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ABSTRACT

Senate Bill 580, the Student Athlete Right-to-Know Act, requires institutions of higher education receiving Federal financial assistance to provide certain information concerning graduation rates of student-athletes. The report from the Committee on Labor and Human Resources recommends (by a 15-1 vote) to the full Senate that the Bill be passed as amended. It presents the amendment in full and information on the history of the legislation, background and need for the legislation, major provisions of the Bill, votes in committee, cost estimate, the regulatory impact statement, a section-by-section analysis, and a minority view. Justification for the Bill is seen in the poor graduation rate for most student athletes and the small probability that a given student athlete will go on to a professional athletic career. The Bill will require institutions of higher education to report the following: the number of students at the institution, the number of students receiving athletically related student aid, the average 4-year graduation rate for all students, the average 4-year graduation rate for students receiving athletically related student aid and the number and percentage of students receiving athletically related student aid who earned a bachelor's degree or its equivalent within 10 years of entering the school. The minority opposing opinion views the Bill as inappropriate for the Department of Education and excessively burdensome on both the reporting institutions and the Department.

(DB)

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ED 318312

STUDENT ATHLETE RIGHT-TO-KNOW ACT

NOVEMBER 16 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany S. 580]

The Committee on Labor and Human Resources, to which was referred the bill (S. 580) to require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Athlete Right-to-Know Act".

89-010

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SEC. 2. FINDINGS.

The Congress finds that—

- (1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;
- (2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of student-athletes at institutions of higher education;
- (3) an overwhelming majority of college presidents (86 percent) in a 1989 survey said that the pressure for success and financial rewards in intercollegiate athletics interferes with the educational mission of the United States' colleges and universities;
- (4) every year more than 10,000 students are awarded athletically related student aid by institutions of higher education;
- (5) prospective student athletes and their families should be aware of the educational commitments prospective colleges make to athletes; and
- (6) knowledge of the graduation rates of student-athletes would assist prospective students and their families in making an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 3. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) **REPORTS TO THE SECRETARY.**—Each institution of higher education which receives Federal financial assistance and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary of Education (hereinafter referred to as the "Secretary") which contains—

- (1) the number of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports combined, broken down by race and sex;
- (2) the number of students at the institution of higher education, broken down by race and sex;
- (3) the average graduation rate for the 4 most recent graduating classes of students at the institution of higher education who received athletically related student aid for football, basketball, and all other sports combined, broken down by race and sex;
- (4) the average graduation rate for the 4 most recent first-time, full-time graduating classes of all students, broken down by race and sex; and
- (5) the number and percentage of students receiving athletically related student aid who earned a bachelor's degree or its equivalent within 10 years of entering the school.

(b) **STUDENT NOTIFICATION.**—When an institution described in subsection (a) offers a potential student-athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and high school coach the information contained in the report submitted by such institution pursuant to subsection (a).

(c) **SPECIAL CIRCUMSTANCES.**—If an institution of higher education described in subsection (a) finds that the information collected pursuant to subsection (a), because of extenuating circumstances, does not provide an accurate representation of the school's graduation rate, the school may provide additional information to the student and the Secretary.

(d) **COMPARABLE INFORMATION.**—Each institution of higher education described in subsection (a) may provide supplemental information to students and the Secretary showing the graduation rate when such graduation rate includes students and student-athletes in good academic standing who transferred into, out of, or otherwise left, such institution. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

SEC. 4. REPORT BY SECRETARY.

(a) **IN GENERAL.**—The Secretary shall, using the data required under section 3, shall compile and publish a report containing the information submitted under section 3, broken down by—

- (1) individual institutions of higher education, and
- (2) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

(b) **REPORT AVAILABILITY.**—The Secretary shall make available copies of the report required under subsection (a) to any individual or secondary school requesting a copy of such report.

SEC. 5. INFORMATION.

The Secretary may, at his discretion, obtain the information required by section 3 from a private, not-for-profit organization when, in the Secretary's opinion, such collection will reduce the paperwork burden imposed on higher education institutions.

SEC. 6. TWO-YEAR COLLEGE DATA.

The Secretary shall, in conjunction with the national Junior College Athletic Association, develop and obtain data on graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in section 3 of this Act.

SEC. 7. DEFINITIONS.

For the purpose of this Act—

(1) The term "athletically related student aid" means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in an institution of higher education's program of intercollegiate athletics in order to be eligible to receive such assistance.

(2) The term "institution of higher education" has the same meaning given such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(3) The term "Secretary" means the Secretary of Education.

(4) The term "graduation rate" means the percentage of students with no previous collegiate participation who enter an institution of higher education as full time, regularly matriculated, degree seeking students in a specific year and graduate with a bachelor's degree, or the equivalent, within 5 years.

I. HISTORY OF THE LEGISLATION

The Student Athlete Right to Know Act was originally introduced as S. 2498 in the 100th Congress by Senators Bill Bradley and Edward Kennedy. A companion bill H.R. 4797 was sponsored in the House of Representatives by Congressmen Ed Townes and Tom McMillen. No action was taken on either measure.

The bill was reintroduced in the 101st Congress on March 5, 1989, as S. 580 by Senators Bradley and Kennedy. An identical bill was introduced as H.R. 1454 in the House of Representatives.

To help inform congressional deliberations about this legislation, the House Subcommittee on Postsecondary Education asked the General Accounting Office (GAO) to review the current availability of data that the proposed legislation would require the schools to report. This report was completed and filed with the Subcommittee on March 17, 1989.

The Senate Labor Committee asked the GAO to examine the reporting burden that the proposed legislation would impose on colleges and universities. This report was completed and submitted to the Senate on September 11, 1989.

On September 12, 1989, the Labor Committee held a hearing on the proposed legislation. The Committee heard testimony from former athletes and college coaches about the need to increase the attention given to academics.

Following the Committee's hearing, Committee staff met with representatives of higher education and college athletics to discuss the provisions of the proposed legislation. The Committee met in a markup session on November 1, 1989. At this meeting, the Committee adopted an amendment in the nature of a substitute and voted to report S. 580 by a 15-1 vote.

II. BACKGROUND AND NEED FOR THE LEGISLATION

College athletics has a long and proud history. In recent years, public awareness of and interest in college sports has steadily in-

creased. Attendance at college sporting events has skyrocketed and the audience for major football bowl games and the "Final Four" basketball championship is measured in the millions.

Yet as college sports have become more popular, problems have emerged. Many of the problems are caused by the large amounts of money—\$50 billion according to one estimate—that are involved. The potential income from college athletics is so great that the educational mission of the university is too easily forgotten.

Many colleges and universities have been affected. Between 1952 and 1985, 30 of the 33 NCAA basketball champions were placed on probation by the National Collegiate Athletic Association (NCAA). In the 1980s, nearly half the NCAA Division IA schools have been censured, sanctioned or put on probation. Twenty-three institutions are currently subject to NCAA sanctions.

The enormous amounts of money involved in athletics also distorts the decisions made by student athletes. Many young athletes see that professional athletes earn more in one night than a high school teacher does in a year. Too many athletes—especially in football and basketball—forsake their education in exchange for the chance to become a professional athlete.

Many of these athletes are disadvantaged minority youths. All too often, they, along with their parents, buy into a dream that sports will lift them from poverty to riches and fame. In pursuing this dream, many student athletes squander the educational opportunities available to them and do not receive the education promised by the college. Some college recruiters unduly pressure these youths and exploit their vulnerability.

In reality, few athletes will go on to professional careers. In 1986-87, 12,000 young college men played college basketball, only 161 were drafted into the National Basketball Association and few will play for more than a few years. The dream is, for almost all college athletes, an impossible dream.

A report prepared for the Committee by the General Accounting Office (GAO) concluded that the graduation rate for men's basketball and football players at the NCAA largest member schools (Division I) were lower than the graduation rate for all students. For example, at 97 Division I schools with a basketball program, 35 schools had a graduation rate of 0 to 20 percent for their basketball players, while 4 schools had a similar graduation rate for all students. By contrast, only 8 schools graduated more than 80 percent of their basketball players.

Among Division I schools with a football program, 14 schools had a graduation rate of less than 20 percent for their football players, while only 5 schools had a similar rate for all their students.

"It's a national scandal", says Rev. Timothy Healy, the former President of Georgetown University. He calls the situation "an abuse of kids, to hold them for four years and toss them away like a dirty towel." According to sociologist Harry Edwards of the University of California at Berkeley: "The system is simply out of control."

Many colleges run excellent athletic programs where thorough attention is also given to academic concerns. At Villanova University, for example, 100 percent of the basketball players receiving scholarships in the last 17 years have received their degrees. Vil-

lanova is not the only school with such a stellar record of accomplishment, but it is one of a very small group.

In recent years, the National Collegiate Athletic Association (NCAA) and other athletic bodies have begun to address these problems. The NCAA's effort began in 1982 when Robert Atwell, President of the American Council on Education and Derek Bok, President of Harvard University, attempted to establish a commission with powers over the NCAA. However, the proposal was rejected by the NCAA membership. Two years later, the NCAA established a President's Commission designed to provide advice to the NCAA about ways to address the academic deficiencies in many college athletic programs.

Earlier this year, the American Institutes Research (AIR) completed a study of "intercollegiate athletics" at the request of the President's Commission. This \$2 million report was based on 4,000 interviews with students and student athletes at 42 NCAA Division I institutions. Among the report's findings:

The grade point averages of athletes are lower than those of other students;

Football and basketball players are much more likely than non-athletes to have psychological, physical, alcohol-related, drug-related or academic problems; and

Student athletes get considerably less enjoyment from sports than other students derive from their extra curricular activities.

In commenting upon the findings and the reluctance of the athletic community to address these and other problems, Sports Illustrated noted:

It's appalling that some college sports administrators refuse to consider the educational well-being of their athletes. Yet such thinking persists. Actually, a major shortcoming of the NCAA is that too many ex-jocks who have been in the trenches are making decisions they aren't qualified to make.

Under the leadership of the President's Commission, the NCAA adopted a rule commonly known as Proposition 48 (Prop. 48). Under Prop. 48, an incoming college freshman, in order to be eligible to play a sport in freshman year at a Division I school had to: (1) have a combined score of 700 out of a possible 1,600 on his Scholastic Aptitude Test (SAT) in order to play and (2) have compiled a minimum 2.0 grade point average (equivalent to a C) in 11 core high school courses. The athletes must maintain that average while in college. Furthermore, after two years, a student athlete must show "progress toward a designated legitimate degree."

Athletes who did not meet these criteria could still receive a scholarship but would not be eligible to play as freshmen. While the core curriculum and grade point standards won widespread approval, the requirement for minimum scores on standardized tests proved controversial. Many educators argued that standardized achievement tests are culturally and racially biased. Black leaders charge that Proposition 48 would limit black athletes' opportunities to obtain scholarships.

An NCAA study undertaken prior to implementation seemed to bear out that fear. The study examined the class of 1981 and showed that 69 percent of black male athletes would have been ineligible as freshmen. Six out of 7 black basketball players and 3 out of 4 black football players at the nation's largest schools would have been unable to play. Among whites, 1 out of 3 basketball players and 1 out of 2 football players would have been ineligible.

However, when implemented in the fall of 1986, Prop. 48 actually sidelined far fewer athletes than was expected. Less than ten percent of football players and only 13 percent of basketball players overall had to sit out their first season.

The 1987-88 figures are equally dramatic as only 16 percent of blacks in the revenue sports were ineligible. While Prop. 48 continued to take a disproportionately heavier toll on blacks (58 of 60 basketball and 141 of 152 football), the 16 percent is about one-fifth of the number predicted in the 1981 NCAA study.

This debate became more controversial in January 1989 when the NCAA voted to adopt Proposition 42. The new Proposition would ban first year scholarships to students who did not meet the minimum standards established in Prop. 48. The overwhelming majority of those likely to be affected were black and the new rule created a tremendous controversy. Opponents of the law said that Prop. 42 would deny students the chance to get an education if they could not receive a scholarship. Proponents said it would put increased pressure on high school players to study harder. Nonetheless, because of the controversy, the NCAA decided to table Prop. 42 pending further study.

The actions taken by the NCAA so far are important steps and signal a willingness to address some of the major problems affecting college athletics. But much more remains to be done. Perhaps one of the most important steps would simply be to require colleges to tell potential student athletes about the graduation rate of previous athletic scholarship recipients.

Student athletes about to enter college are consumers. As such they are entitled to relevant and basic information in order to make an informed choice about which college to attend. The promise of an athletic scholarship is that the student-athlete trades his or her athletic talents for a chance at an education. They deserve to know how much of one they are likely to receive.

A solid commitment to the education of the student athlete should be the underpinning of all college athletic programs. Academic institutions must give every student, including each student-athlete, the opportunity for a higher quality education. Telling student athletes about the educational performance of previous student athletes is an important step toward that goal.

III. MAJOR PROVISIONS OF THE BILL

Purpose.—S. 580 will provide prospective student-athletes with information about the academic performance of student-athletes at the institutions that they are considering. The bill simply requires colleges and universities that provide athletically related student aid to disclose the graduation rates of those who receive such aid. This is, in short, a consumer-information provision. The Committee

believes that the educational record of colleges will weigh heavily in the decision making of student athletes if information is readily available.

The Committee has proceeded with Federal legislation for two reasons. First, the Committee believes that the strong commitment to the academic side of a college education has been neglected for too long by colleges and universities. Despite widespread disclosures about academic abuses, the higher education community has made only fitful progress in addressing the problem.

The Committee also believes that Federal action is necessary to ensure that all schools offering athletically related student aid make such information available. The Committee's bill will cover the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics and the National Junior College Athletic Association. Without federal legislation, it is unlikely that prospective student-athletes will have comparable information available to them.

Provisions.—Colleges and universities that receive federal financial assistance and award athletically related student aid to students must submit data to the Secretary of Education every year that shows:

The number of students at the institution;

The number of students at the institution who received athletically related student aid;

The average four-year graduation rate for all students;

The average four-year graduation rate for all students receiving athletically related student aid;

The number and percentage of students receiving athletically related student aid who earned a bachelor's degree or its equivalent within 10 years of entering the school.

For student-athletes, data must be broken down by race and sex and show graduation rates for football, basketball and all other sports combined. Data on both student-athletes and all students must be broken down by race and sex.

By "athletically related student aid", the Committee means any scholarship, grant, or other form of financial assistance whose terms require the recipient to participate in intercollegiate collegiate athletics. The bill does not cover federal, state or institutional need-based student aid programs unless the aid requires participation in college sports programs.

The term graduation rate means the percentage of students with no previous collegiate experience who enter a college or university as full-time, regularly matriculated, degree seeking students in a specific year and graduate with a Bachelor's degree, or the equivalent, within five years. The Committee intends that the colleges calculate four years "rolling averages" by combining the average graduation rate of four entering classes into a single statistic. Doing this will provide prospective students with a more accurate picture than will data showing only a single year graduation rate.

The Committee requires that graduation data be presented by racial categories. The Committee recognizes that the standard taxonomy used by the federal government to display racial or ethnic data may be inappropriate for this purpose. Thus, the Secretary may elect to use a revised taxonomy. For example, the Secretary

may elect to use a smaller number of racial categories than is typically the case.

Schools that offer potential students athletically related student aid must provide the information required in this act to the student, his parents, his guidance counselor and the student's high school coach.

The Committee recognizes that some colleges and universities may wish to provide students with more information than that required under this statute. For example, colleges may wish to provide information showing how the graduation rate changes when students who transfer into and out of colleges and universities are included in the totals. The bill requires that the Secretary ensure that such data are based on comparable definitions.

The Committee also knows that these definitions may work a special hardship on some institutions because of the educational programs offered by those institutions. For example, many student athletes at the University of Utah and at Utah State University interrupt their college education to serve as missionaries—often for as long as two years. The bill encourages schools that find themselves in this situation to provide additional information to potential student-athletes and to the Secretary.

The Secretary of Education shall compile the data required by this bill and publish an annual report. The Committee recognizes that some athletic bodies, such as the National Collegiate Athletic Association, may collect this information themselves now or in the near future. The bill allows the Secretary to collect this data from such organizations when he determines that doing so will reduce the paperwork burden on colleges and universities. The Committee encourages the Secretary to work with these organizations in collecting this data.

The Committee has included a provision requiring the Secretary to develop, in conjunction with the National Junior College Athletic Association, a set of graduation rate data for student athletes at community and junior colleges. The Committee has done this because the provisions of this bill are primarily applicable to four year institutions and may not accurately reflect the performance of student athletes and all students at two-year institutions. The data required in response to this provision shall be consistent with the data required of four year institutions.

IV. VOTES IN COMMITTEE

On November 1, 1989, the Chairman of the Committee on Labor and Human Resources, Senator Kennedy, convened an Executive Session of the Committee on Labor and Human Resources to consider S. 580.

The Committee voted to adopt and report S. 580 as amended, as an amendment in the nature of a complete substitute, by roll call vote, 15-1.

YEAS
Kennedy
Pell
Metzenbaum
Matsunaga

NAYS
Cochran

Dodd
 Simon
 Harkin
 Adams
 Mikulski
 Hatch
 Kassebaum
 Jeffords
 Coats
 Thurmond
 Durenberger

V. COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, November 8, 1989.

HON. EDWARD M. KENNEDY,
 Chairman, Committee on Labor and Human Resources,
 U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has examined the federal cost impact of S. 580, the Student Athlete Right-to-Know Act. The bill was ordered reported from the Senate Labor and Human Resources Committee on November 1, 1989.

The purpose of this bill is to require institutions of higher education receiving federal financial assistance and attended by students receiving athletically related student aid to provide the Secretary of Education with an annual report. The report would contain information on the number of students at those institutions who receive athletically related student aid and their graduation rates. Based on our analysis, there would be no direct effect on federal, state, or local government costs as a result of enactment of this Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Kalcevic.

Sincerely,

ROBERT D. REISCHAUER,
 Director.

VI. REGULATORY IMPACT STATEMENT

The Committee has determined that there will be minimal increases in the regulatory burden imposed by this bill.

VII. SECTION-BY-SECTION ANALYSIS

Section 1. Title

The short title is "The Student Athletic Right to Know Act."

Section 2. Findings

The Congress finds that education is fundamental to the development of individual citizens and the nation, there is increasing concern about the academic performance of student-athletes, more than 10,000 scholarships are awarded annually, and knowledge of the graduation rates of student-athletes would help prospective stu-

dents and their families make informed judgment about the educational benefits available at a given institution of higher education.

Section 3. Reporting Requirements

Institutions of higher education that receive federal financial assistance must submit a report to the Secretary of Education which shows: the number of students receiving athletically related student aid for football, basketball, and all other sports combined; the total number of students at the institution; the graduation rate for students at the institution who received athletic scholarships; the graduation rate for first-time, full-time students; the average graduation rate for the four most recent graduating classes of students who received athletically related student aid; the average graduation rate for the four most recent graduating classes of all students; the graduation rate for students receiving athletically related student aid who entered the institution ten years prior to the submission of the report.

Institutions may provide supplemental information to the Secretary and to the student athlete. The Secretary shall ensure that the data presented to the student and the data submitted to the Secretary are comparable.

Section 4. Report by the Secretary

The Secretary shall publish a report containing the information required under Section 3.

Section 5. Information

The Secretary may, at his discretion, obtain the information required by Section 3, from a private, not-for-profit organization when doing so will reduce the paperwork burden imposed on colleges and universities.

Section 6. Definitions

The following terms are defined: "athletically related student aid", "institutions of higher education", "Secretary", and "graduation."

VIII. MINORITY VIEWS OF MR. COCHRAN ON S. 580

I oppose S. 580 because it requires actions that are inappropriate for the Department of Education to undertake and are excessively burdensome on both the reporting institutions and the Department.

I believe that the collection of the information required by this Act is not an appropriate role for the federal government. The link between the receipt of Federal financial assistance by an institution of higher education and the awarding of athletic scholarships by that institution out of its own funds is very weak. It would be much more appropriate for the National Collegiate Athletic Association (NCAA) and the college athletic conferences to monitor these activities. In fact, the NCAA has expressed an interest in adopting the essence of S. 580 as one of its policies and a similar measure is to be proposed by the NCAA President's Commission at the NCAA Convention in January, 1990. I strongly prefer that the NCAA address this issue and suggest that any further action on this bill be postponed until after the NCAA meets in January of 1990.

Further, the data collection requirements in S. 580 are far too prescriptive and burdensome, especially considering that it would be collected for the benefit of only a very limited group of students—approximately 10,000 athletic scholarships—out of the several million students who attend postsecondary institutions annually. The burden that would be associated with this legislation is out of proportion to the benefits that would be derived from it.

All schools must do their utmost to ensure that all student athletes succeed in their academic and athletic pursuits. To the extent that information on graduation rates can help student athletes select the college most suited to their needs, I believe that such information should be provided. However, I believe that organizations such as the NCAA and the athletic conferences should have the central role in ensuring that this is done.

I am advised that the Administration opposes enactment of this legislation.

THAD COCHRAN.

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