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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <https://commerce.senate.gov>

August 25, 2025

Dear Division I Boards of Regents and Trustees:

I write to express my deep concerns over the SCORE Act, which the U.S. House of Representatives is expected to consider for a vote next month. If passed, this legislation will incentivize a Power 2 conference system that will create inequities for other conferences and leave behind small to mid-sized schools. I want to work with you to create a sustainable future for college athletics that will grow opportunities for all athletes, increase audiences for college sports, provide students with more scholarships, and preserve women's and Olympic sports.

College athletic programs are struggling under the weight of budget deficits caused by an arms race in football spending. The Knight Commission on Intercollegiate Athletics summarized the state of collegiate athletics best:

“[M]any Division I athletic programs were hemorrhaging money, raising fees to inappropriate levels, spending beyond their means on coaching salaries and gilded facilities to keep up with the FBS competitors, while shortchanging or even dropping Olympic sports.”

The SCORE Act will exacerbate these trends. It is imperative we work together to solve these problems for our universities and athletes and maximize the value of college athletics across the board.

The SCORE Act Entrenches an Athletics Spending Arms Race, Hurting College Sports Competition

Schools are spending vast sums on athletics. In 2023, the average athletic department in the Football Bowl Subdivision (FBS) earned \$79 million in revenues and spent \$98 million. This ever-increasing spending to win a national championship, particularly in football, is pushing athletic programs into deficit territory. In addition to spending millions on facilities and coaches' salaries, primarily in football, schools will spend millions in revenue sharing to recruit the best athletes. While athletes deserve a share of the revenue, it is another expense for programs that are scrambling to compete.

As currently drafted, the SCORE Act will repeal the 22 percent revenue sharing cap in the *House v. NCAA* settlement, which is a key provision to help prevent an arms race. If passed, the SCORE Act will entrench the current arms race to recruit and retain athletes and leave small and mid-sized schools unable to compete for championships and post-season games, along with the inability to earn the increased revenue that comes with those opportunities. While the SCORE Act proponents say it codifies the revenue sharing structure of the *House v. NCAA* settlement, the legislation actually strikes the cap and will cause runaway spending.

In 2023, the average FBS athletic department budget had a \$20 million deficit. Even with the revenue share cap in the *House v. NCAA* settlement, these schools will face a \$40 million deficit. Without a cap, this deficit will grow. Some schools, aided by their collectives, will spend significant sums on their football rosters—the Texas Longhorns reportedly will spend \$35-40 million on their football roster for 2025, and last season, the University of Oregon benefited from \$23 million in collective money to build its roster. These are only two examples of an escalating third-party collective arms race. The small and mid-sized schools cannot keep up, leaving true athletic competition to just a few.

Given the increasing amounts of money schools and their collectives will spend to field a championship team, schools may decide to cut non-revenue-generating sports or turn to students to subsidize this billion-dollar industry through higher tuition payments. This is happening already. A 2020 investigative report by NBC News using data from the 2017-2018 academic year, found that 80 percent of Division I schools charged students an athletics fee. For the upcoming academic year, both the University of South Carolina and Clemson University will charge students \$300 for athletics operations.

The SCORE Act Paves the Way for a Power 2 Conference Structure and Exacerbates Current Inequities

It was not too long ago that we had the Power 5 Conferences, now the SCORE Act will facilitate a Power 2 conference by concentrating power in the biggest schools. The SCORE Act tips the NCAA power balance to the biggest schools by ensuring they can have 50 percent of the seats in decision-making bodies. The NCAA will have the discretion to appoint former athletes to these bodies who could be on the staff of powerful conferences or big schools, thereby giving the biggest schools a clear majority when making decisions. It also codifies in federal law the NCAA's authority to regulate under what conditions schools can participate in the Association. Coupled with the expansive limitation of antitrust liability, these provisions enable the NCAA and the biggest conferences to engage in anticompetitive conduct and run roughshod over smaller conferences and schools.

For example, under current NCAA regulations, schools that are not in an FBS conference can request a waiver from the NCAA to compete in the subdivision as an independent. If a school is denied a waiver, it now has the right to sue the NCAA under federal or state antitrust law. The opportunity to compete in the FBS has massive advantages because teams and conferences can earn millions of dollars for participating in the College Football Playoff (CFP) each year. The SCORE Act, however, would grant antitrust immunity for the NCAA's actions in deciding which teams should have access to the biggest pots of money. This does not help small to mid-sized schools compete because of the NCAA bias toward the biggest conferences. This will eviscerate the dream of "any given Saturday."

In another example, the SCORE Act would allow the largest conferences to use their power to give themselves an advantage in selecting teams that will play in the NCAA Basketball Tournaments. Currently, the selection committee includes members who represent small and mid-sized schools and conferences, but the most powerful conferences could skew the selection committee toward the larger conferences to ensure they have more teams in the tournament and more revenue. Given the automatic bids favoring the largest conferences for the CFP—and one conference's attempt to quadruple its current bids—this is not hard to imagine.

We do not need a federal law that would entrench the advantages the biggest conferences already have and exacerbate the significant disparities in athletics revenues for universities, especially revenues from television rights. These inequities are growing. For example:

- Pac-12 schools that were previously part of a Power 5 conference will now reportedly receive nearly 63 percent less revenue from television rights than they did before conference realignment.¹
- Schools in the ACC will now get paid based on their viewership ratings for football and men's basketball,² which will hurt schools like Wake Forest, which has fewer viewers for its football games than other ACC schools.³
- The new CFP payout structure further increases these inequities by paying the SEC and Big Ten 10 times more than the small and mid-major schools.⁴

¹ Pac-12 Conference, "Pac-12 announces record 2021-22 financial results," (May 19, 2023), <https://pac-12.com/news/2023/5/19/pac-12-announces-record-2021-22-financial-results>; see also T. Wood, "What are the latest projections for the Pac-12 Conference's media deal?", *Deseret News* (June 18, 2025), <https://www.deseret.com/sports/2025/06/18/projections-for-new-pac-12-conference-media-deal/>.

² M. Baker, "ACC's legal settlement with FSU, Clemson reveals 'super league' escape clause," *The Athletic* (July 3, 2025), <https://www.nytimes.com/athletic/6472151/2025/07/03/accs-legal-settlement-with-fsu-clemson-reveals-super-league-escape-clause/>.

³ B. Murphy, "New revenue equation for ACC schools: More wins + more viewers = more money," *WRAL News*, (Aug. 17, 2025), <https://www.wral.com/sports/colleges-acc-football-basketball-revenue-distribution-success-viewership-august-2025/>.

⁴ R. Dellenger, "How the new College Football Playoff format came to be and what it means for the sport's future," *Yahoo! Sports* (Apr. 22, 2024), <https://sports.yahoo.com/how-the-new-college-football-playoff-format-came-to-be-and-what-it-means-for-the-sports-future-165149801.html>.

Ultimately, the broad antitrust exemption in the SCORE Act would widen existing inequities among schools and conferences, creating long-term instability for schools of all sizes.

The SCORE Eliminates Athletes' Legal Rights

The SCORE Act would roll back court decisions that have resulted in college athletes' ability to earn compensation. In its 9-0 decision in *Alston v. NCAA*, the Supreme Court made it clear that the NCAA and its members have monopsony power because college athletes have nowhere else to go to sell their skills. Until athletes successfully sued the NCAA and its members under the antitrust laws, athletes could not earn compensation for playing their sport.

Justice Kavanaugh, in his concurring opinion in *Alston*, called into question the NCAA's compensation rules beyond the education-related benefits rule at issue in the case and suggested that none of the NCAA's compensation rules could withstand antitrust scrutiny. In particular, Justice Kavanaugh took issue with the position that the defining feature of college sports is the fact that athletes are not paid. As Justice Kavanaugh wrote:

“Nowhere else in America can businesses get away with agreeing not to pay their workers a fair market rate on the theory that their product is defined by not paying their workers a fair market rate. And under ordinary principles of antitrust law, it is not evident why college sports should be any different. The NCAA is not above the law.”

In *Alston*, the Supreme Court refused to grant the NCAA “judicially ordained immunity from the terms of the Sherman Act for its restraints on trade” and refused to overlook the NCAA's restraints on trade “because they happen to fall at the intersection of higher education, sports, and money.” The SCORE Act would give the NCAA and its members immunity from the antitrust laws and the virtually unfettered ability to engage in anticompetitive conduct.

And in 10 years, when the *House v. NCAA* settlement expires, the SCORE Act would preempt state laws that would give athletes NIL rights for media distribution. This would extinguish any rights athletes would have to control or demand compensation for their NIL in game broadcasts or media.

The SCORE Act Drives Money Away From Women Athletes and Olympic Sports

Lastly, I am concerned that the SCORE Act will decrease opportunities for college sports across the board. The U.S. Senate Commerce, Science and Transportation Committee has a history of supporting women athletes, for example, by passing into law the Equal Pay for Team USA, which requires for athletes representing Team USA equal pay, medical care, travel arrangements, and reimbursement of expenses for players of the same sport regardless of gender. The SCORE Act reverses this trend and will create uncertainty for the hundreds of thousands of women athletes competing in intercollegiate sports who are entitled to equal benefits.

The SCORE Act codifies the *House v. NCAA* settlement, which is already being challenged in the courts as violating Title IX. Title IX prohibits institutions that receive federal funding from excluding students from participating in athletic programs, denying them benefits, or subjecting them to discrimination based on sex. Most of your institutions already have decided to structure your revenue sharing models under the *House v. NCAA* settlement to prioritize football—which means that most revenue sharing will benefit male athletes.

Your universities have been the training ground for Team USA—65 percent of U.S. athletes at the Paris 2024 Games participated in NCAA varsity sports. The robust competition that is the highlight of college sports in the United States is key to Olympic medals. It is unlikely that the 1980 “Miracle on Ice” would have happened if the team had not been tested in intercollegiate hockey competition. The same for the University of Washington’s 1936 “Boys in the Boat,” who honed their competitive skills against the University of California and Stanford.

Division I schools with football and basketball programs spend more than half of their budgets on those two sports alone, with FBS schools spending 66 percent of their budgets on football and basketball.⁵ By prioritizing revenue-generating sports and entrenching the current competitive ecosystem in college athletics, the SCORE Act will make it harder for many of your schools to keep and fully fund Olympic sports—over 30 Division I athletic programs have been eliminated in the past two years. We should look for policies to increase athletic opportunities for our Olympians and provide them with the ability to train and compete at a high level. The SCORE Act moves us in the wrong direction—and we do not want the United States to be embarrassed on the world stage.

Conclusion

In conclusion, the SCORE Act rolls back athletes’ legal protections, all while worsening the existing chasm between the most powerful conferences and all other schools, raising costs for universities and students, cementing the unfair competitive environment of today, and creating an arms race among schools trying to keep up. More specifically, it will grant broad antitrust immunity for the NCAA, change the *House v. NCAA* settlement to lift the revenue share cap and put pressure on university budgets, force schools to find new, potentially unsavory, sources of revenues to help support their athletic programs, and create a conflict between funding revenue and non-revenue generating sports, like some Olympic and women’s sports.

⁵ Presentation, “Protecting Collegiate Olympic Sports – An Interactive Session on What Comes Next, The Knight Commission on Intercollegiate Athletics, at 13 (June 10, 2025), available at https://www.knightcommission.org/wp-content/uploads/kcia_NACDA_slides_postsession_6102025.pdf.

I invite you to provide input on legislation that will protect the college athletics system and its athletes and set up universities and their programs to thrive in the future. I look forward to working with you.

Sincerely,

A handwritten signature in blue ink, reading "Maria Cantwell". The signature is fluid and cursive, with the first name "Maria" and last name "Cantwell" clearly distinguishable.

Maria Cantwell
Ranking Member