THE DRAKE GROUP
Advancing Positive Legislative Change In College Athletics

June 17, 2026

The Honorable Ted Cruz
Chair

The Honorable Maria Cantwell
Ranking Member

U.S. Senate Committee on Commerce, Science, & Transportation
Washington, DC 20510

Dear Senators Cruz and Cantwell:

The Drake Group thanks you for your leadership and engagement in confronting the difficult issues challenging the educational and financial integrity of intercollegiate athletics. We appreciate the significant effort and thoughtfulness that have gone into developing the bipartisan *Protect College Sports Act* (PCSA) and recognize your sincere effort to strengthen protections for college athletes and assist institutions of higher education in dealing with the severe breakdown of NCAA governance.

The Drake Group is a nonpartisan 501(c)(4) nonprofit advocacy organization working to better educate the U.S. Congress and higher education policymakers about critical issues in college athletics. We are an academic think tank consisting of experts in sports management, sports economics, and sports law. We disseminate fact-based research and recommendations that enable policymakers to advance legislation to make college sports a better place by ensuring academic and ethical integrity in the conduct of college athletics programs. Toward that end, we have completed our analysis of the bill to date and produced initial recommendations for revisions that we hope will improve the bill.

Attached please find our report. We respectfully ask that you consider these comments.

Grateful for your service,

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The Drake Group's Analysis of the Protect College Sports Act of 2026 ("PCSA") June 17, 2026

PURPOSE

To identify provisions of the bill for amendment and to address provisions that are missing or should be deleted, we have also examined and commented on implementation mechanisms.

GENERALLY

The Drake Group applauds the bipartisan effort by Senators Cruz and Cantwell to address critical concerns in college athletics through the PCSA. In particular, we support the bill's approach to immediately address issues that, if not resolved, will cause significant harm to college athletes and institutions of higher education. We also support relegating the 'stickiest wickets' to the focused efforts of a Commission consisting of experts, athletics administrators, and athletes, as long as these deliberations include athlete stakeholders at the highest risk who have been previously excluded from the decision-making table: women's sports (93 percent of all higher education institutions with athletic programs are not in compliance with Title IX) and Olympic sports. Women's and Olympic sports have been acutely harmed by the athletic program budget squeeze created by the financially unsustainable cash transaction culture established by *House v. NCAA* settlement ("*House*"), which favors men's football and basketball, and by historically inadequate restraints on expenditures.

Of importance to our analysis is that *House* is still on appeal in the 9th Circuit and could be upheld or reversed (in whole or in part), remanded to the District Court for additional proceedings (with potentially different results), and/or further appealed to the U.S. Supreme Court.

Lastly, we recognize that the PCSA is necessarily broad in scope because the athletics governance system is complex, with numerous interrelated parts, and is severely broken. Given the number of bills proposed to date in both the *House* and the Senate, this Bill is the most promising, and its sponsors should be commended for this comprehensive effort.

Our most significant recommendations to consider are:

1. **Resolution of the issues of athlete compensation, employee status, and collective bargaining should not be delayed by the Commission's 5-year clock.** We propose consideration of a 380-day Commission reporting mandate with a three-year sunset provision[1] for the PCSA's athlete compensation provisions. A "fast-track" process should be established to consider recommendations on laws regarding the compensation, employee status, and collective bargaining rights of college athletes, as well as other highly controversial issues in the bill. Commission processes should also guarantee the participation of all athlete stakeholders. Compensation policies that continue to favor revenue-sport athletes who have benefited from newly permitted financial and other benefits from *House* are already having a negative impact on female and Olympic sport athletes. To date, all athlete stakeholders have taken a back seat to powerful Power Four conference power brokers.

2. **Neither the NCAA nor the Power Four should be rewarded for their failed governance.** At the very least, the NCAA Board of Governors should be replaced and the Power Four's control of Division I and its own enforcement system (a built-in conflict of interest) should be addressed.

3. **The provisions of the *House v. NCAA* settlement should not be codified into federal law**. It appears improper and violates the non-delegation doctrine to codify the *House* into law while the settlement is pending appeal in the 9th Circuit. If Congress wishes to permit, mandate, or cap athlete compensation as specified in the Settlement, it should define allowable compensation for college athletes directly under its own authority rather than transfer that authority to non-governmental entities, thereby granting them antitrust and state law protection.

[1] in a somewhat similar situation, Congress granted higher education institutions a narrow antitrust exemption for a limited time period in 1994 Congress enacted a "temporary" exemption from the antitrust laws for higher education institutions (the "Section 568 Exemption"). Pub. L. No. 103-382, 108 Stat, 3518, 4060 (1994). The exemption was reauthorized by Congress several times and expired in 2022. Under the exemption, schools were permitted in specified ways to collaborate on financial aid practices, including on the formula used to determine a family's ability to pay for college and to use a common application for aid. The exemption followed a settlement of an antitrust lawsuit against MIT and the Ivy League alleging that the schools' collaboration restrained price competition on financial aid. Of note, is that in 2001 before the exemption was extended, Congress directed the GAO to study the effects of the exemption. It was again renewed when the GAO found in 2008 that the exemption had not resulted in harm to competition. See: https://www.govinfo.gov/content/pkg/GAOREPORTS-GAO-06-963/pdf/GAOREPORTS-GAO-06

4. **Congress should not codify the rules of the NCAA or any specific governance organization.** Congress should set program standards applicable to all college athletic programs and all national collegiate athletics governance organizations, rather than putting out fires created by individual organizations.

We look forward to Congressional markup and to an end product that merits the endorsement of all stakeholders.

ANALYSIS OF PROVISIONS

We address only those provisions we believe should be amended:

SEC. 100. DEFINITIONS

1. P. 12—**Sec. 100 (16) NAME, IMAGE, AND LIKENESS AGREEMENT** should be amended as follows to specify that such agreements must involve the student actively endorsing or providing a service:

   (16) NAME, IMAGE, AND LIKENESS AGREEMENT.—The term ''name, image, and likeness agreement'' means a contract or similar agreement between a student athlete (or group of student athletes) and a conference, institution, intercollegiate athletic association, associated entity, collective, or third party regarding the commercial use of the name, image, and likeness rights of the student athlete (or group of student athletes) **to promote or endorse events, goods, or services provided to the general public for profit.**

   Rationale: Neither college nor professional sports athletes have publicity rights as participants in athletics contests owned by a third party, as contrasted with their right to be compensated for separate and distinct services to promote or endorse events, goods, or services provided to the general public for profit.

2. p. 12—**SEC. 100 (17) NAME, IMAGE, AND LIKENESS AGREEMENT RIGHTS** should be amended as follows to specify that such agreements must involve the student actively endorsing or providing a service other than playing:

   (17) NAME, IMAGE, AND LIKENESS RIGHTS.—The term "name, image, and likeness rights'' means the ability of a student athlete to market and profit from the commercial use of his or her name, image, or likeness **to promote or endorse events, goods, or services provided to the general public for profit.**

   Neither college nor professional sports athletes have publicity rights as participants in athletics contests owned by a third party, as contrasted with their right to be

compensated for separate and distinct services to promote or endorse events, goods, or services provided to the general public for profit.

3. p. 13—**SEC. 100 (19) REVENUE SHARE CAP** should be amended as follows or in a similar manner to remove any reference to *House* with Congress establishing a definition using its own authority:

   (19) REVENUE SHARE CAP.—The term "revenue share cap'' means the ~~**Benefits Pool Limit set forth in the Injunctive Relief Settlement Agreement approved by the court in "In Re College Athlete NIL Legislation", No. 20–cv–03919 (N.D. Cal. June 6, 2025), or as modified pursuant to the amendment provision specified in paragraph 55 of that settlement.**~~ **maximum total annual amount of compensation and NIL payments the institution or its associated entities may provide to athletes participating in its intercollegiate athletic program,**

   Rationale: It is improper and violates the non-delegation doctrine to codify *House*, especially given its pending appeal in the 9th Circuit. If Congress wishes to permit, mandate, or cap athlete compensation and NIL payments from the institution, it should do so directly under its own authority rather than transfer that authority to non-governmental entities through an antitrust exemption.

2. P. 14—**SEC. 101—NAME, IMAGE, AND LIKENESS PROTECTIONS** would codify the first-ever national right to earn name, image, and likeness compensation with clear definition standards applicable to both institutional and associated third-party NIL agreements. We recommend the following amendments:

   a. P. 17 Sec. 101 (1)(a)(3). Add new **"(C) STUDENT NIL PAYMENT BY INSTITUTION. Institutions, intercollegiate athletic associations, conferences, collectives, or associated entities that provide NIL employment to current students must conform to 34 CFR §106.54."**

      Rationale: To clarify that a student employment standard must be used for rates of pay for any work performed for the institution or its athletics program and, that this applies to all entities controlled by institutions. If not, schools may simply do a "workaround" by having the Conference, for example, do the NIL agreement with the athlete.

   b. P. 17 Sec. 101 (1)(a)(3). Add new **"(D) PASSIVE USE. Institutions, intercollegiate athletic associations, conferences, collectives, or associated entities shall not compensate their students or employees for the passive use of their names,**

images, or likenesses as participants in extracurricular activities, such as event programs, media guides, scoreboard displays, institutional website posting of participation statistics, biographical information, images displayed in conjunction with information on the institution's website related to reports of athletics-related events, ticket purchase information, or donation opportunities."

Rationale: The described passive use definition appears consistent with the copyright fair use doctrine and does not imply athlete endorsement. Athletes clearly still would get paid for services performed. Sec. 101 (a) (1) (A) permits Institutions to compensate currently enrolled athletes for NIL, time, and services, excluding participation in practices and competitions, related to promoting or endorsing institutional goods or services sold to the public—such as ticket sales, institution-branded retail products, advertising, or promotion of the institution or its athletics program. Compensation would also include appearances at community or alumni events on behalf of the institution, with rates and terms comparable to those paid to any athlete or non-athlete student providing similar services, conditioned on such NIL compensation opportunities being equally accessible to both male and female athletes.

c. P. 17 Sec. 1(a)(3). Add new **"(E) "BROADCAST APPEARANCES. Institutions, intercollegiate athletic associations, conferences, collectives, or associated entities shall not compensate students or employees for use of their names, images, or likenesses as participants in extracurricular activities that are telecast, broadcast, radiocast, streamed over the internet, or otherwise disseminated to the public on a live, delayed, paid, or free basis or offered to the public on a paid attendance basis. If the institution or the carriers of the event wish to use athletes to promote, advertise, or endorse the event separate from its carriage, an NIL agreement is required."**

Rationale: This position is supported by copyright law and court cases as well as by House. Athletes participating in athletic events do not have a publicity right (NIL) claim to those event revenues, whether telecast or not. College athletics events are the property right of the institution (17 U.S.C. §102(a)(6) (2011); Baltimore Orioles, Inc., et al. v. Major League Baseball Players Association, 805 F.2d 663 (7th Cir. 1986)) Institutions are free to commercially exploit this right by televising their own home regular-season games or to package those rights with other members of their conference or national governance association to generate and share additional revenues for regular or postseason championship play, sell tickets, and/or sponsorships. These revenues belong to the institution or property rights owner, not

to the participants in the contest. It is also the institutions' right to use revenues from the commercial sale of telecast rights, tickets, sponsorships, and other sources to provide financial benefits to athletes (i.e., scholarships for education expenses, academic awards, legitimate NIL payments to their athletes, summer training expenses, etc.), support the operation of sports programs, or for other educational or training purposes, consistent with their 501(c)(3) non-profit purpose.

3. P. 21—**SEC. 102. MODIFICATIONS TO THE SPORT AGENT RESPONSIBILITY AND TRUST ACT (SPARTA)** creates stronger protections for college athletes against unscrupulous agents, including a private right of action against agents. We recommend the following additional amendments to SPARTA:

   p. 23**—**Sec. 102 (a) amend SPARTA Sec. 5A. PRIVATE RIGHT OF ACTION
   p. 24—(c) ATTORNEY'S FEES AND COSTS.—In a civil action brought under subsection (a) ~~**in which the defendant is not an institution (as defined in section 100 of the Protect College Sports Act of 2026)**~~, the court may, in its discretion, award reasonable attorney's fees and litigation costs to the prevailing party; ***provided, however*****, that attorney's fees and litigation costs may be awarded against a student only if the student's claim was frivolous, unreasonable, or without foundation.**

   Rationale: SPARTA defines an "athlete agent" as an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to sign an agency contract. Institutions should not be protected if they operate in this manner or are implicated or complicit in an action brought by an athlete against the agent. The asymmetrical standard derives from the U.S. Supreme Court's decision in Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978). Such a standard supports the Congressional purpose of providing private rights of action under the PCSA and eliminates the chilling effect on exercising that right, given the unequal economic power of the parties.

4. P. 30—SEC. 104. DISCLOSURES AND ESTABLISHMENT OF NAME, IMAGE, AND LIKENESS AGREEMENT DATABASE would enable the public, athletes, and agents to access a searchable database that would allow them to estimate the fair market value of third-party name, image, and likeness agreements and the number, average value, and total value of institutional NIL agreements with college athletes, disaggregated by sports program. In addition, institutions would be required to submit to their national athletics governance associations a report on revenues and expenditures for each sports program, the average number of hours college athletes spend in athletics-related

activities, and the academic outcomes and majors of athletes, also disaggregated by sports program. The following amendment should be considered:

p. 33**—**Sec. 104. (b) DISCLOSURES BY ASSOCIATIONS AND DATABASE

p. 33—(2) CONTENT OF DATABASE. An intercollegiate athletic association shall include the data reported by institutions pursuant to subsection (a)(1) in the database described in paragraph (1) **and in subsection (a)(2) (A), (B), and (C) by institution and sport program**.

Rationale: Subsection (a)(1) would make transparent relevant information on third-party and institutional NIL agreements. Subsection (a)(2) would make transparent institutional reports on revenue and student outcomes. The correlation between educational outcomes and participation in revenue sports is of greater importance to the public and the higher education community.

5. P. 34—SEC. 105 ACADEMIC PROTECTIONS would codify the college athlete's right to choose an academic major and coursework, to prioritize class attendance over athletic activities, and to be free from undue pressure that inhibits participation in student activities or outside employment. Additionally, 105(c)(1) prohibits institutions from revoking, reducing, or conditioning grant-in-aid scholarships during the period of the award. We recommend the following amendments:

   p. 35**—**Sec. 105(c) SCHOLARSHIP PROTECTIONS— (1) IN GENERAL.—Except as provided in paragraph (2), an institution that awards a grant-in-aid to a student athlete **shall do so for a period that does not end before the athlete's graduation or the athlete's completion of athletics eligibility, whichever comes first, and** may not revoke, reduce, or condition the grant-in-aid of the student athlete—…

   Rationale: As written, this section guarantees the scholarship only for the duration of the current one-year award period offered to athletes. Regarding renewal, one-year scholarship agreements are tantamount to employee-at-will contracts, which, in practice, means that the coach or the athletic department may base renewal on any reason. This invites non-renewal based on poor performance or on finding a prospective athlete who is more highly skilled. Institutions recruit athletes with the promise of graduation and should be held to that promise, without the threat of removing the financial support that was offered to induce the athlete to commit to attending the institution. Given the bill's proposed restriction of one allowable transfer before a one-year ineligibility penalty is imposed, the promise of continued funding to graduation appears both reasonable and a commensurate balance of interests. If the athlete

decides to transfer, they lose their right to scholarship renewal and the multiyear scholarship commitment.

p. 38**—**Sec.105 (c)(2) (D)(ii) grants a funded degree completion opportunity for 10 years following departure.

Missing: While this is a commendable program to address the needs of scholarship athletes who drop out before graduation, a significant cause of dropout is the institutional practice of athlete special admissions—waiving academic admission standards for athletes without any obligation to remediate underprepared athletes. At the very least, we recommend that Sec. 118 (d)(1) be amended to include "the admission of academically underprepared college athletes and the institution's obligations to remediate" on the Commission's agenda.

6. P. 39—SEC. 106 MEDICAL COVERAGE REQUIREMENTS would codify the college athlete's right to medical coverage for sports injuries and conditions during the years of play and for 5 years post-eligibility. It also establishes a $60 million fund for Division I athletes. We recommend the following amendment:

   p. 39**—**Sec. 106. (a) (a) IN GENERAL.—**All higher education institutions offering athletics programs with operating budgets of $20 million or more** ~~Each Division I institution, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, or an intercollegiate athletic association or conference comprised of Division I member institutions~~ shall provide or cause to be provided—
   Rationale: Congress should not codify or create the rules of selected athletic associations. Rather, Congress should set athletic program standards that must be met by all institutions that meet the criteria established by the standard. Note: Almost every Division I institution meets this criterion. Most agree that all schools, not just Division I institutions, should provide the medical coverage specified in this Section. This should be an issue addressed by the Commission and is the subject of an amendment offered under Sec. 116 (d). We also recommend that this issue be addressed by the Commission.

7. P. 43—**SEC. 107. HEALTH, WELLNESS, AND SAFETY STANDARDS** establishes standards that protect college athletes from sport-related serious injury, conditions, and death, and a $60 million trust fund to help cover the cost of CTE and other long-term conditions caused by playing college sports. We recommend the following amendment:

   p. 44**—**Sec. 107. (b) MEASURES TO PREVENT, ASSESS, AND REMEDIATE ABUSE OR MISCONDUCT. **~~Each institution, conference, and intercollegiate athletic association shall take reasonable~~ actions to prevent, assess, and remediate—National collegiate athletic associations shall establish codes of conduct applicable to**

athletes, coaches, and staff of all member institutions that are at least as stringent as the U.S. Center for Safe Sport SafeSport Code. Institutions shall be responsible for educating athletes, coaches, and staff and enforcing the code.

Rationale: There is no need to reinvent the wheel after Congress recently addressed the same issue of sport-specific athlete abuse policies in non-school sports by establishing the U.S. Center for Safe Sport. We recommend adding a SafeSport Code for school sports. This would not be costly. Higher education institutions already operate personnel offices and are required to have a Title IX compliance officer, providing the investigation and adjudication mechanisms that are not present in non-school sports. Also, the PCSA establishes a new Ombuds Office and a Health and Safety Officer position that will be able to provide greater health, medical, mental health, and safety oversight, in addition to SafeSport Code enforcement, to address and prevent professional misconduct.

8. P. 54**—SEC. 111. STUDENT ATHLETE REPRESENTATION ON INTERCOLLEGIATE ATHLETIC ASSOCIATION GOVERNING BOARDS** requires at least 1/3 of the membership and voting power of any board of directors or other governing board, or committees with authority to establish and enforce rules or bylaws, be comprised of current student-athletes or former student-athletes who have graduated from their institution within the preceding 10-year period. We also recommend an immediate revision of the NCAA governance structure, starting with an independent board of directors and a commitment to one-member/one-vote governance. This would impose an important governance correction.

   NOTE: We propose this because the current state of college athletics is the result of failed NCAA governance, stemming from a lack of checks on the commercial ambitions of the Power Four by the organization as a whole over the past 28 years. During this period, the NCAA ceded control of the football national championship, the Board of Governors, and the Division I Board of Directors, and granted autonomous rulemaking rights to the Power Four, while significantly minimizing support for Division II and III. This was accomplished through the often-used threat of the Football Bowl Subdivision, under the leadership of the Power Four, to leave the NCAA, thereby pulling the financial rug out from under the association. “A price should be paid” in return for Congress giving the NCAA and the Power Four the keys to the kingdom (antitrust exemption and preemption of state laws) and validating the current pay-for-play system of *House*. Without a change of leadership, Congress is “throwing good money after bad.”

   Requiring increased college athlete membership on boards and committees alone will not diminish the Power Four's control. Only by replacing the NCAA Board of Governors and reinstating one-member/one-vote governance will Congress send the message to

the new Governors that they, not Congress, are responsible for reclaiming democratic membership control and ensuring a course correction. We recommend the following substitute amendment:

p. 54—**SEC. 111. INTERCOLLEGIATE ATHLETIC ASSOCIATION GOVERNANCE.**

(a) IN GENERAL.—National collegiate athletic associations that have multiple competition divisions with independent rulemaking authority shall be governed by an independent board of directors.

(1) INDEPENDENT DIRECTORS. Independent directors are individuals who have not held a position as a president, member of a governing board, faculty member, athletic director, and/or other paid employee of a higher education institution or non-profit collegiate athletic association or conference within the past five years, nor college athletes within the past 10 years prior to or at any time during their term or position as a director.

(2) COMPOSITION AND TERMS.[2] No more than 12 members serving staggered terms, and at least 60 percent of whom have served as presidents or chancellors at institutions reflecting membership in each of the organization's competitive divisions, at least 50 percent have participated in intercollegiate athletes, and at least 40% of whom are recognized for their financial or legal acumen and revenue generation success, and all of whom have had experience directing the affairs of a multi-billion dollar organization. Directors shall be limited to serving three consecutive terms.

(3) NOMINATIONS AND ELECTION. Nominees shall be proposed by any member conference, institution, or athlete advisory council, and vetted by a committee appointed by the chairs of the boards of directors of each competitive division or subdivision, which shall determine an election slate of two candidates for every vacancy. Directors shall be elected by the membership using ranked choice voting.[3]

(4) DUTIES. Directors are responsible for exercising governance duties in the educational and health interests of athletes in all competitive divisions, including but not limited to:

[2] 12 members is optimum board size for $1-3 billion dollar organizations, staggered 3-year terms with a limit of three consecutive terms balances continuity and institutional knowledge. Term limits are recommended for non-profit organizations.

[3] Ranked choice voting and limited terms represent best practice for non-profit membership organizations.

(A) ensuring that the controlling authority of member institutions and conferences is exercised through the following legislative processes:

(i) a one-member, one-vote process at an annual or special convention with no weighted voting, requiring a two-thirds majority for new or amended constitutional provisions applicable to all member institutions in all competitive divisions.

(ii) a one-member, one-vote process with no weighted voting and a majority vote requirement for adopting bylaws and other rules by competitive division or subdivision.

(iii) Constitutional provisions, bylaws, or other rules shall be consistent with federal laws that specify higher education institution obligations under the Protect College Sports Act of 2026, Title 20 of the U.S. Code, including those detailed as Title IV Higher Education Act "Program Participation Agreements.

(iv) composition and structure of division or subdivision boards of directors, which shall consist of no less than 40 percent current presidents or chancellors, 30 percent athletics managers, and 30 percent current or former college athletes who have graduated within the last 10 years, and shall operate on the principles of a one-member-one-vote and no weighted membership.

(v) all-division and division or subdivision committees with the authority to establish and enforce rules or bylaws shall be comprised of no less than 30 percent current or former student athletes who have graduated from their institutions during the preceding 10-year period.

(B) oversee maximizing the revenue yield of national organization assets

(C) determining the distribution of organization revenues consistent with constitutional policies

(D) approve all commercial sponsorships, media rights agreements, and service contracts;

(E) veto the actions and rulemaking of any division or subdivision that are inconsistent with the constitution or not in the best interest of the national organization as a whole.

(F) provide for a common rules enforcement structure for all member institutions consisting of independent investigators and adjudicators, a commitment to due process, the opportunity for athletes to choose arbitration, and a separate

committee on rules waivers consisting of independent medical, academic, and other experts and

(G) maintain an organizational commitment to advancing broad sports programs, the equitable treatment of men's and women's programs, and support of Olympic sports.

9. p. SEC. 112 TRANSFER PROTECTIONS permits athletes to transfer once for any reason with an eligibility penalty and to transfer additional times under special circumstances (discontinuation of their sport, departure of the head coach, sexual assault or harassment, and/or pursuit of a graduate degree). We recommend the following amendment:

   (C) sexual assault or harassment of the student-athlete ~~**by an individual associated with the student's varsity sports team**~~; or

   Rationale: No student should face a barrier to leaving a campus environment or community where he or she was sexually assaulted or harassed by anyone. Research demonstrates that one in five college women will experience sexual assault and their assailants will not necessarily be associated with their sports teams.

10. P.56—SEC. 113. ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE SPORTS. Athletes would be limited to five years of eligibility, measured from their 19th birthday, their actual high school graduation date, their expected high school graduation date based on the first year of high school enrollment, or the date a student enrolls full-time at an institution, with limited exceptions. We recommend the following amendment:

    Sec.113 (b)(2) change (D) to (E) and add **"(D) Athletic injury or medical condition"** to the list of exceptions.
    Rationale: Otherwise, the absence of this exception disincentivizes reporting or seeking treatment for athletic injuries or medical or mental health conditions and incentivizes premature return to play. Consideration should be given to requiring national athletic associations to establish a separate committee on rules waivers, composed of independent medical, academic, and other experts, to ensure consistent rulings and to prohibit waivers based on loss of potential earnings or economic benefits.

11. P. 59—**SEC. 114. PROHIBITED COMPENSATION AND AGREEMENTS** specifies exceptions to prohibited compensation and agreements. We recommend the following amendments:

    (b) PERSONAL ATHLETIC AND EDUCATION BENEFITS PERMITTED.—An intercollegiate athletic association, a conference, an institution, or any representative thereof shall not~~;~~

~~**pursuant to the Injunctive Relief Settlement Agreement approved by the court in "In Re College Athlete NIL Legislation", No. 20–cv–03919 (N.D. Cal. June 6, 2025),**~~ restrict the ability of a student athlete enrolled at an institution to receive compensation from an intercollegiate athletic association, an institution, a conference, or an associated entity, for personal benefits related to education or intercollegiate athletics, provided they are—
Rationale: It is improper (given that it is on appeal) and violates the non-delegation doctrine to codify House. If Congress wishes to prohibit or permit exceptions to prohibitions as specified in this section, it should do so directly under its own authority.

Sec. 114 (d) should be deleted both because 114 (a), (b), and (c) are reasonable expectations of all institutions and because it codifies *House*.

Proposed New Sec. 114 (d) COACH COMPENSATION AND AGREEMENTS as follows**:**
SEC. 114 (d) National collegiate athletic associations shall establish limits on the total number of coaches per sport based on instructional ratios related to the sport's nature, the number of coaches and ancillary personnel who may be involved in off-campus recruiting activities, and the number of sport-specific support personnel other than medical, mental health, and academic support professionals. Multi-year coach employment agreements may not exceed five years, and coach employment agreement exit provisions for no cause may not exceed payment of the contract in full.
Rationale: Capping compensation for college athletes should be accompanied by addressing excessive expenditures on coaching and other support personnel. The issue of capping coaches' salaries should be considered by the Commission.

12. P. 62—**SEC. 115. EXTENSION OF THE REVENUE SHARE CAP.** This provision should cover the establishment of the Revenue Share Cap as well as its extension as an action authorized by Congress rather than codifying *House* that is under appeal in the 9th Circuit. Further, the issues of athlete compensation, employment, and collective bargaining originally proposed for consideration during a five-year period should be fast-tracked because of their importance and the fact that Congress is the only authority that can address and provide the necessary antitrust exemptions and state law preemptions necessary to address the litigation risks being faced by institutions and national athletic associations. We recommend the following amendment:

SEC. 115. <u>ESTABLISHMENT AND</u> EXTENSION OF THE REVENUE SHARE CAP.

(a) IN GENERAL.—**<u>The</u>~~–~~<u>maximum total annual amount of compensation and NIL payments the institution or its associated entities may provide to athletes</u>**

participating in its intercollegiate athletic program shall not exceed $21.3 million in 2026-27, shall increase each year, with specific amounts decided on by Congress based on the recommendations of the Commission on the Future of College Athletics related to college athlete compensation, employment, and collective bargaining.

~~**Upon expiration or termination of the Injunctive Relief Settlement Agreement approved by the court in "In Re College Athlete NIL Legislation", No. 20–cv–03919 (N.D. Cal. June 6, 2025), the revenue share cap shall continue to apply with respect to section 114(a), including any adjustments specified in subsection (b).**~~

(b) ADJUSTMENT OF REVENUE SHARE CAP.—~~**Upon expiration of the Injunctive Relief Settlement Agreement approved by the court in "In Re College Athlete NIL Legislation", No. 20–cv–03919 (N.D. Cal. June 6, 2025),**~~ The annual revenue share cap shall be adjusted annually for inflation by the percent increase, if any, in the Consumer Price Index for All-Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which applicable data is available.

(c) SUNSET AND REAUTHORIZATION. The provisions outlined in Section 114 (a) and (b) shall automatically sunset and expire three years from the date of adoption of this Act. As a first order of business, the Commission on the Future of College Athletics shall convene within 30 days of the adoption of this Act to study and develop recommendations to extend or replace the revenue pool cap. Its report and recommendations on athlete compensation, employee status, and collective bargaining shall be submitted to Congress within 380 days of the adoption of this Act. If no legislative action or agreed-upon extension is reached by the sunset date, the limitation on institutional compensation and NIL payments to college athletes shall be null and void.

Rationale: Recommendations on athlete compensation, employment, and collective bargaining are "the elephants in the middle of the room" that should not be unnecessarily delayed.

13. P. 63—**SEC. 116. COMMISSION ON THE FUTURE OF COLLEGE ATHLETICS** would establish a Congressional Commission for the purpose of providing recommendations on the future of college athletics. The following proposed amendments would fast-track action on the issues of athlete compensation, employment, and collective bargaining and add other significant issues that should be addressed in the PCSA.

    a. P. 66—Amend **SEC. 116 (d) as follows:**

(d) DUTIES.—The duties of the Commission are as follows:

(1) To study and develop recommendations regarding—

(A) an alternative structure for providing compensation for student athletes, including consideration of the positive and negative implications associated with a collective bargaining structure and employment status for student athletes, **and whether to eliminate, extend, or change the revenue share pool;**

i. This provision shall be a first order of business, with the Commission's report, recommendations, and a draft of a joint resolution of approval submitted within 380 days of the adoption of this Act.

(B) protecting and preserving athletic opportunities**, compensation and benefits** for student athletes, particularly in non-revenue generating, women's and Olympic sports intercollegiate athletic programs,

....

(D) ~~whether to eliminate, extend, or change the Pool Benefits Limit set forth in the Injunctive Relief Settlement Agreement as approved or amended by the court in "In Re College Athlete NIL Legislation", No. 20–cv–9 03919 (N.D. Cal. June 6, 2025);~~ and renumber.

Rationale: It is improper to reference the House obligation that is pending appeal in the 9th Circuit. If Congress wishes to permit, mandate, or cap athlete compensation and NIL payments from the institution, it should do so directly under its own authority.

b. Additional specific issues to be addressed by the commission to be inserted and appropriately numbered prior to current (J) on p. 68

- **whether institutions have an obligation to remediate academically underprepared college athletes who are admitted with a waiver of normal academic admissions standards**
- **whether the salaries of coaches or other athletics personnel should be limited, and if so, whether they should benchmarked against higher education salaries and benefits**
- **whether national intercollegiate athletics program standards would be better enforced as Higher Education Act Title IV Program Participation Agreements.**
- **Whether funding of the $60 million medical trust fund or other medical benefits should be established as a priority regarding the allocation of revenues from the sale of media rights under Title II of the Bill, and whether such benefits should be provided for all athletes in all competitive divisions.**

....

14. p. 69—**SEC. 117. RECRUITMENT AND TAMPERING**

SEC. 117. (1) and (2) should be amended as follows:

SEC. 117. RECRUITMENT AND TAMPERING

An intercollegiate athletic association may enforce provisions on recruitment and tampering of student athletes or prospective student athletes before and during their eligibility for intercollegiate athletic competition that—

(1) prohibit an institution, an employee of an institution, a conference, an employee of a conference, or an associated entity from contacting a student athlete who is enrolled at or committed to another institution for the purpose of recruiting them to transfer to or enroll at an institution **prior to or during the competitive season ~~of except for during the 5 consecutive weeks starting 7 days after the last intercollegiate athletic competition in an academic year~~** in the intercollegiate sport in which the student athlete competes and in which student athletes from the same intercollegiate athletic association competed;

(2) prohibit an athlete agent from contacting an institution, employee of an institution, or institution associated on behalf of a student athlete who is enrolled at or committed to another institution for the purpose of facilitating the transfer or enrollment of the student athlete at the contacted institution **prior to or during the competitive season ~~except for during the 5 consecutive weeks starting days after the last intercollegiate athletic competition in an academic year~~** in the intercollegiate sport in which the student athlete competes and in which student athletes from the same intercollegiate athletic association competed;

(3) prohibit an institution, an employee of an institution, a conference, an employee of a conference, an associated entity, or an athlete agent from recruiting or contacting a student athlete or prospective student athlete who has not affirmatively opted in to receive such recruitment or contact **which may not occur before or during the competitive season, including post-season play**; or

(4) prohibit an institution, an employee of an institution, a volunteer of an institution, an associated entity, an athlete agent, a conference, an employee of a conference, or a volunteer of a conference from inducing a student athlete to enroll at an institution or transfer to an institution by offering compensation to a student athlete in violation of paragraphs (1), (2), or (3).

(5) <u>any athlete permitted to transfer under the loss of eligibility exceptions specified in Sec. 112 (3) {A) or (C), may affirmatively opt in to receive recruitment or contact at any time, including prior to or during the athlete's competitive season.</u>
Rationale: To do otherwise

- *does not allow a fall sport student athlete to transfer and start classes in the spring semester at their new institution—taking courses at the previous institution that may not be accepted at the new institution has a financial consequence related to paying for additional coursework at the new institution.*
- *does not allow a spring sport athlete sufficient time to transfer and be admitted and attend summer school sessions prior to the beginning of their fall semester at their new institution;*
- *as a practical matter;*
    - *Scenario A (most prevalent)— athletes may declare their intent to transfer and open the doors to being recruited by others immediately after completion of their competitive season; at that point current rules mandate that the athlete's scholarship must be honored through the end of the current term during which the athlete declared (athletes wish to transfer immediately and start classes at the new institution in order to eliminate the risk of current institution coursework not being accepted and to start off-season training their new team)*
    - *Scenario B—The athlete who enters the transport and does not transfer, may return to the institution, at which point scholarship renewal is at the discretion of the institution*
- *Any athlete departing for Sec. 112 A or C reasons (sport discontinuation or sexual assault or harassment) should be permitted to immediately declare*
- *If the athlete is being restricted to one transfer without penalty, the governing body should not unduly restrict that athlete's transfer decision.*

15. P. 71—**SEC. 119 PRIVATE RIGHT OF ACTION**

p. 76—**SEC. 119 (c)(2) ATTORNEY'S FEES AND COSTS** should be amended as follows:

(2) ATTORNEY'S FEES AND COSTS.—In a civil action brought under subsection (a), the court may, in its discretion, award reasonable attorney's fees and litigation costs to the prevailing party; **provided, however, attorney's fees and litigation costs may be awarded against a student only if the student's claim was frivolous, unreasonable or without foundation.**