

AMENDMENTS TO LB89

Introduced by Government, Military and Veterans Affairs.

1 1. Strike the original sections and insert the following new
2 sections:

3 **Section 1.** Sections 1 to 10 of this act shall be known and may be
4 cited as the Stand With Women Act.

5 **Sec. 2.** The Legislature finds and declares that:

6 (1) Males and females possess unique and immutable differences that
7 manifest prior to birth and increase as they age and experience puberty;

8 (2) Differences between the sexes are enduring and may, in some
9 circumstances, warrant the creation of separate social, educational,
10 athletic, or other spaces in order to ensure safety and to allow members
11 of each sex to succeed and thrive;

12 (3) Physical differences between males and females have long made
13 separate and sex-specific sports teams important so that female athletes
14 can have equal opportunities to compete in sports while reducing the risk
15 of physical injury;

16 (4) Physical advantages for males relevant to sports include, on
17 average, a larger body size with more skeletal muscle mass, a lower
18 percentage of body fat, and a greater maximal delivery of anaerobic and
19 aerobic energy;

20 (5) Even at young ages, males typically score higher than females on
21 cardiovascular endurance, muscular strength, muscular endurance, and
22 speed and agility. These differences become more pronounced during and
23 after puberty as males produce higher levels of testosterone. On average,
24 male athletes are bigger, faster, stronger, and more physically powerful
25 than their female counterparts. This results in a significant sports
26 performance gap between the sexes;

27 (6) Testosterone provides benefits in relation to athletic

1 performance;

2 (7) Studies have shown that the benefits that natural testosterone
3 provides to male athletes are not significantly diminished through the
4 use of testosterone suppression. Testosterone suppression in males does
5 not result in a level playing field between male and female athletes;

6 (8) Because of the physical differences between males and females,
7 having separate athletic teams based on the sex of the athlete reduces
8 the chance of injury to female athletes, promotes equality between the
9 sexes, provides opportunities for female athletes to compete against
10 their female peers rather than against male athletes, and allows female
11 athletes to compete on a fair playing field for scholarships and other
12 athletic accomplishments;

13 (9) Providing for separate restrooms and locker rooms for females
14 and males advances the important governmental objective of protecting the
15 privacy of individuals and shielding students' bodies from the opposite
16 sex; and

17 (10) Inconsistencies in court rulings and policy initiatives with
18 respect to the definitions of sex, male, female, man, and woman have led
19 to endangerment of single-sex spaces and resources, necessitating
20 clarification of certain terms.

21 **Sec. 3. For purposes of the Stand With Women Act:**

22 (1) Athletic association means a corporation, association, or
23 organization which has as one of its primary purposes the sponsoring or
24 administration of extracurricular interscholastic athletic contests or
25 competitions;

26 (2) Boy means an adolescent human male;

27 (3) Designate means to post signage or otherwise provide indication
28 at or near the entrance to the restroom or locker room that is readily
29 visible and states that the restroom or locker room is designated as one
30 of the following: For use by females, for use by males, single occupancy,
31 or for use by families;

1 (4) Female means an individual who naturally has, had, will have, or
2 would have, but for a congenital anomaly or intentional or unintentional
3 disruption, the reproductive system that at some point produces,
4 transports, and utilizes eggs for fertilization. Female includes a woman
5 and a girl;

6 (5) Girl means an adolescent human female;

7 (6) Male means an individual who naturally has, had, will have, or
8 would have, but for a congenital anomaly or intentional or unintentional
9 disruption, the reproductive system that at some point produces,
10 transports, and utilizes sperm for fertilization. Male includes a man and
11 a boy;

12 (7) Man means an adult human male;

13 (8) Postsecondary educational institution means a university,
14 college, or community college located in Nebraska that is a member
15 institution of an accrediting body recognized by the United States
16 Department of Education;

17 (9) Private school means any private, denominational, or parochial
18 school offering instruction in elementary or high school grades;

19 (10) Public school means any public school offering instruction in
20 elementary or high school grades;

21 (11) Sex means an individual's sex, either male or female;

22 (12) State agency means any department, agency, board, bureau, or
23 commission of the state or any other entity whose primary function is to
24 act as an instrumentality or agency of the state; and

25 (13) Woman means an adult human female.

26 **Sec. 4.** (1) The governing body of a public school shall designate
27 each group restroom within each school building as one of the following:
28 For use by females, for use by males, single occupancy, or for use by
29 families.

30 (2) Except as provided in subsection (5) of this section, the
31 governing body of a public school shall not:

1 (a) Allow a male to use a restroom designated for use by females; or

2 (b) Allow a female to use a restroom designated for use by males.

3 (3) The governing body of a public postsecondary educational
4 institution shall designate each group restroom within each school
5 building as one of the following: For use by females, for use by males,
6 single occupancy, or for use by families.

7 (4) Except as provided in subsection (5) of this section, the
8 governing body of a public postsecondary educational institution shall
9 not:

10 (a) Allow a male to use a restroom designated for use by females; or

11 (b) Allow a female to use a restroom designated for use by males.

12 (5) This section shall not apply to:

13 (a) An individual entering a restroom under the following
14 circumstances:

15 (i) Entrance for custodial, maintenance, or inspection purposes so
16 long as such individual takes reasonable steps to ensure that no
17 individual of the opposite sex is in a state of undress prior to entering
18 the restroom; or

19 (ii) Entrance to render emergency assistance; or

20 (b) A parent or caregiver bringing a minor child or an individual
21 with a disability that is of the opposite sex of such parent or caregiver
22 into a restroom designated for such parent's or caregiver's sex.

23 (6) The governing body of a public school or a public postsecondary
24 educational institution or any official or employee of a public school or
25 a public postsecondary educational institution shall not retaliate
26 against any individual for reporting in good faith a violation of this
27 section or related rules, regulations, or policies.

28 **Sec. 5.** (1) The governing body of a public school shall designate
29 each locker room within each school building as one of the following: For
30 use by females, for use by males, or single occupancy.

31 (2) Except as provided in subsection (5) of this section, the

1 governing body of a public school shall not:

2 (a) Allow a male to enter or use a locker room designated for and
3 being used at such time by one or more females; or

4 (b) Allow a female to enter or use a locker room designated for and
5 being used at such time by one or more males.

6 (3) The governing body of a public postsecondary educational
7 institution shall designate each locker room within each school building
8 as one of the following: For use by females, for use by males, or single
9 occupancy.

10 (4) Except as provided in subsection (5) of this section, the
11 governing body of a public postsecondary educational institution shall
12 not:

13 (a) Allow a male to enter or use a locker room designated for and
14 being used at such time by one or more females; or

15 (b) Allow a female to enter or use a locker room designated for and
16 being used at such time by one or more males.

17 (5) This section shall not apply to an individual entering a locker
18 room under the following circumstances:

19 (a) Entrance for custodial, maintenance, or inspection purposes so
20 long as such individual takes reasonable steps to ensure that no
21 individual of the opposite sex is in a state of undress prior to entering
22 the locker room;

23 (b) Entrance to render emergency assistance; or

24 (c) Entrance by a coach, athletic trainer, or other authorized
25 official or school employee so long as such individual takes reasonable
26 steps to ensure that no individual of the opposite sex is in a state of
27 undress prior to entering the locker room.

28 (6) The governing body of a public school or a public postsecondary
29 educational institution or any official or employee of a public school or
30 a public postsecondary educational institution shall not retaliate
31 against any individual for reporting in good faith a violation of this

1 section or related rules, regulations, or policies.

2 **Sec. 6.** (1) For an interscholastic or intramural athletic team or
3 sport sponsored by a public school, a private school whose students or
4 teams compete against a public school in an interscholastic or intramural
5 sport, or a private school that is a member of an athletic association,
6 the team or sport shall be expressly designated as one of the following
7 based on sex:

8 (a) Males, men, or boys;

9 (b) Females, women, or girls; or

10 (c) Coed or mixed.

11 (2)(a) For an interscholastic or intramural athletic team or sport
12 sponsored by a public school, a private school whose students or teams
13 compete against a public school in an interscholastic or intramural
14 sport, or a private school that is a member of an athletic association, a
15 team or sport designated for females, women, or girls shall not be open
16 to a male student.

17 (b) For an interscholastic or intramural athletic team or sport
18 sponsored by a public school, a private school whose students or teams
19 compete against a public school in an interscholastic or intramural
20 sport, or a private school that is a member of an athletic association, a
21 team or sport designated for males, men, or boys shall not be open to a
22 female student unless there is no female team offered or available for
23 such sport for such female student.

24 (3) For an interscholastic or intramural athletic team or sport
25 sponsored by a public postsecondary educational institution, a private
26 postsecondary educational institution whose students or teams compete
27 against a public postsecondary educational institution, or a private
28 postsecondary educational institution that is a member of an athletic
29 association, the team or sport shall be expressly designated as one of
30 the following based on sex:

31 (a) Males, men, or boys;

1 (b) Females, women, or girls; or

2 (c) Coed or mixed.

3 (4)(a) For an interscholastic or intramural athletic team or sport
4 sponsored by a public postsecondary educational institution, a private
5 postsecondary educational institution whose students or teams compete
6 against a public postsecondary educational institution, or a private
7 postsecondary educational institution that is a member of an athletic
8 association, a team or sport designated for females, women, or girls
9 shall not be open to a male student.

10 (b) For an interscholastic or intramural athletic team or sport
11 sponsored by a public postsecondary educational institution, a private
12 postsecondary educational institution whose students or teams compete
13 against a public postsecondary educational institution, or a private
14 postsecondary educational institution that is a member of an athletic
15 association, a team or sport designated for males, men, or boys shall not
16 be open to a female student unless there is no female team offered or
17 available for such sport for such female student.

18 (5) In order to participate in an interscholastic or intramural
19 athletic team or sport that is designated for males, men, or boys or
20 designated for female, women, or girls and that is sponsored by (a) a
21 public school or a public postsecondary educational institution or (b) a
22 private school or a private postsecondary educational institution subject
23 to the Stand With Women Act, a student shall provide to such school or
24 postsecondary educational institution confirmation of such student's sex
25 on a document signed by a doctor or signed under the authority of a
26 doctor.

27 (6) Nothing in this section shall be construed to restrict the
28 eligibility of any student to participate in any interscholastic or
29 intramural athletic teams or sports designated as coed or mixed.

30 Sec. 7. A government entity, licensing or accrediting organization,
31 or athletic association shall not entertain a complaint, open an

1 investigation, or take any other adverse action against a public or
2 private school or a public or private postsecondary educational
3 institution for maintaining any separate interscholastic or intramural
4 athletic team or sport for female students.

5 **Sec. 8.** The governing body of each public school and public
6 postsecondary educational institution and each private school and private
7 postsecondary educational institution subject to the Stand With Women Act
8 shall adopt a policy implementing the Stand With Women Act. Such policy
9 shall include provisions regarding the conduct of visitors and the
10 public.

11 **Sec. 9.** Each state agency in the adoption and promulgation of
12 administrative rules and regulations, the enforcement of administrative
13 decisions, and the adjudication of disputes by administrative agencies
14 shall define an individual's sex as either a male or female.

15 **Sec. 10.** An individual born with a diagnosis of a disorder or
16 difference in sex development shall have the relevant legal protections
17 and accommodations afforded under the federal Americans with Disabilities
18 Act of 1990, as amended.

19 **Sec. 11.** If any section in this act or any part of any section is
20 declared invalid or unconstitutional, the declaration shall not affect
21 the validity or constitutionality of the remaining portions.