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MEMORANDUM

To: Chairperson Baumgardner
Members of the Senate Committee on Education

From: The Office of Revisor of Statutes

Date: February 23, 2021

Subject: SB 208 – Fairness in Women's Sports Act

Senate Bill No. 208 (SB 208) would create the Fairness in Women's Sports Act (Act). Section 3 of the Act would require that all teams or sports sponsored by a public elementary or secondary school or a public college or university designate such teams or sports as being in one of three categories:

- Males, men, or boys
- Females, women, or girls
- Coed or mixed

This designation requirement would also apply to any students or teams of any other elementary or secondary school or college or university that competes against a public school or college.

SB 208 further requires that any team or sports designated for females, women, or girls cannot be open to students of the male sex. Under the bill any dispute regarding a student's sex is to be resolved by a health examination form or other form signed by the student's personal healthcare provider that verifies the student's biological sex.

Section 4 of SB 208 prohibits any governmental entity or any licensing, accrediting, or athletic organization from taking any adverse action against any school or college that complies with the requirements of Section 3 and restricts male students from participating on teams or in sports designated for females.

Section 5 of SB 208 provides three causes of action arising from a violation of Section 3. First, any student who is deprived of an athletic opportunity or who suffers any harm as a result of a violation of Section 3 can bring a civil lawsuit. Second, any student who is subjected to retaliation or other adverse action as a result of the student reporting a violation of Section 3 can

bring a civil lawsuit. Finally, any school or college that suffers any harm as a result of a violation of Section 3 can bring a civil lawsuit. Any such lawsuit must be brought within two years after the harm as occurred. The plaintiff in any such lawsuit may seek monetary damages and attorney fees and court costs.

If enacted, SB 208 would become effective on July 1, 2021.