

AMENDMENTS TO LB962

Introduced by Hansen, M., 26.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Sections 1 to 9 of this act shall be known and may be  
4 cited as the Nebraska Fair Pay to Play Act.

5           Sec. 2. For purposes of the Nebraska Fair Pay to Play Act:

6           (1) Athletic grant-in-aid means the money given to a student-athlete  
7 by a postsecondary institution for tuition, fees, room, board, and  
8 textbooks as consideration for the student-athlete's participation in an  
9 intercollegiate sport for such postsecondary institution and does not  
10 include compensation for the use of the student-athlete's name, image, or  
11 likeness rights or athletic reputation;

12           (2) Collegiate athletic association means any athletic association,  
13 conference, or other group or organization with authority over  
14 intercollegiate sports;

15           (3) Compensation for the use of a student-athlete's name, image, or  
16 likeness rights or athletic reputation includes, but is not limited to,  
17 consideration received pursuant to an endorsement contract as defined in  
18 section 48-2602;

19           (4) Intercollegiate sport has the same meaning as in section  
20 48-2602;

21           (5) Postsecondary institution has the same meaning as in section  
22 85-2403;

23           (6) Professional representation includes, but is not limited to,  
24 representation provided by an athlete agent holding a certificate of  
25 registration under the Nebraska Uniform Athlete Agents Act, a financial  
26 advisor registered under the Securities Act of Nebraska, or an attorney  
27 admitted to the bar by order of the Supreme Court of this state;

1           (7) Sponsor means an individual or organization that pays money or  
2 provides goods or services in exchange for advertising rights;

3           (8) Student-athlete has the same meaning as in section 48-2602; and

4           (9) Team contract means a contract between a postsecondary  
5 institution or a postsecondary institution's athletic department and a  
6 sponsor.

7           Sec. 3. (1) No postsecondary institution shall uphold any rule,  
8 requirement, standard, or limitation that prevents a student-athlete from  
9 fully participating in an intercollegiate sport for such postsecondary  
10 institution because such student-athlete earns compensation for the use  
11 of such student-athlete's name, image, or likeness rights or athletic  
12 reputation.

13           (2) No collegiate athletic association shall penalize a student-  
14 athlete or prevent a student-athlete from fully participating in an  
15 intercollegiate sport because such student-athlete earns compensation for  
16 the use of such student-athlete's name, image, or likeness rights or  
17 athletic reputation.

18           (3) No collegiate athletic association shall penalize a  
19 postsecondary institution or prevent a postsecondary institution from  
20 fully participating in an intercollegiate sport because a student-athlete  
21 participating in an intercollegiate sport for such postsecondary  
22 institution earns compensation for the use of such student-athlete's  
23 name, image, or likeness rights or athletic reputation.

24           (4) No postsecondary institution shall allow compensation earned by  
25 a student-athlete for the use of such student-athlete's name, image, or  
26 likeness rights or athletic reputation to affect the duration, amount, or  
27 eligibility for or renewal of any athletic grant-in-aid or other  
28 institutional scholarship, except that compensation earned by a student-  
29 athlete for the use of such student-athlete's name, image, or likeness  
30 rights or athletic reputation may be used for the calculation of income  
31 for determining eligibility for a need-based scholarship.

1           Sec. 4. Any student-athlete who enters into a contract that  
2 provides compensation for the use of such student-athlete's name, image,  
3 or likeness rights or athletic reputation shall disclose such contract to  
4 an official of the postsecondary institution for which such student-  
5 athlete participates in an intercollegiate sport. The official to which  
6 such contract shall be disclosed shall be designated by each  
7 postsecondary institution, and the designation shall be communicated in  
8 writing to each student-athlete participating in an intercollegiate sport  
9 for such postsecondary institution. Each postsecondary institution shall  
10 be prohibited from disclosing any terms of such contract that the  
11 student-athlete or the student-athlete's professional representation  
12 deems to be a trade secret or otherwise nondisclosable.

13           Sec. 5. (1) No student-athlete shall enter into a contract with a  
14 sponsor that provides compensation to the student-athlete for use of the  
15 student-athlete's name, image, and likeness rights or athletic reputation  
16 if (a) such contract requires such student-athlete to display such  
17 sponsor's apparel or to otherwise advertise for the sponsor during  
18 official team activities and (b) compliance with such contract  
19 requirement would conflict with a team contract. Any postsecondary  
20 institution asserting such conflict shall disclose to the student-athlete  
21 and the student-athlete's professional representation, if applicable, the  
22 full team contract that is asserted to be in conflict. The student-  
23 athlete and the student-athlete's professional representation, if  
24 applicable, shall be prohibited from disclosing any terms of a team  
25 contract that the postsecondary institution deems to be a trade secret or  
26 otherwise nondisclosable.

27           (2) No team contract shall prevent a student-athlete from receiving  
28 compensation for the use of such student-athlete's name, image, and  
29 likeness rights or athletic reputation when the student-athlete is not  
30 engaged in official team activities.

31           Sec. 6. (1) No postsecondary institution or collegiate athletic

1 association shall penalize a student-athlete or prevent a student-athlete  
2 from fully participating in an intercollegiate sport because such  
3 student-athlete obtains professional representation in relation to a  
4 contract or legal matter.

5 (2) No collegiate athletic association shall penalize a  
6 postsecondary institution or prevent a postsecondary institution from  
7 fully participating in an intercollegiate sport because a student-athlete  
8 participating in an intercollegiate sport for such postsecondary  
9 institution obtains professional representation in relation to a contract  
10 or legal matter.

11 Sec. 7. (1) The Nebraska Fair Pay to Play Act shall not be applied  
12 in a manner that violates any contract in effect prior to the date  
13 determined by a postsecondary institution pursuant to section 9 of this  
14 act with regard to such postsecondary institution or any student-athlete  
15 who participates in an intercollegiate sport for such postsecondary  
16 institution for as long as such contract remains in effect without  
17 modification.

18 (2) On and after the date determined by a postsecondary institution  
19 pursuant to section 9 of this act, such postsecondary institution shall  
20 not enter into, modify, or renew any contract in a manner that conflicts  
21 with the Nebraska Fair Pay to Play Act.

22 Sec. 8. (1) A student-athlete or a postsecondary institution  
23 aggrieved by a violation of the Nebraska Fair Pay to Play Act may bring a  
24 civil action against the postsecondary institution or collegiate athletic  
25 association committing such violation.

26 (2) A plaintiff who prevails in an action under the Nebraska Fair  
27 Pay to Play Act shall be entitled to:

28 (a) Actual damages;

29 (b) Such preliminary and other equitable or declaratory relief as  
30 may be appropriate; and

31 (c) Reasonable attorney's fees and other litigation costs reasonably

1 incurred.

2 (3) A public postsecondary institution may be sued upon claims  
3 arising under the Nebraska Fair Pay to Play Act in the same manner as  
4 provided for suits against a private postsecondary institution.

5 Sec. 9. Each postsecondary institution shall determine a date on or  
6 before July 1, 2023, upon which the Nebraska Fair Pay to Play Act shall  
7 begin to apply to such postsecondary institution and the student-athletes  
8 who participate in an intercollegiate sport for such postsecondary  
9 institution and to any collegiate athletic association or professional  
10 representation in interactions with such postsecondary institution or  
11 student-athlete.

12 Sec. 10. Section 48-2610, Reissue Revised Statutes of Nebraska, is  
13 amended to read:

14 48-2610 (1) An agency contract must be in a record, signed or  
15 otherwise authenticated by the parties.

16 (2) An agency contract must state or contain:

17 (a) The amount and method of calculating the consideration to be  
18 paid by the student-athlete for services to be provided by the athlete  
19 agent under the contract and any other consideration the athlete agent  
20 has received or will receive from any other source for entering into the  
21 contract or for providing the services;

22 (b) The name of any person not listed in the application for  
23 registration or renewal of registration who will be compensated because  
24 the student-athlete signed the agency contract;

25 (c) A description of any expenses that the student-athlete agrees to  
26 reimburse;

27 (d) A description of the services to be provided to the student-  
28 athlete;

29 (e) The duration of the contract; and

30 (f) The date of execution.

31 (3) An agency contract must contain, in close proximity to the

1 signature of the student-athlete, a conspicuous notice in boldface type  
2 in capital letters stating:

3 WARNING TO STUDENT-ATHLETE

4 ~~IF YOU SIGN THIS CONTRACT:~~

5 (1) IF YOU ENTER INTO NEGOTIATIONS FOR, OR SIGN, A PROFESSIONAL-  
6 SPORTS-SERVICES CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A  
7 STUDENT-ATHLETE IN YOUR SPORT;

8 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING  
9 INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR  
10 ATHLETIC DIRECTOR; AND

11 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT.  
12 ~~CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.~~

13 (4) An agency contract that does not conform to this section is  
14 voidable by the student-athlete. If a student-athlete voids an agency  
15 contract, the student-athlete is not required to pay any consideration  
16 under the contract or to return any consideration received from the  
17 athlete agent to induce the student-athlete to enter into the contract.

18 (5) The athlete agent shall give a record of the signed or otherwise  
19 authenticated agency contract to the student-athlete at the time of  
20 execution.

21 Sec. 11. Section 48-2614, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23 48-2614 (1) An athlete agent, with the intent to induce a student-  
24 athlete to enter into an agency contract, may not:

25 (a) Give any materially false or misleading information or make a  
26 materially false promise or representation;

27 (b) Furnish anything of value to a student-athlete before the  
28 student-athlete enters into the agency contract; or

29 (c) Furnish anything of value to any individual other than the  
30 student-athlete or another registered athlete agent.

31 (2) An athlete agent may not intentionally:

1 (a) Initiate contact with a student-athlete unless registered under  
2 the Nebraska Uniform Athlete Agents Act;

3 (b) Refuse or fail to retain or permit inspection of the records  
4 required to be retained by section 48-2613;

5 (c) Fail to register when required by section 48-2604;

6 (d) Provide materially false or misleading information in an  
7 application for registration or renewal of registration;

8 (e) Predate or postdate an agency contract; or

9 (f) Fail to notify a student-athlete before the student-athlete  
10 signs or otherwise authenticates an agency contract for a particular  
11 sport that entering into negotiations for, or signing, a professional-  
12 sports-services contract ~~the signing or authentication~~ may make the  
13 student-athlete ineligible to participate as a student-athlete in that  
14 sport.

15 Sec. 12. If any section in this act or any part of any section is  
16 declared invalid or unconstitutional, the declaration shall not affect  
17 the validity or constitutionality of the remaining portions.

18 Sec. 13. Original sections 48-2610 and 48-2614, Reissue Revised  
19 Statutes of Nebraska, are repealed.