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TODD ROKITA
ATTORNEY GENERAL

August 7, 2026

Senator Ted Cruz
United States Senate
167 Russell Senate Office Building
Washington, D.C. 20510

Senator Eric Schmitt
United States Senate
404 Russell Senate Office Building
Washington, D.C. 20510

Re: Protect College Sports Act of 2026

Dear Sens. Cruz and Schmitt,

We, the Attorneys General of Indiana, Alabama, Alaska, Florida, Oklahoma, and Utah write to express our concern that provisions of the Protect College Sports Act, S. 4668, if not amended, could undermine the hard-fought progress state attorney generals have made in protecting the integrity of women's sports. That would be a travesty should it occur. As the Senate debates this legislation, it should amend the bill to make clear that the bill does not preempt the 27 state laws that prohibit biological males from participating in women's sports.

For decades, the integrity of women's sports has been under attack by those pursuing a radical transgender agenda at the expense of the safety of female athletes and equal athletic opportunity. Efforts to let men who claim they are women compete in female sports gained momentum in recent years and in many jurisdictions succeeded, despite the obvious danger, unfairness, and irrationality of the practice.¹ Numerous young women have had their athletic careers wrecked and ruined as a result.

¹ See *Richards v. U.S. Tennis Ass'n*, 93 Misc. 2d 713, 714, 400 N.Y.S. 2d 267, 268 (Sup. Ct. 1977) (granting a preliminary injunction allowing professional tennis player who was a biological male who had undergone sex reassignment surgery to participate in The United States Open in the women's division); *Gaines et al. v. National Collegiate Athletic Association et al.*, No. 1:24-cv-01109 (N.D. Ga.)

Our states responded by passing laws aimed at ensuring that women are not forced to compete against men. As troubling as it is that states even had to pass laws in the first place to prohibit such an unmistakably improper practice, even more troubling is that enactment of those laws precipitated years of expensive litigation, the outcome of which was in serious doubt until just a little over a month ago. Not until June of this year did the Supreme Court finally put to rest the question whether states could enact such laws when it recognized the obvious: “females and males have inherent physical differences relevant to athletic performance.” *West Virginia v. B.P.J. by Jackson*, 146 S.Ct. 2356, 2367 (2026); citing *United States v. Virginia*, 518 U.S. 515, 533 (1996). Thus, in *West Virginia v. B.P.J.*, the Supreme Court held that States lawfully may maintain women’s and girls’ sports for biological females. *Id.* at 2367.

Perhaps most troubling is that this recent victory our offices spent years and countless hours securing might now be undone by the preemption provisions contained in S. 4668.

S.4668, in its current form, contains express preemption provisions that could be construed as ambiguous as to whether they preempt the twenty-seven state statutes that prohibit males from participating in women’s sports. These provisions of S. 4668 are unacceptably unclear and risk re-opening the floodgates of litigation on the question whether states can ensure women’s sports are for women and women only.

In particular, Section 113 provides who is eligible to participate in NCAA Division I or Division II athletic competitions and establishes requirements that an individual “(1) is a student athlete; (2) meets uniform academic standards established by the relevant intercollegiate athletic association, conference, or institution; (3) is not a professional athlete; and (4) complies with established rules that restrict eligibility for violations of State or Federal law.” In turn, Section 121(a)(2)(c) of the bill prohibits states from adopting, maintaining, and enforcing any laws that “govern, regulate, or invalidate policies or rules of an institution, a conference, or an intercollegiate athletic association that regulates... any provision described in section 113 relating to the eligibility of a student athlete to participate in intercollegiate athletics.” Section 121 also contains a preservation of laws provision that expressly exempts from the bill’s preemptive effect certain state statutes. But notably absent from Section 121(b)’s preservation of laws provisions is any reference, direct or indirect, to state laws limiting male participation in women’s sports.

(Class Action lawsuit brought by female athletes against the NCAA, claiming that allowing biological men to compete in female sports and forcing female athletes to share facilities with biological men is unlawful).

There is no serious argument that these preemption provisions are not, at the very least, ambiguous and could be misconstrued. It would be foolish and naïve to believe that those who wish to allow men to compete in women's sports will not exploit that ambiguity to bring suit and argue—however wrongly—that state laws protecting women's sports are among those preempted by Section 121.

Given what's at stake—the integrity of women's sports, the safety of female athletes, and basic biological reality—and the tenacity of the left in pushing a radical transgender agenda that harms our young women and families, we cannot afford to roll the dice and put our trust in the federal courts to properly construe these ambiguities in this bill in a way that does not preempt our states' women's sports laws. Our states have invested too much in this fight only to have the outcome once again put into doubt.

The right thing to do is clear. A simple amendment should be made to S. 4668 to eliminate any ambiguity over whether the bill preempts our states' women's sports laws and put beyond any question that states get to decide this issue. Halfway gestures, like floor statements expressing one way the bill could be interpreted that will not bind and in all likelihood will be disregarded by the courts, are not enough. Nor is it an answer to our concerns that such an amendment would jeopardize bipartisan support for S. 4668. The fact that it might only confirms that those who press to allow men into women's sports intend to exploit the bill's ambiguities to undo the progress we have made protecting young women. That is unacceptable.

Thank you for your attention to this matter.

Sincerely,



Todd Rokita
Attorney General of Indiana



Steve Marshall
Attorney General of Alabama



Cori Mills
Acting Attorney General of Alaska



James Uthmeier
Attorney General of Florida



Gentner Drummond
Attorney General of Oklahoma



Derek Brown
Attorney General of Utah