

**[Section 5A. Name, Image, and Likeness Trust Creation; Compensation Distribution**

[(a) Each institution in this state that sponsors an intercollegiate athletic program shall establish a Name, Image and Likeness Trust for the purpose of receiving any name, image, and likeness compensation paid to its college student athletes. The Trust:

[(1) May be administered by the institution or by a person that is not affiliated with the institution and is experienced in trust administration;

[(2) Shall be administered in accordance with the laws of this state; and

[(3) May charge a reasonable trust administration fee for managing payments to and distributions from the Trust that is no greater than such fees normally charged by private sector trust companies that are in the vicinity of, and are not affiliated with, the institution.

[(b) The institution shall appoint a student athlete advisory committee, consisting of college student athletes representing revenue-producing and non-revenue intercollegiate sports programs at the institution, with the authority to advise and monitor the administration of the Trust.

[(c) Each name, image, and likeness agreement shall provide that any name, image, and likeness compensation paid for the use of a college student athlete's name, image and likeness shall be payable to the Name, Image, and Likeness Trust at the institution at which that athlete is enrolled.

[(d) Upon receipt of any name, image and likeness compensation, the Trust shall within a reasonable time pay any amounts owed, if any, by the college student athlete who generated the compensation to that athlete's name, image, and likeness agent and third party.

[(e) The Trust shall allocate the remaining name, image and likeness compensation generated by a college student athlete during any calendar as follows:

[(1) The first up to [\$5,000] earned during each calendar year, in a lump sum, to the athlete who generated that compensation.

[(2) Any remaining compensation in excess of [ \$5000]:

[(i) [Fifty] percent to the college student athlete who generated the compensation;

[(ii) [Thirty] percent in equal amounts to each other college student athlete at that institution who during that calendar year was a member of the same intercollegiate sports program as the college student athlete who generated the compensation; and

[(iii) [Twenty] percent in equal amounts to each other college student athlete who was a member of another intercollegiate sports program at that institution during that calendar year.

[(f) The Trust may distribute the amounts allocated in paragraph (2) of subsection (e) in periodic payments[, not to exceed [\$250] per month,] or in a lump sum [provided that no college student athlete shall receive distributions totaling more than [\$3,000] per calendar year. Any amount allocated to a college student athlete in excess of that amount shall be held in the Trust, credited to that athlete, and distributed , together with any interest accrued, to that athlete within 30 days of his departure from the institution, by graduation, transfer, or otherwise, or of the end of the academic year following the exhaustion of his eligibility in his intercollegiate sport.]

[(g) A distribution of compensation pursuant to this Section to a college student athlete, other than the college student athlete who generated the compensation, shall be considered to be a scholarship payment in excess of any scholarship already awarded to the athlete by the institution. Such payment shall not be considered by any athletic association as violating any limitation on the number or amount of scholarships authorized by the association's rules.

[(h) In no event shall any institution use any funds in the Trust established pursuant to Section in any manner other than as provided in this Section and shall not use such funds as a substitute for scholarships, grants-in-aid, other financial aid, or funding that otherwise would be provided to a college student athlete by the institution or any affiliated foundation or person.

#### Comment

Subsection (g) may need careful examination by someone familiar with the income tax laws. Currently any amount of scholarship that exceeds tuition, room, and board, is taxable to the student athlete. For example, the amount that increases a scholarship to "cost of attendance" is taxable. The student athlete who generates the compensation, regardless of his scholarship status, most likely will be taxable on any payment of that compensation as earned income. It is not clear, however, whether distributions paid to team members and other athletes would be earned income or scholarships. The purpose of subsection (g) is to characterize them as scholarships with the hope that they would remain free of tax at least to the extent they were paid to student athletes who were not already at the full scholarship level.