

STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Eric J. Holcomb
Governor

March 21, 2022

The Honorable Todd Huston
Speaker
Indiana House of Representatives
200 W. Washington Street
Indianapolis, IN 46204

Dear Speaker Huston:

By the power vested in me as Governor of the State of Indiana pursuant to the provisions of Article 5, Section 14, of the Constitution of the State of Indiana, I do hereby veto House Enrolled Act No. 1041 (HEA 1041) enacted during the Second Regular Session of the 122nd General Assembly (2022).

If it is the goal of HEA 1041 to provide clarity and one consistent state policy regarding the fairness in K-12 sports in Indiana, for me this current bill falls short.

First, as to process, the wide-open nature of the grievance provisions in HEA 1041 that apply to all K-12 schools in Indiana makes it unclear about how consistency and fairness will be maintained for parents and students across different counties and school districts. The Indiana High School Athletic Association (IHSAA)—a non-governmental entity—raised this concern during their testimony and I share it concerning the confusion created with exactly who or how such procedures will be established and maintained under this current bill. Meaning, student-athletes could be treated differently according to which school they attend and compete for. Frustration of students, parents and administrators will likely follow. This of course only increases the likelihood of litigation against our schools with the courts having to adjudicate the uncertainties.

Second, as to the substantive provisions, of the several states that have passed similar legislation, lawsuits have been filed or have threatened to be filed. In the two cases with initial rulings thus far, the courts have enjoined or prohibited laws with these same substantive provisions from taking effect based on equal protections grounds. Moreover, even before the introduction of HEA 1041, a lawsuit was filed in Indiana in federal court by a middle-grade student who seeks to play in school sports on the team of their choice. Any bill brought forward should address the issues raised in these lawsuits.

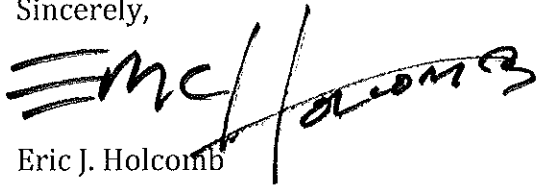
Finally, the presumption of the policy laid out in HEA 1041 is that there is an existing problem in K-12 sports in Indiana that requires further state government intervention. It

implies that the goals of consistency and fairness in competitive female sports are not currently being met. After thorough review, I find no evidence to support either claim even if I support the overall goal.

In the meantime, I am heartened by the IHSAA which has done an admirable job to help maintain fairness and consistency in all sports. Nowhere in the testimony on this legislation was a critique leveled against their model on how to govern this and other complex matters. Furthermore, not a single case of a male seeking to participate on a female team has completed the process established by IHSAA's now decade-old policy.

Amidst the flurry of enthusiasm to protect the integrity and fairness of women's sports in our state—a worthy cause for sure—this bill leaves too many unanswered questions such as those highlighted above.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric J. Holcomb". The signature is stylized and slanted to the right.

Eric J. Holcomb
Governor