

Senator Daniel McCay proposes the following substitute bill:

1 **STUDENT ELIGIBILITY IN INTERSCHOLASTIC ACTIVITIES**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Kera Birkeland**

5 Senate Sponsor: Curtis S. Bramble

6 Cosponsors: Karianne Lisonbee Judy Weeks Rohner
7 Cheryl K. Acton Candice B. Pierucci Christine F. Watkins
8 Melissa G. Ballard Susan Pulsipher
 Marsha Judkins

9

10 **LONG TITLE**

11 **General Description:**

12 This bill addresses student athlete participation in gender-designated sports in the
13 public education system.

14 **Highlighted Provisions:**

15 This bill:
16 ▶ defines terms;
17 ▶ imposes limits on participation in female sports, by:
18 • requiring schools and local education agencies to designate athletic activities by
19 sex;
20 • prohibiting a student of the male sex from competing against another school on
21 a team designated for female students;
22 • prohibiting certain complaints or investigations based on a school or local
23 education agency maintaining separate athletic activities for female students; **⚡→ and ←⚡**

4th Sub. H.B. 11



- 24 ~~§→ [~~ ~~•~~ ~~providing for indemnification of local education agencies and schools; and]~~ ~~←§~~
- 25 • providing for severability;
- 26 ▶ in the alternative if a court invalidates the above policy:
- 27 • conditions student athlete participation in gender-designated sports in the public
- 28 education system on the student's birth certificate;
- 29 • establishes the School Activity Eligibility Commission (commission) and
- 30 provides the commission's membership and duties;
- 31 • requires the commission to establish a baseline range of students in a given
- 32 gender-designated interscholastic activity for a given age;
- 33 • provides that records of the commission related to a specific student are
- 34 protected;
- 35 • provides immunity from suit for members of the commission;
- 36 • allows a student to participate in a gender-designated interscholastic activity that
- 37 does not correspond to the sex designation on the student's birth certificate or in
- 38 the case of a gender transition if the student receives the commission's eligibility
- 39 approval;
- 40 • provides processes for an athletic association to notify the commission when a
- 41 student registers to participate in a gender-designated sport in a situation that
- 42 requires the commission's eligibility approval;
- 43 • provides processes for the commission to receive information and evidence;
- 44 • provides for the confidentiality of the proceedings, commission vote, eligibility
- 45 determination, and student's identity; and
- 46 • establishes a standard for the commission's considerations in rendering an
- 47 eligibility determination;
- 48 • allows for commission meetings in which the commission discusses and votes
- 49 on a specific student's request to be closed under the Open and Public Meetings
- 50 Act;
- 51 • provides for reasonable accommodations in school facilities related to gender
- 52 identity for students participating in interscholastic activities; and
- 53 • provides for severability; and
- 54 ▶ makes technical changes.

55 **Money Appropriated in this Bill:**

56 None

57 **Other Special Clauses:**

58 This bill provides a special effective date.

59 **Utah Code Sections Affected:**

60 AMENDS:

61 **52-4-205**, as last amended by Laws of Utah 2021, Chapters 179 and 231

62 ENACTS:

63 **53G-6-901**, Utah Code Annotated 1953

64 **53G-6-902**, Utah Code Annotated 1953

65 **53G-6-903**, Utah Code Annotated 1953

66 ~~§→ [**53G-6-904**, Utah Code Annotated 1953] ←§~~

67 **53G-6-1001**, Utah Code Annotated 1953

68 **53G-6-1002**, Utah Code Annotated 1953

69 **53G-6-1003**, Utah Code Annotated 1953

70 **53G-6-1004**, Utah Code Annotated 1953

71 **53G-6-1005**, Utah Code Annotated 1953

72 **53G-6-1006**, Utah Code Annotated 1953



74 *Be it enacted by the Legislature of the state of Utah:*

75 Section 1. Section **52-4-205** is amended to read:

76 **52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed**
77 **meetings.**

78 (1) A closed meeting described under Section **52-4-204** may only be held for:

79 (a) except as provided in Subsection (3), discussion of the character, professional
80 competence, or physical or mental health of an individual;

81 (b) strategy sessions to discuss collective bargaining;

82 (c) strategy sessions to discuss pending or reasonably imminent litigation;

83 (d) strategy sessions to discuss the purchase, exchange, or lease of real property,

84 including any form of a water right or water shares, if public discussion of the transaction
85 would:

210 school policy, outside of competition in an interscholastic athletic activity, in accordance with
211 Subsection (1)(b).

212 Section 4. Section **53G-6-903** is enacted to read:

213 **53G-6-903. Severability.**

214 (1) If any provision of this part or the application of any provision of this part to any
215 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
216 the remainder of this part shall be given effect without the invalidated provision or application.

217 (2) The provisions of this part are severable.

218 ~~§→ [Section 5. Section 53G-6-904 is enacted to read:~~

219 ~~**53G-6-904. Indemnification:**~~

220 ~~**The state shall indemnify and hold harmless an LEA or school within the public**~~
221 ~~**education system with a team that competes in an interscholastic athletic activity for any claims**~~
222 ~~**or damages, including court costs and attorney fees, that:**~~

223 ~~**(1) are brought to or incurred as a result of an action required of the LEA or school in**~~
224 ~~**this part; and**~~

225 ~~**(2) are not covered by the LEA or school's insurance policies or by any coverage**~~
226 ~~**agreement issued by the State Risk Management Fund.] ←§**~~

227 Section 6. Section **53G-6-1001** is enacted to read:

228 **Part 10. Student Eligibility in Interscholastic Activities**

229 **53G-6-1001. Definitions.**

230 As used in this part:

231 (1) "Athletic association" means an association, as that term is defined in Section
232 53G-7-1101.

233 (2) "Commission" means the School Activity Eligibility Commission created in
234 Section 53G-6-1003.

235 (3) "Female-designated" means that an interscholastic activity is designated specifically
236 for female students.

237 (4) "Gender-designated" means that an interscholastic activity or facility is designated
238 specifically for female or male students.

239 (5) "Gender identity" means the same as that term is defined in Section 34A-5-102.

240 (6) "Interscholastic activity" means an activity in which a student represents the