

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 962

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.

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 an operative date; to provide
- 5 severability; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 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.

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

1 be prohibited from disclosing any terms of such contract that the
2 student-athlete or the student-athlete's professional representation
3 deems to be a trade secret or otherwise nondisclosable.

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

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

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

27 (2) No collegiate athletic association shall penalize a
28 postsecondary institution or prevent a postsecondary institution from
29 fully participating in an intercollegiate sport because a student-athlete
30 participating in an intercollegiate sport for such postsecondary
31 institution obtains professional representation in relation to a contract

1 or legal matter.

2 Sec. 7. (1) The Nebraska Fair Pay to Play Act shall not be applied
3 in a manner that violates any contract in effect on June 30, 2023, for as
4 long as such contract remains in effect without modification.

5 (2) On and after July 1, 2023, no postsecondary institution shall
6 enter into, modify, or renew any contract in a manner that conflicts with
7 the Nebraska Fair Pay to Play Act.

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

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

14 (a) Actual damages;

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

17 (c) Reasonable attorney's fees and other litigation costs reasonably
18 incurred.

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

22 Sec. 9. Section 48-2610, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 48-2610 (1) An agency contract must be in a record, signed or
25 otherwise authenticated by the parties.

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

27 (a) The amount and method of calculating the consideration to be
28 paid by the student-athlete for services to be provided by the athlete
29 agent under the contract and any other consideration the athlete agent
30 has received or will receive from any other source for entering into the
31 contract or for providing the services;

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

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

6 (d) A description of the services to be provided to the student-
7 athlete;

8 (e) The duration of the contract; and

9 (f) The date of execution.

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

13 WARNING TO STUDENT-ATHLETE

14 ~~IF YOU SIGN THIS CONTRACT:~~

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

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

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

23 (4) An agency contract that does not conform to this section is
24 voidable by the student-athlete. If a student-athlete voids an agency
25 contract, the student-athlete is not required to pay any consideration
26 under the contract or to return any consideration received from the
27 athlete agent to induce the student-athlete to enter into the contract.

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

31 Sec. 10. Section 48-2614, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 48-2614 (1) An athlete agent, with the intent to induce a student-
3 athlete to enter into an agency contract, may not:

4 (a) Give any materially false or misleading information or make a
5 materially false promise or representation;

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

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

10 (2) An athlete agent may not intentionally:

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

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

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

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

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

19 (f) Fail to notify a student-athlete before the student-athlete
20 signs or otherwise authenticates an agency contract for a particular
21 sport that entering into negotiations for, or signing, a professional-
22 sports-services contract ~~the signing or authentication~~ may make the
23 student-athlete ineligible to participate as a student-athlete in that
24 sport.

25 Sec. 11. This act becomes operative on July 1, 2023.

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

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