

FISCAL NOTE
 LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2025-26		FY 2026-27	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS				
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	See below		See below	

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 370 proposes to amend certain provisions of the Nebraska Student-Athlete Name, Image, or Likeness (NIL) Rights Act (the Act).

The University of Nebraska (NU) system reports that while the proposed changes do not have a direct fiscal impact involving State funds, the proposed legislation presents substantial fiscal and operational risks to the University. NU asserts that the amended provisions of the NIL Rights Act could at times conflict with National Collegiate Athletics Association (NCAA) and Big Ten Conference regulations, which could result in disciplinary action, loss of membership, or financial penalties. According to NU, membership in the NCAA and Big Ten generates significant revenue annually through media rights, sponsorships, and post-season distributions. The potential loss of NCAA and Big Ten membership threatens a critical revenue source, and increased administrative complexity and legal uncertainties would create compliance burdens. The Fiscal Office has no basis to disagree with these assertions.

Below is a section-by-section summary of LB 370:

Section 1

Sections 7-9 of LB 370 now become part of the NIL Rights Act.

Section 2

- Adds a definition for Agency agreement.
- Inserts the word “property” when referring to the student-athlete’s NIL rights or athletic reputation.
- Expands the definition of collegiate athletic association.
- Adds that compensation may also include considerations regarding the providing of constitutionally protected free speech.
- Expands the definition of an NIL collective.
- Defines the term ‘parties’ and the term ‘third party’.

Section 3 re-writes § 48-3603 to provide for the student-athlete’s rights

A student-athlete may:

- not be required to pay a commission or fee to the athlete agent unless written and acknowledged as required in Sec. 9. The student-athlete may rescind an agreement within fifteen calendar days via written notification to the athlete agent.
- receive compensation directly from [NU] an athletic program supporter, an NIL collective, or a third party, from services performed. Compensation is not required, however.
- be prohibited by [NU] from entering into an agreement deemed to be inconsistent with [NU’s] educational mission.
- obtain professional representation in relation to a contract or other NIL Rights legal matter.
- original § 48-3603 is stricken

Sections 4 & 5

Re-phrases references to [NIL] “likeness rights” as [NIL] “likeness property rights” in § 48-3604 & § 48-3605.

Section 6 re-writes § 48-3606 to provide for the rights of the postsecondary institution

A postsecondary institution may:

- create and support NIL activities and opportunities but not collect a commission.
- enter into third-party contracts to support NIL activities.
- offer education and training to student-athletes in the areas of networking, brand-building, financial literacy, and compliance.
- obtain professional representation in relation to a contract or other NIL Rights legal matter.

A postsecondary institution shall not:

- impose requirements, including any rule of a collegiate athletic association (e.g. NCAA or Big Ten) that restricts or prohibits a student-athlete from earning compensation for NIL activities conducted in compliance with the Nebraska NIL Rights Act;
- retaliate against a student-athlete, an athlete agent, an NIL collective, or a 3rd party for activities authorized in the Act;
- allow compensation earned by a student-athlete to affect any aspect of any athletic grants or institutional scholarship, though that compensation can be used to calculate income for determining need-based financial aid;
- prohibit a student-athlete from entering into an agency agreement. Original § 48-3606 is stricken.

Section 7

Section 7 places restrictions on collegiate athletic associations. A college athletic association cannot:

- require [NU] to take an action prohibited by the Act.
- accept complaints, open investigations, or threaten penalties as a result of activities provided by the Act.
- prohibit any of the parties mentioned in above sections from engaging in activities protected by the Act.
- require any of the parties mentioned in above sections to report information about NIL contracts or agreements.

Section 8

For NIL agreements where at least \$5,000 will be paid, there shall be a written contract that includes legal name, address, and contact information of the entity paying the compensation, and the total amount and other details of the compensation. The obligations and requirements that the student-athlete have to meet in order to receive compensation must also be listed. Also required are any options that any parties have for revising the contract.

Section 9

Section 9 stipulates that an agency agreement is not a public record, except as provided by § 48-3604. This section also prevents athlete agents from entering into an agency agreement if the agent has a pending charge, or has been convicted of a felony or certain misdemeanors. The agent is also not to enter into an agreement if that agent also provides payments, including loans, to the student-athlete, or their relative, in exchange for the student-athlete entering into the agency agreement. This section also states a requirement that the athlete agent get a written statement from the student-athlete attesting to the student-athlete's contact information, eligibility within Nebraska or in other states, and a schedule of fees to commissions to be charged to and collected from the student-athlete in the conduct of the athlete-agent's business. If the athlete agent ceases to meet all requirements for operating as an agent athlete, that agent is to notify the student-athlete within five calendar days from the time conditions are no longer met.

Section 10

A contract or agreement cannot provide upfront payments to a prospective college athlete in exchange for any future NIL rights.

Section 11

Section 11 revises § 48-3608 to expand the list of the entities who may bring civil action against the postsecondary institution or collegiate athletic association committing violations of the Act.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSE			
LB: 370	AM:	AGENCY/POLT. SUB: Nebraska State College System	
REVIEWED BY: Kimberly Burns	DATE: 01/25/2025	PHONE: (402) 471-4171	
COMMENTS: Nebraska State College System's estimate of no fiscal impact from LB 370 appears reasonable.			

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LB (1) 0370 Change provisions of the Nebraska Student-Athlete Name, Image, or Likeness Rights Act

State Agency OR Political Subdivision Name:⁽²⁾ University of Nebraska System
 Prepared by:⁽³⁾ Anne Barnes Date Prepared:⁽⁴⁾ 01/30/2025 Phone:⁽⁵⁾ (402) 559-6300

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	FY 2025 - 26		FY 2026 - 27	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
CASH FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
FEDERAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
OTHER FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
TOTAL FUNDS	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

Explanation of Estimate:

LB370 proposes changes to Nebraska's Student-Athlete Name, Image, and Likeness (NIL) Rights Act that could create compliance risks for the University of Nebraska, impact its membership in key athletic associations, and introduce significant financial and administrative challenges. If a University of Nebraska campus opts into a settlement agreement related to student-athletes NIL rights, the proposed changes may conflict with the respective campuses' compliance with the terms of the settlement and the enforcement of NIL license agreements with student-athletes. The bill's prohibition on restricting a student-athlete's ability to earn compensation for NIL activities could be interpreted as preventing the University from enforcing fair market value assessments, as required under settlement terms. This could expose the University to legal and financial risks related to NIL contract enforcement and compliance.

The legislation also conflicts with National Collegiate Athletics Association (NCAA) and Big Ten Conference regulations. The proposed prohibition on complying with NIL-related rules from collegiate athletic associations directly contradicts existing requirements, which could result in disciplinary action, loss of membership, or financial penalties. Membership in the NCAA and Big Ten generates significant revenue annually for the University through media rights, sponsorships, and post-season distributions. Any risk to this revenue stream would have significant financial consequences.

Additionally, LB370 creates inconsistencies with existing state laws, particularly the Nebraska Uniform Agents Act, by introducing conflicting agent requirements. The bill's use of the term "property" in reference to NIL rights may lead to unintended legal implications, and the broad definition of "NIL collective" could inadvertently categorize the University as a collective, resulting in regulatory complications and additional financial oversight burdens. Ensuring compliance with multiple, conflicting NIL regulations would require increased legal and administrative oversight, further straining University resources.

The proposed legislation presents substantial fiscal and operational risks to the University. The potential loss of NCAA and Big Ten membership threatens a critical revenue source, while increased administrative complexity and legal uncertainty would create additional compliance burdens. While NIL transparency and student-athlete compensation rights remain important considerations, LB370's broad restrictions could have unintended consequences that significantly impact the University's financial stability and regulatory obligations.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2025 - 26 EXPENDITURES</u>	<u>2026 - 27 EXPENDITURES</u>
	<u>25 - 26</u>	<u>26 - 27</u>		
	<u>0</u>	<u>0</u>		
	<u>0</u>	<u>0</u>		
Benefits.....				
Operating.....				
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....				

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2025

LB⁽¹⁾ 370

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Nebraska State College System

Prepared by: ⁽³⁾ Brenda Owen Date Prepared: ⁽⁴⁾ 1-21-2025 Phone: ⁽⁵⁾ 471-2507

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2025-26</u>		<u>FY 2026-27</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

No fiscal impact

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2025-26</u>	<u>2026-27</u>
	<u>25-26</u>	<u>26-27</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____