

March 9, 2020

REVISED

The Honorable Julia Lynn, Chairperson
Senate Committee on Commerce
Statehouse, Room 445A-S
Topeka, Kansas 66612

Dear Senator Lynn:

SUBJECT: Revised Fiscal Note for SB 474 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 474 is respectfully submitted to your committee.

SB 474 would permit student athletes at a postsecondary educational institution to receive compensation for the use of their name, image, likeness rights or athletic reputation when 15 other states adopt similar legislation. 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 may 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 includes additional provisions outlining legal rights, contractual obligations and other requirements of student athletes, athletic associations, and postsecondary educational institutions. The bill specifies 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.

SB 474 would require the Attorney General to certify to the Secretary of State when a total of 15 other states have enacted legislation similar to this Act and the certification would be published in the *Kansas Register*. 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 Kansas Board of Regents indicates SB 474 would have no fiscal effect on the Board office or any postsecondary educational institution. The Office of the Attorney General (OAG) indicates SB 474 would increase costs for additional staff time spent monitoring legislation in other states to determine if legislation that is enacted is similar to the provisions of this bill, but this activity would end after the OAG has determined that 15 states have enacted similar legislation and has notified the Secretary of State. If the law was challenged, the OAG indicates it could also incur costs to retain outside counsel. Since the bill would result in more athlete agents operating in the state, the OAG indicates it could also 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 determined. 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. The Office of the Secretary of State indicates SB 474 would have no fiscal effect. A request for fiscal effect information has been sent to the Office of the Attorney General and this fiscal note will be updated when the information is received.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Kelly Oliver, Board of Regents
Willie Prescott, Office of the Attorney General
Sandy Tompkins, Office of the Secretary of State