

COMMITTEE ON HEALTH & HUMAN SERVICES  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2706  
(Reference to printed bill)

1 Page 1, line 16, strike "ALL OF"

2 Page 2, between lines 20 and 21, insert:

3 "Sec. 2. Legislative findings and purpose

4 The legislature finds that:

5 1. There are "'[i]nherent differences' between men and women," and  
6 that these differences "remain cause for celebration, but not for  
7 denigration of the members of either sex or for artificial constraints on  
8 an individual's opportunity." United States v. Virginia, 518 U.S. 515, 533  
9 (1996).

10 2. These "inherent differences" range from chromosomal and hormonal  
11 differences to physiological differences.

12 3. Men generally have "denser, stronger bones, tendons, and  
13 ligaments" and "larger hearts, greater lung volume per body mass, a higher  
14 red blood cell count, and higher hemoglobin." Neel Burton, The Battle of  
15 the \_\_\_\_\_ Sexes, PSYCHOL. TODAY, July 2, 2012,  
16 [https://www.psychologytoday.com/us/blog/hide-and-seek/201207/the-battle-](https://www.psychologytoday.com/us/blog/hide-and-seek/201207/the-battle-the-sexes?amp)  
17 [the-sexes?amp](https://www.psychologytoday.com/us/blog/hide-and-seek/201207/the-battle-the-sexes?amp).

18 4. Men also have higher natural levels of testosterone, which  
19 affects traits such as hemoglobin levels, body fat content, the storage and

1 use of carbohydrates and the development of Type 2 muscle fibers, all of  
2 which result in men being able to generate higher speed and power during  
3 physical activity. Doriane Lambelet Coleman, Sex in Sport, 80 LAW &  
4 CONTEMP. PROBS. 63, 74 (2017) (quoting Gina Kolata, Men, Women and Speed.  
5 2 Words: Got Testosterone?, N.Y. TIMES, Aug. 21, 2008).

6 5. The biological differences between females and males, especially  
7 as they relate to natural levels of testosterone, "explain the male and  
8 female secondary sex characteristics which develop during puberty and have  
9 lifelong effects, including those most important for success in sport:  
10 categorically different strength, speed, and endurance." Doriane Lambelet  
11 Coleman & Wickliffe Shreve, Comparing Athletic Performances: The Best Elite  
12 Women to Boys and Men, DUKE LAW CTR. FOR SPORTS LAW AND POLICY,  
13 <https://web.law.duke.edu/sports/sex-sport/comparative-athletic-performance/>  
14 (last visited Feb. 10, 2020).

15 6. While classifications based on sex are generally disfavored, the  
16 United States Supreme Court has recognized that "[s]ex classifications may  
17 be used to compensate women for particular economic disabilities [they  
18 have] suffered, . . . to promote equal employment opportunity, . . . [and]  
19 to advance full development of the talent and capacities of our Nation's  
20 people." United States v. Virginia, 518 U.S. 515, 533 (1996) (internal  
21 citations and quotation marks omitted).

22 7. One place where sex classifications allow for the "full  
23 development of the talent and capacities of our Nation's people" is in the  
24 context of sports and athletics.

1           8. Courts have recognized that the inherent, physiological  
2 differences between males and females result in different athletic  
3 capabilities. See, e.g., Kleczek v. R.I. Interscholastic League, Inc., 612  
4 A.2d 734, 738 (R.I. 1992) ("Because of innate physiological differences,  
5 boys and girls are not similarly situated as they enter athletic  
6 competition."); Petrie v. Ill. High Sch. Ass'n, 394 N.E.2d 855, 861 (Ill.  
7 App. Ct. 1979) (noting that "high school boys [generally possess  
8 physiological advantages over] their girl counterparts" and that those  
9 advantages give them an unfair lead over girls in some sports like "high  
10 school track").

11           9. A recent study of female and male Olympic performances since 1983  
12 found that, although athletes from both sexes improved over the time span,  
13 the "gender gap" between female and male performances remained stable.  
14 "These suggest that women's performances at the high level will never match  
15 those of men." Valerie Thibault, et al., Women and Men in Sport  
16 Performance: The Gender Gap has not Evolved since 1983, 9 J. SPORTS SCI. &  
17 MED. 214, 219 (2010).

18           10. As Duke Law professor and all-American track athlete Doriane  
19 Coleman, tennis champion Martina Navratilova and Olympic track gold  
20 medalist Sanya Richards-Ross recently wrote: "The evidence is unequivocal  
21 that starting in puberty, in every sport except sailing, shooting and  
22 riding, there will always be significant numbers of boys and men who would  
23 beat the best girls and women in head-to-head competition. Claims to the  
24 contrary are simply a denial of science." Doriane Coleman, Martina

1 Navratilova, et al., Pass the Equality Act, But Don't Abandon Title IX,  
2 WASH. POST, Apr. 29, 2019, <https://wapo.st/2VKlNN1>.

3 11. The benefits that natural testosterone provides to male athletes  
4 are not diminished through the use of puberty blockers and cross-sex  
5 hormones. A recent study on the impact of such treatments found that even  
6 "after 12 months of hormonal therapy," a man who identifies as a woman and  
7 is taking cross-sex hormones "had an absolute advantage" over female  
8 athletes and "will still likely have performance benefits" over women.  
9 Tommy Lundberg, et al., Muscle strength, size and composition following 12  
10 months of gender-affirming treatment in transgender individuals: retained  
11 advantage for the transwomen, Karolinska Institutet, (Sept. 26, 2019).

12 12. Having separate sex-specific teams furthers efforts to promote  
13 sex equality. Sex-specific teams accomplish this by providing  
14 opportunities for female athletes to demonstrate their skill, strength and  
15 athletic abilities while also providing them with opportunities to obtain  
16 recognition and accolades, college scholarships and the numerous other  
17 long-term benefits that flow from success in athletic endeavors."

18 Renumber to conform

19 Amend title to conform

And, as so amended, it do pass

NANCY K. BARTO  
CHAIRMAN

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