To establish a Congressional Advisory Commission on Intercollegiate Athletics to investigate the relationship between institutions of higher education and intercollegiate athletic programs, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

REP. SHALALA introduced the following bill; which was referred to the
House Committee on Education and Labor on December 18, 2019.

A BILL

To establish a Congressional Advisory Commission on Intercollegiate Athletics to investigate the relationship between institutions of higher education and intercollegiate athletic programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Congressional Advisory Commission on Intercollegiate Athletics Act of 2019” or the “CACIA Act of 2019”.
SEC. 2. FINDINGS.

(a) FINDINGS.—Congress finds as follows:


(2) Under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), in fiscal year 2019 approximately $130.4 billion of Federal student support was available for higher education, including over $29 billion in Federal Pell Grants.

(3) Many institutions of higher education voluntarily participate in athletic governance associations.

(4) The largest athletic governance association includes over 1,100 institutions of higher education and more than 430,000 student athletes. This association generates over $1 billion annually and in 2017-2018 it provided $609,000,000 in revenue sharing to Division 1 member institutions of higher education.

(5) In 2018, intercollegiate athletic programs generated approximately $14 billion in revenue from ticket sales, radio and television receipts, alumni contributions, guarantees, royalties, and athletic gov-
ernance associations. This is a 226 percent increase from 2003 when the revenue generated by such institutions was approximately $4 billion.

(6) Most institutions of higher education are tax-exempt organizations whose donors benefit from tax-exempt contributions, including contributions restricted by donors to support intercollegiate athletic programs.

(7) Most intercollegiate athletic programs are heavily subsidized by the institution of higher education that they represent, including support through institutional general funds, mandatory student fees, and athletic capital projects that benefit from tax-exempt bonds.

(8) The highest paid public employee in 41 out of 50 States is a head coach of an intercollegiate athletic program.

(9) Many intercollegiate athletics programs have built lavish locker rooms, practice facilities, competition facilities, and other facilities to entice talented high school student athletes to attend the institution of higher education, even though access to such facilities are restricted from use by non-student athletes.
(10) Serious questions have arisen regarding whether institutions of higher education with highly commercialized intercollegiate athletic programs follow academic standards in admitting student athletes, have adequate faculty oversight to ensure that student athletes are provided a quality education, have encouraged student athletes to consider the long-term consequences of athletic related injuries, provided student athletes access to comprehensive healthcare programs, and ensure that student athletes have the same academic and employment opportunities as non-student athletes attending the institution of higher education.

SEC. 3. CONGRESSIONAL ADVISORY COMMISSION ON INTERCOLLEGIATE ATHLETIC PROGRAMS.

(a) Establishment.— There is established a commission to be known as the “Congressional Advisory Commission on Intercollegiate Athletics” (in this Act referred to as the “Commission”).

(b) Duties.—The duties of the Commission shall be to investigate and review the relationship between institutions of higher education and intercollegiate athletic programs, including a review of—

(1) the policies maintained by athletic governance associations and institutions of higher edu-
cution with respect to ensuring that student athletes

can succeed in academics and athletics;

(2) the impact of policies identified under para-

graph (1) on—

(A) the education of undergraduate stu-
dent athletes, as measured by Federal gradua-
tion rates, compared to undergraduate non-stu-
dent athletes as a whole and disaggregated by
gender, race, sport, transfer rates, and competi-
tion level;

(B) the ability of student athletes to select
academic courses and a major; and

(C) the ability of student athletes to trans-
fer, without a residency requirement, to other
institutions of higher education;

(3) the impact of intercollegiate athletic pro-
grabs on the—

(A) academic mission of institutions of
higher education;

(B) academic integrity of institutions of
higher education, including—

(i) whether academic support pro-
grabs are provided for student athletes by
an athletic department or academic office

at institutions of higher education;
(ii) a comparison between the percentage student athletes and percentage of non-student athletes who are—

(I) taking independent studies classes; or

(II) taking online courses;

(iii) whether institutions of higher education conduct transparent and regular reviews of student athlete academic data; and

(iv) whether tenured faculty conduct oversight of intercollegiate athletic programs with respect to student athlete academic achievement, including whether student athletes has adequate time to prepare for and attend class;

(4) how the academic eligibility standards required by athletic governance associations impact—

(A) athletic scholarships offer to student athletes; and

(B) the renewal of athletic scholarships offer to student athletes;

(5) how institutions of higher education finance intercollegiate athletic programs, disaggregated by competition level, including—
(A) the general measures taken by institutions of higher education to finance intercollegiate athletic programs;

(B) whether student fees are used to finance intercollegiate athletic programs;

(C) whether general funds are used to finance intercollegiate athletic programs;

(D) whether institutions of higher education receives funds and the amount of such funds from—

(i) media contracts held by institutions of higher education with respect to intercollegiate athletic programs;

(ii) licensing agreements held by institutions of higher education with respect to intercollegiate athletic programs; and

(iii) media conferences and other distributions held by an athletic governance association;

(E) the amount of funds expended on coaching salaries and facilities development for intercollegiate athletic programs, disaggregated by gender, race, sport, and competition level; and
(F) policies held by athletic governance association with respect to the amount expended by institutions of higher education and the number of athletic participation opportunities provided by institutions of higher education to comply with—

(i) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), including—

(I) the percent of athletic participation opportunities offered to female and male student athletes in comparison to the enrollment of female and male non-student athletes, respectively, at institutions of higher education; and

(II) the percent of total athletic scholarship funds offered to female and male student athletes, respectively;

(ii) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), including—

(I) the percent of athletic participation opportunities for students with disabilities compared to enrollment of
non-student athletes with disabilities at institutions of higher education; and

(II) the percent of total athletic scholarship funds provided to student athletes with disabilities;

(6) whether athletic governance associations require or encourage institutions of higher education to be transparent in academic and financial matters with respect to intercollegiate athletic programs, including whether such institutions provides access to relevant data for independent research or inclusion in public reporting requirements;

(7) the interaction between athletic governance associations and institutions of higher education, with respect to—

(A) criteria for institutions of higher education to receive financial support from an athletic governance association;

(B) criteria for institutions of higher education to participate in a post-season championship competition;

(C) the policies related to—
(i) whether criteria established under subparagraphs (A) and (B) comply with Federal law;

(ii) award, renewal, or withdrawal of athletic scholarship funds, including—

(I) multi-year financial aid awards;

(II) whether cost of attendance is considered during the renewal or withdrawal of athletic scholarship;

(III) whether awards of athletic scholarships are equally available to male and female student athletes; and

(IV) whether gender neutral methods are used to determine eligibility for an athletic scholarship;

(iii) the award, renewal, and withdrawal of summer school financial assistance for student athletes, including—

(I) whether awards of summer school financial assistance are equally available to male and female student athletes; and
(II) whether gender neutral methods are used to determine eligibility for such assistance;

(iv) employment, earnings and benefits, and personal representation by marketing agents of student athletes, including commercial compensation for the use of the name, image, or likeness of student athletes by themselves or institutions of higher education attended by such athlete;

(8) policies held by institutions of higher education with respect to recruitment and retention of student athletes, including—

(A) policies governing the recruitment process of student athletes, including policies with respect to letters of intent;

(B) policies governing individuals allowed to recruit prospective student athletes;

(C) policies governing the transfer and drop out rate of student athletes;

(D) the impact of the policies identified in subparagraphs (A) through (C) on prospective student athletes;
(E) the contractual terms of an athletic scholarship with respect to the ability of student athletes to—

(i) transfer to different institutions of higher education; and

(ii) participate in professional sports;

(9) oversight and guidance provided by athletic governance associations on—

(A) academic support programs only available to student athletes, including tutoring and academic advising services; and

(B) policies on the professional and ethical conduct of coaches and staff associated with student athletes;

(10) policies held by intercollegiate athletic programs that encourage diverse leadership of such programs;

(11) policies on the health and safety of student athletes, including the impact of—

(A) medical policies implemented by athletic governance associations, disaggregated by gender, race, sport, and competition level;

(B) policies implemented by an intercollegiate athletic program to minimize the risk of
injury to student athletes, disaggregated by gender, race, sport and competition level; and

(C) the provision of adequate athletic injury insurance and medical services, including the extent to which such insurance coverage is provided beyond the exhaustion of athletic eligibility, disaggregated by competition level;

(12) whether athletic governance associations maintain a mechanism for addressing complaints that ensures due process protections for an individual accused and is equally enforced with respect to—

(A) all student athletes, institutional employees, and representatives;

(B) student athletes accused of violence, sexual abuse, sexual harassment, or criminal conduct;

(C) the professional and ethical conduct of coaches, athletic trainers, and other athletic department student development personnel; and

(D) student athletes or faculty and staff of institutions of higher education involved in academic fraud;
the impact of the Internal Revenue Code of 1986 on revenue generated by intercollegiate athletic programs;

the impact of Federal and State judicial decisions that affect—

(A) compensation for student athletes; or

(B) the right of student athletes to receive workplace protections; and

any other issue the Commission considers relevant to understanding the relationship between intercollegiate athletic programs and institutions of higher education.

e) Membership.—

(1) Number and Appointment.—The Commission shall be composed of 17 members appointed as follows:

(A) Four members appointed by the Speaker of the House of Representatives, including—

(i) one Member of the House of Representatives; and

(ii) three individuals who are not Members of Congress.
(B) Four members appointed by the Minority Leader of the House of Representatives, including—
(i) one Member of the House of Representatives; and
(ii) three individuals who are not Members of Congress.
(C) Four members appointed by the Majority Leader of the Senate, including—
(i) one Member of the Senate; and
(ii) three individuals who are not Members of Congress.
(D) Four members appointed by the Minority Leader of the Senate, including—
(i) one Member of the Senate; and
(ii) three individuals who are not Members of Congress.
(E) One member appointed by the Secretary of Education.

(2) QUALIFICATIONS.—
(A) IN GENERAL.—Individuals appointed under paragraph (1) shall be specially qualified to serve on the Commission by virtue of their education or experience on issues related to
intercollegiate athletic programs, higher education, and civil rights.

(B) COORDINATION TO ENSURE DIVERSITY.—Individuals appointed under paragraph (1) shall be coordinated to ensure diversity.

(3) CHAIR OF THE COMMISSION.—The Chair of the Commission shall be elected by a majority of the members of the Commission.

(4) CONTINUATION OF MEMBERSHIP.—If a member was appointed to the Commission as a Member of Congress, that member may continue to serve on the Commission.

(5) TERMS.—Each member shall be appointed for the term of the Commission.

(6) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(7) BASIC PAY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—In carrying out the duties of the Commission, each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, and
other necessary expenses in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(d) MEETINGS.—Beginning not later than 90 days after the enactment of this Act, the Commission shall meet at the call of the Chair or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION.—

(1) DIRECTOR.—The Commission shall have a Director, appointed by the Chair of the Commission.

(2) STAFF.—The Commission may appoint and fix the pay of personnel as necessary to carry out the duties of this Act.

(3) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedules pay rates, except that no rate of pay fixed under this paragraph may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.
(4) **Staff of Federal Agencies.**—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) **Use of Mails.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) **Administrative Support.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(h) **Powers of the Commission.**—

(1) **Hearings and Sessions.**—The Commission may, for the purpose of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(2) **Subpoena Power.**—

(A) **In General.**—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of
any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FAILURE TO OBEY A SUBPOENA.—If a person refuses to obey a subpoena issued under subparagraph (A), the Commission may apply to a United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(C) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.
(D) SERVICE OF PROCESS.—All process of any court to which application is made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(3) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(4) CONTRACT AUTHORITY.—

(A) IN GENERAL.—To the extent or in the amounts provided in advance in appropriation Acts, the Commission may enter into contracts with and compensate government and private entities or persons for the purpose of conducting research or surveys necessary for the Commission to carry out its duties under this Act.

(B) EXCEPTION FOR ATHLETIC GOVERNANCE ASSOCIATIONS.—Athletic governance associations shall not be eligible for compensation under subparagraph (A).

(i) REPORT.—Not later than two years after the date on which the Committee meets for the first time, the Commission shall submit a report to Congress, including—
(1) a summary of the review conducted and findings derived under subsection (b); and

(2) recommendations based on the review and analysis conducted under this section.

(j) TERMINATION.—The Commission shall terminate on the date that is 30 days after the report required under subsection (i) is submitted to Congress.

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2021 to 2022 $2,000,000 to carry out this Act.

(l) DEFINITIONS.—In this section:

(1) ATHLETIC GOVERNANCE ASSOCIATION.—The term “athletic governance association” means a governing body that sets rules for intercollegiate athletic programs and manages topics for members of the association, including rules of the sport, championships, health and safety, matters impacting women in athletics, and other related issues.

(2) COMPETITION LEVEL.—The term “competition level” means the skill level of the student athletes participating within a national competitive division, subdivision, and conference affiliation.

(3) INSTITUTIONS OF HIGHER EDUCATION.—The term “institutions of higher education” means an institutions that—
(A) meets the definition in section 102 (a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(1)); and

(B) has student athletes who are eligible for Federal student support.

(4) INTERCOLLEGIATE ATHLETIC PROGRAM.—

The term “intercollegiate athletic program” means a collegiate level sport that requires student athletes to meet eligibility requirements established by an athletic governance association for the promotion and regulation of such sport.