



To: Judiciary Committee  
From: Marion Miner, Associate Director for Pro-Life & Family Policy  
Nebraska Catholic Conference  
Subject: LB517 (Provide for a gender neutral designation on operator's licenses and state identification cards and provide for amendment of a birth certificate) (Oppose)  
Date: February 26, 2021

Chairman Lathrop and Members of the Judiciary Committee,

The Nebraska Catholic Conference advocates for the public policy interests of the Catholic Church and advances the Gospel of Life by engaging, educating, and empowering public officials, Catholic laity, and the general public. I am here today to express the Conference's opposition to LB517.

Proponents of LB517 would argue that the bill is motivated by a desire to affirm the equal dignity of and society's respect for persons who feel a sense of incongruence between their biological sex and the gender with which they identify, often accompanied by feelings of anxiety and of being unaccepted. Love, compassion, and respect for such persons, who are our brothers and sisters, along with an affirmation of their equal dignity and worth, is due to them. With this affirmation we fully agree.

We also agree that the way our society addresses and cares for such persons is inadequate. Those who have adopted a "transgender" identity are, in many cases, either told to embrace their new identity, despite its incongruence with their physical body, or they are held at arm's length. Both responses are inadequate, and neither is deemed acceptable by the Church. If we are to treat these brothers and sisters of ours with the compassion and respect that is due to them, we owe them first of all the truth.

Pope Francis has spoken with feeling on this issue on several occasions. Speaking on what he has called "the ideology of gender,"<sup>1</sup> he reminds us that "[i]t is one thing to be understanding of human weakness and the complexities of life, and another to accept ideologies that attempt to sunder what are inseparable aspects of reality."<sup>2</sup> In the encyclical *Laudato si'*, known best for the Holy Father's appeal to the West to respect and care for the natural world, he expresses:

"The acceptance of our bodies as God's gift is vital for welcoming and accepting the entire world as a gift from the Father and our common home, whereas thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation. Learning to accept our body, to care for it and to respect its fullest meaning, is an essential element of any genuine human ecology."<sup>3</sup>

Sex is a bodily and biological reality, and whether we receive it and respect it matters. Gender is how we give social expression to that reality.

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<sup>1</sup> Francis, Apostolic Exhortation *Amoris Laetitia*, 19 March 2016, 56.

<sup>2</sup> *Ibid.*

<sup>3</sup> Francis, *Laudato Si'*, 24 May 2015, 155.

A healthy culture promotes the integrity of persons, in part by cultivating manifestations of sex differences that correspond with biological facts. It supports gender expressions that reveal and communicate the reality of our sexual natures. A misguided concept of gender, on the other hand, conceals, denies, and distorts the realities of our nature and hinders human flourishing.

LB517 would, with regard to driver's licenses and state identification cards, provide in the sex or gender indication an option of "non-specified," along with female and male. Which one is recorded is not to be reflective of anything objectively real. With regard to birth certificates, LB517 as amended by AM333 would provide a new process, devoid of any requirement of medical documentation, by which a person could amend the sex on his or her birth certificate at will.

As was the case for LB873 a year ago, the impact of LB517 on female athletes in the state of Nebraska is potentially very harmful. In 2016, the Nebraska School Activities Association (NSAA) promulgated a policy regarding biologically male athletes who wished to compete in female sports. This policy was a compromise that the Catholic Conference was not satisfied with, but to its credit it was an attempt to safeguard the safety and fairness of girls' high school sports. The NSAA gender policy states that, first of all, a student's eligibility will be determined *by the sex on the student's birth certificate*. Only where there is discrepancy between the student's sex on the birth certificate and the sex under which he wants to compete does the NSAA policy on transgender athletes apply. This policy requires that a male seeking to compete in girls' sports complete either a year of hormonal treatment or evidence of having completed sex reassignment surgery, among other things. LB517 as amended by AM333, in providing male students an easy route to change the sex on their birth certificate—even easier, in fact, than LB873 proposed—would allow students to sidestep the whole NSAA policy requiring that these young men take measures to reduce the significant physical advantages they have over female athletes.

Girls deserve to compete on a level playing field. Forcing female athletes to compete against biological males is unjust and deprives them of athletic opportunity. Science and common sense demonstrate that males are stronger than females: the difference between the two biological sexes manifests in size, strength, bone density, and even the heart and lungs. A male's belief about his gender identity does not cancel out those physical advantages he has over girls, and every boy on the winner's podium means one fewer girl.

This is not idle speculation; the families of high school female athletes in Connecticut have sued the state under Title IX because boys identifying as female have swept the state track and field meets and rewritten the state's record books. The consequences of this uneven playing field have extended beyond high school, as girls who do not qualify for state meets lose the opportunity to showcase their talents at the highest level. That can make the difference in determining whether a female athlete receives a college scholarship offer.

Finally, athletics are not the only place where damage to real equality is felt when gender ideology becomes statutorily prescribed. There has already been federal litigation over biological male access to Title IX academic scholarships for women, to take one more example, and this is likely to continue where made possible by statutes which enable it.

For all the foregoing reasons—respect for those who identify as transgender, the law's baseline obligation to reflect the truth for the benefit of those who live under it, fairness for female high school athletes, and to ensure future protection of women's programs in general—the Conference asks that you not advance LB517.