

**HB 4119 STAFF MEASURE SUMMARY**

Carrier: Rep. Lively

**House Committee On Higher Education****Action Date:** 02/13/24**Action:** Do Pass.**Vote:** 8-0-1-0**Yeas:** 8 - Bowman, Elmer, Hudson, Lively, Mannix, Ruiz, Sosa, Wright**Exc:** 1 - McIntire**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Ellen O'Brien, LPRO Analyst**Meeting Dates:** 2/6, 2/13**WHAT THE MEASURE DOES:**

The measure makes changes to the rights of college athletes in Oregon to control and profit from their name, image, and likeness (NIL). It adds “athletic reputation” to the list of traits that the student has a right to earn money from. It also strengthens students’ rights under state law and gives liability protections to colleges and universities. The provisions apply to all NIL actions taken on or after June 29, 2021. The measure declares an emergency and is effective on passage.

Detailed Summary:

Strengthens protections for student athletes and institutions of higher education around name, image, and likeness rights by enacting the following:

- Adds right to compensation for athletic reputation to statutes governing name, image, and likeness rights for student athletes.
- Prohibits an athletic association, conference, or organization from penalizing an institution of higher education or a student athlete due to a violation of its rules and regulations related to name, image, and likeness rights.
- Prohibits student athletes from hiring an agent who was employed by an institution of higher education within the last four years and repeals prohibition on hiring a professional representative who represented a post-secondary institution within the last four years.
- Prohibits the use of athletic performance as a condition for compensation for a student athlete's name, image, likeness, or athletic reputation.
- Permits the use of attendance at a particular institution as a condition for compensation for a student athlete's name, image, likeness, or athletic reputation.
- Prohibits an athletic association, conference, or organization from restricting an institution's ability to identify and facilitate NIL opportunities for student athletes.
- Protects institutions from liability for damages to a student athlete's NIL opportunities as a result of a routine decision or action in intercollegiate sports, or as a result of the institution's attempts to identify and facilitate NIL opportunities for the student athlete.
- Applies protections to any NIL action taken on or after June 29, 2021.
- Requires student athletes to receive royalty payments for team jerseys, video games, and trading cards that use the student athlete's athletic reputation on or after the effective date of the measure.
- Declares emergency, effective on passage.

**ISSUES DISCUSSED:**

- Lack of comprehensive NCAA guidance
- Ability of Oregon schools to attract student athletes
- Protections for Oregon student athletes

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- Scope of routine decisions or actions in intercollegiate sports

### EFFECT OF AMENDMENT:

No amendment.

### BACKGROUND:

In June 2021, the [U.S. Supreme Court](#) issued its ruling on *National Collegiate Athletic Association v. Alston*, which upheld the rights of student athletes to receive compensation for the use of their name, image, or likeness (NIL). Prior to this decision, the rules of the National Collegiate Athletic Association (NCAA) restricted student athletes from earning compensation other than the cost of attendance at their college or university. Leading up to *NCAA v. Alston*, at least 19 states, including California, passed legislation to guarantee student athletes' rights to profit from their name, image, or likeness.

Within weeks of the *NCAA v. Alston* decision, the NCAA adopted a [NIL policy](#) that permitted student athletes to benefit from sponsorships and outside payments, as long as they were consistent with the laws of the state where the student athlete's institution was located. The number of states regulating NIL has since increased. According to the [National Conference of State Legislatures](#), at least 28 states that have passed laws regarding NIL as of September 2023. [Senate Bill 5 \(2021\)](#), which guarantees student athletes' NIL rights in Oregon, passed in June 2021, simultaneous to the *NCAA v. Alston* ruling and subsequent NCAA policy change.

On January 10, 2024, the NCAA Division I Council [adopted new rules](#) intended to protect student athletes engaged in NIL deals. The policy includes a voluntary registration process for agents and financial advisors who work with student athletes; requirements that student athletes disclose NIL agreements worth more than \$600 in value within 30 days of entering into the agreement; model contracts; and a commitment to develop educational resources for student athletes about NIL policies and rules.