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FISCAL IMPACT REPORT

SPONSOR	<u>Moore/Maestas/Baca</u>	LAST UPDATED	<u>2/9/2023</u>
		ORIGINAL DATE	<u>1/31/2023</u>
		BILL	<u>Senate Bill</u>
SHORT TITLE	<u>College Student Athlete Endorsements</u>	NUMBER	<u>219/aSEC</u>
		ANALYST	<u>Hanika-Ortiz</u>

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Responses Received From

University of New Mexico (UNM)

Higher Education Department (HED)

Northern New Mexico College (NNMC)

SUMMARY

Synopsis of SEC Amendment to Senate Bill 219

The Senate Education Committee amendment to Senate Bill 219 strikes language that allowed a postsecondary educational institution to prohibit student athletes from wearing footwear of their choice during official, mandatory team activities. The amendment was at the request of UNM, because of the financial benefits wearing apparel-company-provided footwear provides.

Synopsis of Original Bill

Senate Bill 219 (SB219) amends Section 21-31-3 NMSA 1978 to remove the prohibition that a higher education institution shall not arrange third-party compensation for the use of a student athlete's name, image, likeness, or athletic reputation or use such endorsement deals as inducements for recruitment purposes. SB219 also amends Section 21-31-4 NMSA 1978 to remove the prohibition against a person or entity that has represented a higher education institution in the previous four years from representing a student-athlete that is attending that institution in any business agreement.

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

FISCAL IMPLICATIONS

Section 21-31-3 NMSA 1978 currently states student athletes earning compensation from the use of their name, image, likeness, or reputation will not lose their grant-in-aid or stipend eligibility or cause that aid to be revoked or reduced as a result of earning compensation.

Schools that provided analyses of SB219 did not report any fiscal impact. HED noted the bill might have a financial effect on student athletes who receive need-based financial aid.

SIGNIFICANT ISSUES

In 2021, the Legislature passed and the governor signed into law Senate Bill 94 (Chapter 94), the Student Athlete Endorsement Act. Under the act, colleges and universities cannot penalize a student athlete's participation in athletics for earning compensation from marketing their name, image, likeness, or reputation (NILR) or for receiving food, shelter, medical expenses, or insurance from a third party. Colleges and universities may not use such NILR deals as recruiting inducements or arrange for third-party NILR deals. Schools may, however, prevent their student athletes from advertising for the sponsor of such NILR deals during official, mandatory team activities. An individual or entity that has represented a university in the last four years cannot represent an athlete attending that school.

SB219 amends the act to further address payments for company endorsement deals. Under the proposed changes, the bill provides more flexibility for student athletes to receive compensation for the use of their images and to obtain professional representation from whomever they choose.

HED provided the following background:

New Mexico's current Student Athlete Endorsement Act created a circumstance in which National Collegiate Athletic Association (NCAA) participating HEIs in New Mexico and their student athletes could be in violation of NCAA bylaw 12.1.2 and NCAA bylaw 12.5.2.1. These bylaws strictly prohibit student athletes from receiving compensation through the use of their name, image, or likeness, and provides penalties for student athletes and institutions who fail to comply. Student athletes and athletics programs were at risk of losing NCAA and conference eligibility if enacted before NCAA bylaws and policies were updated. Consequences included loss of educational benefits and other competitive opportunities for student athletes.

However, in June 2021, the Supreme Court ruled that the NCAA had violated antitrust rules and should pay student-athletes for education-related benefits, though it did not rule on broader compensation questions, and in the decision said legislation may be needed to address remaining issues. The NCAA had argued that limits on athlete pay do not violate antitrust laws because they promote consumer choice by distinguishing the college game from professional sports leagues. The Supreme Court case covered whether athletes can be paid for their services, beyond the basic cost of attendance, and whether the NCAA's rules against it violate antitrust laws. The case technically does not cover payment for endorsements, as new state laws do.

ADMINISTRATIVE IMPLICATIONS

Colleges and universities would need to modify rules and update procedures to reflect changes proposed in the bill.