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## FISCAL IMPACT REPORT

SPONSOR Reeb/Jones/Armstrong/Brown/Ezzell LAST UPDATED \_\_\_\_\_  
ORIGINAL DATE 02/8/2024  
BILL  
SHORT TITLE Women's Bill of Rights NUMBER House Bill 205  
ANALYST Chilton

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

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	No fiscal impact	No fiscal impact			

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

Agency Analysis Received From  
Office of the Attorney General (NMAG)

Agency Analysis was Solicited but Not Received From  
Department of Health (DOH)  
Public Education Department (PED)  
Commission on the Status of Women (CSW)  
Workforce Solutions Department (WSD)

## SUMMARY

### Synopsis of House Bill 205

House Bill 205, Women's Bill of Rights, defines sexes as those determined at birth through the reproductive systems evident at that time, and then states the definitions of "male" and "female" so derived will be used for

- 1) New Mexico statutes, policies, and programs prohibiting sex discrimination;
- 2) The allowable separation of environments by sex, in at least the following environments:
  - a. Prisons and detention centers,
  - b. Locker rooms and other athletic facilities,
  - c. Athletic competitions,
  - d. Institutions of higher education,
  - e. Living facilities,
  - f. Bathrooms,
  - g. Domestic violence shelters, and
  - h. Rape crisis centers;
- 3) Data gathered by state and local agencies on public health, crime, and other issues.

This bill does not contain an effective date and, as a result, would go into effect 90 days after the Legislature adjourns, or May 15, 2024, if enacted.

## **FISCAL IMPLICATIONS**

There is no appropriation in House Bill 205. No fiscal impact has been identified of passage of this bill.

## **SIGNIFICANT ISSUES**

Some groups object to transgender individuals' participation in sports or using bathrooms assigned to members of the sex to which a transgender person has transitioned. The purported reason for this objection—usually to a transgender female participating in women's or girls' sports teams—is that transgender females' exposure to male hormones, prior to transition, gives them advantages over other females in strength, endurance, or speed. Some object to the presence of those who began life in the opposite sex being present in such areas as bathrooms or dormitories.

NMAG points out the following:

HB205 could have an impact on how sex discrimination is interpreted under the New Mexico Human Rights Act (NMSA 1978, § 28-1-1 et seq.). The Human Rights Act currently prohibits any person, employer, employment agency or labor organization from discriminating against any person on the basis of sex. *See* § 28-1-7. Under HB205, a claim for sex discrimination would only be applicable if a person is discriminated against in relation to a member of the opposite sex, as defined by biologically based sex characteristics. A person who identifies their sex as female but does not have the biological sex characteristics stated under the act may have their claim for sex discrimination fail under the provisions of HB205. Other state policies, programs, and statutes would similarly have altered interpretations and applications.

HB205 would also draw biological distinctions of sex with respect to public institutions, dormitories and, importantly, athletic competitions, and allow public institutions to create single-sex environments that might exclude certain individuals who may not fall within the biologically based definitions of male or female under HB205. Further, an individual who is denied the ability to participate in an athletic competition would not have the ability to bring a lawsuit for sex discrimination based on the prohibitions created in the Act.

## **RELATIONSHIP**

HB205 is related to and conflicts in part with legislation enacted in 203 that prohibits discrimination against those choosing to undergo gender transition. It expands on other unsuccessful attempts to promote separating men's from women's sports teams and competitions on the basis of sex assigned at birth.

## **TECHNICAL ISSUES**

According to NMAG, “HB205 would define the terms “equal,” “boy,” “girl,” “man,” and “woman” without otherwise making these terms operative within the proposed Act. That juxtaposition could be construed to mean that the definitions of these terms in HB205 govern the meaning of those terms in other unrelated statutes. In short, HB205 may create universal definitions, which could have unintended consequences.

LAC/al/hg