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[SF 386](#) – College Athletes, Compensation (LSB1290SV)

Staff Contact: Ron Robinson (515.281.6256) [ron.robinson@legis.iowa.gov](mailto:ron.robinson@legis.iowa.gov)

Fiscal Note Version – New

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### **Description**

[Senate File 386](#) relates to the compensation of postsecondary educational institutions' college athletes. The Bill permits an athlete to receive compensation for his/her name, image, or likeness (NIL), or athletic reputation; permits an athlete to work with a registered professional representative; and prohibits a postsecondary institution from limiting/preventing an athlete from earning compensation authorized by statute.

This Bill further provides that the Treasurer of State (TOS) is required to certify persons who provide professional representation to college athletes and requires the TOS to establish by rule a certification process ensuring that persons have significant qualification for, or demonstrated experience providing, representation to college athletes in negotiations or financial or other relationships with athletic associations, conferences, or other groups or organizations with authority over intercollegiate athletics.

The Bill requires a college athlete who enters into a contract providing compensation to the athlete for use of the athlete's NIL rights, or athletics reputation, to disclose the full contract to a designated official of the postsecondary educational institution at which the athlete is enrolled and provides for the nondisclosure of the terms of such a contract.

The Bill further provides that the terms of a team contract of a postsecondary educational institution's athletic program shall not prevent a college athlete from receiving compensation for using the athlete's NIL rights, or athletic reputation for a commercial purpose when the athlete is not engaged in official, mandatory team activities if such activities are recorded in writing and made publicly available.

The Bill is effective on enactment and applies to any agreement or contract, as defined in the Bill, newly entered into, renewed, modified, or extended on or after the earlier of July 1, 2021; the effective date of any substantially similar State or federal law; or the effective date of an athletic association or athletic conference rule regarding NIL compensation for student athletes if a postsecondary educational institution in Iowa is a member of such athletic association or athletic conference.

### **Background**

In January 2021, the National Collegiate Athletic Association (NCAA) [delayed](#) changes to the [current rules](#) regarding an athlete's [NIL](#) after the U.S. Department of Justice expressed concerns about the legislation and how the legislation may raise concerns under the antitrust laws. Current NCAA bylaws impose strict restrictions on the types of financial aid and benefits that student-athletes may receive. Student-athletes receiving a partial athletic scholarship, or no athletic scholarship, are subject to the same pay prohibitions as those who receive full athletic scholarships. Current NCAA rules state that any student-athlete who receives financial aid or benefits other than that permitted by the NCAA shall not be eligible for intercollegiate

athletics. Further, NCAA rules forbid a student-athlete from receiving preferential benefits or treatment because of the athlete's reputation, skill, or potential to be a professional athlete.

Congress is currently in the process of [reviewing](#) the rights of college student-athletes.

California was the first state to enact NIL laws that go into effect in January 2023, allowing time for consideration and alignment of NCAA bylaws and legislation in other states. However, amendment of the legislation has been [proposed](#), including making the effective date earlier. The NCAA had [objections](#) to the California law and the California [Legislative Analyst's Office](#) provided a [bill analysis](#) that indicates the overall impact is unknown. However, the Office estimated the costs could be substantial.

[Florida's laws](#) are the first to take effect, on July 1, 2021. A [bill analysis](#) on the Florida legislation indicated the Bill may have a negative, indeterminant fiscal impact on postsecondary institutions.

The U.S. Supreme Court will hear an appeal from the NCAA and top-level conferences in a [case](#) that challenges the association's restrictions on the compensation that athletes can receive for playing college sports.

### **Assumptions**

- The TOS will need to consult with legal counsel and create an application process for persons who want to apply to be certified to represent college athletes.
- A substantial number of persons will request to be certified to represent college athletes.
- The TOS does not have funding available for legal consultation and the development of a certification process for persons who provide professional representation to college athletes.
- It is not clear how this Bill will affect the rights and responsibilities of Iowa's NCAA-member educational institutions and the institution's student-athletes.

### **Fiscal Impact**

Senate File 386 will have an unknown fiscal impact because data is not available and the Bill does not specify a source of revenue to cover the increased costs and loss of revenue. However, the Bill is anticipated to have the following fiscal impact:

- There will be an unknown increase in costs to postsecondary education institutions to ensure compliance with the new provisions.
- The additional costs to the postsecondary education institutions for using the NIL of student-athletes for promotional and recruitment activities is unknown.
- The loss of revenue for the postsecondary education institutions from using the NIL of student-athletes is unknown.
- The loss of revenue if postsecondary education institutions would lose NCAA and conference eligibility is also unknown.
- The cost in FY 2021 for the TOS to develop an online certification system is approximately \$75,000 and a funding source is not provided in the Bill. The estimated costs include the following:
  - \$25,000 for legal consultation.
  - \$50,000 for the development of an online certification system.

**Sources**

Board of Regents  
Treasurer of State  
Department of Education

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/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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