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FISCAL IMPACT REPORT

BILL NUMBER: House Bill 233

SHORT TITLE: Protection of Women's Sports Act

SPONSOR: Reeb/Jones/Brown/Montoya/Dow

LAST ORIGINAL
UPDATE: _____ **DATE:** 02/02/2026 **ANALYST:** Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	No fiscal impact	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 or Agencies Providing Analysis

New Mexico Military Institute

Regional Education Cooperatives

Agency or Agencies That Were Asked for Analysis but did not Respond

Public Education Department

Albuquerque Public Schools

Regional Education Cooperatives

Department of Justice

SUMMARY

Synopsis of House Bill 233

House Bill 233 (HB 233) creates the Protection of Women's Sports Act. The act requires that participation in single-sex school sports be restricted to those of the same biological sex assigned at birth. The prohibition affects public primary and secondary schools and institutions of higher learning, as well as private athletic clubs.

The bill requires that equal athletic opportunities to be offered to each sex, including single-sex teams and that schools designate teams as "male," "female" or "coed," based on the biologic sex of participants. Teams designated as "female" cannot allow a player designated at birth as biologically male to compete in events or competitions, although the player could practice with the team.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

PED raises the following concerns about this legislation affecting the academic success and mental health of transgender individuals:

A hostile school climate affects the academic success and mental health of LGBTQI+ students, and a vast majority (86.3 percent) of LGBTQI+ students experienced harassment or assault based on their personal characteristics, including sexual orientation, gender expression, and gender. New Mexico Youth Risk and Resiliency 2015 Report on LGBT Youth, published in 2017, indicates:

- 15.1 percent of high school students identify as lesbian, gay, bisexual, or unsure (LGBQ).
- LGBQ youth are (13.7 percent) more likely to live in uncertain housing than straight youth (4.3 percent).
- LGBQ youth were three times as likely to have been forced to have sex (18.3 percent) or experienced dating violence (21.3 percent), and twice as likely to be bullied (31 percent) than straight youth (5.6 percent, 6.6 percent, and 15.7 percent, respectively).

The Department of Health (DOH) noted in 2025 that a then-recent study in the British Journal of Sports Medicine indicates an advantage for transgender females persisting more than one year after onset of hormone treatment. Notably, the International Association of Athletics Federations and the International Olympic Committee have ruled that transgender females must have demonstrated testosterone levels below a specified level for 12 months before they can participate in female sports governed by those bodies.

In a review of eight research articles on 31 sports policies, Bethany Jones of Loughborough University, Leicestershire, England, asserts, “The more we delved into the issue, the clearer it became that many sporting organizations had overinterpreted the unsubstantiated belief that testosterone leads to an athletic advantage in transgender people, particularly individuals who were assigned male at birth but identify as female.”

A recent study looking at transgender U.S. Army personnel but published in the British Journal of Sports Medicine, by authors Timothy A. Roberts, Joshua Smalley and Dale Ahrendt from Kansas City, Missouri and Fort Sam Houston, Texas, shows some advantage in strength and speed for transgender females at one year after hormone treatment, but not two years from treatment, and corresponding disadvantages for transgender males for about the same period.

The New Mexico Commission on the Status of Women argues the more important issue is a lack of equal access to school funding for women’s sports and the lack of sports funding in public schools more generally:

Most kids in NM are not going to be professional athletes; they just want to have fun and have an activity to be a part of. Our schools are already underfunded for sports, and we are concerned that there will not be funding available to have separate team access so the girls’ teams will lose the funding they currently have.

The libertarian think-tank the Cato Institute in an article¹ published in 2022 acknowledges the question of transgender women competing against cisgender women is “complex and polarizing,” and suggests some who oppose transgender competitors fear its impact on Title IX rights prohibiting sex-based discrimination. The article concludes:

The overarching question concerns what constitutes *fair competition* in individual sports.

¹ <https://www.cato.org/regulation/fall-2022/transgender-athletes-fair-competition-public-policy>

This analysis reveals that the salient issue is less about transgender women competing against cisgender women than the competitive advantage that nature confers upon the former as a result of their birth sex that is not completely offset through hormonal therapies. ... [F]airness may demand a further partitioning of athletic competition in which transgender women compete only against one another rather than against cisgender women.

ADMINISTRATIVE IMPLICATIONS

In the 2025 analysis of SB459, HED noted the following:

SB459 may require public educational institutions to be out of compliance with the Human Rights Act (28-1-1 through 15 NMSA 1978). SB459 may [also] violate equal protection as it requires females, women, or girls to prove that they are biologically female, but it does not require males, men, or boys to prove that they are biologically male.

PED made similar points in 2025, adding that the need to prove “biologic sex” raises logistical and privacy concerns.

TECHNICAL ISSUES

New Mexico Institute of Mining and Technology (NMT) raises the following issues:

- The bill should be amended to include a good faith immunity clause. Specifically, a public educational institution that relies in good faith upon a student’s birth certificate, as described in Section 4(B), to determine athletic eligibility should be immune from civil liability regarding that determination.
- Section 8 currently allows for immediate filing of private causes of action. We suggest adding a requirement that a student must first exhaust the institution's internal formal grievance and administrative processes before they are permitted to file a lawsuit in court.
- As currently drafted, the broad definitions of “team” and “athletic event” in Section 2 may inadvertently apply the Act’s requirements to campus intramural sports and recreational clubs. If the legislature intends to limit these regulations to intercollegiate/interscholastic athletics, the university suggests refining these definitions to explicitly exclude recreational and intramural activities

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Almost identical with the following past bills, none of which passed:

- 2021 House Bill 304
- 2023 House Bill 492
- 2025 House Bill 185
- 2025 Senate Bill 459

OTHER SUBSTANTIVE ISSUES

NMT notes that “Section 8(A) and 8(B) [of the bill] currently allow for private causes of action

based on indirect harm. This is an exceptionally broad legal standard that could expose a university to speculative litigation from parties not directly involved in a specific athletic event. It is recommended to strike indirect harm to ensure standing is limited to those with specific, measurable losses. There is a potential for direct conflict between the requirements of this Act and federal Title IX regulations. To protect the institution from contradictory legal mandates, the Act should include a provision stating that compliance with federal law or final federal regulations serves as a complete defense to any action brought under

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