

**Representative Karen Kwan** proposes the following substitute bill:

**SEX-DESIGNATED INTERSCHOLASTIC ATHLETICS**  
**INDEMNIFICATION**

2022 THIRD SPECIAL SESSION

STATE OF UTAH

**Chief Sponsor: Kera Birkeland**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill enacts provisions to codify an existing athletic association policy regarding transgender student athlete participation.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ establishes which students may participate on which gender-designated sports teams;
- ▶ allows a transgender student to participate on a gender-designated sports team under certain conditions after the student's local education agency and school make an eligibility determination that allows the student's participation;
- ▶ requires a local education agency and school to verify compliance with the provisions of this bill when submitting a gender-designated team roster to an athletic association;
- ▶ allows an athletic association to rely on the verification described in the above paragraph;
- ▶ requires certain biennial reporting to the Education Interim Committee;



- 27           ▶ provides for indemnification regarding limitations on student participation in
- 28 gender-designated sports;
- 29           ▶ provides that a local education agency or school is responsible for enforcement of
- 30 limitations on student participation in gender-designated sports;
- 31           ▶ provides for severability; and
- 32           ▶ repeals H.B. 11, Student Eligibility in Interscholastic Activities, which the
- 33 Legislature passed during the 2022 General Session.

34 **Money Appropriated in this Bill:**

- 35           This bill appropriates in fiscal year 2023:
- 36           ▶ To the Attorney General - Attorney General - Civil as a one-time appropriation:
- 37               • From the General Fund, One-time, \$500,000.

38 **Other Special Clauses:**

39           This bill provides a special effective date.

40 **Utah Code Sections Affected:**

41 ENACTS:

- 42           **53G-6-1101**, Utah Code Annotated 1953
- 43           **53G-6-1102**, Utah Code Annotated 1953
- 44           **53G-6-1103**, Utah Code Annotated 1953
- 45           **53G-6-1104**, Utah Code Annotated 1953
- 46           **53G-6-1105**, Utah Code Annotated 1953

47 **Uncodified Material Affected:**

48 ENACTS UNCODIFIED MATERIAL



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

51           Section 1. Section **53G-6-1101** is enacted to read:

52           **53G-6-1101. Definitions.**

53           As used in this part:

54           (1) "Athletic association" means an association, as that term is defined in Section  
55 [53G-7-1101.](#)

56           (2) "Female-designated" means that an interscholastic athletic activity is designated  
57 specifically for female students.

58           (3) "Female student" means a student with a sex designation of female on the student's  
59 birth certificate.

60           (4) "Gender-designated" means that an interscholastic athletic activity is designated  
61 specifically for female or male students.

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

63           (6) "Interscholastic athletic activity" means an activity in which a student represents the  
64 student's school in the activity in competition against another school.

65           (7) "Male-designated" means that an interscholastic athletic activity is designated  
66 specifically for male students.

67           (8) "Male student" means a student with a sex designation of male on the student's  
68 birth certificate.

69           (9) "Student" means a student who is enrolled in a school that chooses to participate in  
70 interscholastic athletic activities through an athletic association.

71           Section 2. Section **53G-6-1102** is enacted to read:

72           **53G-6-1102. Transgender student athlete participation in interscholastic athletic**  
73 **activities.**

74           (1) For the protection of competitive balance and the integrity of women's sports, and  
75 except as provided in Subsection (2):

76           (a) if an LEA or school sponsors gender-designated teams in a given sport for both  
77 males and females as an interscholastic athletic activity:

78           (i) female students may only participate on the female-designated team; and

79           (ii) male students may only participate on the male-designated team; and

80           (b) if an LEA or school sponsors only a single team in a given sport as an  
81 interscholastic athletic activity:

82           (i) female students may participate on male-designated teams; and

83           (ii) male students may not participate on female-designated teams.

84           (2) (a) Notwithstanding Subsection (1), with the consent of the student's parent or legal  
85 guardian, a student may participate on a gender-designated sports team that is inconsistent with  
86 the sex designation on the student's original birth certificate and that is consistent with the  
87 student's public gender identity for all other purposes if the relevant LEA makes a  
88 determination that the student is eligible to participate on the gender-designated team in

89 accordance with this Subsection (2).

90 (b) The relevant LEA and school shall make a determination of a student's eligibility to  
91 participate on a gender-designated team for a particular season:

92 (i) in accordance with the eligibility provisions described in Subsection (2)(c);

93 (ii) after considering the evidence described in Subsection (2)(d); and

94 (iii) based on the student's:

95 (A) gender identification in current school records; and

96 (B) gender identify in the student's daily life activities in the school and community at  
97 the time that the student's eligibility is determined.

98 (c) (i) The following students are only eligible to participate on a male-designated  
99 team:

100 (A) a female-to-male transgender student who is taking a medically prescribed  
101 hormone treatment under a physician's care for the purpose of the student's gender transition;  
102 and

103 (B) a male-to-female transgender student who is not taking hormone treatment related  
104 to the student's gender transition.

105 (ii) A male-to-female transgender student athlete who is taking a medically prescribed  
106 hormone treatment under a physician's care for the purpose of the student's gender transition:

107 (A) is eligible to participate on a male-designated team at any time; and

108 (B) is only eligible to participate on a female-designated team after completing one  
109 year of hormone treatment related to the student's gender transition.

110 (d) An LEA and school making an eligibility determination described in Subsection  
111 (2)(b) shall base the eligibility determination upon the following types of evidence:

112 (i) a complete list of all the student's prescribed, non-prescribed or over the counter,  
113 treatments or medications;

114 (ii) written verification from a licensed doctor, psychiatrist, or psychologist of the  
115 student's consistent gender identity and expression; and

116 (iii) any other pertinent documentation or information which the student or the  
117 student's parent or legal guardian believes relevant and appropriate.

118 (e) (i) An LEA and school shall verify compliance with this section when submitting a  
119 gender-designated team roster to an athletic association.

120 (ii) An athletic association may rely on a verification described in Subsection (2)(e)(i)  
121 as an acknowledgment that:

122 (A) the school and the school's principal have determined that the students listed on a  
123 gender-designated team are eligible for participation in accordance with this section; and

124 (B) the LEA has determined that the expression of the student's gender identity is bona  
125 fide and not for the purpose of gaining an unfair advantage in competitive athletics.

126 (3) A student may not participate in practices or try out for gender-designated teams for  
127 which the student is ineligible under this section.

128 (4) Nothing in this section:

129 (a) entitles a student to be selected on any particular team; or

130 (b) permits a student to transfer from one gender-designated team to a team designated  
131 for another gender during a sports season.

132 (5) After a student and the student's relevant LEA and school address the issue of the  
133 student's gender identity, the determination shall remain consistent for the remainder of the  
134 student's school sports eligibility.

135 Section 3. Section **53G-6-1103** is enacted to read:

136 **53G-6-1103. Reporting.**

137 Beginning in 2023, and during each odd-numbered year, the following shall report to  
138 the Education Interim Committee regarding compliance with this part:

139 (1) an athletic association of which the highest number of schools within the state are  
140 members;

141 (2) the Utah School Boards Association described in Section [53G-4-502](#);

142 (3) an association that represents LEA superintendents; and

143 (4) the state board.

144 Section 4. Section **53G-6-1104** is enacted to read:

145 **53G-6-1104. Severability.**

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

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

150 Section 5. Section **53G-6-1105** is enacted to read:

151 **53G-6-1105. Indemnification -- Enforcement.**

152 (1) The state shall defend, indemnify, and hold harmless a person acting under color of  
153 state law to enforce this part for any claims or damages, including court costs and attorney fees,  
154 that:

155 (a) are brought or incurred as a result of this part; and

156 (b) are not covered by the person's insurance policies or by any coverage agreement  
157 issued by the State Risk Management Fund.

158 (2) An LEA or school within the public education system with a team that competes in  
159 an interscholastic athletic activity is responsible for the enforcement of this part in relation to  
160 the LEA's or school's teams.

161 **Section 6. Repeal.**

162 H.B. 11, Laws of Utah 2022, Chapter 478 is repealed.

163 **Section 7. Appropriation.**

164 The following sums of money are appropriated for the fiscal year beginning July 1,  
165 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for  
166 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
167 Act, the Legislature appropriates the following sums of money from the funds or accounts  
168 indicated for the use and support of the government of the state of Utah.

169 **ITEM 1**

170 To Attorney General - Attorney General

171 From General Fund, One-time 500,000

172 Schedule of Programs:

173 Civil 500,000

174 The Legislature intends that appropriations provided under this section be used for the  
175 purposes described in Section [53G-6-1105](#). Under Section [63J-1-603](#), appropriations provided  
176 under this section do not lapse at the close of fiscal year 2023. The use of any nonlapsing funds  
177 is limited to the indemnification described in Section [53G-6-904](#).

178 **Section 8. Effective date.**

179 This bill takes effect on July 1, 2022.