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Isomorphic Trends in State NIL Laws

An Honors Thesis submitted in partial fulfillment of the requirements of Honors Studies in
Recreation and Sports Management

By

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Abstract

On July 1, 2021, the NCAA released their interim NIL policies, reversing its stance from prohibiting college athletes from being compensated for their name, image, or likeness to permitting college athletes to acquire compensation in return for the use of their NIL by third parties unrelated to the athlete's institution. As such, state NIL laws, which have only existed since 2019, have become the primary measure on what is or is not permissible in relation to NIL. State NIL laws have already evolved repeatedly since their creation, thus causing confusion on what the state NIL laws permit and prohibit. These evolutions have been guided by isomorphism, or a trend towards sameness, due to both uncertainty in the NIL environment, as well as the desire for institutions to remain competitive in offering NIL opportunities and recruiting prospective athletes. State NIL laws feature many consistent themes, such as provisions primarily targeting college athletes or institutions, provisions protecting college athlete's ability to acquire representation for NIL activities, and provisions requiring the implementation of NIL related programming. Amendments to state NIL laws are a major source of competitive developments in the NIL environment, either eliminating provisions that restrict institution's and college athlete's use of NIL, or adding provisions that provide a competitive advantage for institutions wishing to aid or support their college athletes in acquiring NIL deals.

Keywords: *NIL, state NIL laws, isomorphism, representation, NIL programming*

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Introduction

On February 8th, 2022, Florida State University (FSU) athletic director Michael Alford responded to a question about the current state of name, image, and likeness (NIL) in relation to recruiting at a Board of Trustees meeting. He admitted that FSU could not compete with institutions in other states when it came to NIL and recruiting because of Florida's strict state NIL laws compared to more lenient NIL laws in nearby states (WFSU Public Media, 2022). Just over a year later, on February 16th, 2023, Florida Governor Ron DeSantis signed House Bill 7B into law, which amended and eliminated many of those restrictions Alford maligned (Adelson, 2023).

An athlete's NIL refers to their name, image, and likeness (Brutlag Hosick, 2021). Historically, college athletes have been forced to sign over their personal and financial rights to NIL over to the National Collegiate Athletic Association (NCAA), a college athletics' leading governing body, and/or their institution. The NCAA's control over NIL is rooted in its foundational principle of amateurism or competing in sports for the "physical, mental and social benefits to be derived" (NCAA Division I Manual, 2021-2022, p. 4). Indeed, the NCAA originally only offered athletes need or academic-based financial aid. It was not until the 1950s that the governing body would become more lenient, slightly shifting its definition of amateurism, and allow institutions to offer athletes athletic-based aid (Smith, 2021).

Still, despite athletes' abilities to receive athletic scholarships and more recently full cost-of-attendance stipends (Nocera & Strauss, 2016; Smith, 2021), the NCAA has historically remained steadfast in preventing athletes from monetizing their NIL. Today, however, the NCAA's control over NIL is almost nonexistent.

The first concrete sign that the NCAA was losing its grip on NIL occurred when California became the first state to pass a state NIL law on September 30th, 2019, called the “Fair Pay to Play Act” (California SB 206, 2019). This act legalized college athletes’ rights to NIL compensation while also allowing them to hire agents to assist in business contract and legal negotiations (California SB 206, 2019; Thompson, 2022). Other states quickly followed California’s lead, with Colorado becoming the second state to pass an NIL state law, which was signed into law on March 20th, 2020 (Colorado SB 20-123, 2020). By June 30th, 2021, 25 different states had passed state NIL laws that pertained to allowing college athletes to be compensated for their NIL, with more on the way (Troutman Pepper, 2023).

Government intervening in intercollegiate athletics is not unusual. The government has the authority to enact regulations or protect certain ideas or actions, while also possessing the responsibility to protect its citizen’s rights and ensure fairness (Coakley, 2021). These qualities allow the government to make decisions that an organization may not have the authority or desire to make. President Theodore Roosevelt is one example of this, as he was a leading proponent of creating an intercollegiate athletics association, as well as player safety reform (Smith, 1993). Without state governments getting involved with the issue of college athlete’s NIL by passing state NIL laws, it is possible the NCAA would still be preventing college athletes from obtaining compensation for their NIL.

California and other states’ impending NIL laws worked to weaken the NCAA’s grip on college athlete compensation, and as a result, the NCAA was forced to adopt interim NIL policies on June 30th, 2021 (Brutlag Hosick, 2021), the day before many state NIL laws, such as Florida’s state NIL law, would become effective (Florida SB 646, 2020). To accommodate state NIL laws, the NCAA’s initial interim restrictions were aimed at prohibiting college athletes from

being paid to play at a specific institution or compensation based on the athlete's performance in athletics (Brutlag Hosick, 2021). This *laissez-faire* approach allowed states to continue to dictate what was allowed in their NIL legislation.

Because of the NCAA's lax interim policy, state leaders, college athletes, and in some cases the individual schools (in states without NIL laws), have significant power and freedom when it comes to deciding on what is permissible regarding their state's NIL laws. Considering that 25 states established their own NIL acts before the NCAA released its interim policies (Troutman Pepper, 2023), some state NIL laws, like Florida's, were more stringent and restrictive than other state's NIL laws (WFSU Public Media, 2022). One of these strict provisions in Florida's NIL is:

A postsecondary educational institution, an entity whose purpose includes supporting or benefitting the institution or its athletic programs, or an officer, director, or employee of such institution or entity may not compensate or cause compensation to be directed to a current or prospective intercollegiate athlete for her or his name, image, or likeness (Florida SB 646, 2020, p. 4).

This provision not only prohibits paying an athlete to play for a specific institution, but it also prohibits Florida-based institutions from directing compensation from outside organizations to its athletes in return for the athletes NIL. In many cases this and other restricting provisions created a disadvantage for certain schools, such as Florida-based institutions (Sonnone, 2022). Given the recruiting and publicity advantages of attracting top athlete talent via NIL, some states, such as Florida, amended or are in the process of adapting their NIL laws, to better align with the NCAA's less restrictive policies (Adelson, 2023; Troutman Pepper, 2023).

Because of the uncertainty over the future of NIL prior to July 2021, many of the NIL acts that passed before that date were similar (Thompson, 2022). That changed quickly, however, as new state acts or amendments to existing NIL law passed. Still, many states have not yet passed a NIL law (Troutman Pepper, 2023), meaning intercollegiate athletics could experience another wave of NIL regulations or amendments in the near future.

NIL represents a historic shift in the NCAA's amateurism ideology and is here to stay (Poyfair, 2022). Thus, this study aids in documenting this significant period in intercollegiate athletics by discovering trends and developments within and across various state NIL laws. Such insights may help college athletes by providing clearer guidelines about what/how NIL policies affect them, and what NIL policies could influence their college careers down the line. This information may also be beneficial for forecasting the future of NIL, and thus, the future of intercollegiate athletics, which is also beneficial for athletic leaders.

With the above in mind, the purpose of this research is to address the following research questions: (1) What content is present in state NIL laws, and how is it affected by isomorphic trends between state NIL laws; and (2) How does isomorphic trends emerge and evolve throughout older and more recently passed NIL state acts and amendments.

Literature Review

History of Athlete Compensation and NIL in the NCAA

Over the course of its history the NCAA has created a malleable formula for paying athletes that has shifted to benefit its own financial and public relations agenda (Smith, 2021; Southall & Staurowsky, 2013).

The term “amateurism” comes from 19th-century Britain where the original intent of amateurism was to prevent lower classes from participating in sport (Smith, 1993). Amateurism was first defined as only playing for pleasure and the love of the sport, while never being paid to play (Barnes, 2020; Smith, 1993). When it comes to American intercollegiate sports, however, it is arguable that this form of amateurism has never existed, especially when considering the first known intercollegiate athletic event on was sponsored by a railroad company (Smith, 1993). Many colleges and universities during this time disagreed with compensating athletes, but that did not stop other institutions from paying their athletes (Barnes, 2020). This inconsistency revealed that a national organization was necessary, which led to the NCAA stepping in and to attempting to preserve amateurism (Smith, 1993).

The Sanity Code was one such strategy to protect amateurism. Adopted in 1948, the Sanity Code was a national academic and financial aid rule limiting scholarships to need and academic merit rather than athletic ability (Barnes, 2020; Byers & Hammer, 1995). This code did not stop much, however, as the rules were immediately broken by the University of Virginia and six others, who all then confessed to the violations (Byers & Hammer, 1995). In 1950, the Sanity Code lost the last of its power, as NCAA members voted against expelling the violator colleges, before being repealing the code completely in 1951. (Barnes, 2020; Byers & Hammer, 1995).

The issue of NCAA athlete compensation came to a head in the mid-1950s when the NCAA and it’s then-President, Walter Byers, created the term *student-athlete*. While competing for his institution, an offensive lineman received a hit to his head that eventually killed him (Harry, 2020). The athlete’s widow filed for death benefits as she believed her husband died while serving as an employee of his institution (Byers & Hammer, 1995; Harry, 2020). The NCAA had a problem on its hands if it chose not to fight this filing. Not only would the

organization and school need to compensate this widow for her loss, but a legal ruling classifying athletes as employees would forever alter the financial structure of the NCAA built on the labor of its athletes. Thus, the NCAA took the widow to court arguing that the football player was a *student*-athlete and could therefore not simultaneously be an employee of the institution or the NCAA. The court results thus cemented the dyad of *student*-athlete and amateurism for the next several decades (Byers & Hammer, 1995; Harry, 2020).

To appease critics, shortly after this case, the NCAA abolished the sanity code and started offering athletic scholarships for athletes. Decades later, multiple court decisions were made that significantly altered the restrictions on college athlete compensation. One of these critical court cases—*O’Bannon v. NCAA*—resulted in scholarships or grant-in-aid up to the full cost of attendance (COA) being allowed to be provided to college athletes starting in 2014 (Smith, 2021). Expenses such as driving home to see family, or expenses related to entertainment were then able to be included in scholarships for college athletes. In *O’Bannon v. NCAA*, the 9th Circuit U.S. Court of Appeals ruled that the NCAA violated Sherman anti-trust laws by using college athletes’ NIL without compensating them (*O’Bannon v. National Collegiate Athletic Association*, 2015). Federal Antitrust Laws protect competition between businesses and ensure consumers enjoy low priced and high-quality products (Federal Trade Commission, n.d.). While some actions are always clearly illegal (e.g., price fixing), other actions are not as clear and are reviewed to determine if actions are unreasonably restraining trade and is referred to as the “Rule of Reason.” This was the main tool used to determine if NCAA broke federal antitrust laws in *O’Bannon v. National Collegiate Athletic Association*, as well as future and similar court cases involving the governing body and its amateurism principle (Walsh, 2021).

In its decision, the 9th Circuit U.S. Court of Appeals officially ruled that the NCAA would not violate anti-trust laws if the Association and its member institutions compensated athletes with full COA funding. The court perceived that full COA was a fair financial trade for the NCAA and members as they were using athletes' NIL to generate revenue (Lodge, 2016). The *O'Bannon* legal team appealed this to the U. S. Supreme Court (USSC), but the case failed to make the docket. Thus, the courts upheld the previous ruling and the importance of amateurism to college athletics (Lodge, 2016).

Although the NCAA's amateurism defense and centering of educational endeavors was still somewhat strong after the *O'Bannon* case, the NCAA and its notion of amateurism would receive another blow just six years later. Unlike the *O'Bannon* case, the case of *National Collegiate Athletic Association v. Alston* made its way to the USSC. On June 21st, 2021, all nine Supreme Court justices ruled that the NCAA could not restrict college athletes' compensation if it did not affect the NCAA's competitive atmosphere (*National Collegiate Athletic Association v. Alston*, 2021). The USSC ruled that the NCAA could not use its defense of amateurism as an acceptable reason for limiting educational compensation or compensation unrelated to maintaining competitiveness in sports (*National Collegiate Athletic Association v. Alston*, 2021; Poyfair, 2022). Thus, the NCAA could not restrict financial support tethered to educational activities or performances for college athletes (*National Collegiate Athletic Association v. Alston*, 2021). And although the decision did not directly affect the NCAA's power to limit NIL for college athletes, it created a standard that would likely rule in favor of NIL for college athletes if the subject was debated in court in the future (Poyfair, 2022). This idea is reflected in Justice Kavanaugh's concurring opinion in which he asserted that the NCAA lacks legally valid procompetitive justification for its compensation rules (*National Collegiate Athletic Association*

v. Alston, 2021). Nine days after the USSC's decision on *National Collegiate Athletic Association v. Alston*, the NCAA announced its interim NIL policy, which would allow athletes to receive additional forms of compensation related to NIL (Brutlag Hosick, 2021).

This interim NIL policy took effect on July 1st, 2021, and offered guardrails for members institutions and athletes to follow. (1) If an NCAA athlete enters a NIL contract—regardless of whether the athlete's state has NIL legislation—their eligibility to compete in the NCAA will not be impacted. (2) Unless prohibited by their state law, athletes are allowed to use a professional services provider, such as lawyers and agents, for negotiating their NIL contracts. (3) Athletes also should report their NIL deals to their school. (4) Member schools and stakeholders cannot engage in a pay-for-play model with athletes, meaning athletes cannot get paid through NIL deals in exchange for competing at a certain institution (NCAA Resources, 2021; Hosick, 2021).

The vagueness of the NCAA's interim policies and various state laws makes the NIL landscape across the Association uneven, and inequitable, according to many scholars and practitioners (Dodd, 2022; LEAD1, 2021). An athletics program in one state may have an advantage in recruiting over an institution in another state depending on the wording of the two state's NIL laws.

The NCAA has continued to update its interim NIL policies in attempts to bring parity and clarity to the membership. The most recent changes were released on October 26th, 2022. This update clarified permissible/impermissible NIL actions in four areas: (1) institutional education and monitoring, (2) institutional support for athletes' NIL activities, (3) institutional support for NIL entities/collectives, and (4) negotiating, revenue sharing, and compensating athletes (NCAA, 2022). It is likely that the NCAA will continuously adapt NIL policies to align with shifts in state laws, litigation, and changes to public opinion, particularly regarding

amateurism and athlete compensation. Additionally, the NCAA will likely adapt these policies again as the organization continues to strive for a federal government NIL intervention (Durham, 2022).

Politics In Intercollegiate Sports

Governmental and political involvement in college athletics is not new (Smith, 1993, 2021). Indeed, in the early 1900s, then-US President Theodore Roosevelt met with presidents of Princeton, Harvard, and Yale Universities demanding the universities create new rules to make the sport safer (Smith, 1993). Similarly, during the 1950s as men's basketball gambling scandals emerged, US Congress called upon then-NCAA President Walter Byers to take control over college athletics (Byers & Hammer, 1995). Thus, this relationship between the NCAA, government, and politics is longstanding.

Politics refers to the “processes of organizing social power and making decisions that affect people's lives in a social world” (Coakley, 2021, p. 462). Relative to sports, politics can also be the power and ability to make decisions that affects both sports and participation in sport (Coakley, 2021). Many sports require organization and/or depend on resources that that only few possess, thus many sports need those in positions of power to make decisions or regulate and control sports and sometimes sports organizations. Governments can and do regulate sports by setting boundaries according to time, place, and manner of how the sports are being played, and can govern private sports by regulating the rights and responsibilities of team owners, sponsors, promoters, and athletes (Coakley, 2021; Smith, 2021). Governments may also intervene in sports to protect the rights of citizens and ensure fairness by passing law, establishing policies or ruling in court cases (Coakley, 2021). As such, a government can have many reasons to be involved in

sports matters, either due to the need for authority, or to ensure fairness and the rights of its citizens.

One major example of politics in sports that also aligns with this research is the “Sherman Anti-trust Act” mentioned earlier. Although the NCAA and other sports organizations must conform to anti-trust laws, Major League Baseball (MLB) possesses an anti-trust exemption for its business operations, which allows the MLB to control all aspects of the business of baseball except dealings with MLB player, whose business is applicable to Sherman antitrust laws according to the “Curt Flood Act of 1988” (Blair & Wang, 2020). This antitrust exemption was granted by the Supreme Court in 1922 when the Federal Baseball Club of Baltimore, a member of the folded Federal League, filed an antitrust suit that alleged the MLB violated antitrust laws by requiring their major and minor league players to sign contracts that bound them to their respective teams indefinitely, thus removing any path for MLB players to sign with the Federal League (Blair & Wang, 2020). The reasoning behind siding with MLB and providing the antitrust exemption is that the MLB was in the business of providing exhibitions of baseball games, which took place in one spot and was a state affair, and even though teams would have to travel between states, the movement was incidental and did not affect interstate commerce (Blair & Wang, 2020). The USSC continues to support MLB’s antitrust exemption in subsequent trials (Blair & Wang, 2020), even though labor discussions are now applicable to antitrust laws, and MLB games and commerce certainly falls under interstate commerce.

Intercollegiate athletics and the NCAA have also been affected by government legislation in major ways. One significant piece of legislation is “Title IX of the Education Amendments of 1972.” Title IX states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance (U.S. Department of Education, 2021).

Although Title IX does not mention intercollegiate athletics specifically, athletic departments and institutions must comply with Title IX regulations (U.S. Department of Education, 2021). However, interpretation of Title IX is often contentious. In 1979, the Office for Civil Rights established a three-pronged test, which helped determine whether an institution's athletic department complied with Title IX (Chudacoff, 2015). Institutions only needed to comply with one of the three prongs: (1) Participation opportunities were substantially proportionate to women's enrollment at the institution, (2) there is a history and continuing practice of expanding opportunities for the underrepresented sex, and (3) the institution is effectively accommodating the athletic interests and abilities of the underrepresented sex (Chudacoff, 2015). Title IX applying to an institution's athletic department and program is just one example of the government and politics engaging with intercollegiate sport and demonstrates how the government is sometimes needed to intervene in intercollegiate sport to ensure citizens connected to the industry retain their rights, and that rules are fair for all.

State governments who have passed and enacted NIL laws likewise affect intercollegiate sport by ensuring multiple rights for college athletes and institutions, most notably ensuring that college athletes are capable of acquiring compensation for their NIL without punishment from any organization with authority over them, including institutions and athletic associations. While some provisions are in some state NIL laws, and absent from others, any active NIL state law

contains the right for college athletes mentioned above, allowing college athletes more control of their own assets.

Even more recently, in the summer of 2023, The NCAA has begun lobbying the federal government to pass NIL legislation of its own (Wittry, 2023). The NCAA had three main objectives that it desired to be included in potential federal NIL legislation (Prisbell, 2023). The first is to create a uniform national standard for NIL legislation, which would ensure all collegiate athletes must comply with the same laws versus the requirements changing depending on which state the athlete is in. The second goal is for the NCAA to receive some antitrust protection, which would most assuredly provide the NCAA with more control over college athletes, seeing as how the MLB used their antitrust exemption to control their players (Blair & Wang, 2020). The third objective is a designation that college athletes are not employees of their school, conference, or the NCAA (Prisbell, 2023). Multiple legal challenges, including *Johnson v. National Collegiate Athletic Association*, where a group of college athletes who claim they should be classified as “employees” (Johnson, 2023), could potentially dramatically shift the collegiate athletics environment and is a development that the NCAA and conferences such as the Southeastern Conference (SEC) wish to avoid (Wittry, 2023). If the NCAA receives its wish and a federal NIL law is passed, the NIL environment would be altered once again, as college athletes, institutions, and more must comply with the federal NIL law instead of each one’s individual state NIL law.

Common State NIL Policies

Although not every state has enacted an NIL law, 3219 states have passed and implemented some type of legislation related to NIL since 2019 (Troutman Pepper, 2023). California was the first state to pass NIL legislation in 2019 with the act slated to go into effect

in 2023 (Thompson, 2022). Many states followed California's lead, passing similar NIL legislation; however, these state laws were to be effective before 2023 (S. B. 646, 2020). For example, Florida was one of the first states to follow in California's footsteps, enacting its NIL laws starting July 1st, 2021 (Thompson, 2022).

While an important part of every state NIL law confirms the ability for NCAA athletes to monetize their NIL (Thompson, 2022), many state laws have restrictions over who and what the athletes can/cannot associate with concerning NIL deals (Ehrlich & Ternes, 2021). One of the most common restrictions precludes athletes from signing a contract with a company if it conflicts with one of their institution's contracts or sponsorships (Walsh, 2021). For example, if an athlete wants to sign a sponsorship with a shoe company, the institution can refuse to allow that deal if the institution already has a sponsorship with a competing shoe company (Ehrlich & Ternes, 2021). Another common restriction in state NIL laws is the restriction of NIL deals with "vice" industries which have a poor public image (Ehrlich & Ternes, 2021). Some of these restricted industries include alcohol, drugs, tobacco, gambling, weapons, and adult entertainment (Ehrlich & Ternes, 2021). A third routinely found restriction bans athletes from signing NIL deals that conflict with institutional values (Ehrlich & Ternes, 2021). This restriction is vague, and in a way, acts as an extension of the previous restriction and allows institutions to confirm that athletes do not sign a deal that would paint the institution in a less favorable light (Ehrlich & Ternes, 2021).

In a survey of 60 athletes, most athletes were in favor of restrictions featured in many state NIL laws, such as not being able to sign with vice brands or those inconsistent with an institution's values (Gupton, 2022). Similarly, this sample was also in favor of athletes not being able to endorse brands conflicting with their athletic program or institutional sponsors (Gupton,

2022). While this is notably a small sample, athlete's opinions on permissible/impermissible components to NIL laws are important when discussing how to handle NIL legislation in the future since they are the population most affected by modifications to NIL laws. Thus, understanding athletes' experiences with and perceptions of NIL are critical in examining disparate state legislation.

Athlete's Experience with and Perceptions of NIL

The college athlete experience with NIL is a growing area of scholarship that needs increasingly more attention as athletes navigate a host of experiences while seeking to monetize their NIL. Indeed, college athletes' opinions on and experiences with NIL are important when considering what the future of NIL state—or potentially federal—legislation holds for the NCAA and its membership. One survey of over 1,000 college athletes determined that although a majority were in support of compensation from NIL, approximately half of the athletes mentioned that NIL could divide teams and affect program culture in a negative way (Grambeau, 2021). Many athletes explicitly expressed concerns that NIL could create a larger divide between revenue generating sports like football and men's basketball, and non-revenue generating sports (Grambeau, 2021). In another survey, athletes were asked how informed they were on NIL rules that affect them (Gupton, 2022). Although, on average, they felt somewhat informed on the NIL rules at their specific institution, they were less confident on the NIL rules in their state (Gupton, 2022). Athletes were also asked what resources they used to manage their NIL, with athletic department education programs being the most widely used by the athletes surveyed (Gupton, 2022).

Despite this limited knowledge on NIL, many athletes and businesses did not wait long to ink sponsorships after the NCAA released its interim NIL policy in 2021. For example, high

profile football players like D'Eriq King, then-quarterback for University of Miami, and Bryce Young, then-quarterback for University of Alabama, signed NIL deals worth hundreds of thousands of dollars in the first couple of weeks of July (Perloff, 2022). Sometimes businesses would sign entire position groups or rosters. For example, Wright's Barbecue, a local restaurant in Fayetteville, Arkansas, signed the whole football offensive line for University of Arkansas to a NIL deal (Perloff, 2022), and Everett Buick GMC in Bryant, Arkansas signed the University of Arkansas' Softball team to an NIL deal in late April 2022 (Jones, 2022).

NIL deals such as those described above have not slowed since 2021, and over time, donors and boosters have creatively found ways to acquire funds for certain NIL deals. One such strategy is the use of collectives, which are collection of boosters and fans who donate to one organization that signs athletes to NIL deals for their favorite team or school (Dellenger, 2022). The nature of many of these collectives is under-examined, with some critics seeing collectives as skirting around the NCAA's ban on pay-for-play (Brutlag Hosick, 2021; Dodd, 2022). Indeed, many perceive collectives as providing compensation for athletes in exchange for playing for a specific institution (Dodd, 2022). Thus, these entities can potentially create conflict with the NCAA, since pay-for-play is still against NCAA regulations (NCAA, 2021, 2022). Technically, collectives cannot be affiliated with the institution or athletic departments (NCAA, 2022), which creates a difficult situation for the NCAA and specific institutions and coaches, as they must figure out how to work with these collectives, who at best, toe the line of permissibility. This may also pose problems for athletes working with or trying to work with collectives should they get caught in the crosshairs.

Still, it is popular opinion that collectives may generate more potential funding for supporting athletes in their NIL activities. The Gator Collective for University of Florida athletes

encourages giving by telling Florida fans their donations can attract big-time athletes (Gator Collective, n.d.). In turn for their donations, collective members/fans can engage in real life or online with some of the star athletes in the collective (Gator Collective, n.d.). However, this same collective was involved in one of the most prominent scandals to date concerning perceptions of pay-for-play and NIL and Florida quarterback signee Jaden Rashada.

Rashada originally committed to Miami, but flipped to Florida after the Gator Collective offered a \$13 million deal if he joined the collective (ESPN, 2023). However, Rashada decommitted from Florida in January 2023 after the NIL deal fell through and the collective failed to uphold its end of the contract (ESPN, 2023). Even though Rashada's deal did not come to fruition, other athletes have been successful in obtaining compensation for their NIL. Quinn Ewers, while at Ohio State University signed a \$1.4 million dollar NIL deal with sports marketing company GTSM (Schuster, 2021). Thus, collectives, and even some individual businesses can pay millions of dollars for NIL agreements with high profile athletes.

Still, there is limited understanding on how NIL influences athletes' wellbeing. However, it is likely that athletes' experiences with NIL have both positive and negative psychological effects (Kutz, 2022). Before July 1st, 2021, many athletes, even those with scholarships still struggled financially (Stephenson, 2022). For example, Huma and Staurowksy (2011) found that 85% of full-scholarship athletes on campus and 86% of full-scholarship athletes living off campus lived below the federal poverty line (Huma & Staurowsky, 2011). Scholarships are beneficial, as they help cover tuition, pay for textbooks, and school supplies, and sometimes provide training table meals. However, like non-athletes, athletes often need liquid income to live more comfortably (Nocera & Strauss, 2016). Additionally, stories and popular media have noted that many athletes send money home to their families to support their health, housing,

siblings' schooling, and other areas (Nocera & Strauss, 2016; Stephenson, 2022). Extra income from NIL deals can help relieve some of this psychological stress by giving athletes the income they need to take care of themselves and potentially their families.

Although there are helpful psychological effects that have followed from NIL implementation, there are also negative effects. Pressure on athletes, especially star athletes with large NIL deals, has increased (Harris et al, 2021). Fans and businesses want to reap the benefits of their financial investments in NIL deals with athletes. Thus, athletes receiving the deals have intense pressures to live up to such expectations. These expectations greatly increase the amount of stress and pressure that athletes feel to succeed and match or exceed such expectations (Stephenson, 2022). Athletes already have little free time outside of balancing athletics and academics, so the time commitment needed to negotiate and fulfill the NIL deals could be an additional layer for mental health concerns (Harris et al, 2021). Such struggles could be linked to heightened levels of depression, anxiety, and identity struggles (Fridley et al., 2023; Harris et al., 2021).

Thus, it is important that the sport management field establishes an enhanced understanding of NIL and state laws, so college athletes influenced by these regulations are better prepared to navigate this chaotic period of NIL. With this in mind, there is limited scholarship pertaining to similarities and/or differences between state NIL laws and how it may affect students now, as well as the in the future. These similarities and/or differences and the influence they have on athletes' experiences are examined through the theoretical lens of isomorphism.

Theoretical Framework: Isomorphism

This thesis examines similarities and differences between different state NIL laws through the lens of isomorphism, which describes a unit in a population being constrained to appear and act similar to other units that face similar environmental conditions (DiMaggio & Powell, 1983). Thus, isomorphism is a trend toward sameness. There are two types of isomorphism: competitive isomorphism and institutional isomorphism. Competitive isomorphism describes the tendency of organizations operating in a like environment to compete for resources, while institutional isomorphism describes the process of homogenization in actions, policies, or behavior across institutions (DiMaggio & Powell, 1983). In the field of sport management, institutional isomorphism is the most observed of the two.

Isomorphism has been used to describe governance, leadership, change, and globalization of sport, as well as other issues in sport management (Nite & Edwards, 2021). Additionally, institutional isomorphism has been employed to define and explain the homogeneity in college athletics mission statements and how they connect to athletic success (Ward, 2015). Researchers have also applied the theory to examine similarities between higher education institutions, and how institutions were incentivized to encourage the idea of amateurism for continued financial benefits, which would help them stay competitive with other well-resourced institutions (Mehta, 2014).

There are three main processes by which institutional isomorphic change occurs. The first process is coercive isomorphism, which develops from pressures exerted onto an organization that is dependent on another organization, as well as from cultural expectations from the society the organizations operate within (DiMaggio & Powell, 1983). Although a state's government would not be dependent on other state's NIL laws when creating their version, the state

governments may feel pressure from fans and even institutions to ensure that their NIL legislation is competitive with other state's NIL laws.

The second process is mimetic isomorphism which develops from common responses, like modeling, to uncertainty (DiMaggio & Powell, 1983). An organization, when faced with an ambiguous environment, can tend to model, or copy actions of other organizations. With the NIL environment being extremely uncertain and state NIL amendments continuing to be passed (Troutman Pepper, 2023), it is conceivable that some states could model their NIL laws after other states' laws, especially if they believe it is a competitive and successful law.

The third process is normative isomorphism, which mostly develops from professionalization, and the process of workers or personnel conforming to conditions and methods of their work (DiMaggio & Powell, 1983). Athletes, coaches, and other sport personnel may face normative isomorphism as they try to succeed in their job or profession. This process is less applicable to the establishment of NIL legislation, but arguably could be a result of NIL as athletics personnel conform to the new NIL norms. Thus, the focus of this research is more centered on how coercive and mimetic isomorphism affects how state legislators created and/or amended their state NIL law.

These isomorphic processes can be applied to the actions of specific states. Most of the responsibility for regulating and legislating NIL falls to the states (Brutlag Hosick, 2021), which means dissimilarities arise between NIL state laws and what is allowed versus what is prohibited. These differences can encourage state lawmakers to amend their NIL laws to stay competitive with other states, thereby remaining competitive in the arms race for college athletes. For example, this was likely the primary factor when Alabama repealed its NIL state law on February 3rd, 2022, just ten months after passing the law (Lawrence, 2022). Although not every

state's legislature will go through the same lengths as Alabama, they still face the same isomorphic pressures of maintaining a competitive NIL law.

Methods

Group Sample

This study will draw a sample of legislation from the 32 states that have passed some sort of NIL related laws and amendments by the Spring of 2023. Of those 32 states that passed an NIL state law, 15 passed at least one amendment to their NIL law (Troutman Pepper, 2023). These NIL acts and amendments are accessible through each state's legislative website. Similarly, non-probability, purposive sampling will be used to select these acts and/or their amendments. This sampling method is appropriate because of the low number of NIL laws passed (Riddick & Russell, 2015; Troutman Pepper, 2023). Additionally, purposive sampling is helpful by ensuring the sample includes relevant and nonrepetitive material that can properly describe the path and current environment of NIL in state legislatures. The study will inspect and interpret 13 total NIL acts and amendments, with six implemented before the NCAA interim NIL policies went into effect on July 1, 2021 (NCAA Media Center, 2021), and seven enacted after that date. The sample of 13 state NIL laws provided sufficient saturation to accurately observe isomorphic trends throughout state NIL acts and amendments. Although this study only focuses on a sample of 13 acts or amendments, the content of a few NIL state laws will be discussed compared to the sample in the results section.

The sample documents were chosen based on three important factors. The first factor is geographic location as geography influences political opinions and perspectives on intercollegiate athletics (Clotfelter, 2019). Given the nexus of politics and college athletics that

NIL currently operates within, this factor is significant to consider in this collection and analysis. The second factor considered what states have the most institutions taking advantage of NIL; more specifically at least two acts and amendments were chosen from states that include institutions that are part of an Autonomy 5 conference. These conferences are the Atlantic Coastal Conference (ACC), Big Ten Conference (B1G), Big 12 Conference (Big-12), Pacific Twelve Conference (Pac-12), and the Southeastern Conference (SEC). This allows the sample to contain acts or amendments that represent different geographical locations in the United States as well as represent the highest profile conferences that can arguably capitalize the most on NIL.

The third factor involved purposively selecting acts and amendments representing different periods throughout the years to give a more accurate representation of the evolution of state NIL policies. Even though the sample is split by when the NCAA's interim NIL policies went into effect on July 1, 2021, there is still an almost two-year gap between that and when California's first NIL act passed on September 30, 2019 (California S.B. 206, 2019).

Altogether, this leads to the chosen sample of 13 acts and amendments.

Table 1*Sample of NIL laws*

| Act and Amendment Names | Date Enacted |
|----------------------------|-----------------|
| California SB 206 | 9/30/19 |
| Florida SB 646 | 6/12/20 |
| New Jersey S971 | 9/14/20 |
| Oklahoma SB 48 | 5/28/21 |
| Texas SB 1385 | 6/14/21 |
| Illinois SB 2338 | 6/29/21 |
| California SB 26 | 8/31/21 |
| Illinois HB 1175 | 5/20/22 |
| New York S5891-F | 11/21/22 |
| Florida HB 7-B | 2/16/23 |
| Oklahoma SB 840 | 5/25/23 |
| Texas HB 2804 | 6/10/23 |
| New York A7107B | 6/30/23 |

NIL Act and Amendment Analysis

This thesis aims to inspect and interpret 13 different NIL state laws, what these laws dictate to NIL stakeholders (athletes, coaches, boosters, collectives, institutions, etc.), and what these laws might signal for the future of NIL and compensation for college athletes. These laws

will also be examined in attempts to reveal *why* the state lawmakers may have chosen to write and pass their laws the way they did. Thus, this thesis will use the qualitative method of document analysis (Riddick & Russel, 2015).

Document analysis, also called content analysis, is defined as a technique that deduces people's reasoning and behavior by observing and examining artifacts (Riddick & Russel, 2015). Artifacts can be anything from written records and videos, to works of art and photographs. This process attempts to understand the surface content of the document, as well as the underlying meaning of content (Riddick & Russel, 2015). This method has been used in other research pertaining to law as well as intercollegiate athletics (Petscher et al., 2022; Schäfer & Vögele, 2021).

With this in mind, this study will use descriptive and values coding to examine changes and trends across the documents which may help locate and explore instances of institutional isomorphism. First, the text of each act and/or amendment will be examined using descriptive coding to summarize the documents accurately (Saldaña, 2013). This first cycle method is helpful in describing and summarizing the NIL and legal topics discussed in this sample of acts and amendments (Miles et al., 2020). Part of this descriptive coding is provided when each law was passed and enacted, as well as what party was in the majority at the time and will be important factors when comparing state laws to discover trends over time.

Next, the documents will be examined to uncover more of the meaning and intention behind each part of the law (Riddick & Russel, 2015). After each law is examined thoroughly through descriptive coding, versus coding will be used to aid in comparing acts and/or amendments to each other (Saldaña, 2013). Indeed, Saldaña (2013) argued that versus codes are helpful in identifying individuals, groups, social systems, organizations, processes, and concepts,

that conflict with one another. This is an appropriate style of coding as different state NIL acts and amendments may butt against one another and may even be in conflict as NIL has been shown to potentially influence athlete recruitment (ESPN Staff, 2023). Furthermore, versus coding is beneficial for policy studies (Saldaña, 2013), a category this research falls under.

With this unique coupling of descriptive and versus coding, there is potential to discover and explain how the values and beliefs of policymakers and implementers changed from when NIL laws were first introduced in 2019 through more recent acts/amendments in 2023. Descriptive coding is particularly useful for finding and analyzing shifts throughout the documents and over time, while versus coding may explain more about policymakers' values and beliefs toward NIL. Additionally, this knowledge offers the sport management field insight into what future NIL laws could look like, both in state and potentially federal legislation. This process will allow for the document analysis to maintain the integrity of the study.

Although the sample in this analysis is limited to 13 state NIL acts/amendments, additional state NIL laws will be compared to those sampled in this study so that the most frequent items in each law can be assessed. These additional state NIL laws are discussed as means to provide more context for the NIL legislative landscape and provide enhanced on where NIL may be headed.

Results

This section covers the content and themes of the collected NIL acts and amendments. The items discussed in the content section are based on who or what these provisions targeted, while the isomorphism section explores the changes to these acts and amendments that emerged over time.

Content

While each state's NIL act examined in this study is distinctive, there are also patterns present across most or even all of the acts ($n = 13$). Content analysis revealed four main themes including: (1) restrictions or protections for athletes, (2) restrictions or protections for institutions, (3) restrictions protections for both athletes and institutions, and (4) additional policy categories including representation, definitions, and NIL programming. See Table 2 for more information.

Table 2*Act and Amendment Themed Content*

| Acts and Amendments | Date Approved | Athlete-Centric | Institution-Centric | Combination | Representation | Definition | NIL Program |
|---------------------|---------------|-----------------|---------------------|-------------|----------------|------------|-------------|
| California SB 206 | 9/30/19 | 5 | 1 | 3 | 6 | 1 | 0 |
| Florida SB 646 | 6/12/20 | 4 | 1 | 3 | 4 | 3 | 1 |
| New Jersey S971 | 9/14/20 | 2 | 2 | 6 | 2 | 0 | 0 |
| Oklahoma SB 48 | 5/28/21 | 12 | 1 | 5 | 5 | 7 | 0 |
| Texas SB 1385 | 6/14/21 | 11 | 3 | 7 | 4 | 5 | 1 |
| Illinois SB 2338 | 6/29/21 | 9 | 2 | 9 | 3 | 12 | 0 |
| California SB 26 | 8/31/21 | 5 | 2 | 4 | 3 | 1 | 0 |
| Illinois HB 1175 | 5/20/22 | 10 | 3 | 7 | 3 | 14 | 1 |
| New York S5891-F | 11/21/22 | 13 | 2 | 5 | 3 | 2 | 8 |
| Florida HB 7-B | 2/16/23 | 1 | 2 | 0 | 1 | 1 | 1 |
| Oklahoma SB 840 | 5/25/23 | 10 | 8 | 4 | 4 | 6 | 1 |
| Texas HB 2804* | 6/10/23 | 8 | 13 | 4 | 2 | 1 | 1 |
| New York A7107B* | 6/30/23 | 0 | 5 | 0 | 0 | 2 | 0 |

Note: Both Texas HB 2804 and New York A7107B are amendments that added to the previous NIL law and did not include the entirety of the previous law, unlike the other NIL amendments in this sample.

Athlete-Centric Provisions

Content themed as athlete-centric was based on provisions that enabled or restricted actions college athletes in associated states could take. The athlete-centric category is the largest of the categories, with the most common provisions being those that (a) protected college athletes' abilities to be compensated for their NIL, (b) ensured college athletes' scholarships or grant-in-aid is not reduced because of compensation for NIL, (c) barred college athletes from acquiring NIL deals that damage their institution in some way, and (d) banned pay-for-play. One example of (a) is in Oklahoma's NIL act, SB 48:

A collegiate athletic association shall not and shall not authorize its member institutions to: Prevent a student athlete at a postsecondary institution from earning compensation from the use of his or her name, image or likeness (Oklahoma SB 48, 2021, p. 26-27).

This provision ensures college athletes are not prevented from earning compensation for their NIL by collegiate athletic associations like the NCAA. California's "Fair Pay to Play Act," SB 206, included a provision that illustrative of (b):

A scholarship from the postsecondary educational institution in which a student is enrolled that provides the student with the cost of attendance at that institution is not compensation for purposes of this section, and a scholarship shall not be revoked as a result of earning compensation or obtaining legal representation pursuant to this section (California SB 206, 2019, p. 3).

This provision protected college athletes' scholarships from being revoked as a result of participating in NIL related activities. Both Oklahoma's and California's provisions protect college athletes from actions that would hinder their ability to be compensated for NIL.

However, athlete-centric provisions were not just limited to athlete protections, but also included restrictions placed on athletes such as the following from California's NIL act which modeled component (c):

A student athlete shall not enter into a contract providing compensation to the athlete for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a provision of the athlete's team contract (California SB 206, 2019, p. 3).

Even though it relates to institutions this example was categorized as athlete-centric because it restricted actions athletes could perform. Other provisions that would fall under component (c) are those that prevent NIL deals with "vice" industries that would look poorly on the college athlete's institution. Illinois' NIL law, SB 2338, contains another common athlete-centric restriction (d):

No booster, third party licensee, or any other individual or entity, shall provide or directly or indirectly arrange for a third party to provide compensation to a prospective or current student-athlete or enter into, or directly or indirectly arrange for a third party to enter into, a publicity rights agreement as an inducement for the student-athlete to attend or enroll in a specific institution or group of institutions. Compensation for a student-athlete's name, image, likeness, or voice shall not be conditioned on athletic performance or attendance at a particular postsecondary educational institution (Illinois SB 2338, 2021, p. 10).

This prevents anyone, including entities (i.e., collectives), to pay or arrange for a third party to pay a current or prospective college athlete with NIL related compensation in return for performance or attendance at a certain institution, essentially imitating the NCAA's NIL policy

of prohibiting pay-to-play and inducements to a potential college athlete to attend a specific institution.

Institution-Centric Provisions

Institution-centric provisions focused on content specifically targeting institutions. This category is slightly smaller than the previous athlete-centric provisions because there were few provisions only focusing on institutions without also affecting college athletes. However, there are two common forms of institution-centric provisions where (a) institutions are protected against punishments or adverse reactions from organizations with authority over the institution (i.e., the NCAA), and (b) requiring the implementation of NIL related programming. An example of (a) can be found in Illinois SB 2338:

An athletic association, conference, or other group or organization with authority over intercollegiate athletics programs, including, but not limited to, the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, and the National Junior College Athletic Association, shall not enforce a contract, rule, regulation, standard, or other requirement that prevents a postsecondary educational institution from participating in an intercollegiate athletics program as a result of the compensation of a student-athlete for the use of the student-athlete's name, image, likeness, or voice (Illinois SB 2338, 2021, p. 7).

This provision is similar to (b) in athlete-centric provisions, as both prevent those with authority from restricting institutions from participating in intercollegiate sports. This provision, however, ensures that institutions are able to participate in intercollegiate athletics even if their athletes

engage in NIL activities. Florida SB 646 features an example of (b) implementation of NIL related programming.

A postsecondary institution shall conduct a financial literacy and life skills workshop for a minimum of 5 hours at the beginning of the intercollegiate athlete's first and third academic years. The workshop shall, at a minimum, include information concerning financial aid, debt management, and a recommended budget for full and partial grant-in-aid intercollegiate athletes based on the current academic year's cost of attendance. The workshop shall also include information on time management skills necessary for success as an intercollegiate athlete and available academic resources. The workshop may not include any marketing, advertising, referral, or solicitation by providers of financial products or services (Florida SB 646, 2020, p. 5-6).

Florida was the first NIL law passed to include provisions that required or encouraged institutions to implement workshops or classes for college athletes that would improve financial or life skills needed for acquiring and participating in NIL compensation. Although these workshops or classes are utilized by college athletes, this type of provision is categorized as institution-centric because the provision explicitly requires institutions to construct the programming for their athletes.

Athlete and Institution-Centric Provisions

The third content category covers provisions that focus on both college athletes and their institutions. Although these provisions are in their own content category, they could also be counted and categorized in both athlete-centric provisions and institution-centric provisions. These provisions are included here and discussed separately to highlight their unique nature.

Some of these provisions, categorized as athlete *and* institution-centric, are similar to provisions that are athlete-centric, for example, California SB 206 features a provision protecting college athletes' abilities to be compensated for their NIL.

A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness. Earning compensation from the use of a student's name, image, or likeness shall not affect the student's scholarship eligibility (California SB 206, 2019, p. 2).

Although this provision protects college athletes' right to be compensated for their NIL, this provision also restricts institutions from preventing athletes from earning compensation for their NIL. California's law continued on to explain that any organization with authority over intercollegiate athletics, including athletic associations, also cannot prevent college athletes from NIL compensation. Because this provision restricted institution's permissible actions (i.e., a restriction) while also ensuring that college athletes can be compensated for their NIL (i.e., a protection), this provision is considered both athlete- and institution-centric.

Athlete and institution-centric provisions were often seen as more "positive" for one party and more "negative" for another, with the provision in the previous paragraph being an example. Another example of a provision being positive for one party and negative for another can be found in New Jersey's law:

A student-athlete who enters into a contract providing compensation to the student-athlete for use of his name, image, or likeness shall disclose the contract to an official of

the four-year institution of higher education, to be designated by the institution (New Jersey S971, 2020, pg. 2).

This provision required college athletes to reveal their NIL deals to their institution, who is then able to look over the NIL contract for potential conflicts, with the process of asserting a conflict being expanded on in a later provision. This provision is positive for the institution as it ensures that institutions are aware of all NIL activities, while college athletes are unable to withhold their NIL deals from their institution. A provision limiting actions of both the athlete and the university emerged in Illinois' law.

No postsecondary educational institution shall provide or directly or indirectly arrange for a third-party to provide compensation to a prospective or current student-athlete or enter into, or directly or indirectly arrange for a third party to enter into, a publicity rights agreement with a prospective or current student-athlete (Illinois SB 2338, 2021, p. 10-11).

This prohibited institutions from compensating current or prospective athletes for their NIL and barred athlete NIL compensation by a third party. Not only does this limit institutions in how they can act (i.e., a restriction), but this provision also limits potential NIL deals for athletes (i.e., a restriction). On the other hand, New York's amendment included a provision allowing institutions to assist their athletes in obtaining compensation for their NIL. This provision expanded opportunities for both institutions and college athletes, as it enabled certain actions for the institution, while at the same time, improving athlete's opportunities for NIL related compensation.

Additional Content

In addition to provisions being categorized as athlete-centric, institution-centric, and athlete and institution-centric, provisions were also categorized based on content. In this instance three topics emerged including (1) representation, (2) definitions, and (3) NIL programming.

From the very start of NIL policy discussion in 2019 with California SB 206, representation was a significant content topic included in NIL laws. California SB 206 protected athletes' rights to representation regarding NIL contracts and compensation. In fact, all 13 laws analyzed included at least one provision reinforcing this idea. Even Florida's amendment HB 7-B, which removed a majority of their previous NIL law, still included a section protecting Florida college athletes' rights to NIL-related representation.

Representation for college athletes largely discussed athletes' acquiring licensed state attorneys or agents who met the federal "Sports Agent Responsibility and Trust Act." However, Oklahoma went a step further, creating their own version, the "Revised Uniform Athlete Agent Act" in Oklahoma SB 48, along with their NIL law. Oklahoma's NIL law, the "Student Athlete Name, Image and Likeness Rights Act," reflects this, requiring agents to be licensed under their newly created state athlete agent act, as well as comply with the aforementioned federal athlete agent law. Oklahoma changed course in its NIL amendment, SB 840, enacted in 2023, which removed the requirement of athlete agents being licensed according to both the state and federal athlete agent acts, as well as deleting any mention of attorneys or athlete agents when discussing who can represent college athletes. These changes signify that anyone can represent a college athlete for NIL matters, and the representation does not have to adhere to federal or state athlete agent acts and legislation or be an attorney.

Definitions were another commonality within this sample of NIL legislation. Twelve of the 13 NIL laws—except New Jersey’s—included at least one definition of a term used in the law. Illinois’ original NIL law and subsequent amendment had the most definitions with 12 and 14, respectively. The most common definitions explained “postsecondary institutions” ($n = 6$) and “college athletes” ($n = 5$). All six definitions for postsecondary institutions were similar in that state institutions and private colleges, fell under their interpretation. Interestingly, Illinois’ NIL and California’s NIL laws were the only ones to also include community colleges in defining “postsecondary institution.”

Florida, Oklahoma, Illinois, New York, and New York’s amendment included definitions for “college athletes.” Florida labeled them as “intercollegiate athletes,” while the rest labelled them as “student athletes.” Florida’s definition was also the most succinct, stating: “Intercollegiate athlete” means a student who participates in an athletic program (Florida SB 646, 2020, p. 3). Only Oklahoma’s version did not require the individual to be participating in an athletic program, and instead only needed to be eligible to attend an institution and eligible in the future to engage in intercollegiate sport. Illinois and New York’s definition of a college athlete are similar, with Illinois’ provision explaining:

“Student-athlete” means a student currently enrolled at a postsecondary educational institution who engages in, is eligible to engage in, or may be eligible in the future to engage in, an intercollegiate athletics program at a postsecondary educational institution. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport (Illinois SB 2338, 2021, p. 3).

This definition also requires college athletes to, at minimum, be eligible in the future to engage in intercollegiate athletics, while also noting that they are not considered a “student-athlete” if they are ineligible to participate in the intercollegiate sport. New York’s original NIL law, enacted in late 2022, featured a definition similar to the first sentence of Illinois’ definition above, and New York’s NIL amendment, enacted in 2023, added a second definition for college athletes, which featured much of the second sentence in Illinois definition above. New York’s NIL amendment is the only act in this sample to feature two definitions for the same word or concept.

The final unique theme is “NIL Programming,” which refers to workshops or programs that institutions are either forced or encouraged to create for college athletes engaging in NIL. This category of provisions is featured in multiple ($n = 7$) acts in this sample, including four amendments. The first state NIL law to feature this category was Florida’s in 2020, which included what these workshops could and could not cover.

A postsecondary institution shall conduct a financial literacy and life skills workshop for a minimum of 5 hours at the beginning of the intercollegiate athlete’s first and third academic years. The workshop shall, at a minimum, include information concerning financial aid, debt management, and a recommended budget for full and partial grant-in-aid intercollegiate athletes based on the current academic year’s cost of attendance. The workshop shall also include information on time management skills necessary for success as an intercollegiate athlete and available academic resources. The workshop may not include any marketing, advertising, referral, or solicitation by providers of financial products or services (Florida SB 646, 2020, p. 5-6).

This provision notes that the workshop must include topics such as financial aid and time management, while prohibiting marketing and solicitation from providers of financial products and services. Other states in this sample that contained a provision in this category have similar requirements and restrictions, including Texas' provision regarding this topic which is essentially identical.

Some NIL laws would word their provision differently. Although Illinois' NIL amendment requires the programing to include similar topics to Florida's, it only encourages Illinois institutions to provide NIL programming, versus Florida who requires their states to provide NIL programming. New York's NIL law requires college athletic programs in Division 1 NCAA athletics to provide their college athletes with at least one assistance program, and then listed off potential options, including mental health support services, financial literacy training, and more. This category of provisions is unique in that none in this sample have been removed by a subsequent amendment. Instead, the amendments either add a provision regarding NIL programming, add more information to the provision, or in the case of Florida's amendment, is one of the few provisions that was not deleted.

Isomorphic Content

The content detailed in the previous section aided in the detection of isomorphism in this sample of acts and amendments. Isomorphism has multiple types and versions (DiMaggio & Powell, 1983), with two types—mimetic and competitive—emerging in the data analysis. Importantly, mimetic isomorphism appeared in laws passed prior to July 1st, 2021, while competitive isomorphism appeared in acts and amendments after July 1st, 2021.

Although mimetic isomorphism emerged through all the content patterns discussed previously, athlete-centric provisions and provisions concerning representation were especially likely to be modeled after previous laws, and as such, offered strong examples of mimetic isomorphism.

Mimetic Isomorphism

Mimetic isomorphism, which develops from responses to uncertainty (DiMaggio & Powell, 1983), emerged in early NIL acts in this sample. Until July 1st, 2021, The NCAA maintained a strong stance against college athletes receiving NIL compensation (Brutlag Hosick, 2021; Smith, 2021). So, when California passed SB 206, the “Fair Pay to Play Act” in 2019, it created an environment of uncertainty surrounding NIL. Even though SB 206 was not set to take effect until 2023, other states were intrigued and considered the viability of their own NIL law. Thus, early state adopters of NIL laws modeled their own policies off of California and other states who acted quickly by passing their own NIL legislation. This modeling is a key component to mimetic isomorphism. Consequently, NIL laws analyzed and that were passed before the NCAA changed their NIL policies in 2021 had very similar, and in some cases identical, provisions of previously passed NIL laws.

Since California was the first state to pass a law concerning college athletes’ NIL compensation, they became a baseline for many states, including Florida, who was the next state in this sample to pass an NIL law (Florida S.B. 646, 2020). Outside of definitions, seven of 11 provisions in Florida’s NIL law were very similar to provisions in California’s law. It was common in this sample to uncover provisions that had the same or similar meaning to another state’s version of that same provision. In fact, both California and Florida’s NIL laws did not allow institutions to create or uphold a rule preventing their state’s college athletes from earning

NIL compensation. Similarly, these state institutions were not allowed to change college athletes' scholarships/grant-in-aid eligibility. For example:

A postsecondary educational institution shall not uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student's name, image, or likeness. Earning compensation from the use of a student's name, image, or likeness shall not affect the student's scholarship eligibility (California SB 206, 2019, p. 2)

A postsecondary educational institution may not adopt or maintain a contract, rule, regulation, standard, or other requirement that prevents or unduly restricts an intercollegiate athlete from earning compensation for the use of her or his name, image, or likeness. Earning such compensation may not affect the intercollegiate athlete's grant-in-aid or athletic eligibility (Florida SB 646, 2020, p. 3-4).

A slight difference in these laws is that California defined its college athletes as just "students," while Florida used the term "intercollegiate athlete." California also refers to "scholarships" while Florida uses "grant-in-aid," but these terms are often used interchangeably in provisions within state NIL laws.

Additionally, some states combined two ideas from a previous model law into one provision. For example, California SB 206 had a provision barring state institutions from preventing/restricting college athletes from obtaining representation for NIL related activities. California's next provision explained that attorneys must be licensed, and athlete agents must comply with the federal "Sports Agent Responsibility and Trust Act". Florida combined these

two ideas into one provision, with changes relating to licenses in Florida versus California.

Florida SB 646 stated:

A postsecondary educational institution may not prevent or unduly restrict an intercollegiate athlete from obtaining professional representation by an athlete agent or attorney engaged for the purpose of securing compensation for the use of her or his name, image, or likeness. Pursuant to s. 468.453(8), an athlete agent representing an intercollegiate athlete for purposes of securing compensation for the use of her or his name, image, or likeness, must be licensed under part IX of chapter 468. An attorney representing an intercollegiate athlete for purposes of securing compensation for the use of her or his name, image, or likeness must be a member in good standing of The Florida Bar (Florida SB 646, 2020, p. 4).

The “New Jersey Fair Play Act,” passed on September 14th, 2020, almost one year after California’s Fair Pay to Play act, also showcased provisions that were either identical or similar to provisions in California and Florida’s NIL laws. For example, akin to the similarities discussed above, New Jersey’s act essentially copied the first sentence of the provision described in California’s document recorded above:

A four-year institution of higher education shall not: uphold any rule, requirement, standard, or other limitation that prevents a student of that institution participating in intercollegiate athletics from earning compensation as a result of the use of the student’s name, image, or likeness (New Jersey S971, 2020, p. 1).

The rest of the “New Jersey Fair Play Act” included multiple other provisions that were either identical or similar to provisions in California and Florida’s NIL act.

With this context, New Jersey's Fair Play Act is one of the best examples of mimetic isomorphism as it is heavily modeled after its NIL act predecessors. NIL laws from Oklahoma, Texas and Illinois—which were all passed within one month of one another—are also examples of mimetic isomorphism. These states' NIL laws all featured provisions related to protecting college athlete's NIL compensation and representation rights and forbidding pay-for-play, among other topics. All three of these acts mimicked Florida as they were set to take effect on July 1st, 2021.

Competitive Isomorphism

Once the NCAA's NIL interim policies were announced and established on July 1st, 2021, state legislators could start observing their and other states' NIL laws and examine advantages and disadvantages for each model law. Because of this, mimetic isomorphism became less prevalent, as time passed and the uncertainty surrounding NIL laws and legislation lessened. However, competitive isomorphism appeared. Competitive isomorphism occurs when organizations operating in one environment compete for resources (DiMaggio & Powell, 1983). In this case, NCAA institutions are competing in an NIL environment for athletes, who may be considered institutional “resources” (Mehta, 2014). Indeed, perhaps the biggest reason NIL laws affect institutional competition centers is the impact of NIL on an institution's recruiting ability (Carter, 2023). Not only do at least some athletic directors and Division I Autonomy 5 coaches believe that NIL affects recruiting (Biddy, 2023; WFSU Public Media, 2022), but college athletes have also reported that NIL is a factor in recruiting (Carter, 2023). These realizations led state legislators to start amending NIL laws. Because of this discovery, institution-centric and a combination of athlete-centric and institution-centric provisions were the content types most influenced by competitive isomorphism forces. The laws and amendments below are discussed

in the order in which they were passed to help demonstrate the significance of competitive isomorphism.

The first NIL-related amendment was California's SB 26, passed on August 31st, 2021. This was not a large amendment, as it did not add/remove much content to the original NIL law. One important change, though, was moving up the date that the law would be active from January 1st, 2023, to as soon as SB 26 was passed. The legislation gives its reason for moving up the date the amendment is active in the amendment stating:

In order to ensure that California postsecondary educational institutions and college athletes are not placed at a disadvantage to those in other states where name, image, and likeness laws will go into effect this year, and in order to ensure that California college athletes, including low-income student athletes and those with children and dependents, can adequately provide for themselves and their families, it is necessary that this act take effect immediately (California SB 26, 2021, p. 4).

The first reason mentioned, ensuring California institutions are not at a disadvantage to other states with active NIL laws, is an example of California reacting to a change in the NIL environment to keep California institutions competitive.

Illinois HB 1175 was amended and passed on May 20th, 2022, a little less than a year after the NCAA's NIL interim policies were established. This amendment left much of the text untouched, but it did delete, add, or edit important provisions of the law. For example, previously Illinois' provisions protected college athletes' rights to NIL compensation and their rights to retain a certified agent. However, the amendment no longer required athlete agents to be certified, allowing more individuals to become agents for college athletes. This change could

make Illinois based institutions more enticing to college athletes who want someone who is not certified to represent them, and is thus a form of competitive isomorphism.

Another change to Illinois' NIL amendment pertains to institution-centric provisions. Previously, the law prevented institutions from providing/arranging a third party to compensate or enter into publicity rights agreements with current or prospective college athletes (discussed under athlete and institution-centric provisions). The amendment deleted portions of the provision, signified by a strikethrough, and added a section at the end noting the act does not require or prevent institutions from assisting college athletes in locating NIL deals.

No postsecondary educational institution shall provide ~~or directly or indirectly arrange for a third party to provide~~ compensation to a prospective or current student-athlete or enter into, ~~or directly or indirectly arrange for a third party to enter into,~~ a publicity rights agreement with a prospective or current student-athlete. Nothing in this Act shall require a postsecondary educational institution to directly or indirectly identify, create, facilitate, arrange, negotiate, or otherwise enable opportunities for a prospective or current student-athlete to enter into a publicity rights agreement with a third party (Illinois HB 1175, 2022, p. 11).

Thus, the amendment allows institutions to aid their college athletes in acquiring NIL deals. This amendment follows a trend in other state's NIL amendments, which removes or edits certain provisions to be less restricting for institutions and college athletes. This trend could indicate that State legislators noticed how other states were altering their NIL laws to improve their institutions competitiveness and did not want their institutions to be left behind.

Enacted on November 21st, 2022, New York was the latest state in this sample to pass an NIL law. This act included many common provisions found in previous NIL laws passed around the country. Some of these common provisions include protecting college athletes' rights to be compensated for their NIL and acquire representation for their NIL activities, banning state institutions from paying college athletes for their NIL and listing similar restrictions related to NIL deals and contracts. One difference in New York's law compared to other state's laws is the specificity in the provisions concerning NIL programming, discussed under content. These provisions detail seven different ideas for an assistance program, and although New York only requires institutions to use at least one of them, it is clear that improving college athlete's skills and situation was a priority for them.

Florida HB 7-B, enacted on February 16, 2023, amended the state's NIL law by removing the majority of the act, leaving just 5 provisions. The only areas of the act that were not deleted, was a section explaining that athlete agents must have a valid license to represent college athletes for NIL related activities, and the provision requiring institutions to conduct two workshops for their college athletes. Among what was deleted was a very restrictive provision for institutions in Florida's original law:

A postsecondary educational institution, an entity whose purpose includes supporting or benefitting the institution or its athletic programs, or an officer, director, or employee of such institution or entity may not compensate or cause compensation to be directed to a current or prospective intercollegiate athlete for her or his name, image, or likeness (Florida SB 646, 2023, p. 4).

As shown above, Florida's original law forbade institutions—and anyone working or connected to state institutions—from compensating or causing compensation to be directed to current or

potential college athletes. Michael Alford, FSU athletic director, admitted that this provision and others made it difficult for his program to stay competitive recruiting against programs in other states (WFSU Public Media, 2022). The amendment removed this idea entirely, helping to solve Alford's stated problem and allowing institutions in Florida to better compete in the NIL environment with other institutions who already could discover and aid their athletes in finding NIL deals.

The Florida and Illinois amendments are two examples of a strategy used by most legislatures in their NIL amendments passed in late 2021, 2022, and early 2023: Delete text to make NIL laws less restrictive on the institutions and college athletes. This strategy made it easier for those institutions to compete with others for top recruits who were interested in monetizing their NIL, as there were less laws and provisions to adhere to. Significantly, Florida is not the only state to delete a majority of its law after it was already active. Alabama, on February 3, 2022, repealed its NIL law completely (Schultz, 2022), while South Carolina suspended its NIL law, making it inactive for the 2022-2023 fiscal year, which ended on July 1, 2023 (Wittry, 2022).

However, more recent NIL related amendments which passed in 2023, were enacted with a different strategy to bolster competitive leverage for state institutions. Instead of deleting small or massive amounts of text, states like Oklahoma, Texas, and New York added provisions and sections to make it easier for their institutions to compete with others. For example, Oklahoma enacted its NIL amendment, SB 840 on May 25, 2023. This amendment edited or added provisions allowing institutions in the state to be more competitive in recruiting and NIL opportunities. Some notable changes involved the definition of "professional representation." Oklahoma's NIL law originally required athlete agents to either be registered under the state's

athlete agent act or be an attorney allowed to practice law in Oklahoma. However, Oklahoma's amendment took away such requirements:

“Professional representation” includes but is not limited to representation by any individual or entity engaged by a student athlete for the purpose of securing compensation or benefits for a student athlete's name, image, or likeness activities. Any individual or entity engaged for such purpose shall be a fiduciary for the represented student athlete (Oklahoma SB 840, 2023, p. 2).

The definition now allows athlete representatives to be any individual or entity that the college athlete engages with to acquire compensation for their NIL. The only new requirement, which is in a later provision, involves a required professional representation agreement between the athlete and the individual. A new provision in Oklahoma's NIL law was added to allow more freedom to institutions in navigating the NIL environment. Specifically, such provisions work to prevent monitorization and enforcement from outside sport governing bodies. For example, Oklahoma SB 840 reads:

A collegiate athletic association shall not prohibit a postsecondary institution from identifying, facilitating, enabling, or supporting opportunities for a student athlete to earn compensation for the student athlete's name, image, or likeness activities (Oklahoma SB 840, 2023, p. 4).

This provision allowed institutions to aid their college athletes in finding and acquiring NIL deals without concern of punishment from their athletic association. Similarly, the amendment also added that college athletic associations cannot bar institutions from allowing third-party entities, such as collectives, to act on the institution's behalf to find and facilitate NIL activities

for athletes. This and the previous provision provide institutions with tools to support their athletes in finding NIL deals without risking being punished by their collegiate athletic association.

Oklahoma, along with a handful of other states, has also added or passed provisions preventing college athletic associations from interfering with or monitoring NIL-related activities. For example, Oklahoma's amendment notes that such associations cannot open an investigation, entertain a complaint, or any other adverse action against institutions that are engaged in activity protected in Oklahoma's NIL act. The next provision continues this idea:

A collegiate athletic association shall not and shall not authorize its member institutions to... Penalize a postsecondary institution from participation in intercollegiate athletics because an individual or entity whose purpose includes supporting or benefitting the postsecondary institution or its athletic programs violates the collegiate athletic association's rules or regulations with regard to student athlete name, image, or likeness activities (Oklahoma SB 840, 2023, p. 8-9).

This new provision protects institutions from being punished for actions of those who support the institution and/or the athletic department. Many of these new or edited provisions in Oklahoma's SB 840 not only protect the institution's ability to support college athletes in finding and acquiring compensation for their NIL, but also protect Oklahoma's state institutions from punishments attributed to breaking the college athletic associations' NIL policies. This is a prime example of state legislators' new strategy to enhance their states' competitive standing in athlete recruiting and NIL opportunities. This strategy is also emulated by both Texas and New York's amendments.

Both Texas HB 2804 and New York A71707B are two amendments that were enacted in June 2023, and are the most recently enacted amendments in the sample. Both Texas and New York legislatures continued the trend started by Oklahoma to add or edit provisions to their NIL law to improve their institution's ability to stay competitive in the NIL environment. Some of these adjustments are unique and not seen elsewhere in this sample, and some are similar to provisions recently enacted, especially provisions in Oklahoma's amendment. Nevertheless, many of these modifications encourage institutions to be more active in college athlete's NIL activities, thus allowing the institutions to be more competitive in the NIL environment. One example of a unique provision is in Texas' NIL amendment, with the provision defining compensation:

The following activities do not constitute compensation provided by an institution to which this section applies under Subsection (g)(2)(B)(ii):

(1) an activity authorized under Subsection (m); or

(2) recognition by an institution to which this section applies of a third-party entity that compensates a student athlete for the use of the student athlete's name, image, or likeness, or the entity's donors, including the institution's provision of priority status or other items of de minimis value equivalent to status or items the institution provides to the institution's donors (Texas HB 2804, 2023, p. 3).

(m) An institution to which this section applies or third-party entity acting on the institution's behalf, or employee of the institution or third-party entity:

(1) may identify, create, facilitate, or otherwise assist with opportunities for a currently enrolled student athlete to earn compensation from a third party for the use of the student athlete's name, image, or likeness (Texas HB 2804, 2023, p. 5).

Although institutions still cannot compensate college athletes for their NIL, this provision now defines what activities or gifts are not considered as compensation, which allows institutions in Texas more freedom to assist their athletes in the NIL environment, and thus, maintain competitiveness. The actions in subsection (m) that institutions are now allowed to engage in are comparable to a provision in Oklahoma's amendment that was previously discussed. The similarity between these two provisions is an example of legislators, in this case Texas, attempting to "keep up" with developments in other states' NIL laws so that their institutions can continue being competitive in the NIL environment. The other part of the provision also includes a unique definition of what is not compensation and therefore are actions that institutions can be involved in. Institutions can provide recognition of a third-party that compensated college athletes for their NIL, or the entity's donors. For example, an institution could "retweet" a post by an athlete in which the athlete recognizes a company they are endorsing. This part of the provision allows institutions to provide more recognition to their athletes NIL ventures and is another example of legislators providing institutions with more competitive tools in the NIL environment.

Finally, New York A7170B, enacted on June 30, 2023, is a smaller amendment, that included major changes to the state's NIL law. The provisions in this amendment are similar to those added by Oklahoma and Texas that limited the oversight of college athletic associations over institutions in New York state. Like Oklahoma and Texas, institutions in New York are able to provide assistance in finding or acquiring NIL deals. The amendment also prevents associations from opening investigations or penalizing institutions for actions of those that support the institution or athletic program that violates the collegiate athletic association's NIL

rules and regulations over NIL. These provisions are another example of state legislators reacting to the NIL environment and attempting to preserve their institutions' ability to stay competitive.

Discussion and Implications

State NIL laws exhibited multiple forms of isomorphism, including mimetic institutional isomorphism and competitive isomorphism, since California's state NIL law was passed on September 30, 2019 (California SB 206). Mimetic isomorphism emerged in state NIL laws passed before the NCAA's interim NIL policies on June 30, 2021 (Brutlag Hosick, 2021), by virtue of the environment around the future of NIL being largely unknown. Competitive isomorphism, however, appears in NIL laws or amendments passed after the NCAA's interim NIL policies due to the environment being clearer, and the desire to ensure that institutions are able to stay competitive with competing institution in other states. This discussion reviews how these forms of isomorphism affect athletes, institutions, and the current and future state of NIL rules and legislation.

Understanding the state of athlete compensation in collegiate athletics leading up to state NIL laws is vital as it provides context to the decision making of those in authority over collegiate athletics. Athlete compensation has had a long history in the United States, starting with the first intercollegiate competition in America featuring Harvard and Yale in a crew race in the decade before the Civil War, in which both crews received a free 8-day vacation for participating (Smith, 1993). The NCAA introduced the Sanity Code in 1948 to protect amateurism by limiting the acquisition of grant-in-aid based on athletic ability (Barnes, 2020). The Sanity Code did not survive past 1951, however, which led the NCAA to explore a new strategy to protect amateurism, the "student-athlete" (Byers & Hammer, 1995). The term, "student-athlete," has historically allowed the NCAA to prevent the categorization of college

athletes as employees of their institutions, thus removing the need to compensate college athletes beyond their scholarships (Byers & Hammer, 1995; Harry, 2020).

However, there has been a rise in legal cases during the 21st century concerning amateurism and compensation for college athletes, including *O'Bannon v. National Collegiate Athletic Association*, with the verdict allowing college athletes to receive scholarships up to the full cost of attendance (*O'Bannon v. National Collegiate Athletic Association*, 2015), and *National Collegiate Athletic Association v. Alston*, with the verdict allowing college athletes to receive education-related benefits and compensation (*National Collegiate Athletic Association v. Alston*, 2021). Nine days after the verdict of *National Collegiate Athletic Association v. Alston*, and just one day before the first few of many state NIL laws would become active, the NCAA announced its interim NIL policies on June 30, 2021 (Brutlag Hosick, 2021).

The environment around athlete compensation, especially in relation to NIL, has changed and continues to change dramatically in the 21st century. The transition from college athletes being completely unable to earn any compensation for their NIL to now being able to sign deals worth thousands to millions of dollars cannot be understated. These NIL and compensatory developments have been extensive, and a leading cause for this environmental change is the enactment of states' NIL laws. State NIL laws themselves have gone through environmental change, specifically through multiple forms of isomorphic change, with the first form emerging through mimetic isomorphism.

Mimetic Isomorphism

Mimetic isomorphism emerges through, in this case, NIL laws that model after one another due to the uncertainty of the NIL environment (DiMaggio & Powell, 1983). This can be

seen in NIL laws passed before the NCAA introduced its NIL interim policies on June 30, 2021 (Brutlag Hosick, 2021). Isomorphic change is not unexpected, as isomorphism has been used in topics such as governance and change in sports (Nite & Edwards, 2021). Because college athletes were still prohibited from obtaining compensation for their NIL when these state NIL laws were passed, the environment around the future of NIL was unclear. It was logical for states that wanted to pass a NIL law to model their provisions or entire law after the previously enacted NIL act with the first being California's "Fair Pay to Play Act."

One instance of mimetic isomorphism in these NIL state laws are the definitions that are the building blocks of the laws. Some definitions in these laws are used to indicate who future provisions are referring to. For example, Florida's original NIL law defined "intercollegiate athlete," as a student who also participates in an athletic program (Florida SB 646, 2020). Definitions for institutions and college athletes were the most common in this sample with six acts featuring the former, and five acts featuring the latter. These two terms are also the entities most affected by the NIL state laws, as essentially every provision affects college athletes, institutions, or both. Definitions of college athletes and institutions across NIL state laws being similar to each other allows for those that fall under those definitions to not have to worry about suddenly not being considered a college athlete or an institution after crossing state lines.

The definitions for college athletes in state NIL laws are critical as it details who is affected by a majority of the law's provisions. The experiences of college athletes after the establishment of state NIL laws are vital to document and research, as it is a relatively unknown environment for the athletes to navigate. Athletes were asked in a survey how informed they were of the NIL rules that affected them, with the participants reporting that they were relatively unsure about the state NIL laws that affected them (Gupton, 2022). It is no surprise that college

athletes are unsure what NIL laws affect them, considering that many states have or are in the process of amending their NIL states laws. The analysis of state NIL laws illuminates what rules and regulations are present in many state NIL laws, thus providing athletes and those who support athletes with a resource to better prepare for NIL issues and navigate the NIL environment. In the same survey, college athletes reported that they used their athletic department education programs to manage their NIL (Gupton, 2022). State legislators must have agreed with these results as provisions requiring NIL related programming in NIL state laws have become increasingly more common.

Even with full scholarships, college athletes still struggled financially, with 85-86% of full-scholarship athletes living below the federal poverty line in 2011 (Huma & Staurowsky, 2011). Some college athletes send money back to support their family members, thus removing even more financial stability (Stephenson, 2022). Athletes capable of receiving extra income through NIL deals could benefit those that need income for themselves, as well as those who intend to support their family. California lawmakers seem to agree with this idea, considering one of their reasons for enacting their NIL amendment is to ensure low-income college athletes can provide for themselves and their families (California SB 26, 2021). Another advantage to income received from NIL is that it is liquid, allowing the college student more financial stability and comfortability to pay off any surprise debts (Nocera & Strauss, 2016).

In addition to college athletes, another party affected by certain provisions in state NIL laws are individuals or organizations interested in signing NIL deals with college athletes. The NCAA in their NIL interim policies, prohibit paying athletes to play for a certain institution (NCAA, 2021, 2022), and many NIL state laws adopted that same idea. Illinois' NIL law included a provision preventing any entity to induce or pay an athlete to attend a certain

institution (Illinois SB 2338, 2021). These provisions affecting organizations include collectives, which have grown in popularity since 2021, and have also quickly become a valuable tool and strategy to deliver NIL related compensation to college athletes (Dellenger, 2022). Some NIL amendments passed in 2023 added provisions affecting entities or organizations such as collectives, with Oklahoma's NIL amendment allowing third party entities to act on the institutions behalf to facilitate and aid college athletes in acquiring NIL deals (Oklahoma SB 840, 2023). Entities or organizations interested in NIL deals with college athletes, such as collectives have always been affected by state NIL laws, and recent NIL amendments are granting even more power to these entities in the NIL environment.

Legislators were consistent in protecting college athletes' abilities to acquire NIL representation. Every act analyzed in this thesis contained one such provision. A majority of the provisions were similar in that it would mention athlete agents and attorneys as the two forms of representation. Both athlete agents and attorneys would need to be licensed by the state with athlete agents also having to adhere to the federal "Sports Agent Responsibility and Trust Act" and potentially a state version as well. Oklahoma, when constructing its original NIL act, designed a state athlete agent law at the same time (Oklahoma SB 48, 2021). Provisions regarding representation are important as they not only protect college athletes' right to obtain representation for NIL matters, but they also explain the role of representation in NIL matters. For example, New Jersey's NIL law explains that a college athlete must disclose any NIL deals to an official of their institution, and if the institution has a conflict with that deal, then they must reveal that conflict to the college athlete and their professional representation (New Jersey S971, 2020). Protecting college athletes' right to professional representation is vital, as representation can protect college athletes from agreeing to deceptive and inferior deals.

Politics and the government have always been a part of intercollegiate sport (Chudacoff, 2015; Coakley, 2021; Smith, 2021). Various federal courts have examined and made decisions regarding compensation, with the verdicts of *O'Bannon v. National Collegiate Athletic Association* in 2015 and *National Collegiate Athletic Association v. Alston* in 2021 both addressing athletic scholarships being two recent and notable examples. State governments enacting state NIL laws to allow college athletes to receive NIL related compensation is likely response that the courts would have made eventually, considering that Justice Kavanaugh's concurring opinion in *National Collegiate Athletic Association v. Alston*, asserted NCAA compensation rules lacked legally valid procompetitive justification (*National Collegiate Athletic Association v. Alston*, 2021). Governments have a duty to protect the rights of their citizens, which means sometimes needing to be involved in matters related to sport (Coakley, 2021). State governments, with the enactment of NIL state laws, continued a trend set by other government and political entities, of allowing more flexibility and opportunities for college athletes to obtain compensation while at institution. The NCAA is lobbying the federal government to enact NIL related legislation (Wittry, 2023), which, if successful, would introduce more government involvement in collegiate athletics and the NIL environment. A federal NIL law would essentially render state NIL law's inapplicable and ineffective, as college athletes, institutions, etc., must adhere to the federal law's requirements over a state NIL law. As a result, the content of a federal NIL law would likely establish the rules that those associated with collegiate athletics must comply with in relation to NIL compensation.

Mimetic isomorphism in these state NIL laws sometimes emerged differently. Some state NIL laws would slightly reword provisions to match their definitions or to rewrite the provision in the legislators' own words. A provision in Florida's NIL law which protected college athletes'

ability to be compensated for their NIL is one example, where the provision is mostly the same compared to California's NIL law, but Florida referred to "intercollegiate athlete" and "grant-in-aid," versus California who instead refers to "student" and "scholarships," respectively (Florida SB 646, 2020; California SB 206, 2019). New Jersey, however, inserted multiple provisions that were identical to provisions in NIL state laws passed before theirs including those in California's and Florida's NIL state laws. No matter how or where the provisions were inspired from, states such as Florida, New Jersey, and the other states who enacted NIL laws before the NCAA posted their interim NIL policies on June 30, 2021, all display evidence of mimetic isomorphism considering the similarity of so many provisions and the unknown future of NIL at that time.

Competitive Isomorphism by Subtraction

Competitive isomorphism is the tendency for organizations that operate in like environments to compete for resources, thus using similar processes (DiMaggio & Powell, 1983). Competitive isomorphism can be recognized in NIL state laws by adjustments, especially in amendments, that ensure institutions in the state are competitive with institutions in other states. California explained that one of the reasons for enacting the amendment was to ensure college athletes and institutions were not at a disadvantage to those in states whose state NIL law was already active (California SB 26, 2021).

It did not take long for states to amend their NIL state laws once the NIL interim policies went into effect on July 1, 2021, with California amending their NIL act on August 31, 2021. Many amendments passed from 2021 through 2023 all exhibited a similar theme in that a range of provisions would be deleted as a result of the amendment. Illinois, amendment only eliminated a few provisions, namely those that specified athlete agents and attorneys for who could be considered representation, and wording associated with preventing institutions from

aiding their college athletes in acquiring NIL deals (Illinois HB 1175, 2022). These eliminations were important as it eased restrictions against institutions and college athletes related to acquiring NIL related compensation.

Illinois' NIL amendment was not the only example of legislation loosening requirements related to representation in this sample. Oklahoma's NIL amendment, enacted in 2023, also included modifications to provisions addressing representation. These changes, like Illinois' changes, removed any mention of athlete agent or attorney as who can be considered professional representation, and instead stated that any individual or entity can be considered as representation of a college athlete as long as their purpose is securing compensation in return for the college athlete's NIL (Oklahoma SB 840, 2023). These changes are notable as the amendment removed all mentions of the state athlete agent act from the NIL law. Considering that both the athlete agent law and NIL law were enacted at the same time (Oklahoma SB 48, 2021), it can be inferred that the NIL law—and the environment surrounding NIL—were central reasons for developing the state athlete agent act. Oklahoma legislators removing mention of athlete agents entirely from their NIL law shows their view of the NIL environment had changed dramatically since 2021.

Some amendments were extensive in what was deleted, with Florida's amendment deleting the vast majority of its original law. Florida legislators left only a few provisions, namely those related to NIL programming intact (Florida HB 7-B, 2023). Other states in this timeframe went even further, with Alabama repealing their NIL law completely on February 3, 2022 (Schultz, 2022), and South Carolina suspending their NIL law for the fiscal year 2022-2023 (Wittry, 2022). Some provisions in state NIL laws can be more restrictive than provisions in other state NIL laws, which was noted by FSU athletic director Michael Alford when discussing

the institution's ability to recruit compared to institutions in other states (WFSU Public Media, 2022). Deleting or removing provisions, or an entire act itself, is one strategy to ensure that institutions in a given state remain competitive with those in a different state. If there is no government restrictions to NIL compensation, then the only restraints to NIL for most institutions come from the NCAA's NIL interim policies, which essentially only prohibits pay-to-play and inducements (NCAA, 2021, 2022).

Competitive Isomorphism by Addition

Up until spring of 2023, deleting provisions or sections of NIL law was the most common activity observed in NIL amendments. This changed, however, starting with Oklahoma's NIL amendment enacted in May 2023. Instead of deleting massive portions of text, the amendment added new provisions that deregulated college athletes' NIL opportunities. This new strategy of adding provisions that created more flexibility caused a new phase of competitive isomorphism as multiple states enacted similar provisions to Oklahoma's, including both Texas' and New York's amendments in this sample.

The largest trend in this competitive isomorphism strategy of addition was the inclusion of multiple institution-centric provisions. As seen in Table 2, there were not many provisions that were solely institution-centric. If there was a provision that focused on institutions, it was likely that it also targeted college athletes at the same time, for example a provision in California's NIL law prohibited institutions from disrupting their athletes from acquiring NIL related compensation (California SB 206, 2019, p. 2). However, the NIL amendments of Oklahoma, Texas and New York, all enacted within almost a month of each other, greatly increased the number of institution-centric provisions. Although some states added more provisions in their amendment than other states, there were a few common themes between them. The most

common, and arguably the most important provision added in all three amendments, commented on an institution ability to aid or facilitate NIL deals with college athletes. As long as the institution did not coerce the college athlete into a specific deal, or provide the NIL deal themselves, institutions were now able to help college athletes discover and acquire NIL compensation.

Another provision in these amendments prevents collegiate athletic associations from punishing the institution for actions made by those who support the institution or athletic department, which includes individuals like boosters, who violate the collegiate athletic association's rules or regulations. This provision allows individuals or entities such as boosters or collectives to violate the NCAA's NIL policies without the danger of the institution or athletic department getting punished for those actions. This type of legislation is dangerously close to crossing the line set by the NCAA (NCAA, 2022).

These new provisions would conceivably protect an institution from being punished if a booster or collective induced or paid a college athlete to play for a specific institution, as long as the institution is not aware of the inducements. These provisions are the first attempt to advance past the NCAA's interim NIL policies, thus allowing an even larger competitive advantage compared to those in states whose NIL law does not include these provisions. Given that those involved in collegiate athletics, including college athletes, believe NIL is a factor in recruiting (Biddy, 2023; Carter, 2023, WFSU Public Media, 2022), it is possible that institutions in states with these provisions have a major advantage in recruiting that cannot be restored until either every state implement these provisions, or these provisions are removed entirely. The constant evolution in the NIL environment has made it difficult for athletes to know what is and is not legal (Gupton, 2022), and with regulations surrounding NIL constantly evolving, it is reasonable

to believe the confusion continues as well. NIL is the new development that offers a competitive advantage to those who take advantage of it, and it is possible that those in collegiate athletics will continue to find competitive advantages until there is consistent rules and policies in place governing NIL in intercollegiate athletics. These NIL developments and evolutions should signal to athletic departments that lobbying to state legislators is especially valuable as state governments have been much more willing to address NIL issues and update and adjust their state NIL laws.

Limitations and Future Research

This thesis contained a few limitations, most notably that not every NIL law or amendment was analyzed. As this thesis was reviewing isomorphic change overtime between NIL state laws and amendments, The sample of 13 acts and amendments was reasonable as the sample was sufficiently saturated to reveal the isomorphic and content trends throughout the state NIL acts and amendments. The sample of NIL laws affected my mimetic isomorphism was especially saturated, as a majority of the NIL laws are passed before the NCAA's interim NIL policies were notably similar to one another. Future research could explore and compare NIL laws that exhibit the same form of isomorphism, for example comparing amendments that remove a majority of the previous law's text, and what all is removed. Future research could also explore the similarities and differences between state NIL laws and other sport and non-sport state laws, such as other compensation laws.

Because of the fast pace of developments in the environment around NIL, there are many recent and future NIL laws and amendments not included in this thesis. These new or future NIL legislation allows for multiple avenues of future research related to NIL and NIL state laws. Considering the pace of significant developments, it would be surprising if there were no major

developments included in the provisions of future NIL legislation, which provides for future research opportunities. If the federal government in the future enacts a federal NIL law, analysis of what the federal law features versus what state law features can illustrate the difference in opinion of federal lawmakers versus state lawmakers when it comes to NIL and intercollegiate athletics.

Alternate manners of acquiring information concerning the reason behind specific NIL provisions would be valuable to have a clear picture of the environment around NIL state laws. Lawmakers could be interviewed to determine their opinions of or reasons behind certain provisions or the NIL environment in entirety. More detailed content analysis, especially into the institution-centric provisions in the NIL amendments passed in 2023, could discover how the content themes found in this thesis relate to the development in NIL legislation and regulations.

This thesis also does not delve into detail about certain themes found in state NIL laws, such as NIL programming. Future research could explore the differences between NIL programming between states, as well as what the state mandates and how institutions actually implement those mandates. The NIL programming in New York may be especially illuminating, as New York's law provides 7 examples of programming, which can be measured with what NIL programming that institutions in New York actually implements.

Conclusion

The path of intercollegiate athlete compensation has shifted multiple times. In 1948, athletes were unable to receive any athletic scholarships as a result of the Sanity Code, to multiple court cases ruling that college athletes were allowed to receive scholarships with full cost of attendance and access to education related benefits and aid. For years the NCAA

controlled and used athletes' NIL, with no compensation provided in return, until 2021 when the NCAA released their NIL interim NIL policies, granting college athletes with full control over, and the ability to be compensated for their NIL. It is unlikely that developments in compensation for intercollegiate athletes will conclude anytime soon, with multiple NIL amendments already enacted in 2023, and more sure to come in the future.

NIL state laws and amendments have evolved multiple times, with isomorphism emerging in multiple forms and practices since California's "Fair Pay to Play Act" passed on September 30, 2019. Mimetic isomorphism was the first to emerge, as it was impossible to predict how the NIL environment would behave once allowed, while the NCAA still prohibited college athletes from using their NIL. Competitive isomorphism emerged once the NCAA's interim NIL policy was posted, and experts and legislators realized that NIL affected recruitment. States realized that removing provisions meant there were less restrictions related to NIL and made it easier for institutions to use NIL for recruiting. Some states only removed a couple provisions, like Illinois, while other states removed a majority of their NIL law, like Florida, or repealed their NIL law completely, like Alabama. The way competitive isomorphism appeared changed, however, as states such as Oklahoma, Texas, and New York enacted NIL amendments that added provisions instead of removing provisions. These additions allowed certain actions that were close to crossing the line of the NCAA's NIL policies and protected the institutions from punishment as a result of individuals connected to the institution or athletic department violating the NCAA's NIL policies.

The isomorphism in NIL state laws changed multiple times in the years between 2019 and 2023, and it is possible that it changes again in the future. The question is how far the provisions will progress in regard to what actions are allowed in connection to college athlete's

NIL, and how many states will “keep up” to ensure their institutions stay competitive in NIL opportunities and in recruiting, or, if the federal government or courts will be the next government entity to make the next step to make history in intercollegiate athletics and NIL.

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