HOUSE BILL NO. 663

INTRODUCED BY K. SEEKINS-CROWE

A BILL FOR AN ACT ENTITLED: “AN ACT GENERALLY REVISING EDUCATION LAWS; PROHIBITING THE CONSIDERATION OF RACE, COLOR, ETHNICITY, OR NATIONAL ORIGIN BY INSTITUTIONS OF HIGHER EDUCATION IN HIRING, ADMISSIONS, PARTICIPATION, BENEFITS, SCHOLARSHIPS, AND FINANCIAL AID; PROVIDING A PRIVATE CAUSE OF ACTION AND COMPENSATORY DAMAGES, PUNITIVE DAMAGES, STATUTORY DAMAGES, AND INJUNCTIVE AND DECLARATORY RELIEF; WAIVING THE STATE'S CLAIM TO SOVEREIGN IMMUNITY; AND PROVIDING A DELAYED EFFECTIVE DATE.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Consideration of race, color, ethnicity, or national origin by institution of higher education prohibited -- fair admissions, hiring, and funding -- cause of action.** (1) A person may not be excluded from participation in, be denied the benefits of, or be subjected to discrimination by an institution of higher education or by any program or activity in the institution, including affirmative action, on the grounds of race, color, ethnicity, or national origin.

(2) An officer, employee, agent, or program or activity of an institution of higher education may not perform actions to further or to facilitate a decision to exclude a person from participation in, deny a person the benefits of, or subject a person to discrimination by the institution on the grounds of race, color, ethnicity, or national origin.

(3) An institution of higher education may not use in any way an applicant’s race, color, ethnicity, or national origin to make a decision about the applicant’s admission, scholarships, or financial aid. The use of aggregated data concerning the race, color, ethnicity, or national origin of applicants or students to make any of these decisions is prohibited.

(4) (a) An institution of higher education may not reveal or make known to any admissions or financial aid officers data concerning the race, color, national origin, or ethnicity of any applicant or student before admissions and financial aid, scholarship, and funding decisions are finally made.

(b) Admissions or financial aid officers may not intentionally acquire this data by any alternative means before admissions and financial aid, scholarship, and funding decisions are finally made.

(5) There is established a private cause of action against any institution of higher education for a violation of this section, directly or vicariously.

(6) There is established a private cause of action against any officer, employee, or agent of an institution of higher education for a violation of this section. However, if an officer, employee, or agent performed an action in violation of subsection (2) or (4) at the direction of the institution or any other superior officer, employee, or agent of the institution, the cause of action lies only against the institution or other superior officer, employee, or agent of the institution.

(7) In an action brought under this section against an institution of higher education by a complaining applicant or student, the complaining applicant or student may recover:

(a) actual or compensatory damages sustained as a result of any violations of this section; and

(b) punitive damages against an institution if the complaining applicant or student demonstrates that the institution of higher education discriminated against the complaining applicant or student intentionally or with reckless indifference to the protected rights of the person.

(8) In an action brought by a complaining applicant or student under this section, an institution of higher education is strictly liable to the complaining applicant or student for $4,000 in statutory damages, independent of any actual or compensatory damages sustained by the complaining applicant or student as a result of the violation.

(a) In any action brought under this section, injunctive and declaratory relief is available to any complaining applicant or student or to any organization suing on behalf of aggrieved applicants or students.

(b) In any action brought under this section, the state hereby waives sovereign immunity.

(9) For the purposes of this section, "institution of higher education" means the Montana university system, as defined in 20-25-201, and any eligible educational institution as defined in 20-26-1101.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as a new chapter in Title 20, and the provisions of Title 20 apply to [section 1].

NEW SECTION. **Section 3. Effective date.** [This act] is effective October 1, 2026.

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