The ABC's of the Protect College Sports Act

The ABC Report is written by Aaron B. Craig without AI assistance.

Next week, I'll be at the Obama Presidential Center in Chicago attending GSV's conference *Rebooting the American Dream: The Future of College & Youth Sports*. GSV created the ASU+GSV Summit, the largest and most important conference for the education sector. Judging by the incredible agenda and star-studded list of attendees, GSV's college and youth sports conference is already a marquee event on the sports business and law calendar.

The conference will include a debate on the Protect College Sports Act ("PCSA"). On September 28, 2026, the Senate passed the PCSA, with all Republican senators voting in favor except Rand Paul and Rick Scott, while Democrats split, largely along regional lines, with many "no" votes coming from the Northeast. The PCSA is likely to pass the House in January so that President Trump can sign it on television, possibly as part of the National Championship halftime show on January 25.

I love college sports. My passion for late-80s March Madness was a big part of my fascination with American colleges and my ultimate decision to leave Canada at age 18. But with the notable exception of Title IX, I'm skeptical anytime Congress dabbles in this area. Sports should not be a priority for the legislative branch, and legislation of this size (and this is a very long bill) always has unforeseeable and unintended consequences. That said, the PCSA offers a little something for everyone: fans, athletes, schools (including HBCUs), and conferences. The PCSA doesn't do much for women's sports, however, and it provides a salary cap with an antitrust exemption that limits the amounts schools can pay their athletes.

Before getting into more detail, a little background is necessary about the class action settlement reached last year in three consolidated name, image and likeness ("NIL") cases collectively known as the *House Cases* or *In re: College Athlete NIL Litigation* (the "NIL Cases"). Under the settlement of the NIL Cases, colleges could, for the first time, legally pay their athletes directly. The amount was set at 22% of average shared revenue earned by the average athletic department from the Power-5 Conferences. That figure is roughly $100 million, so the settlement authorized direct payments of approximately $22 million.

Putting a limit on what schools can pay to student-athletes was widely considered to be a win for schools. But the settlement, the centerpiece of which is a ten-year

injunction signed by a district court judge, provides much less certainty about the future than federal legislation, hence the PCSA. However, this certainty comes at a high price: the PCSA codifies the settlement direct payment and salary cap framework, but more than doubles the cap by adding an *additional* $22.5 million "retention fund exception" for athletes who competed for the school the previous year, as well as a separate $5 million allowance for "non-revenue generating" sports, including women's and Olympic sports (women's basketball is treated as a "non-revenue generating sport," at least for now). This means that for the 2027-2028 academic year, schools will be permitted to directly pay student-athletes for use of their name, image and likeness up to an aggregate (men and women, all sports combined) of $50 million. One side note: truly brilliant reporting by CBS Sports this week has brought to light that the average "Big 5" men's basketball program spends $13.5 million on direct payments, with Florida, Kentucky and Louisville believed to be spending $25 million each on men's basketball.

So what else does the PCSA do for fans, athletes, colleges and conferences? Let's dig in.

Fans: The PCSA has several provisions fans generally like. A major complaint about the current era of college sports has been lack of continuity, with some players entering the transfer portal every year. The PCSA encourages student-athletes to stay in one place with the $22.5 million retention fund exception. The PCSA also limits transfers more directly. It still allows for one "free" transfer to another school during an athlete's college career. It then allows for a second transfer, but at the cost of losing a year of eligibility. Additional transfers are permitted only upon a school's cancellation of a program, the departure of the head coach, the student pursuing a graduate degree, or a complaint of sexual assault or harassment.

New eligibility rules also (arguably) promote the fan experience: a five-year total eligibility period, along with rules barring professional athletes and players older than 24 (with exceptions for religious missions, military service or pregnancy).

Another fan-friendly provision of the PCSA is what has been universally dubbed the "Lane Kiffin Rule," prohibiting a football coach from assuming head coaching duties at a different school during a single season.

Finally, the PCSA includes a provision to preserve football rivalries. If four or more of a school's top 10 historic football opponents (as determined by number of games

played) were out of conference opponents during the most recent year, the school becomes required to play at least two “traditional rivalry” games in the subsequent four-year period, and at least one game each year with an institution in a different conference that is one of the top 5 historic opponents of the school. At a minimum this will affect schools from the former Pac-12, all of whom currently play in conferences without most of their traditional rivals. If it strikes you as absurd that Congress is about to pass a law about college football scheduling, I’m with you.

Student-Athletes: While groups representing student-athletes oppose the salary cap components of the PCSA, the bill helps student-athletes in several ways. First, factoring in the retention pool, the salary cap is objectively quite high: $50 million is approximately 50% of the average athletic department revenue for Power 5 schools. And to be clear, tuition, room and board are not counted as part of the direct compensation.

In addition to allowing for direct payments by schools, the PCSA allows students to sign certain outside NIL deals, although those deals cannot involve school-affiliated booster groups or NIL collectives and have to be for a “valid business purpose” and “commensurate with compensation paid by third parties to individuals with a similar profile, reputation, or notability who are not student athletes or prospective student athletes.” How this will be enforced is as clear as mud. Where will the NCAA (or courts) find comparable non-athletes with NIL deals to benchmark against?

Division 1 programs are required to pay for all athletes’ out-of-pocket medical expenses for any injury or disease incurred through participation in college sports, not just during school but for the next 5 years. Schools are also required to adhere to concussion management practices of the NCAA and heat-related illness standards, as well as preventing and remediating hazing.

The PCSA provides some academic protections as well. Schools may not pressure student-athletes to select a course or a major and may not revoke or reduce scholarships based on poor performance or injury. The PCSA also prohibits schools from including any marketing, advertising or referral material in any financial literacy and life skills programming (i.e., steering athletes toward particular agents or managers), but it does not make that type of education mandatory, which is a missed opportunity; financial literacy should be mandatory for students making bank for participating in college sports.

The PCSA is neutral as to whether athletes should be considered employees. Congress is punting.

Finally, the PCSA provides players certain protections with respect to NIL contracts as well as contracts with agents and managers. Agent fees in connection with endorsement contracts are capped at 5%. Moreover, arbitration agreements and pre-dispute waivers in agent contracts and NIL deals are invalid.

Colleges: The primary benefit colleges will see from the PCSA is a cap on compensation with an antitrust exemption. The antitrust exemption is a critical component because on its face, a collective limitation on paying talent is an agreement in restraint of trade and thus violates antitrust laws. The amount of the cap is the revenue share cap from the NIL Cases (approximately $22.5 million for next year), plus another $22.5 million for the retention pool, plus $5 million for non-revenue generating and women's sports. The total amount of direct compensation is much higher than I expected, although in real terms it will decline slightly over time, due to the retention pool and non-revenue generating sports pool amounts remaining fixed without any boost to offset expected inflation. This leaves schools earning below-average athletic department revenues (i.e. less than $100 million) with a difficult choice whether to spend to the cap, which would likely involve diverting money from the college's non-athletic budgets, or to be fiscally responsible. I predict the first item on the chopping block for many colleges will be the $5 million for women's sports and Olympic sports.

The PCSA provides colleges (as well as conferences and the NCAA) with extraordinary protections against PCSA-related lawsuits in the form of a requirement that a plaintiff notify the defendants before filing suit (periods ranging from 60 days to *one year*) and giving them an opportunity to cure the alleged misconduct.

The PCSA also provides schools with protection from recruitment and tampering, creating a two- to five-week window following the end of the athletic season where competing schools and agents can contact and recruit enrolled athletes. The PCSA also precludes recruiting enrolled athletes who have not affirmatively opted in to be recruited.

HBCUs: In a late addition to the bill, the PCSA provides for grants to historically Black colleges and universities for the purpose of improving broadband, IT and sports broadcast infrastructure, including campus-wide 5G networks. My guess is

that the networks broadcasting college football pushed for this addition, which they hope will improve the quality of their broadcasts of games played at HBCUs.

Conferences: As has been widely reported, the PCSA places a 20-school limit on the size of athletic conferences. It also prevents mergers of conferences if one of the conferences earns over $700 million (Big 10, SEC, ACC, Big 12), unless the merger would result in a super-conference comprising more than 75% of FBS schools, which seems unfathomable.

Women's Sports and Olympic Sports: The PCSA does disappointingly little to promote women's sports and Olympic sports. As mentioned above, schools can directly pay up to $5 million to women's basketball players and other athletes of non-revenue generating sports, which payments are not counted against the other salary limits of the PCSA. It will be interesting to see how many schools elect to do so.

Large (over $80 million in athletic department revenue) and mid-sized ($50 million to $80 million) schools are required to maintain at least as many total roster spots and grant-in-aid opportunities to women's and Olympic intercollegiate sports programs as were provided during the 2024-2025 academic year. However, this provision sunsets after four years for mid-sized schools and after nine years for large schools.

Championship events and tournaments in women's sports are required to be held at facilities comparable to those used for the same men's sports, and medical care, lodging and transportation must be comparable.

What about that other thing? It would be reasonable to assume that a Republican Congress enacting legislation with "Protect College Sports" in the name would be taking on the issue of whether transwomen can compete in women's sports. That assumption would be wrong; the PCSA avoids this political minefield with another punt.

Conclusion: The PCSA isn't law yet, but it's likely to be soon. Under it, schools get a measure of cost certainty, though colleges not at the top of the athletic department revenue table will face uncomfortable decisions whether to match the wealthiest programs' spending on athletes, which could compromise other university functions e.g., education. Student-athletes will see higher income and several quality-of-life improvements. The SEC and Big Ten will stop swallowing up schools, fans will get a few more traditional rivalry football games, HBCUs will get infrastructure

improvements, more female athletes will get paid, and schools will be required to preserve the current number of scholarships and roster spots for women’s sports.

All in all, these benefits aren’t nothing, but as passionate as I am about college sports, I’d rather see Congress addressing issues of greater import.