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118TH CONGRESS } <i>1st Session</i>	HOUSE OF REPRESENTATIVES	{ REPORT 118-
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PROTECTION OF WOMEN AND GIRLS IN SPORTS ACT OF
2023

APRIL --, 2023.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Ms. FOXX, from the Committee on Education and the Workforce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 734]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the bill (H.R. 734) to amend the Education Amendments of 1972 to provide that for purposes of determining compliance with title IX of such Act in athletics, sex shall be recognized based solely on a person's reproductive biology and genetics at birth, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection of Women and Girls in Sports Act of 2023".

SEC. 2. AMENDMENT.

Section 901 of the Education Amendments of 1972 (20 U.S.C. 1681) is amended by adding at the end the following:

"(d)(1) It shall be a violation of subsection (a) for a recipient of Federal financial assistance who operates, sponsors, or facilitates athletic programs or activities to permit a person whose sex is male to participate in an athletic program or activity that is designated for women or girls.

"(2) For the purposes of this subsection, sex shall be recognized based solely on a person's reproductive biology and genetics at birth.

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“(3) Nothing in this subsection shall be construed to prohibit a recipient from permitting males to train or practice with an athletic program or activity that is designated for women or girls so long as no female is deprived of a roster spot on a team or sport, opportunity to participate in a practice or competition, scholarship, admission to an educational institution, or any other benefit that accompanies participating in the athletic program or activity.”.

Union Calendar No.

118TH CONGRESS
1ST SESSION

H. R. 734

[Report No. 118-]

To amend the Education Amendments of 1972 to provide that for purposes of determining compliance with title IX of such Act in athletics, sex shall be recognized based solely on a person's reproductive biology and genetics at birth.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 2023

Mr. STEUBE (for himself, Ms. TENNEY, Ms. FOXX, Mr. WITTMAN, Mr. WEBSTER of Florida, Mr. BALDERSON, Mr. BUCK, Mrs. WAGNER, Mr. CARTER of Georgia, Mr. GAETZ, Mrs. MILLER-MEEKS, Mr. SMITH of Missouri, Mr. ELLZEY, Mr. GRIFFITH, Mr. LAMALFA, and Mr. CARL) introduced the following bill; which was referred to the Committee on Education and the Workforce

APRIL --, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on (February 1, 2023)]

A BILL

To amend the Education Amendments of 1972 to provide that for purposes of determining compliance with title IX of such Act in athletics, sex shall be recognized based solely on a person's reproductive biology and genetics at birth.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Protection of Women*
5 *and Girls in Sports Act of 2023”.*

6 **SEC. 2. AMENDMENT.**

7 *Section 901 of the Education Amendments of 1972 (20*
8 *U.S.C. 1681) is amended by adding at the end the following:*

9 *“(d)(1) It shall be a violation of subsection (a) for a*
10 *recipient of Federal financial assistance who operates, spon-*
11 *sors, or facilitates athletic programs or activities to permit*
12 *a person whose sex is male to participate in an athletic*
13 *program or activity that is designated for women or girls.*

14 *“(2) For the purposes of this subsection, sex shall be*
15 *recognized based solely on a person’s reproductive biology*
16 *and genetics at birth.*

17 *“(3) Nothing in this subsection shall be construed to*
18 *prohibit a recipient from permitting males to train or prac-*
19 *tice with an athletic program or activity that is designated*
20 *for women or girls so long as no female is deprived of a*
21 *roster spot on a team or sport, opportunity to participate*
22 *in a practice or competition, scholarship, admission to an*
23 *educational institution, or any other benefit that accom-*
24 *panies participating in the athletic program or activity.”.*

PURPOSE

Girls deserve equal opportunity to compete and achieve in sports. The Biden administration’s reinterpretation of Title IX is a slap in the face to young women and girls, telling them their hard work, on-field achievements, and athletic futures do not matter. Title IX was designed to stop discrimination and ensure equal athletic opportunities for women. By allowing biological males to compete in girls’ sports the Biden administration will be reversing 50 years of progress for women. H.R. 734, the *Protection of Women and Girls in Sports Act of 2023* strengthens the law’s existing protections for women, ensures a level playing field for female athletes, and protects the law from the Biden administration’s radical regulatory scheme.

COMMITTEE ACTION

117th CONGRESS

First Session – Hearings

On June 23, 2021, the Committee on Education and the Workforce held a hearing on “Examining the Policies and Priorities of the U.S. Department of Education.” The purpose of the hearing was to review the Fiscal Year 2022 budget priorities of the U.S. Department of Education. Testifying before the Committee was The Honorable Miguel Cardona, Secretary, U.S. Department of Education, Washington, D.C., including on the topic of the Biden administration’s interpretation of Title IX when biological males compete in women’s and girls’ sports.

Second Session – Hearings

On May 26, 2022, the Committee on Education and the Workforce held a hearing on “Examining the Policies and Priorities of the U.S. Department of Education.” The purpose of the hearing was to review the Fiscal Year 2023 budget priorities of the U.S. Department of Education. Testifying before the Committee was The Honorable Miguel Cardona, Secretary, U.S. Department of Education, Washington, D.C. At this hearing, concerns regarding Title IX were raised, such as the rewriting of Title IX regulations by the Biden administration that would seek to undermine protections for girls and women when biological males participate in women’s sports, the fairness for biological women participating in women’s sports with biological males, and the administration’s official view on biological males’ participation in women’s sports.

118th CONGRESS

First Session – Hearings

On February 8, 2023, the Committee on Education and the Workforce held a hearing on “American Education in Crisis”. The purpose of the hearing was to examine the state of American education, including K-12 education, postsecondary education, and workforce development. Testifying before the Committee was Ms. Virginia Gentles, Director, Education Freedom Center, Independent Women’s Forum, Arlington, VA; Dr. Monty Sullivan, President, Louisiana Community and Technical College System, Baton Rouge, LA; Mr. Scott Pulsipher, President, Western Governors University, Salt Lake City, UT; and Mr. Jared Polis, Governor, State of Colorado, Denver, CO. During this hearing, Ms. Gentles highlighted Title IX for women’s sports,

urging members to support H.R. 734, the Protection of Women and Girls in Sports Act, in her oral testimony.

On March 9, 2023, the Education and the Workforce Committee voted to report two bills to help empower parents, students, and women: H.R. 734, the Protection of Women and Girls in Sports Act of 2023, and H.R. 5, the Parents Bill of Rights Act.

Legislative Action

On February 1, 2023, Rep. Greg Steube (R-FL) introduced H.R. 734, *Protection of Women and Girls in Sports Act of 2023* with Reps. Foxx, Mariannette Miller-Meeks (R-IA), Claudia Tenney (R-NY), Robert Wittman (R-VA), Daniel Webster (R-FL), Troy Balderson (R-OH), Ken Buck (R-CO), Ann Wagner (R-MO), Buddy Carter (R-GA), Matt Gaetz (R-FL), Jason Smith (R-MO), Jake Ellzey (R-TX), Morgan Griffith (R-VA), Doug LaMalfa (R-CA), Jerry Carl (R-AL) as original co-sponsors. The bill was referred solely to the Committee on Education and the Workforce. On March 8, 2023, the Committee considered H.R. 734 in legislative session and reported it favorably, as amended, to the House of Representatives by a recorded vote of 25-17. The Committee adopted the following amendments to H.R. 734:

1. Rep. Owens offered an Amendment in the Nature of a Substitute (ANS) that makes a technical change and amends section 901 of the Education Amendments of 1972 by adding at the end the following:

shall be a violation of subsection for a recipient of Federal financial assistance who operates, sponsors, or facilitates athletic programs or activities to permit a person whose sex is male to participate in an athletic program or activity that is designated for women or girls. For the purposes of this subsection, sex shall be recognized based solely on a person's reproductive biology and genetics at birth. Nothing in this subsection shall be construed to prohibit a recipient from permitting males to train or practice with an athletic program or activity that is designated for women or girls so long as no female is deprived of a roster spot on a team or sport, opportunity to participate in a practice or competition, scholarship, admission to an educational institution, or any other benefit that accompanies participating in the athletic program or activity.

COMMITTEE VIEWS

Introduction

Title IX of the *Education Amendments of 1972* (Title IX) prohibits any education program or activity receiving federal financial assistance from discriminating on the basis of sex. In practice, Title IX applies to most elementary and secondary schools (including private elementary and secondary schools participating in the school meals programs) and to public and private colleges and universities. H.R. 734, the *Protection of Women and Girls in Sports Act of 2023*, amends Title IX to prohibit recipients of federal financial assistance that operate, sponsor, or facilitate athletic programs or activities from permitting males to participate in any of those activities that are designated for females. The bill also amends Title IX to require "sex," in the context of athletic

activities, to be recognized based solely on a person's reproductive biology and genetics at birth. Finally, the bill clarifies that the bill's provisions do not prohibit schools or institutions from permitting males to practice against women's sports teams, protecting the long-standing practice of some women's athletic programs of practicing or scrimmaging against males. H.R. 734 is important legislation that will protect equal athletic opportunities and ensure level playing fields for women and girls.

Undermining Athletic Opportunities

Since Title IX was enacted 50 years ago, female participation in sports has increased 1,057 percent at the high school level and 614 percent at the postsecondary level.¹ Title IX was designed to combat discrimination against women, and it has worked.

Biden Administration Actions

Unfortunately, that progress is under threat today from the Biden administration, which is determined to roll back women's progress. Last year, the Department of Education (Department) issued a Notice of Proposed Rulemaking (NPRM) to redefine the term "sex" under Title IX.² Later this year, the administration will finalize those regulations. In addition, the Department will soon release a separate NPRM specifically related to athletics.³

These regulatory actions will likely undermine the gains made by women over the last five decades. In addition, the Department has taken enforcement and litigation actions that make its intentions clear. First, under the current administration, the Department dismissed the prior administration's pending enforcement action related to Connecticut's failure to require segregated sports teams based on biological sex.⁴ Second, the Department and the Department of Justice filed a Statement of Interest in *B.P.J. v. West Virginia State Board of Education* arguing that Title IX does not allow West Virginia to exclude biological males who identify as females from participating in female sports.⁵

Committee Republicans believe the Department should reverse its interpretation of Title IX as expressed in the NPRM in full. However, if the Department insists on finalizing these policies that will undermine women's athletic opportunities, the Department has an obligation to be transparent in its intentions and to subject its policies to proper notice and comment.

¹ [Impact of Title IX on Women's Sports | Billie Jean King](#)

² <https://www.federalregister.gov/documents/2022/07/12/2022-13734/nondiscrimination-on-the-basis-of-sex-in-education-programs-or-activities-receiving-federal>

³ <https://www.reginfo.gov/public/do/eoDetails?rrid=308363>

⁴ OCR Case No. 01-19-4025, *Conn. Interscholastic Athletic Conf. et al.* (Aug. 31, 2020)

⁵ *B.P.J. v. West Virginia State Board of Education*, Statement of Interest, 454-475 (S.D. W.V. 2021), <https://www.justice.gov/crt/case-document/file/1405541/download>

Impact on Women and Girls in Sports

The Department's subterfuge on this issue is not harmless. Currently, only 19 states have policies in place to protect the integrity of women's athletic competitions, and even those are under threat from the Department's regulatory action.⁶ Allowing men to compete in women's athletic activities undermines the progress made by women and girls since Title IX's enactment and uses a groundbreaking antidiscrimination statute to discriminate against the very people it was designed to protect.

Female athletes have spoken out against the damage being done. Olympic swimmer Reka Gyorgy missed out on the opportunity to compete in the collegiate women's 500-yard freestyle swimming final last March due to the presence of a biological male in the competition. She urged the National Collegiate Athletic Association (NCAA) to implement rules to protect the integrity of women's sports.⁷ Similarly, college track and field athlete Linnea Saltz has called out athletics administrators for depriving women of competitive honors, scholarships, and the opportunities that come with those achievements.⁸

Unfortunately, the pleas of these athletes and other female athletes have gone unheeded by the NCAA and other governing bodies. The NCAA's current policies assume that testosterone suppression will level the playing field for female athletes, but this assumption is not backed by science. Dr. Michael Joyner, a physiologist with the Mayo Clinic, stated, "There are social aspects to sport, but physiology and biology underpin it. Testosterone is the 800-pound gorilla."⁹ Another physiologist, Dr. Ross Tucker, has also said that testosterone reductions do not reverse the physical advantages biological males have in athletic competitions.¹⁰

Concern about athletic opportunities for women in sports should not be a partisan issue. Most Americans understand the threat to women's sports posed by the Biden administration's actions and the radical ideologies underlying them. A Washington Post-University of Maryland poll conducted last year found that only three in 10 Americans believed biological males should be allowed to compete in women's sports.¹¹

In addition, last year, the International Swimming Federation (FINA) approved a new policy to restrict most transgender athletes from competing in sanctioned events, with 71.5 percent of the

⁶ https://www.lgbtmap.org/equality-maps/sports_participation_bans

⁷ <https://www.swimmingworldmagazine.com/news/reka-gyorgy-virginia-tech-swimmer-bumped-out-of-b-final-in-500-free-writes-critical-letter-to-ncaa/>

⁸ <https://www.foxnews.com/opinion/ncaa-girls-women-compete-level-playing-field-linnea-saltz>

⁹ <https://www.dailymail.co.uk/news/article-10868453/Mayo-Clinic-doctor-confirms-trans-swimmer-Lia-Thomas-given-unfair-advantage.html>

¹⁰ Id.

¹¹ <https://www.washingtonpost.com/dc-md-va/2022/06/13/washington-post-umd-poll-most-americans-oppose-transgender-athletes-female-sports/>

international body's member federations approving of the policy.¹² The FINA president stated, "We have to protect the rights of our athletes to compete, but we also have to protect competitive fairness at our events, especially the women's category at FINA competitions." The international governing body for track and field recently took similar steps.¹³ And yet, Democrats in Congress and the Biden administration are determined to ignore the emerging international consensus and the science in order to advance discriminatory policies against women.

H.R. 734, the *Protection of Women and Girls in Sports Act of 2023*

The Committee on Education and the Workforce is advancing this legislation to protect Title IX and the integrity of women's athletics. Women fought long and hard for equal athletic opportunity. Unfortunately, girls are losing trophies, podium spots, public recognition, opportunities to compete, and scholarship opportunities as incidents of males dominating girls' athletic competitions when competing as females are increasing nationwide. Women and girls deserve the opportunity to comfortably experience the camaraderie of being part of a team, but allowing males to compete with girls disrupts the healthy competition and teamwork that allow teams to thrive.

Ignoring the biological differences between men and women is a catastrophe for women. It destroys a level playing field and makes women second class citizens in their own sports. This bill clarifies that protecting women from discrimination under Title IX means recognizing the term "sex" consistently with Congress's intent. The bill further clarifies that forcing females to compete against males violates Title IX's prohibition against sex discrimination. This bill should not be necessary. This was settled law for nearly 50 years. Yet now, fairness and women's equal access to athletic opportunities are again threatened, and Committee Republicans are committed to reestablishing the protections guaranteed under Title IX.

Conclusion

To protect women's and girls' opportunity to compete athletically, H.R. 734, the *Protection of Women and Girls in Sports Act of 2023*, strengthens Title IX's existing protections for women and ensures a level playing field for female athletes. Over the last 50 years, Title IX has paved the way for tremendous strides in access to education, scholarships, athletics, and more for millions of students across the country. The intent of Title IX, an education free from sex discrimination, remains as clear now as it was when it was first signed into law. However, the Biden administration's proposed regulations and the radical left's broader agenda are undermining athletic opportunities for women. This legislation is absolutely essential for restoring and upholding the intent of Title IX. Our women and girls deserve nothing less.

¹² <https://www.cnn.com/2022/06/19/us/fina-vote-transgender-athletes#:~:text=The%20new%20gender%20inclusion%20policy,on%20the%20puberty%20Taner%20Scale>

¹³ <https://www.nbcnews.com/nbc-out/out-news/track-governing-body-bans-transgender-women-athletes-rcna76432>

SUMMARY

HR 734 Section-by-Section Summary

Section 1. Short Title.

- This Act may be cited as the “Protection of Women and Girls in Sports Act of 2023”

Section 2. Amendment.

- A substitute amendment that makes one technical change:
 - Adds a violation for a federal recipient of federal financial assistance to operate, sponsor, or facilitate athletic programs that permit a male to participate in such programs that are designated for women or girls.
 - Adds that sex in the subsection is recognized solely on a person’s reproductive biology at birth.
 - Adds that the section does not prohibit males from participating in training with a women-designated program as long as a female is not deprived of a team roster spot.

EXPLANATION OF AMENDMENTS

The amendments, including the amendment in the nature of a substitute, are explained in the body of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104-1 requires a description of the application of this bill to the legislative branch. H.R. 734 takes important steps to protect girls and women in athletic programs that are designated for girls or women.

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104-4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This issue is addressed in the CBO letter.

EARMARK STATEMENT

H.R. 734 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House Rule XXI.

ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any

amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD VOTE

Roll Call:1

Bill: H.R. 734



Amendment Number: 3

Disposition: Defeated by a Full Committee Roll Call Vote

Sponsor/Amendment: BONAMICI (H734ANS-AM_005)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. GRIJALVA (AZ)			X
Mr. THOMPSON (PA)		X		Mr. COURNTEY (CT)	X		
Mr. WALBERG (MI)		X		Mr. SABLAN (MP)	X		
Mr. GROTHMAN (WI)		X		Ms. WILSON (FL)	X		
Ms. STEFANIK (NY)		X		Ms. BONAMICI (OR)	X		
Mr. ALLEN (GA)		X		Mr. TAKANO (CA)	X		
Mr. BANKS (IN)		X		Ms. ADAMS (NC)	X		
Mr. COMER (KY)		X		Mr. DESAULNIER (CA)	X		
Mr. SMUCKER (PA)		X		Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)		X		Ms. JAYAPAL (WA)	X		
Mr. GOOD (VA)		X		Ms. WILD (PA)	X		
Mrs. MCCLAIN (MI)		X		Mrs. MCBATH (GA)	X		
Mrs. MILLER (IL)		X		Mrs. HAYES (CT)	X		
Mrs. STEEL (CA)		X		Ms. OMAR (MN)			X
Mr. ESTES (KS)		X		Ms. STEVENS (MI)	X		
Mrs. LETLOW (LA)		X		Ms. LEGER FERNÁNDEZ (NM)			X
Mr. KILEY (CA)		X		Ms. MANNING (NC)	X		
Mr. BEAN (FL)		X		Mr. MRVAN (IN)	X		
Mr. BURLISON (MO)		X		Mr. BOWMAN (NY)	X		
Mrs. MORAN (TX)		X					
Mr. JAMES (MI)		X					
Mrs. CHAVEZ-DEREMER (OR)		X					
Mr. WILLIAMS (NY)		X					
Mrs. HOUCHIN (IN)		X					

TOTALS: Ayes: 17

Nos:25

Not Voting:3

Total: 45 / Quorum: /

Report:(25 R - 20 D)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD VOTE

Roll Call:2

Bill: H.R. 734

Amendment Number: 6

Disposition: Defeated by a Full Committee Roll Call Vote

Sponsor/Amendment: Jayapal (H734ANS-AM_0013)

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)		X		Mr. SCOTT (VA) (Ranking)	X		
Mr. WILSON (SC)		X		Mr. GRIJALVA (AZ)			X
Mr. THOMPSON (PA)		X		Mr. COURNTEY (CT)	X		
Mr. WALBERG (MI)		X		Mr. SABLAN (MP)	X		
Mr. GROTHMAN (WI)		X		Ms. WILSON (FL)	X		
Ms. STEFANIK (NY)		X		Ms. BONAMICI (OR)	X		
Mr. ALLEN (GA)		X		Mr. TAKANO (CA)	X		
Mr. BANKS (IN)		X		Ms. ADAMS (NC)	X		
Mr. COMER (KY)		X		Mr. DESAULNIER (CA)	X		
Mr. SMUCKER (PA)		X		Mr. NORCROSS (NJ)	X		
Mr. OWENS (UT)		X		Ms. JAYAPAL (WA)	X		
Mr. GOOD (VA)		X		Ms. WILD (PA)	X		
Mrs. MCCLAIN (MI)		X		Mrs. MCBATH (GA)	X		
Mrs. MILLER (IL)		X		Mrs. HAYES (CT)	X		
Mrs. STEEL (CA)		X		Ms. OMAR (MN)			X
Mr. ESTES (KS)		X		Ms. STEVENS (MI)	X		
Mrs. LETLOW (LA)		X		Ms. LEGER FERNÁNDEZ (NM)			X
Mr. KILEY (CA)		X		Ms. MANNING (NC)	X		
Mr. BEAN (FL)		X		Mr. MRVAN (IN)	X		
Mr. BURLISON (MO)		X		Mr. BOWMAN (NY)	X		
Mrs. MORAN (TX)		X					
Mr. JAMES (MI)		X					
Mrs. CHAVEZ-DEREMER (OR)		X					
Mr. WILLIAMS (NY)		X					
Mrs. HOUCHIN (IN)		X					

TOTALS: Ayes: 17

Nos:25

Not Voting:3

Total: 45 / Quorum: /

Report:(25 R - 20 D)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

COMMITTEE ON EDUCATION AND THE WORKFORCE RECORD VOTE

Roll Call:3

Bill: H.R. 734



Amendment Number: Motion

Disposition:Agreed to by a Full Committee Roll Call Vote

Sponsor/Amendment: Bean Motion to report H.R. 734, as amended, favorably to the U.S. House of Representatives, agreed to by Roll Call Vote 25-17.

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)	X			Mr. GRIJALVA (AZ)			X
Mr. THOMPSON (PA)	X			Mr. COURNTEY (CT)		X	
Mr. WALBERG (MI)	X			Mr. SABLAN (MP)		X	
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)		X	
Ms. STEFANIK (NY)	X			Ms. BONAMICI (OR)		X	
Mr. ALLEN (GA)	X			Mr. TAKANO (CA)		X	
Mr. BANKS (IN)	X			Ms. ADAMS (NC)		X	
Mr. COMER (KY)	X			Mr. DESAULNIER (CA)		X	
Mr. SMUCKER (PA)	X			Mr. NORCROSS (NJ)		X	
Mr. OWENS (UT)	X			Ms. JAYAPAL (WA)		X	
Mr. GOOD (VA)	X			Ms. WILD (PA)		X	
Mrs. MCCLAIN (MI)	X			Mrs. MCBATH (GA)		X	
Mrs. MILLER (IL)	X			Mrs. HAYES (CT)		X	
Mrs. STEEL (CA)	X			Ms. OMAR (MN)			X
Mr. ESTES (KS)	X			Ms. STEVENS (MI)		X	
Mrs. LETLOW (LA)	X			Ms. LEGER FERNÁNDEZ (NM)			X
Mr. KILEY (CA)	X			Ms. MANNING (NC)		X	
Mr. BEAN (FL)	X			Mr. MRVAN (IN)		X	
Mr. BURLISON (MO)	X			Mr. BOWMAN (NY)		X	
Mrs. MORAN (TX)	X						
Mr. JAMES (MI)	X						
Mrs. CHAVEZ-DEREMER (OR)	X						
Mr. WILLIAMS (NY)	X						
Mrs. HOUCHIN (IN)	X						

TOTALS: Ayes: 25

Nos: 17

Not Voting: 3

Total: 45 / Quorum: /

Report:(25 R - 20 D)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House Rule XIII, the goal of H.R. 734 is to protect athletic opportunities for girls and women.

DUPLICATION OF FEDERAL PROGRAMS

No provision of H.R. 734 establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111 -139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the committee's oversight findings and recommendations are reflected in the body of this report.

REQUIRED COMMITTEE HEARING AND RELATED HEARINGS

In compliance with clause 3(c)(6) of rule XIII the following hearing held during the 118th Congress was used to develop or consider H.R. 734: “American Education in Crisis”.

The following related hearings were held: “Examining the Policies and Priorities of the U.S. Department of Education (2021)” and “Examining the Policies and Priorities of the U.S. Department of Education” (2022).

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the committee has received the following estimate for H.R. 734 from the Director of the Congressional Budget Office:

H.R. 734, Protection of Women and Girls in Sports Act of 2023

As ordered reported by the House Committee on Education and the Workforce on March 9, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	a	a	a
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	a	a	a
Spending Subject to Appropriation (Outlays)	a	a	a
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
a. CBO has no basis for estimating a reduction in direct spending or a reduction in discretionary authorizations.			

H.R. 734 would amend Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in education programs or activities that receive federal financial assistance. As a condition of federal funding, H.R. 734 would require such institutions to prohibit a person whose biological sex at birth was male from participating in an athletic program or activity that is designated for women or girls, unless such participation does not deny a female of an opportunity or benefit to participate.

Title IX applies to local education agencies, elementary and secondary schools, post-secondary institutions, libraries, and other educational institutions that receive federal funds. The primary means of enforcing compliance with Title IX is through voluntary agreements between institutions and the enforcing agency, and termination of federal funds is a last resort.

Spending Subject to Appropriation

Enacting H.R. 734 could result in a decrease in estimated authorizations for programs administered by several agencies, including the Department of Education. This would result from institutions failing to comply with, or choosing to forgo federal funding by not complying with, the requirements in the bill. CBO has no basis to estimate whether or how many institutions would do so. CBO estimates that, on average, K-12 schools receive

\$275,000 each year in federal funds from programs under title I of the Elementary and Secondary Education Act.

Direct Spending

The requirement set forth in H.R. 734 also would apply to federal student aid at postsecondary institutions and funding for child nutrition programs at K-12 schools.

Students who enroll in programs at institutions of higher education that meet certain criteria may receive federal student aid in the form of Pell grants or student loans that can be used to cover expenses at such eligible institutions. According to data from the office of Federal Student Aid, in year 2021-2022, higher education institutions received \$108 billion in federal grant and loans, including Pell grants and federal direct student loans. (About 20 percent of that total was provided for Pell grants in the annual appropriation act and is thus classified as discretionary spending.)

Under the National School Lunch Program (NSLP), the School Breakfast Program (SBP), the Child and Adult Care Food Program, the Summer Food Service Program, and the Special Milk Program, the government provides commodities and cash payments to reimburse participating schools and institutions for at least part of the cost of each meal served. CBO estimates that the average school that participates in the NSLP and SBP will receive about \$121,800 in 2024 under those programs.

Enacting H.R. 734 could result in a reduction in direct spending through a similar mechanism as spending subject to appropriations, but CBO has no basis to predict whether, or how many, K-12 schools and postsecondary institutions would not comply with the requirement. As a result, CBO cannot estimate the savings related to schools not complying with that requirement.

The CBO staff contact for this estimate is Garrett Quenneville. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.



Phillip L. Swagel
Director, Congressional Budget Office

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 734. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

EDUCATION AMENDMENTS OF 1972

* * * * *

TITLE IX—PROHIBITION OF SEX DISCRIMINATION**SEX DISCRIMINATION PROHIBITED**

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) in regard to admissions to educational institutions, this section shall not apply (A) for one year from the date of enactment of this Act, nor for six years after such date in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;

(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with religious tenets of such organization;

(4) this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

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(6) this section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) this section shall not apply to—

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for—

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference, or

(ii) the selection of students to attend any such conference;

(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(9) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other non-discrimination provisions of Federal law.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(d)(1) It shall be a violation of subsection (a) for a recipient of Federal financial assistance who operates, sponsors, or facilitates athletic programs or activities to permit a person whose sex is male to participate in an athletic program or activity that is designated for women or girls.

(2) For the purposes of this subsection, sex shall be recognized based solely on a person's reproductive biology and genetics at birth.

(3) Nothing in this subsection shall be construed to prohibit a recipient from permitting males to train or practice with an athletic program or activity that is designated for women or girls so long as no female is deprived of a roster spot on a team or sport, opportunity to participate in a practice or competition, scholarship, admission to an educational institution, or any other benefit that accompanies participating in the athletic program or activity.

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MINORITY VIEWS

Minority Views shall be made available upon receipt.