



LFC Requester: Lance

**PUBLIC EDUCATION DEPARTMENT  
BILL ANALYSIS  
2025 REGULAR SESSION**

**SECTION I: GENERAL INFORMATION**

Check all that apply:

Original  Amendment   
Correction  Substitute

Date Prepared: 02/21 /25

Bill No: SB459

**Agency Name and Code:** PED - 924

**Sponsor:** Block/Tobiassen

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**Short Title:** PROTECTION OF WOMEN'S SPORTS ACT

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**SECTION II: FISCAL IMPACT**

(Parenthesis ( ) Indicate Expenditure Decreases)

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
None	None	N/A	NFA

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
None	None	None	N/A	NFA

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	None	None	None	None	N/A	NFA

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

## **SECTION III: NARRATIVE**

### **BILL SUMMARY**

Synopsis: Senate Bill 459 (SB459) would create the “Protection of Women’s Sports Act.”

The bill requires that all education institutions and athletic clubs that provide for athletic competitions designate each athletic team, competition, sport, and athletic event as being for males, females, or both. The bill defines sex by the designation on the birth certificate at or near the time of birth. Additionally, the bill prohibits males from competing for, against, or with a team designated for females.

SB459 would extend private causes of action to individuals, athletic clubs, and associations who suffer harm as a result of noncompliance with the act, with similar rights of action extended to parties who suffer retaliation for compliance with the act, with a statute of limitations of one year.

The bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the Legislature enacting them, unless a later date is specified. If enacted, this bill would become effective June 20, 2025.

### **FISCAL IMPLICATIONS**

SB459 does not contain an appropriation.

### **SIGNIFICANT ISSUES**

Since 2022, over 300 bills were introduced targeting the LGBTQI+ community and [25 states](#) now ban transgender youth from participating in sports consistent with their gender identity. New Mexico is considered one of the most protected states in the U.S. for LGBTQ+ individuals with robust anti-discrimination laws and policies in place. [The Human Rights Act](#) defines unlawful discrimination as any public accommodation refusing to offer its services, facilities, accommodation or goods to any person because of gender identity. Furthermore, the New Mexico Activities Association (NMAA) sets its eligibility guidelines based on the student’s gender listed on their original or [amended birth certificates](#) (see, NMAA Bylaw 6.1).

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).

SB459 may raise equal protection concerns, as it focuses entirely on penalizing male-to-female transgender persons, requiring females, women, or girls to verify their biological sex, while not imposing the same requirement on female-to-male transgender persons.

The bill fails to address the New Mexico Vital Statistics Act, which was amended in 2019 to permit changes in designated gender. That amendment addressed [Section 24-14-25 NMSA 1978 of the act](#), which was amended to permit changes of gender to an applicant's birth certificate – or their designation as non-binary – upon receipt of a signed statement by the individual applicant, their parent or guardian. To address just the sort of discrimination that transgender people often face in society, this change to an applicant's birth certificate does not result in a designation that the birth certificate is “amended,” but the certificate is treated as an original document. This may create a direct conflict between Section 22-14-25 NMSA 1978, and the evident intentions of the proposed “Protection Act” in Section 4 of the bill, which notes that the “[sports] participant's birth certificate may be relied on to establish [their] eligibility if the sex designated on the birth certificate was designated at or near the time of the participant's birth” as the certificate with the amended gender is treated as an original.

## **PERFORMANCE IMPLICATIONS**

Higher levels of discrimination equate to more missed school days, lower grade point averages, less post-secondary attendance, and lower self-esteem among impacted students.

## **ADMINISTRATIVE IMPLICATIONS**

The PED and NMAA may need to establish processes for verifying athletes' biological sex, potentially raising logistical and privacy concerns amongst minor students, related to both state and federal law, such as the Federal Educational Rights and Privacy Act.

PED may need to amend its Rule 6.13.2 NMAC, Governing Gender Equity in Participation in Interscholastic Sports to conform to the requirements of this proposed act.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB459 is nearly identical to House Bill 185, Protection of Women's Sports Act.

The bill relates to:

HB380, Women's Safety and Protection Act, and  
HB501, School Reporting of Gender Incongruence.

## **TECHNICAL ISSUES**

The bill notes that the sex “listed on a participant's birth certificate may be relied on to establish the participant's eligibility [...] if the sex designated on the birth certificate was designated at or near the time of the participant's birth”. The New Mexico Vital Statistics Act permits a person to change their sex on their birth certificate without that certificate being marked as, “amended” (see, Section 24-14-25 NMSA 1978). However, the bill offers no alternative method by which a

student's sex may be ascertained, if the listed sex was not so designated "at or near the time of the participant's birth." If not by birth certificate, how may a student otherwise establish their eligibility?

**OTHER SUBSTANTIVE ISSUES**

None.

**ALTERNATIVES**

None.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

None.

**AMENDMENTS**

None.