

1 **TRANSGENDER STUDENT ATHLETE PARTICIPATION**

2 **AMENDMENTS**

3 2022 THIRD SPECIAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Karen Kwan**

6 Senate Sponsor: Luz Escamilla

7	Cosponsors:	Sandra Hollins	Andrew Stoddard
8	Gay Lynn Bennion	Brian S. King	Elizabeth Weight
9	Joel K. Briscoe	Rosemary T. Lesser	Mark A. Wheatley
10	Clare Collard	Carol Spackman Moss	
11	Jennifer Dailey-Provost	Doug Owens	

12

LONG TITLE

13 **General Description:**

14 This bill enacts provisions to codify an existing athletic association policy regarding
15 transgender student athlete participation.
16

17 **Highlighted Provisions:**

18 This bill:

- 19 ▶ defines terms;
- 20 ▶ establishes which students may participate on which gender-designated sports
21 teams;
- 22 ▶ allows a transgender student to participate on a gender-designated sports team under
23 certain conditions after the student's local education agency and school make an
24 eligibility determination that allows the student's participation;
- 25 ▶ requires a local education agency and school to verify compliance with the
26 provisions of this bill when submitting a gender-designated team roster to an



- 27 athletic association;
- 28 ▶ allows an athletic association to rely on the verification described in the above
- 29 paragraph;
- 30 ▶ requires certain biennial reporting to the Education Interim Committee;
- 31 ▶ provides for indemnification regarding limitations on student participation in
- 32 gender-designated sports;
- 33 ▶ provides that a local education agency or school is responsible for enforcement of
- 34 limitations on student participation in gender-designated sports;
- 35 ▶ provides for severability; and
- 36 ▶ repeals H.B. 11, Student Eligibility in Interscholastic Activities, which the
- 37 Legislature passed during the 2022 General Session.

38 **Money Appropriated in this Bill:**

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

42 **Other Special Clauses:**

43 This bill provides a special effective date.

44 **Utah Code Sections Affected:**

45 ENACTS:

- 46 **53G-6-1101**, Utah Code Annotated 1953
- 47 **53G-6-1102**, Utah Code Annotated 1953
- 48 **53G-6-1103**, Utah Code Annotated 1953
- 49 **53G-6-1104**, Utah Code Annotated 1953
- 50 **53G-6-1105**, Utah Code Annotated 1953

51 **Uncodified Material Affected:**

52 ENACTS UNCODIFIED MATERIAL



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

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

56 **53G-6-1101. Definitions.**

57 As used in this part:

58 (1) "Athletic association" means an association, as that term is defined in Section
59 53G-7-1101.

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

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

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

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

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

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

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

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

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

76 **53G-6-1102. Transgender student athlete participation in interscholastic athletic**
77 **activities.**

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

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

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

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

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

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

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

88 (2) (a) Notwithstanding Subsection (1), with the consent of the student's parent or legal

89 guardian, a student may participate on a gender-designated sports team that is inconsistent with
90 the sex designation on the student's original birth certificate and that is consistent with the
91 student's public gender identity for all other purposes if the relevant LEA makes a
92 determination that the student is eligible to participate on the gender-designated team in
93 accordance with this Subsection (2).

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

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

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

98 (iii) based on the student's:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

132 (4) Nothing in this section:

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

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

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

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

140 **53G-6-1103. Reporting.**

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

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

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

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

147 (4) the state board.

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

149 **53G-6-1104. Severability.**

150 (1) If any provision of this part or the application of any provision of this part to any

151 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
152 the remainder of this part shall be given effect without the invalidated provision or application.

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

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

155 **53G-6-1105. Indemnification -- Enforcement.**

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

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

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

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

165 Section 6. **Repeal.**

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

167 Section 7. **Appropriation.**

168 The following sums of money are appropriated for the fiscal year beginning July 1,
169 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for
170 fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
171 Act, the Legislature appropriates the following sums of money from the funds or accounts
172 indicated for the use and support of the government of the state of Utah.

173 ITEM 1

174 To Attorney General - Attorney General

175 From General Fund, One-time 500,000

176 Schedule of Programs:

177 Civil 500,000

178 The Legislature intends that appropriations provided under this section be used for the
179 purposes described in Section 53G-6-1105. Under Section 63J-1-603, appropriations provided
180 under this section do not lapse at the close of fiscal year 2023. The use of any nonlapsing funds
181 is limited to the indemnification described in Section 53G-6-904.

182 Section 8. **Effective date.**

183 This bill takes effect on July 1, 2022.