



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Education
and

Senate Committee on Economic Development and Tourism
Wednesday, February 11, 2026 at 1:10 p.m.

By

Matt Elliott, Athletics Director
Intercollegiate Athletics
University of Hawai'i at Mānoa

SB 3263 – RELATING TO THE UNIVERSITY OF HAWAII

Chairs Kim and Decoite, Vice Chairs Kidani and Wakai, and Members of the Committees:

The Department of Athletics at the University of Hawai'i at Mānoa (UHM Athletics) supports SB 3263. Creating a long-term, sustainable revenue stream for Name, Image, and Likeness (NIL) will help create opportunities to recruit and retain elite student-athletes. Since July 1, 2025, collegiate institutions have been permitted to use funding to provide additional scholarships and share revenue, and the money generated from this proposed endowment fund may be granted to students within the new national NIL framework. NIL opportunities are important to college sports because they recognize the real economic value that student-athletes create while preserving their ability to benefit from their own work and identity.

In addition to supporting SB 3263, which establishes a long-term, sustainable funding mechanism for NIL, the University has also requested \$5 million in the 2026–2027 state budget to address immediate NIL needs. This request is necessary even if the proposed endowment is established. While the endowment creates a pathway for long-term sustainability, UHM Athletics requires near-term funding to meet existing and ongoing commitments.

Immediate funding is critical because the department is actively recruiting and retaining student-athletes in an increasingly competitive NIL environment. These resources are necessary to provide stability, honor current obligations, and allow the department to fully pursue its objectives of attracting, retaining, and supporting student-athletes so they can graduate from the University of Hawai'i while remaining competitive in the Mountain West and Big West Conferences.

At present, UHM Athletics is relying heavily on private fundraising to meet its NIL commitments. State support will help stabilize the program, reduce reliance on

unpredictable private sources, and ensure the University can compete equitably during the transition to a sustainable, endowment-based NIL model.

While UHM Athletics is grateful for and supports SB 3263, the department requests that the committees consider the following modifications:

- In section 304A(b), the department proposes that the endowment commence with no less than \$2 million total dollars, as opposed to establishing a \$10 million minimum. It will take time to raise \$5 million dollars in matching funds, and the department and student-athletes would benefit if the endowment fund could start as soon as possible.
- In section 304A(f), the department proposes revising the language to say that if the student-athlete hires an agent, then they must use a registered agent or parent. However, some students will elect not to use agents, and the department does not believe it is necessary to compel a student to use an agent.
- In section 304A(h)(3), the department proposes modifying the reporting requirements so that the department provides information on the amounts provided to each team, but not each individual student-athlete, to avoid disclosing any personally-identifiable information.

UHM Athletics supports SB 3263 with the proposed modifications and encourages the committees to pass the bill.

SB-3263

Submitted on: 2/9/2026 10:44:44 AM

Testimony for EDU on 2/11/2026 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Glen Marumoto	Individual	Oppose	Written Testimony Only

Comments:

I oppose this legislation based on the \$5M taxpayer funding to pay college football players to pay football. The taxpayers are already funding their education and now we have to pay them to play???? Really????!! This so stupid is so many ways. There are better ways to spend \$5M then paying players. And don't think I'm fooled, this if for FOOTBALL, not any other team sport. First, if this is to fend off poaching from another conference, you are dreaming. It's been reported Francisco Meyer, the IN quarterback who was on the national championship team, received an estimated \$2.3M in NIL money. TWO POINT THREE MILLION dollars. Let that sink in. If the SEC, the ACC, the BIG10, or the BIG12 wanted to steal a UH football player, THERE IS NOTHING we can do to stop it. Second, we are in the Mountain West Conference. Basically a glorified high school league. Why do we need to spend that kind of money in a small conference? Third, how does spending this kind of money for this kind of thing make living in Hawaii more affordable? Supposedly that's your goal for this legislative session. Unless it's not really a goal, but a bunch of BS to get you all re-elected. Fourth, this makes no sense when the Governor is proposing to curtail the tax cuts, YOU gave us, so he can afford \$hi+ like this. Once again stupid money spending. And fifth, why should I pay for this when SB607/HB657 sits languishing in committee purgatory, a bill which actually offsets disabled Veterans for the disability payments they bring into the state? The answer, I SHOULDN'T. So let me propose some amendments to this bill, since I doubt anyone has the guts to say no.

One, if anyone takes state funded NIL money, they should sign a commitment of 2 years or return the money. That way, if by chance we get someone who gets UH into a decent bowl game, they won't jump ship to the higher paying university leaving UH holding the bag before the bowl game, removing all doubt UH shouldn't be in that game. And if they do jump ship, at least the money comes back to spend on someone else. Since the outside money is way more than we can afford, turning back our little scratch shouldn't hurt. Does tax the rich sound familiar, here?

Two, ensure at least 50% of the NIL go to other sports. UH is actually decent in volleyball, basketball, and baseball. The taxpayer would most likely get a bigger bang for the buck with these other sports.

Finally, why don't you do the right thing and find a better way to spend \$5M, like maybe a path forward to get Hawaii students from 48th in the country to like, I dunno, 47th?

Written Testimony of Carlos A. Santana

February 10, 2026

Prepared for the Hawai`i State Legislature – Senate Committee on Education

For consideration of SB3263: Relating to the University of Hawai`i

Proponent Testimony

My name is Carlos A. Santana. I am a graduate of the William S. Richardson School of Law. I have also completed graduate-level coursework on Name, Image, Likeness and Athlete Compensation through the University of Florida. I submit this testimony in support of SB3263 relating to student-athlete compensation.

Name, Image, and Likeness

The landscape of college athletics is changing rapidly. The University of Hawai`i must keep up to remain competitive. Many of these changes are coming through litigation and judiciary decisions. Many of these court cases allege the National Collegiate Athletic Association (“NCAA”) has violated antitrust laws by restricting athletes from earning compensation for the use of their name, image, and likeness (“NIL”). As the courts incrementally dismantle the NCAA’s policies on NIL compensation, the Hawai`i legislature should provide specific guidance for the state court through legislation specific to the issue of student-athlete compensation.

In 2015, the Ninth Circuit court held that the NCAA’s rules operate as an unreasonable restraint on trade, in violation of antitrust law.¹ This was only the beginning of the end of the NCAA’s NIL policy. The most notable court case is *In re College Athlete NIL Litigation*, commonly known as *House v. NCAA*. In this federal case, the plaintiff filed an antitrust challenge against the NCAA and five athletic conferences.² The complaint alleges that the NCAA’s restrictions on athlete compensation for NIL use constitute an unreasonable restraint on trade.³ The complaint also alleges that the NCAA, defendant conferences, and member institutions engaged in a conspiracy to collectively refuse to negotiate with athletes for compensation.⁴ After other plaintiffs joined the case, the court certified it as a

¹ *O’Bannon v. NCAA*, 802 F.3d 1049 (9th Cir. 2015).

² The Atlantic Coast Conference (“ACC”), Big Ten, Big 12, Southeastern Conference (“SEC”), and Pac-12 were co-defendants in the case.

³ *In re College Athlete NIL Litigation*, 4:20-cv-03919 (N.D. Cal.)

⁴ *Id.*

class action. The case was settled in June 2025 when the court approved an agreed-upon settlement between the parties.

The biggest impact of this settlement is in the area of student-athlete compensation. The settlement provided for \$2.8 billion in damages to the various classes of athlete plaintiffs dating back to 2016. The settlement also included:

- Allowing member institutions to be able to enter into direct NIL agreements with athletes for their broadcast NIL rights (up to a cap of 22 percent of Average Shared Revenue for Power Five institutions);
- Eliminating scholarship limits in favor of roster limits; and,
- Enacting restrictions on NIL deals entered into between athletes and third parties, specifically boosters and booster collectives, where such deals must be for a valid business purpose and for fair market value.⁵

International Students

Legislation should also address the matter of international students. In a recent case, an Australian national was denied a P-1A visa. International students typically apply for F-1 student visas to attend universities in the United States. However, a student is not permitted to work off-campus with an F-1 visa. As this is the case, many international athletes apply for a P-1A visa, which allows international athletes to compete in the United States. In this case, the Australian student-athlete attending a university in the United States applied for the P-1A visa. The U.S. Citizen and Immigration Services (“USCIS”) denied the application because (1) her proposed NIL activities were not seen as "ancillary promotional activities" and are unrelated to her status as an athlete, (2) her NIL representation agreement is not an agency agreement; and (3) she cannot attend school on a P-1A visa.⁶ The student-athlete is challenging this decision and the overall limits on P-1A visa access for college athletes.

The problem:

- Students cannot work on an F-1 visa
- Athletes cannot attend school on a P-1A visa

The solution:

⁵ *Id.*

⁶ *Poa v. Jaddou (USCIS)*, 3:24-cv-00887, Louisiana Middle District Court

- Create a new visa (possibly an F-1A) for foreign students to attend a university, participate in intercollegiate athletics, and avail themselves of NIL opportunities.

The legislature and the University of Hawai`i must persuade federal legislators to require the USCIS to create this new visa program for international student-athletes.

Student-Athletes as University Employees

In July 2024, the Third Circuit Court of Appeals issued an opinion finding that some college athletes can and should be considered employees under the Fair Labor Standards Act (“FLSA”).⁷ In doing so, they developed a four-part test for determining whether particular athletes should be considered employees. Under this test, college athletes may be employees under the FLSA when they (a) perform services for another party, (b) necessarily and primarily for the other party's benefit, (c) under that party's control or right of control, and (d) in return for "express" or "implied" compensation or "in-kind benefits."⁸ This case has not been resolved and is pending a decision on the NCAA’s motion to dismiss.

HB2384 would resolve this issue in Hawai`i courts as it states that nothing in the amended law would create an employment relationship between a student-athlete and the university.

Conclusion

I support this legislation to support the student-athletes and the university. Creating NIL opportunities for all student-athletes, including international student-athletes, is good for the participants, the institution, and the state. While some might feel that it is unfortunate that college athletics has evolved to be about monetary compensation for the athletes, this is the world we live in, and we must stay on par to contend with other universities.

The federal courts and several state legislatures have been weighing in on the issue of athlete compensation. The Hawai`i legislature has an opportunity show that it supports student-athletes’ rights and also supports the university’s efforts to remain competitive in a rapidly changing environment.

As part of an educational curriculum, athletics teaches goal setting and teamwork, among many other benefits. It’s time to show the student-athletes that the legislature is part of the team.

I fully support SB3263 and encourage all legislators to vote in favor.

⁷ 9 U.S.C. §§ 201 et seq.

⁸ *Johnson v. NCAA*, No. 22-1223 (3d Cir. 2024)

LATE

SB-3263

Submitted on: 2/10/2026 7:52:09 PM

Testimony for EDU on 2/11/2026 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Sean Spencer	Individual	Comments	Written Testimony Only

Comments:

I support SB3263 even though its not perfect.

I don't think a student-athlete needs to be forced to have an agent and compensate that agent if they don't need to have an agent.

LATE

SB-3263

Submitted on: 2/10/2026 8:59:47 PM

Testimony for EDU on 2/11/2026 1:10:00 PM

Submitted By	Organization	Testifier Position	Testify
Kyle Oura	Individual	Support	Written Testimony Only

Comments:

I support the state's efforts to create NIL legislation (HB2384) and establish an inaugural funding mechanism for NIL for the University of Hawaii (SB3263). I was born and raised in Hawaii, attended UH, and moved to San Francisco to start my career 20 years ago. After both my parents passed away, and my sister moved to the Mainland, UH athletics became the reason I follow Hawaii current events daily. Hawaii is on my mind. Athletics has been one of the major ties former Hawaii residents have, like me. I donate more to UH than my high school, Iolani (because UH needs the money more!).

For me, I have a first hand view of how University of Hawaii athletic teams bring positive attention of Hawaii to people I meet on the West Coast, the biggest major market for Hawaii tourism.

Frequently, when I'm talking to people I meet who are my age (in my 40's), they bring up Hawaii football greats Timmy Chang and Colt Brennan, and the Sugar Bowl team. They have another touch point and frame of reference about Hawaii that goes beyond palm trees and sun. More recently, Hawaii's impressive football victories over Stanford and Cal have captured the imagination of the sports world. We create an outsized impression of excellence/dreams/ambition that is bigger than our land mass.

Hawaii is catching up to the NIL era. When Hawaii teams bring visibility to the state. When they have great success, they draw millions of viewers and reactions. Hawaii needs fans everywhere: when they are thinking about where to vacation, to in boardrooms deciding to invest in Hawaii and employ people. UH athletics is Hawaii's biggest single visibility platform in an attention economy. We either get talked about or get ignored.

I think UH is in a great position to thrive at our level. The Mountain West Conference's new media deal with CBS Sports, Fox Sports, and direct to consumer Kiswe is very exciting. Hawaii

football should continue to get national tv, even network tv coverage for Week Zero games (ie 2025's Stanford game) and several Hawaii games. The Kiswe DTC streaming addition is really exciting because UH can monetize Mainland/Worldwide fans like me, who want to watch Hawaii basketball, baseball, volleyball, etc, thus bringing more revenue to UH from former Hawaii residents, lovers of Hawaii/UH, and local fans.

NASED is so important for Hawaii. At least three families and ours are going to New York City to see BTS in concert, at the same time we were planning to vacation in Hawaii. Unfortunately, we won't be staying in Waikiki this year. Hawaii does not have a concert venue to host shows like this and is missing out of event tourism. If we get NASED completed by 2029's football season, Hawaii will open the season against Arizona, which I bet will be on network tv for the world to see. Hopefully by then, we will be nationally ranked.

UH athletics is on the right path and have shown to be financially responsible (low operating deficit in past fiscal year). NIL will help Hawaii attract and retain the best players (great athletes with good character). I support UH leadership, coaches and players for what they've done, and I love and support Hawaii future which this bill helps promote.

Sports business tends to be meritocratic; you get what you put in. Along with some Manoa Magic, this is an investment that should return multiples.

P.S. One thing that HB2384 and SB3263 kind of conflicts is the reporting of individual player NIL vs lumping in together. There might be a strategic reason to not disclose individual NIL per player, to prevent poaching. Maybe in the future this discrepancy might be tightened up. Mahalo.