

SESSION OF 2020

SUPPLEMENTAL NOTE ON SENATE BILL NO. 474

As Amended by Senate Committee on
Commerce

Brief*

SB 474, as amended, would create law related to postsecondary student athletes and compensation for the use of student athletes' names, images, likeness rights, or athletic reputation (NIL).

Obligations on Postsecondary Educational Institutions

Postsecondary educational institutions (Institutions) would be prohibited from preventing a student athlete (athlete) from earning compensation for the use of the athlete's NIL or restricting an athlete's scholarship eligibility based on compensation for the use of the athlete's NIL, except for need-based awards related to income received.

Institutions would also be prohibited from compensating an athlete for the use of the athlete's NIL. Scholarships and athletics grants-in-aid would not be considered as compensation for the use of an athlete's NIL.

Institutions would be prohibited from preventing an athlete from obtaining professional representation in relation to contracts or legal matters or preventing an athlete from fully participating in athletics as a result of such representation.

Institutions would also be prohibited from entering into contracts that prevent athletes from being compensated for

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

the use of the the athlete's NIL when the athlete is not engaged in official team activities.

Obligations on Athletic Associations

Athletic associations, including, but not limited to, the National Collegiate Athletic Association, would be prohibited from restricting participation or imposing any penalty on an athlete or institution as a result of an athlete earning compensation from the use of the athlete's NIL.

Athletic associations would also be prohibited from preventing an athlete from obtaining professional representation in relation to contracts or legal matters or preventing an athlete from fully participating in athletics as a result of such representation.

Obligations on Student Athletes

Athletes would be deemed to have granted royalty-free rights without compensation to the athlete's institution for the use of the athlete's NIL for the institution's promotional interests, to the extent determined by the institution. Any contractual provision otherwise would be declared null and void.

Athletes would also be required to disclose to their institutions any contracts providing compensation for use of the athlete's NIL within five business days of the date of the signature of the contract by the athlete. An athlete would not be permitted to enter into contracts providing compensation for the use of the athlete's NIL if such contract conflicts with a contract entered into by the athlete's institution, including, but not limited to, contracts related to athletic apparel or advertisements during official team activities.

Obligations on Professional Representatives

The bill would require athlete agents and attorneys providing representation to athletes to be licensed by Kansas or hold certificates of registration as provided by applicable Kansas law. Such representatives would be required to comply with the Kansas Uniform Athlete Agents Act and the federal Sports Agent Responsibility and Trust Act.

Other Provisions

The bill would define, for purposes of the bill, terms including “athlete agent,” “postsecondary educational institution,” and “student athlete.”

The bill would specifically not apply to prospective student athletes or contracts entered into by athletes prior to the effective date of the provisions of the bill. Additionally, legal settlements arising under the bill would not be permitted to allow noncompliance with provisions of the bill.

The bill would allow accredited not-for-profit postsecondary educational institutions with a physical presence in Kansas who are exempted from the Kansas Private and Out-of-State Postsecondary Educational Institution Act to opt out of the provisions of the bill.

The substantive provisions of the bill would go into effect the July 1 following the enactment of legislation similar to the bill by at least 15 other states. The bill would require the Attorney General to certify to the Secretary of State when such enactments have occurred. Upon receipt of such certification, the Secretary of State would be required to publish notice of such certification in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Ways and Means at the request of Senator Longbine. In the Senate Committee on Commerce hearing on the bill, representatives of Emporia State University, Kansas State University, and the University of Kansas testified in support of the bill. A representative of the Kansas Independent College Association and Foundation testified as neutral on the bill. There was no other testimony.

The Senate Committee amended the bill to allow not-for-profit postsecondary institutions exempted from the Kansas Private and Out-of-State Postsecondary Education Institution Act to opt out of participating in the provisions of the bill.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Kansas Board of Regents and the Office of the Secretary of State estimate the bill would have no fiscal effect on their operations or on any postsecondary educational institution. The Office of the Attorney General (Office) indicates the bill would increase costs for staff time monitoring legislation in other states until the Office determines 15 states have enacted similar legislation; however, it indicates that the amount of such costs cannot be determined. The Office also indicates the bill could increase revenue from registration fees from athlete agents. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.