

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SIXTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 962**

FINAL READING

Introduced by Hunt, 8; Blood, 3; Brewer, 43; Crawford, 45; DeBoer, 10; Hansen, M., 26; McCollister, 20; Morfeld, 46; Pansing Brooks, 28; Vargas, 7; Wayne, 13; Wishart, 27; Stinner, 48; Cavanaugh, 6; Howard, 9; Kolowski, 31; Quick, 35; McDonnell, 5.

Read first time January 13, 2020

Committee: Business and Labor

1 A BILL FOR AN ACT relating to postsecondary institutions; to amend  
2 sections 48-2610 and 48-2614, Reissue Revised Statutes of Nebraska;  
3 to adopt the Nebraska Fair Pay to Play Act; to change the Nebraska  
4 Uniform Athlete Agents Act; to provide severability; and to repeal  
5 the original sections.  
6 Be it enacted by the people of the State of Nebraska,

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

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

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

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

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

17       (4) Intercollegiate sport has the same meaning as in section  
18 48-2602;

19       (5) Postsecondary institution has the same meaning as in section  
20 85-2403;

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

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

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

29       (9) Team contract means a contract between a postsecondary  
30 institution or a postsecondary institution's athletic department and a  
31 sponsor.

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

7        (2) No collegiate athletic association shall penalize a student-  
8 athlete or prevent a student-athlete from fully participating in an  
9 intercollegiate sport because such student-athlete earns compensation for  
10 the use of such student-athlete's name, image, or likeness rights or  
11 athletic reputation.

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

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

26       Sec. 4. Any student-athlete who enters into a contract that  
27 provides compensation for the use of such student-athlete's name, image,  
28 or likeness rights or athletic reputation shall disclose such contract to  
29 an official of the postsecondary institution for which such student-  
30 athlete participates in an intercollegiate sport. The official to which  
31 such contract shall be disclosed shall be designated by each

1 postsecondary institution, and the designation shall be communicated in  
2 writing to each student-athlete participating in an intercollegiate sport  
3 for such postsecondary institution. Unless otherwise required by law,  
4 each postsecondary institution shall be prohibited from disclosing any  
5 terms of such contract that the student-athlete or the student-athlete's  
6 professional representation deems to be a trade secret or otherwise  
7 nondisclosable.

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

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

26 Sec. 6. (1) No postsecondary institution or collegiate athletic  
27 association shall penalize a student-athlete or prevent a student-athlete  
28 from fully participating in an intercollegiate sport because such  
29 student-athlete obtains professional representation in relation to a  
30 contract or legal matter.

31 (2) No collegiate athletic association shall penalize a

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

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

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

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

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

23 (a) Actual damages;  
24 (b) Such preliminary and other equitable or declaratory relief as  
25 may be appropriate; and  
26 (c) Reasonable attorney's fees and other litigation costs reasonably  
27 incurred.

28 (3) A public postsecondary institution may be sued upon claims  
29 arising under the Nebraska Fair Pay to Play Act only to the extent  
30 allowed under the State Tort Claims Act, the State Contract Claims Act,  
31 or the State Miscellaneous Claims Act, except that a civil action for a

1     violation of the Nebraska Fair Pay to Play Act may only be brought within  
2     one year after the cause of action has accrued.

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

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

12       48-2610 (1) An agency contract must be in a record, signed or  
13     otherwise authenticated by the parties.

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

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

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

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

25           (d) A description of the services to be provided to the student-  
26     athlete;

27           (e) The duration of the contract; and

28           (f) The date of execution.

29       (3) An agency contract must contain, in close proximity to the  
30     signature of the student-athlete, a conspicuous notice in boldface type  
31     in capital letters stating:

1       WARNING TO STUDENT-ATHLETE

2       ~~IF YOU SIGN THIS CONTRACT:~~

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

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

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

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

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

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

21       48-2614 (1) An athlete agent, with the intent to induce a student-  
22      athlete to enter into an agency contract, may not:

23          (a) Give any materially false or misleading information or make a  
24      materially false promise or representation;

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

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

29          (2) An athlete agent may not intentionally:

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

1           (b) Refuse or fail to retain or permit inspection of the records  
2 required to be retained by section 48-2613;  
3           (c) Fail to register when required by section 48-2604;  
4           (d) Provide materially false or misleading information in an  
5 application for registration or renewal of registration;  
6           (e) Predate or postdate an agency contract; or  
7           (f) Fail to notify a student-athlete before the student-athlete  
8 signs or otherwise authenticates an agency contract for a particular  
9 sport that entering into negotiations for, or signing, a professional-  
10 sports-services contract the signing or authentication may make the  
11 student-athlete ineligible to participate as a student-athlete in that  
12 sport.

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

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