



ATHLETICS

Fawcett Center | 2400 Olentangy River Rd. | Columbus, OH 43210

**Testimony of Eugene Smith, Athletic Director
The Ohio State University
Ohio Senate Workforce and Higher Education Committee
Senate Bill 187
June 9, 2021**

Chairman Johnson, Vice Chair Cirino, Ranking Member Williams and members of the Ohio Senate Workforce and Higher Education Committee, I am Gene Smith, athletic director for The Ohio State University. I appreciate the opportunity to present proponent testimony to the committee on SB 187, the Name-Image-Likeness (NIL) bill.

Ever since I had the privilege in 2019 of co-chairing the NCAA State, Federal, and Legislative Working Group along with Val Ackerman, the Big East Commissioner, my commitment to enabling student athletes to have this opportunity has been unwavering. I am grateful to Sen. Antani for his work on this issue. The legislation will enable post-secondary student athletes at higher education institutions across Ohio to monetize their name, image, and likeness.

The Ohio State Department of Athletics is one of the nation's most comprehensive and one of its most successful collegiate athletic programs. The department sponsors 36 fully-funded varsity sports with more than 1,000 student-athletes competing for Big Ten Conference and NCAA championships. Approximately 70 percent of these student-athletes are on some form of athletic scholarship or aid, but the overwhelming majority of those are not on a full scholarship; they are on a partial scholarship. And approximately 30 percent of our student-athletes do not receive athletic aid.

A bit of background information is useful for those who are unfamiliar with the issues surrounding NIL. NIL is simply allowing students to receive payment for their name, image, and likeness via endorsement opportunities. Some examples would be product advertisement endorsements via traditional or social media.

The NCAA has been discussing the topic for many years, and I am hopeful that the NCAA Council will vote on its pending proposal before July to clarify that student athletes are permitted to benefit from their NIL. However, the preferred solution would be enactment of federal legislation by Congress that uniformly applies to the entire country. As of today, many federal bills have been introduced, but it does not appear likely that any of them will become law before the first state laws on NIL will go into effect in July. As of June, seven states have laws that go into effect on or before July 1 allowing student athletes to benefit from NIL: Alabama, Florida, Georgia, Mississippi, Nebraska, New Mexico and Oklahoma. Arizona has a law that goes into effect later in July. Other states with enacted laws include Arkansas, Tennessee, Nevada, South Carolina, Michigan, California, Colorado, Montana, Maryland, and New Jersey. Those laws have effective dates ranging from early 2022 through 2025, but proposals have been introduced in



ATHLETICS

Fawcett Center | 2400 Olentangy River Rd. | Columbus, OH 43210

some states to move their effective dates forward. The race is on to July 1, 2021. In addition to these eighteen states with enacted laws, legislation is pending in many other states.

For the benefit of Ohio's student-athletes in all NCAA divisions, the state needs to enact a measure allowing student athletes within our borders to benefit in the same manner as athletes in other parts of the country.

Our athletes should, and under this proposal will, be able to receive financial benefits from their NIL without jeopardizing their amateur/student athlete status.

If state legislation is not enacted, higher education institutions in Ohio will likely struggle to attract student-athletes who will suddenly have the opportunity to better capitalize on their name, image, and likeness at an out of state institution.

At Ohio State, we just unveiled THE Platform, an educational program that will provide a unique opportunity for our student-athletes to maximize their brand and exposure. The program will include live consultation sessions with industry leaders and information about brand building, monetization, and financial literacy.

It is important to remember that most student-athletes do not receive a full scholarship. NIL legislation will help student-athletes generate income for necessary expenses at colleges and universities across Ohio.

SB 187 specifies that no state institution of higher education shall prevent a student athlete from being able to benefit from his/her NIL. The bill also specifies that institutions may not pay NIL for athletes, while clarifying that athletic scholarships are not NIL payments. SB 187 ensures students who choose to do so may obtain professional representation with regards to being compensated for their NIL. And the bill provides guidance for how institutions and students can prevent contractual conflicts with regards to NIL.

Again, I will suggest federal legislation will need to be adopted on the NIL issue to allow for fair and uniform NIL opportunities for America's student athletes; however, until that occurs, Ohio's student athletes cannot be left behind. I was hopeful that federal law and NCAA actions would make state legislation in Ohio unnecessary, but it is now clear that enactment of this state legislation will be necessary to keep our state, our athletes, and our institutions on a "level playing field."

Swift passage of SB 187, including the emergency clause that allows the bill to go into effect on July 1, is an excellent step towards fairness for our student athletes. I would respectfully ask for your favorable consideration of SB 187.