

ONE HUNDRED EIGHTH LEGISLATURE - SECOND SESSION - 2024
COMMITTEE STATEMENT
LB575

Hearing Date: Monday February 13, 2023
Committee On: Education
Introducer: Kauth
One Liner: Adopt the Sports and Spaces Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	5	Senators Albrecht, Linehan, Meyer, Murman, Sanders
Nay:	3	Senators Conrad, Walz, Wayne
Absent:		
Present Not Voting:		

Testimony:

Proponents:

Senator Kathleen Kauth
Greg Brown
Hannah Anderson
Paige Steinman
Piper Steinman
Walker Hill
Ben Jackson
Carol Frost
Kirk Penner
Sherry Brink
Anthony Smith
Patrick Medinger
Madelyn Hanson
Sarah Hanson
Karen Bowling
Marion Miner
Jeff Birkentall
Linda Vermooten
Russ Barger
Stacey Agnew
Laurianne Michael
Denise Bradshaw
Alex Stephens
Kelly McCann
Steve Davies
Elizabeth Davids

Representing:

Opening Presenter
Self
Self
Self
Self
High School Republicans
High School Republicans
Self
Self
Self
Self
High School Republicans
Nebraskans for Founders Values
Nebraskans for Founders Values
Nebraska Family Alliance
Nebraska Catholic Conference
Nebraska High School Republicans
Self
Self
Self
Nebraskans for Founders Values
Self
Self
Self
Self



Ward Greisen
Jeanne Greisen
Amber Parker
Debra Lange

Self
Nebraskans for Founders Values
Self
Self

Opponents:

Josephine (Vincent) Litwinowicz
Mason Lutig-Leapley
Louis Rens
Wendy Smith
Juniper Meadows
Ryan Sallans
Aaron Burbach
Victory Klafter
Jay Irwin
Sofia Jawed-Wessel
Ryan Salem
Erin Feichtinger
Kimberly Thomas
Brianna Full
Rosemary Esseks
John McCollister
Murdoc Stokes
Corey McConaughy
Eliza Crottey
Jessie McGrath
Adam Downs
Abbi Swatsworth
Sarah Centineo
Lisa Sieczkowski
Austin Christensen
Julian (Kaylee) Haines
Isabella Manhart
Shannon Haines
Jill Dibbern Manhart
James Ehrhart
Wes Staley
Noemi Gilbert
Donna Faber
Nicholas Manhart
Camie Nitzel
Alexander Weiss
Jackson Grace
Kimberly Metzger
Steph Engelbart
Alex Dworak
Ava Manhart
Daniel Richie
Nicky Clark

Representing:

Higher Power Church
Self
Self
Self
Second Unitarian Church of Omaha
Self
Self
Self
Self
Self
Self
Women's Fund of Omaha
Self
Omaha Public Schools
Nebraska Psychological Association
Self
Self
Self
Self
Self
Self
OutNebraska
Bellevue Public Schools
Self
Omaha GLBT Sports League
Self
Self
Self
Self
Self
Self
OneWorld Community Health
Self
Kindred Psychology
Self
Self
Self
Kindred Psychology
OneWorld Community Health Center
Self
Self
Self



Jeremy Eriksen	Self
Jacob Carmichael	Self
Tiffany Weiss	Self
Ron Cunningham	Self
Lacy Smith*	Self

Neutral:

Representing:

* ADA Accommodation Written Testimony

Summary of purpose and/or changes:

LB 575 would create the Sports and Spaces Act.

This legislation addresses the use and access of restrooms, locker rooms, as well as the composition of school sports, teams, and activities.

Legal protection is provided for schools that maintain separate sports, teams, and activities. Additionally, a private cause of action and remedies for aggrieved parties is provided.

SECTION 1

Section 1 through 7 shall be known and may be cited as the Sports and Spaces Act.

SECTION 2

Defines:

Biological Female

Biological Male

School

SECTION 3

3.1 - Each group locker room and/or bathroom shall be designated as either for use by biological females or for use by biological males.

3.2 - With the exception stated in subsection 3.3, no school shall allow:

- Biological males to use restrooms designated for biological females
- Biological females to use restrooms designated for biological males.
- Biological males to enter or use a locker room designated or being used at such time by biological females.
- Biological females to enter or use a locker room designated or being used at such time by biological males.

3.3 - Subject to the policy of the school, a biological male coach, trainer, or other authorized person may enter a locker room designated or being used by one or more biological females. Subject to the policy of the school, a biological female coach, trainer, other authorized person may enter a locker room designated or being used by one or more biological males.

3.4 - A school or school official shall not retaliate against any person reporting a violation of this legislation.

3.5 - A student aggrieved by a violation of this section may bring a civil cause of action against the school committing the violation. A prevailing plaintiff may be entitled to injunctive relief, actual damages, and reasonable attorney's fees.

SECTION 4

4.1 - Sponsored teams and sports shall be designated as one of the following:

- Male, men, or boys



- Females, women, or girls
- Coed or mixed

4.2 - Teams / sports designated for females, women, or girls shall not be open to biological males. Teams / sports designated for males, men, or boys shall not be open to a biological female unless there is no female team available.

4.3 - This section does not restrict student eligibility to participate in interscholastic, intramural team, or sport designated as coed or mixed.

SECTION 5

No government entity, licensing or accrediting agency, or athletic association shall entertain a complaint, open an investigation, or pursue any other adverse action against a school for maintaining separate activities, teams, and sports for biological female students.

SECTION 6

6.1 - Provides for a private cause of action for any student who suffers harm or is deprived of an athletic opportunity against a public school that knowingly violates this legislation.

6.2 - Provides for a private cause of action for any student who is subject to retaliation or other adverse action as a result of reporting a violation of this legislation.

6.3 – Provides for a school to have a private cause of action under this legislation.

6.4 – Provides a timeline to initiate civil actions brought under this legislation. Allows for monetary damages and other appropriate relief.

SECTION 7

Each school shall adopt a policy implementing the Sports and Spaces Act.

SECTION 8

Operative date: August 1st, 2023.

SECTION 9

If any section, or any part of any section, declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

SECTION 10

Provides an emergency provision.

Explanation of amendments:

AMENDMENT SUMMARY

The primary difference between this amendment and the original bill is that this amendment prohibits a biological female student who is taking cross-sex hormones from participating in inter-scholastic or intra-mural athletics against biological females.

The Sports and Spaces Act recognizes the necessity of separate sports teams based on biological sex due to physical disparities between males and females, including advantages in size, muscle mass, and testosterone levels among males. These differences create a significant performance gap, with males generally stronger and faster. The act mandates the



designation of facilities and athletic teams based on biological sex, prohibiting cross-use except for specific circumstances. It also safeguards against retaliation for reporting violations. Additionally, the act mandates clear designations for school-sponsored athletic teams and protects schools from repercussions for maintaining separate teams for biological females.

SECTION-BY-SECTION SUMMARY

Section 1 – Names the Bill – THE SPORTS AND SPACES ACT

Section 2

The Legislature acknowledges the importance of separate and sex-specific sports teams due to physical differences between biological males and females, including advantages such as larger body size, muscle mass, and higher levels of testosterone in males. These differences lead to a significant performance gap between the sexes, with males generally being faster, stronger, and more physically powerful. Studies indicate that testosterone suppression in males does not eliminate this gap. Separate teams based on biological sex reduce the risk of injury for female athletes, promote equality, and provide fair opportunities for competition and achievement. Additionally, providing separate facilities for males and females protects student privacy and maintains boundaries between the sexes.

Section 3 – DEFINITIONS

In the context of the Sports and Spaces Act, "biological female" refers to an individual born with female anatomy and two X chromosomes, while "biological male" refers to an individual born with male anatomy and both X and Y chromosomes. "Cross-sex hormones" pertain to testosterone or other androgens administered to biological females in higher quantities than naturally occurring, and estrogen given to biological males in similarly elevated amounts. Additionally, "school" encompasses public, private, denominational, and parochial institutions offering education at the elementary or high school levels.

Section 4

According to the Sports and Spaces Act, each school must designate bathrooms and locker rooms as either for biological females or biological males. The act prohibits biological males from using facilities designated for biological females and vice versa, as well as prohibiting entry into locker rooms designated for the opposite biological sex, with exceptions for custodial purposes, emergency medical assistance, or authorized personnel. Retaliation against individuals reporting violations of these regulations is also prohibited.

Section 5

The Sports and Spaces Act mandates that school-sponsored athletic teams must be expressly designated based on biological sex as either male, female, or coed. Teams designated for females cannot include biological males or females taking cross-sex hormones unless competing as transgender. Similarly, teams designated for males cannot include biological females unless there's no female team available for that sport. However, participation in coed or mixed teams is not restricted by these regulations.

Section 6

The Sports and Spaces Act prohibits government entities, licensing or accrediting organizations, and athletic associations from entertaining complaints, initiating investigations, or taking adverse actions against schools for maintaining separate



interscholastic or intramural athletic teams for biological female students.

Section 7

All schools must adopt a policy which implements the Sports and Spaces Act.

Vote to Amend LB 575 with AM 2049

Senators Voting Aye: Albrecht, Linehan, Meyer, Murman, Sanders

Senators Voting Nay: Conrad, Walz

Motion carried to advance LB 575 to the floor as amended by 2049.

Dave Murman, Chairperson

