
Postsecondary Education & Workforce Committee

HB 2352

Brief Description: Creating the college athlete protection act.

Sponsors: Representatives Berg, Waters, Leavitt, Riccelli, Slatter, Goodman, Ormsby, Wylie, Mena, Cortes, Taylor, Farivar, Fosse, Ramel, Street, Reed, Morgan, Ryu, Corry, Bronoske, Nance and Stokesbary.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Creates the Washington College Athlete Protection Act.
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Hearing Date: 2/21/24

Staff: Saranda Ross (786-7068).

Background:

National Collegiate Athletic Association.

The National Collegiate Athletic Association (NCAA) is a voluntary, membership association of 1,098 colleges and universities, athletics conferences, and sports organizations that administer intercollegiate athletics. Although the NCAA promotes intercollegiate athletics and student-athletes, its core function is to create rules and ensure a level playing field in intercollegiate athletic competition. Member representatives serve on committees that propose rules and policies surrounding college sports. Members ultimately decide which rules to adopt, everything from recruiting and compliance to academics and championships, and implement them on campus. The NCAA enforces these rules, which govern, among other things, student-athlete financial aid, employment, and transfer eligibility.

The Intercollegiate Athletic Association, the predecessor of the NCAA, was founded in 1906 to

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

address the violence then plaguing college football. More broadly, the founders sought to set national standards for all collegiate sports. It adopted the NCAA name in 1910. The NCAA constitution states that the organization’s purpose is to “provide student-athletes with the opportunity to participate in sports and compete as a vital, co-curricular part of their educational experience. The member schools and conferences likewise are committed to integrity and sportsmanship in their athletics programs and to institutional control of and responsibility for those programs. The basic purpose of the NCAA is to support and promote healthy and safe intercollegiate athletics, including national championships, as an integral part of the education program and the student-athlete as an integral part of the student body.” To achieve its goals, the NCAA issues and enforces rules that govern aspects such as recruiting, eligibility, academic standards, and the requirements for schools to be classified into Divisions I, II, and III.

Among the three NCAA divisions, Division I schools generally have the biggest student bodies, manage the largest athletics budgets and offer the highest number of athletics scholarships. Division II provides growth opportunities through academic achievement, learning in high-level athletics competition and a focus on service to the community. Division III offers participation in a competitive athletics environment that pushes college athletes to excel on the field and build upon their potential by tackling new challenges across campus.

Name, Image, Likeness.

Name, image, and likeness (NIL) refers to a person's right of publicity that entitles them to prevent the unauthorized use of their NIL by others for commercial benefit. Prior to 2021 rules of the NCAA prohibited student athletes from accepting benefits and earning money for their NIL. Those rules changed in response to *National Collegiate Athletic Association v. Alston* (2021), a United States Supreme Court ruling that those limits violated federal antitrust law. New NCAA rules permit student athletes to engage in NIL activities consistent with the law of the state in which the school is located. Student athletes are still prohibited from receiving improper recruiting inducements and pay-for-play. Colleges and universities are permitted to be a resource for state law questions.

Title IX.

Title IX prohibits sex discrimination in educational institutions that receive federal funding. This applies to all aspects of education and types of sex discrimination including athletics, sexual harassment and assault, harassment based on gender identity, science and math education, and facilities and course offerings. Title IX requires that male and female athletes receive equivalent treatment, benefits, and opportunities at a school or institution that receives federal funds.

Summary of Bill:

Definitions.

College athlete means a student who is enrolled at an institution of higher education and is listed as a member of an intercollegiate athletic team at the institution. A student's participation in recreational, club, or intramural sports at an institution does not meet the definition of college athlete.

Fair market value compensation means an amount of compensation for each college athlete who receives an athletic grant that is determined annually by subtracting the intercollegiate athletic team's aggregate athletic grants from one-half of the intercollegiate athletic team's revenue and dividing that difference by the number of athletic grants provided to college athletes on that team.

Institution of higher education means any campus of the University of Washington (UW), Washington State University (WSU), Eastern Washington University (EWU), or any public four-year institution located in Washington that maintains an athletic program.

Intercollegiate athlete means a resident student who is enrolled at an out-of-state college or university and is listed as a member of an intercollegiate athletics team at the out-of-state college or university. A student's participation in recreational, club, or intramural sports at an out-of-state college or university does not meet the definition of intercollegiate athlete

Degree Completion Fund.

NCAA Division I institutions of higher education, which includes the UW, the WSU, and the EWU, must establish a degree completion fund to compensate college athletes who receive athletic grants. College athletes on the same team during the same academic year must receive equal payments for the corresponding academic year, up to \$25,000. Payments must be provided within 60 days of the college athlete:

- earning a baccalaureate degree within six years of enrollment or transferring to another institution of higher education or an out-of-state college or university; or
- submitting proof, as determined by the panel, of having a severe medical condition that prevents them from completing their degree.

If a college athlete fails to complete a baccalaureate degree within six years or does not submit proof of a severe medical condition preventing completion of their degree, then the degree completion fund payment is forfeited and deposited back into the institution's degree completion fund. Degree completion funds are the property of college athletes and not the property of institutions. Institutions have a fiduciary duty to their college athletes to manage these funds. Degree completion fund payment designations or payments do not serve as evidence of an employment relationship.

Beginning on or before July 1, 2025, degree completion fund payments must be made in an amount based on the institution's revenue reported for the previous academic year. Degree completion fund payments may not cause a reduction or cancelation of athletic grants. Institutions must divide degree completion fund payment designations for female athletes and male athletes equally.

In making annual degree completion fund payment designations, institutions must use all revenue reported for an academic year that exceeds its revenue reported for the 2023-24 academic year. The amount of funds that an institution paid for any athletic team's expenses for

the 2023 academic year must be included as revenue for that academic year, even if the institution did not count the funds as revenue for that academic year. However, the amount of funds that an institution paid for any athletic team's nonregular capital expenses for the 2023 academic year may not be included as revenue for that academic year, even if the institution counted the funds as revenue for that academic year. An institution may opt to pay the College Athlete Protection Panel (CAP Panel) annual fees before using revenue for degree completion fund payment designations.

Institutions do not have to pay any remaining fair market value compensation owed to a college athlete into the degree completion fund if the following conditions are satisfied:

- the institution uses the difference in revenue, calculated above, in its entirety to make degree completion fund payment designations;
- the institution makes degree completion fund payment designations for college athletes on each intercollegiate athletics team who have not received fair market value compensation for the academic year; and
- under this section, degree completion fund payment designations may not result in any college athlete being designated more than fair market value compensation for any academic year.

Under certain circumstances, an institution of higher education that gives fair market compensation to all of its male and female college athletes and complies with this section may use any remaining revenue for other purposes as determined by the institution.

An institution may spend institutional funds on intercollegiate athletic expenses without the funds counting as revenue if, within the academic year, the institutional funds are exhausted or the institutional funds are unused and do not remain in an athletic team's or athletic program's budget. An institution may increase athletics spending for athletic program needs without including it in revenue directed to degree completion funds pursuant to this section.

NCAA Division I institutions of higher education must accurately account their aggregate athletic grants. The CAP panel may audit an institution's aggregate athletic grant and revenue accounting methods, materials, and information to ensure compliance. This audit may include review of the institution's aggregate athletic grant and revenue accounting methods reported by the institution in its previous revenue reports. A CAP Panel audit must protect the personally identifiable information of college athletes consistent with state and federal privacy laws.

If an institution deems it necessary, the institution may adjust the amounts of degree completion fund payment designations to comply with Title IX financial aid proportionality comparisons in athletics. For any adjustment made, the institution must comply with the following requirements:

- degree completion fund payment designations may not be reduced;
- the institution must comply with Title IX financial aid proportionality comparisons in athletics independent of degree completion fund payment designations; and
- on or before January 1, 2025, and every year thereafter, the institution must publish on its

website and submit to the CAP Panel a written explanation of why an adjustment is necessary to comply with Title IX proportionality comparisons in athletics, and include both of the following in this written explanation: published communications, determinations and rulings by the Office for Civil Rights used as the basis for the adjustment, as applicable; and the amount of funds in aggregate and per college athlete directed from college athletes in one sport to college athletes in another sport, the names of each sport involved in the adjustment, and the corresponding fair market value compensation paid to college athletes in each sport involved in the adjustment. This may only be implemented in a manner that protects the personally identifiable information of college athletes consistent with state and federal privacy laws.

Within 15 days of making degree completion fund payment designations, institutions of higher education must, in a manner that protects the personally identifiable information of college athletes consistent with state and federal privacy laws, submit annually to the CAP Panel a list of:

- all college athletes qualifying for a degree completion fund payment designation;
- each qualifying college athlete's intercollegiate team;
- the amount paid to each qualifying college athlete; and
- the aggregate amount paid to qualifying college athletes by team.

An institution and its personnel may not make, or attempt to make, formal or informal agreements, policies, or practices with other institutions of higher education, out-of-state colleges and universities, athletic conferences, and athletic associations or their personnel, or other entities with intercollegiate athletics governance powers, to determine degree completion fund payment amounts to college athletes.

Notice to Athletes.

Institutions of higher education must annually distribute a notice to each college athlete containing the following information:

- the athlete's rights under the Washington College Athlete Protection Act (Act), state and federal rights, including rights under Title IX;
- an individual notice stating: All students have the right to report a sexual assault, without retaliation, to law enforcement, the United States Department of Justice, the United States Department of Education's Office for Civil Rights, mandated reporters, Title IX office, and the program director; and
- sufficient information to enable a college athlete to file a complaint for a violation of any of the rights identified in the notice, including information on various contacts and resources needed to file such a complaint.

The notice must be posted on campus in conspicuous locations frequented by college athletes, including athletic training facilities.

College Athlete Protection Panel.

The 11-member CAP Panel is established within the Washington Student Achievement Council

(WSAC). The Governor must appoint five members; the Speaker of the House of Representatives must appoint three members; and the President of the Senate must appoint three members. At least one member must be a former college athlete with experience in college athlete protection advocacy. Membership is voluntary, with per diem-paid travel accommodations. One member must be appointed by a majority vote of the CAP Panel's members to serve as chair.

The WSAC must hire and determine compensation for a program director. The director is a full-time position and serves a six-year term that may be renewed with no term limits. The director must hire additional staff to assist in the implementation and enforcement of this Act and provide CAP Panel members with information necessary to fulfill their duties pursuant to this Act.

The program director may engage with intercollegiate athletics stakeholders, including state and federal legislators and agencies, to provide information and encourage policies and action to support the implementation, operation, and expansion of college athlete rights and protections pursuant to this Act.

The CAP Panel must consult with the program director when establishing program regulations, standards, and policies pursuant to this chapter.

A CAP Panel member on the initial 11-member board serves a four-year, five-year, or six-year term, as determined by the appointing authority. Members must serve staggered terms. All subsequent appointments made after the initial 11-member panel is appointed must be six-year terms with no term limits. A member and the program director may be reappointed to their position or appointed to a new position. If possible, a panel member and the program director should not have served, within five years of being appointed as a panel member or hired as the program director, respectively, as an affiliated medical personnel, employee, or member of a governing body of an institution of higher education, an out-of-state college or university that has an intercollegiate sports program, an intercollegiate sports conference, or an intercollegiate sports association. The racial, ethnic, gender, and geographic diversity of Washington may be considered by the appointing authority when appointing panel members.

The CAP Panel has the following enforcement duties and powers:

- receiving, tracking, and investigating complaints regarding reported violations of this Act;
- issuing subpoenas, if necessary, to obtain information necessary to carry out its duties pursuant to this Act;
- requiring an institution of higher education and out-of-state college or university that is subject to this Act to provide athletic grants, make payments for college athlete medical coverage and expenses, and provide other remedies that the CAP Panel deems necessary to ensure compliance with this Act;
- referring individuals, institutions of higher education, and out-of-state colleges and universities that are subject to this Act who do not comply with a CAP Panel penalty or remedy imposed to the Attorney General for prosecution, as appropriate. The Attorney General may prosecute individuals and entities that do not comply with a panel penalty or

- remedy, as appropriate;
- determining the best practices guidelines, policies, or other informational materials that may benefit high school athletes and high school sports programs, and making them available and easily accessible to the public;
- at its discretion, implementing collaborative and cost-reduction efforts with other states, local governments, intercollegiate sports conferences, intercollegiate sports associations, or other stakeholders to help protect the well-being of intercollegiate athletes in other states;
- holding quarterly meetings;
- distributing, on or before December 1, 2025, and each year thereafter, an annual report to each institution of higher education, intercollegiate athletic conference, athletic association, and the Legislature, on the state of college athlete protections established pursuant to this Act;
- communicating with the Legislature about ways to improve this Act; and
- upon appropriation by the Legislature, using funds in the College Athlete Protection (CAP Fund) to execute its duties and powers under this Act.

In addition to any other remedy or penalty authorized by law, individuals who violate this Act may be subject to remedies and penalties established pursuant to regulations adopted by the CAP Panel. These regulations must include a system to appeal the panel's rulings. Penalties and remedies established by the CAP Panel may include one or more of the following:

- training to help prevent future violations;
- temporary or permanent prohibition from being involved in intercollegiate athletics at any institution of higher education; and
- other penalties and remedies imposed by the panel.

The CAP Panel must consider the following factors when imposing penalties and remedies for a violation of this Act:

- the number and duration of violations;
- whether the violation was the result of an intentional or negligent action; and
- the nature and extent of harm caused by the violation.

The panel may consist of the following subpanels:

- If established and maintained, the CAP Recruiting Transparency Subpanel, which is encouraged to consist of:
 - one member with expertise in contract law;
 - one member with expertise in college sports recruiting;
 - one member with expertise in college athlete publicity rights law; and
 - one member who is a former college athlete with experience in the recruiting process.
- If established and maintained, the CAP Certification Subpanel, which is encouraged to consist of:
 - one member with expertise in sports agent certification;
 - one member with expertise in financial advising standards;

- one member with expertise in marketing standards; and
- one member who is a former college athlete with experience in agreements related to college athlete protection certification duties.
- If established and maintained, the General CAP Subpanel, which is encouraged to consist of:
 - one member with expertise in health care administration, medical claims, and the Federal Health Insurance Portability and Accountability Act of 1996;
 - one member with expertise in compliance with Title IX in athletics;
 - one member who is a certified public accountant with expertise in corporate financial audits and corporate compliance investigations;
 - one member with expertise in arbitration;
 - one member with expertise in grievance and appeals processes; and
 - one member with expertise in producing educational materials.

Medical Expenses.

An institution of higher education that reports \$20 million or more in annual revenue to the Department of Education is financially responsible for the out-of-pocket sports-related medical expenses of each college athlete at the institution, and during the two-year period beginning on the date on which the college athlete officially becomes a former college athlete.

An institution of higher education that reports \$50 million or more in annual revenue to the Department of Education must:

- offer nationally portable primary medical insurance to each college athlete enrolled at the institution. The institution must pay for this insurance. The institution may not discourage a college athlete from accepting this insurance; and
- pay the out-of-pocket sports-related medical expenses of each college athlete at the institution during the four-year period beginning on the date the college athlete officially becomes a former college athlete.

These liabilities do not apply to:

- a college athlete who transfers to another institution of higher education or out-of-state college or university and participates on an intercollegiate athletics team at that institution; or
- a college athlete's medical expenses for medical conditions unrelated to the college athlete's intercollegiate sports participation that arise after the expiration of the college athlete's intercollegiate athletics eligibility.

If a college athlete chooses to receive medical care that is not provided pursuant to the above or is not otherwise provided or paid for by the institution, the institution must offer to pay an amount that is the lesser of the following:

- the out-of-pocket expenses for that medical care; or
- the amount the institution would have paid if the college athlete had received the medical care provided or paid for by the institution.

An institution of higher education must pay for a college athlete to obtain an independent second opinion on an athletic program-related injury or medical condition endured by the college athlete. Institution of higher education personnel and affiliated medical personnel may not withhold a college athlete's medical or athletic training records if the college athlete requests that those records be released to obtain an independent second opinion, or otherwise impede a college athlete's right to obtain an independent second opinion.

No later than three days after the end of a college athlete's team's season in the final year of the college athlete's intercollegiate athletics eligibility, or in the case of a transfer, no later than three days after the institution's receipt of a college athlete's notice of intent to transfer to another college or university, an institution of higher education must provide the college athlete notice of, and an opportunity to undergo, a physical examination within or independent of the institution for the purpose of diagnosing an athletic program-related injury or medical condition.

Institution of higher education personnel and affiliated medical personnel may not discourage a college athlete or former college athlete from obtaining a physical examination. A former college athlete must be provided no less than 60 days to complete a physical examination.

Athletic Grants.

NCAA Division I institutions of higher education, which include the UW, the WSU, and the EWU, that provide a college athlete with an athletic grant must provide the grant for each subsequent year in which the college athlete is enrolled at the institution for up to six academic years of attendance, or until the college athlete receives a baccalaureate degree from the institution, whichever occurs first. This applies to athletes enrolled full-time or part-time for each regular academic term of an award year, unless they are granted a leave of absence. The athletic grant must be provided regardless of the college athlete's lack of participation due to injury or poor athletic performance on an intercollegiate athletics team at the institution.

However, athletic grants do not need to be provided to a college athlete who provides a written notice of voluntary withdrawal from an intercollegiate athletics team at the institution, or who fails to consistently participate in mandatory team athletics activities for nonmedical reasons after having been fully informed that the athlete's participation in those activities is mandatory.

This paragraph also does not apply to a college athlete who:

- is found by the institution to have committed academic fraud or other misconduct that would ordinarily result in expulsion;
- earns a grade point average of less than the grade point average required for the college athlete to maintain intercollegiate athletics eligibility for two or more semesters;
- fails to meet intercollegiate athletic association progress toward degree completion requirements; or
- is found guilty of a criminal act by a court.

The amount of an athletic grant provided to a college athlete each subsequent award year must be no less than the sum of the amount of the athletic grant provided to the college athlete for the previous year plus the amount of any increase in the cost of attendance at the institution from the previous year to the subsequent award year.

A college athlete who transfers to an institution of higher education must receive an athletic grant for up to one academic year beyond the college athlete's remaining intercollegiate athletics eligibility in which the college athlete is enrolled at the institution, or until the college athlete receives a baccalaureate degree from the institution, whichever occurs first.

An individual employed by or volunteering for an athletic program at an institution of higher education may not:

- attempt to discourage or in any way punish a college athlete from selecting a course or an academic major unless it prevents the college athlete from intercollegiate athletic association progress towards baccalaureate or postgraduate degree completion; or
- punish, reduce intercollegiate athletics eligibility, or otherwise retaliate against a college athlete based on the college athlete's selection of any course, academic major, or baccalaureate or postgraduate degree program at the institution.

An individual employed by an athletic program at an institution of higher education may not interfere with or discourage any college athlete from securing employment or internships, participating in student groups or events, or serving as a volunteer so long as those activities do not interfere with mandatory class time, examination periods, or the athletic program's mandatory team activities.

An institution of higher education may not comply with any athletic association's or athletic conference's policy that does not count completed high school financial education and personal finance coursework toward athletic eligibility standards for incoming college athletes.

The following two paragraphs do not apply to an institution of higher education that is unable to generate, for an academic year, all revenue in an amount that meets or exceeds all revenue reported for the 2022-23 academic year due to war, civil unrest, or fire, flood, or other unforeseen disaster or cause beyond the institution's control as determined by the panel.

An institution of higher education may not reduce any discretionary revenue during the academic year below the discretionary revenue reported for the 2022–23 academic year.

An institution of higher education may not reduce any aggregate funds for any college athlete's academic, medical, mental health, athletic training, or nutritional support, eliminate roster slots on any intercollegiate athletics team, reduce aggregate athletic grant amounts, or eliminate any intercollegiate athletics sport entirely that existed during the 2022–23 academic year.

Institutional Transparency Requirements.

An institution of higher education or an out-of-state college or university conducting college athlete recruiting activities in the state must submit, as determined by the CAP Panel or, if established and maintained, the Recruiting Transparency Subpanel, the following information to the CAP Panel or Recruiting Transparency Subpanel:

- a complete list of companies and industries that the institution prohibits a prospective

college athlete from entering into an NIL agreement with as a college athlete or intercollegiate athlete;

- whether the institution of higher education or out-of-state college or university may interfere with or otherwise attempt to influence a prospective college athlete's, college athlete's, or intercollegiate athlete's choice of athlete representation;
- whether the institution of higher education or out-of-state college or university may limit a prospective athlete's, college athlete's, or intercollegiate athlete's representation to NIL activities; and
- whether the institution of higher education or out-of-state college or university receives any payment or benefit from an individual or entity in exchange for granting the individual or entity access to their college athletes or intercollegiate athletes for any NIL-related purpose.

The CAP Panel or, if established and maintained, the Recruiting Transparency Subpanel, must regularly update the above information and post it on a publicly accessible website for prospective college athletes, and intercollegiate athletes. This information must also be included in the document described below.

An institution of higher education may only use a document created by the CAP Panel or, if established and maintained, the Recruiting Transparency Subpanel to offer an athletic grant or intercollegiate athletics participation opportunity to a prospective college athlete. This document may be annually updated by the CAP Panel or, if established and maintained, the Recruiting Transparency Subpanel and must include the following disclosures:

- the amount of intercollegiate sports grants to be offered to the prospective college athlete, relative to the most recent cost of attendance at the institution, for each academic year of the prospective athlete's intercollegiate athletics eligibility;
- the total amount of possible annual education-related compensation allowable in accordance with the United States Supreme Court decision in *National Collegiate Athletic Association v. Alston*, 141 S. Ct. 2141 (2021) and the annual amount of education-related compensation to be offered to the prospective college athlete at the institution throughout the prospective college athlete's intercollegiate athletics eligibility;
- the amount of an intercollegiate sports grant, if any, that will be provided to assist the prospective college athlete with undergraduate and graduate school degree completion at the institution following the expiration of the college athlete's intercollegiate athletics eligibility;
- the percentage of comprehensive medical coverage, including any minimum required coverage to participate in intercollegiate athletics and enroll as a student at the institution, that will be paid for by the institution throughout the college athlete's intercollegiate athletics eligibility;
- the percentage of any out-of-pocket sports-related medical expenses, including deductibles, copays, and coinsurance, that will be paid by the institution during the college athlete's intercollegiate athletics eligibility, and the duration for which those expenses will be covered after the prospective athlete's intercollegiate athletics eligibility expires. The percentage of out-of-pocket sports-related medical expenses covered by the institution's in-

network and out-of-network services must be stated on the panel's website pursuant to this section;

- whether the institution will pay for a disability insurance policy for the college athlete in order to cover any future loss of earnings by the athlete due to a sports-related injury or medical condition, and any limits to that policy's benefits or coverage, including the maximum possible benefits based on similarly situated college athletes; and
- a list of all colleges and universities, if any, that the institution will not allow the athlete to freely transfer to once the agreement to attend the institution is executed.

An institution of higher education or out-of-state college or university that is subject to the above may provide protections or benefits that exceed those described above.

Certification Requirements.

The CAP Panel or, if established and maintained, the Certification Subpanel, must certify an individual or entity to provide intercollegiate athletics agent, marketing, and financial advising services to college athletes. No later than six months after the launch of these certification operations, an individual or entity may not provide intercollegiate athletics agent, marketing, or financial advising services to college athletes without certified approval or receipt of other certification to provide those services established under law. Standards must be developed and adopted to do the following:

- certify:
 - college athlete agents;
 - agencies and entities that employ college athlete agents;
 - attorneys that represent college athletes in NIL contracts. This section does not replace or preempt any other state or local regulation of attorneys in the state; and
 - individuals and entities that provide financial advising or marketing services to college athletes. This does not replace or preempt any federal, state, or local regulation of financial advising or marketing services in the state;
- revoke certifications provided pursuant to this subsection; and
- protect college athletes from unfair fees and conditions for intercollegiate athletics agent, marketing, and financial advising services.

The CAP Panel or, if established and maintained, the Certification Subpanel may assess certification fees, certification renewal fees, fines, and penalties on individuals and entities that do not comply with the standards described above. Fees must not exceed the reasonable regulatory costs incident to issuing certifications, performing investigations, inspections, and audits related to certification, and the administrative enforcement and adjudication of the certification process. An appeals process to challenge a certification denial or revocation or any fee, fine, or penalty must be developed. Fees and fines collected must be deposited in the CAP Fund.

Standards may not be adopted that require an individual to have a baccalaureate degree, an associate's degree, or a graduate degree to provide athletic agency, marketing, or financial advising services to college athletes.

Individuals and entities who have college athlete representation certifications issued by other states or entities may be authorized to operate as college athlete representatives without obtaining certification or paying certification fees.

The CAP Panel or, if established and maintained, the Certification Subpanel may enter into collaborative college athlete certification program agreements with other states or entities. To prevent conflicts of interest, the CAP Panel or, if established and maintained, the Certification Subpanel may not certify college athlete representation provided by an institution of higher education, an out-of-state college or university, an intercollegiate athletic conference, or an athletic association.

CAP Panel Annual Fees.

NCAA Division I institutions of higher education, which includes the UW, the WSU, and the EWU, must pay an annual fee to the WSAC, in an amount determined by the CAP Panel, to cover the reasonable regulatory costs of the CAP Panel. Fees cannot exceed \$7 million in total per year. The CAP Panel may increase the annual fee limit to account for inflation. The annual fees must be deposited in the CAP Fund, which is established in the custody of the State Treasurer and is administered by the CAP Panel.

The CAP Panel must base the annual fees on each institution's total athletics revenue in the most recently published report that was submitted pursuant to the Federal Equity in Athletics Disclosure Act to the Department of Education. The panel must establish the annual fees pursuant to the following requirements, and may adjust these fees, without exceeding the annual limit of \$7 million:

- a. institutions of higher education with athletics revenue of less than \$2,499,999 must each pay an annual fee of up to \$100;
- b. institutions of higher education with athletics revenue between \$2,500,000 and \$19,999,999, inclusive, must each pay an annual fee of up to 0.01 percent of their total athletics revenue from the previous year;
- c. institutions of higher education with athletics revenue between \$20,000,000 and \$29,999,999, inclusive, must each pay an annual fee of up to 0.1 percent of their total athletics revenue from the previous year;
- d. institutions of higher education with athletics revenue between \$30,000,000 and \$59,999,999, inclusive, must each pay an annual fee of up to 0.3 percent of their total athletics revenue from the previous year;
- e. institutions of higher education with athletics revenue of at least \$60,000,000 must each pay an annual fee of up to 1.3 percent of their total athletics revenue from the previous year; and
- f. notwithstanding (a) through (e), two-year institutions of higher education must each pay an annual fee of up to \$100.

If the total amount of annual fees collected pursuant to (a) exceeds the reasonable regulatory costs of the CAP Panel, up to \$7 million, the program director must return from the CAP Fund,

upon appropriation by the Legislature, one-half of the annual fee paid by institutions of higher education pursuant to the following priority schedule until the total amount exceeding the reasonable regulatory costs of the program, up to \$7 million, is returned:

- A. institutions described in subsection (a) and (f) of this section receive first priority;
- B. institutions described in subsection (b) receive second priority;
- C. institutions described in subsection (c) receive third priority;
- D. institutions described in subsection (d) receive fourth priority; and
- E. institutions described in subsection (e) receive fifth priority.

Financial and Life Skills Development Workshop Program.

NCAA Division I institutions of higher education, which includes the UW, the WSU, and the EWU, must administer a standalone financial and life skills development workshop program that each college athlete must attend during their first and third year of participation in an athletics program. The workshop may not include any marketing, advertising, referral, or solicitation by providers of commercial products or services. The workshop must include at a minimum:

- the rights of college athletes under this Act; and
- state and federal tax information, including NIL-related taxes, time management skills, personal budgeting, debt management, credit management, and interest rates information.

Prohibition Against Interfering with College Athlete Basic Needs.

An institution of higher education may not uphold any rule, requirement, standard, or other limitation that prevents a college athlete at the institution from fully participating in intercollegiate athletics for any of the following:

- receiving food, shelter, medical expenses, or medical or disability insurance from any source;
- receiving payment to cover expenses, direct provisions, or in-kind benefits from any source for purposes of transportation, room, board, and incidentals at college, or for purposes of meeting with legislators, providing testimony, or meeting with government agencies regarding intercollegiate athletics; or
- for a college athlete's family member or friend receiving payment, direct provisions, or in-kind benefits from any source for transportation, room, board, and incidentals to reasonably support the college athlete during any period in which the college athlete is addressing a physical or mental health concern.

Retaliation.

An institution of higher education and the institution's employees, coaches, and affiliated medical personnel may not retaliate against a college athlete for filing a complaint or reporting a violation of a college athlete's rights under this Act. Retaliation is defined as:

- a reduction in or loss of playing time that is not justified by objective measures of athletic performance or compliance with team or the institution of higher education's policies that do not conflict with this act or any federal or state laws;
- a reduction in or loss of any education benefits, including athletic grants, merit-based scholarships, or any other compensation;
- a reduction in or loss of any meal benefits provided to the college athlete;

- a reduction in or loss of any housing benefits provided to the college athlete, including the relocation of the college athlete's housing owned by the institution of higher education;
- a reduction in or loss of athletics or team communications, academic support or records, access to training facilities, or medical treatment;
- pressure to not file a complaint or to withdraw a complaint; or
- threats, ridicule, or physical punishment.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.