



**WORK SESSION DOCUMENT**

**COMMITTEE TO CONDUCT AN INTERIM STUDY  
CONCERNING THE USE OF THE NAME, IMAGE, AND  
LIKENESS OF A STUDENT ATHLETE**

[\(Assembly Bill 254 \[2021\]\)](#)

**June 23, 2022**

**INTRODUCTION**

The chair and Legislative Counsel Bureau (LCB) staff of the Committee to Conduct an Interim Study Concerning the Use of the Name, Image, and Likeness (NIL) of a Student Athlete have prepared this “Work Session Document” (WSD) to assist the Committee in determining which legislative measures and other actions it will request the Joint Interim Standing Committee on Education (COE) to consider for the 2023 Session of the Nevada Legislature. The WSD contains a summary of recommendations presented during public hearings, through communication with individual Committee members, or through correspondence submitted to the Committee members or staff.

The members of the Committee do not necessarily support or oppose the recommendations in this WSD. Committee staff has compiled and organized the proposals so that Committee members can review them and decide whether they want to accept, reject, modify, or take no action on the recommendations. The WSD organizes the proposals by topic, and they are not preferentially ordered.

Pursuant to [AB 254](#), the Committee is tasked with studying and examining existing bylaws of state collegiate athletic associations and national collegiate athletic associations and state and federal laws relating to compensating a student athlete for the use of the NIL of the student athlete. The COE is then tasked with submitting a report of the results of the study, including any recommendations for legislation, to the Director of the LCB for transmission to the 2023 Session of the Nevada Legislature. As such, following approval by the Committee, certain recommendations will be presented to the COE. The COE may discuss those recommendations during its work session.

Committee members are advised that LCB staff, at the direction of the chair, may coordinate with interested parties to obtain additional information for drafting purposes or for information to be included in the Committee’s final report.

## RECOMMENDATIONS

### A. NATIONAL NIL POLICY

1. **National NIL Policy**—Send a letter to Nevada’s Congressional Delegation on behalf of the Committee encouraging the development of a national, uniform policy for NIL. According to the National Collegiate Athletic Association (NCAA), more than 460,000 college students compete in collegiate sports. College athletics are a major revenue source for many athletic programs and schools. In September 2019, California passed the "[Fair Pay to Play](#)" law (Senate Bill 206) to let student athletes endorse products and use their name, sport, and school to identify themselves, but it prevents them from using school logos or other trademarked property in the endorsements. Following California’s action, many states soon enacted NIL legislation, including Nevada. The 2021 Nevada Legislature enacted AB 254, requiring this legislative study, and establishing certain parameters codified in Chapter 398 (“Intercollegiate Athletics”) of the *Nevada Revised Statutes* (NRS). In the summer of 2021, the NCAA adopted an [interim NIL policy](#) to allow individuals to “engage in NIL activities that are consistent with the law of the state where the school is located.” This policy also allows students to engage in NIL activity if their postsecondary institution is in a state without an NIL law. The NCAA’s interim policy expires upon the passage of federal NIL legislation.

In the void of federal legislation, disparity among states’ legislation has emerged, impacting recruitment and retention efforts. This letter responds to those disparities by encouraging Nevada’s Congressional Delegation to create and support a federal policy that outlines specific parameters for NIL deals and policies across all states, including the role that individual institutions should play in monitoring and supporting NIL policies. Further, this national policy should develop a plan for international students to participate in NIL by addressing their visa complications, such as the work restrictions in place for F-1 visa status.

*Based upon recommendations from multiple presenters, including the NCAA and Nevada institutions.*

### B. STUDY CONCERNING NIL POLICIES AND CHALLENGES SPECIFIC TO JUNIOR COLLEGES

2. **Junior College Study**—Send a letter to the Nevada System of Higher Education (NSHE) on behalf of the COE urging NSHE to conduct a study concerning NIL policies and challenges specific to junior colleges. Specifically, this study should investigate NIL issues relating, but not limited to, resources and personnel at junior colleges and funding and opportunities for NIL deals for junior college student athletes. As testimony indicated that student athlete transfer policies, especially concerning NIL, can be contradictory and difficult between junior colleges and other institutions, the study should also investigate concerns and challenges with student athlete transfers between two- and four-year colleges and universities. If such a study is conducted, NSHE may submit a report of the results of the study, including any recommendations for legislation, to the COE on or before June 30, 2024.

*Based upon recommendations by the National Conference of State Legislatures and the National Junior College Athletic Association.*

### C. NIL BEST PRACTICES

3. **NIL Best Practices**—Include a list of best NIL practices in the Committee’s final report. This list may include, but is not limited to the following:
  - a. Awareness and communication of state and federal NIL parameters for on-campus NIL practitioners, including student athletes, coaches, and institutional personnel, should be increased;
  - b. Student athletes may not attend NIL engagements in lieu of academic or athletic activities;
  - c. Student athletes must wear and use institutionally issued gear and equipment during athletic activities;
  - d. Use of an institution’s logos, marks, or facilities for NIL engagements must be approved in writing by an institution;
  - e. NIL activities must be consistent with institutional and NSHE policies; the student-athlete handbook; local, state, or federal law; and existing national collegiate athletic association regulations; and
  - f. NIL educational supports for student athletes in areas including, but not limited to, financial implications, tax education, and scholarship impacts should be further developed.

*Based upon recommendations by Nevada institutions, including the University of Nevada, Las Vegas, and the University of Nevada, Reno.*

### D. STUDY CONCERNING NIL DEALS AND POLICIES SPECIFIC TO NEVADA’S GAMING INDUSTRY

4. **Gaming Control Board Study**—Send a letter to the Nevada Gaming Control Board and the Nevada Gaming Commission on behalf of the COE urging the Board or Commission to conduct a study concerning NIL implications for the gaming industry in Nevada. Specifically, this study may investigate what, if any, possibilities exist for NIL deals between student athletes and the gaming industry. The study may also investigate the possibility of deals with student athletes as brand agents, among other deals, and the implications of such deals. If such a study is conducted, the Board or Commission may submit a report of the results of the study, including any recommendations for legislation, to the COE on or before June 30, 2024.

*Recommended by the Committee’s chair and vice chair.*

### E. NIL CONTRACT DISCLOSURE REQUIREMENTS

5. **Disclosure Requirements**—Propose legislation to amend [NRS 398.330](#) regarding student athlete disclosures to instead require any entity which engages in an NIL deal with a student athlete to be responsible for disclosing that deal to the student athlete’s institution. The institutions should then report NIL deals to NSHE. Further, require any entity who facilitates NIL deals, including, but not limited to, third-party agents such as collectives, boosters, and certain vendors, to register with the state through the Office of the Secretary of State. Collectives, in particular, are required to

disclose all participating parties as well as sources and recipients of the collective's funds. Testimony indicated that the new reporting obligations are unenforceable, and there are no consequences for failure to report disclosures.

*Based upon recommendations by Michael H. LeRoy, J.D., Professor, School of Labor and Employment Relations, University of Illinois College of Law.*