

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Education and Cultural Affairs
From: Hillary Risler, Esq., Legislative Analyst
Date: 2/1/2022
Subj: [LD 1893, “An Act Regarding the Use of a Student Athlete’s Name, Image, Likeness or Autograph” \(Luchini\)](#)

SUMMARY

This bill prohibits a college or university from adopting or enforcing a policy, requirement, standard or limitation that prohibits or otherwise prevents a student athlete who is participating in an intercollegiate athletic program at the college or university from earning compensation for the use of the student athlete’s name, image or likeness (NIL) when the student athlete is not engaged in official team activities and obtaining professional representation, including representation by an attorney, for contracts or other legal matters relating to the use of the student’s NIL.

It also prohibits a college or university from disqualifying a student athlete who is participating in an intercollegiate athletic program from receiving a scholarship, grant or similar financial assistance awarded by the college or university because the student athlete earns compensation from NIL or obtains professional representation.

It also prohibits a college or university from prescribing a team contract for an intercollegiate athletic program that prohibits the student athlete from using their NIL for a commercial purpose.

It allows the college or university to determine what behavior constitutes official team activities at that college or university.

It permits a student athlete to earn compensation from selling the student athlete’s autograph.

The bill also provides that a student athlete may not be considered an employee based on the student athlete’s participation in the intercollegiate athletic program and may not receive benefits accruing to a college or university employee.

Finally, the bill prohibits a group or organization with authority over intercollegiate athletics from preventing a college or university from participating in intercollegiate athletics in this State as a result of student athletes at the college or university earning compensation for the use of their name, image or likeness.

PUBLIC HEARING TESTIMONY

- **Proponents**
 - The purpose of the bill is to ensure that college athletes in Maine are allowed to earn compensation from the usage of their names, images and likeness (NIL)
 - So far the NCAA has enacted an interim policy as a result of the Supreme Court Ruling – 29 states have enacted legislation
 - The bill would protect the rights of student athletes and protect colleges and universities in Maine from capricious actions by the NCAA if it were to significantly change its rules

- **Opponents:** None

- **Neither For Nor Against:**
 - Preference that any NIL law be enacted at the federal level so it is applied equally in all states and does not create confusion for any student athletes as they compete across the country
 - Technical concerns/suggested amendments (see below)
 - Concern about the effect on high school athletics

ISSUES FOR CONSIDERATION:

- In *NCAA v. Alston*, 141 S. Ct. 2131 (2021) the Supreme Court held unanimously that the NCAA cannot restrict certain education-related benefits schools may offer student-athletes. A summary of that decision is available through NCSL [here](#).
- Drafting considerations raised by UMS are included in their testimony [here](#).

COMMITTEE REQUESTS FOR ADDITIONAL INFORMATION:

- Information about how other states are dealing with this issue, especially around the question of eligibility for financial assistance
 - <https://www.ncsl.org/research/education/student-athlete-compensation.aspx>
- Request for Ken Ralph, Director of Athletics at UMS to be present for the work session

PRELIMINARY FISCAL IMPACT STATEMENT:

- Not yet determined