

**Senate Resolution No. 1798**

By Senators Wagle, Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Tyson, Wilborn and Wolf

6-1

1 A RESOLUTION supporting student privacy and safety.

2 WHEREAS, The State of Kansas has a compelling interest in  
3 protecting the privacy, safety, health and welfare of all students in public  
4 schools, colleges and universities in this state; and

5 WHEREAS, Public schools, colleges and universities have a duty to  
6 respect and protect the privacy rights of their students. Courts have  
7 recognized a constitutional right to privacy that includes a right not to be  
8 compelled by the government to undress or be unclothed in the presence  
9 of members of the opposite sex; and

10 WHEREAS, Children and young adults have a reasonable expectation  
11 that public schools, colleges and universities in this state will not allow  
12 their students to be viewed in various states of undress by members of the  
13 opposite sex while using student restrooms, locker rooms and showers;  
14 and

15 WHEREAS, Parents have a reasonable expectation that public schools  
16 in this state will not allow their minor children to be viewed in various  
17 states of undress by members of the opposite sex, nor allow their minor  
18 children to view members of the opposite sex in various states of undress;  
19 and

20 WHEREAS, The U.S. Departments of Justice and Education under the  
21 Obama Administration unilaterally determined that Title IX applies to  
22 prohibitions on discrimination based on "gender identity," as well as to  
23 students' biological sex, despite the lack of legislative history, textual or  
24 direct judicial support for this conclusion in issuing Title IX "guidance"  
25 to all public schools on May 13, 2016 (Obama Administration Title IX  
26 guidance); and

27 WHEREAS, The U.S. Departments of Justice and Education are  
28 threatening to condition every school district's ability to receive federal  
29 education funding upon compliance with the Obama Administration Title  
30 IX guidance; and

31 WHEREAS, The action of the U.S. Departments of Justice and  
32 Education threatens the ability of public schools in this state to protect the  
33 privacy, safety, health and welfare of their students, should schools

1 comply with the Obama Administration Title IX guidance, or else  
2 threatens the ability of schools to continue to provide high-quality  
3 educational activities, should schools lose federal funding in order to  
4 protect their students; and

5 WHEREAS, Education policy decisions should be made by local  
6 school leaders and communities, not the federal government, because  
7 local school leaders and communities, along with parents, know best how  
8 to respond to specific situations involving student privacy and safety:  
9 Now, therefore,

10 *Be it resolved by the Senate of the State of Kansas:* That the Senate of  
11 the State of Kansas supports the right of states and local school boards,  
12 not the federal government, to direct education policy; and

13 *Be it further resolved:* That the Senate of the State of Kansas stands  
14 steadfast in its support for the privacy and safety rights of all students in  
15 public schools, colleges and universities in this state; and

16 *Be it further resolved:* That the Senate of the State of Kansas stands  
17 steadfast in its support for parents who send their minor children to  
18 school, expecting that public schools will not allow their children to be  
19 viewed in various states of undress by members of the opposite sex, or to  
20 view members of the opposite sex in various states of undress; and

21 *Be it further resolved:* That the Senate of the State of Kansas  
22 encourages public schools, colleges and universities in this state to  
23 uphold their primary responsibility to protect the privacy and safety of all  
24 students, and to therefore disregard the Obama Administration Title IX  
25 guidance; and

26 *Be it further resolved:* That the Senate of the State of Kansas strongly  
27 opposes the Obama Administration Title IX guidance as an act of  
28 executive overreach that threatens the rights to privacy, safety and  
29 education of students in this state; and

30 *Be it further resolved:* That the Senate of the State of Kansas strongly  
31 encourages the Congress of the United States to curtail the Obama  
32 Administration Title IX guidance by using every legislative tool in their  
33 power, including passing legislation to protect students' privacy rights;  
34 reassuring states, schools and other educational institutions that they will  
35 not lose federal education funding by disregarding the Obama  
36 Administration Title IX guidance; withholding funding for the U.S.  
37 Departments of Justice and Education that would otherwise be used to  
38 implement the Obama Administration Title IX guidance so as to ensure  
39 agency enforcement of the law is based on the clear statutory text as  
40 passed by Congress and signed into law; and holding hearings to  
41 investigate the process by which the U.S. Departments of Justice and  
42 Education developed the Obama Administration Title IX guidance and  
43 holding those responsible for the decision accountable for their

1 overreach; and

2 *Be it further resolved:* That the Senate of the State of Kansas  
3 expresses deep gratitude and steadfast support for the Attorney General of  
4 the State of Kansas for joining a brief of amicus curiae in the case of  
5 Grimm v. Gloucester County School Board asking the U.S. Court of  
6 Appeals for the Fourth Circuit to rehear the case en banc in order to  
7 correct the misinterpretation of Title IX by a panel of that court and the  
8 U.S. Departments of Justice and Education; and

9 *Be it further resolved:* That the Senate of the State of Kansas  
10 expresses deep gratitude and steadfast support for the Attorney General of  
11 the State of Kansas for joining litigation against the U.S. Departments of  
12 Justice and Education challenging the Obama Administration Title IX  
13 guidance or filing a separate similar lawsuit; and

14 *Be it further resolved:* That the Secretary of the Senate shall send an  
15 enrolled copies of this resolution to the Governor of the state of Kansas,  
16 the Attorney General of the State of Kansas, the President of the United  
17 States, the President of the United States Senate and the Speaker of the  
18 United States House of Representatives.