

February 18, 2021

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 519C-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2264 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2264 is respectfully submitted to your committee.

HB 2264 would permit student athletes at a postsecondary educational institution to receive compensation for the use of their name, image, likeness rights or athletic reputation. The bill would prohibit postsecondary educational institutions from enforcing any rule, requirement, standard, or other limitation that prevents a student athlete of an institution from earning compensation as a result of the use of the student athlete's image or reputation or the athlete's obtaining professional representation. The bill also includes provisions prohibiting any athletic association from preventing, restricting, imposing any condition or penalty to limit a student athlete or postsecondary educational institution, its employees, or volunteers from fully participating in intercollegiate athletics as a result of a student athlete's obtaining professional representation or using his or her image or reputation to earn compensation.

A postsecondary educational institution or athletic association would be prohibited from providing a current athlete or prospective student athlete who will attend the postsecondary educational institution with compensation in relation to the athlete's image or reputation. However, athletics grant-in-aid or a stipend scholarship from a postsecondary educational institution in which a student athlete is enrolled must not be considered compensation, and no postsecondary educational institution could evoke or reduce an athletics grant-in-aid or stipend scholarship as a result of a student athlete earning compensation. The bill provides that any earnings would not affect a student athlete's scholarship eligibility or scholarship renewal eligibility, unless otherwise required by federal laws or institutional standards governing need-based awards due to income received.

A student athlete would be deemed to have granted the student's postsecondary educational institution the right, royalty-free and without compensation in return for use of the student athlete's image or reputation at the institution's sole discretion, at any time for its advertising and marketing

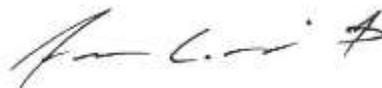
related to the postsecondary educational institution's athletic, academic, promotional, and historical interests. Any contractual provision in a contract between a student athlete and a third-party sponsor or athlete agent in conflict with this provision would be null and void.

The bill would include additional provisions outlining legal rights, contractual obligations and other requirements of student athletes, athletic associations, and postsecondary educational institutions. The bill would specify that any professional representation on behalf of a student athlete by an athlete agent or attorney must be someone licensed by this state or holding certificates of registration as provided by applicable Kansas law, including the Uniform Athlete Agents Act, and who are in compliance with such Kansas law and the Federal Sports Agent Responsibility and Trust Act.

The provisions of this bill would not apply to a contract executed, modified, or renewed by a student athlete before the bill's effective date which would be after its publication in the statute book. The bill would provide that a public postsecondary educational institution would not include any accredited not-for-profit postsecondary educational institution with a physical presence in this state that is exempted from the Kansas Private and Out-of-State Postsecondary Educational Institution Act if the institution elects to be exempted from the provisions of this Act.

The Kansas Board of Regents indicates HB 2264 could have a fiscal effect on student athletes at state universities, Washburn University, community colleges and technical colleges and their ability to earn compensation from the use of the student athlete's name, image, likeness rights or athletic reputation, but would have no fiscal effect on the Board office or any postsecondary educational institution. The bill could also have a fiscal effect on student athletes at private postsecondary educational institutions as long as the institution does not elect to be exempted from the provisions of this Act. The Office of the Attorney General (OAG) indicates HB 2264 would result in more athlete agents operating in the state, which would increase costs associated with prosecuting violations of the Uniform Athlete Agent Act. However, the OAG indicates any potential costs associated with the bill cannot be estimated, as it is uncertain how many additional cases may be referred by the Office of the Secretary of State. The OAG also indicates the bill could increase revenues from registration fees to the Office of the Secretary of State from additional athlete agents registering to do business in the state. Any fiscal effect associated with HB 2264 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Kelly Oliver, Board of Regents
Willie Prescott, Office of the Attorney General