

Transcript Prepared by Clerk of the Legislature Transcribers Office

Floor Debate April 5, 2023

Rough Draft

**KELLY:** Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Eighth Legislature, Second Session. Our chaplain for today is Pastor Tom Starkjohn, from the Louisville Evangelical Free Church in Louisville, Senator Clements' district. Please stand.

**PASTOR STARKJOHN:** Would you please bow your head with me in prayer? We honor your name oh, God, who lives forever. For, to you, belong wisdom and might. You change the times and the seasons, and you remove rulers and you set up those in authority. You give wisdom to the wise and knowledge to those who have understanding. You reveal deep and hidden things. And you know what is in the darkness, and the light dwells with you. To you, oh God of Abraham, Isaac, and Jacob, we choose to give thanks and praise. Your dominion is an everlasting dominion, and your kingdom endures forever, from generation to generation. Compared to you, the nations are as nothing, and you do according to your will in both heaven and on earth. No one can say to you, what have you done? All your works are right, and your ways are just. And any who walk in pride, you are able to humble. Almighty God, help us give these men and women gathered here knowledge of what to do that is pleasing to you. Give patience and hope to those who strive for righteousness. Give discernment and foresight to those who make decisions. Give strength and endurance to those who are weary, reveal wrong paths, and protect from sinful ways. Heavenly father, send your Holy Spirit to work in the hearts of these people. Draw them close to Jesus, and make them laborers for your kingdom. And so we pray. Our father who art in heaven, hallowed be thy name. Thy kingdom come, thy will be done on earth as it is in heaven. Give us this day our daily bread, and forgive us our trespasses, as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil. For thine is the kingdom, the power, and the glory forever. Amen.

**KELLY:** I recognize Senator Albrecht for the Pledge of Allegiance.

**ALBRECHT:** Please join me in the Pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

**KELLY:** Thank you. I call to order the fifty-sixth day of the One Hundred Eighth Legislature, Second Session. Senators, please record your presence. Roll call. Record, Mr. Clerk.

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**CLERK:** There's a quorum present, Mr. President.

**KELLY:** Any changes in the Journal?

**CLERK:** I have no corrections this morning, sir.

**KELLY:** Any messages or announcements?

**CLERK:** There are, Mr. President. Amendment to be printed from Senator Holdcroft to LB253. Reference report from the Reference Committee, concerning LR303 through LR444, as well as LR469, interim studies. Report of registered lobbyists from April 4, 2024. That will be placed in the Journal. Agency reports electronically filed with the Legislature can be found on the Nebraska Legislature's website. And additionally, a notice. The Health and Human Services Committee will be meeting in Executive Session at 10:00 in room 2022. Health and Human Services, 10:00, 2022, Exec Session. That's all I have at this time, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Clements would like to announce a guest under the south balcony, Eliza Starkjohn from Louisville, Nebraska. Please stand and be recognized by your Nebraska Legislature. Speaker Arch, you're recognized for a message.

**ARCH:** Thank you, Mr. President. Well, from, from some of the private conversations I've had with members of the body last night, I feel the need to repeat some facts regarding the time remaining. So we-- again, we have 111 bills on Select File and Final Reading. Many of those bills may need a cleanup amendment for the provisions of the bill. I understand that. 10 or more bills need to be amended either on Select File or with a return to Select File from Final Reading to lower the fiscal impact. Just the processing of those bills and amendments could likely take up the time we have remaining. The time for adding bills to bills is over. I know some of the amendments being offered today will be doing just that, but I ask you to work with me to ensure we can address all the bills we have worked so hard on earlier in this session. And please show some restraint. We have less than 2 days to address all Select File bills and any motions to return a bill from Final Reading. At the end of both Tuesday and Wednesday, we will need to receive back from the Revisor's Office all bills advanced on each day. The Revenue bill advanced from General File yesterday took over 3 hours for a technician to compile all the amendments added to the bill during General File debate, and that does not even include the time it will take a Bill Drafter to complete their portion of the E&R review

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work. So adding bills to a bill at this stage could jeopardize the ability for the Revisor's Office to turnaround the underlying bill in time for Final Reading this session, given the constitutional requirement of a 1 legislative day layover before a bill can be read. So I've given direction to the Revisor of Statutes that they are authorized to prioritize amendments addressing cleanup, improvement of a bill, and amendments to decrease the fiscal impact of a bill. Amendments to add a bill to another bill will be drafted as time permits. Alternatively, I have instructed the Clerk to only accept amendments to add another bill to a bill that have been drafted by the Revisor's Office. He will not be accepting floor amendments to add another bill to a bill. Bill cleanup or bill improvement amendments and amendments to lower a bill's fiscal impact need to be requested as soon as possible. Tuesday's agenda, agenda will be contingent upon which bills are ready for debate. Also, keep in mind that Tuesday and Wednesday, many of the Bill Drafters will be devoting time to turning around the bills we advanced those days to ensure we have those bills correctly engrossed before we go home each evening. Drafters available to draft amendments will be fewer than usual. Last night, I heard from the 2 senators-- from, from 2 senators that each intend to take a bill to cloture, or at least spend an extensive amount of time of debate on the bill. While I cannot prevent this type of behavior, please know that senators participating in this type of action may likely be jeopardizing the amount of time we have left to address a bill they desire to see advance across the finish line. So I want to pause there for a second and say, there may be still specific issues. If you see specific issues, please go to the introducer and attempt to work out those issues. Please-- and not just, and not just burn time. So, so if there's things you can do in advance-- if you can let me know that there's a bill here, and I, I got to get to the introducer, then please give me that heads up. I won't put that out there so we just waste time. Give you a few hours-- we don't have a lot of time. Give you some time to go and talk to the introducer and see if that can be addressed. By scheduling Day 60 a week following Day 59, I had intended to complete all Final Reading on Day 59 to ensure no pocket vetoes occurred. That's no longer an option. We will need to read some bills on Day 60. How many will depend on how productive we are next Tuesday. Knowing some bills will need to be read on Day 60, please email me if you have a bill which you have reason to believe could be vetoed, and I'll try to put that on Day 59. That's, that's, that's the goal. With the amount of work we have to do on Tuesday, we will be convening at 9 a.m. that day, not 10. 9, next Tuesday. Please plan on late nights both Tuesday and Wednesday next week, because we'll have

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to wait for the Revisor to bring the bills back. Additionally, a reminder that Tuesday's agenda will be available late-day Monday. And I will send an email to senators and staff on Monday, when that agenda is made public. Thank you, Mr. President.

**KELLY:** Thank you, Mr. Speaker. Mr. Clerk, please-- Senators, please find your seats for Final Reading. Members should return to their seats in preparation for Final Reading. Senator Hardin, please return to the Chamber for Final Reading. The first bill is LB130.

**CLERK:** [Read LB130 on Final Reading]

**KELLY:** All provisions of law relative to procedure having been complied with, the question is shall LB130 pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** Voting aye: Senators Aguilar, Albrecht, Arch, Armendariz, Ballard, Blood, Bosn, Bostar, Bostelman, Brandt, Brewer, Cavanaugh, Cavanaugh, Clements, Conrad, Day, DeBoer, DeKay, Dorn, Dover, Dungan, Erdman, Fredrickson, Halloran, Hansen, Hardin, Holdcroft, Hughes, Hunt, Ibach, Jacobson, Kauth, Linehan, Lippincott, Lowe, McDonnell, McKinney, Meyer, Moser, Murman, Riepe, Sanders, Vargas, von Gillern, Walz, Wayne, Wishart. Voting no: None. Not voting: Senators Raybould and Slama. Vote is 47 ayes, 0 nays, 2 excused not voting, Mr. President.

**KELLY:** LB130 passes. The next bill is LB130A.

**CLERK:** [Read LB130A on Final Reading]

**KELLY:** All provisions of law relative to procedure having been complied with, the question is shall LB130A pass? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** Voting aye: Senators Aguilar, Albrecht, Arch, Armendariz, Ballard, Blood, Bosn, Bostar, Bostelman, Brandt, Brewer, Cavanaugh, Cavanaugh, Clements, Conrad, Day, DeBoer, DeKay, Dorn, Dover, Dungan, Erdman, Fredrickson, Halloran, Hansen, Hardin, Holdcroft, Hughes, Hunt, Ibach, Jacobson, Kauth, Linehan, Lippincott, Lowe, McDonnell, McKinney, Meyer, Moser, Murman, Riepe, Sanders, Vargas, von Gillern, Walz, Wayne, Wishart. Voting no: None. Not voting: Senators Raybould and Slama. Vote is 47 ayes, 0 nays, 2 excused not voting, Mr. President.

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**KELLY:** LB130A passes. Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LB130 and LB130A. Mr. Clerk.

**CLERK:** Thank you, Mr. President. Pursuant to the agenda, LB874. Senator Bostar would return the bill to Select File for a specific amendment, that being AM3385.

**KELLY:** Senator Bostar, you're recognized to open.

**BOSTAR:** Thank you, Mr. President. And good morning, colleagues. I'll be really brief. The Revisor's Office caught a drafting error, error in the lettering of the sections in the bill. And so, we need to just return it to Select for a technical amendment. Thank you very much.

**KELLY:** Senator Murman, you're recognized to speak.

**MURMAN:** Point of personal privilege.

**KELLY:** Please proceed on your time.

**MURMAN:** Yes. I would just like to announce that my legislative aide, Ben Earhart, is getting married tomorrow. And I would like to congratulate him and Sydney on their wedding day, and pray that God will bless them in their marriage and they'll have a long, happy life together. You know, as farmers, we try to avoid certain times of the year getting married. And, you know, June is a popular month to get married, but a lot of us didn't want to get married in June. So if we got married in the summer, it'd be in August, the time when farming, you know, slowed down a little bit and, and we were overdue for a break. Either that or the winter time. Well, he is getting married tomorrow, but he assured me that he will not take an extended honeymoon until later. So congratulations, Ben and Sydney.

**KELLY:** Thank you, Senator Murman. Seeing no one else in the queue, Senator Bostar, you're recognized. And waive closing. Members, the question is returning AM3385 to Select. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 47 ayes, 0 nays to return to Select File, Mr. President.

**KELLY:** It is returned.

**CLERK:** Mr. President, Senator Bostar would move to amend with AM3385.

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**KELLY:** Senator Bostar, you're recognized to open.

**BOSTAR:** Again, this is just an amendment from the Revisor's Office. Thank you.

**KELLY:** Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the adoption of AM3385. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 47 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** The amendment is adopted.

**CLERK:** Senator Ballard for a motion. Excuse me. Sen-- I have nothing further on the bill, Senator.

**KELLY:** Senator Ballard, you're recognized for a motion.

**BALLARD:** Mr. President, I move that LB874 be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. Those opposed, nay. It is advanced. Mr. Clerk.

**ASSISTANT CLERK:** Next item, Mr. President. Senator Lippincott would move to return LB520-- or excuse me-- LB52A to Select File for a specific, specific amendment, that being AM3048.

**KELLY:** Senator Lippincott, you're recognized to open.

**LIPPINCOTT:** The original bill, LB52, amends, amends 85-505 by increasing the total of the Nebraska National Guard state tuition assistance cap from \$900,000 to \$1 million each fiscal year. The amendment, AM337 eliminated the cap for the Nebraska National Guard state tuition assistance. The elimination of the spending cap created a need for additional appropriations to meet the tuition assistance request. Due to the amendment, the Military Department anticipated a need for additional funds up to \$200,000 on an annual basis to provide assistance to all eligible service members.

**KELLY:** Thank you, Senator Lippincott. Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is returning the bill to Select File. All those in favor, vote aye; all those opposed vote nay. Record, Mr. Clerk.

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**ASSISTANT CLERK:** 46 ayes, 0 nays on the motion to return the bill to Select File.

**KELLY:** The motion is adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. Pres-- Mr. President, Senator Lippincott would move-- would amend LB52A with AM3048.

**KELLY:** Senator Lippincott, you're recognized to open on the amendment.

**LIPPINCOTT:** All members, present, past, and future, appreciate everything that Nebraskans do for our military. Thank you, sir.

**KELLY:** Thank you, Senator Lippincott. Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the adoption of AM3048. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 45 ayes, 0 nays, on the adoption of the amendment, Mr. President.

**KELLY:** The amendment is adopted.

**ASSISTANT CLERK:** I have nothing further on the bill, Mr. President.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB52A be advanced to E&R for engrossing.

**KELLY:** Members, that's a debatable motion. Senator Wayne, you're recognized to speak.

**WAYNE:** Oh, sorry.

**KELLY:** Members, members, you have heard the motion. All those in favor vote-- say aye. All those opposed say nay. It is advanced. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator McKinney would move to return LB1344 to Select File for a specific amendment, that being AM3301.

**KELLY:** Senator McKinney, you're recognized to open on the motion to return.

**McKINNEY:** Thank you, Mr. President. I yield the time to Senator Wayne.

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**KELLY:** Senator Wayne, you have 9 minutes, 54 seconds.

**WAYNE:** I will be brief. Thank you. Senator McKinney introduced this because I couldn't physically be down here yesterday morning, and I may had-- make sure it get filed. What it does is it, it kicks out the implementation date 1 year. And then it also does a-- almost a 4-year stepup phase in-program to lower the fiscal note. The first year, it is \$900,000 in 2025 and 2026, and is still \$300,000 per congressional district. And then by 2027, it goes up to a million-- \$2 million. So we phase it out and it gives the opportunity for the next people after us to look at the budget and see if anything needs to be changed in this program. So it doesn't impact the program at all this year. And then the second portion, for counties under 100,000, I added Sanit-- Sanitary Improvement District to the Good Life. And the reason is, is in Omaha, there are some Sanitary Improvement Districts who may want to apply. And I think that it shouldn't just be Omaha-- that the fact that Sanitary Improvement Districts in western Nebraska, particularly those who are sparsely populated, have another tool in the toolbox to be able to apply-- not automatically get, to be able to apply. So it's limited to under 100,000 population, so we're talking rural Nebraska. And it gives them another tool. And then it also, again, kicks the date out so there's no fiscal impact this year, and then slowly phases it in from '25, '26, and '27. And that gives this Legislature to look at the financial outlook in the next budget, to see if any changes need to be made. Thank you, Mr. President.

**KELLY:** Thank you, Senator Wayne. Seeing no one else in the queue, Senator McKinney, you're recognized close. And waive. Members, the question is the motion to return LB1344 to Select for amendment. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 45 ayes, 0 nays on the motion to return to Select File.

**KELLY:** The motion is adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator McKinney would move to amend LB1344 with AM3301.

**KELLY:** Senator McKinney, you're recognized to open on the amendment. And waive. Seeing no one else in the queue, you're recognized to close. And waive. Members, the question is the adoption of AM3301. All



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those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 40 ayes, 0 nays on the adoption of AM3301.

**KELLY:** The amendment is adopted.

**ASSISTANT CLERK:** I have nothing further on the bill, Mr. President.

**KELLY:** Thank you, Mr. Clerk. Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB1344 be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion to advance. All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk.

**ASSISTANT CLERK:** Thank you, Mr. President. Senator Walz would remove-- would move to am-- return LB358 to Select File for a specific amendment.

**KELLY:** Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. Good morning, colleagues. I'd ask for your green vote to move LB358 and after this, the A bill back to Select File for an amendment. LB358 would have increased reimbursement rates by 25% for dental services under Medicaid and CHIP. However, the General Fund impact would have been almost \$7 million for both the fiscal year-- this fiscal year, next. The Governor's Office helped me find a different route to fund this through the existing funding in the CHIP and Medicaid programs. However, the reimbursement rate will increase only 12.5% rather than 25%. My understanding is-- excuse me. My understanding is that DHHS is going to be working to rebase Medicaid rates in the future, so that will help our state have a better picture. Additionally, this includes an E clause to ensure dentists are being paid as soon as possible. I would like to thank the Governor's Office, Senator Ibach, the Health and Human Services Committee, and the Appropriations Committee for the hard work they've done about this issue. While this helps Nebraskans and dentists in the short-term, I would ask that those who will be here next session continue working for better, better dental healthcare for those on Medicaid and CHIP. I would also like to ask for your green vote on the motion AM3364, the floor amendment, and ultimately, LB358. Thank you, Mr. President.

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**KELLY:** Thank you, Senator Walz. Seeing no one else in the queue, you're recognized to close. And waive. Members, the question is the return of LB358 to Select for amendment. All of those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, 0 nays on the motion to return to Select File.

**KELLY:** The motion is adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Walz would move to amend with AM3387.

**KELLY:** Senator Walz, you're recognized to open.

**WALZ:** Thank you, Mr. President. And good morning again, colleagues. The amendment on LB358A simply amends the bill to reflect that we will be funding the 12.5% increase through Medicaid program and the CHIP program. The amendment also adds an E clause. Again, I'd like to ask for your green vote on the motion to return back to Select AM3377 and LB358A. Thank you, Mr. President.

**KELLY:** Thank you, Senator Walz. See no one else in the queue, you're recognized to close. Senator Walz, you're recognized to close. And waive. Members, the question is the adoption of AM3387. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 43 ayes, 0 nays on the adoption of the amendment.

**KELLY:** The amendment is adopted. Mr. Clerk.

**ASSISTANT CLERK:** I have nothing further on the bill, Mr. President.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB358 be advanced E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. Those opposed, say nay. It is adopt-- it is advanced for E&R Engrossing. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Walz would move to re-- to return LB358A to Select File for a specific amendment.

**KELLY:** Senator Walz, you're recognized to open.

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**WALZ:** Oh. Thank you. I'm going to reread that last paragraph. Thank you, Mr. President. Good morning, colleagues. The amendment on LB358A simply now amends the bill to reflect that we will be funding the 12.5% increase through the Medicaid program and the CHIP program. This amendment also adds the E clause. I would ask for your green vote. Thank you, colleagues.

**KELLY:** Thank you, Senator Walz. You're recognized to close. And waive closing. Members, the question is the motion to return LB358 to Select for amendment. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 44 ayes, 0 nays on the motion to return to Select File.

**KELLY:** Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, Senator Walz would move to amend with AM3377.

**KELLY:** Senator Walz, you're recognized to open on the amendment. And waive. Members, the question is the adoption of AM3377. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 45 [SIC--44] ayes, 0 nays on the adoption of AM3377.

**KELLY:** The amendment is adopted. Mr. Clerk.

**ASSISTANT CLERK:** Mr. President, I have nothing further on the bill.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB358A be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. LB-- it is advanced. Mr. Speaker, for an announcement.

**ARCH:** Thank you, Mr. President. At the request of the introducer, we are going to pass over 1344A, please.

**KELLY:** Mr. Clerk, next item on the agenda.

**ASSISTANT CLERK:** Pursuant to the Speaker's instruction, introduction of, of a new bill, LB62A, by Senator Machaela Cavanaugh. A bill for an

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act relating to appropriations; to appropriate funds to aid in carrying out the provisions of LB62. The bill was first read on March 19 of this year. It was placed-- and was placed on General File.

**KELLY:** Senator Machaela Cavanaugh, you're recognized to open.

**M. CAVANAUGH:** Thank you, Mr. President. This is the A bill to catch up with the underlying bill, which is on Select File down the list today. The general funds impact of this bill is \$11,470 for an IT update that would be needed, and then cash funds out of the Medicaid excess cash funds, so no-- the only General Fund impact is the \$11,470. I ask that you vote green. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Seeing no one else in the queue, you're recognized. And waive closing. Members, the question is the advancement of LB62A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**ASSISTANT CLERK:** 31 ayes, 0 nays on the advancement of LB62A, Mr. President.

**KELLY:** It is advanced. Mr. Clerk, next item on the agenda.

**CLERK:** Mr. President, Select File, LB904. I have E&R amendments, first of all, Senator.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move the E&R amendments to LB904 be adopted.

**KELLY:** Members, you've heard the motion. All those in favor say aye. Those opposed, say nay. The E&R amendment is adopted.

**CLERK:** I have nothing further on the bill, Senator.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move LB904 be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is advanced for E&R Engrossing. Mr. Clerk.

**CLERK:** Mr. President, Select File, LB904A. I have nothing on the bill, Senator.

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**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB904A be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk.

**CLERK:** Mr. President, Select File, LB62. First of all, I have E&R amendments, Senator.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that the E&R amendments to LB62 be adopted.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is adopted.

**CLERK:** Mr. President, Senator Cavanaugh, I have M01242 to bracket the bill and M01243 to recommit the bill, both with notes that you wish to withdraw. In which case, Mr. President, Senator Hunt would move to amend with AM2824.

**KELLY:** Senator Hunt, you're recognized to open.

**HUNT:** Thank you, Mr. President. I'll withdraw that amendment at this time.

**KELLY:** So ordered.

**CLERK:** Senator, in that case, I have nothing further on the bill.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB62 be advanced to E&R for engrossing.

**KELLY:** Members, you have heard the motion. All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk.

**CLERK:** Mr. President, next bill, Select File, LB164. First of all, Senator, I have E&R amendments.

**KELLY:** Senator Ballard, you're recognized for a motion.

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**BALLARD:** Mr. President, I move the E&R amendments to LB164 be adopted.

**KELLY:** Members, you have heard the motion. All those in favor say aye. All those opposed say nay. The amendments are adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator McKinney would move to amend with AM3323.

**KELLY:** Senator McKinney, you're recognized to open on the amendment.

**McKINNEY:** Thank you, Mr. President. AM3323 is an updated amendment to LB164, which is a bill to address the Inland Port Authority in a city of a metropolitan class, to address projects that are going on that came about because of the Economic Recovery Act. And working with Senator Wayne, we decided to bring the bill to try to bring some collaboration and transparency around the projects that this body committed dollars to, to make sure that the dollars were used in a proper way, to make sure things happen with the best interests of the community at heart, as best as, as best as possible. And we feel as though a Inland Port Authority would provide the community with a better voice-- a local voice to go to, to better understand what's going on around these projects, around the airport business park and the inland-- and the Inland Port Authority and the Innovation Hub. Because I think it's important for the community to have a voice and have a place to go to, to ask questions, instead of having to come and call down to Lincoln every day, or email us about what's going on, and why aren't we getting questions asked and, and those type of things. And what the, the bill and amendments would do, it would just transfer funds that were going to the Economic Contingency Fund to a Inland Port Authority in a, in a, in a city of a metropolitan class. There are also funds that are going to a museum at Fort Robinson, that would be based around buffalo soldiers that were based in-- at Fort Robinson. Last year, we went out there and visited. And we thought it was a commendable, commendable thing to do, as well as Senator Bostar's Child Care Capacity Building Workforce Act. It did take the money out, but it's still a commendable, commendable bill that I think should be passed, as well. And if you have any questions, I'll be happy to answer them. Thank you.

**KELLY:** Thank you, Senator McKinney. Seeing no one else in the queue, you're recognized to close on the amendment. And waive. Members, the question is the adoption of AM3323. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

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**CLERK:** 31 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM3323 is adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator I have nothing further on the bill.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB164 be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. Those opposed, say nay. It is advanced. Senator Lippincott would like to announce some guests in the north balcony, fourth graders from Shoemaker Elementary in Grand Island. Please stand and be recognized by your Nebraska Legislature. Mr. Clerk.

**CLERK:** Mr. President, LB164A. I have no E&R amendments. Senator McKinney would move to amend with AM3370.

**KELLY:** Senator, Senator McKinney, you're recognized to open on the amendment.

**McKINNEY:** Thank you, Mr. President. This is an updated A bill that will follow LB164. And if I could get your green vote, that'd be great. Thank you.

**KELLY:** Thank you, Senator McKinney. Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the adoption of AM3370. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 28 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM3370 is adopted. Mr. Clerk.

**CLERK:** I have nothing further on the bill, Senator.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move that LB164A be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk.

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**CLERK:** Mr. President, Select File, LB1074. First of all, I have E&R amendments, Senator.

**KELLY:** Senator Ballard, for a motion.

**BALLARD:** Mr. President, I move the E&R amendments to LB1074 be adopted.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is adopted.

**CLERK:** Mr, Mr. President, Senator DeBoer would move to amend with AM3279.

**KELLY:** Senator DeBoer, you're recognized to open on the amendment.

**DeBOER:** Thank you, Mr. President. Good morning, colleagues. At the request of the State Treasurer's Office, I am introducing AM3279. This is to include language highlighting our state-run Enable plans. The language is a little interesting because the reference in statute that created our Enable plans only references the federal program, which has allowed the creation of our state's Enable plan. So what-- so we did what we could to clarify properly referenced Enable plans, and that's what you see in AM3279. The language is inserted only into the intended policy portion and does not make a change to the function of the underlying bill. Thank you, Mr. President.

**KELLY:** Thank you, Senator DeBoer. And seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the adoption of AM3279. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 29 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** The amendment is adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator Slama would move to amend with AM3253.

**KELLY:** Senator Slama, you're recognized to open on the amendment.

**SLAMA:** Thank you, Mr. President. This is a 2-word, extremely minor technical change recommended to us. Entirely cleanup. Doesn't change any part of the bill really. And I thought I'd encourage your green vote on this cleanup amendment. Thank you, Mr. President.



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**KELLY:** Thank you, Senator Slama. And seeing no one else in the queue, you're recognized to close and waive closing. Members, the question is the adoption of AM3253. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 33 ayes, 0 nays on adoption of the amendment, Mr. President.

**KELLY:** AM3253 is adopted. Mr. Clerk.

**CLERK:** Mr. President, Senator, I have nothing further on the bill.

**KELLY:** Senator Ballard, you're recognized for a motion.

**BALLARD:** Mr. President, I move that LB1074 be advanced to E&R for engrossing.

**KELLY:** Members, you have heard the motion. All those in favor say aye. All those opposed say nay. It is advanced. Mr. Clerk.

**CLERK:** Mr. President, Select File, LB1074A. I have nothing on the bill, Senator.

**KELLY:** Senator Ballard, you're recognized for a motion.

**BALLARD:** Mr. President, I move that LB1074A be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion to advance. All those in favor say aye. All those opposed say nay. It is advanced to E&R Engrossing. Mr. Clerk.

**CLERK:** Mr. President, LB1073. Senator, I have E&R amendments, first of all.

**KELLY:** Senator Ballard, you're recognized for a motion.

**BALLARD:** Mr. President, I move the E&R amendments to LB1073 be adopted.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk.

**CLERK:** I have nothing further on the bill, Senator.

**KELLY:** Senator Ballard, you're recognized for a motion.

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**BALLARD:** Mr. President, I move that LB1073 be advanced to E&R for engrossing.

**KELLY:** Members, you've heard the motion. All those in favor say aye. All those opposed say nay. It is advanced for E&R Engrossing. Mr. Clerk.

**CLERK:** Mr. President, Legislative bill-- Select File, LB1073A. Senator Slama would move to indefinitely postpone the bill.

**KELLY:** Senator Slama, you're recognized to open.

**SLAMA:** Thank you, Mr. President. Good morning, colleagues. This morning, I'm going to ask you all to help me do something I think most of you want to do anyways, which is kill one of my bills. So I'd encourage your green vote on this A bill. Fiscal let us know it was no longer necessary. So if you hate me, this is your chance to kill my bill. If you love me, you, you can help me do something we need to do to save money for the state. Thank you, Mr. President.

**KELLY:** Thank you, Senator Slama. Seeing no one else in the queue, you're recognized to close. And waive closing. Members, the question is the motion to indefinitely postpone. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk.

**CLERK:** 37 ayes, 1 nay to indefinitely postpone the bill, Mr. President.

**KELLY:** The motion is adopted. Mr. Clerk.

**CLERK:** Mr. President, single item. Bills read this morning were presented to the Governor at 9:36 a.m. It's all I have at this time.

**KELLY:** Members, as a notice-- members, as a notice, pursuant to Rule 1, Section 11, the presiding officer has the discretion to empty the galleries in cases of disturbances or disorderly conduct. While I don't anticipate exercising this authority, I would like to remind those observing the Legislature that there will be no outbursts, including clapping, heckling, or cheering. This includes conduct of those on the floor of the Legislature. Should someone in the galleries on either side cause a disturbance, both galleries will be cleared. Mr. Clerk.

**CLERK:** Mr. President. LB575, introduced by Senator Kauth. Priority motion, Senator Hunt would move to indefinitely postpone the bill pursuant to Rule 6, Section 3.

**KELLY:** Senator Kauth, you're recognized to open.

**KAUTH:** Thank you, Mr. President. And thank you, colleagues. LB575, the Sports and Spaces bill, is designed to provide for the protection of the fairness and integrity in girls sports brought by Title IX, and to provide for the dignity and privacy of all students, K-12, in locker rooms and bathrooms. Physical differences between biological males and biological females have long made separate and sex-specific sports teams important, so that biological female athletes can have equal opportunities to compete in sports. Physical advantages for biological males relevant to sports include, on average, a larger body size with more skeletal muscle mass, a lower percentage of body fat, and greater maximal delivery of anaerobic and aerobic energy than biological females. Even at young ages, biological males typically score higher than biological females on cardiovascular endurance, muscular strength, muscular endurance, and speed and agility. These differences become more pronounced during and after puberty, as biological males produce higher levels of testosterone. On average, biological male athletes are bigger, faster, stronger, and more physically powerful than their biological female counterparts. This results in a significant sports performance gap between the sexes. Studies have shown that the benefits that natural testosterone provides to the biological male athletes is not significant-- significantly diminished through the use of testosterone suppression. Testosterone suppression in biological males does not result in a level playing field between biological male and biological female athletes. Because of the physical differences between biological males and biological females, having separate athletic teams based on the biological sex of the athlete reduces the chance of injury to biological female athletes and promotes sex equality. It provides opportunities for biological female athletes to compete against their peers rather than against biological male athletes, and allows biological female athletes to compete on a fair playing field for scholarships and other athletic accomplishments. As we've seen, female sports is doing phenomenal right now. We have the pro volleyball team, the Supernovas, in Omaha. Nebraska Huskers volleyball team is the envy of the country. Women's sports is really taking off. Why would we want to diminish that? Providing for separate restrooms and locker rooms for biological females and biological males advances the important objective of protecting students' privacy and dignity. The NSAA, Nebraska State

Activities Association, has policies in place addressing some of these concerns, but they do ultimately allow boys to play on girls teams if they meet certain criteria. They also set the schools up to conflict with each other, with each school district being able to determine their own individual guidelines for students with gender dysphoria. There can be multiple schools within a school district that could have different rules and different ways of interpreting it. If these are not uniform across the state, we're going to have districts in direct conflict with each other. Those policies are not fixed. They can come and go with whatever popular movement is prominent. We need to put these protections into law so that girls are not forced to compete against boys, and so that boys and girls are not forced to share the intimate space of a locker room or bathroom. Title IX was enacted in 1972. I was 2-years-old. Title IX was developed to promote women-- to promote, to promote women's athletics, to give women that space that they need to thrive. It was fought for by the feminists of the past to provide opportunities to women, understanding that men and women are very different. And the biological differences in sex are significant and immutable. They can't be changed. Title IX states: No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. On the basis of sex means biological male and biological female. The Biden administration has admitted-- has submitted an amendment to Title IX to change the definition of sex to include gender identity. Basically, whatever sex someone feels they are versus what they really are. Biden's new rule will erase women's athletics and create a significant barrier for female athletes to compete in sports. Male athletes, who possess immutable physical advantages over females, will be able to outperform female athletes, resulting in females losing spots on teams and losing scholarship opportunities. And now as we see with the NIL, with more opportunities being available for making money from your athletic prowess, women will lose. This new rule will allow men to rob women not just of their trophies, but of their scholarships. This is going to impact corporate boardrooms. One study revealed that 94% of senior female executives played competitive sports. Competitive sports teaches you things that can't be learned from a book. It teaches you grit, resilience, how to fight, how to strategize. If women are denied that opportunity-- those are the skills you need in boardrooms. We're not going to see them as much. This rule change also puts women and girls at risk of serious physical harm. When women and girls are forced to compete against males who hold physical advantage, female athletes will face a much

higher risk of serious physical harm every time they participate in practice or in competitions. Perfect example: Payton McNabb. On September 1st of 2022, during a volleyball game against a rival North Carolina high school, 17-year-old Payton McNabb received a devastating head and neck injury as a result of a spike by a male athlete who identified as transgender. According to Payton, neither I nor anyone else on the team agreed with it, and we were against it from the beginning. We were all just so confused by how it could be allowed, and I guess we just had no idea what to do. So think about that. You're a girl on a team, and there's someone across from you who is distinctly bigger, much stronger, longer arms. You know that's a boy. Your feelings are not what's important there. That is shameful. The male athlete's superior height and strength forced McNabb and her teammates to play defensively. We had to adjust our whole lineup and put our biggest hitter in the front row. And even with that, we couldn't pass the ball back because he was hitting it so hard. No one could even get a hand on it. That's just pure physics. If you have a longer arm and you can reach up higher and you hit the ball harder, the physics move that ball much, much faster. It was one of his powerful spikes that knocked McNabb unconscious for over 30 seconds toward the end of a game her junior year. While she was lying on the floor. She was later told by onlookers that her body had twisted into a fencing position, which is indicative of extreme trauma to the brain. However, a later medical evaluation revealed the ball's impact caused neurological impairments, including a concussion, vision problems, and partial paralysis to the right side of her body. The year following her traumatic brain injury, McNabb said, was full of blank spaces that she will never remember. It is extremely wrong that we are putting girls in the position of having to participate against boys who are much, much stronger, against their will. Women and girls are going to start refusing to participate in sports, knowing that the deck is stacked against them when men are allowed to compete against them. At the Riley Gaines event this summer, Riley Gaines, who was a swimmer at-- who competed against the male swimmer, Lia Thomas, came and spoke. And the things that she had to say were, were startling, on the callousness with which the women's--

**KELLY:** One minute.

**KAUTH:** --point of view-- thank you, Mister President-- was disregarded. At that event, I had a mom and an eighth grade girl come and talk to me. The eighth grade girl had come home from a basketball game, and they had gotten beaten very, very badly. And she told me that it was because there was 1 boy on the other team. And she looked

at me and said, why, why would I even keep going? She's in eighth grade, and she's already feeling this "why bother?" We cannot allow that to happen to our girls. Intimate space privacy. Every student deserves the right to privacy and dignity in the areas of schools where they are most vulnerable-- bathrooms and locker rooms. Schools should continue to make reasonable accommodations for those students with diagnoses of gender dysphoria. The intent of this bill is not to deny them reasonable accommodations, but to give the security of a single-sex space to all other students.

**KELLY:** That's your time, Senator.

**KAUTH:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Kauth. Pursuant to the rules, Senator Hunt, you're recognized to open on your priority motion.

**HUNT:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. The point of LB575 is discrimination. The discrimination and the hate and the bigotry is the whole point. It is not about protecting women. It's not about keeping women out of harm's way. It's about the danger and the power of the imagination of a bigot, Senator Kathleen Kauth, and those who would support a bill like this. When you listen to her open, she's talking about if we let trans women play sports, how are they going to end up in a boardroom? How are, how are women going to have the same opportunities? They won't get scholarships. They won't finish college. They'll be too afraid to play because they'll be in the arena with these hulking men, who are obviously men standing over them, spiking volleyballs into their faces. Do you hear yourself? This is not the experience of athletes, of kids. In this bill, LB575, we're not talking about the, the volleyball team that plays at CHI, the professional volley-- the Supernovas? The Supernovas. We're not talking about that. We're talking about seventh graders who want to run track with their friends. And then, the state coming down to put this government-sanctioned discrimination upon them, when they are just trying to run track, and play soccer, and have fun with their friends at school. What's, what's interesting about the wave of these anti-trans bills that we're seeing all over the country, is that they're, they're bringing a government solution-- a government mandate to schools, that for generations and generations and generations have already found ways to solve these problems, have already found ways to integrate trans kids, gender diverse kids, intersex kids, which we certainly have in our schools in Nebraska who are going to be

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negatively affected by this bill, through, through no choice. You know, even if you think being trans is a choice or something, or you, or you think that there's scores of hulking, gigantic, physically buff men out here trying to become volleyball players so they can take scholarships away from girls, which there aren't. Even if you think being trans is a choice, it's still affecting people who have no control over what the hormones in their bodies are doing. And this affects them, too. These bills are happening all over our country because as acceptance has increased of the LGBTQ-plus community, of gay people, of trans people, of intersex people, of everybody among the spectrum-- as acceptance has increased of these people, there's been a backlash of people like Senator Kathleen Kauth, where the efforts to discriminate have increased. As acceptance has increased, there's been the backlash of the increase in discrimination through bills like this. Because bills like LB575 are not needed to protect kids. I think it's disgusting that when you guys think of trans people, trans kids, young kids, you picture boys in a locker room exposing themselves to girls-- that you think that there's little boys out here in Nebraska who are doing that on purpose. You know, I, I think Senator Fredrickson can probably speak to this. I can certainly speak to this. Do you know how hard it is to be a queer kid? Do you know how hard it is to know that you're not like everybody else? And you're getting bullied. You're getting beat up sometimes. All of these things are happening. And bills like LB575 just sanction that by the state. We see stories about this happening all over the country, where trans youth are bullied in states where they've passed bathroom bills like LB575, where they've passed discriminatory bills to prevent these kids from getting the healthcare they need. It increases bullying. It decreases safety for everybody. And for generations, supportive principals, teachers, families, they have taken these gender diverse kids and been able to take care of them. And now, as acceptance is increasing in our society, as more and more people are accepting of LGBTQ-plus identities, for some reason we feel like we need to roll back that acceptance. We need to bring down the hammer of the government and say, I think we're being a little bit too accepting of these kids. I think that's a very, very dangerous view. Senator Kauth's open is a reminder that we can never underestimate the danger of the imagination of a bigot. Our youth, especially girls and especially queer youth, are in a mental health crisis in our country. There have been tons of articles about it-- popular articles. The Atlantic did one recently. The New Yorker did one recently. I don't know if you all read any of that, but look around you. You can see that this is true. This is not because of trans kids. It's because of

discriminatory bills like LB575, and state-sanctioned bullying against these kids, who are accepted by their peers. When states propose laws against your very existence, and you hear elected leaders and public officials speak about you like you're not even human, what do you expect? Of course, these kids are in a mental health crisis. And what have we done this session to help them with that? These kids are the targets of state legislatures nationwide, for harassment, for exclusion, for discrimination. And it is shameful of adults like us to not make sure that these kids are getting the help they need. Framing trans people-- trans girls as a danger to other girls, it also creates the pretext for more anti-trans legislation, for saying that these people are dangerous, that they need to be locked up, that they need to be taken away from their parents, which is something I know many of you believe, as you told me that personally. It sets them up for parental rejection, for the denial of medical care. Senator Kauth talks about, well, what about all these girls who aren't getting scholarships? What about the rate of finishing high school and college for LGBTQ youth? It's much lower than other groups of kids. And it's because of bills like this. This bill should fail, in order to ensure that we have a Nebraska where everybody belongs, where everybody feels like they can be safe. They can call this place home-- to uphold our oath to serve in a nonpartisan manner, to ensure fidelity to our values of equality before the law in Nebraska, and to honor our doctors, and our business community, and our teachers and educators, who we trust to take care of these kids in our--

**KELLY:** Excuse me, Senator Hunt.

**HUNT:** Um-hum?

**KELLY:** Senator Lippincott, for what purpose do you rise?

**LIPPINCOTT:** Yes. Point of order regarding the decorum of Senator Hunt. I don't believe it's appropriate for her to call another member within our group names.

**KELLY:** Members, as a reminder, please keep your comments directed towards the bill and not personalities. Senator Hunt, you're recognized to complete your opening.

**HUNT:** Thank you. How much time do I have?

**KELLY:** 1 minute, 30.



**HUNT:** Thank you. If you'd like to censure me, please go ahead. There's-- this is the only thing I have to do yet for the year, so-- we, we really need to open the lens up to say that we are sick of this post-Trump, state-sanctioned discrimination against children, which is bigoted to do.

**KELLY:** One minute.

**HUNT:** And it's something that bigots do. And what this bill does at its heart is discriminate. It's a legal framework that treats people differently under the law because of their sex. It's because of all this boogeyman stuff that Senator Kauth has brought up that she's got all of you believing, that she's talked about in the press all over the place. And the bill is a reflection of those views. And those views have no place in Nebraska. Government can make discriminatory laws. But to do so, there needs to be an important governmental objective or an important public safety interest or something like that. There is literally no reason to keep driving these kids into the ground with the hammer of government, when all they want to do is play sports with their friends. They're not hurting anybody. And these kids exist in every school. We need to wrap them in love and support, and not let them see that their leaders of their state in these elected officials--

**KELLY:** That's your time, Senator.

**HUNT:** --agree that they should be discriminated against. Thank you.

**KELLY:** Thank you, Senator Hunt. Senator Walz and Bostelman have guests in the north balcony, 11th and 12th graders from Cedar Bluffs Public School. Please stand and be recognized by your Nebraska Legislature. Returning to the queue. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you, Mr. President. Good morning, colleagues. Let me start by saying to trans Nebraska youth and their families, we see you, we hear you, and we love you. And when you ask me and you've asked my colleagues, time and time again, why on earth did you wake up one day and find yourselves under attack by your government? No one's answered that question. Because it's not right. It's a manufactured political issue that's harming you and your families. And I'm sorry that you have to bear it, year over year over year. And I thank you for your grace and tenacity in being here and engaging with your Legislature. Colleagues, there are legal, policy, and practical problems with this measure, and a host of process questions, as well.

Yesterday, as the Education Committee advanced this measure with a committee amendment-- and as an Education Committee member, I sat through the hearings last year and the Executive Session yesterday. I will let you know that when I point blank asked my colleagues why we needed to adopt the committee amendment, what was substantive about it, what was important about it, no one could answer. No one could answer, either because they hadn't read it, or they couldn't describe it, or they didn't know. That's problematic. That's not sound lawmaking. Additionally, the Attorney General's Opinion that was circulated earlier, rights to the bill as introduced, LB575, not to the committee amendment, nor to the floor amendment that Senator Kauth has filed today. I raised important issues yesterday in regards to the committee amendment, recognizing that it was rife with medical discrimination against students with diagnoses like Turner syndrome, intersex, intersex students. No one could answer that. I am grateful that Senator Kauth has acknowledged that discrimination inherent in the committee amendment by filing the additional amendment today. Additionally, we all know what this is about, no matter how we dress it up. It's discrimination. It's a blanket ban on trans kids' participation in extracurricular activities. And why? Why? We've had a system in place in Nebraska for almost a decade that brings together an arduous and expensive process for parents and families to utilize, with medical experts, with educational experts, with psychologists and mental health experts, to ensure appropriate safeguards for the handful of kids that just want to participate in extracurricular activities, to keep them safe and all kids safe, to ensure participation and protect privacy. There is no legitimate government interest served by LB575 that is not already handled by the NSAA policy, by Title IX, or by individual school policies. And Senator Kauth and others are welcome to bring up high-profile examples from other state, but-- states, but I challenge you. Read the committee transcript. Look at the bill. There are no findings of a need to address privacy violations in Nebraska. There are no findings in the record to address a lack of participation for female athletes under the current structure and framework. Zero.

**KELLY:** One minute.

**CONRAD:** Look at-- thank you, Mr. President. Look at the legislative findings which are trumped up, selective, ambiguous, and sight no authority, and are not reflective of what we heard in the committee hearing. This is a blanket ban. It doesn't address actual privacy violations or participation questions in our schools. It's hard enough being a kid. And it's hard enough being a parent. We all know

extracurricular activities are beneficial, from a physical and mental perspective, to help kids engage and grow. We should be providing more opportunities and fostering a culture of belonging instead of issuing blanket bans that are part of a manufactured, national, divisive political campaign. I have a host of legal concerns about the conflicting language and definitions throughout the bill, the committee amendment, and the new amendment that has been filed.

**KELLY:** That's your time.

**CONRAD:** None of this has been vetted. Thank you, Mr. President.

**KELLY:** Thank you, Senator Conrad. Senator Hunt, you're recognized to speak.

**HUNT:** Thank you, Mr. President. Senator Conrad said that very well, about the problems with the conflicting language in the bill. I understand that in the last moments here-- the last few days, Senator Kauth has come up with some different language that she'd like to amend in the bill. And I saw that she'd filed several amendments. One of them-- in the committee amendment, I think this is. Let's see. Yeah. In the committee amendment, in Section 5, it reads, an interscholastic or intramural athletic team or sport that is sponsored by a school shall be expressly designated as one of the following based on biological sex: Males, men or boys; (b) Females, women or girls; or (c) Coed or mixed. And then sub (2) (a) An interscholastic or intramural athletic team or sport sponsored by a school and designated for females, women, or girls shall not be open to a biological male student or a biological female student who is taking cross-sex hormones and competing as a transgender male. So I read that to completely exclude trans boys from doing any kind of intramural athletics in school. I want to know what comes next here. It starts with, you know, athletics. What about chess club? What about, you know, any number of the other activities that kids can do in school? These comments also really gloss over the fact that sports are not fair. In sports, you have to deal with losing sometimes. It's not always fair. And we don't insert government in sports to give literally everybody the same playing field. Riley Gaines, this swimmer that Senator Kauth talks about that all of you know about, I know that she's been in Nebraska, fundraising. She maybe has some political designs. I don't know. She should run for office. She has a big name and a big platform. But she didn't just lose to a trans woman. She lost to lots of other women, too, who beat her fair and square. All of them did. So all of this has led to this, like, vindictive stuff, of

this wave of anti-trans bills all over the country, to make sure that trans kids-- you know, like a trans seventh grader, can't run track with their friends. According to this committee amendment, a trans boy wouldn't be able to play at all, or trans girl. I want to speak for a moment to the trans youth who might be listening, actually. I want to take a moment to speak directly to you, and acknowledge the unique challenges that you might face as you navigate your gender identity. I know that it's not linear at all. It's not, it's not that you see exactly where you're going and you get there. I think the experience of being trans has changed a lot over the generations, just as the experience of being part of the LGBTQ community at all. Not everybody wants to medically transition, for example. It's becoming more and more common for trans youth and trans adults, who realize that they are transgender, to maybe not take hormones, or to transition--

**KELLY:** One, one minute.

**HUNT:** --socially but not medically. And that's OK, too. That doesn't make them any less trans. That doesn't have anything to do with what their identity is. And I know that it can be really difficult to feel different in a way, that many adults, that your government doesn't accept or validate, and that these kids can face so much discrimination from others. But they know that they're not alone. I want you to know that you're not alone. And I want you to know that this culture and society, people in general are becoming more and more and more and more accepting as years go by. And there's nothing that this Legislature can do that will change that. Nothing this Legislature can do will change your identity or change the beautiful light and unique gift that you are to the world. And you should celebrate the uniqueness and gift that your identity is. It's beautiful. It's part of who you are, and it's something that should be celebrated in a way that--

**KELLY:** That's your time, Senator.

**HUNT:** --you are with, and not be hidden or suppressed. Thank you, Mr. President.

**KELLY:** Thank you, Senator Hunt. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. And good morning, colleagues. I do stand today in favor of the motion to indefinitely postpone and adamantly opposed to LB575. I do also want to start by saying to our,

our friends in the, the community, in the trans community, and also their families, that we are sorry that this conversation is happening again, on the floor of the Legislature, and that we see you and we love you, and that you are welcome here in Nebraska. I want to dive into a little bit about the bill, because I know we're probably not going to have a ton of time to talk about it today, given how full the queue is. But I want to start briefly by saying-- or talking about how this summer, after last year, myself and other senators went and spoke with a number of groups in the LGBTQ community, to talk about what the impact of last year was and what they wanted to see moving forward. As a part of that, we spoke with a number of youth groups, myself and Senator John Cavanaugh, at one point, drove out to Grand Island to meet with a group of LGBTQ kids and their teachers and their families, to ask them, sort of, you know, what they wanted to see their Legislature do. And to say, what are your issues that you're facing? How were you affected by the conversation that happened last year? And what can we do to try to make some things right? And what I thought was really interesting and compelling was, yes. They were frustrated, and they were offended, and they were scared by the passage of LB574. But even more than that, they said that the harm that befell them in their community came from the conversation that happened around LB574, that the things that they read in the newspaper and the things they saw in the news and the things that they heard in their communities made them feel unwelcome. It made them feel scared. And it made them feel like they were lesser. And I wasn't anticipating getting emotional about this. But in the conversation with those youth, they were telling us that just about a couple weeks prior to us being there, one of the teens in their community had taken their own life. And obviously, they couldn't relate that in-- just to one thing. But they knew and they talked at great length with us, about how they knew that it was because that individual felt less welcome and they felt othered. And I want to make no bones about it. What legislation like LB575 does is it discriminates against transgender youth, and it puts those individuals in a position both personally, to feel othered, and I think it puts the legislation in legal, precarious grounds. The Attorney General's Opinion has been discussed a lot here, where our Attorney General gave an advisory opinion about whether or not the underlying bill, LB575, is constitutional. Granted, it's an advisory opinion, so it carries with it no weight in court. But ultimately, he made the determination that LB575, as it was introduced, passed constitutional muster. I disagree with that assessment, colleagues. And let me tell you why. It essentially says that any kind of law that discriminates based on sex has to be subject to what's called

intermediate scrutiny. The really simple way of saying that, colleagues, is that means that in order to be upheld, that law has to be found to be related to a substantial governmental interest or an important governmental interest. And it has to be-- the law itself has to be substantially related to that important governmental interest. And there's some dancing around in there. And I think we've heard people on the mics in here already dance around, that what this is doing-- the important governmental interest we're doing here is we're protecting sports, or we're protecting privacy. But that is wrong. What LB575 seeks to do is ban transgender youth from participating in sports. And you may say, no, that's not in the bill. But let me tell you how we know that. An amendment-- the committee amendment to LB575 was introduced. And in that amendment, it specifically mentions transgender youth. And it specifically bans--

**KELLY:** One minute.

**DUNGAN:** Thank you, Mr. President. If you were assigned female at birth but you are a transgender male, you can not participate in any sport. Now there may be a floor amendment that tries to fix that, but that's not trying to fix it out of good faith. That's trying to put the genie back in the bottle or the toothpaste back in the tube. Because the intent of this bill has been made clear. The intent of this bill is to discriminate against transgender youth. And the courts know that. I am placing it on the record. It is in the legislative history of the amendment. And you cannot hide from the legislative history that the intention in this is not to further women's sports. It is not to protect privacy. It is to discriminate. And courts have found over and over again that it is not an important governmental interest to discriminate against transgender youth. So, colleagues, I do not believe LB575 is constitutional. I do not believe the amendment makes it any better. And I also want to be very clear that it is harmful that we are even having to have this conversation, yet again. So to those who are listening today, I'm sorry. But I do believe--

**KELLY:** That's your time.

**DUNGAN:** --in you. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. I'm just going to pick up right where Senator Dungan left off, about the discriminatory intent.

So, the Attorney General's Opinion, which, again, is an advisory opinion, meaning it does not carry the force of law. It's just sort of trying to explain to us what they think will happen. And one of the parts in the Attorney General's Opinion specifically speaks to this, which is on page 7 of the Attorney General's Opinion. It says that the fact that the policy had a disparate impact on transgender students was not consequential. The court stated, disparate impact alone does not violate the Constitution. Instead a disparate impact on a group offends the Constitution when otherwise neutral policy is motivated by purposeful discrimination. And the record did not support a finding that the bathroom policy was motivated by discrimination against transgender students. So that's what the Attorney General's Opinion is saying, based off of a case out of the state of Florida, from the last couple of years. What Senator Dungan was just pointing out is that we have, in the committee amendment, AM2049, clear indication of the discriminatory intent. So whether we get to that amendment or not, whether it, it gets changed in some other way, does not absolve the fact that it demonstrates the intent here. And the intent here is to discriminate against trans youth. It puts on page 3 of AM2049, down-- we'll start on line 28: An interscholastic and intramural athletic team or sports sponsored by school and designated for female women or girls shall not be open to biological male students or biological female students who are taking cross-sex hormones and competing as transgender males. So what that says is only people who can play girls sports are individuals who are born and assigned female at birth and who do not identify as male. Because it does say that people can take hormones for some other reason and still participate. So the discrimination here is specific to how that person identifies, and it says it right in the statute. It puts it there. That is the intention that was added to this bill. It was purposeful, to add to this bill, to express that specific discriminatory intent, because the original amendment, probably in the introducer and advocates for this bill's opinion, did not-- was not certain enough to succeed in that discrimination. If they were successful in achieving the discrimination they intended, they would not have made this mistake of clearly articulating their discriminatory intent. So, Senator Conrad was-- clear-- it pointed out the, the-- there's amendments to the bill and the Attorney General's Opinion that's not necessarily on point to that, but there are parallels that can be drawn. I'll push my mic and talk about a few other things. I, I did want to continue on Senator Dungan's point, but I also wanted to take my opportunity to, again, express my sentiments, as well. Well, I guess I support the IPP. I didn't say that. But Senator Dungan and I, he, he told you about we

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spent a good bit of time in the interim, going and visiting with communities affected by this bill when the bill passed last year. And it is, it is true. That was what we heard, was the, the harm to these kids is the fact that the state is debating whether--

**KELLY:** One minute.

**J. CAVANAUGH:** --or not they get to fully enjoy their status as members of our community, whether the state is going to make a purposeful determination that they are not fully members of our community and should be treated differently. I appreciated Senator Kauth's statement about everyone deserves-- I think it was to be respected or to have their privacy, or something along those lines. And I agree with that. Everyone deserves it, including these kids that we're talking about pushing to the side, to othering. So there's a lot of other problems with this bill. I'll push my light and talk about it some more. But I just wanted to make sure that the, the kids who are here in the balcony, watching at home, or who will hear about this, that there are people here who care, who are listening, and want to make sure that you feel welcome and are heard. And we will continue to do that, no matter what the, the Legislature decides.

**KELLY:** Thank you, Senator Cavanaugh.

**J. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** Senator Brandt has guests in the north balcony, Fillmore Central FFA members and their advisor. Please stand and be recognized by your Nebraska Legislature. Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, if this is such an important issue, I don't know why we don't have more butts in the chair right now, but that's my personal opinion. My peers have done a really good job about talking about what's right and wrong technically with this bill. So what I want to do is kind of whittle down some background behind this bill. And with that, I would ask that Senator Kauth please yield to some questions.

**KELLY:** Senator Kauth, will you yield?

**KAUTH:** Yes.

**BLOOD:** Thank you, Senator Kauth. And Senator Kauth, I have a lot of questions.



**KAUTH:** OK.

**BLOOD:** And I just want to tell you up front. And I'm not doing any gotcha questions. These are all things that I have tracked over the last year that you have said. And I feel that they lead up to why this bill happened. So I'm, I'm trying to paint a picture. And I'm trying to be really honest with you.

**KAUTH:** Go for it.

**BLOOD:** So when you were asked during an interview in the interim, what does being trans mean? What is it like? Do you remember what you said?

**KAUTH:** I can't imagine that I would be asked what being trans is like.

**BLOOD:** You said, it would be like me saying, I feel like I'm black, so I'm black and you must treat me that way. Does that sound familiar?

**KAUTH:** Yes.

**BLOOD:** So you would compare a trans child to you identifying as being a different race?

**KAUTH:** I would say that changing your immutable characteristics, your biological characteristics is impossible.

**BLOOD:** How, how is being black biological? You just have-- it's just skin color.

**KAUTH:** Right? And you can't change that.

**BLOOD:** We're not talk-- but we're talking about how people identify. You're talking about 2 different things. Apples and oranges.

**KAUTH:** Right. But identity does not change reality.

**BLOOD:** OK. Well this is an area that you and I will disagree on. Why don't you tell me a little bit more about transableism? That was another thing that during that interview, you talked about. Can you explain how you believe transableism is what it-- what its purpose is?

**KAUTH:** Can you give me the definition that you're using?

**BLOOD:** Well, transableism, according to the interview that you did, people who believe that they were meant to be disabled in some way, and they're finding doctors who will do this for them. It reminds me

of the furry thing that we heard a couple of years ago. And you said exactly, sever my spinal cord so I cannot walk, so I'll always be in a wheelchair. And then your interviewer said, are there-- and there are doctors willing to do this? And you said, yes, there are. And they're doing it under the guise of it's human rights, because this is how they feel they are truly meant to be. Is that something that you believe, or is that something that you said for shock value?

**KAUTH:** That's something I read. That's, that's articles that have been published.

**BLOOD:** But it's not an article. It was in your interview.

**KAUTH:** Right, because I read an article about that issue.

**BLOOD:** OK.

**KAUTH:** So yes, that is something I believe is happening.

**BLOOD:** So it was that a peer-reviewed article from a medical community?

**KAUTH:** News article.

**BLOOD:** A news article from-- what was the news source? Do you remember?

**KAUTH:** I don't remember.

**BLOOD:** Like Fox News or like--

**KAUTH:** I don't remember.

**BLOOD:** OK. So during that same interview, you talked about how you amended LB574 because you thought you were trying to make it more reasonable and rational. Does that sound accurate?

**KAUTH:** Yes.

**BLOOD:** And you said, here's what I've learned. I should have made the bill absolutely crazy.

**KAUTH:** Yes.

**BLOOD:** Why, why do you say that?

**KAUTH:** When you try to do reasonable and rational here, it gets whittled down, whittled down, whittled down. I do believe that children should not be on cross-sex hormones and puberty blockers. It's bad for them.

**BLOOD:** All right. I'm not sure that was the question I asked, but fair. So you stated that the T is an invasion of the LGBT-- Q. Why do you think that?

**KAUTH:** Say that again?

**BLOOD:** That the T is an invasion of the LGB, is how you put it. What does that mean?

**KAUTH:** The T is an evasion-- in-- invasion?

**BLOOD:** Invasion.

**KAUTH:** That-- again, those are through talking with different groups.

**KELLY:** One minute.

**KAUTH:** Thank you, Mr. President. The, the LGB community has expressed that they believe that the transgender community is taking over their, their mission.

**BLOOD:** Isn't that that pretend group, Gays Against Groomers, the ones that aren't really LGBTQ, that's been put in place by people who have hate for this community, and not a real group of LGBTQ people?

**KAUTH:** Well, I'm not sure why you would accuse a group of being a fake group.

**BLOOD:** It's kind of like libs on TikTok, that's really nothing. There's no such thing. There's a lot of groups who want to instill hate and discrimination, who are pretending to be people that they really aren't. And that would be one of your groups.

**KAUTH:** Well, I disagree with that.

**BLOOD:** And that's fair.

**KAUTH:** I think that when you have groups that set up, for either side or any part of it, there are going to be differences of opinion. And people are pushing their opinions.

**BLOOD:** Or, or pushing their misinformation on others. Thank you, Senator Kauth.

**KAUTH:** Well, you call it misinformation.

**KELLY:** That's your time, Senators.

**KAUTH:** I would call it accurate.

**KELLY:** Thank you, Senator Blood and Kauth. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very much. I rise in opposition to LB575. I rise in support of the IPP motion from Senator Hunt. You know, the last couple of years, in particular, last year, in the wake of the anti gender-affirming care legislation being passed, was, by far, one of the most difficult times, in terms of the advocacy that I was hearing/receiving and the pain in people's voices, that affected who people are. It was one of the first times that I-- that I've been hearing from so many different parents sharing that their trans youth were feeling like they didn't belong, like they're not welcome, that people hate them. And I was just reminded of 2, 2 things for me. One, as a, as a father, I want my kids to be in a welcoming environment in school and in their participation in school. I want that for my kids. And as a teacher, my duty felt-- was always with making sure there's a welcoming and safe environment in our classroom. Actually, it-- even at a different level. As a school board member, the same thing carried through, which is it's my responsibility to make sure that individuals in our school are in a welcoming, safe environment. And we debate those things. We pass policies to support them. And the reason why I'm supportive of the IPP motion and the reason why I'm against the bill, is because not only do I see this as a, as a framework for continuing to berate LGBTQ youth and trans youth, but we're also inherently making our school districts and our schools less of a welcoming place, and putting more of a target on individual's backs. But putting aside that point, another point that reminded me from last year was about what we really try to do here. Part of-- a big part of my opposition last year had to do with we listened to experts on issues, and we let individuals locally make decisions in the best interests of their communities. We were listening to healthcare professionals when we were talking about whether or not we should legislate what is happening, and the decisions that people were making, whether or not to stay between an individual and their physician. And in this situation, we have the Nebraska School Activities Association that on

their own has adopted a set of policies to provide some uniformity and standards for interscholastic competition. And they have a policy that they developed for transgender participation and policies for school athletics. They've had about 10 individuals that have actually applied-- utilized this policy that allows for a path for trans students to play on sporting teams that matches their gender identity. A gender identity eligibility committee must unanimously approve a student's application. The committee is comprised of a physician--

**KELLY:** One minute.

**VARGAS:** --with experience with transgender healthcare. There's a process for-- that already exists. And so the question I have is if there's a process that exists and it's working, why are we inserting ourselves in between the local control and local decision-making from the people that are trying to make sure that there's a fair process for individuals? What are we trying to solve? What are we really trying to fix? What's really the intent? And that's my ask of everybody here. We, we don't pass policies to preemptively look to solving something. We try to focus more of our efforts on solving policies, like yesterday, when we were trying to talk about whether or not there is a pathway for punitive damages. Very high bar, because there is no pathway right now, in terms of civil liability, or at least at that level and amount. Thank you.

**KELLY:** That's your time, Senator. Thank you, Senator Vargas. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. Good morning, colleagues. I rise in opposition to LB575 and in support of MO10 to indefinitely postpone. I know that there's nothing that I can say today that will change the hearts and minds of my colleagues. I learned that lesson very clearly last year. So I'm not going to spend my time trying. To the mothers up in the balcony, you are amazing warriors for your children, and they are lucky to have you. To all the transgender and queer kids out there that are watching this, you matter. You are loved. You are worth fighting for, and myself and a lot of my colleagues are going to keep fighting for you today. And with that, Mr. President, I would like to yield the remainder of my time to Senator Blood.

**KELLY:** Thank you, Senator Cavanaugh. Senator Blood, you have 4 minutes.

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**BLOOD:** Thank you, Mr. President. Fellow Senators, friends all, I am going to continue whittling away at why I think this bill came to be, by going through some interviews and quotes from Senator Kauth herself, making sure that I do not misquote her. So we can make sure that the record is accurate. So, I will soon ask you to yield again. So one of the things that I, I paused about-- I haven't yet, Senator Kauth, but I will-- that I paused when I was reading the transcripts from the, the recent interview, because I had also heard the interview. I saw it on video. Senator Kauth said, well, I have empathy and sympathy for people who are dealing with gender dysphoria. I'm not going to call a man a woman because it makes him feel better, because that makes me feel bad. And my first priority is to make sure that I'm OK. It's not to take care of other people, it's to make sure I'm OK. It's the airplane model. Put your mask on first. And that's really good advice. With that, I would ask that Senator Kauth yield to a question.

**KELLY:** Senator Kauth, will you yield?

**KAUTH:** Yes.

**BLOOD:** Senator Kauth, as a policymaker, do you, do you really feel that your number 1 priority is that you're OK?

**KAUTH:** I think by-- that interview was talking about as-- me, personally, but also as a policymaker, I'm representing my constituents, and that reflects them, as well. They do not feel comfortable being compelled to address a man as a woman.

**BLOOD:** They don't-- I'm sorry. Say that last sentence.

**KAUTH:** Feel comfortable being compelled to address a man as a woman.

**BLOOD:** You-- I'm-- I don't know why I'm not hearing you. You don't feel comfortable or compelled to address them as a woman? Is that what you just said?

**KAUTH:** I'm, I'm reflecting the views of my constituents, also, who don't feel comfortable addressing a man as a woman.

**BLOOD:** So that's a really good intro to another thing I want to talk about. So-- and I have the quote here, but I'm just going to wing it on this one. So if you think I'm not quoting you correctly, you are welcome to correct me.

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**KAUTH:** You got it.

**BLOOD:** So you talked about going door to door.

**KAUTH:** Um-hum.

**BLOOD:** And in the last bill, you talked about how people were appalled that this was going on. But in your interview, you said you went door to door and nobody knew about it. No one knew about it. And you're like, let me show you what's going on with the Biden administration.

**KAUTH:** Correct.

**BLOOD:** Would you say that that was correct?

**KAUTH:** Correct.

**BLOOD:** So you-- kind of, in some ways, created this issue for legislation, wouldn't you say? That you were a leader in letting people be aware that this was a problem.

**KAUTH:** By letting people know the things that I was concerned about? Yes.

**BLOOD:** But based on the interview, no one opened their door and said, hey, I'm really worried about transgender bathrooms, and about doctors allowing children to, to move forward in the process after--

**KELLY:** One minute.

**BLOOD:** --many years of help. You're, you're the one that really brought that up. It wasn't at the doors.

**KAUTH:** At some, yes. But primarily, it was discussions about what is important.

**BLOOD:** All right. I, I appreciate that, because now we have validated that really, this isn't a problem that most people were concerned about in your district until you open the doors to the information, based on your quote from the interview. Thank you, Senator Kauth.

**KAUTH:** Thank you, Carol Blood.

**BLOOD:** Senator Blood.

**KELLY:** Thank you, Senator Blood. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. I stand in support of MO10 to postpone-- oh. Yes-- and in opposition of LB575. I wanted to start out the conversation by thanking Senator Riepe for the NSAA gender participation policy. I think it's a really, really important piece of information that every single one of us should read. I appreciate Senator Riepe taking the time to educate all of us on, on this issue, and informing us, give us-- giving us the opportunity to be informed, and the opportunity to make informed decisions. I feel that we already have a policy in place that works. It's thoughtful. It's effective. It's been effective. It continues to be effective, and I believe that it will continue to be effective in the future. Colleagues, if you turn to-- if you all have this on your desk, if you would turn to page 3, starting at the second paragraph, this policy shows the, the procedures. And there are a lot of procedures that somebody has to go through prior to, I guess, acceptance of being able to participate. I really think it's important that you take the time to read the policies that are already in place, the policies that, again, have been effective in the past. They're effective today, and I believe that they will continue to be effective in the future. Why do we not just codify what's already in policy? I would like to yield the rest of my time to Senator Wayne. Thank you.

**KELLY:** Thank you, Senator. Senator Wayne, you have 2 minutes, 49 seconds.

**WAYNE:** Thank you, Mr. President. And thank you, Senator Walz, Senator Walz. It's ironic, and I'm talking to the people who were voting against my bill yesterday. It's very ironic when you turn to page 3 of the bill on the board that we are going to vote on here in a little bit. It's ironic that if a kid walks into a bathroom that we deem to be inappropriate, we can sue a school. It's not a 1983 claim. It's not a Title IX claim. It's a state claim brought underneath this action that's on the board. We can sue. But if that same kid in the bathroom gets assaulted, we can't sue. So when Senator Holdcroft gets up and says he's a strong defender of sovereign immunity and votes yes here, not that strong of a defender. Somebody punch the queue-- who are in the queue right now, explain to me why that's OK. We can sue. We can sue for enforcement. We can collect attorney fees. Multiple suits. One kid in the bathroom, we deem it inappropriate, 40, 50 students' parents can sue on the same issue in state court. But if that same kid gets assaulted in that bathroom, barred. And you co-sponsored this.



You're going to vote for it. You didn't say-- and don't use that excuse there's an amendment that might fix it, because you didn't use it yesterday.

**KELLY:** One minute.

**WAYNE:** You. Are voting on a sovereign immunity issue. You are voting for the right for people to enforce this bill through a lawsuit. But if something happens to their kid, you can't. Explain that. Somebody want to raise their hand and I'll yield them time. Exactly. Thank you, Mr. President.

**KELLY:** Thank you, Senator Wayne. Senator Kauth has guests in the north balcony and south balcony, members from the Wheeler-- fourth graders from Wheeler Elementary in Omaha. Please stand and be recognized by your Nebraska Legislature. Senator Kauth announces some guests under the south balcony, Sophira and Traci Sunde. They are mother and sister of legislative page, Landon. Please stand and be recognized by your Nebraska Legislature. Senator Murman, you're recognized to speak.

**MURMAN:** Thank you, Mr. Lieutenant Governor. I stand up in opposition to the IPP motion and in strong support of LB575. I want to start by thanking Senator Kauth for her work on LB575. This year and last, she has brought the bold legislation aimed at protecting all kids. Despite the strong support of most Nebraskans, she's been subject to constant attacks and smears. Despite this, she has not only persisted in her fight to protect all kids, but done so while maintaining a level of decorum and respect, even when it was not returned. I mentioned the strong support of the public, so let's start with that. A Gallup 2023 poll found that 70% of U.S. adults say transgender athletes should be allowed to compete only on sports teams that correspond with the sexes they were assigned at birth. Not only that, but this number was 8% higher than when they conducted the poll in 2021. So the movement to protect women's sports is not only widely supported, but the support is growing. So when we hear arguments that say things like Nebraskans don't want us to spend time on cultural issues, this just isn't true because the polls actually show commonsense policies like LB575 are deeply popular. It's not surprising that the majority of Americans support this kind of measure, because ultimate-- ultimately, it's all about an important and basic goal: fairness. And the reality is that male and female bodies are just naturally different, which, of course, leads to different trends in athletic performance. But don't make-- take my word for it. All you have to do is look at the Nebraska high school sports records. Let's use track and field for an example. The

Nebraska girls 1,600-meter dash state record is 4 minutes, 49 seconds. That's a very impressive time, and she's clearly an amazing athlete. But the boys 1,600-meter dash state record is 4 minutes and 9 seconds. 4 minutes and 49 seconds, 4 minutes and 9 seconds. There's not even a competition between these times. Furthermore, scroll through the complete list of Nebraska State track and field events, and you will not find a single event in which the girls event has a faster record than the boys record. These are just biological realities. I have a special interest in the girls pole vault. The girls pole vault state record is 13 feet, 4 inches, but the boys record is even-- is 3-- over 3 feet higher, at 16 feet, 7 inches. 13 feet, 4 inches, 16 feet, 7 inches. But the opposition today seems to disagree with the facts that males and females have these natural biological differences. This is sad news for all the young women of the past, who fought so hard to bring Title IX into existence. The generation of female athletes of the past fought so hard to have the athletic opportunities our students are able to enjoy today. But the modern gender ideology that says gender is a myth, that biological males have a right to the spaces of our young women-- as this ideology takes hold, the natural result is biological males dominating both races. The boys and girls events. Some will make the argument that even if there is an advantage and we obviously know there is--

**KELLY:** One minute.

**MURMAN:** --this isn't really happening. Thank you, Mr. President-- or Mr. Lieutenant Governor. Some say it wouldn't happen in Nebraska. But let's look at a story from Connecticut, where only 2 biological males who joined, joined high school track in 2017. In those 3 years of only 2 biological males in Connecticut track, they broke 17 girls track meet records, deprived girls of 85 opportunities to advance to the next level of competition, and took 15 girls state track championship titles. So even if there are not that many biological males in girls sports right now in Nebraska, it actually doesn't take that many to start taking lots of opportunities away from young women. They may ask things like, where is this a problem in Nebraska? But it doesn't matter how many exact cases of this bill still-- will come up--

**KELLY:** That's your time, Senator.

**MURMAN:** Thank you, Mr. President. I'll finish on the next one.

**KELLY:** Thank you, Senator Murman. Senator Day, you're recognized to speak.

**DAY:** Thank you, Mr. President. And good morning, colleagues. You know, I had been thinking about what I wanted to say today. And for me, whenever I don't know what to talk about, I often talk about my children. And, you know, I, I wanted to say that first and foremost, as a woman who frequently stands up on this floor and in committee and fights tooth and nail for women's rights from every single perspective, and as a lifelong female athlete who has competed internationally in various sports, I find it really hard to swallow that people who don't stand with us on other issues when it comes to bodily autonomy and women's rights, who have never competed in athletics in a serious level, will stand up here today and talk about protecting women and girls and protecting women's sports. Because that's not what this is about. If that's what this was about, we would hear from you when we're talking about all of the other things that burden women in our society in 2024. But we don't. You're on the opposite side of the discussion. Similarly, when it comes to children, as Senator Wayne mentioned, you are on the opposite side of the discussion last night, when we were talking about children and pedophiles in schools. You didn't care about protecting children last night. And here we are this morning, talking about protecting children and protecting women's sports. I played sports from a very early age. I had a lot of sports that I wanted to play, that being the shortest girl in every class I was ever in, I was not really great at. I was the first born in a family of athletes. My dad played basketball. And I always wanted to be a ball sport athlete, but again, I wasn't built for it. I ended up becoming a gymnast, and later, a competitive cheerleader in high school. I, after high school, started getting into endurance sports, in marathons and running. I did a half Ironman in San Diego. At that point, I had my first child and kind of took a break from endurance sports, and started to get into other things like weightlifting. I competed in Olympic weightlifting for years. I coached athletes for years. And my last competition was in 2016, in Germany, in Heinsheim, at the Masters World Championships. I am the mother of 2 athletes now, 1 in high school, 1 who will be in middle school next year. They both also have played virtually every sport under the sun. Noah plays soccer. He also plays football. I-- he has been watching his older brother, Canyon, run track, so I think maybe he's going to get into track. Canyon is a very competitive athlete. He's extremely talented. He plays football, baseball, and currently, it's track season. So he's running track. He's one of the fastest freshmen in his school and competes with the juniors and seniors, when it comes to the 100-meter and 200-meter. My husband was an athlete. He

played baseball and basketball. He also coached baseball for both of my kids.

**KELLY:** One minute.

**DAY:** Not one time in my life or in any of my children's lives has anyone asked me what my chromosomes are? No one came into the delivery room when my children were born, and did a test to see what chromosomes they had. How do we know? We support women's sports by showing up, by buying tickets, by attending events, by making sure that women get equal pay. This is not about protecting women's sports and protecting athletes. It's about discrimination. Thank you, Mr. President.

**KELLY:** Thank you, Senator Day. Senator DeKay, you're recognized to speak.

**DeKAY:** Thank you, Mr. President. And thank you, colleagues. For me, this is protecting women's sports. As many of you know, I have officiated high school and college basketball for 40 years. The college portion of my career has been officiating women's basketball. I started several years after Title IX was enacted, so still relatively new environment to navigate. In many ways, the sport has stayed the same during that time. I still see the excitement of the coaches and the players. Many of the core rules remain in-- the same. In a couple places, the venues have not changed much from-- since I first started officiating through this year. In other ways, the sport has changed. Fan behavior has some way gotten worse. There are new rules, like the shot clock in C and D high school basketball that are coming into effect next year. One aspect I have always enjoyed seeing throughout my career, though, is the flourishing of female sports and the greater attention given to those athletes and the teams that get now, compared to 40 years ago. For me, this bill is about trying to preserve the fairness of sports, especially at the high school level, where opportunities can be opened up for an exceptional student athletes. Not everyone's child will be growing up to be pro or even get into the collegiate level. That number is very few and is sometimes something I want to tell parents when I get yelled at on the court. But for those who do make it to the collegiate level, there are opportunities for scholarships, financial aid, NIL, and so on. And it's either been said or will be said that supporters of LB575 need to show where this is happening in Nebraska. My response is that we need to look at other parts of the country and ask whether we want to leave a potential loophole in Nebraska, where a biological male decided it

is a good idea to physically dominate in female sports. For example, ladies professional golf, Hailey Davidson. Updates in this policy this year restrict the women's pro tour to athlete designated female at birth. This rationale, according to their CEO, Stuart McKinnon, is that the policy change would ensure a level playing field for all their competitors. You look at sports, it's a trickle down effect from the sport-- from the professional level, to the college level, and then to the high school level. Now I want to speak briefly on the NSAA's gender participation policy. I have had conversation with various school administrators, many of whom are coaches or officials when this was a big deal back in 2015 and 16, during the adoption process. One of the things that sort of struck me as odd was who-- on the eligibility committee: a transgender healthcare physician, a psychiatrist, a psychologist or other mental health professional, a school administrator from a non-appealing school, and an NSAA staff member. I guess this would have, have to depend on the sport in question, but where's the sports medicine doctor? I've always felt that if this was the direction the NSAA wanted to go, they should probably have someone on that committee who can give the appropriate medical requirements to make sure that the student athlete does not have the physicality to outright dominate on the court, in the field, or wherever. Now, 2015 and 2016 process was quite the mess. And most school administrators I know who were around during that time absolutely do not want to touch this issue again with a 10-foot pole. All I ultimately want to do is level the playing field in sports. I don't envision the NSAA seriously amending the policy again, unless someone forces him to, to do so. I don't foresee the State Board of Education tackling this issue either, since they think this is an NSAA issue. We are all going to end up with this very weird gray area in due time--

**KELLY:** One minute. One minute.

**DeKAY:** Thank you-- where one group of schools has one set of policies, and another group of schools with a second set of policies. I think this has the potential to create, create quite a mess in the K-12 athletics manage-- run in this state. We already seen it in Norfolk and Kearney. How long are we going to let this trend go on, until we have 2 or 3 sets of school policies throughout the state, and we end up with 1 massive state controversy because of those policies? An example would be the locker room. Several schools in my area have older facilities which have just 2 locker rooms, male and female. This policy has not, has not been too impactful in rural areas. But what happens if there is a transgender student competing in a--

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**KELLY:** That's your time, Senator.

**DeKAY:** Thank you.

**KELLY:** Thank you, Senator DeKay. Senator Ballard would like to recognize a guest under the south balcony, his cousin, Michael Roscoe, from Saint Edward. Please stand and be recognized by your Nebraska Legislature. Senator Hardin, you're recognized to speak.

**HARDIN:** Thank you, Mr. President. I stand in opposition to the IPP motion and in support of LB575. The challenge was made earlier this week to give examples of where biological males are competing in female sports in Nebraska. To my knowledge, that's not happening in District 48, but you don't close the gate after the cattle are out. You don't hit the brakes until after you rear end the car in front of you, and you don't put on sunscreen after you've been burned. Lawmaking is not always reactive to an existing problem. Many times, laws are made to address a problem that's seen on the horizon, and we need to get ahead of it. We need to close the gate and hit the brakes and put on some sunscreen before we get burned. Biological males should not be participating in sports with biological females. There's an obvious physical advantage for males. Males have a greater muscle mass, bone density, cardiovascular capacity, compared to females. Boys have an advantage in speed and strength and endurance that completely throws out the integrity of any sporting event, or the 2 would compete. Women's sports have historically provided a platform for female athletes to showcase their talents and achievements, and allowing biological males to compete in these sports diminishes their significance and opportunities for female athletes. Biological males competing in a female sport is a spit in the face of everything that Title IX has accomplished in the advancement of women's sports. Allowing biological males to compete in female sports undermines the intent of Title IX, by disadvantaging female athletes and compromising the progress made in achieving gender equity in sports. I was wondering if Senator DeKay would yield to some questions.

**KELLY:** Senator DeKay, would you yield?

**DeKAY:** Yes.

**HARDIN:** Senator DeKay, you have been officiating for 40 years, you just said?

**DeKAY:** Yes.

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**HARDIN:** And you officiate both boys and girls basketball?

**DeKAY:** Yes, from high school Class D2 girls, all the way up to Class A boys.

**HARDIN:** OK. Do you see a difference in the way the game is played between boys and girls? And can you kind of unpack that for us?

**DeKAY:** Yeah. Boys' game is a faster game. More physical. Girls are more fundamentally sound and play a more fundamentally sound game. When it comes to equipment, a girls' ball is a 28.5 basketball. A boys' ball is a 29.5-inch basketball and a few ounces heavier. So there is differences, even in the equipment they use.

**HARDIN:** We know that you've been doing it for a long time and are advanced in age. Do you have a guess how many games you've reffed?

**DeKAY:** Somewhere probably north of 4,000.

**HARDIN:** Wow. And in those 4,000 games, has it ever been your impression that this girls team-- a particular girls team could whip any boys team?

**DeKAY:** No. Girls-- and that's why Title IX was designed, to protect girls so that they are playing against girls and be able to compete at the highest level. But there is a solid difference in how the game is played and how it's even officiated.

**HARDIN:** How do you officiate it differently?

**DeKAY:** In-- especially in a college game, just touch fouls are called. And it's in the rulebook that way, 2-handed touch--

**KELLY:** One minute.

**DeKAY:** Thank you-- 2-handed touch fouls. Boys are more physical. They play through screens harder. Girls don't have that advantage, with the rules in place, to run through a screen or it's going to be a foul. Sometimes, in a men's game, it will-- they-- that physicality is determined by advantage to disadvantage.

**HARDIN:** Thank you, Senator DeKay. And thank you, Mr. President.

**KELLY:** Thank you, Senators Hardin and DeKay. Senator DeBoer, you're recognized to speak.

**DeBOER:** Thank you, Mr. President. Good morning, still, colleagues. Anyone who's met me or spent any time with me at all knows that I am decidedly not sporty, decidedly not sporty. So, I'm entering this conversation going, why on earth is the Nebraska Legislature making rules about kids sports? Why are we involved in this conversation at all at the Nebraska Legislature? We are taking our time, which we have heard is very limited, and our intellectual labor and working on this issue, instead of trying to figure out how to get property tax relief, instead of trying to figure out how to get our Revenue package right? Colleagues, isn't there a board or some sort of sports organization that can be making these rules instead of us? Can't we spend our time and our intellectual labor, which we need in order to get this right, about our tax packages? I really would like to work on those. I know-- I don't understand why we're doing this. I think there's probably a local board that could spend its time doing this, so we could spend our time working on property tax. With that, I'll yield my time to Senator Blood.

**KELLY:** Thank you, Senator DeBoer. Senator Blood, 3 minutes, 33 seconds.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I still stand in support of the IPP motion. I'm going to try and quickly address some things that were just said on the floor of the Legislature. Senator Murman said that polling shows that these are important issues. Well, Senator, I just found a poll that was released yesterday and it said 91%, the number 1 thing that Americans want, is the right of everyone to have equal protection under the law. Well, that's pretty telling. 88%, the right to privacy. And just so you don't think this is some crazy, hippie-dippie liberal poll, 88% said freedom of religion. So it seems like a pretty balanced poll to me. And Senator DeKay, women don't need your protection. We aren't waiting for some white horse-- some man on a white horse, some prince on a white horse to come and rescue us. We already had this discussion with Senator Lippincott last week, when he said he had to protect Senator Day from the feminine hygiene products that were being thrown over the balcony. Women aren't losing, as Senator Kauth said in her opening. Women are winning. I'm going to say 2 words: Caitlin Clark. Women aren't losing. Women are winning. And to say that this will change anything is just not true. So I'm going to go back to the interviews, because it's hard to listen and not respond to some things that are on the floor. But Senator Kauth said in that interview that we've been quoting, the minority is extraordinarily loud. And I agree. I call it the vocal minority. If someone calls you a name-- I was called a



transphobic many times, she said. Call me whatever you want because I'm not going to accept you telling me who I am. I think that's fair. But yet, why are we here today? We are here today, because we've decided to spend taxpayer dollars, and precious hours towards the end of the legislative session, and time on this floor telling these families, these children who they are. Seems wrong to me. Seems wrong. And then, they talked about the misuse of language. And the quote was, it's very offensive. One thing we need to be better at is correcting the misuse of language. So when someone says you've misgendered this person--

**KELLY:** One minute.

**BLOOD:** --they're saying, this person wants to be called this way, and if you don't agree with it, you're the one guilty of misgendering. When in really-- in reality, someone who's calling themselves by a different gender than their biological sex, sex, they're the ones who are misgendering, apparently, in her opinion. So when I'm on this floor, I identify as a senator. And I was just called by my first name, so I just want to make sure that that goes on the record. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator Albrecht, you're recognized to speak.

**ALBRECHT:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I stand in support of LB575 and opposed to the motion to return-- or indefinitely postpone. You know, 2 years ago, when we sat and listened to this particular bill in Education, I'm a little perplexed as to why it ended up in Education. Senator Walz and Senator Wayne commented on the legality of all of this, and the private right of action. And not sure how it ended up in Education, but it did. And there were 438 proponents for the bill, and there were 281 opponents. When you get crowds like that coming in, we take a lot of time to decipher whether this is a bill that's ready for the floor, worthy of time on the floor. This was Senator Clements' priority bill last year, that we did not get to. But now, Senator Kauth has taken it back, and it is her priority bill this year. So that's why we're here today. We're going to talk a little bit about the amendment, because we're going to talk about this for 4 hours and we have a lot of roadblocks up. So I think people need to know and understand the difference between the original bill and what's being amended into it. So, the summary of the amendment is: 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 interscholastic or intramural athletics against biological females. The Sports and Spaces recognizes the necessity of separate sports teams based on their 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 that the designation of the faculties [SIC] of, of the athletic teams based on a biological sex, prohibiting cross-use except for specific circumstances. It is-- it also safeguards against retaliation for reporting violations. It also safeguards against retaliation for reporting violations. Additionally, the act mandates clear designations for school-sponsored athletic teams and protects schools from repercussions of maintaining separate teams for biological females. And then it breaks down 5 different sections. 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 a higher level 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 the testosterone suppression in males does not eliminate this gap. Separate teams based on biological sex reduce the risk of injury for female athletes, promotes quality-- equality, and provides a fair opportunity for competition and achievement. Additionally, providing separate facilities for males and females protects students' privacy and maintains boundaries between the sexes. That's in Section 2. Section 3: In the context of--

**KELLY:** One minute.

**ALBRECHT:** Thank you, Mr. President. In the context of Sports and Spaces Act, biological females refer to an individual born with female anatomy with 2 X chromosomes, while the biological male refers to an individual born with the male anatomy and both X and Y chromosomes. Cross-sex hormones, hormones pertain to testosterone or other androgens administered by biological females in higher quantities than naturally occurring, and the estrogen given to biological males in similarly elevated amounts. Additionally, "school" encompasses private, public, non-denominational [SIC], parochial institutions offering education at the elementary or high school level. And I'll continue with the other 3 sections when I'm back up on the mic. Thank you, Mr. President.

**KELLY:** Thank you, Senator Albrecht. Senator Wishart, you're recognized to speak.

**WISHART:** Thank you, Mr. President. I rise in support of the motion to IPP LB575. As a person who loves sports, competed when I was in school, I recognize the importance of fairness in athletics. That is why we have organizations like the NSAA. They have the expertise and precision to create systems to advance fairness in athletics. It is my understanding and from the discussion today, they already have rules and regulations to address transgender youth participation in K-12 sports. And colleagues, we are talking about a population of people that is 1% or less in our state, who are transgender. And an even smaller percentage of those individuals are involved in K-12 sports. The concerns I have with this legislation is that, to me, it is parter-- part of a broader effort to persecute a group of people in our country, that we've seen-- that I've seen, over the last couple of years as a senator, and growing. Throughout history, groups of people have been persecuted, whether it be their religion, their ethnicity, their political beliefs, and their sexual orientation. I can't think-- and I've tried this morning. But I can't think of an instance in which we look back at that persecution with the precision and clarity that comes from years. I don't think we look back at any of those past actions and we say that was the right thing we did, in history. No, I think we look back at those periods of discrimination and oppression as a stain on humanity. Colleagues, I believe that the national and global efforts to remove the rights of trans-- transgender people will be a regret that we have in the future, from years to come. I encourage you to consider that when you vote today. And Senator Blood, I'm happy to yield the rest of my time to you.

**KELLY:** Thank you, Senator Wishart. Senator Blood, you have 2 minutes.

**BLOOD:** Thank you, Mr. President. I still stand opposed to the IPP motion, friends all. And I have a lot more that I would like to discuss. But I want to tell you why I'm taking so much time on the mic today. I had not planned on talking at all today. And then I had several families send me a copy of an email from a senator's office. And I don't know if it's his staff or the senator himself that wrote it, but I'm going to read it to you and tell you why I think this is important. And the response was, thanks for your input. However, your reference to a culture war being caused by anything other than the LGBTQ community is something I disagree with strongly. They've declared war on the Christian community without caring who they kill along the way. I-- geez. I didn't know that trans kids were so

dangerous. Ooh. Then there was a response to-- a response to that. And it says, only figuratively. The LGBTQ community-- or excuse me, movement--

**KELLY:** One minute.

**BLOOD:** --undermines the nuclear family, which is foundation of well-adjusted children. Every credible study has proved that to be true. Well, guess what? Most of these children have a mother and a father, or 2 parents, or 2 family members, or a different type of family. Even on Sesame Street, they show that every family is different, and it's all about who is loved and how they're loved. And that is none of your business, to describe how a family should look. I was so disappointed when I read this, and so angry. You do you. They do them. How wrong it is to discriminate a family, and saying that basically, they don't count. They don't matter, because you know better. This is why you have to listen to me today. Because I can't stand that you would talk to another--

**KELLY:** That's your time.

**BLOOD:** --Nebraskan that way. Thank you--

**KELLY:** Thank you, Senator Blood. Senator Brewer has some guests in the north balcony. They are 9th and-- 9th-12th graders from Keya Paha County Schools in Springview. Please stand and be recognized by your Nebraska Legislature. Returning to the queue. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. It was brought up earlier that women's sports seemed to be doing OK. They are doing OK. As we look at women's basketball and probably the best women's basketball player of all time, Caitlin Clark, from Iowa, is doing a phenomenal job. She is 6-foot tall. I can't imagine if another basketball player, maybe a player-- something like Zachary Edey, who comes in and decides to play in the women's league. He's 7 foot 4. Is there any advantage to that? He's more aggressive. He's over a foot taller. Would the women's sports be doing OK if men decided to play in the women's league? With that, I give the rest-- I yield the rest of my time to Senator Kauth, if she would like to take it.

**KELLY:** Senator-- thank you, Senator Lowe. Senator Kauth, you have 3 minutes, 40 seconds.

**KAUTH:** Thank you, Mr. President. And thank you, Senator Lowe. I appreciate the time. I have lots of comments. I wanted to comment on Senator Wayne's discussion about the bill. That is actually why the bill was amended in committee. He's absolutely correct. The sovereign immunity is an important point, and it's critical for our subdivisions to be able to act. So that's why we removed it. We remove that cause of action. And I appreciate him supporting that point. Once we get to the committee amendment, it will be there. Senator Walz, I disagree with your, your stance that the NSAA has a policy that works. The policy does not-- it's not cohesive. It's not applied equally to every school. Every member school gets to decide how they interpret it. We have 244 school districts. Within each district, there are multiple schools. That is a lot of differentiation between how they determine how they're going to let people play. This bill will put an overarching bill-- or an overarching law over that. Let's see, who else. I wanted to comment-- and Senator Conrad, the Attorney General's Opinion was written to the original bill but not the committee amendment, but it is defensible. I've talked with them about that. There is not a-- you also mentioned the NSAA. The NSAA, when they made their rules and regulations, they didn't use a sports physiologist who understands how bodies are different. The Title IX issues-- we have to put preventions in place. We have to make sure that we have the Title IX opportunities that will last for a long, long time. We are here to protect women's athletic opportunities, and to protect the privacy of women and men and boys and girls. Mr. President, how much more time do I have?

**KELLY:** 1 minute, 20 seconds.

**KAUTH:** OK. Senator Day has talked about how she has fought-- fought for women's rights. She's competed internationally. And I wonder how she feels about men who are competing in the women's division winning those powerlifting competitions, and if she's ever competed against them. Kids who are identifying as trans still have the same opportunity to compete as everybody else, but they need to do so--

**KELLY:** One minute.

**KAUTH:** --on the-- thank you, Mr. President-- on the same terms as everyone else, as members of their biological sex. This bill is about protecting those women's sports and protecting the spaces where kids are dealing with intimate issues, whether it's showering after a game, whether it's going to the bathroom between classes, they deserve and--

the right to privacy, and the dignity that comes along with that.  
Thank you, Mr. President.

**KELLY:** Thank you, Senator Kauth. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. I'm pleased to support LB575 and oppose the IPP motion. This was my priority bill in 2023, and I'm pleased that it carried over this year. I have granddaughters who are in sports, and would certainly like to see them be able to compete just with their own sex. I had looked back at some of the testimony on this bill, and I found one that I wanted to read, from Carol Frost. She says, thank you. I'm here testifying in support of LB575. My name is Carol Frost, and boy, do I feel old. All these young folks. My gosh, I'm so old that I am pre-Title IX. I did not gain the benefits of Title IX, but I will tell you the benefits of PED, physical, physical enhancing drugs. I won the Pan American Games. I was the best discus thrower in North America, South America, and Central America. In 1968, I went to the Mexico Olympics and I got 14th. The people that won were from behind the Iron Curtain. I competed against the people from Romania, Czechoslovakia, USSR, East Germany. They won the medals. They finished in the top 10 because they were on performance enhancing drugs, better known as steroids, better known as testosterone. And it wasn't until years after that the Olympic Committee finally wised up and said that women could not benefit from the use of testosterone. And they put limitations on how much of this performance enhancing drug that women could use. I also coached at the University of Nebraska for 4 years. One of our best athletes, Merlene Ottey, was one of the best athletes that we've ever had at the University of Nebraska. She still holds all-- I know we're talking about high school, but she still holds all the records for sprints. She competed in 4 consecutive Olympics. She won 3 gold medals in the 200-meter dash, and multiple other ones on relay teams for Jamaica. What you probably don't know is just last year, 2022, at the Nebraska State track meet, Omaha Burke, 3 boys-- high school boys ran faster than Merlene Ottey. 2 boys ran the 800-meter in 1:52 plus. That's faster than the women's world record. 2 boys jumped 6 foot, 10 inches. And for those of you that don't know anything about track, that's really good, even for a high school boy. It's not as good as some. Sometimes, they'll jump 7 feet. 2 boys jumped 6 feet, 10 inches. Tied the women's world record. Even if those boys trans-- had transitioned, say, 2 years prior to that, my guess is, having been a high school coach, probably as a sophomore, they've probably jumped around 6 feet, 4 inches. They probably did not get much better. Maybe I don't know the

science behind the testosterone. All I know is even if they jumped 6 feet 4, they would have annihilated Sharon Burrill's high, high jump record at the University of Nebraska. She jumped 6 feet 3 when I was a coach there, and that has not been broken since. I think it's clear that there is definite differentiation between male and female athletes, and that this bill is important to make sure that they compete against equal competition.

**KELLY:** One minute.

**CLEMENTS:** I yield the rest of my time to Senator Kauth.

**KELLY:** Senator Kauth, you have 55 seconds.

**KAUTH:** Thank you very much, Senator Clements. 55 seconds is not a lot. I want to talk a little bit about-- and I'll get more into this. I'll introduce it right now. Dr. Greg Brown is a sports physiologist with the University of Nebraska at Kearney. This man has more degrees and certifications than anyone I think I've ever met. He has been critical in this fight to keep women's sports for women, because he talks about how very different the biology of a boy is versus a girl. He has a, a-- I know you can't see it, but he has a diagram called fit but unequal, showing exactly where boys and girls are different. He's--

**KELLY:** That's your time, Senator.

**KAUTH:** Oh, thank you.

**KELLY:** Thank you, Senator Kauth. Senator von Gillern, you're recognized to speak.

**von GILLERN:** Thank you, Mr. President. I do stand in support of LB575 and opposed to the IPP motion. I don't want to belabor this point, but in her open-- opening, Senator Hunt was generous enough to call the proponents of LB575 hateful bigots, which was unfortunate. And again, for the record, neither collegial nor within the guise of decorum. And we've heard a lot this session and last session about collegiality and decorum. And apparently, that just means you disagree with me, which is, of course, not the definition of either one of those words. I'm not a hater. Anyone who knows me knows that. Senator Hunt, if you want to judge me, get to know me and judge me by my actions and how I truly treat others. To hate me or anyone else without knowing them is the ultimate in bigotry. I've known Senator Kauth for over 3 years, and I've never heard her say a hateful word about a member of the LGBTQ community. To call her a hater is to not know her. While those that



identify as different from their biological gender face very real challenges and there is no denying that, LB575 will raise additional challenges. I am not unsympathetic to that. And I've gotten to know a number of families that have dramatically changed my viewpoint on that. If I were to summarize my feelings on the topic, it would be to say that it is critical that we protect the vast majority of kids while doing our absolute best to accommodate and not marginalize any child for any reason. The unfortunate Sophie's choice is this: Do we marginalize those who maintain that their gender at birth is their true gender by forcing them into hardships on the courts, on the fields, and in the restrooms? Or do we marginalize kids who identify differently than their birth gender? Hopefully, we can find a ground where neither one of those happen. Again, I stand in support of Sports and Spaces bill, and I yield the remainder of my time to Senator Kauth. Thank you, Mr. President.

**KELLY:** Thank you, Senator. Senator Kauth, you have 2 minutes, 45 seconds.

**KAUTH:** Thank you, Mr. President. And thank you, Senator von Gillern, for those kind words. I'll get back to Dr. Greg Brown. But first, I do want to address something Senator Blood had said, that women are winning everywhere, like Caitlin Clark. And Senator Lowe made this point exactly-- because they're not competing against men. There is much less clear evidence of sex-based differences in sports performance in children before puberty, largely because sports in this age group typically focus on recreation and fundamental skill development. However, when you evaluate fitness testing in children as young as 3-years-old, it shows that boys perform better than girls of the same age on tests of throwing, muscular strength, muscular endurance, and aerobic fitness. For example, it was observed that at age 9, boys are running an average of 3.2% faster than the girls of the same age. 3.2% is a lot when you're talking about competitive, and this is before puberty. When evaluating muscular strength and endurance, it was reported that at age 9, boys have a bent arm hang time that is an average of 48.1% longer than girls at the same age. Records from USA swimming for the 10 and under age group indicate that boys are faster than girls in 11 out of 12 individual short course events, and 8 out of 11 individual long course events. These are talking about kids at very, very young ages, and there's already a physical difference in how fast, how strong, their endurance. I think we all remember doing those physical-- Presidential physical fitness tests when we were kids. And the arm hang was one that you literally



just grab hold of a bar and hang and see how long you can tough it out. And the boys were always hanging there--

**KELLY:** One minute.

**KAUTH:** Thank you, Mr. President-- much, much longer than girls. Males are faster, jump higher, throw farther, and lift more weight than females. Overall, by mid-puberty, males outperform comparably aged, gifted, and trained females by 10-60%, depending on the sport. The smallest difference is in running and swimming and the largest difference is in weightlifting-- Senator Day? I think she left the floor-- and baseball pitching. In weightlifting and powerlifting, where athletes compete based on body weight, males still outperform females by approximately 30%. This bill is designed to protect women's sports and protect the privacy and dignity--

**KELLY:** That's your time, Senator.

**KAUTH:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Kauth. Senator Fredrickson, you're recognized to speak.

**FREDRICKSON:** Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraskans. So I don't really know what more there is to say on, on this issue. I think the past 2 years, we've had a lot of discussion in this Chamber about the trans community, the LGBTQ community. LB575 does not solve any issues. At best, it makes a handful of adults, who know very little about my community, feel good about themselves, and a whole bunch of kids, regardless of how they identify, feel like crap. I could read about how local policy already exists, how this doesn't address the actual barriers that women and girls face in athletics, and how schools have always and will continue to manage this. But instead, I want to use my time to speak directly to the kids and their families who are directly impacted by this bill. The world can be tough and scary. I personally know a thing or 2 about having a family that many people might say is not normal. I stand here today, confidently, to tell you if you love your kid unconditionally for who they are, and that they know they're loved, you can weather a lot. So this weekend, when you go home, I want you to love your babies. Surround yourself with the people who love you. Let them know you love them. And don't spend a minute of your energy or time thinking about any of my colleagues in here, who are too scared of

difference to allow themselves to understand and celebrate the beauty and joy that you bring to our state. Thank you, Mr. President.

**KELLY:** Thank you, Senator Fredrickson. Senator DeKay would like to announce a guest under the south balcony, Colt-- Corey Uldrich, a principal at Hartington-Newcastle Public Schools. Please stand and be recognized by your Nebraska Legislature. Senator Hunt would like to recognize a guest under the north balcony, Robert Navarro of lat-- Atlanta. Please stand and be recognized by your Nebraska Legislature. Returning to the queue. Senator Kauth, you're recognized to speak.

**KAUTH:** Thank you, Mr. President. And I appreciate doc-- I just promoted you to doctor, Senator Frederickson. I appreciate Senator Fredrickson's comments. We all need to love our kids. We need to pay attention to all kids. And I want to start by saying to those girls who are having to compete against boys, I see you. We see you. We here in the Legislature see you. You matter. You are loved. You are worth fighting for. To those boys who are confused by having a girl in their locker room, or to those girls who are shocked and embarrassed by having to change in front of a boy, we see you. And we are trying to give you just as much protection and compassion as kids who are dealing with gender dysphoria. The opposition to this bill is trying to weaponize compassion. They're using inflammatory tones and rhetoric and shaming those Nebraskans who want to maintain the integrity of women's sports, and the privacy and decency and dignity of boys and girls restrooms. Common sense is not so common anymore. Silencing is real, and I have lots of examples of people who want to say something but are afraid to speak up. I'd like to ask if Senator Machaela Cavanaugh would get on the mic for a question.

**KELLY:** Senator, Senator Machaela Cavanaugh, would you yield?

**M. CAVANAUGH:** Yes.

**KAUTH:** Senator Cavanaugh, in debate on May 25 of 2023, you were talking about the YRTC timeline. And you were very upset. You were actually outraged. Do you remember that incident?

**M. CAVANAUGH:** I'm regularly outraged, so you'll have to be more specific.

**KAUTH:** OK. Very, very well. We were talking about girls were transported to Kearney, which is the boys campus.

**M. CAVANAUGH:** Oh, the shackling incident. Yes. To the boys campus, yes.

**KAUTH:** Correct. And your words were Kearney is a boys campus. They put the girls in the boys campus, where they had to follow specific guidelines, where the girls had to shower behind a glass wall, where there were male employees on the other side of the glass wall. There was zero thoughtfulness in anything that was done to these kids. Then you go upstairs to their room, big open room with just metal beds screwed to the ground, fluorescent lights, and a staffing station in the middle, and glass walls. Guess what's on the other side of that glass wall? The boys are on the other side.

**M. CAVANAUGH:** Yes.

**KAUTH:** Why were you so upset by that?

**M. CAVANAUGH:** I can see that you're trying to make a correlation where there isn't one. So, I think it's pretty clear why I was upset by that. And it has nothing to do with your bill today and what you're trying to accomplish. Because you're talking about people who identify and are going through a extensive medical process.

**KAUTH:** Thank, thank you, Senator Cavanaugh. Senator Machaela Cavanaugh rightly acknowledged, last year, the rights of youth to have sex-segregated private spaces for the youth in juvenile justice system. Youth in K-12 schools deserve the same rights to sex-based privacy in intimate spaces. Is Senator Day on the floor?

**KELLY:** Senator Day, are you available?

**KAUTH:** Available. I'll-- I can ask her. Well, I'll just-- I'll do it now. Tuesday, April 2, which seems like forever ago, but it was just this week. Senator Day commented that she remembered the first time she was ogled by a man and how upsetting it was. Yet, she thinks it's OK for boys to be able to be in girls locker rooms and bathrooms and have girls be able to be in boys locker rooms and bathrooms. Those are places where there is an expectation of privacy. No one should be subjected to the discomfort of having, having to get dressed--

**KELLY:** One minute.

**KAUTH:** --shower-- thank you, Mr. President-- or use the restroom, worrying about someone of the opposite sex in there with them. There have been a lot of comments about having the State Board of Education

issue rules about this problem. Board member Kirk Penner introduced a policy similar to LB575, and it was voted down 5-3. He was unable to get them to act. When Mr. Penner came in to testify at the hearing for LB575, he brought with him numerous statements from teachers who are too afraid to say anything and only commented based on the guarantee of anonymity. And I will start reading those at my next time on the mic. Thank you, Mr. President.

**KAUTH:** Thank you Senator Kauth. Mr. Clerk, for items.

**CLERK:** Thank you, Mr. President. Amendments to be printed from Senator Wayne to LB1344A, Senator McKinney to LB840; and a committee report concerning gubernatorial appointment to the Health Information Technology Board from the Health and Human Services Committee. That's all I have at this time.

**KELLY:** Thank you, Mr. Clerk. Senator Riepe, you're recognized to speak.

**RIEPE:** Thank you, Mr. President. And my fellow senators and those that are viewing on-- and those behind the glass, I do not-- I repeat, I do not want a biological boy showering with my biological granddaughter or yours, nor using a biological girls locker room. I want accommodation which is provided in the 2016 edition of the Nebraska Sports Activities Association Gender Participation Policy, which I shared last evening in hopes that individual senators might have a few moments that they would read through how specific this 2016 policy is. That said, all of the time I want to keep kindness in all of our voices and our actions. Transgender families I have visited in my search for the real truth told me they comply with school rules. These students who are transgender and their families do not seek attention, but rather accommodation to the life they have been given in this very complicated world. And thank God for his creation and the strength of families and friends who love these trans-- transgender students, and walk the walk with them every day, through every challenge, without the heavy hand of government. In my conversation with 5 school superintendents in my district or the adjacent districts, I am told by these superintendents that they work on a one-on-one basis with students and families. I understand these superintendents' goal is to provide education in a safe and secure environment of diversity, inclusion, and acceptance. Since its origination, the NSAA has steadfastly provided oversight and guidance to the State Board of Educations, local school boards, and superintendents. My fellow legislators, let's allow superintendents to work with their students

and families as they have in the past, all of the time ensuring workable solutions with fairness, safety, and respect for all. It appears the State Board of Education and some superintendents want the state to legislate what in their elected-- is their elected duty, their duty to provide leadership. It appears the State Board of Education fears the threat of legal consequences for the federal Department of Civil Rights regarding violations to Title IV, laws regarding sports and associated school funding. It appears the Nebraska Board of Education fears the federal Justice Department, along with the parents and the ACLU. It also appears the Nebraska Board of Education chooses to sidestep its leadership responsibility and place the financial liability on the state legislator and state taxpayers. Certainly not a profile in courage. I served on a local school board. The school board and every local school board demands local control. Local control, local control. This is, this is local until a tough decision-- a tough decision, such as library books or sports and spaces is up for leadership. At that point, they generally ask, when is the next teacher's appreciation lunch? Choosing not to act, not to lead, and simply to pass it on to the State Legislature. So today, we're spending time in a legislative session where we do not have time. We are seeking to create a problem that does not exist and doing the work of the State Board of Education. This morning, the Omaha World-Herald reports, and I quote: LB575 would restrict access to school bathrooms and locker rooms--

**KELLY:** One minute.

**RIEPE:** Thank you, sir-- on the basis of bio-- biological sex, and would add similar restrictions to most school sports teams. The measure would effectively ban transgender and non-binary youths. In the interest of time, I'm going to skip a little bit forward. My point is, everything that was pointed out in the Omaha World-Herald story is provided for in the NSA [SIC] policy, since 2016. LB575 also stipulates that biological members-- we get into the issues of chromosomes, X and Ys. How do you tell when you look at a child? Are they like shirt sizes? Are they an X-- a double X, or triple X, or what are they? And so, to clarify this will require commitment and time. And I don't know how they do it. I think I'm drawing near my end of my time. So I wanted to, to finish by simply saying, in my district-- and this was because we had a superintendent whose son committed suicide--

**KELLY:** That's your time. Thank you, Senator Riepe. Senator Meyer, you're recognized to speak.

**MEYER:** Thank you, Mr. President. Believe me, when I agreed to take this job, this was not in the, in the top 10 things that I really wanted to talk about. I came down here with the intent of trying to fix some of the broken tax problems that, that we have in Nebraska. And I agree with Senator Wendy DeBoer, that I wish-- I sure wish that would have been higher on everybody's priority than it was. But unfortunately, it wasn't. When we-- when the Revenue Committee came with LB388, which I thought was a very, very well-balanced, thought-out plan for solidly funding K-12 education in Nebraska-- to quote Senator Erdman, the people behind the glass, the people behind the glass trashed every part of that plan. And now, consequently, as we go forward, we have enough money to, to frontload the formula for a year, maybe 2. But then, we're going to get, get right back to where we were years ago. And my passion had always been about school funding being, being very, very important. This issue came up. I was on the Education Committee. It had been in committee. And I made the motion to bring it out of committee, because I thought it was only fair to Senator Kyl and the other senators to get it on the floor and have this, and have this discussion. I want to, I want to compliment all the senators that the discussion this morning has been very forthright, very honest, very from the heart. And, I think it's been a very good discussion. At the end of the day, I doubt any minds will be changed. But we will all go home to our families after the vote, and it'll be what it's going to be. On the NSAA participation, on Section C, page-- Section C, number 2. And this was written in 2016, when times were a little bit different in the cross-gender participation. Girls may participate on boys teams when there is no girls sport or comparable sport-- softball, baseball, or other things. The next line: Boys are not allowed to play girls sports or on girls teams, even when there is no corresponding boys sport. So they are openly admitting right there, that there is a huge difference. There's a biologically difference that can't be hidden. I had through-- my wife and I have 3 sons who were all-- on all the athletic teams that you are in, in a small town. Our oldest son, when he was an eighth grader, they had a fairly good basketball team. Our varsity girls team ended up being state champions in Class B. Well, according to NSAA rules, in order to prepare for the state tournament, they couldn't scrimmage to just scrimmage against better athletes from high school, but they could junior high. So the coach brought the-- his eighth grade boys team in, to scrimmage against the state champion Class B girls basketball team. And a few of us parents, just, just for the fun of it, went in to watch. It wasn't even close. The coach of the girls team had to continually stop play because the boys got every rebound. The boys

blocked every shot. The boys could dribble in a far superior manner. And this was against the state champion girls team. You just can't overestimate the differences between biological boys and biological girls. I thought Senator DeKay gave a wonderful--

**KELLY:** One minute.

**MEYER:** --description of his experience in 4,000 games. I can't believe he's that old-- of, of games that he's refereed, on all levels of, of basketball. And the differences are stark. There's been reference to Caitlin Clark this morning, a wonderful, wonderful girls athlete. I love watching her. She can get a shot off so fast it would make your, your head spin, but she's 6 foot tall. And as Senator Lowe said, against boys competition, it, it, it would not be near as much fun to watch. I love women's volleyball. And Nebraska volleyball is one of the treasured parts of our state. I can't imagine what Coach Cook would say if another Big Ten team brought in a trans male who was-- there have been reference to Zach Edey, the center on the Purdue basketball team-- a specimen like that to compete at that level.

**KELLY:** That's your time, Senator.

**MEYER:** Thank you.

**KELLY:** Thank you, Senator Meyer. Senator McKinney, you're recognized to speak.

**McKINNEY:** Thank you, Mr. President. I support the motion to indefinitely postpone and I oppose LB55 [SIC], primarily because the efforts to try to protect women or girl ath-- women athletes in, in the disguise of protection. And I, and I firmly think it's oppression. And, and oppression in the form of protection is-- it's just bad. And it's bad policy. And it's, you know, it's why the Gaza Strip is being bombed right now. And it's just sad. You know, I coach wrestling. I've coached girls wrestling. And I've seen girls pin high school boys. I've seen it happen in practice. I wrestled with a girl who was the first girl ever in the state of Nebraska to place in a high school wrestling tournament, and she had to wrestle boys. She placed second. She made it to the finals and was pinning boys. Like, this conversation is crazy. You all are literally trying to oppress people in the-- in, in, in-- under the guise of trying to protect. You gotta really think about what you're all doing. And it's very sad. And I'll yield the rest of my time to Merv-- Senator Riepe.

**KELLY:** Thank you, Senator McKinney. Senator Riepe, you have 3 minutes, 25 seconds.

**RIEPE:** Thank you, Mr. President. And thank you, Senator McKinney. I want to point out that Senator McKinney knows a lot about wrestling, as well, because he was a state-- or a champion wrestler with the UNO wrestling team. So, bully for you. I wanted to point out that many of the stipulations in the NSAA policy specifically says boys cannot participate in girls sports. Girls cannot participate in boys sports. Boys cannot use girls' locker rooms, bathrooms. Girls cannot use the-- anyone that's in a transgender position will be accommodated, just like we do on any other issues. And that is a matter of trying to be kind, if you will, and trying to make what can be difficult times workable. I also wanted to go a little bit, and I wasn't able to when I was on the mic before. But LB575, AM2029 [SIC], Section 3(1), it stipulates, and I quote, biological female means a person who was born with female anatomy and with 2 chromosomes in her cells. Biological male means a person who was born with male anatomy, with X and Y chromosomes in his cells. My question is how are the individual chromosomes determined, and who is financially responsible for determination of the gender status of each child? So I think that presents a dilemma that we do not understand. I also wanted to, to say a little bit more, is that these families impress me with the love and care and concern that they exhibit towards their child, just as we exhibit those that we love. They have a great responsibility, and they have dreams, and they have lives that they want to live. And we need to help them to live that. The grand scheme is not to take a shower with your daughter or my granddaughter. They face all the challenges that we face and many more. In my district, as I said briefly earlier, we had a superintendent who lost a son. Very traumatic for the community. He was a well-regarded and is a well-regarded leader.

**KELLY:** One minute.

**RIEPE:** But the slogan-- thank you, sir. The slogan around the community and in my district is hashtag be kind. And you'll see it on bumper stickers all around District 12. And I'd like to say that we live by that, at least we try. Thank you, Mr. Speaker. Thank you, to Senator Terrell.

**KELLY:** Thank you, Senator Riepe. Senator Brewer, you're recognized to speak.



**BREWER:** Thank you, Mr. President. Well, we're, we're eating time here on the filibuster. And I thought I would kind of share a little bit of the military side of this, that, I don't know, some may find interesting. For those of us that are old school, we came into the military in a time when the Vietnam War had just ended, and things were pretty segregated in many ways. But one of the things that many of us were fairly confident we wouldn't see is women doing some of the more physically demanding task, like, like being in the infantry, being a paratrooper. To be a paratrooper, you have to not only carry the weight of your ruck, which is normally going to be in that 50-70 pound range, you're also going to carry your main shoot and your spare chute, your rifle, your tactical gear, protective body armor. So you, you normally waddled to the plane weighing about an extra 100-120 pounds. Well, obviously, if you happen to weigh 120 pounds, that makes challenges that probably isn't fair to you, when the other people that are doing the very same task weigh 250 pounds and are carrying that 120 pounds. But life is funny, how you figure out the things that you misjudged, turned out different than you thought. My, my daughter's a paratrooper. I don't know what she weighs and she probably wouldn't like me to say it, but she's able to do it. And so, I was wrong. This summer, I had a chance to go and see the Army Mountain Warfare School, Jericho, Vermont-- a new facility, a beautiful facility. And it was a, a class, probably, 2/3 male, 1/3 female. The, the operations you do there-- well, it's mountain warfare. You're climbing on the side of a mountain. You're doing some things that are pretty much on the extreme ends of difficult, and the women did every bit as good as the men. Where I struggled was when it was all done, this beautiful new facility that cost millions of dollars, was designed-- now, keep this in mind. It's, it's Vermont. They tend to be a little more progressive, but it is 1 universal locker room/bathroom. And as much as I'd like to tell you that I could get over it, I couldn't get over it. Because out of respect, I could not be comfortable in that situation, and neither could the soldiers. So what they did is they just made the decision that they would allow the women soldiers to shower and, and use the restroom for the first hour. And then after that, they would break and switch out. Now, they consciously made this decision. But I think when you, when you try and put everyone in the same world, that there's points where it just isn't right. It isn't fair. It isn't comfortable for anyone. And I find it scary that we now design buildings so that there is no options, and that you have to figure out somehow how to manage that internally. And I know everyone says, well, I don't feel comfortable because I have a daughter or a granddaughter. You know, I think that there are issues there that I'm

concerned about, but I think it's everyone, just the, the culture in general in society that when you when you don't let people feel comfortable in that world they're in because of what you have done as far as physically designing buildings or something--

**KELLY:** One minute.

**BREWER:** Thank you, Mr. President. So I guess my point is that the concept of, of those who are male and those that are female, you can't get around in some cases. Some are as strong as others and can do everything the others do. But there's also that point of reasonable, comfort, and, and the ability to not feel wrong about the situation that you put yourself in. So I wanted to share that, about some of the things going on in the military and how difficult it is to, to see that and not have options. And I think it kind of applies to what we're talking about here today. So thank you, Mr. President.

**KELLY:** Thank you, Senator Brewer. Senator Conrad, you're recognized to speak.

**CONRAD:** Thank you so much, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. And it-- it's always an honor to follow my friend Senator Brewer on the mic. And I appreciate him sharing those perspectives and bringing in, of course, the military lens, which is instructive, wherein brave Americans who have stepped forward to serve their country, have a right to participate and have accommodations available, regardless of their gender identity or gender expression. And I think that is a model that, that perhaps should infuse this discussion. I also wanted to note just a few quick points before moving to some other matters. But again, there's been nothing put in the record yet, through the committee process, or the Ed Executive Session, or on floor debate today, identifying a single issue in Nebraska where there was a concern about privacy for students, under the current framework. There is no instance in the record to justify this discrim-- discrimination. We've heard about other states. We've heard about possible things that might happen in the future. We don't have anything in the record in regards to actual privacy violations or a lack of participation, which is the other stated state interest. With all due respect to my friend, Senator Kauth, we, we don't handle Attorney General's Opinions, which, again, are just that, Attorney General's Opinions, as he gave me the thumbs up or an assurance. That-- that's not an official action. And it's not available for discernment or analysis by the public or by members of this body, as we seek to do our job and work through complex legal policy and

practical issues with measures like LB575. Again, the Attorney General's Opinion is written to LB575 as introduced, not as amended by the Committee, nor by the amendment that Senator Kauth filed this morning. And let me walk you through that for a moment. The Attorney General's Opinion goes out of its way to say, you're not targeting trans kids. It's all based on chromosomes and gender, etcetera. But the committee action-- amendment actually undercuts that, by noting that it is about trans kids. And then the additional amendment that Senator Kauth filed today, says-- when I raised issues about medical diagnoses yesterday and how those were unfairly included in the committee, committee amendment, the committee and Senator Kauth rose up immediately and filed official action, saying, oh, no, no, no. We didn't mean to discriminate on a medical basis against kids with medical diagnosis, just trans kids, which actually proves the point and undercuts the Attorney General's Opinion, which is just that, an opinion. And now it's in the official record, so I thank Senator Kauth for filing that. Finally, let me be clear about something. Members who are supporting this measure have said, we have to have this in state law because there's inadequacies in the NSAA policy, or it's interpreted differently, or it might go away. It's not interpreted differently. You don't get to choose how you comply with the NSAA policy, number 1. Number 2, if you're worried it will go away, codify it. That's not what the State Board of Education thought to do. That's not the bill before you today. Because the effort at the State Board of Education and on the board today is an effort to exclude participation by trans kids. The NSAA policy is a framework for participation, to keep trans kids-- to give them an opportunity to participate, and to protect them, and to protect all athletes.

**KELLY:** One minute.

**CONRAD:** If your goal is to protect all kids, codify that. That's not what you're attempting to do at the State Board of Ed, nor here in this Legislature. So don't play, play fast and loose with the facts. They're on the record. We can have our own opinions. We can't have our own facts. So I want to make sure that that is clear. I probably won't have time to get into how we handle things at my school district and Lincoln Public Schools, which is in compliance with the NSAA policy, just as other school policies are. So schools already handle this on a local basis. It impacts a small amount of kids. If you're concerned about issues, codify and update the NSAA policy. Because that ensures that we have medical experts, sports experts, school experts, evaluating these issues on a thoughtful case-by-case basis, not issuing--.

**KELLY:** That's your time, Senator.

**CONRAD:** --blanket bans to participation for trans kids, as this measure does, and which is constitutionally--

**KELLY:** That's your time, Senator. Thank you, Senator Conrad. Senator Holdcroft, you're recognized to speak.

**HOLDCROFT:** Thank you, Mr. President. You know, I have 5 children-- 3 girls and 2 boys. The youngest is 33, so it's been a long time since I've really been to a track meet or a sporting event. But all 3 of my girls were very successful in high school sports. Number 2, she was-- she swam. Number 3, she was a softball player. And number 5, she was a track star. Now I'm using their numbers because I forget their names. Not really. I mean, I just would prefer not to-- for privacy reasons, not use their names. But number 5, I mean, she was-- held the record for the 100-yard dash for Gross High School for about 10 years. And I think she's still in about number 3. So they were excellent athletes. They were very successful. Number 2 and number 5 went on to having very successful Navy, Navy careers. And I credit the success that they had in sports in high school with, with the success they had in competing against men when they were in the Navy. So it's-- I think it would be very disappointing if they did not have the success that they had in high schools, because they would have had to have competed against boys. So this is a, a bit personal. But I thought I would go ahead and read some emails I received. And all these emails I received this morning, and all of them were, were addressed just to me. OK. So, there are a lot more that I have received that went out to everyone, but I'm not going to read those. I'm just going to read the, the ones that came to me and-- just to get to some input here, from the constituency. First one says, Senator Holdcroft, please support LB575. It is the opinion of the majority of Nebraskans that children should have clearly set spaces in which to express their sports acumen, without being drug down the rabbit hole of transsexual rights and sexual behavior. These subjects are not necessary in our children's lives, especially in education or sports. This issue is extremely important to Nebraskans, as are all issues protecting our youth from the continually progressive erosion of Nebraskans' family values and the safety of children, to just be children. Another one. Dear Senator Holdcroft, I am writing about voting yes for this bill-- subject was LB575-- to protect innocent children who do not need to be subject to this confusion or be frightened by someone who claims to be a girl, but is a boy and vice versa. There's enough controversy in our school system without making things worse. All children should be made to

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feel safe and get the education they deserve. Please keep our children in mind. Another one. Dear Senator Holdcroft, I am writing to encourage you to vote in favor of LB575. It is unfortunate that you should have to deliberate whether it is advisable to allow biological males and females access to bathrooms, showers, and dressing rooms of the opp-- opposing sex. Our young people are under attack by a very powerful, well-funded medical and pharmaceutical industry and by ideological zealots. You are their only hope. I am no longer young, but I can't imagine the terror I would feel as a female athlete if I were faced-- forced--

**KELLY:** One minute.

**HOLDCROFT:** Thank you, Mr. President-- if I were forced to shower with biological males. Finally, I don't believe allowing transgender athletes access to facilities and sports activities according to the gender they identify with is either healthy or helpful for them. For the good of all concerned, this bill needs to pass. Nebraska needs to take her place among the 25 other brave legislatures that have chosen to protect their young citizens. Thank you for your kind consideration and for giving me a voice in this matter. Can probably get one more in here. Dear Senator Holdcroft, please protect our children. All of them need this bill, which will protect young girls from the misogyny, misogyny of males competing in their sports and their privacy and vulnerable areas of bathrooms and locker rooms.

**KELLY:** That's your time, Senator.

**HOLDCROFT:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Holdcroft. Senator Ibach, you're recognized to speak.

**IBACH:** Thank you very much, Mr. Chairman. I stand in support of LB575, and I agree to disagree with those who do not support this bill. The dialogue is what reforce-- reinforces our purpose here today.z My approach is somewhat practical. And earlier, Senator Vargas alluded or spoke to the policy and standards of NSAA. And they are in place, as he mentioned. And my issue, which I was visiting with Senator Riepe about this morning, is on page 3 of Senator Riepe's handout from the NSAA. And Section 2.c reads that-- it's the application for participation. In, in the middle of that paragraph, it says, the member school, if the member school determines-- and that does give local support, just as Senator Riepe mentioned in his comments. But my

issue with that policy is that local control allows for neighboring schools to establish different standards for participation. And what this policy will-- what LB575 will allow is statewide guardrails for consistent, fair competition. And like Senator Holdcroft, I received a lot of emails this morning. And I was perusing through some of them, and one of them stood out to me. It's not from a constituent of mine. It's from a, a, a gal in Omaha. But it says, Senator, as a mother, grandmother, and a former Nebraska teacher-- and that speaks to me because I think teachers are probably the most valid folks to really identify and, and speak to the logic. She says, I beg you to support LB575. The logic of this bill to protect the young women in our state shouldn't need an explanation. It was my generation who fought for Title IX. And yet, here we are, fighting again for women to have a protected space, and the ability to excel. This one really stands out, because I am a mother, a grandmother, not a former teacher. Although I do teach junior achievement to kindergartners. But it speaks to me because I think her comments are exactly what we strive to protect in our state. With that, thank you, Mr. Speaker. I yield back.

**ARCH:** Senator Hunt, you are recognized to speak. And this is your last opportunity before your close.

**HUNT:** Thank you, Mr. President. I want to yield my time to Senator Wayne, but first, I want to read a letter into the record from a parent of a transgender youth, with a story that I relate to quite a bit. She says, it's hard enough to be a teenager, and trans kids already have extra stress figuring out the bathroom. As a mom who wants to keep my children safe, when my transgender son and I are in an unfamiliar place, I make him use the women's room with me, which is the bathroom that LB575 would require him to use. But more than one time, a small child will loudly ask their mom, why is there a boy in the girl's bathroom? Thankfully, none of these incidents have escalated to anything beyond my son's embarrassment. And the same thing often happens to him when he uses the girls bathroom at school. It's been a while since I was a teenager, but I can remember the feeling of mortification about the judgment of other kids. It's important to point out that trans children just want to pee. My son does not want to draw any attention to himself. This is sad. In fact, he tries very hard not to drink water during the day so that he doesn't have to use the bathroom at school, against his doctor's orders. He has diminished kidney function stemming from a childhood illness. With LB575, these stresses only increase. Trans kids don't want to be activists. They just want to finish their school year in peace and not relive the trauma of last session. LB575 solves no

problems, only creates new ones. That's the lived reality, the lived experience. And it would only get worse for this child, and dozens and dozens if not, you know, many more than that of other children across our state. Think about the real impact that these laws have on people's real lives. This isn't an intellectual exercise or a hypothetical argument to these people. Thank you, Mr. President. I'll yield my time to Senator Wayne.

**ARCH:** Senator Wayne, 3 minutes.

**WAYNE:** Thank you, Mr. President. Thank you, Senator Hunt. I just find it so ironic today that we're talking about protecting kids. But here's why-- it's really hard when we start writing bills. We need to be real careful about how we're writing bills. One, if you turn to page 3 of the amendment, it says any school official, etcetera, etcetera, shall not retaliate against any person for reporting a violation of this section or related rules, regulations, policies. So, if the trans kid reports, you can't remove him from the team. You can't do anything to them, because they're the person reporting. That's a fundamental flaw in here. But I heard Senator Ibach last night say that schools can go broke from doing this. I want to concentrate on that. Just because you remove the cause of action doesn't mean there's not a cause of action. When you pass legislation like this and you mandate that the schools do something and they fail to do something, they can be brought into a suit for a declaratory judgment. That's how it works. You're not following the law. You're using taxpayer's money not to follow the law. But guess what? It's not just going to be 1 lawsuit. It could be a class action suit for everybody who is impacted by going to the wrong restroom, or beating that-- having that culture that they feel like they're offended. Yes. So now we're going to increase more lawsuits. The reason why I say that is because we're not being consistent, Senator Holdcroft, Senator Bosn. Come hell or high water, we will pass bills and make sure school districts can be sued and do everything for this issue, but if a child is sexually assaulted, they can have no remedy, or somehow, go to federal court for a Title-- what-- Title IX or a 1983.

**KELLY:** One minute.

**WAYNE:** And what's interesting is 1983s have no caps, yet I haven't heard a school district go broke yet. Will Senator Kauth yield to a question?

**KELLY:** Senator Kauth, would you yield?

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**KAUTH:** Yes.

**WAYNE:** What is the enforcement mechanism if this bill were to pass?

**KAUTH:** Regarding?

**WAYNE:** How do you hold school districts accountable if they decide to ignore this statute if it passes?

**KAUTH:** Well, I would hope that they wouldn't. I would hope that they would abide by the law.

**WAYNE:** Ask, ask Senator Linehan about her bill with dyslexia, that still, they're not [INAUDIBLE]. How would you hold them accountable?

**KAUTH:** Would you--

**WAYNE:** If this is such an important issue, I want-- I need to know that answer. How are we going to hold school districts accountable if they don't follow the law?

**KAUTH:** Would you make recommendations for that?

**WAYNE:** Allow the right to sue. Allow the right to--

**KELLY:** That's your time, Senators.

**WAYNE:** Thank you.

**KAUTH:** So does that really mean-- thank you.

**KELLY:** Thank you, Senator Wayne and Kauth. Senator Dungan, you're recognized to speak.

**DUNGAN:** Thank you, Mr. President. And good after-- good-- yeah. Good afternoon, colleagues. I still rise in favor of the IPP and opposed to LB575. Senator Wayne is hitting on, I think, a very important point. And I had some other things I want to talk about. But what he's touching on is when bills get thrown together or cobbled together without any actual care being taken to determine how they work, you end up with bad law. And when you end up with bad law, you end up with litigation. And we need to ensure that the laws that we're passing here in Nebraska actually work. And so, I think that's a very good point. I hope that others continue to touch on that. I see he's up in the queue here shortly. So I'll talk about a couple of other things. But as always, Senator Wayne with, I think, very good points that he's



making. I wanted to go back and talk about what Senator Conrad was discussing a little bit, though, which is the enforcement, and how this actually works for schools. So during this interim session, in addition to speaking with members of the community, I also spent quite a bit of time speaking with school districts and administrators and teachers, asking them, how does this currently work? So if you have a trans student who, you know, identifies in a particular way or has some certain requirement, what do you do? And I talked to school administrators and teachers and coaches, both from Lincoln here, for, for my public schools, but also greater Nebraska. And I talked to folks from all around the state. And the answer that I got from each and every one of them was, we already have things in place to handle this. And what's fascinating about that is they understand what is actually necessary in order to effectuate the proper care for their students, because they're the ones talking to the child. They're the ones talking to the parents, and they know what those parents need. In one circumstance, it may be allowing them to utilize the, the teacher's bathroom, or it may be allowing them to use a separate locker room. But it depends on the particular circumstance. And not a single one of those administrators or teachers or coaches said to me, you know, we haven't figured it out yet. We'd really like the Nebraska Legislature to come in here and help us. That wasn't what actually helped them. But what they did ask me was how this would work. Because they'd read LB575, because it directly impacts them, and it directly impacts their day-to-day life. And the number 1 question that I got over and over is, how are we supposed to know? LB575 talks about chromosomes, and I think it splits into biological female, biological male. Those are not things that are necessarily disclosed to a school when you become a student. So the teachers and the nurses were asking me, do I have to perform a physical? Are we going to walk this kid into the nurse's office and perform a physical to find out what's going on? Because they said, I don't want to do that. And the parents said, we don't want that to happen. And I said, me either. But they asked, how do we know? Do they have to go and get medical records that are protected from a doctor's office in order to comply with the law, or is it simply on good faith? That's not how good law is written. Furthermore, they talked about what happens if somebody doesn't fall into these bifurcated categories. What if somebody doesn't conform to either XX or XY chromosomes? Because I don't know if many people know, but some people don't. We have intersexed individuals in our communities. We have people who don't fall into the binary of XX and XY. Are they completely excluded from using any locker room or using any bathroom? Can they not play a single sport? If you don't fit into

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that binary, it certainly seems-- so there are logistical problems with this bill. Outside of the logistical problems with the bill, there are legal problems. As I highlighted the first time on the mic, there are constitutional issues with this because it is, in fact, trying to further this arguably important governmental interest of discriminating against transgender kids. You can't tell me it's about privacy. Because currently, the schools have mechanisms in place to deal with privacy. They allow for students to have access to private bathrooms if that's what they want. Privacy is not the goal. The goal that's being furthered here is, in fact, discriminating against transgender kids. And the amendment that was put forth--

**KELLY:** One minute.

**DUNGAN:** Thank you, Mr. President-- specifies that that is the goal, because it makes it so certain transgender youth cannot be on any team. I understand we have an Attorney General's Opinion. It is just that. It is an opinion. It is advisory. It is non-binding. And colleagues, if you actually read that opinion, you will know that it is a smattering of case law across the entire country that has not agreed necessarily one way or another. But the very need for an opinion indicates that this is an issue that is unsettled, and the opinion goes out of its way to ignore cases around this country that have had-- that have found bills like this unconstitutional. It picks and chooses to make it sound more definitive when it is not. So do not put weight in that opinion, ladies and gentlemen, because it is not definitive. This is an unconstitutional law. It is an impracticable law, and it is a discriminatory law. And I would encourage you to IPP LB575. Thank you, Mr. President.

**KELLY:** Thank you, Senator Dungan. Senator Brandt, you're recognized to speak.

**BRANDT:** Thank you, Mr. President. This is the first time I have ever stood to speak on this issue, and I hope it's the last time. I-- yes. I want to thank Senators Meyer, Day, McKinney, and Brewer. And that cross-section of people, kind of, is where I'm at. It echoes a lot of the, the things that, that I would like to see addressed in this bill. I've got a lot of questions. And the first one, who's going to pay for these chromosome tests? I'm a person that wants to limit the financial responsibility of our schools. I don't want to see any more unfunded mandates. Do we need to test every girl? What's currently happening in women's sports is we're seeing girls juice with testosterone. So how does that enter into this? Who's going to enforce the penalties and

what are they? That's been addressed by Senator Dungan and Senator Wayne. What about multi-chromosome, intersex, which is way more common than you think. These are children born with both sets of sexual organs. And these children often are assigned, when they're very, very young to become either a male or a female. So are these kids going to be treated as trans kids for the rest of their life? Some of these kids don't even know that they were that. Their parents never told them that. Who's going to pay for the extra restrooms and lockers? I have 14 school districts. Some are very small, very strapped for cash. Is this another unfunded mandate from the state? Where has this ever happened in Nebraska schools? I've listened for a long time, and yet, I have to hear of, of one credible fact where this is a problem in Nebraska school districts. Give me the facts. So we can "what if" this thing to death. So where this applies to the students in the school, you have a basketball game that night, and you have a 19 year old trans kid walk in there. Does this apply to them or not? Does the school district have to make an exception for them? If the parent is trans and they're with children? You know, how does this work? Can they use the restroom? Our NSAA regs here are a leader in the nation. The state of Ohio and Utah used these regulations to build their own regulations. This is an excellent document. So what about this scenario? If we pass this bill and we've all been here, if you've got kids, you've been here. You take your young daughter to a football game, and mom stays home because she don't like football. And about the second quarter, guess who's got to go to the bathroom? What are you going to do? Technically, under this bill, it's illegal for that dad to take that girl into that restroom to use it. And more common situation is the mom's got the 3-year-old boy, and same situation. And I just, I just think this bill is not thought out enough to address this. So those 2 situations, if I'm, if I'm hearing Senator Wayne correctly, is a school board will get sued on a civil action. This bill is incomplete and it needs to be reworked. The unintended consequences, my fear is it will affect all female athletes. These NSA [SIC] rules--

**KELLY:** One minute.

**BRANDT:** --going into effect in 2016, my understanding, there have been less than 10 transgender kids apply, to participate in sports. So they work. My daughter, when she was in high school, was a decent athlete. And what she would say if she got to go against a boy is bring it. She's no wallflower. And I think it's a little demeaning what some of the people are saying in here, is we've got to protect these girls in high school. I think what we need to do is give them a lot more

confidence. So if the State Board of Education wants to step up and do their job and work with the NSAA, I think that's a proper place to do this. Thank you.

**KELLY:** Thank you, Senator Brandt. Senator Wayne, you're recognized to speak.

**WAYNE:** Thank you, Mr. President. Colleagues, I'm just going to say this real quick. Again, the vote on the board, when we get to it, has a cause of action and a right to sue. And I'm just gonna tell you this scenario again, and nobody has yet really got up and said underneath this bill, if that's incorrect-- because it's correct is the only way to read a bill. Person go-- kid goes into the, what we deem wrong bathroom, they can sue underneath what's on this board. Something happens to that same kid in the bathroom, they can't sue. Somebody has to make this make sense to me. As in my community, they say the math don't math. I'll yield the rest of my time to Senator Conrad.

**KELLY:** Thank you, Senator Wayne. Senator Conrad, you have 4 minutes, 15 seconds.

**CONRAD:** Thank you, Mr. President. Thank you, colleagues. Thank you to my friend, Senator Wayne. Senator Wayne is a cherished and valued colleague on this floor and on the Education Committee. We actually sit right next to each other, so we talk through a lot of these legal issues, from the posture as Education Committee members. And I remember during the hearing on this last year, there was discussion on the record about the enforceability and the private right of action, and what that meant, and how it interfaced or didn't inter-- interface with the State Tort Claims Act, or local liability that schools operate under that framework. And there weren't a lot of questions-- there weren't a lot of answers to those questions. So Senator Wayne's exactly right. If you look at it-- LB575 as introduced, on page 4, lines 9-14, it provides-- it purported to establish a private cause of action for injunctive relief, damages, and other remedies available to ensure enforcement. And then there was some additional language about that. If you go and look to the corresponding committee amendment, which was advanced yesterday, not subject to analysis, you will note that that cause of action has been stricken. However, I would point the body's attention, attention to the record, wherein if you look at the committee amendment on page three, lines 19 through 22, it does seem to indicate some murky language about non-retaliation. However, Senator Kauth just noted, in her exchange with Senator Wayne, that there is no enforcement mechanism for that purported non-retaliation

provision. Further, if you look at the committee amendment, on page 4, Section 6, there's also specifically a prohibition, a prohibition in the committee amendment that prevents any sort of complaint or investigation in regards to these issues. So not only did it strike the private right of action, but then it purports to have some sort of retaliation protection, but then it also prohibits an investigation. And that's very confusing on a lot of different levels, and shows that this issue, which is important and will extend perhaps liability to our school districts and to our administrators and taxpayers, hasn't even been thought out in terms of just basic legal concepts about what is the law. And you-- friends, we have an obligation under the constitution to write laws that are clear, that are non-ambiguous, that are not vague. That goes to the heart of equal protection. That goes to the heart of due process. The definitions are conflicting and vague. The provisions regarding enforcement--

**KELLY:** One minute.

**CONRAD:** --are conflicting, vague, and unclear. Those are serious legal issues. They were not addressed in the Attorney General's Opinion in relation to LB575 as written, or amended, or with the additional amendment on the board. That's problematic, and I'm glad Senator Wayne brought that forward. And I wanted to draw the colleague's attention to those issues, and insert those into the record. If this is a serious and significant issue in terms of personal privacy and protection and participation, why is there no enforcement mechanism, Senator Kauth? Thank you.

**KELLY:** Thank you, Senator Conrad. Senator John Cavanaugh, you're recognized to speak.

**J. CAVANAUGH:** Thank you, Mr. President. And I appreciate what Senator Conrad and Senator Wayne and Senator Brandt have just articulated. And I, I agree that there's a lot of just problems with how this bill would actually work. And it causes a lot of problems for those local entities, the school districts, and how they would actually implement it. And Senator Brandt is 100% right, unfunded mandate to the schools, and how they would enforce this. So I have other problems with the bill, but I did want to take, I guess-- well, I rise in support of the IPP-- take, I guess, in-- a, a moment. I got a letter from a kid who plays sports with my kids, so I'm going to try and get through it. Dear Senators, I play soccer, basketball, and tennis. After I finish my homework, I go outside to kick the ball around or shoot hoops, if I don't have to practice that day. Sports are a huge part of my life,

and I really don't want it to be taken away from me. The Dick's Sporting Goods ad says teams change people, fields change towns, seasons change futures, coaches change character, and sports change lives. Do people really want to take away-- take all this away from, from trans people, just because we're different? Some might not want trans kids on sports teams, but the truth is we're just kids playing games with other kids. A senator once told my family in a meeting, adults need to make adult decisions. I'll just point out, that was not me. Well, not letting kids play on sports teams just because they are trans, sure seems like a bully decision to me. Think about all the people this will affect, and please let us play. Thank you. Will. So, Will is a kid I know, who plays sports with my kids. I don't think my kids know that Will is trans. And it doesn't matter. I worry about kids like Will, who this bill will upend their lives. And I would say, I think that there are a lot of folks in here who are trying to do the right thing. And I appreciate the diligence and the effort put in by senators, like Senator Riepe and Senator Brandt, to look at this critically, to talk with folks, and to ask those questions. I had a very good conversation with Senator DeKay earlier, about his comments about NSAA guidelines. And he had said he thought there should be a sports medicine doctor as part of that panel of 4 individuals. And he thought that they should take into consideration the, the difference in size, and body mass, and things. And we had a conversation where I pointed out to him that the rule clearly requires a consideration of those. I'll just read it to you. Transgender female student athletes, they need to be-- have a testing and physical-- medical examination and testing, physiological testing-- that transgender female student athletes does not possess physical, bone structure, muscle mass, and/or testosterone hormonal levels, etcetera, or physiological advantages over genetic females of the same age group. What it's saying there, that's-- that is one of the requirements before kids are allowed to compete with each other, that there isn't some sort of disproportionate--

**KELLY:** One minute.

**J. CAVANAUGH:** Thank you, Mr. President. We had a good conversation about that. But what I would say is, Senator DeKay and others, when you suggest that we add someone else to this panel or we had other considerations, you are saying, these kids should be allowed to play. We're just a little concerned about what criteria is being used. This bill doesn't allow that. This bill is a total ban on trans kids competing because they're trans. And that's the problem here. Kids should be able to compete-- to play. Kids should be able to be kids.

And we're gonna hurt kids if we pass this bill. So there is no state interest was the other thing I want to talk about. We have this in place and it works. As Senator Brandt, I think, said, no more than 10 people in 8 years have even applied for this. And there's a very rigorous process that it goes through. If you want to beef up the process, we can talk to NSAA about other things they should add into it. But that is not this bill, and that's not what we're doing here. So again, I support the IPP.

**KELLY:** That's your time, Senator.

**J. CAVANAUGH:** Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Blood, you're recognized to speak.

**BLOOD:** Thank you, Mr. President. Fellow senators, friends all, I still stand in support of the IPP motion. And I just want to review a couple of things we've talked about. I am in full support of much of what's been said on the, the floor. This, this bill is not written in a way that it should pass, in any fashion. And to use the fact that we don't want a patchwork of policy across Nebraska amongst our schools? You know, we had this discussion when you passed the bill for guns multiple times over-- throughout the last 8 years. You're like, we don't care if we have a patchwork of laws across the United States. We want our guns. And you passed that. No question. Now we're talking about local control. You know better than local control and the people that were elected at each school. And so you're going to go ahead and, again, be a nanny government, and tell them how they should run their schools. So I do question the dichotomy that's been on the floor today and some of the things that have been said. But I wanted to talk real briefly. Senator Sanders and I know a fireperson from Bellevue. Schuster is the last name. I'm sure-- that was-- he was there when Senator Sanders was mayor. And I'm going to read this to you. I handed this out. Allicyn Schuster was born October 10, 1999, in Papillion, Nebraska. She graduated from Papillion La Vista High School in 2017, and was currently in her second-year apprenticeship for Local 22 Electricians Union. She had a celebrated wrestling career. She wrestled for 11 years. She was an 8-time All-American and Olympic Cadet Wrestling World Team member. She was a coach at Papillion La Vista High School coaching the Monarchs, and Omaha Skutt High School coaching the SkyHawks. She was an inspiration for many young female wrestlers throughout the United States. Unfortunately, this is from her obituary, because she's no longer with us. She did commit suicide.



The reason I am talking about her is because for those of us that knew her-- and I actually have two quilts in my living room that her grandmother made for one of her last fundraisers, when she was trying to raise money to go to a competition. And it was always made clear that whenever she beat a male, she would get harassed by the parents of the male. We're having these discussions about how guys are more powerful. Well, no. Do you remember, for those of you in my age bracket, when they used to say girls are bad at math and science? No. No, we're not. You just told us we were. You know, this bill, when you really narrow it down, is to 1 thing. And it's to discriminate against trans kids, against children, children who can't defend themselves against whatever this movement is. I find that sad. And I find it to be something that I don't want Nebraska to be known for. The Nebraska I grew up in, we had space for everybody, no matter who you are, where you live, what you look like, or how you identify. I remember growing up in a small community that had transgendered people, and never did I remember ever a negative word about that from anybody. I didn't see them being bullied. I didn't see them being made fun of. It was live and let live. And that's how Nebraska used to be. Because they weren't transgendered, they were Nebraskans that happened to be transgendered.

**KELLY:** One minute.

**BLOOD:** They were Nebraskans first. Now we're doing this weird thing where we want to take demographics that we don't agree with, make it into something scary, which is beyond anything I can wrap my brain around, in hopes that we can keep this 25% demographic that votes for certain people in this body angry, before the young people rise up in the next 5-10 years and will no longer vote for people that do things like this. Because that is exactly why this type of legislation is going around the country, because they know what's next, and this is not it. Thank you, Mr. President.

**KELLY:** Thank you, Senator Blood. Senator Vargas, you're recognized to speak.

**VARGAS:** Thank you very much. I just wanted to take a second and thank everyone for this very, I think, substantive debate. And part of the reason I want to take a second to thank people is because-- especially what I've been hearing recently is a debate on the policy or the language consequences, enforcement, how things are going to be put into effect. I think this is what makes us different. I've always thought this is what makes us different. The negotiations and the work that's happened on bills, sometimes bills that move forward, sometimes



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bills that never move forward, and sometimes things that, that, that find a pathway forward. We tend to ask ourselves, how is this going to work? So listening to, you know, Senator Brandt and Senator Riepe talk about the intricacies of enforcement, talking about the policies that currently exist, I just want to thank so many people that are, that are curious and asking those questions. Because that is actually what defines us as separate from other legislatures. And I think that's indicative of the growth that we've had, even from last year to this year. And I just also want to thank personally, because when I think about my daughter and I think about individuals that are in schools that are listening to this debate, they want to know that we're thinking about this as pragmatic legislators. They also want to know we're thinking about it as pragmatic individuals. And we are not-- and we're, and we're also learning from the lessons in other states. There's an article with the title: Enforcement unclear as Missouri approaches transgender athlete restrictions. Missouri passed a very similar law. And in passing that law-- this article covered, upon returning to the classroom around Missouri, coming into, to school time, these new laws went into effect. But state officials were unclear on how they would enforce restrictions on transgender athletes. Neither the Department of Elementary and Secondary Education nor the Missouri State High School Activities Association-- our equivalent of the SS-- NSAA-- they didn't know how to administer it, let alone enforce it. And then, hanging in the balance in that state were the fate of similarly, 10 student athletes. In going through this, their equivalent of the NSAA also had a policy on the books. And when it was put into effect, they were asked to enforce, and there was a lack of clarity. And the legislators in that body, many of whom had voted for it, confessed that they could have and should have thought of a more practical way of how do we enforce it, and whether or not the actual policies that existed with the School Activities Association equivalent actually already solved some of the issues that people were concerned about. That's why I'm, I'm really thankful that a lot of the questions that I've heard are about the practicalities on we don't try to pass legislation unless there's-- it's solving something, unless it's operational, unless it's creating a-- reducing issues, addressing--

**KELLY:** One minute.

**VARGAS:** --inefficiency, addressing a real problem. And in fact, what we heard from Missouri is that it actually created more problems. When administrators and enforcement mechanisms and individuals that are supposed to be leading this are unclear of how to do it, there were

regrets. And this is too important, too personal to not consider those issues. We should be learning from what other legislators in other states-- their reflections on this issue. We should be taking pause, just like many senators have shared their, their perspective on this on why they're concerned. It's the reason why I'm against LB575. I'm against it both because I think this is targeting LGBTQ youth and trans youth, but as a practical, pragmatic legislator, I'm also against it because I'm not seeing--

**KELLY:** That's your time, Senator.

**VARGAS:** --what we typically expect in other legislation. Thank you.

**KELLY:** Thank you, Senator Vargas. Senator Machaela Cavanaugh, you're recognized to speak.

**M. CAVANAUGH:** Thank you, Mr. President. I am finding myself short on things to say at this point. This has been happening for over a year and a half. And we've heard from parents, we've heard from educators, we've seen the guidelines. We have not heard any examples of the concerns happening here in Nebraska. I haven't heard a single example of an inappropriate interaction between a transgender child and one that identifies their gender assigned at birth. I've heard lovely stories about children, like my brother's child's friend, that just play together, and treat each other with kindness and love and respect, and just live their lives. I've never had a single person give me an example of this being a negative thing that has happened in Nebraska. Ever. I've had people tell me that they're concerned about it, because they saw it on the news or the internet. And when I am confronted with that, I say, OK, but where is this happening in Nebraska? Because we clearly have a policy in place. Our education system has a policy in place to protect both children that identify as their gender assigned at birth and children who are transgendered. We have policies for it. And it is a very few number of children. I think it was Senator Brandt that said less than 10 in the last several years in the entire state. So what are we doing? We're forcing essentially teenagers who identify as girls-- that's what this is about. It's about gender-assigned boy identifies as a girl and wants to go to the bathroom, and doesn't want to get a urinary tract infection or have dehydration. They just want to go pee. And we use the leverage of this outrage of sports as the premise of this argument. But the reality is, more of the kids that we are talking about are the kids that are going into the bathroom. And I can tell you, as a parent, if children are exposing their genitals-- if teens are exposing their genitals in the

bathroom to each other, I don't care what their genders are or what they identify as, that would be an issue. And it would be an issue that would need to be addressed. But that's not what we're talking about. We're talking about transgendered girls using the bathroom, when you know full well that if you don't allow them to use that bathroom, what's actually going to happen is they're going to have the crap beat out of them in the boys' room. That's what's going to happen. We're not protecting anyone--

**KELLY:** One minute.

**M. CAVANAUGH:** --with this bill. We are actually endangering the safety and lives of transgendered girls. They just want a place to go pee while they're at school. That's it. And this bill takes that away from them. So I hope that you all will look clearly at the guidelines that Senator Riepe sent out and reflect upon what this is about. You don't have to like trans people, but you don't have to hurt them either. And you are loved. And you are worth fighting for. And I will always fight for you. Thank you, Mr. President.

**KELLY:** Thank you, Senator Cavanaugh. Senator Bostelman, you're recognized to speak.

**BOSTELMAN:** Thank you, Mr. President. I stand opposed to the IPP motion and support the underlying bill, LB575. And one thing Senator Riepe said a little bit ago, on NSAA-- I'll talk with him when I get off the mic here. But I do have the form that's from their website, I believe. It's the Nebraska-- NSAA's Transgender Student Participation Application Form, for sports and that. So I'm-- I'll visit with him so I understand what he was talking about before, on, on this specific issue. I'll yield the rest of my time to Senator Kauth.

**KELLY:** Thank you, Senator Bostelman. Senator Kauth, you have 4 minutes, 25 seconds.

**KAUTH:** Thank you, Mr. President. I agree with Senator Machaela Cavanaugh, but no one should be getting beat up in any bathroom. The fact that she thinks that a boy who identifies as a girl is going to get beat up in the boys' restroom, says more about the culture of the school than anything. So I had talked a little bit before, about Kirk Penner, the-- on the Board of Education. When he came and testified-- I want to get back to this, this talk about silencing-- why people aren't hearing about this, why people aren't talking about it. They are very, very afraid to come out and say anything. So, Kirk verified

that each one of these people is a teacher. This person re-- replied to him, teachers are not able to safely express their opinions anymore about much of anything. Their thoughts and feelings aren't really taken into consideration. In 1 current situation, there's a young man who identifies as a female using the girls' restroom. Students and parents have not been made aware of the situation. Of course, there may be some process in place that we as teachers are unaware of, that allows this sort of thing by law. But right now, a boy is using the girls' restroom at will. I would want to be aware of this as a parent of daughters. Another teacher said, sports-- what this has done to women's sports is shameful. America fought so hard to get to where we were with women's sports. Now, we have negated all of that forward movement with the decision to let trans women compete. Women and men are different in a multitude of ways. Just because one identifies as a man does not mean that their muscle tone and their physical prowess revert to that of a female. It's unfair and wrong to think otherwise. Teachers can't voice these concerns without being labeled by the administration. Think about that. In your workplace, you are not allowed to voice your concerns. In most cases, they would be reprimanded and put on an improvement plan of some kind, or one might lose their job entirely. It's such a difficult and disheartening time to be an educator. The next one. I'm writing this note in support of LB575. As an educator and a coach, I have come under attack for maintaining traditional policies and procedures for locker rooms. With allowing transitioning or transgender students inside locker rooms of biological males or females, I fear that not only my job could be compromised, but I also fear for the students that identify with their biological sex. With my title as educator, I worry about what may happen if I don't adhere to this muddy procedure. As someone who's called upon to monitor and maintain safety in the locker room for all students, while I have to compromise my values, professional ethics, and possibly even my teaching certificate, to adhere to specific teenagers that are transitioning or students that identify as transgender. Without this bill, I'm aware of many educators that are considering leaving education in the coming years because of these types of, of circumstances. It is very concerning that a teacher is worried about losing their certifications as a coach, losing their teacher certification because they are afraid. I'm write-- next one. I'm writing today in support of LB575 because I see the need to protect--

**KELLY:** One minute.

**KAUTH:** Thank you, Mr. President. I see the need to protect students and the need to protect teachers. I'm an educator, the spouse of an educator, and a parent of children who are in the public school system. I believe that, without a bill like this in place, we are not doing our duty to protect students. Students should have a comfortable and safe environment at school when it comes to changing for physical education or sports, as well as restroom usage. I also believe a bill like this is necessary to protect educators. Right now, without a policy like this in place, you're asking teachers to set themselves up daily to possibly be exposed, accused, and attacked for decisions that they are not in charge of. My opinion on this has nothing to do with whether or not we should affirm gender identity, but simply with the right practices to keep all safe in this situation. I know that the other side of any opposition to this bill will be taken as an attack on gender identity affirmation, but the point of this is not to tell students they can or cannot identify--

**KELLY:** That's your time, Senator.

**KAUTH:** Thank you.

**KELLY:** Thank you, Senator Kauth. Senator Lippincott, you're recognized to speak.

**LIPPINCOTT:** Thank you, sir. I support LB575. An article published this past January, 2024, by the Alliance Defending Freedom reads as follows: Candidate-- collegiate athlete Lia Thomas, a male swimmer for the University of Pennsylvania, was applauded after winning the NCAA Women's Championship in the 500-yard freestyle in March of 2022. CeCe Telfer, a male runner, was similarly commended after winning the NCAA Division II national championship in women's 400-meter hurdles in 2019. And the media cheered as Laurel Hubbard, a 43-year-old male weightlifter from New Zealand, became the first athlete to compete against the opposite sex in the Olympics during the 2021 Tokyo Games. You'll notice that all these athletes have 1 thing in common: they're all males competing in women's sports. It's not often that you hear of a controversy involving female athletes competing in men's sports. And the reason for that is simple and obvious: males have a physical advantage over females in athletics. Now, some activists would claim that males who receive cross-sex hormones and artificially lower their testosterone levels should be allowed to compete against females. But recent studies have proven that these methods do not negate the performance gap between the sexes. Forcing females to compete against males strips them of their right to a fair playing field. An expert

report by Dr. Gregory A. Brown, an exercise science professor at the University of Nebraska, sheds some light on how policies that allow men to compete against women harm female athletes. Dr. Brown cites research showing that allowing males to compete against female athletes in track and field could allow many who would not be considered top tier male performers to replace the world's most skilled female athletes on the podium. For instance, in 2017 alone, well over 5,000 males, including some under 18 years old, ran 400-meter times that were faster than the personal best of U.S. Olympic gold medalists Sanya Richards-Ross and Allyson Felix. For example, despite greater body weight, males have a roughly 15-20% jumping advantage over women. When examining the vertical jump needed in volleyball, one study found that on average, male players jumped 50% higher during an attack, quote unquote, at the net than did female players. But Dr. Brown's research showed that if female athletes are forced to compete against males, even those Olympians would not have a fair chance to compete. And young girls would never get the opportunity to fulfill their dreams, no matter how hard they work. But before the 1970s, the concept of women's sports was not wide--widespread at all. In fact, sporting events for girls were almost nonexistent. During the 1971-72 school year, only 7% of high school athletes were girls. In the 2010-2011 school year, by comparison, girls made up over 41% of all high school athletes.

**KELLY:** One minute.

**LIPPINCOTT:** And what was the difference? Congress passed Title IX. Thank you, sir.

**KELLY:** Thank you, Senator Lippincott. Senator Walz, you're recognized to speak.

**WALZ:** Thank you, Mr. President. You know, I have to agree with Senator Vargas. We are having a really, really good conversation, very constructive and very thoughtful. And I appreciate all the comments from my colleagues. I learn so much from you every day, and I think that is what I'm going to miss most of all about serving in Nebraska and serving in the Unicameral. I have sat on the Education Committee for the past 8 years, and we have worked so hard on so many important issues. We've worked on scholarship opportunities, career tech opportunities for kids, curriculum, the teacher shortage, how do we keep our schools safe from violent acts. And I'm not too sure how this bill helps us put more special education teachers in the classroom, or how it helps our kids learn how to read. Senator Hardin, you had a

couple of sayings that I, I had actually never heard before, and I kind of wish I, I would have heard those when I was raising my kids. I think you said something like, you can't put sunscreen on after the sunburn. And I wish I would have learned that, actually. And maybe-- I'm not sure. I think you said, you don't let out the cattle before you open the gate. I think that's what it was. But regardless, your point was even though this isn't a big issue in Nebraska now, we just have to stay ahead of it. Colleagues, we are ahead of it. We're already ahead of it. We have good policies and procedures in place. Nebraska has done their due diligence. The NSAA already created thoughtful, intentional procedures regarding gender-based participation in sporting events, as well as policies on hormone supplication and suppression, and guidelines on the use of restrooms and locker rooms. Again, we already have effective policy in place. We've had it in the past. We have it today. And it will be effective in the future. Senator DeBoer asked a question why we, as legislators, from a variety of backgrounds-- we have farmers, we have bankers, we have teachers, we have realtors, we have lawyers, and bankers again. Why would we try to create and pass policy when we already have sound policy established by experts, including physicians, educators, mental health practitioners, and other educated stakeholders? I've heard a couple concerns about our schools not being consistent. And as we all know, every school is different. The facilities are different. The issues are different. The communities are different. Every school is different. And every school should have the ability to implement policies that best fit their district. So yes, there may be some differences, but the guidelines that they have are consistent. The guidelines we have already in place, and we follow [INAUDIBLE] followed by the NSAA--

**KELLY:** One minute.

**WALZ:** --are consistent. I don't think anyone disagrees with the policies delivered by the NSA-- NSAA. I haven't heard any disagreement on that. In fact, I think everyone agrees with those policies. We all have an agreement today that those policies are valid, they're well-founded, they're relevant, they're thoughtful, and they have been effective. We agree on those policies. Let's codify those policies that we already have in place, and let's go to work on the issues: putting teachers in classrooms, keeping our kids safe from violent acts, making sure our kids can read, recruiting teachers into special education classes. Let's work on those issues. We already have policies in place that are effective and that work. Thank you, Mr. President.



**KELLY:** Thank you, Senator Walz. Senator Murman, you're recognized to speak.

**MURMAN:** Thank you, Mr. Lieutenant Governor. I'm a tremendous sports fan. I'd like to talk about sports all day. Just quickly, I want to address what Senator Walz just said, in the testimony and committee, to-- I don't think everyone-- or I know everyone was not in agree-- in agreement with the NSAA policy. My family-- extended family is very involved in athletics. I probably attended as many athletic events as probably about anybody in this room. My one daughter is in a wheelchair, totally, profoundly disabled, but my other 2 kids were elite athletes. My oldest daughter, when she graduated high school, was a quarter inch from being second all-time in the state in pole vault. She had offers from colleges all over the country. Just some of them that I can remember: Penn State, Oklahoma, UCLA, USC, Nebraska, Kansas State, and many others. But fortunately, she chose Nebraska. We wanted to keep her close to home. But if, you know, there had been a transgender athlete that was competing in high school sports that was applying for a scholarship at one of those colleges that she really wanted to go to and that athlete would have beat her out, she would have been just devastated. Because, you know, that was all-important to her at that time. So there are transgenders that, even now, are taking away opportunities for female athletes. But more importantly, I wanted to address the spaces part of it, because that hasn't been talked to as much as the athletes' side of it. We've heard claims that this bill is some kind of partisan national agenda bill, based on a fake group based on TikTok and social media national outrage. But none of this is true. Student after student testified in front of the Education Committee in support of this bill for other reasons. And one of those students said, never would I feel safe sharing a locker room with males and never would I want my females-- want my teammates or fellow female athletes to have such discomfort forced upon them. With an already increasing dropout rate of girls participating in sports, I feel that allowing males in locker rooms would only further discourage female sports participation. I feel fortunate to have grown up in a safe athletic environment for females, and can only hope for the same right here at home for years to come. This is a bill fundamentally about female athletes, so per-- perhaps, we often-- ought to listen to them. And she isn't alone. Another young woman at the committee hearing said this. We had girls on our sports teams who relied on the school's facilities at times, specifically the female locker rooms, because they didn't have the luxury of taking care of their personal hygiene at home. It's hard for me to consider what high school would



have looked like for those girls, some of my best friends, had they not been able to find solace and safety within the walls of our school locker room. I hope that all of you are able to resonate with your own athletic experiences from the past, which were due in part to the level playing field you competed on, the locker rooms that you got ready in. Maybe consider the safety and security that we have felt within sport when considering what the biological females behind us will feel. End quote. Once again, we should listen to our young women athletes' opinion. She is concerned about safety.

**KELLY:** One minute.

**MURMAN:** Thank you. And she is concerned about security. Another student said in the hearing, I believe high school locker rooms and sporting teams are a tense and nerve-wracking enough environment the way that it is, and that allowing individuals of the opposite sex into these locker rooms and onto these sports teams will just add to that problem. End quote. The student isn't asking for a lot. She's asking for a safe and comfortable environment. And just one more student. First off, most high school girls, girls are incredibly uncomfortable in their bodies, and the locker room can be a scary place for them. But imagine the uncomfortableness if they knew the boy-- boys were in there, as well. For me, the locker room is a safe place where I can laugh with my teammates and get my bearings between school and practice. It is a place to let down after a long day. So, this isn't a national media agenda. It's happening in Nebraska schools. There are some transgender--

**KELLY:** That's your time, Senator.

**MURMAN:** --athletes participating. Thank you, Mr.--

**KELLY:** Thank you, Senator Murman. Senator Day, you're recognized to speak.

**DAY:** Thank you, Mr. President. And good afternoon, colleagues. This is going to be my last time on the mic today. A couple things that I just wanted to talk about. No, I was not on the floor earlier, when Senator Kauth was asking questions to me directly. She asked something about how would I feel if I was competing against men. And I have to tell her that I have competed against men, and I have beat them. And I would challenge any of the men in this room to meet me at the barbell sometime. So-- but let's be really clear about what we're talking about today. We're talking about children. Children. We're talking

about transgender kids. That's what we're talking about. In relation to what Senator Murman was just saying, the NSAA already has policies in place for transgender students to use locker rooms and bathrooms. It already has it. It's in the handout that was given to all of you already. Please read the materials that are given to you. There are already policies in place to address the things that we are talking about. We do not need this bill. I wanted to read a letter that I was given today. Senator John Cavanaugh read a letter from Will, who is a young transgender student that his kids play sports with. And I have a letter from Ava, who is Will's older sister. I am here opposing LB575. I am on the JV swim team at my school, and it is one of the, one of the most supportive and embracing communities I have been in. Sports are good for everyone. They allow you to be a part of a group and stay physically fit. Some uneducated people are worried about trans kids in sports because of the locker rooms. They seem to believe that trans kids are a threat to others there. Do any of you realize that this bill will still allow male coaches into female locker rooms, and vice versa? Frankly, I am much more afraid of being sexually assaulted by a male coach than I am any of my trans classmates. If it's the locker rooms you're worried about, there are ways to fix that without excluding trans youth from sports. My little brother is trans. He participates in multiple sports, including soccer and basketball. All his teammates accept him for who he is. So why can't you? Trans people should be allowed to participate in sports just as any other person is allowed. Why should they be denied the ability to be a part of a team and the opportunity to do physical fitness with people who have the same interests as them? Would any of you like to be the one to tell my 10-year-old brother that he can't play basketball with his friends anymore, because you all decided that he was born into the wrong body? Attempted suicide is prevalent, and I just cannot imagine losing my little brother because you can't see past your own bigotry. Suicides are preventable among trans youth, and to pass bills like LB575 would to-- would be to do the absolute opposite. Please vote against LB575. Last night, I was talking to my 11-year-old son, Noah, before we all went to bed. And I just wanted to get an 11-year-old's perspective on what sports has done for him. And I, I, I asked him the top 3 things that he feels like he's gotten from sports. Because I-- what I want you to remember, the crux of this bill is eliminating the opportunity for kids to participate in sports. He says the number 1 thing he's learned is hard work. He learned that it's hard. That's what he said. He said, mom, it's hard. And I was like, OK. Number 2, he said he learned that it feels good to accomplish something for your team. When you score a goal, it makes you feel good. And number 3, he said the

best thing is been making friends and feeling like he belongs. I know that there's a couple of kids that he goes to school with. Noah loves soccer.

**KELLY:** One minute.

**DAY:** And he has a friend named Wajid [PHONETIC], who also plays soccer and also loves Fortnite. So they spend a lot of time playing both Fortnite and soccer together. And I can truly tell you that, for me, being able to participate in athletics as a kid, and now, as an adult, has been one of the most life-transforming experiences I've ever had. And to rob kids of that experience simply because of who they are, I believe is unconscionable. And I don't want to do that to the kids of Nebraska. I will yield the rest of my time. Thank you, Mr. President.

**KELLY:** Thank you, Senator Day. Senator Dorn, you're recognized to speak.

**DORN:** Thank you, Mr. Lieutenant Governor. And I really want to thank the body. I want to thank all the colleagues for the conversation they're having on this. I think this is part of the reason why we sometimes come up here, so that we can have-- from both aspects, both sides, we can have the conversation on a bill, and addressing the bill and, and different parts of it and different aspects of it. Being a fiscal person, I, I-- there were several things brought up about the cost, and I don't know how this is going to affect schools. But I went and looked at the fiscal note from last year, and I, I just want to read a couple lines from it. It says LB575 creates the Sports and Space Act. Each school will designate all group bathrooms and locker rooms within each school building for use by either biological females only or by biological males only. And then here's something for Senator Wayne, what he's been talking about. All civil actions brought under the Sports and Space Act must be initiated within 2 years after the harm occurred. Persons or organizations who prevail on a claim will be entitled to monetary damages, including for any physiological, emotional, and physical harm suffered, reasonable attorney fees and cost, and any other appropriate relief. And then the very last line, and this is for Nebraska, state budget. It says no fiscal impact. So, I just wanted to bring that up. Interested a little bit in some of what people have said about cost. I'm not sure this is a correct fiscal note, but this was the one that came out with the bill last year, or whatever. So that's the one we have for now. So-- and I will yield the rest of my-- I-- by the way, I am-- I think most people know

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I am in support of LB575 and opposed to the postponement motion or whatever. I yield the rest of my time to Senator Kauth.

**KELLY:** Thank you, Senator Dorn. Senate Kauth, you have 3 minutes, five seconds.

**KAUTH:** Thank you, Mr. President. And thank you, Senator Dorn, I appreciate it. Always appreciate your fiscal responsibility. To that end, there are, there are several comments. I want to try to find them real quick. So, Senator Brandt, you had brought up whether or not they would have to build new facilities. There's nothing that says they have to build new facilities. We would encourage the schools-- and that's why we kept it broad, so that they could do what works best for them. So if they need to say we have an, an extra teacher's bathroom, or at-- some schools have said, this particular bathroom is labeled unisex. They can make that decision based on each individual building. So I want to make sure we're not-- we don't want to put unfunded mandates on that. And there's also, as far as, you know, the chromosome testing, this is being made much more complicated than it needs to. Sports-- anybody who plays sports does a sports physical. A doctor attestation saying biological male, biological female, or a birth certificate is all you would need. So I, I don't want people thinking that this is going to be an intensive thing for every student. Let's see, Senator Dungan made a, a comment about when bills are cobbled together without figuring out how they work, we have unintended consequences. That's how I felt last night when we were trying to figure out LB25, and LB325, and LB341. I understand that. So I am more than happy to work with Senator Wayne, and Senator Conrad, and anyone who has an objection to parts of the bill, to fix it, to make it as good as it possibly can be. You know, that's something that I've learned being in this body, is that you start off with something that's not perfect, and you know it's not going to be perfect, and then you work on it. So, you know, Senator Wayne had the question about how do you enforce the mechanism. Maybe we put something in there that says, if you violate this law, then you will not be able to play that sport, or a school will be suspended for a season. There are ways that we can put that in. And I do appreciate his willingness to point that out and to help us figure out how to make it better.

**KELLY:** One minute.

**KAUTH:** Thank you, Mr. President. And for Senator John Cavanaugh, we're not telling any student, don't participate in sports. Sports are critically important to all kids. But we are saying that you should

participate in the sport of your biological sex, because that's what keeps it fair. That's what keeps it equitable for kids. Senator Cavanaugh-- John Cavanaugh also said that-- he mentioned a compelling state interest. I was not aware when I came to the Legislature that I would have to-- that there were some rules about what type of bills you can bring, that maybe there's, there's this category that I didn't know about, that there's a compelling state interest and that's the bar you have to set. I don't think that's our job as legislators. Our job is to reflect what our constituents are talking about and what they want. I do think there is a state interest, however, in protecting girls sports and protecting the privacy--

**KELLY:** That's your time.

**KAUTH:** --and dignity of all students. Thank you, Mr. President.

**KELLY:** Thank you, Senator Kauth. Senator Ibach has some guests in the north balcony, students from Perkins County Christian in Grant, Nebraska. Please stand and be recognized by your Nebraska Legislature. Returning to the queue. Senator Aabrecht, you're recognized to speak English.

**ALBRECHT:** Thank you, Mr. President. I'd like to yield the rest of my time to Senator Kauth.

**KELLY:** Senator Kauth, you have 4 minutes, 50 seconds.

**KAUTH:** Thank you very much, Mr. President. And thank you for pronouncing my name correctly. It is Kauth. I do have a lot-- it, it-- people get it wrong all the time. It's not a big deal. I will say that my mom sometimes watches, and she's like, why are they saying your name wrong? It's OK. We, we got this. And thank you, Senator Albrecht, for yielding me your time. I want to go back to talking about some of these teachers. Again, I have a lot of emails from teachers, who are worried about this. This one is, is very pertinent. Hello. I'm a teacher who resigned from public schools. I am writing to share some of my experiences of the trans agenda being pushed in the schools. The counselor would send out a spreadsheet with a list of students. Their name is listed on a roster, the name they wanted to go by, the gender they identified with, and the pronouns they wanted to be called. We were also told that, according to a psychological study, we were to use the name and gender they preferred. Every time you logged into the computer to take attendance or do grades, you had to keep track of which name used in class matched with which student. Often, the

spreadsheet would be sent before a new term, with updates. It's hard enough to learn names, but when a student wants to go by a different name than what is listed in the roster and the grade book, it's really confusing. In my advisory group, I had students tell me how uncomfortable it was to use the bathrooms and locker rooms. They told me that in the girls' locker rooms, 2 girls would be making out in the shower. They felt like they couldn't say anything for fear of being called homophobic. Boys told me they felt uncomfortable when a trans boy walked into their bathroom. Girls were uncomfortable changing in the locker room with a trans girl present. This is not spec-- let's see. This is related to the role of schools. I had a student who was missing from my class to see the counselor. On the computer, my choices for attendance were present, absent, or tardy. The office had the ability to change the absent to school activity or whatever type of absence it was. The counselor told me she didn't want to mark that the student was absent, because then the parent would know. She wanted me to mark him present. These are teachers who are, who are hearing from their students, as well, about difficulties, about things that they are experiencing. We do have a responsibility to the state to listen to these voices, as well. This is not about telling trans kids they can't play, they can't participate. This is about telling every kid that their voice also matters, that their feelings also matter, and it's about setting up parameters and guidelines for it to work better. Thank you, Mr. President.

**KELLY:** Thank you, Senator Kauth. Senator Lowe, you're recognized to speak.

**LOWE:** Thank you, Lieutenant Governor. We have been speaking this morning, or this afternoon, I guess-- both, really. And we've been talking about high school students mostly. The Kearney Public School decided to create their own policy, because the NSAA guidelines, last year-- it does not address middle school. So as we're talking about high school students, do middle school students go into locker rooms? Do middle school students go into bathrooms? Yes, they do. So it's not covered under the NSA-- NSSA [SIC] policy. Please remember that when you vote for the children. With that, I yield the rest of my time to Senator Kauth.

**KELLY:** Thank you, Senator Lowe. Senator Kauth, you have 3 minutes, 54 seconds.

**KAUTH:** Thank you very much, Senator Lowe. So, Dr. Gregory Brown, again, the sports physiologist at the University of Nebraska at

Kearney, he is a national and international expert on this subject. He actually wrote up a critique of the NSAA gender identification-- or gender participation policy. A big part of it is in the definitions. The NSAA policy states that gender means a state of being male or female. However, APA Dictionary of Psychology defines sex as the characteristics and traits of the biological sex. Sex refers especially to physical and biological traits, whereas gender refers especially to social or cultural traits. Although dis-- the distinction is-- between the 2 terms is not regularly observed. Being male or female relates to sex, not gender. When we start confusing the word gender with sex, that's where we start looking for trouble. And that's why the Biden administration is actively working to change Title IX to reflect gender identity versus biological sex. Furthermore, the terms, female-to-male and male-to-female used within the definition of transgender are not correct, as no amount of surgery, hormone suppression, or use of exogenous hormones will cause a person to change sex. Again, these are issues that he found with this policy. The Gender Identity Eligibility Committee does not contain anyone who is a sports scientist and is therefore familiar with how sex and gender can affect sports performance. And that was brought up by Senator DeKay. And, and yes, we are talking about getting more accurate information. And with more accurate information, I think they would look at the-- this critique of the NSAA policy and say, oh, wow, we did miss a lot of things. His big concern for this was that the NSAA policy, in essence, even though it states that it doesn't, in essence, it advocates for the use of puberty blockers and cross-sex hormones. Because it's teaching kids that, OK, if you want to do this, here's the path you need to go down. There's also no research evaluating the effects of puberty blockers and cross-sex hormones on running, jumping, throwing, muscle strength, or other aspects of physical fitness that are directly applicable to sports performance. What limited research there is has evaluated body composition and body height. And this research shows that while puberty blockers and cross-sex hormones reduce lean body mass and increase--

**KELLY:** One minute.

**KAUTH:** Thank you, Mr. President-- and increase body fat in males, the male sex-based advantages in lean body mass are not erased, and the male sex-based advantages in adult body height, height are not altered. Thus, the NSAA Gender Participation Policy is based on the false assumption that somehow, puberty blockers and cross-sex hormones will negate sex-based differences in athletic performance. But this is



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based on conjecture and not evidence. There is no biologically based test that can determine if someone is transgender, but there are biological tests that determine the actual biological sex. So I, I would encourage anyone to reach out to Dr. Brown. He's an incredibly knowledgeable individual about this. And he has testified in cases all across the country. He's testified for Selina Soule, who is a girl in Connecticut, who lost out on scholarships because 2 boys who identified as girls--

**KELLY:** That's your time.

**KAUTH:** Thank you.

**KELLY:** Thank you, Senator Kauth. Senator Clements, you're recognized to speak.

**CLEMENTS:** Thank you, Mr. President. And I thank Senator Kauth for bringing this bill today. In my opinion, this is a commonsense measure that protects children such as my grandchildren, and I am pleased to support LB575. And I would yield the rest of my time to Senator Kauth.

**KELLY:** Thank you, Senator Clements. Senator Kauth, you have 4 minutes, 34 seconds.

**KAUTH:** Thank you very much, Mr. President. And thank you, Senator Clements. And thank you for everybody who got up and talked today. I think that we've established that this is something that Nebraskans feel passionately about. We have a lot of, of support for this bill. We have some questions. We have some things that we can work on, and I'm more than happy to work on those. You know, Senator Hughes had a question about and I think somebody else brought it up, too, about parents going into bathrooms. We can fix that. This bill is about protecting women's sports and protecting the dignity and privacy of each and every kid in a school. No kid should ever feel bullied or ashamed. That goes without saying. But that applies to every kid, not just kids who are dealing with gender dysphoria. You heard me talk about teachers who are hearing from their students that they're uncomfortable in their own bathrooms. I mean, being a kid is hard enough, but when you throw this very, very contentious ideology and discussion on top of it and you force kids to have to deal with it, there are kids who are having problems. Their voices matter, too. This bill, as I will continue saying, is about protecting girls' sports and protecting the dignity and privacy of all kids. I'm going to ask you to vote no on the IPP motion and ask you to vote yes on LB575, with a



commitment that I will work on making those changes during Select File. We've got a whole weekend. We can get this done. I would like to say thank you to every single member of this body for the grace and decorum that today's debate was held. It is telling that everybody really, really paid attention to that. So I appreciate that greatly. This bill is going to protect your daughters, your granddaughters, their ability to do sports in the future. It will protect your boys and your girls in bathrooms and in locker rooms. Senator Blood stated that women don't need men on white horses to save them. I would posit that women don't need women to sabotage their efforts by letting men who identify as women in our sports and spaces. This is an issue that we need to stand up and say, whoa. It's common sense. It's been like this for generations, that there are spaces segregated by sex. We need to maintain that. So I urge you to vote no on the IPP and please vote yes on LB575. Vote to protect women's sports for your daughters and your granddaughters, and vote to protect the spaces that all children are using in schools. Thank you, Mr. President. I yield my time.

**KELLY:** Thank you, Senator Kauth. Mr. Clerk, you have a motion on your desk.

**CLERK:** I do, Mr. President. Senator Kauth would move to invoke cloture pursuant to Rule 7, Section 10.

**KELLY:** Senator Kauth, for what purpose do you rise?

**KAUTH:** To invoke cloture. Call of the house.

**KELLY:** There's been a request to place the house under call. The question is, shall the house go under? Call all those in favor vote aye; all those opposed vote, vote nay. Record, Mr. Clerk.

**CLERK:** 28 ayes, 3 nays to place the house under call, Mr. President.

**KELLY:** The house is under call. Senators, please record your presence. Those senators outside the Chamber, please return and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Jacobson, Vargas, DeBoer, Bostar, Wayne, please return to the Chamber and record your presence. The house is under call. Senator Wayne, please return to the Chamber and record your presence. The house is under call. All unexcused members are present. Members, there's-- the question is the-- whether to invoke cloture. There's been a request for a roll call vote, reverse order. Mr. Clerk.

**CLERK:** Senator Wishart voting no. Senator Wayne voting no. Senator Walz voting no. Senator von Gillern voting yes. Senator Vargas voting no. Senator Slama voting yes. Senator Sanders voting yes. Senator Riepe not voting. Senator Raybould. Senator Murman voting yes. Senator Moser voting yes. Senator Meyer voting yes. Senator McKinney voting no. Senator McDonnell voting yes. Senator Lowe voting yes. Senator Lippincott voting yes. Senator Linehan voting yes. Senator Kauth voting yes. Senator Jacobson voting yes. Senator Ibach voting yes. Senator Hunt voting no. Senator Hughes voting yes. Senator Holdcroft voting yes. Senator Hardin voting yes. Senator Hansen voting yes. Senator Halloran voting yes. Senator Fredrickson voting no. Senator Erdman voting yes. Senator Dungan voting no. Senator Dover voting yes. Senator Dorn voting yes. Senator DeKay voting yes. Senator DeBoer voting no. Senator Day voting no. Senator Conrad voting no. Senator Clements voting yes. Senator Machaela Cavanaugh voting no. Senator John Cavanaugh voting no. Senator Brewer voting yes. Senator Brandt not voting. Senator Bostelman voting yes. Senator Bostar voting no. Senator Bosn voting yes. Senator Blood voting no. Senator Ballard voting yes. Senator Armendariz voting yes. Senator Arch voting yes. Senator Albrecht voting yes. Senator Aguilar voting yes. Vote is 31 ayes, 15 nays, Mr. President, on the motion to vote cloture.

**KELLY:** The motion fails. I raise the call. Mr. Clerk, for items.

**CLERK:** Mr. President, some items. Your Committee on Enrollment and Review reports LB399 to Select File with E&R amendments. Additionally, your Committee on Enrollment and Review reports LB685A, LB856, LB876, LB876A, LB1051, LB1393 as correctly engrossed and placed on Final Reading. 685A placed on Final Reading Second. Amendments to be printed from Senator Murman to LB1329, and Senator Wayne to LB937. Committee reports from the Health and Human Services Committee, concerning gubernatorial appointments to the State Board of Health. Amendment to be printed from Senator McDonnell to LB196A. Name adds: Senator Dover, name added to LB130. Series of amendments to be printed from Senator Hunt to LB575, and Senator Kauth to LB575. Finally, Mr. President, a priority motion. Speaker Arch would move to adjourn the body until Tuesday, April 9, 2024 at 9:00 a.m.

**KELLY:** Members, you've heard the motion to adjourn. All those in favor say aye. Those opposed, nay. The Legislature's adjourned.