

Dear Chair Weisz and members of the House Human Services Committee,

My testimony is in opposition to House Bill 1489. I ask that you give this bill a Do Not Pass.

I look at this piece of legislation directly after looking at HB 1249 and see that there is virtually no difference. This impacts colleges, instead of high schools. In many regards this bill has even more consequences to our state than HB 1249 and serves to override our state colleges and athletic programs.

So, the reason I ask you to Not Pass this bill is that two years ago when Representative Ben Koppelman was asked why we are introducing an anti-trans sports bill, when there is no problem in our state, he assured us a problem was coming and we needed to stop it. Action was necessary. Here we are two years later and there is still no problem in our state, with the exception that trans athletes still have no capacity, support, or opportunity to play sports and the repercussions that has on their social belonging, mental health, and risk factors associated with suicide.

I think it's worth reflecting on the [153 pieces of testimony](#) against the trans sports bill two years ago. This testimony included doctors, religious figures, athletes, coaches of women's sports, human rights organizations, city leaders, and our North Dakota University System. The concerns they brought up then are still valid. The damage to our state, to our students, and to our infrastructure is unforeseeable.

In 2022, Utah read a similar bill to this, with similar opposition. Like our state, their bill was vetoed by their republican Governor Spencer Cox. He vetoed it with a letter talking about how he couldn't understand all of this effort to hurt one kid in their state, who was already struggling. When he vetoed the bill and sent it back to the house and senate, he urged the representatives to not override the veto. That it was not necessarily. His words were not heard and over a hundred politicians successfully passed a bill targeting one girl.

I've put in more than a hundred hours of researching fairness in sports during HB 1298 and over the last two years. That's approximately 50 times longer than most representatives will consider this piece of legislation. I've followed the Olympic committee, I've followed major sporting organizations, I've followed the research and listened to the problems facing women in sports.

In 2021, we addressed this topic by insisting it *was about* women in sports. The problem facing women in sports is a lack of funding, opportunity, and sexual harassment/abuse by coaches. And when I see the penalty associated for damages in a bill like this, I can't help but wonder if we wouldn't all better be served by simply better funding women in sports in our state? How much of a problem would trans women pose, if we simply gave all young girls more opportunities? And when I don't see that legislation on the table. When I only see legislation that restricts trans athletes or lets cisgender folk sue them, I do really have to wonder about the intent. What are we really trying to do here?

The other consideration is fairness in sports. Do trans women have a competitive advantage? I've seen Rep Koppelman's research presented before. And I don't think anyone disagrees that cisgender men will statistically outperform cisgender women. Men are encouraged into sports, rewarded for being strong, funded in virtually every sport they care to participate in.

So, do trans girls enjoy those same benefits? Well. There may be some benefit to testosterone or androgenized puberty. However, not all trans girls experience that. Some are on puberty blockers, some go through an estrogen dominant puberty. What advantage would they have? Further, when we think about the top athlete in any league or division, we're often thinking about someone who has had the right genetics to excel at the sport they play. Regardless of sex. Remember those other 22 chromosomes, they do stuff too.

To really understand this, take one random boy and compare him to fifty random girls. What are the odds he will be better at every single girl in every single sport? It's pretty unlikely. Trans individuals are about 2% of the population and have fifty times less the genetic diversity that creates conditions to excel at sports. The reason we divide men and women's sports is because statistically men will on average be stronger or faster than women and division serves a meaningful purpose for opportunity. I will offer that there are other social and cultural factors around and informing division, but the point is that Transgender individuals as a demographic have not been shown to be statistically better than the gender they identify as. You cannot simply call a trans woman a cisgender man, because they are not the same demographic nor do they have the same biological profiles considering hormone therapy and transitional medicine. A study on cisgender men is simply not applicable or transferable in any meaningful way.

Another simple way to understand fairness in sports outside of studies on biology is actual performance. Transgender individuals are 2% of the population, so they should be winning 2% of the titles. If they were fairly competing, they would win that much. If they won 3% of the titles then they have an unfair advantage. Currently they win approximately 0 titles. We had one famous trans swimmer once and that was justification that all trans people needed to be removed from sport or develop their own league. The reality is that trans individuals are extremely under represented. And even while we claimed Lia Thompson was proof positive of this concept of male dominance in women's leagues, she also lost and had times far slower than some of the best female swimmers.

The catch 22 around trans people in sports is by virtue of saying it enough, we just assume all of their performance is unfair. We assume that because cisgender men have a statistical demographic likelihood of better athletics, any single trans woman will have advantage over every single cisgender girl in the world. And that simply isn't how the research even works. Some men will be disadvantaged in sports against women. They will be biologically less capable. Statistics aren't meaningful on the individual level. We all know men who are short and unathletic and can't put on muscle no matter how much they go to the gym. Men who would never even place in a female division because they're so bad at sports.

This is why we have trans people competing in states without any of the problems that Rep Koppelman talked about two years ago or will likely talk about in 2023. The same problems he'll probably talk about in 2025 and 2027 or for as long as he has a political career and trans people still have a shot.

I get if some people want restrictions, I get if those restrictions are medically based and we prevent cisgender men from lying to compete. I get wanting to assess individuals for competitive advantage to make sure every player feels like they can contribute and have a chance to win. What I don't get is arbitrarily banning an entire demographic with diverse experiences and bodies. I don't think that really achieves any goal except being purposely discriminatory and reminds me of the arguments we heard against black athletes not even that long ago from a historical standpoint.

In the states trans people are able to be who they are, they thrive. Sports isn't interrupted there nor has it fallen apart. The only real difference seems to be trans people get to exist and be themselves. I hope we're not simply looking to stop that with this piece of legislation. I also hope that we are not simply bullying this demographic out of sports to give our cisgender kids just less people they need to compete with and just that tiny extra bit of advantage.

If we're talking about colleges, this would just be like North Dakota succeeding from college athletics and NCAA opportunities to be its own bold state. Absolutely legendary. Needless to say, no trans individuals would be moving to ND for college. I know this is a small price to pay for...discriminating against transgender student athletes?

But it's up to the state to determine what price it is willing to pay to treat the category and classification of biological sex as a philosophical state of being determined at birth by three attributes. I think when we take a moment to understand the intent of classifying sex in the way they do in this legislation, we can understand how extremely silly and contrived it is, how little purpose it actually serves, and how utterly it fails to account for the lived realities we share. I have never once looked at a person and had to ask them their DNA, hormones, or sex organs at birth before determining their sex. And if that is the case for virtually everyone else, what does it matter at all?

It is for these reasons and the 153 reasons submitted two years ago, that I ask you to vote Do Not Pass.

Thank you for your time, consideration, and service to our state.

Best regards,
Faye