

LFC Requester:	Helms
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**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 02/20/23
Bill No: HB302

Sponsor: Castellano
Short Title: SCHOOL-AGE NAME, IMAGE & LIKENESS USE

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 302 (HB302) would enact a new section of the Public School Code to prevent school-age children from being penalized for earning compensation for the use of their name, image, likeness or reputation; wearing shoes of their choice during activities; or obtaining

legal or contractual representation while participating in school activities.

FISCAL IMPLICATIONS

HB302 does not contain an appropriation.

SIGNIFICANT ISSUES

The New Mexico Activities Association (NMAA) notes in their analysis that individual schools have legal rights to name, uniform, and logo and the use of these properties is prohibited for personal gain by student-athletes. NMAA cites the widely held belief – validated by a June 2021 US Supreme Court ruling (see Other Substantive Issues below) – that there is fundamental unfairness to collegiate athletes when they are not compensated for use of their name, image and likeness, since there have been large sums of money earned by colleges on behalf of those athletes. However, this same unfairness does not exist in high school sports, where athletics are an extension of the classroom and there are not large financial gains being made by interscholastic athletics.

The bill includes a conflict-of-interest clause that would prevent a person who represents the school-age person’s public school, the Public Education Department (PED), or an association or organization attempting to regulate the school-age person’s public school activity, or who has done so within the last four years from representing the school-age person in any business agreement.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

Schools would be required to approve contracts.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Subsection C of the bill would prohibit a third party from offering a contract to a school-age person to advertise for the sponsor during a school “activity” without the approval of the school-age person’s school, that a school-age person’s school must approve contracts offered to them to advertise during “that activity” but does not refer to which activity. The intent is likely to refer to an activity being hosted by the school but that is not clear from the provisions of the bill.

OTHER SUBSTANTIVE ISSUES

In June 2021, the US Supreme Court ruled unanimously that the National Collegiate Athletic Association (NCAA) cannot ban certain payments to student athletes under the premise of maintaining amateurism. As a result, the NCAA repealed their ban on allowing athletes to accept endorsements at the college level. However, in many states high school students would lose their athletic eligibility if they accepted such endorsements.

A growing number of states are allowing high school students to receive endorsements from sponsors and remain eligible for athletics. According to a [March 2022 article](#) by Pew Charitable Trusts, high school athletes have started making endorsement deals with pizza parlors, apparel companies and smartphone apps and “cashing in on their status as star players.” Many high

school athletes have amassed large followings on social media as well, raising their profile and earning potential from sponsors.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.