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THE MAINE SENATE  
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**Joint Standing Committee on Judiciary on  
LD 2239, An Act to Designate School Sports Participation and Facilities by Sex**  
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Senator Carney, Representative Kuhn, and esteemed members of the Joint Standing Committee on Judiciary: I am Dick Bradstreet and I have the honor of representing the people of Senate District 15, which includes six communities including our beloved State Capital right here in Augusta. I am pleased to offer testimony in strong support of LD 2239, “An Act to Designate School Sports Participation and Facilities by Sex.”

I will start by saying what this bill is not. **It is not an anti-transgender bill**, nor does it seek to ban transgender athletes from any sport. That is a partisan media narrative that seeks to make this issue political instead of scientific, nothing more.

As someone who’s been around for my fair share of decades, I’m often reminded of the way the separation of sports and personal spaces began. Before Title IX even existed, Ruth Bader Ginsburg was a young attorney for the American Civil Liberties Union who advocated for women’s rights in a time when it wasn’t popular to do so. She cofounded the Women’s Rights Project and went on to be a champion in the legal battle for women’s rights in the 1970s.

She is the reason why women and girls enjoy the rights they do today. When she began her movement, hundreds of state and federal laws restricted what women could do, including barring them from jobs and even jury duty. Through her efforts and those of others, she saw the landmark federal Education Amendments of 1972, what we call Title IX, come into existence; and she defended those rights until her death.

For those who can remember those times, it was inspirational to many women. And her efforts and legacy in defending the rights of girls and women under Title IX are why I am here today to support this bill.

The landmark legislation was meant to protect women and children by guaranteeing them and, as a girl, guaranteed my daughter the same protections and opportunities as boys when she was growing up. Title IX is based on biological sex, the immutable characteristic that has separated males from females from the beginning of humankind.

When gender identity was added to the Maine Human Rights Act, it was never discussed by the Legislature or intended by this body to be applied to school athletics. The Maine Human Rights Act as originally enacted was meant to protect the so-called hard categories – race, color, sex, age, religion, ancestry or national origin. That is what we call **demographics**, which are hard if not impossible characteristics to alter or change.

The Act also protects those who have physical and mental disabilities, and rightly so. We added sexual orientation along the way, which protected many more from discriminatory practices. Yet neither of those characteristics challenge the basis of what has long defined the sports and spaces of males and females, which is foundational to Title IX.

**However, the use of gender identity has created a conflict. It is not an immutable characteristic**, but it is being used as if it is one. Instead, it is a social construct based on internal feelings that can and do change over time. When we classify something based on behaviors or beliefs, we call that **psychographics**. Unfortunately, a behavior, belief or feeling cannot coexist equally as a category compared to one that is fixed at birth. That is precisely what is happening.

When the Legislature added it to the Maine Human Rights Act, who could have thought that the protection of one right would grossly violate another much longer standing right, especially one that is not equal nor has the weight of the other because of its immutability?

It cannot. Which gender one person believes they identify with cannot match or violate the rights of the rest who truly are that biological sex at birth. It is a matter of science. It's a question of fairness. The bill before you protects that fairness; and it safeguards the rights of women and girls who are simply born the sex they are.

Let me go back to Title IX. When we look specifically at girls' sports and spaces, the unintended consequence of picking one unequal characteristic over another means the right of one is protected at the expense of 100 or more in a girl's school locker room. It was never the intention of the Maine Human Rights Act to grossly violate rights on a mass scale, nor force a 15-year-old girl to undress in front of a 17-year-old boy. The bill before you solves that problem as well.

The bottom line is of all the categories we protect through the Maine Human Rights Act, there only two sexes on this Earth. That is a hard fact. Protecting the rights of women and girls must rise above all others because it's about the way you're born, not how you think or feel.

I can't help but remember the title of that 2018 film about Ginsberg's struggles as a young lawyer that serves as the foundation of Title IX. It was called "On the Basis of Sex."

That is why I urge you to vote "ought to pass" on LD 2239.