\$2,208,713
University of Maryland-College Park	\$13,886,493	\$11,689,128	\$2,197,365
Boston College	\$20,529,424	\$18,603,243	\$1,926,181
University of Miami	\$26,205,317	\$24,414,086	\$1,791,231
Baylor University	\$15,031,956	\$14,577,044	\$454,912
University of Virginia-Main Campus	\$16,775,871	\$16,739,587	\$36,284
University of Pittsburgh-Pittsburgh Campus	\$21,312,076	\$21,312,076	\$0
Rutgers University-New Brunswick	\$19,217,487	\$19,217,487	\$0
University of Connecticut	\$17,528,602	\$17,901,730	(\$373,128)
University of Kansas	\$9,525,773	\$13,095,945	(\$3,570,172)
Wake Forest University	\$9,433,418	\$13,225,460	(\$3,792,042)
Programs with Reported FBS Surplus			61
Programs with Reported FBS Deficit			3
Break-Even Programs			2

Appendix 2: Federally-filed Revenue and Expense numbers for major conference schools, 2011-12

The University of Texas at Austin	\$ 103,813,684	\$ 25,896,203	\$ 77,917,481
University of Michigan-Ann Arbor	\$ 85,209,247	\$ 23,640,337	\$ 61,568,910
University of Georgia	\$ 74,989,418	\$ 22,710,140	\$ 52,279,278
University of Florida	\$ 74,117,435	\$ 23,045,846	\$ 51,071,589
The University of Alabama	\$ 81,993,762	\$ 36,918,963	\$ 45,074,799
Louisiana State University	\$ 68,804,309	\$ 24,049,282	\$ 44,755,027
Auburn University	\$ 77,170,242	\$ 33,334,595	\$ 43,835,647
University of Notre Dame	\$ 68,986,659	\$ 25,757,968	\$ 43,228,691
University of Arkansas	\$ 64,193,826	\$ 24,325,173	\$ 39,868,653
University of Nebraska-Lincoln	\$ 55,063,437	\$ 18,649,947	\$ 36,413,490
Pennsylvania State University-Main Campus	\$ 66,210,503	\$ 30,206,692	\$ 36,003,811
University of Oklahoma Norman Campus	\$ 59,630,425	\$ 24,097,643	\$ 35,532,782
The University of Tennessee	\$ 52,590,771	\$ 19,786,617	\$ 32,804,154
University of Oregon	\$ 51,921,731	\$ 20,240,213	\$ 31,681,518
Michigan State University	\$ 49,754,373	\$ 19,079,552	\$ 30,674,821
University of Iowa	\$ 50,460,344	\$ 21,607,187	\$ 28,853,157
University of Washington-Seattle Campus	\$ 53,092,369	\$ 25,368,852	\$ 27,723,517
Texas A & M University-College Station	\$ 44,420,762	\$ 17,929,882	\$ 26,490,880
University of South Carolina-Columbia	\$ 48,065,096	\$ 22,063,216	\$ 26,001,880
University of Wisconsin-Madison	\$ 48,416,449	\$ 24,231,297	\$ 24,185,152
Ohio State University-Main Campus	\$ 58,112,270	\$ 34,026,871	\$ 24,085,399
University of Kentucky	\$ 32,997,939	\$ 13,368,099	\$ 19,629,840
Texas Tech University	\$ 33,510,844	\$ 16,202,114	\$ 17,308,730
University of Minnesota-Twin Cities	\$ 32,956,474	\$ 16,177,355	\$ 16,779,119
University of Mississippi	\$ 26,890,956	\$ 10,588,595	\$ 16,302,361
Iowa State University	\$ 29,774,752	\$ 14,084,668	\$ 15,690,084
Clemson University	\$ 39,207,780	\$ 23,652,472	\$ 15,555,308
Oklahoma State University-Main Campus	\$ 41,138,312	\$ 26,238,172	\$ 14,900,140
Georgia Institute of Technology-Main Campus	\$ 32,104,928	\$ 17,513,836	\$ 14,591,092
University of Illinois at Urbana-Champaign	\$ 30,545,255	\$ 16,109,633	\$ 14,435,622
Virginia Polytechnic Institute and State University	\$ 32,989,216	\$ 20,007,783	\$ 12,981,433
Kansas State University	\$ 26,242,319	\$ 13,283,539	\$ 12,958,780
North Carolina State University at Raleigh	\$ 25,482,653	\$ 12,942,867	\$ 12,539,786
Florida State University	\$ 34,484,786	\$ 22,052,228	\$ 12,432,558
Mississippi State University	\$ 25,339,143	\$ 13,399,021	\$ 11,940,122
University of Southern California	\$ 34,410,822	\$ 23,123,733	\$ 11,287,089
University of North Carolina at Chapel Hill	\$ 27,626,613	\$ 16,688,376	\$ 10,938,237
Arizona State University	\$ 34,859,343	\$ 23,994,495	\$ 10,864,848
West Virginia University	\$ 24,457,152	\$ 14,119,298	\$ 10,337,854
University of Colorado Boulder	\$ 24,231,347	\$ 14,225,803	\$ 10,005,544
Indiana University-Bloomington	\$ 24,858,336	\$ 15,995,206	\$ 8,863,130
Oregon State University	\$ 20,666,946	\$ 11,903,213	\$ 8,763,733
Northwestern University	\$ 27,547,684	\$ 20,148,403	\$ 7,399,281
Syracuse University	\$ 28,688,904	\$ 21,731,165	\$ 6,957,739

University of Miami	\$ 29,278,750	\$ 22,331,630	\$ 6,947,120
University of California-Berkeley	\$ 26,072,231	\$ 19,232,057	\$ 6,840,174
Stanford University	\$ 25,564,646	\$ 18,738,731	\$ 6,825,915
University of Virginia-Main Campus	\$ 24,074,798	\$ 17,319,042	\$ 6,755,756
University of California-Los Angeles	\$ 25,168,004	\$ 19,193,346	\$ 5,974,658
University of Utah	\$ 20,759,062	\$ 14,835,266	\$ 5,923,796
University of Maryland-College Park	\$ 19,457,684	\$ 13,765,146	\$ 5,692,538
Purdue University-Main Campus	\$ 19,214,254	\$ 13,877,977	\$ 5,336,277
Washington State University	\$ 17,962,415	\$ 12,720,020	\$ 5,242,395
University of Louisville	\$ 23,756,955	\$ 18,769,539	\$ 4,987,416
Duke University	\$ 25,373,767	\$ 20,480,154	\$ 4,893,613
University of South Florida-Main Campus	\$ 16,832,236	\$ 12,609,350	\$ 4,222,886
Boston College	\$ 21,674,975	\$ 17,987,934	\$ 3,687,041
Wake Forest University	\$ 17,664,266	\$ 14,648,169	\$ 3,016,097
Baylor University	\$ 19,891,947	\$ 17,121,255	\$ 2,770,692
Vanderbilt University	\$ 21,282,267	\$ 18,524,921	\$ 2,757,346
University of Cincinnati-Main Campus	\$ 15,322,430	\$ 12,594,857	\$ 2,727,573
University of Pittsburgh-Pittsburgh Campus	\$ 22,041,631	\$ 19,822,780	\$ 2,218,851
University of Arizona	\$ 24,445,690	\$ 23,643,038	\$ 802,652
University of Missouri-Columbia	\$ 15,298,186	\$ 15,298,186	\$ -
Rutgers University-New Brunswick	\$ 21,314,486	\$ 21,314,486	\$ -
University of Connecticut	\$ 12,910,583	\$ 14,445,521	\$ (1,534,938)
University of Kansas	\$ 15,343,186	\$ 20,625,241	\$ (5,282,055)

Programs with Reported FBS Surplus	63
Programs with Reported FBS Deficit	2
Break-Even Programs	2

Appendix 3: Federally-filed Revenue and Expense numbers for major conference schools, 2012-13

School	Football Revenue	Football Expenses	Football Net Surplus
The University of Texas at Austin	\$ 109,400,688	\$ 27,675,403	\$ 81,725,285
University of Michigan-Ann Arbor	\$ 81,475,191	\$ 23,061,374	\$ 58,413,817
University of Georgia	\$ 77,594,300	\$ 26,325,257	\$ 51,269,043
University of Florida	\$ 74,820,287	\$ 25,704,553	\$ 49,115,734
Louisiana State University	\$ 74,275,838	\$ 25,822,306	\$ 48,453,532
The University of Alabama	\$ 88,660,439	\$ 41,558,058	\$ 47,102,381
University of Notre Dame	\$ 78,349,132	\$ 32,373,258	\$ 45,975,874
University of Oklahoma Norman Campus	\$ 69,647,986	\$ 24,533,905	\$ 45,114,081
Auburn University	\$ 75,092,576	\$ 36,306,282	\$ 38,786,294
Ohio State University-Main Campus	\$ 61,131,726	\$ 22,984,985	\$ 38,146,741
Texas A & M University-College Station	\$ 53,800,924	\$ 18,051,635	\$ 35,749,289
University of Nebraska-Lincoln	\$ 55,866,615	\$ 21,359,309	\$ 34,507,306
University of Iowa	\$ 55,648,679	\$ 21,497,369	\$ 34,151,310
University of Oregon	\$ 53,982,076	\$ 21,038,456	\$ 32,943,620
University of Washington-Seattle Campus	\$ 56,379,534	\$ 23,801,655	\$ 32,577,879
University of Arkansas	\$ 61,492,925	\$ 29,861,957	\$ 31,630,968
Pennsylvania State University-Main Campus	\$ 58,722,182	\$ 28,637,144	\$ 30,085,038
The University of Tennessee	\$ 55,359,423	\$ 27,850,351	\$ 27,509,072
Michigan State University	\$ 47,869,615	\$ 20,624,183	\$ 27,245,432
University of South Carolina-Columbia	\$ 49,266,878	\$ 24,975,716	\$ 24,291,162
Clemson University	\$ 41,273,517	\$ 19,969,497	\$ 21,304,020
University of Southern California	\$ 43,809,684	\$ 23,049,962	\$ 20,759,722
Florida State University	\$ 43,085,121	\$ 23,427,950	\$ 19,657,171
Texas Tech University	\$ 34,580,384	\$ 15,358,775	\$ 19,221,609
Oklahoma State University-Main Campus	\$ 38,799,125	\$ 19,950,826	\$ 18,848,299
University of Wisconsin-Madison	\$ 50,641,993	\$ 31,811,280	\$ 18,830,713
Oregon State University	\$ 30,555,875	\$ 13,792,592	\$ 16,763,283
University of Mississippi	\$ 41,136,644	\$ 25,210,875	\$ 15,925,769
Arizona State University	\$ 39,210,883	\$ 23,509,311	\$ 15,701,572
University of North Carolina at Chapel Hill	\$ 31,481,105	\$ 15,912,188	\$ 15,568,917
University of California-Los Angeles	\$ 35,656,834	\$ 20,149,375	\$ 15,507,459
University of Minnesota-Twin Cities	\$ 36,028,193	\$ 20,839,079	\$ 15,189,114
University of California-Berkeley	\$ 37,660,430	\$ 23,071,010	\$ 14,589,420
Kansas State University	\$ 30,976,071	\$ 16,421,248	\$ 14,554,823
Iowa State University	\$ 29,475,730	\$ 14,984,494	\$ 14,491,236
Washington State University	\$ 26,926,755	\$ 12,658,532	\$ 14,268,223
Virginia Polytechnic Institute and State University	\$ 38,669,555	\$ 24,596,694	\$ 14,072,861
North Carolina State University at Raleigh	\$ 31,841,355	\$ 18,486,858	\$ 13,354,497
University of Utah	\$ 27,640,267	\$ 14,362,313	\$ 13,277,954
University of Illinois at Urbana-Champaign	\$ 29,267,805	\$ 16,551,097	\$ 12,716,708
University of Kentucky	\$ 30,526,981	\$ 18,301,396	\$ 12,225,585

Georgia Institute of Technology-Main Campus	\$ 30,745,256	\$ 19,056,786	\$ 11,688,470
University of Missouri-Columbia	\$ 28,792,306	\$ 17,358,875	\$ 11,433,431
University of Colorado Boulder	\$ 30,547,707	\$ 19,781,626	\$ 10,766,081
Syracuse University	\$ 33,213,622	\$ 22,663,307	\$ 10,550,315
Mississippi State University	\$ 25,824,156	\$ 15,279,072	\$ 10,545,084
West Virginia University	\$ 26,190,883	\$ 15,977,317	\$ 10,213,566
Indiana University-Bloomington	\$ 24,370,088	\$ 15,901,109	\$ 8,468,979
Northwestern University	\$ 30,143,982	\$ 21,722,796	\$ 8,421,186
University of Arizona	\$ 28,415,445	\$ 20,111,388	\$ 8,304,057
Stanford University	\$ 24,839,939	\$ 16,694,502	\$ 8,145,437
University of Kansas	\$ 20,949,893	\$ 14,330,947	\$ 6,618,946
Baylor University	\$ 26,270,277	\$ 20,299,526	\$ 5,970,751
University of Miami	\$ 29,986,463	\$ 24,672,810	\$ 5,313,653
University of Maryland-College Park	\$ 16,480,601	\$ 11,172,381	\$ 5,308,220
Duke University	\$ 24,121,573	\$ 19,234,750	\$ 4,886,823
University of Louisville	\$ 28,069,712	\$ 23,186,536	\$ 4,883,176
University of South Florida-Main Campus	\$ 16,295,130	\$ 12,027,850	\$ 4,267,280
Boston College	\$ 22,939,275	\$ 19,703,856	\$ 3,235,419
Purdue University-Main Campus	\$ 20,215,316	\$ 17,656,933	\$ 2,558,383
Vanderbilt University	\$ 22,628,642	\$ 21,279,144	\$ 1,349,498
Texas Christian University	\$ 32,464,146	\$ 31,199,116	\$ 1,265,030
Wake Forest University	\$ 15,143,335	\$ 14,054,107	\$ 1,089,228
University of Pittsburgh-Pittsburgh Campus	\$ 19,140,812	\$ 18,929,148	\$ 211,664
University of Virginia-Main Campus	\$ 21,521,178	\$ 21,455,217	\$ 65,961
Rutgers University-New Brunswick	\$ 19,522,057	\$ 19,522,057	\$ -
University of Cincinnati-Main Campus	\$ 16,458,502	\$ 16,458,502	\$ -
Temple University	\$ 13,182,525	\$ 13,182,525	\$ -
University of Connecticut	\$ 11,142,560	\$ 13,711,350	\$ (2,568,790)

Programs with Reported FBS Surplus	65
Programs with Reported FBS Deficit	1
Break-Even Programs	3

Appendix 4: Reported Male and Female Athletic Scholarship Ratios for major conference schools, 2012-13

School	Men's Scholarships	Men's Share	Women's Scholarships	Women's Share
The University of Texas at Austin	\$ 5,172,409	58	\$ 3,794,527	42
University of Michigan-Ann Arbor	\$ 9,997,597	56	\$ 7,953,738	44
University of Georgia	\$ 4,286,787	47	\$ 4,813,842	53
University of Florida	\$ 4,377,193	50	\$ 4,399,187	50
Louisiana State University	\$ 5,711,588	56	\$ 4,404,493	44
The University of Alabama	\$ 5,782,892	52	\$ 5,361,757	48
University of Notre Dame	\$ 10,986,784	60	\$ 7,297,047	40
University of Oklahoma Norman Campus	\$ 5,185,922	56	\$ 4,111,057	44
Auburn University	\$ 5,641,764	55	\$ 4,647,960	45
Ohio State University-Main Campus	\$ 7,761,328	51	\$ 7,377,646	48
Texas A & M University-College Station	\$ 4,000,537	53	\$ 3,499,706	47
University of Nebraska-Lincoln	\$ 5,931,596	59	\$ 4,061,310	41
University of Iowa	\$ 5,664,561	53	\$ 4,928,936	47
University of Oregon	\$ 4,778,265	52	\$ 4,375,239	48
University of Washington-Seattle Campus	\$ 6,185,232	58	\$ 4,511,255	42
University of Arkansas	\$ 4,218,808	53	\$ 3,731,687	47
Pennsylvania State University-Main Campus	\$ 8,460,160	57	\$ 6,350,925	43
The University of Tennessee	\$ 5,874,902	57	\$ 4,463,808	43
Michigan State University	\$ 6,403,695	54	\$ 5,450,087	46
University of South Carolina-Columbia	\$ 4,661,983	57	\$ 3,451,870	43
Clemson University	\$ 5,794,789	58	\$ 4,259,507	42
University of Southern California	\$ 7,359,503	54	\$ 6,146,085	46
Florida State University	\$ 5,303,019	61	\$ 3,447,029	39
Texas Tech University	\$ 3,357,956	61	\$ 2,135,306	39
Oklahoma State University-Main Campus	\$ 2,606,766	62	\$ 1,587,786	38
University of Wisconsin-Madison	\$ 5,797,030	54	\$ 4,909,708	46
Oregon State University	\$ 4,916,466	56	\$ 3,888,675	44
University of Mississippi	\$ 3,835,484	59	\$ 2,715,943	41
Arizona State University	\$ 6,609,682	59	\$ 4,595,280	41
University of North Carolina at Chapel Hill	\$ 5,937,127	53	\$ 5,184,734	47
University of California-Los Angeles	\$ 6,048,721	51	\$ 5,699,353	49
University of Minnesota-Twin Cities	\$ 4,466,663	54	\$ 3,762,815	46
University of California-Berkeley	\$ 5,592,569	56	\$ 4,355,452	44
Kansas State University	\$ 3,504,789	61	\$ 2,229,747	39
Iowa State University	\$ 3,687,195	54	\$ 3,194,626	46
Washington State University	\$ 4,321,106	54	\$ 3,638,804	46
Virginia Polytechnic Institute and State University	\$ 5,624,217	61	\$ 3,579,958	39
North Carolina State University at Raleigh	\$ 4,865,878	58	\$ 3,422,669	41
University of Utah	\$ 4,096,120	54	\$ 3,428,715	46
University of Illinois at Urbana-Champaign	\$ 6,237,762	57	\$ 4,632,685	43
University of Kentucky	\$ 5,343,583	57	\$ 3,927,168	42

Georgia Institute of Technology-Main Campus	\$	5,829,250	68	\$	2,775,462	32
University of Missouri-Columbia	\$	4,678,376	56	\$	3,621,714	44
University of Colorado Boulder	\$	5,607,207	64	\$	3,205,733	36
Syracuse University	\$	8,176,597	52	\$	7,691,431	48
Mississippi State University	\$	3,749,992	60	\$	2,516,432	40
West Virginia University	\$	4,803,957	57	\$	3,489,942	42
Indiana University-Bloomington	\$	6,523,825	53	\$	5,760,333	47
Northwestern University	\$	8,929,165	56	\$	7,095,409	44
University of Arizona	\$	6,252,399	55	\$	5,047,189	45
Stanford University	\$	9,954,819	51	\$	9,515,778	49
University of Kansas	\$	5,927,510	57	\$	4,441,578	43
Baylor University	\$	7,542,652	56	\$	5,851,310	44
University of Miami	\$	8,499,030	57	\$	6,443,187	43
University of Maryland-College Park	\$	5,444,971	60	\$	3,680,190	40
Duke University	\$	7,908,454	56	\$	6,282,408	44
University of Louisville	\$	4,993,392	52	\$	4,522,915	48
University of South Florida-Main Campus	\$	3,099,540	60	\$	2,079,420	40
Boston College	\$	9,078,189	55	\$	7,387,162	45
Purdue University-Main Campus	\$	6,128,449	61	\$	3,949,994	39
Vanderbilt University	\$	8,070,006	62	\$	5,041,843	38
Texas Christian University	\$	7,573,341	60	\$	5,021,937	40
Wake Forest University	\$	7,628,769	63	\$	4,420,806	37
University of Pittsburgh-Pittsburgh Campus	\$	6,413,587	58	\$	4,597,234	42
University of Virginia-Main Campus	\$	6,968,071	53	\$	6,292,194	47
Rutgers University-New Brunswick	\$	5,543,376	53	\$	4,858,909	47
University of Cincinnati-Main Campus	\$	4,625,148	59	\$	3,257,765	41
Temple University	\$	5,781,258	58	\$	4,176,737	42
University of Connecticut	\$	4,984,927	48	\$	5,318,438	52
Total for Major Conference Schools	\$	407,106,685	56%	\$	318,071,572	44%
Programs with Higher Male Scholarship Aid					66	
Programs with Higher Female Scholarship Aid					2	
Programs with (approx.) equal Scholarship Aid					1	