

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0670H.01I
Bill No.: HB 337
Subject: Education, Elementary and Secondary; Education, Higher; Department of
Elementary and Secondary Education; Department of Higher Education and
Workforce Development
Type: Original
Date: January 23, 2023

Bill Summary: This proposal establishes guidelines for student participation in athletic contests organized by sex.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
General Revenue*	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown
Total Estimated Net Effect on General Revenue	\$0 or Unknown	\$0 or Unknown	\$0 or Unknown

*The fiscal note reflects the potential withholding of funds from school districts if the financial penalty provisions of the bill are enacted. For simplicity, Oversight will reflect the potential withheld payments coming from (remaining in) General Revenue. Oversight assumes the gain to General Revenue could possibly exceed \$250,000.

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Total Estimated Net Effect on FTE	0	0	0

- ☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- ☒ Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2024	FY 2025	FY 2026
Local Government	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

FISCAL ANALYSIS

ASSUMPTION

§163.048 – Athletic contests organized by sex

Officials from the **Department of Elementary and Secondary Education** and the **Office of the State Courts Administrator** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from the **Attorney General’s Office** did not respond to **Oversight’s** request for fiscal impact for this proposal.

In response to a similar proposal, SB 39 (2023), officials from the **Attorney General’s Office** assumed the proposal would have no fiscal impact on their organization. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for this agency.

Oversight notes transgender student participation in interscholastic sports is regulated by school districts and the Missouri State High School Activities Association (MSHSAA). Per the [MSHSAA](#) Handbook the Board Policy on Transgender Participation is as follows;

“A transgender student must meet the following in order to participate in sex-separated interscholastic sports so long as the athlete’s use of medical/hormone therapy is consistent with current medical standards:

No Medical/Hormone Treatment: Any transgender student-athlete who is not taking medical/hormone treatment related to gender transition may commence and continue interscholastic participation in sex-separated sports in accordance with his or her assigned birth gender.

A trans male (female to male) student-athlete who is not taking medical/hormone treatment related to gender transition may participate in co-ed sports and may apply to participate in boys sports. Once the student participates in a boys’ sport, he shall participate consistently with that gender for the remainder of his interscholastic eligibility.

- A trans female (male to female) student-athlete who is not taking medical/hormone treatments related to gender transition may not compete on a girls’ team, but may participate in co-ed and boys sports. (See also By-Law 3.20.)

Receiving Medical/Hormone Treatment:

- A trans male (female to male) student-athlete who has commenced medical/hormone treatment with prescribed drugs for diagnosed gender dysphoria and/or transsexualism, may compete on a boys' team, but is no longer eligible to compete on a girls' team without changing that team status to a co-ed team. (See also By-Law 3.20.d.)
- A trans female (male to female) student-athlete being treated with hormone suppression medication for diagnosed gender dysphoria and/or transsexualism may continue to compete on a boys' team but may not compete on a girls' team, without changing it to a co-ed team, until one calendar year of documented medical/hormone treatment and/or suppression is completed. To maintain eligibility, a trans female student shall thereafter provide continuing medical documentation that the appropriate hormone levels are being maintained.”

Oversight assumes this proposal states entities that violate this proposal are not eligible for moneys appropriated by the general assembly.

Oversight notes the total foundation formula payments for public school districts is estimated at \$3,561,737,794 for FY 2024 per the DESE Budget Request for FY 2024.

Oversight assumes there could be a gain to General Revenue and a loss to public schools that fail to comply with the requirements in the proposal. Based on the foundation formula payments, Oversight assumes the gain to General Revenue could possibly exceed \$250,000.

Oversight did not receive any responses from school districts related to the fiscal impact of this proposal. Oversight has presented this fiscal note on the best current information available. Upon the receipt of additional responses, Oversight will review to determine if an updated fiscal note should be prepared and seek the necessary approval to publish a new fiscal note.

Oversight only reflects the responses received from state agencies and political subdivisions; however, school districts were requested to respond to this proposed legislation but did not. A listing of political subdivisions included in the MOLIS database is available upon request.

Rule Promulgation

Officials from the **Joint Committee on Administrative Rules** assume this proposal is not anticipated to cause a fiscal impact beyond its current appropriation.

Officials from the **Office of the Secretary of State (SOS)** note many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$5,000. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the

General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

<u>FISCAL IMPACT – State Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
GENERAL REVENUE			
Revenue Gain - from funding withheld from school districts and charter schools for violating section §163.048	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>	\$0 or <u>Unknown</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2024 (10 Mo.)	FY 2025	FY 2026
LOCAL POLITICAL SUBDIVISIONS			
Loss - School Districts & Charter Schools - funding withheld for violating section §163.048	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
ESTIMATED NET EFFECT ON LOCAL POLITICAL SUBDIVISIONS	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill defines "sex" as, the two main categories of male and female into which individuals are divided based on an individual's reproductive biology at birth and the individual's genome. The bill prohibits public school districts and charter schools from allowing a student to participate in a sport designated for the opposite sex as determined by the student's official birth certificate, or if unobtainable, another government record. However, a school district can allow a female student to compete in an athletic competition designated for male students if there is no such competition designated for female students available.

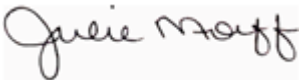
The bill clarifies that biological sex is only correctly stated on birth certificates if it was entered at or near the time of birth or modified to correct scrivener's error.

School districts in violation of this prohibition will lose state aid.

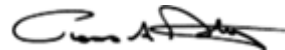
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Department of Elementary and Secondary Education
Office of the Secretary of State
Joint Committee on Administrative Rules
Office of the State Courts Administrator



Julie Morff
Director
January 23, 2023



Ross Strobe
Assistant Director
January 23, 2023