

AMENDMENTS TO LB598

(Amendments to Standing Committee amendments, AM549)

Introduced by Hunt, 8.

1 1. Strike amendment 1 and insert the following new amendment:

2 1. Strike original section 5 and insert the following new sections:

3 Sec. 6. Section 48-3601, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 48-3601 Sections 48-3601 to 48-3609 shall be known and may be cited
6 as the Nebraska Student-Athlete Name, Image, or Likeness Rights Fair Pay
7 to Play Act.

8 Sec. 7. Section 48-3602, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 48-3602 For purposes of the Nebraska Student-Athlete Name, Image, or
11 Likeness Rights Fair Pay to Play Act:

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

18 (2) Collegiate athletic association means any athletic association,
19 conference, or other group or organization with authority over
20 intercollegiate sports;

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

25 (4) Intercollegiate sport has the same meaning as in section
26 48-2602;

1 (5) Postsecondary institution has the same meaning as in section
2 85-2403;

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

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

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

11 (9) Team contract means a contract between a postsecondary
12 institution or a postsecondary institution's athletic department and a
13 sponsor.

14 Sec. 8. Section 48-3603, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 48-3603 (1) No postsecondary institution shall uphold any rule,
17 requirement, standard, or limitation that prevents a student-athlete from
18 fully participating in an intercollegiate sport for such postsecondary
19 institution because such student-athlete earns compensation for the use
20 of such student-athlete's name, image, or likeness rights or athletic
21 reputation.

22 (2) No collegiate athletic association shall penalize a student-
23 athlete or prevent a student-athlete from fully participating in an
24 intercollegiate sport because such student-athlete earns compensation for
25 the use of such student-athlete's name, image, or likeness rights or
26 athletic reputation.

27 (3) 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 earns compensation for the use of such student-athlete's

1 name, image, or likeness rights or athletic reputation.

2 (4) No postsecondary institution shall allow compensation earned by
3 a student-athlete for the use of such student-athlete's name, image, or
4 likeness rights or athletic reputation to affect the duration, amount, or
5 eligibility for or renewal of any athletic grant-in-aid or other
6 institutional scholarship, except that compensation earned by a student-
7 athlete for the use of such student-athlete's name, image, or likeness
8 rights or athletic reputation may be used for the calculation of income
9 for determining eligibility for need-based financial aid.

10 (5) The compensation a student-athlete earns for the use of the
11 student-athlete's name, image, or likeness must be for services actually
12 performed. Student-athletes shall not be paid for contracts that (a)
13 extend beyond the student-athlete's participation in an athletic program
14 at a postsecondary institution, (b) involve the sale or exchange of
15 awards or other items received for athletic participation, (c) involve
16 compensation from a postsecondary institution or a postsecondary
17 institution's employees, or (d) provide compensation for work not
18 performed.

19 (6) Student-athletes may be prohibited from entering into contracts
20 or agreements or engaging in activity related to the use of the student-
21 athlete's name, image, or likeness for products, services, entities, or
22 activities reasonably deemed to be inconsistent with the educational
23 mission of the postsecondary institution by such postsecondary
24 institution.

25 (7) Nothing in the Nebraska Student-Athlete Name, Image, or Likeness
26 Rights Act shall limit the ability of a postsecondary institution to
27 establish and enforce standards, requirements, regulations, or
28 obligations for such postsecondary institution's students not
29 inconsistent with the act.

30 (8) Nothing in the Nebraska Student-Athlete Name, Image, or Likeness
31 Rights Act grants to a student-athlete the right to use any name,

1 trademark, service mark, logo, symbol, or other intellectual property
2 that belongs to the postsecondary institution, regardless of whether the
3 intellectual property is registered, to further the student-athlete's
4 opportunities to earn compensation for the use of the student-athlete's
5 name, image, or likeness.

6 Sec. 9. Section 48-3604, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 48-3604 Any student-athlete who enters into a contract or agreement
9 that provides compensation for the use of such student-athlete's name,
10 image, or likeness rights or athletic reputation shall disclose such
11 contract or agreement to an official of the postsecondary institution for
12 which such student-athlete participates in an intercollegiate sport. The
13 official to which such contract or agreement shall be disclosed shall be
14 designated by each postsecondary institution, and the designation shall
15 be communicated in writing to each student-athlete participating in an
16 intercollegiate sport for such postsecondary institution. Unless
17 otherwise required by law, each postsecondary institution shall be
18 prohibited from disclosing any terms of such contract or agreement that
19 the student-athlete or the student-athlete's professional representation
20 deems to be a trade secret or otherwise nondisclosable.

21 Sec. 10. Section 48-3605, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 48-3605 (1) No student-athlete shall enter into a contract or
24 agreement with a sponsor that provides compensation to the student-
25 athlete for use of the student-athlete's name, image, and likeness rights
26 or athletic reputation if (a) such contract or agreement requires such
27 student-athlete to display such sponsor's apparel or to otherwise
28 advertise for the sponsor during official team activities and (b)
29 compliance with such contract or agreement requirement would conflict
30 with a team contract. Any postsecondary institution asserting such
31 conflict shall disclose to the student-athlete and the student-athlete's

1 professional representation, if applicable, the full team contract that
2 is asserted to be in conflict. The student-athlete and the student-
3 athlete's professional representation, if applicable, shall be prohibited
4 from disclosing any terms of a team contract that the postsecondary
5 institution deems to be a trade secret or otherwise nondisclosable.

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

10 Sec. 11. Section 48-3606, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 48-3606 (1) No postsecondary institution or collegiate athletic
13 association shall penalize a student-athlete or prevent a student-athlete
14 from fully participating in an intercollegiate sport because such
15 student-athlete obtains professional representation in relation to a
16 contract or legal matter related to the use of the student-athlete's
17 name, image, or likeness.

18 (2) No collegiate athletic association shall penalize a
19 postsecondary institution or prevent a postsecondary institution from
20 fully participating in an intercollegiate sport because a student-athlete
21 participating in an intercollegiate sport for such postsecondary
22 institution obtains professional representation in relation to a contract
23 or legal matter related to the use of the student-athlete's name, image,
24 or likeness.

25 (3) A postsecondary institution may offer education and training to
26 student-athletes to aid them in understanding the opportunities that may
27 become available to them for the use of their name, image, or likeness,
28 including education in the areas of networking and communication, brand-
29 building and management, financial literacy, and compliance.

30 Sec. 12. Section 48-3607, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 48-3607 (1) The Nebraska Student-Athlete Name, Image, or Likeness
2 Rights Fair Pay to Play Act shall not be applied in a manner that
3 violates any contract in effect prior to the date determined by a
4 postsecondary institution pursuant to section 48-3609 with regard to such
5 postsecondary institution or any student-athlete who participates in an
6 intercollegiate sport for such postsecondary institution for as long as
7 such contract remains in effect without modification.

8 (2) On and after the date determined by a postsecondary institution
9 pursuant to section 48-3609, such postsecondary institution shall not
10 enter into, modify, or renew any contract in a manner that conflicts with
11 the Nebraska Student-Athlete Name, Image, or Likeness Rights Fair Pay to
12 Play Act.

13 Sec. 13. Section 48-3608, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 48-3608 (1) A student-athlete or a postsecondary institution
16 aggrieved by a violation of the Nebraska Student-Athlete Name, Image, or
17 Likeness Rights Fair Pay to Play Act may bring a civil action against the
18 postsecondary institution or collegiate athletic association committing
19 such violation.

20 (2) A plaintiff who prevails in an action under the Nebraska
21 Student-Athlete Name, Image, or Likeness Rights Fair Pay to Play Act
22 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 Student-Athlete Name, Image, or Likeness
30 Rights Fair Pay to Play Act only to the extent allowed under the State
31 Tort Claims Act, the State Contract Claims Act, or the State

1 Miscellaneous Claims Act, except that a civil action for a violation of
2 the Nebraska Student-Athlete Name, Image, or Likeness Rights Fair Pay to
3 Play Act may only be brought within one year after the cause of action
4 has accrued.

5 Sec. 14. Section 48-3609, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 48-3609 Each postsecondary institution shall determine a date on or
8 before July 1, 2023, upon which the Nebraska Student-Athlete Name, Image,
9 or Likeness Rights Fair Pay to Play Act shall begin to apply to such
10 postsecondary institution and the student-athletes who participate in an
11 intercollegiate sport for such postsecondary institution and to any
12 collegiate athletic association or professional representation in
13 interactions with such postsecondary institution or student-athletes.

14 Sec. 15. Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, and 16 of this act
15 become operative three calendar months after the adjournment of this
16 legislative session. The other sections of this act become operative on
17 their effective date.

18 Sec. 16. Original sections 48-3601, 48-3602, 48-3603, 48-3604,
19 48-3605, 48-3606, 48-3607, 48-3608, and 48-3609, Reissue Revised Statutes
20 of Nebraska, are repealed.