

Introduced by

Representatives S. Olson, K. Anderson, Henderson, Meier, Novak, Rohr, Steiner, VanWinkle

1 A concurrent resolution urging public schools and public entities, including agencies or  
2 departments that collect vital statistics, to protect women's rights by distinguishing between the  
3 sexes according to biological sex at birth for the purpose of providing equal opportunities and  
4 ensuring the privacy and safety of women and girls.

5 **WHEREAS**, a male and a female possess unique and immutable biological differences that  
6 manifest prior to birth and increase as the individual ages and experiences puberty; and

7 **WHEREAS**, biological differences between the sexes mean that only a female is able to  
8 become pregnant, give birth, and breastfeed children; and

9 **WHEREAS**, biological differences between the sexes mean that a male is, on average,  
10 bigger, stronger, and faster than a female; and

11 **WHEREAS**, biological differences between the sexes leave a female more physically  
12 vulnerable than a male to specific forms of violence, including sexual violence; and

13 **WHEREAS**, females have suffered historically from discrimination in education, athletics,  
14 and employment; and

15 **WHEREAS**, when it comes to sex, "equal" does not mean "same" or "identical" and  
16 separate is not inherently unequal; and

17 **WHEREAS**, biological differences between the sexes are enduring and may warrant the  
18 creation of separate social, educational, athletic, or other spaces to ensure safety or allow  
19 members of each sex to succeed and thrive; and

20 **WHEREAS**, inconsistencies in court rulings and policy initiatives with respect to the  
21 definitions of "sex", "male", "female", "man", and "woman" have led to endangerment of  
22 single-sex spaces and resources, thereby necessitating clarification of certain terms; and

23 **WHEREAS**, there are legitimate reasons to distinguish between the sexes with respect to  
24 athletics, prisons and other detention facilities, domestic violence shelters, rape and abuse

1 crisis centers, locker rooms, restrooms, and other areas where safety and privacy are  
2 implicated; and

3 **WHEREAS**, policies and laws that distinguish between the sexes are subject to  
4 intermediate constitutional scrutiny, which forbids unfair discrimination against similarly situated  
5 males and females but allows the law to distinguish between the sexes if distinctions are  
6 substantially related to important governmental objectives;

7 **NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF**  
8 **NORTH DAKOTA, THE SENATE CONCURRING THEREIN:**

9 That the Sixty-eighth Legislative Assembly urges public schools and public entities,  
10 including agencies or departments that collect vital statistics, to protect women's rights by  
11 distinguishing between the sexes according to biological sex at birth for the purpose of  
12 providing equal opportunities and ensuring the privacy and safety of women and girls; and

13 **BE IT FURTHER RESOLVED**, that the Secretary of State forward a copy of this resolution  
14 to the Superintendent of Public Instruction, the superintendent of each school district in the  
15 state, and the Commissioner of the Department of Health and Human Services.