

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/09
 LAST UPDATED 03/19/09

SPONSOR HEC HB CS/432/aHEC/aSFI#1

SHORT TITLE School Athletics Equity Act SB _____

ANALYST Haug

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$33.8	\$33.8	\$67.6	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Public Education Department (PED)

Public Schools Insurance Authority (PSIA)

Public School Facilities Authority (PSFA)

Southwest Women's Law Center (SWLC)

SUMMARY

Synopsis of SFI#1 Amendment

Senate Floor Amendment #1 changes all reporting dates from 2010 to 2011.

Synopsis of HEC Amendment

The House Education Committee Amendment requires the annual assurance of compliance with Title 9 be signed by the superintendent of the district or the head administrator of the charter school rather than the school's principal or Title 9 coordinator.

Synopsis of Original Bill

The House Education Committee Substitute for House Bill 432 creates the School Athletics Equity Act which would apply to each public school that has an athletics program for grades 7 through 12 and require each public school to report to the PED:

By August 31, 2011:

- An accounting of the funding sources that are used to support the school's athletic programs and to which teams those funds are allocated.
- Capital outlay expenditures for athletic programs;
- Total expenditures for the school's athletics program.
- For individual teams, expenditures including travel expenses, meal and overnight accommodations, equipment, uniforms, facilities and facility improvements, publicity expenses, awards, banquets, insurance and other expenses.
- For each team, a statement of benefits and services including:
 - Replacement schedules for equipment, uniforms and supplies;
 - Practice and game schedules;
 - Access to locker and weight rooms and practice, competitive and training facilities;
 - Assistance in obtaining scholarships.

By August 31, 2010:

- The name and gender of the athletic director.
- For coaches and other team personnel:
 - Name, gender, job title and employment status;
 - The coach to athlete and staff to athlete ratio for each team;
 - For coaches, the stipend or other compensation for coaching paid to coaches of boys' teams and girls' teams.
- For the prior year's enrollment, total student enrollment (calculated as the average of the 80th and 120th day enrollments) and enrollment by gender, total number of students participating in athletics and number of students by gender participating in athletics, the number of boys' teams and girls' teams by sport and competition level .

Schools are required to make publicly available its data and materials relied on to compile the data. Schools must inform all students at the school of their right to review the data and publish the data in a newspaper of general circulation or on a publicly accessible website. The PED must publish each school's data and a list of public schools that did not submit fully completed data.

Each public school is also required to submit to its local school board an assurance of compliance with Title 9, with a copy to the PED no later than August 31 of each school year. The PED must publish, either in a newspaper of general circulation or on a publicly accessible web, a list of public schools that fail to submit an assurance of compliance.

The PED is directed to report annually, beginning December 1, 2010, to the Governor and the Legislature including a summary of the data received from public schools and with recommendations on how to increase gender equity in athletics in public schools. The PED must publish the report on its website.

FISCAL IMPLICATIONS

While the HEC substitute reduces the amount of detail required and eliminates the PED's duty to regulate local school board's, district's and school's compliance with Title 9, the PED would incur costs for modification of the data collection system and development of new processes, programs and reports.

In its response to the original bill, the PED stated that it would need additional FTE staff to complete the requirements of this bill as PED does not currently have staff with expertise in Title 9. In addition, the STARS data collection system would need to be adjusted in order to collect the new data, which is substantial. Also, there would be a cost to develop new processes, programs and reports. The New Mexico Coalition of School Administrators believes that this bill would have a fiscal impact on public schools in order to collect, submit and report on the data requirements in HB 432.

The DFA estimated for the original bill additional FTE cost at \$84,500 per fiscal year.

Because compliance audits and investigations have been eliminated, the PED would not require expertise at the level originally contemplated and the cost estimates for complying with the mandatory reporting and publishing requirements of the HEC substitute are estimated at 40% (\$33.8 thousand) of the original estimate.

SIGNIFICANT ISSUES

The PED stated in response to the original bill the following concerns which are likely not substantially affected by the HEC substitute:

Current federal law does not require schools or state educational agencies to collect and submit data related to Title IX compliance. Current federal law requires each school district to designate at least one employee to coordinate its efforts to comply with and carryout its responsibilities for Title IX.

PED has a signed joint resolution with OCR that not only indicates that the PED is in compliance with Title IX, but delineates the state's role to investigating and resolving complaints against the PED for Title IX issues arising out of PED's implementation of grants. Discussions with OCR made it clear that state educational institutions and school districts were responsible for receiving and initially resolving their own Title IX complaints. 34 CFR, Part 106, Subpart A – 106.8 requires each educational entity to designate a person to be responsible for compliance with Title IX issues.

PED rule Governing Participation in Interscholastic Sports (6.13.4 NMAC) — requires school boards and districts: (1) to not subject any person to discrimination based on sex in any interscholastic sport, (2) to provide comparable athletic opportunity in interscholastic sports for both sexes, and (3) to require school boards and districts to undertake self-evaluation and continuing reappraisal of student needs as determined by the total educational program.

The bill's requirement for the PED to collect data from school districts, make recommendations in a report to the Legislature on how to increase gender equity in athletics, post that report prominently on a public website, require school districts to sign compliance assurances each year, publish in a newspaper a list of those school districts that failed to submit a timely compliance assurance makes the Act created under this bill both punitive and adversarial.

The SWLC's comment below with respect to the original bill is likely to apply to the HEC substitute as well:

The School Athletics Equity Act makes information available to administrators, the public and PED, rather than waiting until the United States Department of Education, Office for Civil Rights conducts a costly and time consuming investigation. The Act provides information about local schools to the communities, the people who are best equipped to assess Title IX compliance. The SWLC asserts that much of the information HB 432 would require is currently collected as part of local districts "self-evaluation and continuing reappraisal" required under PED regulation, Section 6.13.4.8 NMAC.

The PSFA comment on the original bill would still apply:

PSFA must review and approve all school construction plans for compliance with code and with the Statewide Adequacy Standards (AS). The AS only include those facilities needed for educational purposes, and do not include "athletic" facilities, except those necessary for physical education. Some of this facility needs overlap - a gymnasium and associated boys and girls locker rooms are included in the AS with sufficient square footage provided, based on the design capacity of the entire school population necessary for physical education, but also serve as the competition sports venue for high school basketball, volleyball, wrestling, etc. If additional facilities such as an auxiliary gym, additional locker rooms and training rooms are necessary due to varsity sports games and practices for boys and girls teams, these facilities would be the sole responsibility of the district and would not qualify for funding under the standards-based capital outlay process. Similarly, a single playfield such as a football field with a running track would be allowed under the adequacy standards, but would not include the bleachers, lights, field house or concessions typically found with a "stadium".

GH/mt:svb