THE DRAKE GROUP
Advancing Positive Legislative Change In College Athletics

PCSA Briefing Memo #2

FALSE ADVERTISING – Protection of Women's, Olympic, and Non-Revenue Sports

The Protect College Sports Act (S.4668 or "PCSA") bills itself as saving women's and Olympic sports-- it will not. The NCAA and the top four wealthiest Division I conferences (the SEC, Big Ten, Big 12, and ACC, the 68 institutions commonly referred to as the Power Four) spent $31 million lobbying Congress in the past year and at least another $10 million on television advertising over the last several months promoting this popularly phrased but factually misleading legislation, which was adopted by the Senate and is now pending with the House of Representatives. **Why? Because the PCSA is a federal law that will cement their dominance and commercial success by setting a financial arms-race bar so high for men's football and basketball that the 297 other non-Power Four institutions will not be able to afford to realistically compete for national championships.**

As we explained in Briefing Paper #1, the new cash-transaction culture created by the *House v. NCAA* settlement will allow the Power Four schools to spend $20.5 million each per year (escalating by at least 4 percent each year) to recruit football and men's basketball (and a few women's basketball) blue-chippers and the PCSA would add another $22.5 to $27.5 million Retention Fund to be spent to keep them. **To have any access or success in post-season championship events, schools will have to spend millions of dollars they do not have. In the process of trying to outspend each other in football and men's basketball, institutions will squeeze the budgets of all women's and men's non-revenue sports down to their minimum operating costs and continue to ignore Title IX.**

The PCSA provides the NCAA and the Power Four with antitrust exemptions, state law preemptions, and other legal gifts to save them from litigation under the guise of arguments that if Congress doesn't do so, schools will not be able to continue to fund women's and Olympic sports. Not so. The PCSA promise is misleading. In reality, the PCSA will undermine continued support of women's and non-revenue sports, most likely freezing participation numbers at 2024-25 levels and reducing funding for all sports except football and men's basketball (with a small amount going to women's basketball) with most schools continuing to ignore their Title IX gender equity obligations (a 2024 U.S.

Government General Accounting Office report revealed that 93% of all colleges and universities were out of compliance with Title IX's athletic participation requirements). **The PCSA will tie the support of women's sports in particular to this historically sex-discriminatory 2024-25 baseline**.

This dense and complicated 180-page bill and the nuances of its loosely worded or otherwise flawed provisions create loopholes that athletic programs can easily exploit and the U.S. Senate declined to fix, despite the submission of many proposed amendments by members and expert organizations. Following, and the purpose of this briefing, is to identify a partial list of the PCSA's most egregious flaws that fail to provide its widely advertised and touted protections for women's sports, Olympic sports and other men's and women's non-revenue sports and explain **why this will happen.**

1. **No Division I school is required to maintain the current number of sports sponsored at the time the bill is enacted.** The PCSA only requires all Division I schools to offer the minimum number of sports required to be a Division I member and for the NCAA to continue its current policies on how to count those minimums. Most Division I schools offer significantly more than the 14 men's and women's sports membership minimum and the 16-sport minimum for members of the ten Football Bowl Subdivision conferences vying for the College Football Playoff**. These additional sports may be eliminated to pour more money into football and basketball.**

2. **No women's or non-revenue sport that existed in 2024-25 is protected from being discontinued or replaced with a cheaper sport (described as a "flexibility" provision)** as long as the school maintains the minimum number of varsity sports required for Division I membership. For example, a school could eliminate women's soccer, volleyball, and golf and replace it with a stunt team consisting of 65 roster spots.

3. **Over two-thirds of Division I's 365 members do not have to maintain either the total number of participants nor grant-in-aid opportunities offered in 2024-25.** Only the 65-75 Division I institutions that generated more than $80 million per year in athletics-generated revenues are required to maintain "as many total grant-in-aid opportunities and total roster spots" they provided to women's sports and non-revenue generating men's and women's sports as they provided in 2024-25 for the next nine years. The 25-35 schools generating athletics revenues in the $50 to $80 million range are required to do so for only four years.

4. **The 90 -110 schools generating over $50 million in athletics-related revenue each year have a waiver provision providing one year's relief from their roster/grant-in-aid obligations if they demonstrate financial hardship.**

5. **The lack of a definition for "total-grant-in-aid opportunities" invites important questions, "Does this mean the number of female/non-revenue sport athletes that received a grant-in-aid opportunity in any amount-whether one dollar or total educational expense?" or "Does this mean the same total dollar amount of grant-in-aid scholarships awarded in 2024-25?" If the latter, where is the same value accelerator (i.e., 4 percent over previous year) as exists for the NIL revenue pool which is going primarily to men?** Amendment requests to fix this issue were disregarded in the Senate.

6. **The lack of a definition for "total roster spots" also opens significant questions and loopholes. "Does this mean the total number of women's/revenue sports participants that existed at that institution in 2024-25?" or 'Does is this number based on the average roster size offered by Division I institutions in that year?" Roster sizes vary from year-to-year. New NCAA rules based on the *NCAA v. House* settlement increased 2025-26 women's rosters overall by 14.5 percent (see #8 Below). Why isn't 2025-26 the participation baseline?**

7. **There are no protections for maintaining annual operating costs of women's or non-revenue sports in 2024-25 that would prevent schools from diminishing the quality of these programs by reducing head and assistant coach numbers, salary, and employment status (full-time v. part-time), sport operating expenses, and/or recruiting allocations…all keys to great programs for men or women.** And, as previously mentioned, there is nothing to stop institutions from dropping more expensive women's teams like soccer, golf, or tennis, each with a head coach and assistant coach, and replacing those with one large and less expensive team like stunt and acro-tumbling (forms of competitive cheerleading) with a single head coach and assistants.

8. **The Participation Scam.** The PCSA gives NCAA antitrust protection to establish roster limits in all sports that purposely inflate women's sports rosters and eliminate male athletes (including walk-ons) in revenue and non-revenue sports. The *House v. NCAA* settlement eliminated scholarship limits and replaced it with roster limits which the NCAA has adopted as rules. When you add up all the roster spots for all NCAA men's and women's sports, the overall effect is shown in the following chart:

MEN'S ROSTER OPPORTUNITIES	
Total M athletes - new limits	649
Total M athletes - avg team size	729
Percentage DECREASE	11.0%
WOMEN'S ROSTER OPPORTUNITIES	
Total F athletes - new limits	765
Total W athletes - avg team size	674
Percentage INCREASE	13.5%

Generally men's rosters were decreased compared to average Division I team sizes while women's sports were inflated. For example:

ANALYSIS OF NEW 2025-26 NCAA SETTLEMENT ROSTER LIMITS COMPARED TO 2024-25 AVERAGE DIVISION I ROSTER SIZES			
Sport	Settlement Roster Limit	D-I avg 24-25 roster*	Percent Change
Eliminate men's walkons:			
Baseball-M	34	42.2	-19%
Football-FBS-M	105	146.6	-28%
Football-FCS-M	105	124.5	-16%
Soccer-M	28	33.5	-16%
Wrestling-M	30	35.4	-15%
Inflate women's rosters			
Equestrian-W	50	39.8	26%
Rowing-W	68	59.2	15%
Stunt-W	65	33.8	92%
Tumbling-W	55	35.2	56%
Field Hockey-W	27	25.2	7%

This is nothing more than taking opportunities away from men's sports and inflating women's rosters so far above regulation team size that players at the end of the line-up are less likely to get into the game, make the travel squad, or get the coaching attention they deserve. The lower half of the inflated women's team is treated like a junior varsity program compared to the men's sport rosters, now tightened to only necessary players and subs with favorable coach-to-athlete instructional ratios.

9. **The benefits promised to women's and non-revenue sports included under SEC. 125 are not included under SEC. 119. PRIVATE RIGHT OF ACTION, and no other**

provision addresses enforcement of these requirements, raising the question of who will enforce them if athletes aren't given the right to sue.

- Compared with SEC. 109 of the Act which requires comparable standards for medical care, facilities, and treatment for men's and women's conference and NCAA championships, there is an athlete private right of action specified by SEC. 119. This SEC. 119 right to sue is not offered with regard to benefits listed in SEC. 125, which only deals with women's and non-revenue sports.
- No federal agency (i.e., the Federal Trade Commission, the Attorney General, the Department of Education, or any other federal regulator) has been designated to enforce any provision of the Act.
- **The institution's athletic association or conference is directed to "provide that" its member institutions maintain their baseline 2024-25 support obligations with no administrative penalty, annual certification requirement, or transparency.**
- **The NCAA should not be trusted to police any gender equity or non-revenue sport equity requirement unless it is required to establish an independent and fully transparent process to do so.** Notably, in 2011, the NCAA announced a moratorium and then discarded its Division I certification program (which included a Title IX-like peer review gender equity assessment), explaining that it was too costly and labor-intensive. The more likely reason was that certification results were obtained via public disclosure requests, featured in news stories, and used in Title IX litigation. If the NCAA was serious about equity, it would make Title IX compliance a condition of membership but it will not because the NCAA membership, 93 percent of which are not in compliance with Title IX, are unlikely to vote for such a provision.

10. **PCSA SEC. 115, that includes information used to calculate the revenue share cap, requires institutions to conduct "a publicly available, independent third-party audit to verify the accuracy of such information." Congress knew how to require verification of financial inputs, doing so for the compensation cap that will primarily benefit revenue-sport male athletes—but Congress did not do so for the SEC. 125 provisions that protect women's, Olympic, and non-revenue sports.**

11. **The definition of "non-revenue-producing sport" requires the institution to compare attributable revenue against direct and allocated operating expenses. However, the statute supplies no standard, requires no consistency with prior years, mandates no audit, and provides for no NCAA review of the classification.** Therefore, schools can manipulate which sports are in that class to avoid roster or

scholarship obligations. Further, men's basketball and football should be excluded from meeting the standard. There are March Madness qualifying men's basketball teams whose expenses exceed their athletics-related revenues. If multi-year averages are not used, a non-revenue women's program for example may end the year with excess revenues over expenses as the result of a one-off huge event in the football stadium (i.e., Nebraska volleyball). These details are critically important when making law.

12. **Under SEC. 120 WHISTLEBLOWER PROTECTION, if an athlete who alleges retaliation for reporting a violation of the Act loses the case, the institution as the prevailing party can ask the court to approve reasonable attorney's fees and other litigation costs to be paid by the athlete, unlike SEC. 119. PRIVATE RIGHT OF ACTION, where only the prevailing athlete plaintiff can seek such payments. This is important because athletes cannot afford such payments, while institutions always have insurance policies covering their litigation costs. This provision would have a chilling effect on athletes ever reporting a violation.**

13. **There is no designation of new revenues, provided by the PCSA's new Retention Fund or its Title II Broadcast Revenues provisions, to go to women's or non-revenue sports. The co-sponsors of the PCSA rejected amendments to Title II which would have done so.**

14. **SEC. 109 concerns the equal treatment of male and female athletes at conference and NCAA championship events and tournaments, calling for "comparable" standards across similarly situated athletic programs with regard to medical care, lodging, and other benefits and treatment. The standard should be "equal' in the treatment of same sports (men's basketball compared to women's basketball) and "equitable" for all sports without the same sport for members of the opposite sex.** It's not enough to have access to a weight room or training table, a "comparable" standard. The weight room should have the same types of equipment and the training table should offer the same or similar quality of food and menu choices. It's not enough to provide transportation to both teams, the type of transportation (charter, commercial, bus, etc.) should be based on sex neutral standards such as distance-to-be-traveled). With regard to sports with no opposite sex comparator, benefits should be "equitable," sex-neutral, and based on teams of similar size. Words matter when making law.

15. **The advertised $5 million incentive for non-revenue sports is a cover story for freeing up more money for retaining male athletes. Why?**
    - Schools are currently refusing to provide data to the public or the media under open records requests asking for disclosure re: how they spent the new $20.5 million NIL and revenue share payments that were awarded in 2025-26. However, comments of athletic directors to the media indicate that 80 to 90 percent of these new funds have been used to recruit blue-chip male football and basketball athletes, with institutions ignoring their Title IX equity obligations. Schools did not and likely will not give $5 million of the NIL revenue pool to non-revenue sports.
    - The PCSA creates a brand new $22.5 million "Retention Fund." Why would the Power 4 institutions (only 15-20 of which might be able to afford doubling the ante) need this? The fact is they spent almost all of the initial $20.5 million to recruit football and men's basketball blue-chippers and they now need more money to continue pay those athletes in order to retain them until they complete their eligibility or get drafted.
    - The PCSA specifies that if an institution allocates $5 million to non-revenue sports from the $43 million combined NIL revenue pool ($20.5 million escalating annually) and the retention pool ($22.5 million), the retention pool will increase by that $5 million (or by the same proportion of that sum if a smaller amount). In effect, this provision suggests that only 11.6 percent ($5 million) of the now $47.5 million needs to be awarded to women, far short of what Title IX would require.

Flaws Must Be Corrected by Amendment. These are only some of the PCSA's flaws that affect women's, Olympic, and other men's and women's non-revenue sports that should be fixed by committees in the House of Representatives in order for members to vote in support of the bill. Any effort to vote on the bill before doing so should be rejected, and the bill should be opposed if it advances without these corrections.

Immediate Adoption of a Legislative Alternative. A preferred legislative alternative is a bipartisan-sponsored "skinny bill" substitute that pulls all broadly supported provisions of the PCSA (i.e. eligibility, agent reform, tampering, transfers, athlete ombuds office, NIL rights, etc.) that would solve the current administrative chaos for immediate implementation and refers contested issues to the PCSA Commission on the Future of Athletics for continued work, with a 30-month timetable for reporting recommendations to Congress