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To: Senate Judiciary Committee
From: Christopher Dodson, Executive Director
Subject: House Bill 1249 - Fairness and Dignity in Sports
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True education aims at the formation of the human person as a unity of body, soul, and spirit, while pursuing the common good. It includes the social and physical aspects of athletics. As Pope Francis has said, "The Church is interested in sport because the person is at her heart, the whole person, and she recognizes that sports activity affects the formation, relations, and spirituality of a person."¹ In education and in sports, we must seek to avoid unequal treatment between men and women, and anything that debases human dignity, including the rejection of a person's body. With these principles in mind, the North Dakota Catholic Conference supports HB 1249 for several reasons.

First, it assures fundamental fairness. We have made great strides not only in respecting the unique dignity of women and girls but also in fostering a fair and equal environment that provides them opportunities to grow and succeed according to their created uniqueness. That environment is being threatened and HB 1249 protects it.²

Second, youth have a right to safely participate in student athletics. Male competition in activities designated for females can be both unfair and, especially in high-contact sports, unsafe. Neither of these concerns is remediated by cross-sex hormone procedures, as they do not fully address disparities in average muscle mass, bone characteristics, and lung capacity once puberty is underway.³

Third, HB 1249 conforms to human dignity and proper pedagogy. Allowing biological males to compete against biological females or the reverse improperly imposes an ideology onto sports and education.

Finally, HB 1249 places the issue before the proper body. Contrary to claims by the proponents that no policy is needed and that any policy sends a message of hostility to transgender youth, NDHSAA's adoption of a policy demonstrates that a policy is, in fact, needed. The only question is who should make that policy. House Bill 1249 does not prevent a policy on this issue. Without it, an organization consisting of non-elected, non-accountable individuals will impose its view of this issue on the whole state. Such an important issue belongs to the elected officials of the Legislative Assembly.

For these reasons, we support HB 1249 and ask for a **Do Pass** recommendation.

¹ Pope Francis, Address to the Italian Tennis Federation, Rome, May 8, 2015.

² See, e.g., Karleigh Webb, "Italy's Valentina Petrillo takes a powerful step towards Tokyo," MSN.com (Sep. 18, 2020) (available at <https://www.msn.com/en-us/sports/more-sports/italys-valentina-petrillo-takes-a-powerful-step-towards-tokyo/ar-BB19b8zM>); "Transgender weightlifter continues Tokyo Olympics bid," NBCNews.com (Feb. 28, 2020) (available at <https://www.nbcnews.com/feature/nbc-out/transgender-weightlifter-continues-tokyo-olympics-bid-n1145121>); Victor Morton, "Transgender NCAA runner named conference's 'Women's Athlete of the Week,'" The Washington Times (Oct. 30, 2019) (available at <https://www.washingtontimes.com/news/2019/oct/30/june-eastwood-montana-transgender-runner-named-big/>); Rebecca Reza, "Transgender Cyclist Rachel McKinnon Wins Second-Straight World Masters Title," Bicycling.com (Oct. 24, 2019) (available at <https://www.bicycling.com/news/a29578581/rachel-mckinnon-world-championship-masters-win-transgender-sport-debate/>); V. Morton, "Transgender hurdler easily wins NCAA women's national championship," The Washington Times (Jun. 3, 2019) (available at <https://www.washingtontimes.com/news/2019/jun/3/cece-telfer-franklin-pierce-transgender-hurdler-wi/>); "Actually a male': Transgender weightlifter stripped of world records," Yahoo Sports (May 14, 2019) (available at <https://sports.yahoo.com/transgender-weightlifter-mary-gregory-raw-powerlifting-federation-094109354.html>); Pat Eaton-Robb, "Transgender sprinters finish 1st, 2nd at Connecticut girls indoor track championships," The Washington Times (Feb. 24, 2019) (available at <https://www.washingtontimes.com/news/2019/feb/24/terry-miller-andraya-yearwood-transgender-sprinter/>); Stephanie Kim, "First transgender woman finishes Jacksonville Marathon," First Coast News (Dec. 19, 2016) (available at <https://www.firstcoastnews.com/article/news/first-transgender-woman-finishes-jacksonville-marathon/372266597>); Jon Gold, "Transgender cyclist is top female finisher at El Tour de Tucson," Tucson.com (Dec. 19, 2016) (available at https://tucson.com/sports/local/transgender-cyclist-is-top-female-finisher-at-el-tour-de-tucson/article_2c7d291f-4376-57a6-9578-3831353032bc.html); Douglas Ernst, "Transgender student's all-state honors in girls' track and field ignites backlash," The Washington Times (Jun. 6, 2016) (available at <https://www.washingtontimes.com/news/2016/jun/6/nattaphon-wangyot-transgender-student-riles-critic/>); Dustin Siggins, "Transgender 'female' MMA fighter gives female opponent concussion, broken eye socket," Life Site News (Sep. 19, 2014) (available at <https://www.lifesitenews.com/news/transgender-female-boxer-gives-female-opponent-concussion-breaks-her-eye-so>); Eric Prisbell, "Transsexual Gabrielle Ludwig returns to college court," USA Today (Dec. 12, 2012) (available at <https://www.usatoday.com/story/sports/ncaab/2012/12/04/college-basketball-transgender-player-gabrielle-ludwig-robert-ludwig-mission-college/1744703/>) (Ludwig's accomplishments in championship and rebounds available on biography page at https://www.missionsaints.com/sports/wbkb/coaches/Gabrielle_Ludwig?view=biography, accessed on Oct. 5, 2020).

³ Tommy Lundberg and Emma Hilton, "Transgender women in the female category of sport: is the male performance advantage removed by testosterone suppression?" (May 13, 2020) (available at [https://img1.wsimg.com/blobby/go/a69528e3-c613-4bcc-9931-258260a4e77f/downloads/preprints202005.0226.v1%20\(1\).pdf](https://img1.wsimg.com/blobby/go/a69528e3-c613-4bcc-9931-258260a4e77f/downloads/preprints202005.0226.v1%20(1).pdf)), as pre-printed update of Lundberg 2019 study, *infra*); Expert Declaration of Gregory A. Brown, Ph.D., Filed in support of the U.S. Department of Education Complaint Nos. 01-19-4025 & 01-19-1252. (Jan. 7, 2020) (available at <https://img1.wsimg.com/blobby/go/a69528e3-c613-4bcc-9931-258260a4e77f/downloads/2020.01.07%20G%20Brown%20Report%20Executed.pdf?ver=1580495895886>); T. Lundberg, Ph.D. et.al., "Muscle strength, size and composition following 12 months of gender-affirming treatment in transgender individuals: retained advantage for the transwomen," Karolinska Institutet, Department of Laboratory Medicine/ANA Futura, Division of Clinical Physiology. Huddinge, Sweden (Sep. 26, 2019) (available via bioRxiv, Cold Spring Harbor Laboratory, at <https://www.biorxiv.org/content/10.1101/782557v1>). Furthermore, the safety of the students who undergo hormone treatments themselves is at risk when such procedures have unproven long-term results in developing bodies. See D. Getahun et al., "Cross-Sex Hormones and Acute Cardiovascular Events in Transgender Persons: A Cohort Study," *Ann Intern Med* 169, no. 4 (2018); M.S. Irwig, "Cardiovascular Health in Transgender People," *Rev Endocr Metab Disord* 19, no. 3 (2018); P.W. Hruz, L.S. Mayer, and P.R. McHugh, "Growing Pains: Problems with Puberty Suppression in Treating Gender Dysphoria," *The New Atlantis*, 52 (2017); S. Maraka et al., "Sex Steroids and Cardiovascular Outcomes in Transgender Individuals: A Systematic Review and Meta-Analysis," *J Clin Endocrinol Metab* 102, no. 11 (2017); J. Feldman, G.R. Brown, M.B. Deutsch, et al., "Priorities for Transgender Medical and Healthcare Research," *Curr Opin Endocrinol Diabetes Obes* 23 (2016):180-87; D. Macut, I.B. Antić, and J. Bjekić-Macut, "Cardiovascular Risk Factors and Events in Women with Androgen Excess," *Journal of Endocrinological Investigation* 38, no. 3 (2015); E. Moore, A. Wisniewski, A. Dobs, "Endocrine Treatment of Transsexual People: A Review of Treatment Regimens, Outcomes, and Adverse Effects," *J Clin Endocrinol Metab* 88 (2003): 3467-73.