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FISCAL IMPACT REPORT

ORIGINAL DATE 03/02/09
 LAST UPDATED 03/19/09 **HB** 822/aSEC

SPONSOR Cervantes

SHORT TITLE School Physical Education Elective Parity **SB** _____

ANALYST Varela

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of SEC Amendment

The Senate Education Committee amendment removes references to “physical education” and replaces with “athletic.”

Synopsis of Original Bill

House Bill 822 would add a new section to the Public School Code to read: Physical Education Electives—Credit Parity. A school district shall not offer the players of one sport physical education elective credit for practicing or playing the sport unless players of all sports in the school district are given elective credit for practicing or playing a sport, regardless of gender.

FISCAL IMPLICATIONS

This bill carries no appropriation and appears to have no fiscal impact.

SIGNIFICANT ISSUES

According to PED, “sport physical education elective credit” does not exist. The correct terminology is “athletic elective credit.”

PED states that the STARS manual contains a list of classes for physical education and a different list of classes for athletics. Physical education is required of all students in grades 1-8, aligned with the New Mexico physical education Content Standards with Benchmarks and Performance Standards; and one unit of Physical Education is required of all students for graduation (STARS # 2305) to be taken in grades 9-12, also following the New Mexico Content Standards with Benchmarks and Performance Standards.

PED notes that all athletics classes are elective classes and may be segregated by team/sex (as long as there are ongoing similar opportunities for both girls and boys) and taught by a person who holds a PED license and a PED coaching license.

Districts/schools are not required to offer elective athletics classes.

According to PED, this bill implicates Title IX of the Education Amendments of 1972, which is a federal law [20 U.S. Code Sections 1681, 1682, 1683, 1685, 1686]. Title IX prohibits public schools that receive federal funds from discriminating on the basis of sex. The U.S. Department of Education's Office for Civil Rights (OCR) is the federal entity responsible for overseeing district/school compliance and complaints. OCR maintains 12 field offices for receiving and investigating complaints in the United States including its territories. Complaints against schools in New Mexico go to the Denver office.

Each school district is required to assign the duties of a Title IX coordinator to a district staff member to address issues of compliance with Title IX.

ADMINISTRATIVE IMPLICATIONS

There are no additional administrative implications for PED or school districts. School district Title IX coordinators are currently charged with addressing issues of compliance with Title IX. A person currently aggrieved by a school district decision based on gender can already file a complaint with the OCR.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to HB 432.

TECHNICAL ISSUES

“Sport physical education elective credit” does not exist. The correct terminology is “athletic elective credit.”

OTHER SUBSTANTIVE ISSUES

Physical education classes, athletics classes, and athletics programs conducted outside of the instructional day are required to be in compliance with Title IX of the Education Amendments of 1972 and 6.13.4 NMAC.

PV/svb