

Committee: Senate State Affairs

Friday, January 14, 2022 10:00 AM

Roll Call

Present: Sen. Schoenbeck, Sen. Duhamel, Sen. Crabtree, Sen. Schoenfish, Sen. Rohl, Sen. Heinert, Sen. Diedrich, Sen. Cammack, and Sen. Duvall

OTHERS PRESENT: See Original Minutes

**The meeting was called to order by Senator Cammack**

**SB 46 : protect fairness in women's sports.**

Presented by: Rachel Oglesby, Governor's Office

Proponents: Gregory Brown, self, Kearney, NE  
Matt Sharp, Sr. Counsel, State Government Relations National Director  
Mark Miller, Governor's Office

Opponents: Jett Jonelis, American Civil Liberties Union Foundation Inc, New York  
Elliot Moorehead, self  
Daniel Swartos, South Dakota High School Activities Association, Pierre (Handout(s) 1)  
Wade Pogany, Associated School Boards of South Dakota, PIERRE  
Rob L Monson, School Administrators of South Dakota, Pierre  
Jennifer Phelan, Self, Vermillion  
Dianna Miller, Large School Group, PIERRE  
Susan Williams, Self  
Cherise Alexander, Self, Sioux Falls  
Roger Tellinghuisen, Human Rights Campaign, WASHINGTON (Handout(s) 2)

**MOTION: AMEND SB 46**

46A

- On page 1, line 8, of the Introduced bill, delete " athletes" and insert " students"
- On page 1, line 13, of the Introduced bill, delete " athletes" and insert " students"
- On page 1, line 15, of the Introduced bill, delete " as described by the sex listed on the athlete's official birth certificate issued at or near the time of the athlete's birth" and insert " and the sex listed on the student's official birth certificate may be relied upon if the certificate was issued at or near the time of the student's birth"
- On page 1, line 17, of the Introduced bill, after "a " insert "limited "
- On page 1, line 17, of the Introduced bill, after "immunity" insert " for relief authorized under this Act"
- On page 1, line 19, of the Introduced bill, delete " an athlete" and insert " a student"
- On page 1, line 20, of the Introduced bill, delete " athlete" and insert " student"
- On page 1, line 24, of the Introduced bill, delete " an athlete" and insert " a student"
- On page 2, line 4, of the Introduced bill, delete " athlete" and insert " student"
- On page 2, line 12, of the Introduced bill, after "education" insert " under the control of either the Board of Regents or the Board of Technical Education"
- On page 2, line 19, of the Introduced bill, delete " athlete" and insert " student"
- On page 2, after line 23, of the Introduced bill, insert: "

**Section 5. That a NEW SECTION be added to title 13:**

For any lawsuit brought or any complaint filed against an accredited school, a school district, or an institution of higher education under the control of either the Board of Regents or the Board of Technical Education, or an employee, board, or a member thereof, as a result of compliance with section 1 of this Act, the

attorney general shall provide legal representation at no cost to that entity or individual.

In addition to the expenses of representation, the state shall assume financial responsibility for any other expense related to the lawsuit or complaint and incurred by an accredited school, a school district, or an institution of higher education, or an employee, board, or a member, including any award for attorney's fees and costs for which that entity or individual would be otherwise responsible."

Moved by: Duvall  
Second by: Crabtree  
Action: Prevailed by voice vote

**MOTION: DO PASS SB 46 AS AMENDED**

Moved by: Schoenbeck  
Second by: Crabtree  
Action: Prevailed by roll call vote (8-1-0-0)

Voting Yes: Schoenbeck, Duhamel, Crabtree, Schoenfish, Rohl, Diedrich, Cammack, and Duvall

Voting No: Heinert

**MOTION: ADJOURN**

Moved by: Duvall  
Second by: Rohl  
Action: Prevailed by voice vote

, Committee Secretary

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/s/ GARY L. CAMMACK  
Gary L. Cammack, Chair