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## FISCAL IMPACT REPORT

ORIGINAL DATE 1-27-2006

SPONSOR Taylor LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Uniform Athlete Agent's Act SB 365

ANALYST Dearing

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY06	FY07	FY08	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$60.00	\$60.00	\$120.0	Recurring	General Fund
<b>Total</b>		\$40.0			Non- recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Higher Education Department (HED)

Attorney General's Office (AGO)

Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

Senate Bill 365 enacts the Uniform Athlete Agents Act, which regulates agreements between agents and student athletes for representation during negotiation of endorsement or professional sports contracts. The Act applies to agreements with students eligible to participate in intercollegiate sports. The Act requires individuals acting as agents for student athletes to register with the Secretary of State. The Act establishes criteria for registration and for suspension and revocation of registration. The Act establishes specific registration fees. The Act requires certain contractual provisions to be included in the contracts between student athletes and agents. The Act requires agents to notify the educational institutions that the student athlete attends or will attend of the contract within a short time of the contract's execution. The Act gives student athletes the right to cancel the contract. The Act requires the agent to retain certain records for a period of five years. The Act prohibits certain conduct by agents and provides for civil and criminal penalties against agents that violate the Act. The Act provides for civil remedies for educational institutions against agents or student athletes for damages caused by their violation of the Act.

## FISCAL IMPLICATIONS

SB 365 contains no Appropriation. However, according to the Secretary of States' office, an appropriation will be necessary for a FTE to administer this act, included in the appropriation should be consideration of a software program and training in order to accommodate this act, in addition to a FTE that will be needed for the secretary of states office as well. An appropriation for a software program to accommodate the changes to the NMSA 1978 software that SOS uses, however, SOS did not provide approximate figures for this estimation.

One FTE and associated fringe costs are estimated at approximately \$50,000. Additional costs incurred for management of initial licensing, renewals, and fee collection is approximated at \$10,000 (please see alternatives section). The estimate for total costs does not include costs incurred to update software for the Secretary of State.

## SIGNIFICANT ISSUES

Many states have adopted this Act to protect student athletes, educational institutions, and the integrity of collegiate sports from unscrupulous sports agents.

The Uniform Athletes Agent Act (UAAA) was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL). The bill regulates agreements between agents and student athletes for representation during negotiation of endorsement or professional sports contracts. The bill applies to agreements with students eligible to participate in intercollegiate sports. The bill requires registration with the Secretary of State before a person may act or represent themselves as an athlete agent. The bill provides criteria for registration and revocation and suspension of registration. The bill also regulates contracts between students and their agents, and requires certain contractual provisions regarding compensation, expenses, and services. The bill provides for notice to the athletic director and school in which the student athlete is enrolled after he or she enters into an agency contract with an athlete agent. The bill prohibits certain acts by the agent, including furnishing anything of value to the student before the agency contract is signed or make false or misleading promises to the student. The bill imposes both criminal and civil penalties for violations, and grants educational institutions the right to sue agents and former student athletes for damages related to disqualification, penalization and suspension as a result of conduct by the student athlete or agent.

According to the prefatory note to the Uniform Act, the practices of a minority of agents or would-be agents in obtaining the right to represent athletes who may produce substantial fees for their agents have caused serious problems for student-athletes and educational institutions. The tactics of this minority include secret payments or gifts to the athlete, undisclosed payments or gifts to friends and relatives who may be in a position to influence the athlete, unrealistic promises and considerable arm-twisting. Athletes may lose eligibility and may damage promising professional careers. Universities and colleges are sanctioned. The sanctions can be very severe and may include loss of, or liability to return, substantial revenues for participation in post-season events. Frequently, the non-monetary sanctions have long-term, adverse effects on athletic programs. The reputations of respected educational institutions are tarnished and there is a severe disruption in the activities of those responsible for administration of the institutions.

As of January 2006 the Uniform Athlete Agents Act (UAAA) has been passed in 33 states and eight other states have some form of law regulating athlete agents. New Mexico is one of a hand-

ful of states that has no existing laws regulating athlete agents. During the 2005 legislative session the UAAA was introduced and did not pass. SB365 is a reintroduction of the UAAA.

Due to a probable low volume of applicants for licensure, in conjunction with minimal associated fee-structure for licenses, a marginal increase in licensing-fee revenue would occur with the passage of this legislation. Specifically, the impact of enactment of this bill would seem to correlate more closely with the consideration of the ethical imperatives of collegiate sports governing bodies' (NCAA rules) than fiscal considerations.

Accordingly, the aforementioned lack of volume and minimal licensing revenue to be generated with enactment of this bill would imply that the self-sufficiency component of many existing boards that are regulated through the Regulation and Licensing Department would not exist for this particular legislative regulatory initiative.

### **PERFORMANCE IMPLICATIONS**

The New Mexico Secretary of State will be required to enforce the provisions of the new act.

According to New Mexico State University (NMSU) Athletic Director, Dr. McKinley Boston, student athletes sometimes sign agent contracts in secrecy. The signing of a contract contradicts NCAA rules and this gives up the athletes' amateur status. Agents often negotiate contracts with their checkbooks at hand. Once a student athlete signs a contract in secrecy, this in turn jeopardizes the universities' standing.

### **ALTERNATIVES**

In administration of licensure through the New Mexico Board of Medical Examiners, a software sharing relationship has been established with Regulation and Licensing Department's software platform at a cost of about \$40,000. Due the expectation of low volume of license seekers, it might be possible to establish a similar license-fee collection and tracking platform for to-be licensed athlete agents at a substantially lower cost.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The consequences of not enacting the UAAA will be to put New Mexico colleges and universities at risk, lacking mechanisms to deal with both unscrupulous agents and protection against agents' covert recruiting. This legislation will make it a violation of the UAAA Act for agents to work in secrecy and without contacting the college or university.

PD/mt