

MAR 9 1988

Place On Calendar

HOUSE FILE 2432  
BY COMMITTEE ON STATE  
GOVERNMENT

*Substituted for S.B. 2191*  
(Formerly House Study Bill 739)

Passed House, Date 3/1/88 (p. 750) Passed Senate, Date 4/16/88 (p. 1120)

Vote: Ayes 29 Nays 1 Vote: Ayes 32 Nays 8

Approved May 14, 1988  
*(Referred to Senate 4/16/88 (p. 1120))*

**A BILL FOR**

1 An Act relating to the registration and regulation of persons  
2 seeking to represent a student athlete for compensation in  
3 negotiations intended to result in employment with a  
4 professional sports team, prohibiting certain actions relating  
5 to student athletes and their families, and providing  
6 penalties.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2432

1 Section 1. NEW SECTION. 9A.1 TITLE.

2 This chapter shall be known as the "Registration of Athlete  
3 Agents Act".

4 Sec. 2. NEW SECTION. 9A.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. "Athlete agent" means a person representing a student  
8 athlete for compensation or any person who, directly or  
9 indirectly, recruits or solicits a student athlete to enter  
10 into an agent contract or professional sports services  
11 contract with the person, or who for a fee procures, offers,  
12 promises, or attempts to obtain employment for a student  
13 athlete with a professional sports team. "Athlete agent" does  
14 not include an individual licensed to practice as an attorney  
15 in this state when the individual is acting as a  
16 representative for a student athlete, unless the attorney also  
17 represents the student athlete in negotiations for an agent  
18 contract.

19 2. "Student athlete" means an individual enrolled at an  
20 institution of higher education who is eligible to participate  
21 in intercollegiate sports contests as a member of a sports  
22 team of an institution of higher education, or who is  
23 receiving partial or full financial assistance by way of an  
24 athletic scholarship and may in the future be eligible to  
25 participate in intercollegiate sports contests as a member of  
26 a sports team of an institution of higher education.

27 3. "Institution of higher education" means a public or  
28 private college or university in this state.

29 Sec. 3. NEW SECTION. 9A.3 REGISTRATION REQUIREMENTS FOR  
30 ATHLETE AGENTS.

31 1. An athlete agent shall register with, and obtain a  
32 certificate of registration from, the secretary of state  
33 before contacting, either directly or indirectly, a student  
34 athlete concerning the possibility of the athlete agent's  
35 representing the student athlete. The athlete agent may apply

1 for a certificate of registration by submitting the forms  
2 provided for that purpose and must provide all the information  
3 required by the secretary of state, including all of the  
4 following:

5 a. Name of the applicant and the address of the  
6 applicant's principal place of business.

7 b. Business or occupation engaged in by the applicant for  
8 the five years immediately preceding the date of application.

9 c. The athlete agent's educational background, training,  
10 and experience relating to being an athlete agent.

11 d. Names and addresses of all persons, except bona fide  
12 employees on stated salaries, who are financially interested  
13 as partners, associates, or profit sharers in the operation of  
14 the business of the athlete agent.

15 e. Record of all felony charges and convictions, and all  
16 misdemeanor charges and convictions of the athlete agent.

17 f. Record of all felony charges and convictions, and  
18 misdemeanor charges and convictions of all persons, except  
19 bona fide employees, who are financially interested as  
20 partners, associates, or profit sharers in the operation of  
21 the business of the athlete agent.

22 g. Record of all sanctions issued to or disciplinary  
23 actions taken against the athlete agent or against any student  
24 athlete or any institution of higher education in connection  
25 with any transaction or occurrence involving the athlete  
26 agent.

27 h. Additional information as deemed appropriate by the  
28 secretary of state.

29 2. In addition to the requirements of subsection 1, an  
30 athlete agent who is not a resident of this state must file  
31 with the secretary of state an irrevocable consent to service  
32 of process on a form prescribed by the secretary. The consent  
33 to service shall be signed by the athlete agent, or by an  
34 authorized representative of the athlete agent, and notarized.  
35 If the athlete agent is a corporation, the consent to service

1 shall be accompanied by a copy of the corporation's  
2 authorization to do business in this state and a copy of the  
3 resolution of the corporation authorizing the consent to  
4 service. The consent to service shall indicate that service  
5 upon the secretary of state is sufficient service upon the  
6 athlete agent, if the plaintiff forwards by certified mail one  
7 copy of the service to the business address of the athlete  
8 agent on file at the office of the secretary of state.

9 3. A certificate of registration issued under this section  
10 is valid for one year from the date of issuance. A registered  
11 athlete agent may renew the certificate by filing a renewal  
12 application in the form prescribed by the secretary of state,  
13 accompanied by any applicable renewal fee.

14 4. The secretary of state shall:

15 a. Establish a reasonable registration fee sufficient to  
16 offset expenses incurred in the administration of this  
17 chapter.

18 b. Adopt rules necessary for the implementation and  
19 administration of this chapter.

20 Sec. 4. NEW SECTION. 9A.3A RESIDENT AGENT REQUIRED.

21 A person registered under this chapter as an athlete agent  
22 who is not a resident of this state, or does not have a  
23 principal place of business in this state, shall not engage in  
24 any activity as an athlete agent in this state unless that  
25 person has entered into an agreement with a person who is a  
26 resident of this state or whose principal place of business is  
27 in this state, who is licensed pursuant to section 602.10101,  
28 and who is registered under this chapter as an athlete agent,  
29 to act on behalf of the nonresident athlete agent. The  
30 agreement shall provide that the resident athlete agent shall  
31 act as attorney in fact, on whom all process in any action  
32 involving the nonresident athlete agent may be served, as well  
33 as any other duties as negotiated by the nonresident and  
34 resident athlete agent. The agreement shall be filed with the  
35 secretary of state and shall include the name and address of

1 the resident athlete agent.

2 Sec. 5. NEW SECTION. 9A.4 DENIAL OF CERTIFICATE OF  
3 REGISTRATION.

4 The secretary of state may deny, suspend, or revoke an  
5 athlete agent's certificate of registration, following a  
6 hearing where a determination is made that the athlete agent  
7 has engaged in any of the following activities:

8 1. Made false or misleading statements of a material  
9 nature in the athlete agent's application for a certificate of  
10 registration or renewal of a certificate of registration.

11 2. Misappropriated funds, or engaged in other specific  
12 acts such as embezzlement, theft, or fraud, which in the  
13 judgment of the secretary of state would render the athlete  
14 agent unfit to serve in a fiduciary capacity.

15 3. Engaged in other conduct, including, but not limited  
16 to, conduct contributing to sanctions or disciplinary action  
17 against any student athlete or institution of higher  
18 education, whether within this state or not, which in the  
19 judgment of the secretary of state relates to the athlete  
20 agent's fitness to serve in a fiduciary capacity.

21 4. Engaged in a material violation of this chapter or a  
22 rule adopted pursuant to this chapter, as shown by a  
23 preponderance of the evidence. The suspension or revocation  
24 of an agent's registration may be reviewed pursuant to chapter  
25 17A.

26 Sec. 6. NEW SECTION. 9A.5 BOND REQUIRED FROM ATHLETE  
27 AGENT.

28 1. An athlete agent shall have on file with the secretary  
29 of state before the issuance or renewal of a registration  
30 certificate, a surety bond executed by a surety company  
31 authorized to do business in this state in the sum of twenty-  
32 five thousand dollars, which bond shall be continuous in  
33 nature until canceled by the surety. A surety shall provide  
34 at least thirty days notice in writing to the agent and to the  
35 secretary of state indicating the surety's intent to cancel

1 the bond and the effective date of the cancellation. The  
2 surety bond shall be for the benefit of the citizens of this  
3 state and shall be conditioned upon the athlete agent's  
4 willingness to comply with this chapter, pay all amounts due  
5 to any individual or group of individuals when due, and pay  
6 all damages caused to any student athlete or institution of  
7 higher education by reason of intentional misstatement,  
8 misrepresentation, fraud, deceit or any unlawful or negligent  
9 acts or omissions by the registered athlete agent or the  
10 athlete agent's representative or employee while acting within  
11 the scope of employment. This section shall not limit the  
12 recovery of damages to the amount of the surety bond.

13 2. The bond shall be made in a form prescribed by the  
14 secretary of state and written by a company authorized by the  
15 secretary of state to do business within the state.

16 Sec. 7. NEW SECTION. 9A.5A AGENT CONTRACT.

17 1. An agent contract to be entered into by a registered  
18 athlete agent and a student athlete who has not previously  
19 signed a contract of employment with a professional sports  
20 team shall be on a form approved by the secretary of state.  
21 Approval of the form shall not be withheld unless the proposed  
22 form is unfair, unjust, or oppressive to the student athlete.  
23 If the form of the contract is in compliance with any players  
24 association form contract, the contract shall be approved by  
25 the secretary of state.

26 2. The agent contract shall have printed on the face of  
27 the contract in bold print the following: "The athlete agent  
28 is registered with the secretary of state. Registration does  
29 not imply approval or endorsement by the secretary of state of  
30 the specific terms and conditions of this contract or  
31 competence of the athlete agent. You have the right to  
32 terminate this contract within five calendar days after it is  
33 signed. You may jeopardize your standing as a student athlete  
34 by entering into this contract under the rules for eligibility  
35 established by or adhered to by your institution of higher

1 education."

2 3. A registered athlete agent shall file with the  
3 secretary of state a schedule of fees chargeable and  
4 collectible from a student athlete who has not previously  
5 signed a contract of employment with a professional sports  
6 team and shall file a description of the various professional  
7 services to be rendered in return for each fee. The athlete  
8 agent may impose charges only in accordance with the fee  
9 schedule. Changes in the fee schedule may be made from time  
10 to time, except that a change shall not become effective until  
11 the seventh day after the date the change is filed with the  
12 secretary of state.

13 Sec. 8. NEW SECTION. 9A.6 PROHIBITED ACTIVITIES.

14 A person shall not do any of the following:

15 1. Act or offer to act as an athlete agent unless  
16 registered pursuant to this chapter.

17 2. Engage in conduct which violates, or causes or  
18 contributes to causing a student or institution of higher  
19 education to violate, any rule or regulation adopted by the  
20 national collegiate athletic association governing student  
21 athletes and their relationship with athlete agents and  
22 institutions of higher education.

23 3. Except as provided in subsection 5, enter into a  
24 written or oral agreement by which the athlete agent will  
25 represent a student athlete, or give anything of value to a  
26 student athlete, until after completion of the student  
27 athlete's last intercollegiate athletic contest including any  
28 postseason contest.

29 4. Enter into an agreement before the student athlete's  
30 last intercollegiate contest that purports to take effect at a  
31 time after that contest is completed.

32 5. Enter into an agreement where the athlete agent gives,  
33 offers, or promises anything of value to an employee or  
34 student of an institution of higher education in return for  
35 the referral of a student athlete by the employee or student.

1 6. Interfere with, impede, or obstruct the administration  
2 and enforcement of this chapter.

3 Sec. 9. NEW SECTION. 9A.7 ON-CAMPUS ATHLETE AGENT  
4 INTERVIEWS.

5 If an institution of higher education located in this state  
6 elects to permit athlete agent interviews on its campus during  
7 a student athlete's final year as a student athlete, a regis-  
8 tered athlete agent may interview the student athlete to  
9 discuss the registered athlete agent's representation of the  
10 student athlete in the marketing of the student athlete's  
11 athletic ability and reputation. The registered athlete agent  
12 shall strictly adhere to the conditions imposed by each  
13 institution with regard to the time, place, manner, and  
14 duration of the interviews.

15 Sec. 10. NEW SECTION. 9A.8 CONTRACT VOID.

16 An agent contract negotiated by an athlete agent who has  
17 failed to comply with the provisions of this chapter is void.  
18 If the contract is void pursuant to this section, the athlete  
19 agent does not have a right of repayment of anything of value  
20 received by the student athlete as an inducement to enter into  
21 an agent contract or received by a student athlete before  
22 completion of the student athlete's last intercollegiate  
23 contest, and the athlete agent shall refund any consideration  
24 paid to the athlete agent by the student athlete or on the  
25 student athlete's behalf.

26 Sec. 11. NEW SECTION. 9A.9 PENALTIES -- ENFORCEMENT.

27 1. The attorney may institute a legal proceeding against  
28 an athlete agent on behalf of the state, and shall institute  
29 legal proceedings at the request of the secretary of state, to  
30 enforce this chapter.

31 2. A person who knowingly and willfully violates a  
32 provision of this chapter is subject to a civil penalty in an  
33 amount not to exceed ten thousand dollars.

34 3. A person who violates a provision of section 9A.6  
35 commits a serious misdemeanor.



1 Sec. 12. NEW SECTION. 9A.10 COSTS.

2 A student athlete and an institution of higher education  
3 are entitled to recover reasonable attorney's fees and court  
4 costs against an athlete agent found to be in violation of  
5 this chapter.

6 Sec. 13. NEW SECTION. 722.11 STUDENT ATHLETE  
7 PROHIBITIONS.

8 1. DEFINITIONS. As used in this section:

9 a. "Immediate family member" means a spouse, child,  
10 stepchild, parent, stepparent, grandparent, grandchild,  
11 brother, sister, parent-in-law, brother-in-law, sister-in-law,  
12 nephew, niece, aunt, uncle, first cousin, or guardian of a  
13 person named in this paragraph.

14 b. "Institution of higher education" means an institution  
15 of higher education under the control of the state board of  
16 regents, a merged area school, or a private college or  
17 university located in this state.

18 c. "Student athlete" means a person who engages in, is  
19 eligible to engage in, or may be eligible to engage in any  
20 intercollegiate sporting event, contest, exhibition, or  
21 program. The term includes a person who has applied, is  
22 eligible to apply, or who may be eligible to apply in the  
23 future to an institution of higher education.

24 2. PROHIBITIONS.

25 a. Except as provided in paragraphs "c" and "d", a person  
26 shall not give, offer, promise, or attempt to give any money  
27 or other thing of value to a student athlete or immediate  
28 family member of a student athlete for either of the following  
29 purposes:

30 (1) To induce, encourage, or reward the student athlete's  
31 application, enrollment, or attendance at an institution of  
32 higher education in order to have the student athlete  
33 participate in intercollegiate sporting events, contests,  
34 exhibitions, or programs at that institution.

35 (2) To induce, encourage, or reward the student athlete's

1 participation in an intercollegiate sporting event, contest,  
2 exhibition, or program.

3 b. A person shall not aid or abet an act described in  
4 paragraph "a".

5 c. As used in this subsection, "person" does not include  
6 any of the following:

7 (1) An institution of higher education or any of its  
8 officers or employees if the institution, officer, or employee  
9 is acting in accordance with an official written policy of the  
10 institution.

11 (2) An immediate family member of the student athlete.

12 d. An intercollegiate athletic award approved or  
13 administered by the institution of higher education that the  
14 student athlete attends is not an inducement, encouragement or  
15 reward under paragraph "a".

16 e. A person who engages in conduct knowing or having  
17 reason to know that the conduct violates this subsection  
18 commits an aggravated misdemeanor.

19 3. PROHIBITIONS FOR STUDENT ATHLETES.

20 a. Except as provided in paragraph "b", a student athlete  
21 or immediate family member of the student athlete, shall not  
22 solicit or accept money or anything of value for any of the  
23 purposes described in subsection 2, paragraph "a". A person  
24 shall not aid or abet an act described in this paragraph.

25 b. This subsection does not apply to money or other things  
26 of value that a student athlete receives from any of the  
27 following:

28 (1) An institution of higher education, its officers, or  
29 employees if the institution, officer, or employee offered  
30 money or other thing of value in accordance with an official  
31 written policy of the institution or if the thing of value is  
32 an intercollegiate athletic award approved or administered by  
33 that institution.

34 (2) An immediate family member of the student athlete.

35 c. A person who engages in conduct knowing or having

1 reason to know that the conduct violates this subsection  
2 commits a serious misdemeanor.

3

EXPLANATION

4 This bill provides for the registration and regulation of  
5 persons who enter into an agent contract or professional  
6 sports services contract with a student athlete. The bill  
7 specifies proper conduct of athlete agents and prohibits  
8 certain conduct.

9 Section 1 contains the title of the bill.

10 Section 2 defines terms used in the bill.

11 Section 3 requires that an athlete agent must register with  
12 the secretary of state and obtain a certificate of  
13 registration before contacting a student athlete. The section  
14 sets forth certain information required in an application for  
15 the certificate of registration. An athlete agent not  
16 residing in this state must also file a consent to service of  
17 process.

18 Section 4 requires a person who is not a resident of this  
19 state wishing to register under this chapter must enter into  
20 an agreement with a resident of the state who is registered  
21 under this chapter. That person is to be a licensed attorney  
22 and may act on behalf of the nonresident agent.

23 Section 5 provides that a certificate of registration may  
24 be denied by the secretary of state if it is determined that  
25 the athlete agent has engaged in certain fraudulent or  
26 improper behavior.

27 Section 6 provides that the agent must file a bond with the  
28 secretary of state in the amount of \$25,000.

29 Section 7 provides that an agent contract for employment  
30 must be approved by the secretary of state and must have  
31 statement printed on the contract that the athlete has five  
32 calendar days to terminate the contract after signing.

33 Section 8 sets forth a list of prohibited activities for  
34 the athlete agent which includes entering into a contract or  
35 agreement with a student athlete prior to the student

1 athlete's final intercollegiate athletic contest.

2 Section 9 grants an institution of higher education in this  
3 state the authority to permit athlete agent interviews with  
4 student athletes during their final year of eligibility  
5 subject to the control and rules of the institution.

6 Section 10 provides that an agent contract negotiated by an  
7 athlete agent who has failed to comply with the provisions of  
8 this chapter is void.

9 Section 11 establishes penalties for violations of this  
10 chapter.

11 Section 12 provides for the recovery of costs by a student  
12 athlete or institution for an action brought against an agent  
13 who has violated any provision of this chapter.

14 Section 13 establishes certain prohibitions which apply to  
15 the student athlete and the student athlete's family.

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HOUSE FILE 2432

S-6062

1 Amend House File 2432, as passed by the House, as  
2 follows:

3 1. Page 8, by inserting after line 5 the fol-  
4 lowing:

5 "Sec. \_\_\_\_ . NEW SECTION. 262.34A ATHLETIC  
6 COMPENSATION POLICY.

7 The state board of regents shall urge the national  
8 collegiate athletic association to adopt rules to  
9 permit the compensation of collegiate athletes. The  
10 state board of regents shall investigate, review, and  
11 adopt a policy permitting the compensation of  
12 collegiate athletes, who are enrolled in any of the  
13 universities under its control and participating in a  
14 university-sponsored athletic program, by the  
15 university, alumni, or other interested persons.  
16 "Compensation" includes, but is not limited to,  
17 scholarships, available financial awards or resources,  
18 motor vehicles, real or personal property, or anything  
19 of value. The state board shall provide the policy to  
20 the presidents, athletic directors, and departments of  
21 athletics of the universities under its control. The  
22 state board shall review, update, and reissue the  
23 policy annually. However, the state board shall delay  
24 implementation of the policy until the national  
25 collegiate athletic association adopts a similar  
26 policy permitting compensation of athletes."

27 2. Title page, line 4, by inserting after the  
28 word "team," the following: "requiring a compensation  
29 policy for collegiate athletes,".

30 3. Renumber as necessary.

S-6062

Filed April 15, 1988

BY THOMAS MANN, Jr.

*Adopted 4/16 (p. 1725)*

## SENATE AMENDMENT TO HOUSE FILE 2432

H-6550

Amend House File 2432, as passed by the House, as follows:

1. Page 8, by inserting after line 5 the following:

"Sec.         . NEW SECTION. 262.34A ATHLETIC COMPENSATION POLICY.

The state board of regents shall urge the national collegiate athletic association to adopt rules to permit the compensation of collegiate athletes. The state board of regents shall investigate, review, and adopt a policy permitting the compensation of collegiate athletes, who are enrolled in any of the universities under its control and participating in a university-sponsored athletic program, by the university, alumni, or other interested persons. "Compensation" includes, but is not limited to, scholarships, available financial awards or resources, motor vehicles, real or personal property, or anything of value. The state board shall provide the policy to the presidents, athletic directors, and departments of athletics of the universities under its control. The state board shall review, update, and reissue the policy annually. However, the state board shall delay implementation of the policy until the national collegiate athletic association adopts a similar policy permitting compensation of athletes."

2. Title page, line 4, by inserting after the word "team," the following: "requiring a compensation policy for collegiate athletes,".

3. Renumber as necessary.

RECEIVED FROM THE SENATE

H-6550 FILED APRIL 16, 1988

*He* REFUSED TO CONCUR (p. 2 & 00)*Senate recorded 4/16 (p. 1747)*

HOUSE FILE 2432

S-5765

1 Amend House File 2432 as passed by the House as  
2 follows:

3 1. Page 9, line 10, by inserting after the word  
4 "institution." the following: "The state board of  
5 regents shall investigate, review, and adopt a written  
6 policy permitting the compensation of collegiate  
7 athletes, who are enrolled in any of the universities  
8 under its control and participating in a university-  
9 sponsored athletic program, by the university, alumni,  
10 or other interested persons. "Compensation" includes,  
11 but is not limited to, scholarships, available  
12 financial awards or resources, motor vehicles, real or  
13 personal property, or anything of value. The state  
14 board shall provide the policy to the presidents,  
15 athletic directors, and departments of athletics of  
16 the universities under its control and the policy  
17 shall become effective upon the adoption of a similar  
18 policy by five schools of the "Big 10 Conference" or  
19 by a majority of schools representing any other  
20 athletic conference recognized by the national  
21 collegiate athletic association."

S-5765

Filed April 5, 1988

BY TOM MANN, Jr.

*Revised no german 4/15 (p. 1660)*

HOUSE FILE 2432

S-5957

1 Amend the amendment, S-5816, to House File 2432 as  
2 passed by the House as follows:

3 1. Page 1, by striking lines 7 through 26 and  
4 inserting the following:  
5 "The state board of regents shall investigate,  
6 review, and adopt a written policy permitting the  
7 compensation of collegiate athletes, who are enrolled  
8 in any of the universities under its control and  
9 participating in a university-sponsored athletic  
10 program, by the university, alumni, or other  
11 interested persons. "Compensation" includes, but is  
12 not limited to, scholarships, available financial  
13 awards or resources, motor vehicles, real or personal  
14 property, or anything of value. The state board shall  
15 provide the policy to the presidents, athletic direc-  
16 tors, and departments of athletics of the universities  
17 under its control and the policy shall become  
18 effective upon the adoption of a similar policy by  
19 five schools of the "Big 10 Conference" or by a  
20 majority of schools representing any other athletic  
21 conference recognized by the national collegiate  
22 athletic association."

S-5957

Filed April 12, 1988

LOST

BY TOM MANN, Jr.

*(p. 1477)*

HOUSE FILE 2432

S-5816

1 Amend House File 2432, as passed by the House, as  
2 follows:

3 1. Page 8, by inserting after line 5 the fol-  
4 lowing:

5 "Sec. . NEW SECTION. 262.34A ATHLETIC  
6 COMPENSATION POLICY.

7 The state board of regents shall urge the national  
8 collegiate athletic association to adopt rules to  
9 permit the compensation of collegiate athletes. The  
10 state board of regents shall investigate, review, and  
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12 collegiate athletes, who are enrolled in any of the  
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14 university-sponsored athletic program, by the  
15 university, alumni, or other interested persons.  
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21 athletics of the universities under its control. The  
22 state board shall review, update, and reissue the  
23 policy annually. However, the state board shall delay  
24 implementation of the policy until the national  
25 collegiate athletic association adopts a similar  
26 policy permitting compensation of athletes."

27 2. Title page, line 4, by inserting after the  
28 word "team," the following: "requiring a compensation  
29 policy for collegiate athletes,".

30 3. Renumber as necessary.

S-5816

Filed April 6, 1988

w/b 4/16 (p. 1460)

BY RICHARD VARN



HSB 739

STATE GOVERNMENT

House Study Bill 739

State Government: Peterson of Carroll, Chair; Beatty, Garman, Hanson of Delaware and Knapp.

FILE 2427

BY (PROPOSED COMMITTEE ON STATE GOVERNMENT BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the registration and regulation of persons  
2 seeking to represent a student athlete for compensation in  
3 negotiations intended to result in employment with a  
4 professional sports team and providing penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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7 1. "Athlete agent" means a person representing a student  
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11 contract with the person, or who for a fee procures, offers,  
12 promises, or attempts to obtain employment for a student  
13 athlete with a professional sports team. "Athlete agent" does  
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16 representative for a student athlete, unless the attorney also  
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19 2. "Student athlete" means an individual enrolled at an  
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21 eligible to participate in intercollegiate sports contests as  
22 a member of a sports team of an institution of higher  
23 education located in this state, or who is receiving partial  
24 or full financial assistance by way of an athletic scholarship  
25 and may in the future be eligible to participate in  
26 intercollegiate sports contests as a member of a sports team  
27 of an institution of higher education located in this state.

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32 1. An athlete agent shall register with, and obtain a  
33 certificate of registration from, the secretary of state  
34 before contacting, either directly or indirectly, a student  
35 athlete concerning the possibility of the athlete agent's

1 representing the student athlete. The athlete agent may apply  
2 for a certificate of registration by submitting the forms  
3 provided for that purpose and must provide all the information  
4 required by the secretary of state, including all of the  
5 following:

6 a. Name of the applicant and the address of the  
7 applicant's principal place of business.

8 b. Business or occupation engaged in by the applicant for  
9 the five years immediately preceding the date of application.

10 c. The athlete agent's educational background, training,  
11 and experience relating to being an athlete agent.

12 d. Names and addresses of all persons, except bona fide  
13 employees on stated salaries, who are financially interested  
14 as partners, associates, or profit sharers in the operation of  
15 the business of the athlete agent.

16 e. Record of all felony charges and convictions, and all  
17 misdemeanor charges and convictions of the athlete agent.

18 f. Record of all felony charges and convictions, and  
19 misdemeanor charges and convictions of all persons, except  
20 bona fide employees, who are financially interested as  
21 partners, associates, or profit sharers in the operation of  
22 the business of the athlete agent.

23 g. Record of all sanctions issued to or disciplinary  
24 actions taken against the athlete agent or against any student  
25 athlete or any institution of higher education in connection  
26 with any transaction or occurrence involving the athlete  
27 agent.

28 h. Additional information as deemed appropriate by the  
29 secretary of state.

30 2. In addition to the requirements of subsection 1, an  
31 athlete agent who is not a resident of this state must file  
32 with the secretary of state an irrevocable consent to service  
33 of process on a form prescribed by the secretary. The consent  
34 to service shall be signed by the athlete agent, or by an  
35 authorized representative of the athlete agent, and notarized.

1 If the athlete agent is a corporation, the consent to service  
2 shall be accompanied by a copy of the corporation's  
3 authorization to do business in this state and a copy of the  
4 resolution of the corporation authorizing the consent to  
5 service. The consent to service shall indicate that service  
6 upon the secretary of state is sufficient service upon the  
7 athlete agent, if the plaintiff forwards by certified mail one  
8 copy of the service to the business address of the athlete  
9 agent on file at the office of the secretary of state.

10 3. A certificate of registration issued under this section  
11 is valid for one year from the date of issuance. A registered  
12 athlete agent may renew the certificate by filing a renewal  
13 application in the form prescribed by the secretary of state,  
14 accompanied by any applicable renewal fee.

15 4. The secretary of state shall:

16 a. Establish a reasonable registration fee sufficient to  
17 offset expenses incurred in the administration of this  
18 chapter.

19 b. Adopt rules necessary for the implementation and  
20 administration of this chapter.

21 Sec. 4. NEW SECTION. 9A.4 DENIAL OF CERTIFICATE OF  
22 REGISTRATION.

23 The secretary of state may deny, suspend, or revoke an  
24 athlete agent's certificate of registration, following a  
25 hearing where a determination is made that the athlete agent  
26 has engaged in any of the following activities:

27 1. Made false or misleading statements of a material  
28 nature in the athlete agent's application for a certificate of  
29 registration or renewal of a certificate of registration.

30 2. Misappropriated funds, or engaged in other specific  
31 acts such as embezzlement, theft, or fraud, which in the  
32 judgment of the secretary of state would render the athlete  
33 agent unfit to serve in a fiduciary capacity.

34 3. Engaged in other conduct, including, but not limited  
35 to, conduct contributing to sanctions or disciplinary action

1 against any student athlete or institution of higher  
2 education, whether within this state or not, which in the  
3 judgment of the secretary of state relates to the athlete  
4 agent's fitness to serve in a fiduciary capacity.

5 Sec. 5. NEW SECTION. 9A.5 BOND REQUIRED FROM ATHLETE  
6 AGENT.

7 1. An athlete agent shall file with the secretary of  
8 state, before the issuance or renewal of a certificate of  
9 registration, a surety bond in the sum of one hundred thousand  
10 dollars. The surety bond shall be payable to the state and  
11 shall be conditioned upon the athlete agent's willingness to  
12 comply with this chapter, pay all amounts due to any  
13 individual or group of individuals when due, and pay all  
14 damages caused to any student athlete or institution of higher  
15 education by reason of intentional misstatement,  
16 misrepresentation, fraud, deceit or any unlawful or negligent  
17 acts or omissions by the registered athlete agent or the  
18 athlete agent's representative or employee while acting within  
19 the scope of employment. This section shall not limit the  
20 recovery of damages to the amount of the surety bond.

21 2. The bond shall be made in a form prescribed by the  
22 secretary of state and written by a company authorized by the  
23 secretary of state to do business within the state.

24 Sec. 6. NEW SECTION. 9A.6 PROHIBITED ACTIVITIES.

25 A person shall not do any of the following:

26 1. Act or offer to act as an athlete agent unless  
27 registered pursuant to this chapter.

28 2. Engage in conduct which violates, or causes or  
29 contributes to causing a student or institution of higher  
30 education to violate, any rule or regulation adopted by the  
31 national collegiate athletic association governing student  
32 athletes and their relationship with athlete agents and  
33 institutions of higher education.

34 3. Except as provided in subsection 5, enter into a  
35 written or oral agreement by which the athlete agent will

1 represent a student athlete, or give anything of value to a  
2 student athlete, until after completion of the student  
3 athlete's last intercollegiate athletic contest including any  
4 postseason contest.

5 4. Enter into an agreement before the student athlete's  
6 last intercollegiate contest that purports to take effect at a  
7 time after that contest is completed.

8 5. Enter into an agreement where the athlete agent gives,  
9 offers, or promises anything of value to an employee or  
10 student of an institution of higher education in return for  
11 the referral of a student athlete by the employee or student.

12 6. Interfere with, impede, or obstruct the administration  
13 and enforcement of this chapter.

14 Sec. 7. NEW SECTION. 9A.7 ON-CAMPUS ATHLETE AGENT  
15 INTERVIEWS.

16 If an institution of higher education located in this state  
17 elects to permit athlete agent interviews on its campus during  
18 a student athlete's final year as a student athlete, a regis-  
19 tered athlete agent may interview the student athlete to  
20 discuss the registered athlete agent's representation of the  
21 student athlete in the marketing of the student athlete's  
22 athletic ability and reputation. The registered athlete agent  
23 shall strictly adhere to the conditions imposed by each  
24 institution with regard to the time, place, manner, and  
25 duration of the interviews.

26 Sec. 8. NEW SECTION. 9A.8 PENALTIES.

27 1. A person who knowingly violates any provision of this  
28 chapter is subject to all of the following:

29 a. A civil penalty in an amount not to exceed ten thousand  
30 dollars to be determined by the secretary of state based on  
31 the seriousness of the violation.

32 b. Forfeiture of any right of repayment of anything of  
33 value received by a student athlete as an inducement to enter  
34 into any agent contract or received by a student athlete  
35 before completion of the student athlete's last intercol-

1 legiate contest.

2 c. A refund of any consideration paid to the athlete agent  
3 on the student athlete's behalf.

4 d. Reasonable attorney's fees and court costs incurred by  
5 a student athlete or institution of higher education as a  
6 result of the athlete agent's violation of this chapter.

7 2. Any agent contract negotiated by an athlete agent who  
8 has failed to comply with the provisions of this chapter is  
9 void.

10 3. A person who violates a provision of section 9A.6  
11 commits a class "D" felony.

12 EXPLANATION

13 This bill provides for the registration and regulation of  
14 persons who enter into an agent contract or professional  
15 sports services contract with a student athlete. The bill  
16 specifies proper conduct of athlete agents and prohibits  
17 certain conduct.

18 Section 1 contains the title of the bill.

19 Section 2 defines terms used in the bill.

20 Section 3 requires that an athlete agent must register with  
21 the secretary of state and obtain a certificate of  
22 registration before contacting a student athlete. The section  
23 sets forth certain information required in an application for  
24 the certificate of registration. An athlete agent not  
25 residing in this state must also file a consent to service of  
26 process.

27 Section 4 provides that a certificate of registration may  
28 be denied by the secretary of state if it is determined that  
29 the athlete agent has engaged in certain fraudulent or  
30 improper behavior.

31 Section 5 provides that the agent must file a bond with the  
32 secretary of state in the amount of \$100,000.

33 Section 6 sets forth a list of prohibited activities for  
34 the athlete agent which includes entering into a contract or  
35 agreement with a student athlete prior to the student

1 athlete's final intercollegiate athletic contest.

2 Section 7 grants an institution of higher education in this  
3 state the authority to permit athlete agent interviews with  
4 student athletes during their final year of eligibility  
5 subject to the control and rules of the institution.

6 Section 8 sets forth the penalties for violations of this  
7 chapter. A civil penalty may be assessed by the secretary of  
8 state not to exceed \$10,000. Certain violations are  
9 classified as class "D" felonies.

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HOUSE FILE 2432

AN ACT

RELATING TO THE REGISTRATION AND REGULATION OF PERSONS SEEKING TO REPRESENT A STUDENT ATHLETE FOR COMPENSATION IN NEGOTIATIONS INTENDED TO RESULT IN EMPLOYMENT WITH A PROFESSIONAL SPORTS TEAM, PROHIBITING CERTAIN ACTIONS RELATING TO STUDENT ATHLETES AND THEIR FAMILIES, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 9A.1 TITLE.

This chapter shall be known as the "Registration of Athlete Agents Act".

Sec. 2. NEW SECTION. 9A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Athlete agent" means a person representing a student athlete for compensation or any person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract or professional sports services contract with the person, or who for a fee procures, offers, promises, or attempts to obtain employment for a student athlete with a professional sports team. "Athlete agent" does not include an individual licensed to practice as an attorney in this state when the individual is acting as a representative for a student athlete, unless the attorney also represents the student athlete in negotiations for an agent contract.

2. "Student athlete" means an individual enrolled at an institution of higher education who is eligible to participate in intercollegiate sports contests as a member of a sports team of an institution of higher education, or who is receiving partial or full financial assistance by way of an athletic scholarship and may in the future be eligible to

participate in intercollegiate sports contests as a member of a sports team of an institution of higher education.

3. "Institution of higher education" means a public or private college or university in this state.

Sec. 3. NEW SECTION. 9A.3 REGISTRATION REQUIREMENTS FOR ATHLETE AGENTS.

1. An athlete agent shall register with, and obtain a certificate of registration from, the secretary of state before contacting, either directly or indirectly, a student athlete concerning the possibility of the athlete agent's representing the student athlete. The athlete agent may apply for a certificate of registration by submitting the forms provided for that purpose and must provide all the information required by the secretary of state, including all of the following:

- a. Name of the applicant and the address of the applicant's principal place of business.
- b. Business or occupation engaged in by the applicant for the five years immediately preceding the date of application.
- c. The athlete agent's educational background, training, and experience relating to being an athlete agent.
- d. Names and addresses of all persons, except bona fide employees on stated salaries, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- e. Record of all felony charges and convictions, and all misdemeanor charges and convictions of the athlete agent.
- f. Record of all felony charges and convictions, and misdemeanor charges and convictions of all persons, except bona fide employees, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- g. Record of all sanctions issued to or disciplinary actions taken against the athlete agent or against any student athlete or any institution of higher education in connection

with any transaction or occurrence involving the athlete agent.

h. Additional information as deemed appropriate by the secretary of state.

2. In addition to the requirements of subsection 1, an athlete agent who is not a resident of this state must file with the secretary of state an irrevocable consent to service of process on a form prescribed by the secretary. The consent to service shall be signed by the athlete agent, or by an authorized representative of the athlete agent, and notarized. If the athlete agent is a corporation, the consent to service shall be accompanied by a copy of the corporation's authorization to do business in this state and a copy of the resolution of the corporation authorizing the consent to service. The consent to service shall indicate that service upon the secretary of state is sufficient service upon the athlete agent, if the plaintiff forwards by certified mail one copy of the service to the business address of the athlete agent on file at the office of the secretary of state.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered athlete agent may renew the certificate by filing a renewal application in the form prescribed by the secretary of state, accompanied by any applicable renewal fee.

4. The secretary of state shall:

a. Establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this chapter.

b. Adopt rules necessary for the implementation and administration of this chapter.

Sec. 4. NEW SECTION. 9A.3A RESIDENT AGENT REQUIRED.

A person registered under this chapter as an athlete agent who is not a resident of this state, or does not have a principal place of business in this state, shall not engage in any activity as an athlete agent in this state unless that

person has entered into an agreement with a person who is a resident of this state or whose principal place of business is in this state, who is licensed pursuant to section 602.10101, and who is registered under this chapter as an athlete agent, to act on behalf of the nonresident athlete agent. The agreement shall provide that the resident athlete agent shall act as attorney in fact, on whom all process in any action involving the nonresident athlete agent may be served, as well as any other duties as negotiated by the nonresident and resident athlete agent. The agreement shall be filed with the secretary of state and shall include the name and address of the resident athlete agent.

Sec. 5. NEW SECTION. 9A.4 DENIAL OF CERTIFICATE OF REGISTRATION.

The secretary of state may deny, suspend, or revoke an athlete agent's certificate of registration, following a hearing where a determination is made that the athlete agent has engaged in any of the following activities:

1. Made false or misleading statements of a material nature in the athlete agent's application for a certificate of registration or renewal of a certificate of registration.

2. Misappropriated funds, or engaged in other specific acts such as embezzlement, theft, or fraud, which in the judgment of the secretary of state would render the athlete agent unfit to serve in a fiduciary capacity.

3. Engaged in other conduct, including, but not limited to, conduct contributing to sanctions or disciplinary action against any student athlete or institution of higher education, whether within this state or not, which in the judgment of the secretary of state relates to the athlete agent's fitness to serve in a fiduciary capacity.

4. Engaged in a material violation of this chapter or a rule adopted pursuant to this chapter, as shown by a preponderance of the evidence. The suspension or revocation of an agent's registration may be reviewed pursuant to chapter 17A.

Sec. 6. NEW SECTION. 9A.5 BOND REQUIRED FROM ATHLETE AGENT.

1. An athlete agent shall have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of twenty-five thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days notice in writing to the agent and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the athlete agent's willingness to comply with this chapter, pay all amounts due to any individual or group of individuals when due, and pay all damages caused to any student athlete or institution of higher education by reason of intentional misstatement, misrepresentation, fraud, deceit or any unlawful or negligent acts or omissions by the registered athlete agent or the athlete agent's representative or employee while acting within the scope of employment. This section shall not limit the recovery of damages to the amount of the surety bond.

2. The bond shall be made in a form prescribed by the secretary of state and written by a company authorized by the secretary of state to do business within the state.

Sec. 7. NEW SECTION. 9A.5A AGENT CONTRACT.

1. An agent contract to be entered into by a registered athlete agent and a student athlete who has not previously signed a contract of employment with a professional sports team shall be on a form approved by the secretary of state. Approval of the form shall not be withheld unless the proposed form is unfair, unjust, or oppressive to the student athlete. If the form of the contract is in compliance with any players association form contract, the contract shall be approved by the secretary of state.

2. The agent contract shall have printed on the face of the contract in bold print the following: "The athlete agent is registered with the secretary of state. Registration does not imply approval or endorsement by the secretary of state of the specific terms and conditions of this contract or competence of the athlete agent. You have the right to terminate this contract within five calendar days after it is signed. You may jeopardize your standing as a student athlete by entering into this contract under the rules for eligibility established by or adhered to by your institution of higher education."

3. A registered athlete agent shall file with the secretary of state a schedule of fees chargeable and collectible from a student athlete who has not previously signed a contract of employment with a professional sports team and shall file a description of the various professional services to be rendered in return for each fee. The athlete agent may impose charges only in accordance with the fee schedule. Changes in the fee schedule may be made from time to time, except that a change shall not become effective until the seventh day after the date the change is filed with the secretary of state.

Sec. 8. NEW SECTION. 9A.6 PROHIBITED ACTIVITIES.

A person shall not do any of the following:

1. Act or offer to act as an athlete agent unless registered pursuant to this chapter.

2. Engage in conduct which violates, or causes or contributes to causing a student or institution of higher education to violate, any rule or regulation adopted by the national collegiate athletic association governing student athletes and their relationship with athlete agents and institutions of higher education.

3. Except as provided in subsection 5, enter into a written or oral agreement by which the athlete agent will represent a student athlete, or give anything of value to a

student athlete, until after completion of the student athlete's last intercollegiate athletic contest including any postseason contest.

4. Enter into an agreement before the student athlete's last intercollegiate contest that purports to take effect at a time after that contest is completed.

5. Enter into an agreement where the athlete agent gives, offers, or promises anything of value to an employee or student of an institution of higher education in return for the referral of a student athlete by the employee or student.

6. Interfere with, impede, or obstruct the administration and enforcement of this chapter.

Sec. 9. NEW SECTION. 9A.7 ON-CAMPUS ATHLETE AGENT INTERVIEWS.

If an institution of higher education located in this state elects to permit athlete agent interviews on its campus during a student athlete's final year as a student athlete, a registered athlete agent may interview the student athlete to discuss the registered athlete agent's representation of the student athlete in the marketing of the student athlete's athletic ability and reputation. The registered athlete agent shall strictly adhere to the conditions imposed by each institution with regard to the time, place, manner, and duration of the interviews.

Sec. 10. NEW SECTION. 9A.8 CONTRACT VOID.

An agent contract negotiated by an athlete agent who has failed to comply with the provisions of this chapter is void. If the contract is void pursuant to this section, the athlete agent does not have a right of repayment of anything of value received by the student athlete as an inducement to enter into an agent contract or received by a student athlete before completion of the student athlete's last intercollegiate contest, and the athlete agent shall refund any consideration paid to the athlete agent by the student athlete or on the student athlete's behalf.

Sec. 11. NEW SECTION. 9A.9 PENALTIES - ENFORCEMENT.

1. The attorney may institute a legal proceeding against an athlete agent on behalf of the state, and shall institute legal proceedings at the request of the secretary of state, to enforce this chapter.

2. A person who knowingly and willfully violates a provision of this chapter is subject to a civil penalty in an amount not to exceed ten thousand dollars.

3. A person who violates a provision of section 9A.6 commits a serious misdemeanor.

Sec. 12. NEW SECTION. 9A.10 COSTS.

A student athlete and an institution of higher education are entitled to recover reasonable attorney's fees and court costs against an athlete agent found to be in violation of this chapter.

Sec. 13. NEW SECTION. 722.11 STUDENT ATHLETE PROHIBITIONS.

1. DEFINITIONS. As used in this section:

a. "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or guardian of a person named in this paragraph.

b. "Institution of higher education" means an institution of higher education under the control of the state board of regents, a merged area school, or a private college or university located in this state.

c. "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes a person who has applied, is eligible to apply, or who may be eligible to apply in the future to an institution of higher education.

2. PROHIBITIONS.

a. Except as provided in paragraphs "c" and "d", a person shall not give, offer, promise, or attempt to give any money

or other thing of value to a student athlete or immediate family member of a student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance at an institution of higher education in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

b. A person shall not aid or abet an act described in paragraph "a".

c. As used in this subsection, "person" does not include any of the following:

(1) An institution of higher education or any of its officers or employees if the institution, officer, or employee is acting in accordance with an official written policy of the institution.

(2) An immediate family member of the student athlete.

d. An intercollegiate athletic award approved or administered by the institution of higher education that the student athlete attends is not an inducement, encouragement or reward under paragraph "a".

e. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits an aggravated misdemeanor.

3. PROHIBITIONS FOR STUDENT ATHLETES.

a. Except as provided in paragraph "b", a student athlete or immediate family member of the student athlete, shall not solicit or accept money or anything of value for any of the purposes described in subsection 2, paragraph "a". A person shall not aid or abet an act described in this paragraph.

b. This subsection does not apply to money or other things of value that a student athlete receives from any of the following:

(1) An institution of higher education, its officers, or employees if the institution, officer, or employee offered money or other thing of value in accordance with an official written policy of the institution or if the thing of value is an intercollegiate athletic award approved or administered by that institution.

(2) An immediate family member of the student athlete.

c. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits a serious misdemeanor.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2432, Seventy-second General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 14, 1988

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TERRY E. BRANSTAD  
Governor

HF 2432