

**WRITTEN TESTIMONY IN OPPOSITION TO HB 1489**

House Human Services Committee on House Bill 1489

Date of Hearing: January 24, 2023 9:15 a.m.

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This written testimony is presented in opposition to HB 1489, which effectively prevents participation of transgender and nonbinary athletes in high school, collegiate, or club sports. The North Dakota High School Activities Association (NDHSAA)<sup>1</sup>, the National Collegiate Athletic Association (NCAA)<sup>2</sup>, and the International Olympic Committee (IOC)<sup>3</sup> have rules in place on this issue. The purpose of these organizations is to promote athletes, with an eye toward preserving the well-being of the athlete and to promote fair play. HB 1489 seeks to ignore the work done by these organizations and instead enact a law that is discriminatory. Any thought that this somehow protects student athletes is misguided.

North Dakota law and federal law prohibit discrimination based upon sex. The North Dakota Human Rights Act prohibits discrimination based upon sex.<sup>4</sup> Title VII of the Civil Rights Act prohibits discrimination based upon sex, and this includes gender identity.<sup>5</sup> President Biden issued an executive order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation which states "all persons should receive equal treatment under the law, no matter their gender identity or sexual orientation."<sup>6</sup>

This proposal also violates the privileges and immunities clause. North Dakota Constitution. Article I, Section 21 states: No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens." This proposed legislation allows straight and binary individuals privileges, which transgender and nonbinary individuals are not allowed – participation in state funded facilities.

As the parent of a transgender individual, I can assure you that all every person wants (regardless of gender identity or sexual orientation) is to be accepted as they are. More than half of transgender and nonbinary youth have contemplated or attempted suicide.<sup>7</sup> 83% of transgender and nonbinary youth are worried about being denied participation in athletics due to state or local laws.<sup>8</sup> If those same students are surrounded by peers, teachers, coaches, and others who are affirming, the suicide rate lowers significantly. Excluding or marginalizing transgender students puts their mental health and their lives at serious risk.

This bill also prohibits use of the state, a political subdivision, or any entity receiving state funding from allowing use of facilities that allow athletic events which allow participation by transgender or nonbinary individuals. This will cause our universities and other entities to lose the ability to host national

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[https://d2q0tptsfejku7.cloudfront.net/uploads/files/Policies/NDHSAA\\_Transgender\\_Student\\_Board\\_Regulation.pdf](https://d2q0tptsfejku7.cloudfront.net/uploads/files/Policies/NDHSAA_Transgender_Student_Board_Regulation.pdf)

<sup>2</sup> <https://www.ncaa.org/sports/2022/1/27/transgender-participation-policy.aspx>

<sup>3</sup> <https://stillmed.olympics.com/media/Documents/Beyond-the-Games/Human-Rights/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf>

<sup>4</sup> NDCC § 14-02.4-01.

<sup>5</sup> *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 207 L. Ed. 2d 218 (2020).

<sup>6</sup> Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation | The White House- <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-preventing-and-combating-discrimination-on-basis-of-gender-identity-or-sexual-orientation/>

<sup>7</sup> The Trevor Project, "National Survey on LGBTQ Youth Mental Health 2022"

<sup>8</sup> The Trevor Project, "National Survey on LGBTQ Youth Mental Health 2022"

tournaments or other athletic events. This will undoubtedly cause economic losses to those communities.

Like all young people, transgender students want to participate in school activities with their friends, have a community that is supportive, and be part of a team. They are not seeking an advantage to win awards. Sports teach students many things: confidence, sportsmanship, teamwork, and leadership. Transgender students need these skills, just like any other student. What transgender athletes need is compassion and inclusion, not hatred and exclusion. All people within the State of North Dakota deserve dignity and respect and to be included as part of the community.

Please oppose HB  
1489.