THE DRAKE GROUP
Advancing Positive Legislative Change In College Athletics

Major Concerns/Proposed Amendments to
"June 18 S. 4668-Cruz_Cantwell_Schmitt-Substitute-as-modified"
Protect College Sports Act of 2026 ("PCSA")
Revised as of June 29, 2026

We address only those provisions we believe should be amended.

TITLE I. PROTECTIONS OF STUDENT-ATHLETES AND FAIR COMPETITION

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) **for a valid business purpose.**

   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 for a valid business purpose. Institutions and agents are writing contracts with college athletes for "licensing rights" not specific to the promotion or endorsement of an event, product, or advertising/promotional services or appearances, attempting to disguise "revenue-sharing" or "pay for play" under a different name and using "fair market value" to justify exorbitant sums instead of positioning such payments as "third-party contractor" student employment at rates compliant with Title IX 106.54 employment provision.

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 **for a valid business purpose.**

Neither college nor professional sports athletes have publicity rights as participants in athletic 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 for a valid business purpose. Institutions and agents are writing contracts with college athletes for broad "licensing rights" not specific to the promotion or endorsement of an event, product, or advertising/promotional services or appearances, attempting to disguise "revenue-sharing" or "pay for play" under a different name and using "fair market value" to justify exorbitant sums instead of positioning such payments as "third-party contractor" student employment at rates compliant with Title IX 106.54 employment provision.

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---including setting the amount and providing the respective definitions.

SEC. 101—NAME, IMAGE, AND LIKENESS PROTECTIONS

4. p. 16 SEC. 101 (1)(a)(3). Add new **"(C) STUDENT NIL PAYMENT BY INSTITUTION. Institutions and any entity or individual acting on their behalf, 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 and pay the athlete directly. If there is a concern about this reference to 106.54, the language of that requirement should be used.

5. 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. Our concern is that institutions are entering into contracts with college athletes for broad "licensing rights" not specific to the promotion or endorsement of an event, product, billboards, or advertising/promotional service or appearance. They are using the explanation of need for the broad use of the athletes' NILs on the institution's website, programs, scoreboards, media guides, etc. as justification for exorbitant payments to the athletes. Importantly, we note that this provision does not negate legitimate NIL employment by the institution, conferences, etc. Athletes clearly must and 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.

6. 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 athletic competitions 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 the House case. 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. Institutions are not saying "pay for play" because it is prohibited, but they are justifying exorbitant amounts of money to athletes on their perception of the contribution of revenue-producing sport athletes to the generation of broadcast revenues. Under the House Settlement, they know they cannot pay for Broadcast NIL (it is prohibited). Further, the term "revenue-share" seeks to change the current use of "revenue share"—meaning prior to this new usage all revenues went into the institution's "united fund" to support all curricular and extracurricular programs in compliance with Title IX. Senator Cruz and others have clearly stated their position is to undermine/revise Title IX to apply only to financial assistance that is tethered to educational purpose and not to cash payments under the label "revenue share." They intend that the revenue share monies not be subject to equitable distribution of benefits under Title IX.

SEC. 102. MODIFICATIONS TO THE SPORT AGENT RESPONSIBILITY AND TRUST ACT

7. p. 23 SEC. 102 (a) amend SPARTA Sec. 5A. PRIVATE RIGHT OF ACTION
   p. 23—(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 reasonable 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 for reasonable fees and litigation cost-splitting 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. Institutions cannot be trusted NOT to seek student payment of costs as a deterrent to present future student lawsuits. Neither should we trust the courts to do so without this type of explicit instruction as part of the law, in this post-Chevron climate.

SEC. 104. DISCLOSURES AND ESTABLISHMENT OF NAME, IMAGE, AND LIKENESS AGREEMENT DATABASE

8. p. 29—SEC 104 (a) (1) DISCLOSURE OF DATA ON NAME, IMAGE, AND LIKENESS AGREEMENTS **AND OTHER COMPENSATION INCLUDED WITHIN THE REVENUE SHARE CAP**
   Rationale: Annual reports should include all compensation under the revenue cap which includes NIL compensation and revenue-sharing.

9. p. 30—SEC. 104.(a)(1)(A) With respect to each name, image, and likeness agreement disclosed to the institution by a student athlete, **disaggregated by intercollegiate sport** as required by ~~section~~ 101(b)—
   Rationale: Transparency should not be an issue given the requirement that data be anonymized. The requirement for disaggregation is consistent with Section 104 (a)(1)(B), may provide valuable information regarding the type and amount of outside money flowing to student athletes, and may answer concerns related to mechanisms used to evade the revenue cap.

10. p. 30—SEC. 104 (a) (1) (B) With respect to each name, image, and likeness agreement **and other compensation included within the revenue share cap** entered into between the institution and a student athlete, disaggregated by intercollegiate sport ~~**program**~~-
    (i) number of agreements **and payments ~~the institution entered into~~**

(ii) the average value of the agreements **and payments;**
(iii) the total value of the agreements **and payments.**
Rationale: Transparency should not be an issue given the requirement that data be anonymized. A complete picture of revenue-cap compensation must include revenue-sharing that is neither NIL compensation nor compensation excluded under Section 100.(5)(B).

11. p. 32—SEC. 104.(b) (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.

SEC. 105 ACADEMIC PROTECTIONS

12. 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.

13. p. 37—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 educationally remediate underprepared athletes. At the very least, subsequently we recommend that SEC. 116 (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.

SEC. 106 MEDICAL COVERAGE REQUIREMENTS

14. p. 38—SEC. 106. (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: Most Division I institutions meet the $20 million criterion. Most agree that all schools, not just Division I institutions, should provide the medical coverage specified in this Section. The extension of these obligations should be an issue addressed by the Commission and, subsequently, is the subject of an amendment offered under Sec. 116 (d).

SEC. 107. HEALTH, WELLNESS, AND SAFETY STANDARDS

15. p. 43—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. This is an issue of particular concern to women, with one in five experiencing sexual assault in college.

SEC. 109. COMPARABLE STANDARDS FOR ACCESS TO FACILITIES, SERVICES, AND EVENTS.

16. p. 50—SEC. 109. Intercollegiate athletic associations and conferences shall maintain comparable standards for medical care, lodging, meals, rest, transportation, **publicity and promotion,** and, if applicable, athletic facilities for championship events or tournaments, across similarly situated men's and women's athletic programs.
Rationale: Publicity and promotion significantly affect the financial success of sports under this Act and the treatment of sports under this Act, as well as athletes' decisions about sports participation.

SEC. 111. STUDENT ATHLETE REPRESENTATION ON INTERCOLLEGIATE ATHLETIC ASSOCIATION GOVERNING BOARDS

17. p. 54—**SUBSTITUTE 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.[1] 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.[2]

(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:

(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

[1] 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.

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

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.

Rationale: *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.*[3]

[3] 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

SEC. 112 TRANSFER PROTECTIONS

18. p. 55—SEC. 112.(3)(C) sexual assault or harassment of the student-athlete ~~**associated with the student-athlete's institution**~~; or

    Rationale: No student should face a barrier to remaining in a campus environment or community where they were 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.

SEC. 113. ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE SPORTS.

19. p. 58—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.

SEC. 114. PROHIBITED COMPENSATION AND AGREEMENTS

20. p. 60 SEC. 114 (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.

21. p. 61—**Current SEC. 114 (d) should be deleted and replaced with the following** both because 114 (a), (b), and (c) are reasonable expectations of all institutions and because

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."

the current (d) codifies *House*. The following suggested new (d) addresses the national public outcry on Division I coach salaries and excessive proliferation of coaching, recruiting and administrative positions while athlete compensation is being capped.

(d) REASONABLE RESTRAINTS ON EMPLOYMENT OF ATHLETICS PERSONNEL. 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 as demonstration of a good faith effort to begin to address exorbitant expenditures on coaches and proliferation of sport-specfic administrative staffs. The issue of capping coaches' salaries is more complex should be considered by the Commission.

SEC. 115. EXTENSION OF THE REVENUE SHARE CAP

22. p. 62**—**Rename SEC. 115. **ESTABLISHMENT AND** EXTENSION OF THE REVENUE SHARE CAP.

    Rationale: 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.

23. p.62— SEC. 115. (a) IN GENERAL.—**The—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 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).**~~

24. p. 62—SEC.115 (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.

25. p. 62— **NEW (c) SUNSET AND REAUTHORIZATION. The provisions outlined in SEC. 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. These issues, 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.

SEC. 116. COMMISSION ON THE FUTURE OF COLLEGE ATHLETICS

26. 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.

27. P. 68—Sec. 116 (d) (1) Add the following 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.**

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SEC. 117. RECRUITMENT AND TAMPERING

28. p. 70— SEC. 117. add NEW (5

(5) 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.

Rationale: Any athlete departing for Sec. 112. A or C reasons (sport discontinuation or sexual assault or harassment) should be permitted to immediately access contact provisions.

SEC. 118 LIMITATION ON LIABILITY

29. p. 72—SEC. 118 (a) (9) and (10)
    (9) section 110, **and**
    (10) section 125
    Rationale: Section 125, which sets limits, needs antitrust protection just like other limits in the bill.

30. p. 73 SEC. 118 (b)(1) impose a fine against an institution, an employee, or volunteer of an institution, conference, an employee of a conference, or an associated entity for a violation of sections 110, 112, 113, 114, ~~or~~ 115 **or 125.**
    Rationale: Section 125 should be enforced like the other rules or bylaws in the bill.

31. P. 72 SEC. 118 (b)(2) restrict an institution, employee, or volunteer of an institution, conference, an employee of a conference, from participation in intercollegiate athletic competition, including championships or tournaments, for a violation of section 110, 112, 113, 114, ~~or~~ 115 **or 125.**
    Rationale: Section 125 should be enforced like the other rules or bylaws in the bill.

32. p. 74 SEC. 118 (c) REQUIREMENTS FOR AN INTERCOLLEGIATE ATHLETIC ASSOCIATION
    An intercollegiate athletic association shall not be entitled to the antitrust exemptions set forth in subsections (a) and (b) unless the intercollegiate athletic association has established rules, bylaws, or other regulations implementing paragraphs (1) through ~~(9)~~ **(10)** of subsection (a) and paragraphs (1) through (4) of subsection (b).
    Rationale: Section 125 should have rules, bylaws or regulations relating to the limits set forth therein.

SEC. 119 PRIVATE RIGHT OF ACTION

33. p. 76—SEC. 119 (a) VIOLATIONS.
    (11) Section 114(b) **and**
    (12) Section 125
    Rationale: Section 125 should be enforced like the other rules or bylaws in the bill.

34. p. 76—SEC. 119. (c) RELIEF.—In a civil action brought under subsection (a), in which the plaintiff prevails, the court may award the plaintiff-
    (1) actual damages; and
    (2) any other relief, including equitable relief or declaratory relief, that the court determines appropriate (including attorney's fees, if otherwise allowed under applicable law), **provided, however, reasonable 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: Institutions cannot be trusted NOT to seek student payment of costs as a deterrent to future student lawsuits. Neither should we trust the courts to do so without this type of explicit instruction as part of the law in this post-Chevron climate. The prevailing-party fees and costs provisions of Sections 102(c) [relative to agents] and 119 need to be amended to apply the asymmetrical standard from the US Supreme Court's decision in Christiansburg Garment Co. v. EEOC, 434 U.S. 412 (1978).

35 p. 77— SEC. 119(d)(1)(B) TREATMENT OF CLAIM.—If a claim for a violation of this title arises, a student athlete has the option to arbitrate the dispute. ~~**if the intercollegiate athletic association, conference, or institution agrees to the arbitration.**~~

Rationale: Arbitration is a cheaper and faster way to resolve disputes. If the institution is required to approve, it can force the athlete into expensive litigation, creating a major chilling effect on efforts to reach a resolution. Women, who are overrepresented among non-revenue sport athletes, are less likely than revenue sport athletes to have the money to sue.

SEC. 121 RELATIONSHIP TO EXISTING LAW

36. p. 83— SEC. 121 (c) RULE OF CONSTRUCTION. ADD NEW **(3) TITLE IX. Nothing in this title or the amendments made by the title shall be construed to override, modify, or amend the applicability of Title IX.**

    Rationale: Would ensure protection of Title IX and that it is not explicitly or implicitly preempted by provisions of this bill.

SEC. 125 PROTECTION OF WOMEN'S SPORTS AND OLYMPIC SPORTS

37. p. 84—SEC. 125 (a) GENERAL. An intercollegiate athletic association or conference comprised of Division I institutions, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, shall not reduce the minimum intercollegiate

athletic competitions, minimum **number of** participants **that comprise** ~~**on**~~ a varsity sports team **in order to be considered a countable sport under Division minimum sports sponsorship requirements**, ~~**or**~~ **and** the number of varsity sports teams, including the number of men's and women's varsity sports teams or Olympic varsity sports teams, that an institution must sponsor for membership within-

(1) Division I of the National Collegiate Athletic Association, or a successor bylaw; or

(2) The Football Bowl Subdivision, as defined by bylaw 20.9.9 of the National Collegiate Athletic Association, or successor bylaw.

Rationale: This more precisely specifies the requirement.

38. p. 85—SEC. 125. (b)(1) and (2) LARGE-SIZED INSTITUTIONS.

(1) IN GENERAL. Except as provided in paragraph (2), an intercollegiate athletic association or conference comprised of institutions shall provide that each institution shall, consistent with applicable intercollegiate athletic association rules, offer and maintain at least **1)** as many total **full** grant-in-aid **equivalencies** ~~**opportunities,**~~ **2) as much other payments then permitted in addition to grants-in-aid,** and 3) **as many** roster spots for non-revenue generating intercollegiate sports programs including women's and Olympic intercollegiate sports programs, during each academic year as the member institution provided during the academic year 2024-2025.

Rationale: Title IX applies to all financial assistance, not only grants-in-aid. Financial assistance is money, not the number of individuals who may receive a grant-in-aid. The 2024-25 grant-in-aid limit for each sport was set by rule as the maximum number of full-cost-of-education scholarship equivalencies, with most sports able to award partial and full grants. Grants-in-aid did not include other important forms of financial assistance, such as summer school aid, special assistance funds, academic awards, and summer training expenses that women and Olympic athletes received in 2024-25. Thus, there is no reason to limit the 2024-25 financial aid category to grants-in-aid only. Doing so would establish a floor of financial support lower than what women's sports and Olympic sports actually received in 2024-25. Further, we note that this bill establishes a roster spots floor (total number of participants) that the GAO 2024 research report showed did not meet the Title IX sex equity standard of "proportional to undergraduate enrollment" at 93% of all higher education institutions with athletics programs.

(2) WAIVER.

(A) IN GENERAL. An institution may be granted a waiver from compliance with paragraph (1) for not more than one academic year at a time by an intercollegiate athletic association if the institution provides evidence that-

(i) Annual athletics revenues have declined not less than 15 percent based on the average of the preceding three academic years, and total ~~**grant-in-aid**~~ **financial assistance** accounts for not less than 45 percent of the total expenses of the athletic department of the institution.

Rationale: Title IX applies to all financial assistance, not just grants-in-aid. Financial assistance is money, not the number of grant-in-aid scholarships, which may be partial or full and may not include other important forms of financial assistance, such as summer school aid, special assistance funds, academic awards, and summer training expenses. There is no reason to narrow the 2024-25 category here.

(ii) Compliance with paragraph (1) would materially impair the ability of the institution to comply with **other** federal law**s**; or

Rationale: Compliance with Title IX, accommodations for individuals with disabilities, or other federal laws would take precedence.

(iii) There are extraordinary circumstances relating to financial hardship, including from natural disaster, act of war, or another catastrophe, that are beyond the control of the institution or materially impair the ability of the institution to comply with paragraph (1).

(B) CONDITION. As a condition of seeking a waiver under subparagraph (A)(i), an institution shall first reduce the total compensation of the coaching staff of its revenue-generating varsity sports programs by the same proportion as any planned reduction in expenditures for its non-revenue-generating intercollegiate sports program during the waiver period.

(3) DEFINITIONS. In this subsection

(A)INSTITUTION. The term "institution" means an institution, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, that, upon the date of enactment of this Act, reports, as required under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g), having generated not less than $80,000,000 in total annual athletics revenues during the preceding academic year.

(B) NON-REVENUE GENERATING INTERCOLLEGIATE SPORTS PROGRAM. The term "non-revenue generating intercollegiate sports program at an institution for which during an academic year, the revenues generated specifically attributable to that sports program are less than the direct and allocated operating expenses of that sports program.

(4) SUNSET. This subsection shall terminate on the date that is 9 years after the date of the enactment of this Act.

39. p. 87—SEC. 125. (c) TRANSITIONAL PROTECTION FOR WOMEN'S AND OLYMPIC SPORTS AT MID-SIZED INSTITUTIONS.

(1) IN GENERAL. Except as provided in paragraph (2), an intercollegiate athletic association or conference comprised of covered mid-sized institutions shall provide that each such institution shall, consistent with applicable intercollegiate athletic association rules, offer and maintain at least **1)** as many total **full** grant-in-aid **equivalencies** ~~**opportunities,**~~ **2) as much other payments then permitted in addition to grants-in-aid,** and 3) **as many** roster spots for non-revenue generating intercollegiate sports programs, including women's and Olympic intercollegiate sports programs, during each academic year as the institution provided during the academic year 2024-25.

Rationale: Title IX applies to all financial assistance, not only grants-in-aid. Financial assistance is money, not the number of individuals who may receive a grant-in-aid. The 2024-25 grant-in-aid limit for each sport was set by rule as the maximum number of full-cost-of-education scholarship equivalencies, with most sports able to award partial and full grants. Grants-in-aid did not include other important forms of financial assistance, such as summer school aid, special assistance funds, academic awards, and summer training expenses that women and Olympic athletes received in 2024-25. Thus, there is no reason to limit the 2024-25 financial aid category to grants-in-aid only. Doing so would establish a floor of financial support lower than what women's sports and Olympic sports actually received in 2024-25. Further, we note that this bill establishes a roster spots floor (total number of participants) that the GAO 2024 research report showed did not meet the Title IX sex equity standard of "proportional to undergraduate enrollment" at 93% of all higher education institutions with athletics programs.

(2)EXEMPTIONS. An institution shall be exempt from the requirement under paragraph (1) for an academic year if

(A) the total annual athletics revenue of the institution, as reported under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g)), declined by not less than 15 percent from the immediately preceding academic year;

(B) the institution petitions the relevant intercollegiate athletic association for, and is granted, an exemption based on a demonstrable financial hardship;

(C) compliance with that paragraph would materially impair the ability of the institution to comply with **other** Federal law**s**; or

Rationale: Compliance with Title IX, accommodations for individuals with disabilities, or other federal laws would take precedence.

(D) There are extraordinary circumstances relating to financial hardship, including from natural disaster, act of war, or another catastrophe, that are beyond the control of

the institution or materially impair the ability of the institution to comply with that paragraph.

(3) COVERED MID-SIZED INSTITUTION DEFINED. In this subsection, the term "covered mid-sized institution" means an institution, as defined by bylaw 20.9 of the National Collegiate Athletic Association, or a successor bylaw, that, upon the date of enactment of this Act, reports, as required under section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g), having generated not less than **~~$50,000,000~~ $25,000,000** but less than $80,000,000 in total annual athletics revenues during the preceding academic year.

Rationale: Institutions generating at least $25 million should be held to this standard.

(4) SUNSET. This subsection shall terminate on the date that is **~~4~~ 9** years after the date of the enactment of this Act.

Rationale: There is no reason to differentiate the term of this requirement for large and mid-sized institutions.

TITLE II. SPORTS BROADCASTING

40. p. 103—SEC. 203.(e)(1) PROTECTION OF WOMEN'S AND OLYMPIC SPORTS

(1) IN GENERAL.—Any member institution that receives collective media rights revenue shall, consistent with applicable intercollegiate athletic association rules, offer and maintain at least 1) as many total **full** grant-in-aid **equivalencies** **~~opportunities and~~**, **2) as much other payments then permitted in addition to grants-in-aid,** and 3) **as many** roster spots **as specified under SEC. 125.(b)(1) and (c)(1)** for non-revenue generating intercollegiate sports programs, including women's and Olympic intercollegiate sports programs, during each academic year as the member institution provided during the 2024-2025 academic year.

Rationale: Title IX applies to all financial assistance, not only grants-in-aid. Financial assistance is money, not the number of individuals who may receive a grant-in-aid. The 2024-25 grant-in-aid limit for each sport was set by rule as the maximum number of full-cost-of-education scholarship equivalencies, with most sports able to award partial and full grants. Grants-in-aid did not include other important forms of financial assistance, such as summer school aid, special assistance funds, academic awards, and summer training expenses that women and Olympic athletes received in 2024-25. Thus, there is no reason to limit the 2024-25 financial aid category to grants-in-aid only. Doing so would establish a floor of financial support lower than what women's sports and Olympic sports actually received in 2024-25. Further, we note that this bill establishes a roster spots floor

(total number of participants) that the GAO 2024 research report showed did not meet the Title IX sex equity standard of "proportional to undergraduate enrollment" at 93% of all higher education institutions with athletics programs.

Noting that with regard to the following paragraph, (A) mandates first obligation being each conference or member institution receiving a minimum distribution TBD and each school receiving more media rights revenues they would have received were it not for pooling their rights and (B) 15% after compliance with (A) provides equal shares to FBS schools

41. p. 103—SEC. 203. (d)(2) (C) REVENUE ALLOCATION FORMULA

(C) distribute the collective media rights revenue that remains after compliance with sub-paragraphs (A) and (B), **50 percent** to member institutions based on the performance of each institution during the academic year with respect to the institution's contribution to the collective media rights revenue **and 50% to member institutions that sponsor sports programs above the minimum specified in SEC. 125.(a).**

Rationale: This amendment would provide an incentive to sponsor women's and non-revenue sports above the minimum level required for Division I membership and rewards institutions who are currently doing so.

The Drake Group is a 501(c)(4) non-profit organization and academic think tank focused on educating Congress about college athletics.

For further information on this report contact: Donna.Lopiano@gmail.com