

**ALASKA STATE LEGISLATURE**  
**SENATE EDUCATION STANDING COMMITTEE**

March 3, 2022

10:03 a.m.

**MEMBERS PRESENT**

Senator Roger Holland, Chair  
Senator Shelley Hughes  
Senator Tom Begich

**MEMBERS ABSENT**

Senator Gary Stevens, Vice Chair  
Senator Peter Micciche

**COMMITTEE CALENDAR**

SENATE BILL NO. 34

"An Act providing for the establishment of public schools through state-tribal compacts."

- HEARD & HELD

SENATE BILL NO. 140

"An Act relating to school athletics, recreation, athletic teams, and sports."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 34

SHORT TITLE: STATE-TRIBAL EDUCATION COMPACT SCHOOLS

SPONSOR(S): SENATOR(S) STEVENS

01/25/21	(S)	PREFILE RELEASED 1/8/21
01/25/21	(S)	READ THE FIRST TIME - REFERRALS
01/25/21	(S)	EDC, JUD
04/21/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/21/21	(S)	Heard & Held
04/21/21	(S)	MINUTE(EDC)
04/23/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/23/21	(S)	<Bill Hearing Canceled>
04/28/21	(S)	EDC AT 9:00 AM BUTROVICH 205
04/28/21	(S)	Heard & Held

04/28/21 (S) MINUTE (EDC)  
02/11/22 (S) EDC AT 9:00 AM BUTROVICH 205  
02/11/22 (S) Heard & Held  
02/11/22 (S) MINUTE (EDC)  
02/16/22 (S) EDC AT 9:00 AM BUTROVICH 205  
02/16/22 (S) Heard & Held  
02/16/22 (S) MINUTE (EDC)  
02/23/22 (S) EDC AT 9:00 AM BUTROVICH 205  
02/23/22 (S) Heard & Held  
02/23/22 (S) MINUTE (EDC)  
03/03/22 (S) EDC AT 10:00 AM BUTROVICH 205

BILL: SB 140

SHORT TITLE: DESIGNATE SEX FOR SCHOOL-SPONSORED SPORTS  
SPONSOR(s): SENATOR(s) HUGHES

05/12/21 (S) READ THE FIRST TIME - REFERRALS  
05/12/21 (S) EDC  
03/03/22 (S) EDC AT 10:00 AM BUTROVICH 205

**WITNESS REGISTER**

JULIE KITKA, President  
Alaska Federation of Natives  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on SB 34.

JOEL ISSAK, Project Coordinator  
Department of Education and Early Development (DEED)  
Kenai, Alaska

**POSITION STATEMENT:** Answered question on SB 34.

DANIEL PHELPS, Staff  
Senator Shelley Hughes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a Sectional Analysis and assisted in presenting SB 140.

CYNTHIA MONTELEONE, Team USA Track Athlete  
Hawaii

**POSITION STATEMENT:** Invited testimony on SB 140.

ALARY WOODS, representing self  
Lexington, Kentucky

**POSITION STATEMENT:** Invited testimony on SB 140.

TANNER HART, representing self  
Illinois

**POSITION STATEMENT:** Invited testimony on SB 140.

LARRY WHITMORE, Retired Alaska Athlete Official  
Hawaii

**POSITION STATEMENT:** Invited testimony for SB 140.

REPRESENTATIVE BARBARA EHARDT  
Idaho State Legislature  
Idaho Falls, Idaho

**POSITION STATEMENT:** Invited testimony on SB 140.

MATT SHARP, Senior Counsel  
Alliance Defending Freedom  
Atlanta, Georgia

**POSITION STATEMENT:** Invited testimony on SB 140.

JENNIFER BRACERAS, Director  
Independent Women's Law Center  
Boston, Massachusetts

**POSITION STATEMENT:** Invited testimony on SB 140.

#### **ACTION NARRATIVE**

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 34 "An Act providing for the establishment of public schools through state-tribal compacts."

Chair Holland shared an insight from a meeting with staff at the Bureau of Indian Education. In the lower 48 states, tribes have schools on sovereign land outside the public education system; they have autonomy but lack funding. The situation is different in Alaska; rural schools have funding but lack autonomy. For Alaska, tribal compacting is more about self-determination than increased funding.

[10:05:08 AM](#)

SENATOR BEGICH said that an item of discussion had been the ability to blend Bureau of Indian Education (BIE) funding with state funding. The idea of a state statute, similar to a charter, was mentioned in a previous meeting. He asked if this idea would hamper the ability to blend funds.

[10:06:07 AM](#)

At ease.

[10:07:07 AM](#)

CHAIR HOLLAND reconvened the meeting.

[10:07:39 AM](#)

JULIE KITKA, President, Alaska Federation of Natives, Anchorage, Alaska, replied that the issue of funding is not timely for two reasons. A letter was sent to the Solicitor of the Interior, Robert Anderson, asking for clarification on the Department of Interior's ability to use its funding mechanisms for compacting. The issue was also brought up at the Senate Indian Affairs Committee field hearing, chaired by Senator Murkowski in Anchorage. She stated that the issue of involvement would come into play once a legal opinion is received. She cautioned the committee against inadvertently believing the desired goal of compacting is to go backward and create Bureau of Indian Affairs schools. The goal is to move forward with a hybrid that will transform education based on the needs of the people. She further stated that testimony had been given to end the prohibition on appropriations to Alaskan Natives. It is not fair for them to be excluded from the funding stream when massive federal resources are distributed throughout the country to all parts of government. She clarified that tribal compacting is not looking to take money from other schools to establish BIA schools. Funding would be sought from the federal Department of Interior and the Department of Education.

[10:10:28 AM](#)

SENATOR BEGICH stated he has no interest in the failed BIA system. He said his question about the co-mingling of funds was to have answers before pursuing pathways that might lead to dead ends, which would mean starting over. He said he was curious if the question had been asked and respected waiting for the answer. However, he is concerned about starting over because it would slow down tribal compacting. He stated his belief that compacting is the answer and finding the path is the key.

[10:12:01 AM](#)

MS. KITKA said the hybrid idea involves a broader search for federal resources. For instance, an additional source might be the National Institute of Health because it is a whole government approach. It is a minor distinction, but education tribal compacting does not look to rearrange funding within the Department of Interior. It would use compacting mechanisms already established within the department as a vehicle for funding. Ideally, Alaska Native tribes would have direct federal authority to compact with the Department of Education for a demonstration project. However, until authorization is given,

the Department of Interior is being asked to use its authority. She offered to give the committee a copy of the letter sent to the Solicitor.

MS. KITKA noted that when the last BIA schools were transferred to the state Prudhoe Bay was producing a considerable amount of revenue, the Permanent Fund was experiencing significant growth, and the State of Alaska's congressional delegation was having difficulty protecting incoming resources since the state's budget was exploding. When the federal government transferred the railroad to the state, it also transferred the schools. Although there was wealth in Alaska, there were other areas in the country with equities. For example, California is the fifth or sixth largest economy in the world and other states have incredible wealth from gaming. She stated her belief that blocking Alaska from receiving other resources because of the Permanent Fund needs to end.

[10:14:31 AM](#)

JOEL ISSAK, Project Coordinator, Department of Education and Early Development (DEED), Kenai, Alaska, said that setting up State Tribal Education Compact Schools (STECs) as local education agencies aligns with the federal title funds. This would make STECs the same type of entity that is currently funded. Being the same kind of entity allows the funds to be received. If a STEC were to accept Title I funds, it must follow all federal guidelines. A lot of federal education title funding is not mandatory. However, if funds are taken, the accompanying obligations must be met. Title wise this is the thinking behind what districts receive. The language is set up to allow districts to receive funds because it follows federal registry language.

Another area of funding that STECs might bring to Alaska is national competitive grants that have federally registered guidelines. Only local educational agencies serving tribal youth are eligible for these funds. The funds assist with such things as buildings, equipment, and operations. Alaska cannot receive the funds like BIA, and other public schools since tribes in Alaska do not have control over any schools. However, federal registry guidelines also allow grants specifically for tribes to build their capacity to become tribal education agencies. Alaskan tribes would be eligible for these funds. Once a tribe became a local education agency with a status similar to a district, it would become eligible for the local educational agency funds. The federal registry guidelines for the Department of Education, BIE, and BIA all use different definitions. This

illustrates the importance of investigating how different pathways play out because definitions make certain kinds of funding ineligible. He stated that the information he has provided is the practical side of the federal registry language that he deals with regularly.

[10:17:40 AM](#)

CHAIR HOLLAND asked if "building" referred to brick and mortar or programs.

MR. ISAAK replied that some grants allow for non-permanent building construction, such as remodeling an existing facility, which may include brick and mortar interior. There is brick and mortar interior and exterior and then objects like technology, and curriculum with separate funding streams.

[10:18:34 AM](#)

SENATOR BEGICH stated that the definition section of the final bill would need to be very clear because of the complexities described.

[10:19:23 AM](#)

CHAIR HOLLAND asked Mr. Isaak to share his insight on the difference between charter schools and regular schools.

MR. ISAAK replied that there are two pieces to the term chartering. Charting involves a funding mechanism, which is a contract, and a statement of objectives. He stated that the history of education contracting in Alaska was very dark. It started over 140 years ago with Indian Education Agents having federally paid contracts to capture Native children and take them to boarding schools. Children were ripped from their parent's arms, handcuffed, and thrown in the back of airplanes. There were two ways for students to be disenrolled. They could be hidden upon returning home for a visit, or they could escape. He recounted grandparents hiding with their grandchildren in the woods, communities raising money to bring back the neediest child and homes being spied on, so children could not learn their Native language. Archived documents tell of children dying from exposure while trying to escape. Contracting was deemed unconstitutional five years after it began. When Native people hear the word contract it is associated with the torture of children.

[10:23:23 AM](#)

CHAIR HOLLAND stated that money paid to federal contractors for removing children from their homes was a bounty.

MR. ISAAK responded that contracting carries a strong negative connotation for Native tribes. It is indisputable that contracting was terrible. In 1995, post-BIA boarding schools, Alaska statutes were updated to include charter school law, providing a dual application process. A charter is formed by a community of people who outline the type of school desired. Some latitude is given in hiring, and more is given in curriculum choice. The charter must be approved by a local school district and reviewed by the Department of Education before being considered by the State Board of Education for approval. Therefore, a charter school is a contractual relationship with a school district.

[10:25:07 AM](#)

CHAIR HOLLAND asked if there is a negative stigma associated with charter schools because of the word contracting.

MR. ISAAK replied that during meetings on Alaska's Education Challenge, discussions came up on why charters have not been the mechanism to revive Native language and culture. It was determined that tribes would not actually operate the charter schools. An entity wanting to teach through its culture must translate the concepts linguistically to the local school board, then DEED, and finally to the State Board of Education. While there are successful charter schools that implement aspects of Native culture and language into the curriculum, the three-tiered system makes chartering a time-consuming process that does not meet the statewide need for transformational education. Chartering has been a mechanism for over 25 years. Still, it has not revitalized Native languages and cultures because it is restrictive and restricted. Compacting allows for more flexibility in curriculum development while still adhering to state laws. Like chartering, compacting also provides a funding mechanism. Previously, Ms. Kitka talked about Indian Health Services (IHS) and the transformational change that occurred when it switched from being a contracted service to a compacted service. Compacting is the proven mechanism for funding and delivering education services.

[10:29:12 AM](#)

SENATOR HUGHES recalled from a previous meeting that DEED could find itself working with over 200 tribal compacts. She asked if it would be possible for compacting to be less cumbersome for DEED.

MS. KITKA replied that the demonstrated project would be limited, and various organizations would evaluate its success and determine its continuance in its first year. It would not expand overnight. The idea behind a demonstration would be to meet the challenges students face today by looking forward and using innovation, the infusion of broadband, and empowerment to make positive transformational change. Senator Murkowski acknowledged that her line of questioning in the past only tore down the idea instead of looking for the good that could come from it. She said the committee should ask whether it will support the State Board of Education and Commissioner of Education in giving accountability to the tribes through a government-to-government relationship with the state. Such a relationship would allow negotiations on a demonstration project and the possibility of additional federal resources. She suggested asking whether the demonstration project could prove valuable and perhaps lead to expansion. She affirmed that chartering is not the pathway to transformational education for Native Alaskans. She asked for educational tribal compacting to be given a chance.

[10:32:53 AM](#)

SENATOR HUGHES said she is open to tribal compacting and understands that the demonstration project would be limited. She expressed a desire for the project's success and asked DEED how it would handle the increase in school districts.

[10:33:37 AM](#)

MR. ISAAK replied that the amount of material capital, resources, and people to do the work are limiting factors for Alaskan tribes. One compacted school in Washington was not a BIA school at its onset, and DEED staff have studied its model. The school already had infrastructure and personnel. Starting even a small school is a considerable endeavor. It can be done because tribes are doing it, and other tribes are positioning themselves for it. Compacted schools need a governance structure. Some have education committees, while others use tribal councils. The governing structure is identified in the bylaws. It is a lot of work and there are risks. Although many tribes are supportive, there are some with a "let's wait and see" mentality. A tribe could invest in compacting, and the program could be discontinued. A tribe must trust that the government will continue to support compacting if it is successful. So, while some tribes are gung-ho, others will watch as it plays out.

MR. ISAAK said that regarding capacity, using the term local education agencies for compact schools would benefit DEED

because the mechanisms to communicate with school districts would be in place. For example, a line item for the school's budget would be created in DEED's accounting system. A new position or system for reporting would not need to be made. Internally, DEED staff have been discussing what the impact would look like, and so far, feedback from staff has been that it is doable.

MR. ISAAK stated that DEED has learned from charter school applications that not all applications are approved because it takes time to build a solid plan. The commissioner will have a year to develop the application, negotiations, and approval processes. A powerful element of compacting is that a successful application is built on cooperation and communication between the tribe and the state. This process will limit the number of schools approved in a year because not all tribes will have all the pieces in place before the start of a school year. He has spoken with ten tribes that are eager to participate in tribal compacting. He advised them to prepare themselves in every way possible so that when legislation passes, they will be able to start. They have begun by sending students to college to become teachers, acquiring buildings, working on certification, and other legwork required to become a compact school. Tribal leadership has expressed not wanting to limit the number of compact schools because it would create competition instead of collaboration. If compacting is successful, it would be good to involve as many schools as possible. Compacting is a dynamic relationship that DEED is responsive to and is within its scope.

[10:39:11 AM](#)

SENATOR BEGICH stated that he did not realize chartering was not desired based on what he heard in the previous committee meeting. He said he was a little put out and disarmed because chartering would be a more straightforward route to resolving issues and providing protections. He understands the negative connotation of contracting and is willing to move on to other dialogues. However, he is disturbed by what he has heard because school boards, assemblies, and the state provide elected representation to uphold laws. He opined that if the state laws apply in this process, the legislature has a responsibility to know the project's scope. He opined that the scope description entailed being open and adding more schools depending on the number of applications submitted, which is not a scope.

SENATOR BEGICH said it was also mentioned that compacting was a proven mechanism for education. He asked if data would be provided to show that it does what it is intended to do. He

agreed that the state should experiment and move forward with a demonstration project, but the scope needs to be precise. He asked Mr. Isaak and Ms. Kitka to share the scope as it is perceived and then provide evidence that the compacting mechanisms improve lives. Without a clear understanding of these two elements, he would not be comfortable abrogating responsibility. He opined that the demonstration project would take more than a year to prove successful and hoped to see outcomes that enable children to live successfully in whichever community they choose.

10:42:53 AM

MR. ISAAK replied that compacting government to government is different from other educational models, though success has been seen in Washington. There need to be gauges for measuring success in thinking about the scope and how students benefit. Gauges for success could be indicators such as increased graduation rates or class attendance. Data from STEC programs in Washington show that all graduation rates increased, as did attendance. These are among the most important indicators for measuring student learning success. Feedback from struggling school districts says that kids are not in the classroom. The mechanism of compacting has shown increased attendance, which is a critical first step. There are two parts to assessing students in the demonstration project. One part would be using the assessments required by the state for all schools. The second would be an assessment of success as defined and negotiated by a tribe.

This assessment could be different for each school. He shared an example of education success from the Dena'ina people's education model. It included: being prepared for the realities of today's world, gaining the ability to focus one's mind, learning to help others, encouraging family members, and comparing all living things and showing how they grow. A tribal assessment allows the tribes to customize what success means in tandem with state assessments.

SENATOR BEGICH commented that the reply was reassuring.

10:47:00 AM

MS. KITKA stated that the Alaska Federation of Natives (AFN) would be comfortable with a limit of ten tribal compacting applications in the first year. However, during that time, DEED should maintain readiness to proceed with compacting. She stated she could envision the commissioner returning to the Education

Committee and reporting how excited DEED is to have another ten schools ready to compact.

CHAIR HOLLAND stated he appreciates the clarification on compacting versus chartering and the determination by DEED and the AFN that compacting is the better fit for transformational education.

[10:48:40 AM](#)

CHAIR HOLLAND held SB 34 in committee.

**SB 140-DESIGNATE SEX FOR SCHOOL-SPONSORED SPORTS**

[10:48:47 AM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 140 "An Act relating to school athletics, recreation, athletic teams, and sports."

[10:49:39 AM](#)

SENATOR HUGHES speaking as the sponsor of SB 140, read her opening statement:

Fifty years ago, women's sports changed forever. In 1972, slightly over 300,000 women and girls played college and high school sports in the United States. As of 2022, the number of female athletes in the US has increased by over 900 percent to more than 3.5 million women and girls, thanks to the passage of Title IX and the end of discrimination against girls and women in sports. When I was a child and a teenager, I loved basketball, and I shot hoops in my driveway a lot, but there was no option for a female to play at school. The only option was to be a cheerleader and root for the boy's team. Fortunately, my daughter had options due to Title IX and played varsity girls' basketball in high school.

But this year, as we celebrate Title IX's 50th anniversary, women and girls stand, once more, at risk of being discriminated against, of losing an even playing field in sports. An ever-increasing trend of male-bodied athletes in women's sports threatens competition and fairness. Girls and women should not be robbed of the chance to be selected for a team, to win a championship, or to be awarded a college scholarship due to the physical advantage of male-bodied athletes.

Title IX promises, "No person in the United States shall, on the basis of sex, be excluded from participation, or be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance." SB 140 seeks to ensure we don't revert to discriminating against girls and women, as was the case pre- 1970s.

Now, for those of you who think this bill is about discriminating against those who identify as a gender different from their biological sex at birth, it is not. I want to put on the record that I love and value every person, including these individuals. They are precious and should have access to an even playing field as well and opportunities to participate in athletics. I am not transphobic and believe every person deserves an even playing field. This bill is not about blocking anyone from athletic opportunities, that would be in violation of Title IX. This is about ensuring Title IX is upheld.

10:53:00 AM

SENATOR HUGHES continued reading.

Thanks to Title IX, transgender athletes are protected from discrimination in sports and promised equal access to athletic programs. Their inclusion in sports absolutely must be protected, but it must not come at the cost of discrimination against women.

The goal of SB 140 is to ensure discrimination against girls and women does not occur. That they are treated fairly and not disadvantaged in athletic programs compared to male-bodied athletes whether they identify as male or female. Undeniable evidence and scientific research concluded that the average biological male body is stronger, larger, and faster than the average female body even after multiple years of testosterone suppression treatment.

We see the imbalance, the male body advantages, particularly in high school athletics. For example, many male high school track and field

athletes consistently beat the times of the best female Olympians, who've trained intensively for years. Male-bodied athletes have a substantial advantage over female athletes in sports, regardless of the beliefs that the male-bodied athlete may hold about their sexuality or gender identity and regardless of multiple years of testosterone suppression therapy.

As many of you are aware, this topic has come to the forefront of public debate online and in the news lately. Transwomen are dominating in a variety of women's sports, both at the collegiate and high school levels. To that end, I would like to read a section of a letter written by 16 UPenn Swim Team Members regarding their teammate, Lia Thomas, a male-bodied athlete who identifies as a female:

We fully support Lea Thomas in her decision to affirm her gender identity and to transition from a man to a woman. Leah has every right to live her life authentically.

However, we also recognize that when it comes to sports competition, that the biology of sex is a separate issue from someone's gender identity. Biologically, Lia holds an unfair advantage over competition in the women's category, as evidenced by her rankings that have bounced from 462nd as a male competitor to number one as a female competitor. Leah's inclusion with unfair biological advantage means that we have lost competitive opportunities. Some of us have lost records.

[10:55:36 AM](#)

SENATOR HUGHES continued reading:

This is the concerns addressed by SB 140. Only 18 of the 40 members of the U Penn team will be chosen to compete at the Ivy Championships. If Lea Thomas is selected, a biological female will lose her opportunity to compete without an option for another category in which they could hope to qualify. Again, I emphasize that Lea Thomas and other trans athletes

deserve the opportunity to compete and win fairly. However, it must not come at the cost of excluding otherwise qualifying biological females from the only category of sports in which they can hope to succeed.

10:56:19 AM

SENATOR HUGHES continued reading:

I'd like to take a moment to point out one familiar to us in this imbalance of the male and female physiological makeup. Lydia J. Kobe from Seward, Alaska, won the gold medal for her time in the 100 meters in Tokyo, was about seven and a half seconds longer than her counterpart, who won the gold medal in the 100 meters, an American, Adam Peaty. There is just a vast difference.

This issue at hand doesn't just impact college and world competitions. It can be traced all the way down to K-12 sports. Public school athletic programs are the primary opportunity for biological females to compete, win and earn scholarships for their accomplishments. Not only are physiological advantages of male-bodied athletes a consideration when it comes to a level and fair, and true competitive playing field, but safety is another concern. When it comes to team sports and contact sports, the physical advantages, such as strength, size, and speed of male-bodied athletes, can put female-bodied athletes at risk of physical harm.

SB 140 addresses the issue from several angles. First, the bill requires public schools and private schools competing against public schools to designate their teams as either male, female, or co-ed. Subsequently, the bill stipulates that membership on a team designated female must be based on the participant's biological sex. The bill also protects schools from the threat of legal action for upholding the proposed law. Finally, students are guaranteed the right to seek legal action if they are deprived of athletic opportunity or suffer retaliation or other adverse action due to a school's lack of compliance with law.

These protections would maintain competition and present Alaskan girls and women with an even playing field. For decades Title IX law ensured that

biological sex-specific separations in athletics are legal. This has preserved competition while allowing women the chance to win. Senate Bill 140 is in line with Title IX. In case you're wondering, the Emergency Order 13988 issued at the federal level that tied funding to allow male-bodied athletes to participate in girls' and women's sports was based on a court ruling pertaining to employment law, not to school sports law, and it is in direct violation of Title IX.

[10:59:06 AM](#)

SENATOR HUGHES continued reading:

I want to point out too, SB 140 stands for an equal opportunity for all. The liability section of the bill would actually give a trans student athlete the ability to file suit if deprived of an athletic opportunity from a violation of this legislation. This bill is not designed to preclude trans individuals from participation in sports but rather to ensure that participation in any category is fair based on the athletics physiological ability. Enabling a disadvantaged group should not necessitate disadvantaging another group. The great triumph of Title IX and the success of millions of women in athletics must not be discarded in the name of social progress. In closing, I want to make two final points:

"I have nothing against anyone who wishes to be transgender. However, I believe there's a fundamental difference between the binary sex you're born with and the gender you may identify as. To protect women's sports those with a male sex advantage should not be able to compete in women's sport. It's not a transphobic thing. I really want to say we have no issue with people who are transgender. Every single woman athlete I've spoken to, and I've spoken to many, all of my friends in international sports, understand and feel the same way as me."

- Sharon Davis, Olympic medalist

"I was bumped to third place in the 55-meter dash in 2019, behind two transgender runners. With every loss, it gets harder and harder to try again. That's a devastating experience. It tells me that I'm not good enough that my body isn't

good enough. And that no matter how hard I work,  
I am unlikely to succeed because I'm a woman."

- Chelsea Mitchell, Canton High School Student

[11:01:22 AM](#)

SENATOR HUGHES continued reading:

The mental health of girls and women is at stake. The argument regarding mental health has been made on behalf of male-bodied athletes who, via this bill, could still participate in co-ed or boys and men's sports but not female sports, but we often fail to think about what happens if we don't address this issue when it comes to girls and women. How are we impacting girls and women - their mental health - if we allow male-bodied athletes to beat them out of spots, on rosters, out of championships, and out of scholarships? That's one point I wanted you to consider.

The final point is if we do not address this, eventually, over time, girls' and women's sports will be, frankly, totally eroded. Coaches are hired to take teams to victory. When one women's team has a male-bodied athlete giving that team an advantage, other coaches will be pressured to have the same advantage and will recruit male-bodied athletes. Rosters will eventually fill up with more and more male-bodied athletes to increase this advantage and victories, robbing more and more females from athletic opportunities.

We do not want this trend to take hold in Alaska. Your support to ensure discrimination against girls and women does not occur in our state is needed. Thank you.

[11:02:38 AM](#)

SENATOR HUGHES stated the presentation of SB 140 would include invited testimony of athletes, coaches, and legal and technical experts. The presentation would also include slides from research studies, articles, and quotes.

She began the presentation by sharing quotes from the document Competition: Title IX, Male-Bodied Athletes, and the Threat to Women's Sports, slides 1-13:

[Original punctuation provided.]

[T]here will always be significant numbers of boys and men who would beat the best girls and women in head-to-head competition. Claims to the contrary are simply a denial of science.

MARTINA NAVRATILOVA Winner of 18 Grand Slam  
Tennis Singles Titles

I would have won my first ever high school track meet if it weren't for this [male-bodied] athlete...It was very disappointing.

MARGARET ONEAL Hawaii

Those with a male sex advantage should not be able to compete in women's sport.

SHARRON DAVIES British Olympic Silver Medalist

We're all about equality for women in sport but right now that equality is being taken away from us. . . . Unfortunately, there's nothing we can do because every time we voice it we get told to be quiet.

TRACEY LAMBRECHS Former Women's Olympic  
Weightlifter (2016 Rio), New Zealand

[11:04:56 AM](#)

SENATOR HUGHES noted the distance of the 2nd and 3rd place finishers behind CeCe in slide 5.

NCAA Division II runner CeCe (formerly Craig) Telfer of Franklin Pierce University wins the 400 meter hurdles on May 25, 2019.

I don't know of a woman athlete who doesn't want trans girls to be treated fairly... But the cost of treating her fairly should not come at the cost of discriminating against a biologically-female-at birth woman.

DONNA LOPIANO Former CEO, Women's Sports Foundation

I didn't feel it was fair for [this athlete] to be playing [and taking] away a position from girls who could have started, which to me was so wrong on so many levels.

DESTINY LABUANAN Maui, HI

We know who's going to win the race before it even begins...It just seems like all our hard work is going down the drain.

ALANNA SMITH Danbury, CT

In 2017, men and boys around the world outperformed Allyson Felix's best 400-meter more than 15,000 times.

I knew that I was the fastest girl here, one of the fastest in the state....Then, the gun went off. And I lost.

CHELSEA MITCHELL Canton, CT

Coaches at the collegiate level are rewarded for winning, so these coaches will choose biological males in order to remain competitive in their conference. Where are the spaces for biological females then? What does this mean for equal opportunity for women?

CYNTHIA MONTELEONE Team USA Masters Track Athlete,  
Coach, and Metabolic Practitioner

When it comes to women's sports, biology matters.

INGA THOMPSON 10x National Champ, 3x Olympian,  
3x World Medalist, 2x Podium Finisher  
in the Women's Tour de France

[When it comes to competitive athletics,] sex segregation is the only way to achieve equality for girls and women.

MARTINA NAVRATILOVA Winner of 18  
Grand Slam Tennis Singles Titles

[11:07:21 AM](#)

At ease.

[11:08:00 AM](#)

CHAIR HOLLAND reconvened the meeting.

[11:08:05 AM](#)

DANIEL PHELPS, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, Alaska, stated that peer-reviewed scientific reports support SB 140. In the British Journal of Sports Medicine, in a report titled "The Effect of Gender Affirming Hormones on Athletic Performance in Transwomen and Transmen," researchers found that prior to hormone therapy, transwomen had a 15 to 31 percent athletic advantage over biological females. After one year of testosterone suppression,

transwomen still had 9 percent faster mean run speeds than biological women. One year of suppression is the recommended time for transwomen's inclusion into women's sports by world athletics.

MR. PHELPS said another study done by Drs. Hilton and Lundberg titled "Transgender Women in the Female Category of Sport" reviewed the differences between biological males and females in athletics and assessed whether testosterone suppression removed the performance advantage of male-bodied athletes. It was found that the performance gap between male and female-bodied athletes becomes significant at puberty. The gap is as much as 10 to 50 percent, depending on the sport. The study also found that strength, lean body mass, muscle size, and bone density are only trivially affected by testosterone suppression.

MR. PHELPS advanced to a slide titled Table 4. He said that research at Duke Law compared male and female-bodied athletes' data from track and field events across various levels. The research revealed that female-bodied athletes are not competitive for the win against males. He stated that the second column from the left showed the best results across a range of events for the top female athlete in each event. The next column showed boys, which would be male-bodied athletes under the age of 18, and the best result for each event. The best boy beat the best woman in the world in every event. The difference is greater when the top woman athlete results are compared to men. The fourth column shows the number of boys who in one year beat the best woman in the world in her event. The far-right column is a tally across time of the number of instances where men outperformed female-bodied athletes. The numbers are in the 1000s.

[11:11:22 AM](#)

SENATOR HUGHES mentioned that a male tennis player who ranked 203rd in the world beat both Serena and Venus Williams. A high school boy beat Florence Griffith-Joyner's world record time, and a male competitor ranked 5606th tied with her time, which illustrates the differences in body types using data.

[11:12:29 AM](#)

CHAIR HOLLAND turned to invited testimony.

[11:12:38 AM](#)

CYNTHIA MONTELEONE, Team USA Track Athlete, Maui, Hawaii, read her op-ed published by Fox News:

I'm a mom, a coach and a Team USA World Masters track athlete who is fighting for something greater than another gold medal: I'm standing for the protection of women's sports.

If male-bodied athletes continue competing on female teams, it will be the end of women's sports. This is no exaggeration; this is reality, and it's happening right now.

At the 2018 World Masters Athletics Championships in Malaga, Spain, I competed in the 200-meter race against a male-bodied athlete, whom I beat by only a few tenths of a second. The next year, the same athlete beat my teammate in the hurdles for a place on the podium at the 2019 World Championship indoor meet in Poland.

MS. MONTELEONE added that people argue that if she won, there is no issue. However, one female beating one male does not mean all elite females can beat all elite males. Furthermore, the individual she won against was approximately 6'5" tall, which gave him the advantage in the hurdles.

MS. MONTELEONE resumed reading:

My teammate had trained harder than anyone I know. It wasn't just on the world stage that I experienced the demoralizing trend of male-bodied athletes displacing females from their own competitions; it was also on my home island of Maui, Hawaii.

A year and a half after my experience in Spain, my daughter lost to a biological male identifying as female in her first-ever high school track race.

[11:14:34 AM](#)

MS. MONTELEONE noted that due to COVID, this had been her daughter's only track race, and it was lost to a biological male.

MS. MONTELEONE resumed reading:

I had watched proudly as my strong and determined girl did all the right things - made personal, difficult sacrifices to train her body to be as fast and fit as possible for her first race.

Yet all her hard work seemed to drift away along with the male-bodied athlete, who had just transferred from the boys' volleyball team to the girl's team the season before.

MS. MONTELEONE added that the issue is also about safety. The same male-bodied athlete spiked the ball so hard it gave a girl a concussion.

MS. MONTELEONE resumed reading:

The athlete breezed right by her to win first place, leaving her to finish second.

How can you win as a female when you're lined up next to a male body whose strength, heart and lung capacity, and pace are all greater than your own no matter what the "treatment"?

It's not only the fact that my daughter placed second behind this individual in her first race, but we also began to witness all the other ways this injustice impacts families like ours: the mental health impact on girls who have to race male-bodied athletes, the personal lessons in effort rewarded and goals achieved, and future scholarships, awards and accolades.

[11:16:05 AM](#)

MS. MONTELEONE continued reading:

Numerous studies have shown males continue to hold large physical advantages over females, even when suppressing their testosterone. A male's muscular advantage is only minimally reduced when testosterone is suppressed, and males are still 12 percent faster than their female counterparts after two years of feminizing hormones.

We are not just hormones. What about the impact of our cycle on sports performance? What about the impact of birth control or pregnancy? These are all valid obstacles that males identifying as females do not have to address.

The most important factor is the psychological toll. Many of the girls I coach suffer from anxiety over having to compete against male-bodied athletes. We all know the powerful scientific neurotransmitter connection between our minds and our bodies: When you think you can win, it is scientifically proven you have a better chance of doing it.

Yet those of us who dare speak out that competing against males is unfair are told, "Oh, it's not that big of a deal. It doesn't happen that often." "Just keep your mouth shut and be quiet." That's what I was told when I raised questions as to the unfairness of running next to a male-bodied athlete at the World Masters.

From coast to coast, we see college administrators, coaches, the National Collegiate Athletic Association, and many others in the media and culture trying to downplay our stories and sweep us under the rug. But know this: There is a groundswell. From my very own daughter raising her voice along with the young track stars Chelsea Mitchell, Selina Soule and Alanna Smith in Connecticut, to Lainey Armistead, who plays soccer in West Virginia, to the female swimmers at the University of Pennsylvania who are stressed by the presence of a male in their locker room (not to mention the women who compete, and often lose, against this male-bodied athlete).

[11:17:50 AM](#)

MS. MONTELEONE continued:

Yes, indeed, there's a chorus of voices bravely recounting the missed opportunities, lost scholarships and titles, and the enormous challenge of competing in the sport you love on a playing field you know isn't level.

How does this affect how girls think about the future?

My daughter is a junior in high school and plans to follow in my footsteps and pursue collegiate-level track. But she is already worried about whether she will be able to compete for and receive scholarships.

After all, we know college athletic departments get funding from producing champions - so what's their motivation to recruit biological women like her for their female teams when male-bodied athletes could bring a better chance of victory and more money? We are already seeing this trend at the University of Pennsylvania.

It is wrong for high school girls - or women at any age, for that matter - to worry about not being good enough simply because they are a woman. We are witnessing the nail in the coffin in the death of Title IX.

Female athletes deserve their chance to receive accolades, awards and scholarships. We must raise our voices on behalf of fairness and equal opportunity for all women, before the entire category of women's sports is erased.

[11:18:58 AM](#)

ALARY WOODS, representing self, Lexington, Kentucky, stated she underwent full gender-affirming surgery to legally and clinically be female, something she has desired since the age of four. She said she is grateful for the advancements that made the transformation possible. She opined that fairness in women's sports needs to be preserved. A balance needs to be struck between the support of transwomen and the goodwill essential for promoting long-term integration efforts based on solid foundational principles. The first principle is that the history, suffrage, setbacks, and fears of women, by extension, are the struggles of transwomen. Therefore, transwomen should speak up for fellow sisters, daughters, and mothers when rights and accomplishments are being systemically rolled back. She said it is distressing to her that women's voices are being coerced into silence for an ideology that is untenable and unsustainable in its present form.

[11:21:37 AM](#)

MS. WOODS said that not considering the voices and needs of fellow females is the antithesis of being a woman. She said being welcomed into womanhood made her a woman, not make-up, pronouns, or surgeries. Women that supported her in her transition have confided to her that it is not fair for male-bodied athletes to compete in female sports. Therefore, she desires to support the collective of all women in the struggle to maintain female-bodied sports. The barriers ideologues impose

to segregate and tarnish goodwill and trust should be broken by constructive dialogue and collaboration with no voice silenced. Everyone should be heard so that fears imposed by academicians and others can be released from relationships. Trans and non-trans voices should be heard to discover the best outcome.

[11:24:44 AM](#)

TANNER HART, representing self, Illinois, said she competed in women's track and field in high school and won 13 Alaska State women's track and field titles. She went on to compete at college and competed against a biological male. She opined that it is unfair because physiologically, their hearts are larger, and their lungs have more capacity. These two facts are enough for male and female sports to be kept separate. Allowing male-bodied athletes in female sports forces women to compete at a disadvantage.

[11:26:26 AM](#)

LARRY WHITMORE, Retired Alaska Athlete Official, Hawaii, said he is a former teacher and coach in the Anchorage School District who supports the Alaska Even Playing Field Act. He has coached various sports for boys and girls. He has also been a cross-country running, track and field official. The mission statement for track and field officials states they are to regulate and administer interscholastic athletic competition fairly and safely. This is not possible when biological males are allowed to compete with biological females. We already know that biological males have greater bone density, bigger hearts and lungs, and more muscle strength than biological females. Other aspects make competition between biological males and females unfair. Girls' bodies begin changing between the ages of 12 and 15 to prepare for childbearing. As a coach he became aware of the physical and emotional challenges some girls face during their monthly cycle and the affect it had on their performance. From experience coaching track and field, he noticed many girls performed their best in their first two years of high school before their hip area developed. He stated that these changes only occur in biological females, which makes competition between men and women unfair. Common sense dictates that to protect Title IX and save women's sports from being destroyed, biological males must not compete in women's sports. He strongly supports allowing everyone to participate and compete in interscholastic sports by having transgender or co-ed teams.

[11:31:22 AM](#)

MR. PHELPS shared slides containing quotes from court cases that establish precedent for SB 140:

[Original punctuation provided.]

There are '[i]nherent differences' between men and women, and these differences remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity.  
United States v. Virginia 518 U.S. 515.533 (1996).

Because of innate physiological differences, boys and girls are not similarly situated as they enter athletic competition.  
Kieczek v. Rhode Island Interscholastic League, Inc.  
612 A.2d 734.738 (R.I. 1992)

It takes little imagination to realize that were play and competition not separated by sex, the great bulk of the females would quickly be eliminated from participation and denied any meaningful opportunity for athletic involvement.  
Cape v. Tenn. Secondary Sch. Athletic Ass'n. 563 F.2d 793, 795 (6<sup>th</sup> Cir. 1977)

[11:32:35 AM](#)

MR. PHELPS presented the sectional analysis for SB 140 as follows:

[Original punctuation provided.]

**Section 1 - Page 1, Lines 3 - 4**

Adds subsection (d) to AS 14.18.040 stating the word "sex" to mean biological sex.

**Section 2 - Page 1, Lines 5 - 15; Page 2, Lines 1 - 25**

Amends AS 14.18 by adding *Article 2. Designation of Athletic Teams and Sports* and the following subsections:

**Sec. 14.18.150. Page 1, Lines 7 - 14**

- (a) Students or teams from a public or private school whose teams compete against a public school must designate each school-sponsored team or sport as follows:
- (1) male, men or boys' team or sport
  - (2) female, women, or girls' team or sport;
- or

(3) coeducational or mixed team or sport

(b) Any student who participates in an athletic team or sport that is designated "female, women, or girls" must be female, based on the participant's biological sex.

Sec.14.18.160. Page 1, Line 15; Page 2 - Lines 1 - 3  
Protects schools and school districts from complaints, investigations, or any adverse actions for complying with AS 14.18.150.

Sec. 14.18.170. Page 2 - Lines 4 - 19  
Discusses liability and recourse for a student deprived of an athletic opportunity or suffers direct or indirect harm resulting from a violation of AS 14.18.150; or for a student who suffers retaliation for reporting a violation of the aforementioned. Discusses same liability and recourse for schools or school districts that suffer direct or indirect harm as a result of a violation of AS 14.18.150. Allows for a two-year statute of limitations.

Sec. 14.18.180. Page 2 - Lines 20 - 25  
Defines "school" as an elementary, junior high, secondary, or post-secondary school. Defines "school district" as a borough school district, city school district, regional educational attendance area, state boarding school, and/or state centralized correspondence study program.

[11:35:18 AM](#)

SENATOR HUGHES stated the next three presenters are national experts familiar with legal issues, including Title IX.

[11:36:31 AM](#)

REPRESENTATIVE BARBARA EHARDT, Idaho State Legislature, Idaho Falls, Idaho, stated Title IX passed when she was eight. It changed her life because she played sports in school, in college on scholarship, and had a Division One women's basketball coaching career for 15 years at four universities. She has testified in other states. It is gratifying to see legislation similar to what she brought forward pass in other states because it is an important matter. She opined that sports first begin with competition and then winning; if this were not the case, players would not get cut, and coaches would not get fired. To say sport is about humanity, community, and inclusivity is a

false narrative. Competition is a key element that needs to be protected in the sex-segregated opportunities that Title IX has provided.

MS. EHARDT said that Idaho women runners were forced to compete against June Eastwood. June competed as a male for three years at the University of Montana before switching to the female team as a senior. In 2020, June ran in the indoor track Big Sky Championships. June annihilated the Idaho women, much like Lia Thomas did in the sport of swimming. She theorized that if June Eastwood and Lia Thomas had started competing as freshmen women, coaches would have been forced to find a biological male to compete against them, because coaches who do not win lose their jobs. In the world of NCAA athletics repeating the actions of others is a truism.

[11:40:18 AM](#)

MS. EHARDT noted that in 1995 Nike was incredibly supportive of girls and women in an ad called "If You Let Us Play." It documented benefits to girls that play sports, such as 60 percent less likely to get breast cancer, more likely to leave a man that beats them, and less likely to get pregnant before they want to. These are all things indicative of women and why opportunities in women's sports must be protected.

She then pointed out that biological males and females each have an opportunity to compete. However, what is happening is that biological males can choose to compete in either, which gives them two opportunities. The problem is not that men get two opportunities, and women only get one. The problem is that men get two opportunities, and the women's opportunity is taken away, which is unfair. As a collegiate coach who holds camps, clinics, and tournaments for kids, the difference in male and female abilities starts before puberty. A second-grade girls' team cannot successfully compete against a second-grade boys' team, so she has the girls compete against the kindergarten boys' team. It is not a matter of puberty; it is a matter of whether a person has XX or XY chromosomes. This is inherently important to who we are as men and women and should be celebrated. She stated she could answer questions regarding economic effects and reactions from the NCAA.

[11:43:29 AM](#)

MATT SHARP, Senior Counsel, Alliance Defending Freedom, Atlanta, Georgia, said women deserve to compete on a level playing field. Males competing in women's sports destroy fair competition and women's athletic opportunities. His law firm represents female

athletes like Selena Soule of Connecticut, Madison Kenyon of Idaho, and several others in lawsuits seeking to preserve fairness in women's sports. He opined that it is unfortunate that the number of women who have lost championships, records, and athletic opportunities is increasing across the country. For example, in Connecticut, two males captured 15 Women's Championship titles, set 17 new records, and took over 80 opportunities to advance in competitions that rightfully belonged to females. While everyone should be allowed to participate in sports, biology matters when organizing sports. When the reality of biological science is ignored, women pay the price. SB 140 would ensure that all female athletes have an even playing field to compete and win. It would set an eligibility standard for female teams so that male-bodied athletes would not take spots on Alaskan teams, and taxpayer-funded scholarships would be awarded to female athletes who earned them. States, including Montana, South Dakota, Idaho, Florida, Arkansas, Mississippi, and Iowa, have passed laws like SB 140 to protect fairness in K-12 and collegiate sports.

SB 140 is consistent with the Constitution and federal law. Federal courts have long recognized that it is constitutional to provide separate programs based on sex, including sports teams, locker rooms, and even single-sex schools. For example, the Supreme Court in the Virginia Military Institute (VMI) decision said that women must be permitted to enroll in VMI. Justice Ginsburg authored the main opinion for the court. She wrote that once women were admitted to VMI, female students would undoubtedly require separate physical standards because of the "physiological differences between male and female individuals. It is just for the same reason men and women undoubtedly require separate physical competitions," in other words, athletics.

MR. SHARP said that the Ninth Circuit Court of Appeals, which has jurisdiction over Alaska, upheld an Arizona policy several years ago like SB 140, which noted that males are not eligible to compete on female teams. The court concluded that physiologically males would have an undue advantage competing against females and substantially displace them if they were allowed to compete for a position. The court further recognized the importance of government in redressing past discrimination against women in athletics and promoting equality of opportunities between sexes as legitimate and vital. He stated that SB 140 supports these precedents and other court decisions.

[11:47:01 AM](#)

MR. SHARP said attorney generals from 14 states, including Alaska, filed a brief supporting the constitutionality of Idaho women's sports legislation enacted in 2020, but that recently the NCAA did not stand with female athletes. Therefore, this body must urgently set a clear, fair, and scientifically based policy to guide Alaska's schools and colleges in guaranteeing equal opportunities for women to participate and win. Allowing males on female teams means a girl loses a spot and the benefits of participation. In an Inc.com survey of women business leaders and CEOs, 94 percent said they participated in sports and described their athletic experiences as vital to their professional development. Girls in Alaska should have the same athletic opportunities for experiences that will help them be successful.

[11:49:19 AM](#)

JENNIFER BRACERAS, Director, Independent Women's Law Center, Boston, Massachusetts read her testimony:

Competitive score is a zero-sum game, where some athletes make the cut and others do not. Someone wins, and others lose. In a zero-sum competition, the inclusion of male-bodied athletes in women's sports inevitably means that females lose out.

Almost 50 years ago, Title IX transformed sports by guaranteeing women the right to equal athletic opportunities. Congress enacted Title IX to end unjust discrimination in education and to expand educational opportunities for women and girls. Although the statute originally made no mention of athletics, in 1974, Congress passed an amendment proposed by Senator Jacob Javits of New York that directed the Department of Health, Education, and Welfare to issue regulations regarding athletics. Those regulations state that schools and educational institutions may operate single-sex athletic teams so long as they provide equal athletic opportunity for members of both sexes. Notice that the regulation says both sexes, meaning two.

[11:50:40 AM](#)

MS. BRACERAS continued reading:

Title IX's binary conception of sex, under which schools may operate separate teams for male and female athletes, helped usher in a period of unprecedented

athletic opportunity and achievement for women and girls, which you have already heard quite a bit about. That progress today is at risk. It is at risk from schools, athletic associations, and leagues that allow transgender athletes who were born male to participate in women's sports. But it is not simply about transgender participation under women's sports. One thing you have not heard about today is the way that male participation in women's sports is happening outside of the transgender context.

Across the United States, there are many schools that operate field hockey or volleyball teams only for women and do not offer those teams for men. It's significant because many of these teams were initially created by schools in the 1970s in order to comply with Title IX, so they added field hockey and volleyball for women in order to increase the number of spots for female athletes. But sports like this are today at risk in states like Massachusetts and other areas across the country that require women's teams, such as field hockey and volleyball, to roster male players when the school does not offer a male team in that particular sport. Last fall, Independent Women's Forum and Independent Women's Law Center issued a report called Competition: Title IX, Male Bodied Athletes and the Threat to Women's Sports, and in that report, we talk about this phenomenon. There's actually a photo in the report of a female field hockey player, who happens to be my daughter, playing against male field hockey players in high school. My daughter is now a Division One field hockey player. She's now in college. But even a person of her athletic ability who plays at a Division 1 level had trouble going up against high school male athletes, boys who play hockey, boys who play lacrosse, and just thought, "Oh, well why don't I take on a Fall sport and go out for field hockey." There was not just one team her high school had to play against that had [indiscernible]. There were at least three teams that had multiple male field hockey players on a team.

[11:53:27 AM](#)

MS. BRACERAS continued reading:

Defenders of policies like these say that they're necessary to promote fairness and inclusion, but what

these policies actually do is treat female athletes unfairly and deny them equal opportunity to compete. So not only did my daughter have to go up against male field hockey players, but there were female field hockey players at those other schools that didn't make Varsity because a boy did.

As you've heard today, the average male is bigger, stronger, and faster than the average female. Because of this scientific fact, when male-bodied athletes compete against women, women most often lose. But Title IX not only protects our right to fair competition, it protects our right to play at all.

Allowing biological men to compete as athletes on women's teams with limited rosters means that there are fewer spots on those teams for females, so women get relegated to the JV team or don't make the team at all. Perhaps if they do make the team, they get less playing time when a man takes the field, or they may receive less scholarship money. The fight to protect women's sports is not simply about transgender politics. It's about fairness and equal opportunity for women to play competitive sports. And if the federal government isn't going to protect Title IX and stop discrimination against female athletes, then the states must step up and prohibit the participation of all male-bodied athletes in women's athletic competitions.

[11:55:34 AM](#)

SENATOR HUGHES thanked the committee for its time and the testifiers for presenting the dilemma facing women's sports and the solution.

[11:55:54 AM](#)

SENATOR BEGICH stated he has been patient in listening to the discussion from the experts and hopes for an opportunity to ask questions regarding SB 140 because there is a different side to the transgender women in sports argument. Recent case law controverts the cases presented from 1977, 1992, and 1996. The Idaho bill enjoined in 2020 by the Ninth Circuit Court is under full panel review. The B.P.J v. West Virginia case was struck down in West Virginia, and the current administration has interpreted Bostock v. Clayton as protecting transgender rights. He said that Legislative Legal Services had provided a legal memorandum underscoring the unconstitutionality of SB 140 that

he would provide for discussion. He stated there is direct data connecting legislation like SB 140 to suicide among transgender youth that he would share since safety was brought up as a concern.

CHAIR HOLLAND stated that the committee will spend significant time on SB 140.

[11:57:45 AM](#)

SENATOR HUGHES requested that time be allotted in a future hearing for expert testifiers to address the concerns that were mentioned.

CHAIR HOLLAND replied that it would depend on the limited time in the schedule and the availability of the testifiers.

CHAIR HOLLAND held SB 140 in committee.

[11:58:19 AM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Education Standing Committee meeting at 11:58 p.m.