



**PROPONENT Testimony on HB 2264
For the House Judiciary Committee
February 18, 2021**

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Chairman Patton and members of the committee, thank you for the opportunity to come before you to provide written proponent testimony related to House Bill 2264.

Kansas' Independent Colleges:

KICA represents the twenty independent colleges of Kansas, all of which are not-for-profit institutions of higher education, all of which offer undergraduate degrees, all of which have their principal campus in Kansas, all of whom are regionally accredited by the Higher Learning Commission, and all of whom maintain an open enrollment policy consistent with Kansas statutes.

The state of Kansas, via the Kansas Board of Regents, has specific obligations governing “private and out-of-state” educational institutions, per the Private and Out-of-State Post-Secondary Educational Institutions Act. All twenty KICA institutions are exempt from that statute. Thus, for the independent members of KICA, KBOR has no governing role (as it does for the six 4-year Regents universities), coordinating role (as it does for the community colleges, technical colleges, and Washburn University) nor regulatory role (as it does for any for-profit college or college based outside of Kansas that wishes to operate here). Furthermore, KICA institutions do not receive any direct funding from the state of Kansas, as befits our independent status.

Student Athletes at Kansas' Private Colleges:

KICA institutions represent a broad set of intercollegiate athletic experiences. As noted below, no KICA institutions compete at the “highest” level of the sport – NCAA Division I – and only one institution even competes in the NCAA at all. All others are engaged either in the NAIA, the National Christian College Athletic Association (NCCAA) or the National Junior College Athletic Association (NJCAA).

- NCAA Division II – 1 institution (Newman University)
- NAIA Division I – 4 institutions (Baker University, Benedictine College, Central Christian College of Kansas*, MidAmerica Nazarene University)
- NAIA Division II – 10 institutions (Bethany College, Bethel College, Friends University, Kansas Wesleyan University, McPherson College, Ottawa University, Southwestern College, Sterling College, Tabor College, University of Saint Mary)
- NCCAA Division I – 1 institution (Central Christian College of Kansas*)
- NCCAA Division II – 2 institutions (Barclay College, Manhattan Christian College)
- NJCAA – 1 institution (Hesston College)
- No Intercollegiate Athletics – 2 institutions (Cleveland University-Kansas City, Donnelly College)

* CCKKS plays some sports in NAIA and some in NCCAA

In the 2019-2020 academic year, 6,963 students participated in intercollegiate athletics among all KICA institutions, with a median of 417 students per institution. Thus, on our main residential campuses in Kansas, almost 50% of our students participate in some form of intercollegiate sports. Thus, while Kansas' private colleges may be smaller than the various Regents universities, we have a much higher percentage of our student population who would be subject to a general NIL authority.

Lastly, for KICA institutions, sports (not even football or men's basketball) are not in-and-of-themselves substantial revenue generators. The revenue generated for KICA institutions is in the form of tuition paid by students who are attracted to attend our institutions in part because we offer our level of student athletics, and from donors for whom continued engagement with institutional athletic teams is a means by which they remain connected to their alma mater. We have no major television contracts to bring in sports revenue. And our ticket and merchandise sales are fairly limited to our own communities and the families and friends of our students and alumni.

Comments on HB 2264 – Opt-Out vs. Mandate:

KICA generally supports the intent of HB 2264 to allow student athletes the ability to receive third-party compensation for use of their name, image, and/or likeness. At the same time, the KICA colleges and institutions all offer intercollegiate athletics as a component of a broader mission to provide our students with a valuable, holistic education that leads them to a degree, a productive career, and a life of purpose and service.

While most NAIA, NCCAA, and NJCAA institutions may only have a few students seen as attractive candidates from third parties for NIL endorsement contracts, the market for local contract and smaller scale deals may be substantial. Moreover, because KICA colleges have a much higher percentage of students participating in student-athletics, the administrative burden on small school staffs that a broad NIL mandate would create could be unmanageable.

Additionally, most of Kansas' non-profit colleges were founded with ties to a Christian denomination and most have mission and values that remain reflective of those faith-based roots. All KICA institutions are "open enrollment" in accordance with Kansas law and thus do not consider a prospective student's religion or religiosity in making admissions decisions. However, most KICA institutions do expect students to adhere to a student code of conduct that reflects our values. For instance, some KICA institutions have clear statements against consumption of alcohol and prohibit alcoholic beverages from being consumed on campus, even by students over 21 years old. It would be problematic to have a student pursue a license-agreement with a beer company for these institutions.

Thus, we are very grateful that the language in HB 2264 includes a clear opt-out provision for non-profit colleges in Section 5(b). While we are curious about operational aspects of this opt-out provision, we are comfortable with the language as it is presented and would look forward to working collaboratively to establish a just process for those institutions that would seek to exercise that out-out provision.

Furthermore, while we appreciate the opt-out provision, we do note that some KICA institutions are likely not to exercise it, and all KICA institutions share in the interest in seeking a just and equitable treatment of students and protection of their rights.

Thank you for the opportunity to comment on HB 2264 support. I am happy to provide answers to questions you may have or provide additional data as you request.