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HOUSE MEMORIAL 57

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Cathrynn N. Brown and Jenifer Jones and Harlan Vincent and  
Andrea Reeb and Rod Montoya

A MEMORIAL

RECOGNIZING THE IMPORTANCE OF THE DIFFERENCES BETWEEN  
BIOLOGICAL MALES AND FEMALES AND SUPPORTING THE REQUIREMENT  
THAT SCHOOLS PROHIBIT BIOLOGICAL MALE PARTICIPATION ON FEMALE  
ATHLETIC TEAMS.

WHEREAS, there are only two biological sexes: male and  
female; and

WHEREAS, a person's biological sex is determined at  
fertilization and revealed in utero or at birth; and

WHEREAS, biological differences between males and females  
are genetically determined; and

WHEREAS, characteristic anatomical differences and  
distinct body types exist between males and females; and

WHEREAS, in *United States v. Virginia*, 518 U.S. 515  
(1966), the United States supreme court explained that there  
.225377.2

1 are "inherent differences between men and women" and these  
2 differences "remain cause for celebration, but not for  
3 denigration of members of either sex or for artificial  
4 constraints on an individual's opportunity"; and

5 WHEREAS, males have typically scored higher than females  
6 on tests of endurance, speed and strength, and males have  
7 larger body sizes, more skeletal muscle mass, lower body fat  
8 percentages and higher delivery of anaerobic and aerobic energy  
9 than females; and

10 WHEREAS, males have higher natural levels of testosterone  
11 than females, which result in higher speed and power during  
12 physical activity. This leads to a sports performance gap  
13 between males and females; and

14 WHEREAS, courts have recognized that the inherent,  
15 physiological differences between males and females result in  
16 different athletic capabilities. In *Kleczek v. Rhode Island*  
17 *Interscholastic League, Inc.*, 612 A.2d 734, 738 (R.I. 1992),  
18 the Rhode Island supreme court recognized that "because of  
19 innate physiological differences, boys and girls are not  
20 similarly situated as they enter athletic competition". In  
21 *Petrie v. Illinois High School Association*, 394 N.E.2d 855, 861  
22 (Ill. App. Ct. 1979), the Illinois court of appeals recognized  
23 that "high school boys [generally possess physiological  
24 advantages] over their girl counterparts" and that those  
25 advantages give them an unfair lead over girls in some sports,

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1 like high school track; and

2 WHEREAS, the benefits of natural testosterone provided to  
3 male athletes are not diminished through the use of  
4 testosterone suppression;

5 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF  
6 REPRESENTATIVES OF THE STATE OF NEW MEXICO that it be requested  
7 to support maintaining separate sex-specific teams because such  
8 separation promotes sex equality by providing opportunities for  
9 female athletes to demonstrate their skill, strength and  
10 athletic abilities while also providing them with opportunities  
11 to obtain recognition, accolades, college scholarships and  
12 numerous other long-term benefits that flow from success in  
13 athletic endeavors.