

**COMMITTEE ON ENERGY AND COMMERCE**

**The Subcommittee on Innovation, Data, and Commerce Hearing entitled:  
“NIL Playbook: Proposal to Protect Student Athletes' Dealmaking Rights.”**

**Thursday, January 18, 2024**

**Written Testimony of Jeff Jackson, Commissioner, Missouri Valley Conference**

Chairman Bilirakis, Ranking Member Schakowsky and members of the committee:

Thank you for the opportunity today to testify at the hearing “NIL Playbook: Proposal to Protect Student Athletes' Dealmaking Rights.”

My name is Jeff Jackson, and for the last two and a half years, I have had the honor and pleasure to serve as Commissioner of the Missouri Valley Conference, the second oldest collegiate athletic league in Division I. The Valley is comprised of twelve institutions, seven public and five private: Indiana State University, University of Evansville and Valparaiso University from Indiana; Bradley University, University of Illinois Chicago, Illinois State University, and Southern Illinois University Carbondale from Illinois; Drake University and the University of Northern Iowa from Iowa; Murray State University from Kentucky; Missouri State University of Missouri; and Belmont University of Tennessee. Prior to my role as Commissioner of the Valley, I served as Executive Commissioner at the Big 12 Conference and Deputy Commissioner at the Big South Conference following a long coaching career in men's basketball.

The Missouri Valley Conference serves over 5,000 student-athletes, who compete in championships for 17 sports. In many ways the Missouri Valley provides the quintessential student-athlete experience. These students travel to competitions within a geographic region with book bags and gear in tow. The Valley student-athlete truly embodies the majority of student-athletes who compete at the Division I level. 92% of our student-athletes will graduate within six years, and it is common on our campuses for student-athletes to graduate at a higher rate and a higher GPA than the general student body.

For many of our student-athletes, competing in the Valley will be their ultimate athletic experience. Our institutions take tremendous pride in the support and mentorship that they provide academically, physically and emotionally. Health and safety measures and protocol are at the forefront of all we do and continue to be improved. Recent enhancements include increased mental health resources and support, degree completion support and scholarship protections. Within the next few months, our schools, along with other Division I members will provide increased medical coverage, to include out-of-pocket medical expenses beyond a student-athlete graduating or leaving the institution. As a familiar NCAA commercial states, our athletes will be going pro in something other than sports. It is paramount to our schools that the potential for these life-informing experiences is not altered nor diminished. Please keep in mind that most of our programs are non-revenue generating. This is an academic-first enterprise; any rule or policy that would inhibit these opportunities or would minimize the competitive connection that currently exists in Division I would have a negative impact on a large pool of potential student-athletes.

I would like to thank Representative Bilirakis and the Committee for their efforts on this matter. The discussion draft before us today has much to offer the intercollegiate community. First, the Valley believes that permitting student-athletes to benefit from their name, image and likeness (NIL) is a positive addition to their experience. However, NIL activities cannot successfully exist or be maintained in an unregulated format. We at the Valley believe federal preemption on NIL for student-athletes would provide clarity, transparency, student-athlete protections, and enhance opportunities for students to benefit from NIL. The current patchwork approach across the states creates confusion and potential compliance and eligibility issues, along with great uncertainty for our student athlete population. Though most NIL deals in the Valley are of moderate value -- measured in hundreds and thousands of dollars as opposed to the tens or hundreds of thousands or millions -- a common refrain from our student athletes, who are no less susceptible to bad actors, is that they are worried texts or calls they receive are scams.

The FAIR Act represents a critical bipartisan effort that goes a long way and is an important step forward in bringing clarity to the NIL process and protections for our student athletes. It recognizes the historic relationship between an academic institution and a student-athlete and protects against recent attempts to reclassify these students as employees, a move that would negatively impact the ability of most universities to offer the scholarship-level competition that has become so much a fabric of their campuses. Without this clarification, we could see a rapid collapse in universities' ability to field non-revenue-generating athletic programs. The Valley proudly supports 17 sports from basketball to tennis to golf for men and women at the championship level; the majority of these sports are non-revenue generating yet provide a life informing experience for the students who choose to compete. Additionally, these sports provide

students significant exposure to the U.S. Olympic and Paralympic Committees. The Valley commends the legislation for its effort to preserve the ability to offer students such rich and diverse programming.

Another key point in the FAIR Act protects universities and conferences who act in good faith under this proposed new set of guidelines, allowing universities and student athletes to operate under some predictability and certainty regarding NIL activities. In recent years, the NCAA has been hamstrung in its efforts to create a clear set of guidelines and benefits for students by the ever-changing legal climate and its subsequent impact on the collegiate athletic experience.

We strongly advocate for the type of transparency and clarity that the FAIR Act supports. NIL must not be used as an inducement in recruiting. We currently exist in an unregulated, underground market. The current norm in collegiate recruiting, particularly in the sport of basketball, has less structure than professional leagues. We have all heard and read the anecdotal stories of exploitation, abuse, and deception due to a lack of transparency and accountability in this space. In conversations that I have had with Valley student-athletes, they have consistently expressed their concerns about who to trust and their fear of those looking to take advantage of their NIL. We believe the requirements in the discussion draft for agents, boosters and collectives to register with an appropriate entity, and to set clear guidelines on when they can contact student athletes, will help address the current feeding frenzy in recruiting and the transfer portal, while providing student athletes some reliance that the entities and individuals reaching out to them are doing so in good faith. We further believe that the increased clarity and transparency from collectives' registration and reporting will shed some much-needed light on

whether female student-athletes are afforded similar NIL opportunities and how Title IX commitments are impacted. I commend NCAA President Baker for his thoughtful leadership and forward thinking on these consumer protection issues for student athletes as we move forward.

In summary, the Valley fully supports student-athletes' right to benefit from their name, image, and likeness. Transparency is essential to ensuring that student-athletes receive fair compensation for their name, image, and likeness, and that they are promptly compensated the amount as promised for the work that they perform and at a fair market value. The Valley believes the FAIR College Sports Act provides that most important framework.

As a commissioner, I understand the importance of a strong enforcement mechanism to ensure that guidelines and regulations are followed. While I'm unsure the establishment of an independent entity is necessary to enforce the rules outlined in the committee's discussion draft, I appreciate the committee's recognition of the important role that the NCAA and the conferences must play in determining the eligibility of student athletes for future competition based on a consistent understanding and application of the guidelines in this discussion draft. Finally, I appreciate the committee's recognition of the need to establish a minimum threshold value for purposes of reporting 'covered compensation.' Many of the third-party entities who engage our student athletes in NIL opportunities are small businesses who offer in-kind or similar compensation with little market value. Requiring significant registration and reporting from these entities would be impractical and adversely impact our student athletes' ability to benefit from such opportunities.

Thank you again for the opportunity to comment on this discussion draft and for your committee's attention to these issues for our student athletes.