

HOUSE BILL NO. 879

Introduced: 2/15/83

Referred to Committee on Education & Cultural Resources: 2/15/83

Hearing: 2/18/83

Report: 02/18/83, Do Pass

2nd Reading: 02/22/83, Do Pass, As Amended

Rereferred to 2nd Reading, 02/22/83, Do Pass, As Amended

3rd Reading: 02/23/83, Do Pass

Transmitted to Senate: 2/23/83

Referred to Committee on Judiciary: 3/1/83

Rereferred to Committee on Education & Cultural Resources:
3/2/83

Hearing: 3/14/83

Minority Report: 03/22/83, Be Concurred In, As Amended

Majority Report: 03/22/83, Be Not Concurred In. As
Amended

Bill Killed

1 House BILL NO. 879 *Connelly*
 2 INTRODUCED BY *Jack Keenan, Bergene, Bohring*
 3 *Farris, Alarke, John, Ilva, Nigbet, Spauth, J. Brown, Astoria, Waldman*
 4 *Johro, Ream, J. Almonson, J. Brown, Astoria, Waldman*
 5 A BILL FOR AN ACT ENTITLED: *AN ACT TO PROHIBIT*
 6 *DISCRIMINATION ON THE BASIS OF SEX AGAINST ANY STUDENT IN*
 7 *THE PUBLIC SCHOOLS OF MONTANA; TO REQUIRE THE SUPERINTENDENT*
 8 *OF PUBLIC INSTRUCTION TO DEVELOP RULES AND GUIDELINES TO*
 9 *ELIMINATE SEX DISCRIMINATION IN PUBLIC SCHOOL EMPLOYMENT, IN*
 10 *COUNSELING AND GUIDANCE SERVICES, IN ACCESS TO COURSE*
 11 *OFFERINGS AND RECREATIONAL AND ATHLETIC ACTIVITIES, AND IN*
 12 *TEXTBOOKS AND INSTRUCTIONAL MATERIALS; AND TO ALLOW THE*
 13 *BOARD OF TRUSTEES OF A DISTRICT TO APPEAL NOTIFICATION OF AN*
 14 *ALLEGED VIOLATION; AMENDING SECTION 20-3-107, MCA."*
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 **NEW SECTION.** Section 1. Short title. [Sections 1
 17 through 7] may be cited as the "Educational Equity Act of
 18 1983".
 19 **NEW SECTION.** Section 2. Purpose -- discrimination
 20 prohibited. Inequality in the educational opportunities
 21 afforded women and girls at all levels of the public schools
 22 in Montana is a breach of Article II, section 4, of the
 23 Montana constitution, prohibiting discrimination against a
 24 person on the basis of sex, and Article X, section 1, of the
 25 Montana constitution, guaranteeing equal education

1 opportunity to each person of the state. Violations of
 2 rights have had a deleterious effect on the individuals
 3 involved and on society. Recognizing the benefit to our
 4 state and nation of equal educational opportunities for all
 5 students, discrimination on the basis of sex against any
 6 student in the public schools of Montana is prohibited.

7 **NEW SECTION.** Section 3. Scope of rules and guidelines
 8 to eliminate discrimination. The superintendent of public
 9 instruction shall develop rules and guidelines to eliminate
 10 sex discrimination as it applies to public school
 11 employment, counseling and guidance services to students,
 12 recreational and athletic activities for students, access to
 13 course offerings, and in textbooks and instructional
 14 materials used by students. The rules and guidelines must
 15 include the following:

16 (1) With respect to public school employment, all
 17 school districts must be required to:

18 (a) make no differentiation in pay scale on the basis
 19 of sex;

20 (b) assign school duties without regard to sex except
 21 when such assignment would involve duty in areas or
 22 situations, such as but not limited to a shower room, where
 23 persons might be disrobed;

24 (c) provide the same opportunities for advancement to
 25 males and females; and

1 (d) make no differentiation in conditions of
2 employment, including but not limited to hiring practices,
3 leaves of absence, hours of employment, and assignment of or
4 pay for instructional and noninstructional duties, on the
5 basis of sex.

6 (2) With respect to counseling and guidance services
7 for students, all school districts must be required to make
8 such services available to all students equally. All
9 certified personnel must be required to stress access to all
10 career and vocational opportunities to students without
11 regard to sex.

12 (3) (a) With respect to recreational and athletic
13 activities, all school districts must be required to offer
14 such activities to all students without regard to sex.
15 Districts may provide separate teams for each sex. School
16 districts that provide the following must be required to do
17 so with no disparities based on sex: equipment and supplies;
18 medical care; services and insurance; transportation and per
19 diem allowances; opportunities to receive coaching and
20 instruction; laundry services; assignment of game officials;
21 opportunities for competition, publicity, and awards;
22 scheduling of games and practice times, including use of
23 courts, gyms, and pools; except that school districts may
24 consider the public and student interest in attending and
25 participating in various recreational and athletic

1 activities in scheduling games and practice times. A school
2 that provides showers, toilets, or training room facilities
3 for athletic purposes must be required to provide comparable
4 facilities for both sexes. The facilities may be provided
5 either as separate facilities or may be scheduled and used
6 separately by each sex.

7 (b) The superintendent of public instruction shall
8 develop a student survey to distribute every 3 years to each
9 school district in the state to determine student interest
10 for male and female participation in specific sports.

11 (4) With respect to course offerings, all classes must
12 be available to all students without regard to sex, except
13 that separation is permitted within any class during
14 sessions on sex education or during gym classes.

15 (5) With respect to selection of textbooks and
16 instructional materials, which include but are not limited
17 to reference books and audio-visual materials, school
18 districts must be required to adhere to the guidelines
19 developed by the superintendent of public instruction to
20 implement the intent of [sections 1 through 7]. This
21 subsection does not prohibit the introduction of material
22 considered appropriate by the instructor for educational
23 purposes.

24 NEW SECTION. Section 4. Duties of superintendent of
25 public instruction. The superintendent of public instruction

1 shall:

2 (1) monitor compliance by school districts with

3 [sections 1 through 7];

4 (2) establish a compliance timetable;

5 (3) adopt rules for enforcement of [sections 1 through

6 7];

7 (4) establish guidelines for affirmative action

8 programs to be adopted by school districts; and

9 (5) direct school districts to file assurances of

10 compliance with the rules implementing the provisions of

11 [section 3].

12 ~~NEW SECTION.~~ Section 5. Enforcement by

13 superintendent. (1) The superintendent of public instruction

14 shall investigate alleged violations of and enforce

15 compliance with the provisions of [sections 1 through 7] and

16 the rules and guidelines adopted under [sections 1 through

17 7].

18 (2) If reasonable evidence of a violation is obtained,

19 the superintendent shall:

20 (a) notify in writing the appropriate school district

21 board of trustees of the specific violation;

22 (b) set a reasonable time for the district to correct

23 the specified violation;

24 (c) describe the correction required; and

25 (d) advise that if the correction is not made within

1 the time allowed, state equalization or categorical aid to

2 the district may be reduced.

3 ~~NEW SECTION.~~ Section 6. Notification of violation --

4 alternatives of board of trustees. (1) Upon receipt of a

5 notification of violation of the provisions of or rules

6 adopted under [sections 1 through 7], the board of trustees

7 of a school district may, by majority vote of the board,

8 decide:

9 (a) to attempt to correct the violation; or

10 (b) to dispute that the:

11 (i) violation exists;

12 (ii) correction specified is correct; or

13 (iii) time allowed is reasonable.

14 (2) If the board disputes the notification for any of

15 the reasons under subsection (1)(b), the board may request

16 and is entitled to a hearing by the superintendent under the

17 provisions of 20-3-107.

18 ~~NEW SECTION.~~ Section 7. Civil relief for violations.

19 Any person aggrieved by a violation of [sections 1 through

20 7] or aggrieved by the violation of any rule or guideline

21 adopted under [sections 1 through 7] has a right of action

22 in district court for civil damages and such equitable

23 relief as the court determines.

24 Section 8. Section 20-3-107, MCA, is amended to read:

25 "20-3-107. Controversy appeal. (1) The superintendent

1 of public instruction shall decide matters of controversy
2 when they are appealed from:

3 (a) a decision of a county superintendent rendered
4 under the provisions of 20-3-210; or

5 (b) a decision of a county transportation committee
6 rendered under the provisions of 20-10-132.

7 (2) The superintendent of public instruction shall
8 make his decision on the basis of the transcript of the
9 fact-finding hearing conducted by the county superintendent
10 or county transportation committee and documents presented
11 at the hearing. The superintendent of public instruction may
12 require, if he deems necessary, affidavits, verified
13 statements, or sworn testimony as to the facts in issue. The
14 decision of the superintendent of public instruction shall
15 be final, subject to the proper legal remedies in the state
16 courts. Such proceedings shall be commenced no later than 60
17 days after the date of the decision of the superintendent of
18 public instruction.

19 (3) In order to establish a uniform method of hearing
20 and determining matters of controversy arising under this
21 title, the superintendent of public instruction shall
22 prescribe and enforce rules of practice and regulations for
23 the conduct of hearings and the determination of appeals by
24 all school officials of the state.

25 (4) Whenever in a contested case the superintendent of

1 public instruction is disqualified from rendering a final
2 decision, he shall appoint a hearing examiner as provided in
3 2-4-611 and the decision of the hearing examiner constitutes
4 the superintendent's final order except as provided in this
5 subsection. Such final order is subject to all the
6 provisions of Title 2, chapter 4, relating to final agency
7 decisions or orders, including judicial review under Title
8 2, chapter 4, part 7.

9 ~~(5) Whenever the board of trustees of a school~~
10 ~~district requests a hearing under [section 6], the~~
11 ~~superintendent of public instruction shall conduct the~~
12 ~~hearing under the provisions of subsections (3) and (4)."~~

13 NEW SECTION. Section 9. Codification instruction.
14 Sections 1 through 7 are intended to be codified as an
15 integral part of Title 20, and the provisions of Title 20
16 apply to sections 1 through 7.

-End-

STATE OF MONTANA

REQUEST NO. 476-83

FISCAL NOTE

Form BD-15

In compliance with a written request received February 18, 19 83, there is hereby submitted a Fiscal Note for House Bill 879 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 879 prohibits discrimination on the basis of sex against any student in the public schools of Montana; and requires the Superintendent of Public Instruction to develop rules and guidelines to eliminate sex discrimination in public school employment, in counseling and guidance services, in access to course offerings and recreational and athletic activities, and in text books and institutional materials.

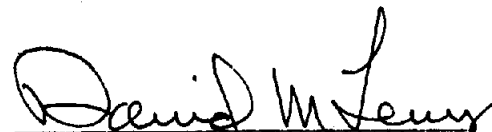
ASSUMPTIONS:

- 1) That Montana will experience workload similar to that of other states who have similar legislation.

FISCAL IMPACT:

Expenditures:	<u>FY 84</u>	<u>FY 85</u>
Under Current Law	\$ <u>-0-</u>	\$ <u>-0-</u>
Under Proposed Law	<u>282,198</u>	<u>272,198</u>
General Fund Required	<u>\$282,198</u>	<u>\$272,198</u>

FISCAL NOTE 15: AA/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-21-83

STATE OF MONTANA

REQUEST NO. 527-83

FISCAL NOTE

Form BD-15

In compliance with a written request received March 25, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 879, Amended, pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 879, amended, prohibits discrimination on the basis of sex against any student in the public schools of Montana; and requires the Superintendent of Public Instruction to develop rules and guidelines to eliminate sex discrimination in public school employment, in counseling and guidance services, in access to course offerings and recreational and athletic activities, and in text books and institutional materials.

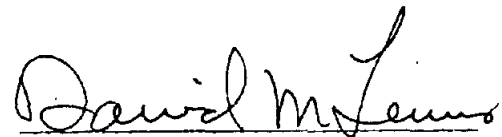
ASSUMPTIONS:

- 1) That Montana will experience workload similar to that of other states who have similar legislation.
- 2) Staff requirements will include 3 Monitors, 1 Lawyer and 1 Secretarial Position.

FISCAL IMPACT:

Expenditures:	<u>FY 84</u>	<u>FY 85</u>
Under Current Law	\$ <u>-0-</u>	\$ <u>-0-</u>
Under Proposed Law	<u>136,246</u>	<u>134,959</u>
General Fund Required	<u>\$136,246</u>	<u>\$134,959</u>

FISCAL NOTE 15: AA/2



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-26-83

1 STATEMENT OF INTENT

2 HOUSE BILL 879

1 whenever it is appropriate and efficient to do so.

3
4 House Bill 879 requires a statement of intent because
5 It grants rulemaking authority to the Superintendent of
6 Public Instruction for the purpose of developing rules and
7 guidelines to eliminate sex discrimination in the public
8 schools of Montana.

9 Section 3 of House Bill 879 mandates rulemaking to
10 eliminate sex discrimination in the following areas: public
11 school employment; counseling and guidance services; access
12 to course offerings; and recreational and athletic
13 activities. With respect to selection of textbooks and
14 instructional materials in section 3, subsection (5), the
15 Superintendent of Public Instruction would develop
16 guidelines to implement the act but would not be required to
17 state such guidelines as administrative rules.

18 Section 4 directs the Superintendent of Public
19 Instruction to adopt rules for enforcement of the act, for
20 establishment of a compliance timetable, and for procedures
21 for districts to file assurances of compliance with the
22 rules implementing the act. It is contemplated that the
23 provisions of section 4 would be set forth as administrative
24 rules. It is envisioned that the Superintendent will use the
25 compliance guidelines of the federal Title IX regulations

App. by comm. on education
and cultural resources

HOUSE BILL NO. 879

INTRODUCED BY PECK, KEENAN, BERGENE,

BACHINI, CONNELLY, HART, J. JENSEN, FARRIS,

DARKO, ADDY, SCHYE, NISBET, SPAETH, ZABROCKI,

REAM, J. HAMMOND, J. BROWN, PISTORIA, WALDRON,

METCALF, VELEBER, HARRINGTON, MCCORMICK, DRISCOLL,

HANSEN, DOZIER, HEMSTAD, MILLER, MENAHAN, HAFEEY,

SAUNDERS, DAILY, MAZUREK, BERG, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT
DISCRIMINATION ON THE BASIS OF SEX AGAINST ANY STUDENT IN
THE PUBLIC SCHOOLS OF MONTANA; TO REQUIRE THE SUPERINTENDENT
OF PUBLIC INSTRUCTION TO DEVELOP RULES AND GUIDELINES TO
ELIMINATE SEX DISCRIMINATION IN PUBLIC SCHOOL EMPLOYMENT, IN
COUNSELING AND GUIDANCE SERVICES, IN ACCESS TO COURSE
OFFERINGS AND RECREATIONAL AND ATHLETIC ACTIVITIES, AND IN
TEXTBOOKS AND INSTRUCTIONAL MATERIALS; AND TO ALLOW THE
BOARD OF TRUSTEES OF A DISTRICT TO APPEAL NOTIFICATION OF AN
ALLEGED VIOLATION; AMENDING SECTION 20-3-107, MCA."

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

NEW SECTION. Section 1. Short title. [Sections 1
through 7] may be cited as the "Educational Equity Act of
1983".

NEW SECTION. Section 2. Purpose -- discrimination

prohibited. Inequality in the educational opportunities
afforded women and girls at all levels of the public schools
in Montana is a breach of Article II, section 4, of the
Montana constitution, prohibiting discrimination against a
person on the basis of sex, and Article X, section 1, of the
Montana constitution, guaranteeing equal education
opportunity to each person of the state. Violations of
rights have had a deleterious effect on the individuals
involved and on society. Recognizing the benefit to our
state and nation of equal educational opportunities for all
students, discrimination on the basis of sex against any
student in the public schools of Montana is prohibited.

NEW SECTION. Section 3. Scope of rules and guidelines
to eliminate discrimination. The superintendent of public
instruction shall develop rules and guidelines to eliminate
sex discrimination as it applies to public school
employment, counseling and guidance services to students,
recreational and athletic activities for students, access to
course offerings, and in textbooks and instructional
materials used by students. The rules and guidelines must
include the following:

(1) With respect to public school employment, all
school districts must be required to:

(a) make no differentiation in pay scale on the basis
of sex;

SECOND READING

HB 879

(b) assign school duties without regard to sex except when such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed;

(c) provide the same opportunities for advancement to males and females; and

(d) make no differentiation in conditions of employment, including but not limited to hiring practices, leaves of absence, hours of employment, and assignment of or pay for instructional and noninstructional duties, on the basis of sex.

(2) With respect to counseling and guidance services for students, all school districts must be required to make such services available to all students equally. All certified personnel must be required to stress access to all career and vocational opportunities to students without regard to sex.

(3) (a) With respect to recreational and athletic activities, all school districts must be required to offer such activities to all students without regard to sex. Districts may provide separate teams for each sex. School districts that provide the following must be required to do so with no disparities based on sex: equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and

instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; scheduling of games and practice times, including use of courts, gyms, and pools; except that school districts may consider the public and student interest in attending and participating in various recreational and athletic activities in scheduling games and practice times. A school that provides showers, toilets, or training room facilities for athletic purposes must be required to provide comparable facilities for both sexes. The facilities may be provided either as separate facilities or may be scheduled and used separately by each sex.

(b) The superintendent of public instruction shall develop a student survey to distribute every 3 years to each school district in the state to determine student interest for male and female participation in specific sports.

(4) With respect to course offerings, all classes must be available to all students without regard to sex, except that separation is permitted within any class during sessions on sex education or during gym classes.

(5) With respect to selection of textbooks and instructional materials, which include but are not limited to reference books and audio-visual materials, school districts must be required to adhere to the guidelines developed by the superintendent of public instruction to

1 implement the intent of [sections 1 through 7]. This
 2 subsection does not prohibit the introduction of material
 3 considered appropriate by the instructor for educational
 4 purposes.

5 NEW_SECTION. Section 4. Duties of superintendent of
 6 public instruction. The superintendent of public instruction
 7 shall:

8 (1) monitor compliance by school districts with
 9 [sections 1 through 7];

10 (2) establish a compliance timetable;

11 (3) adopt rules for enforcement of [sections 1 through
 12 7];

13 (4) establish guidelines for affirmative action
 14 programs to be adopted by school districts; and

15 (5) direct school districts to file assurances of
 16 compliance with the rules implementing the provisions of
 17 [section 3].

18 NEW_SECTION. Section 5. Enforcement by
 19 superintendent. (1) The superintendent of public instruction
 20 shall investigate alleged violations of and enforce
 21 compliance with the provisions of [sections 1 through 7] and
 22 the rules and guidelines adopted under [sections 1 through
 23 7].

24 (2) If reasonable evidence of a violation is obtained,
 25 the superintendent shall:

1 (a) notify in writing the appropriate school district
 2 board of trustees of the specific violation;

3 (b) set a reasonable time for the district to correct
 4 the specified violation;

5 (c) describe the correction required; and

6 (d) advise that if the correction is not made within
 7 the time allowed, state equalization or categorical aid to
 8 the district may be reduced.

9 NEW_SECTION. Section 6. Notification of violation --
 10 alternatives of board of trustees. (1) Upon receipt of a
 11 notification of violation of the provisions of or rules
 12 adopted under [sections 1 through 7], the board of trustees
 13 of a school district may, by majority vote of the board,
 14 decide:

15 (a) to attempt to correct the violation; or

16 (b) to dispute that the:

17 (i) violation exists;

18 (ii) correction specified is correct; or

19 (iii) time allowed is reasonable.

20 (2) If the board disputes the notification for any of
 21 the reasons under subsection (1)(b), the board may request
 22 and is entitled to a hearing by the superintendent under the
 23 provisions of 20-3-107.

24 NEW_SECTION. Section 7. Civil relief for violations.
 25 Any person aggrieved by a violation of [sections 1 through

7]. or aggrieved by the violation of any rule or guideline adopted under [sections 1 through 7] has a right of action in district court for civil damages and such equitable relief as the court determines.

Section 8. Section 20-3-107, MCA, is amended to read:

"20-3-107. Controversy appeal. (1) The superintendent of public instruction shall decide matters of controversy when they are appealed from:

(a) a decision of a county superintendent rendered under the provisions of 20-3-210; or

(b) a decision of a county transportation committee rendered under the provisions of 20-10-132.

(2) The superintendent of public instruction shall make his decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee and documents presented at the hearing. The superintendent of public instruction may require, if he deems necessary, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the superintendent of public instruction shall be final, subject to the proper legal remedies in the state courts. Such proceedings shall be commenced no later than 60 days after the date of the decision of the superintendent of public instruction.

(3) In order to establish a uniform method of hearing

and determining matters of controversy arising under this title, the superintendent of public instruction shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

(4) Whenever in a contested case the superintendent of public instruction is disqualified from rendering a final decision, he shall appoint a hearing examiner as provided in 2-4-611 and the decision of the hearing examiner constitutes the superintendent's final order except as provided in this subsection. Such final order is subject to all the provisions of Title 2, chapter 4, relating to final agency decisions or orders, including judicial review under Title 2, chapter 4, part 7.

~~(5) Whenever the board of trustees of a school district requests a hearing under [section 6], the superintendent of public instruction shall conduct the hearing under the provisions of subsections (3) and (4)."~~

NEW SECTION. Section 9. Codification instruction. Sections 1 through 7 are intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to sections 1 through 7.

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 879

3
4 House Bill 879 requires a statement of intent because
5 it grants rulemaking authority to the Superintendent of
6 Public Instruction for the purpose of developing rules and
7 guidelines to eliminate sex discrimination in the public
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17 state such guidelines as administrative rules.

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19 Instruction to adopt rules for enforcement of the act, for
20 establishment of a compliance timetable, and for procedures
21 for districts to file assurances of compliance with the
22 rules implementing the act. It is contemplated that the
23 provisions of section 4 would be set forth as administrative
24 rules. It is envisioned that the Superintendent will use the
25 compliance guidelines of the federal Title IX regulations

1 whenever it is appropriate and efficient to do so.

HOUSE BILL NO. 879

INTRODUCED BY PECK, KEENAN, BERGENE,

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SAUNDERS, DAILY, MAZUREK, BERG, CHRISTIAENS

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROHIBIT DISCRIMINATION ON THE BASIS OF SEX AGAINST ANY STUDENT IN THE PUBLIC SCHOOLS OF MONTANA; TO REQUIRE THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DEVELOP RULES AND GUIDELINES TO ELIMINATE SEX DISCRIMINATION IN PUBLIC SCHOOL EMPLOYMENT, IN COUNSELING AND GUIDANCE SERVICES, IN ACCESS TO COURSE OFFERINGS AND RECREATIONAL AND ATHLETIC ACTIVITIES, AND IN TEXTBOOKS AND INSTRUCTIONAL MATERIALS; AND TO ALLOW THE BOARD OF TRUSTEES OF A DISTRICT TO APPEAL NOTIFICATION OF AN ALLEGED VIOLATION; AMENDING SECTION 20-3-107, MCA."

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

~~NEW SECTION.~~ Section 1. Short title. [Sections 1 through 7] may be cited as the "Educational Equity Act of 1983".

~~NEW SECTION.~~ Section 2. Purpose -- discrimination

prohibited. Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Montana is a breach of Article II, section 4, of the Montana constitution, prohibiting discrimination against a person on the basis of sex, and Article X, section 1, of the Montana constitution, guaranteeing equal education opportunity to each person of the state. Violations of rights have had a deleterious effect on the individuals involved and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex against any student in the public schools of Montana is prohibited.

~~NEW SECTION.~~ Section 3. Scope of rules and guidelines to eliminate discrimination. The superintendent of public instruction shall develop rules and guidelines to eliminate sex discrimination as it applies to ~~publte---school~~ employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students. The rules and guidelines must include the following:

~~{t}---with-respect---to---publte---school---employment---all school-districts-must-be-required-to-~~

~~{s}---make---no-differentiation-in-pay-scale-on-the-basis of-sex-~~

(b) --assign school duties without regard to sex except when such assignment would involve duty in areas or situations such as but not limited to a shower room where persons might be disrobed;

(c) --provide the same opportunities for advancement to males and females; and

(d) --make no differentiation in conditions of employment including but not limited to hiring practices; leaves of absence; hours of employment; and assignment of or pay for instructional and noninstructional duties on the basis of sex.

(2)(11) With respect to counseling and guidance services for students, all school districts must be required to make such services available to all students equally. All certified personnel must be required to stress access to all career and vocational opportunities to students without regard to sex.

(3)(12) (a) With respect to recreational and athletic activities, all school districts must be required to offer such activities to all students without regard to sex.

~~HOWEVER, NOTHING CONTAINED IN THIS ACT SHALL REQUIRE AN INSTITUTION TO PROVIDE ATHLETIC PROGRAMS FOR CONTACT SPORTS TO BOTH SEXES FOR PURPOSES OF THIS ACT. CONTACT SPORTS INCLUDE BOXING, WRESTLING, RUGBY, ICE HOCKEY, FOOTBALL, BASKETBALL, AND OTHER SPORTS THE PURPOSE OR MAJOR ACTIVITY~~

~~OF WHICH INVOLVES BODY CONTACT. HOWEVER, NOTHING CONTAINED IN THIS ACT SHALL REQUIRE A SCHOOL DISTRICT TO PROVIDE ATHLETIC PROGRAMS FOR CONTACT SPORTS BETWEEN SEXES.~~
Districts may provide separate teams for each sex. School districts that provide the following must be required to do so with no disparities based on sex: equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; scheduling of games and practice times, including use of courts, gyms, and pools; except that school districts may consider the public and student interest in attending and participating in various recreational and athletic activities in scheduling games and practice times. A school that provides showers, toilets, or training room facilities for athletic purposes must be required to provide comparable facilities for both sexes. The facilities may be provided either as separate facilities or may be scheduled and used separately by each sex.

(b) The superintendent of public instruction shall develop a student survey to distribute every 3 years to each school district in the state to determine student interest for male and female participation in specific sports.

(4)(13) With respect to course offerings, all classes

1 must be available to all students without regard to sex,
2 except that separation is permitted within any class during
3 sessions on sex education or during gym classes.

4 ~~(5)(4)~~ With respect to selection of textbooks and
5 instructional materials, which include but are not limited
6 to reference books and audio-visual materials, school
7 districts must be required to adhere to the guidelines
8 developed by the superintendent of public instruction to
9 implement the intent of [sections 1 through 7]. This
10 subsection does not prohibit the introduction of material
11 considered appropriate by the instructor for educational
12 purposes.

13 **NEW SECTION.** Section 4. Duties of superintendent of
14 public instruction. The superintendent of public instruction
15 shall:

16 (1) monitor compliance by school districts with
17 [sections 1 through 7];

18 (2) establish a compliance timetable;

19 (3) adopt rules for enforcement of [sections 1 through
20 7];

21 (4) establish guidelines for affirmative action
22 programs to be adopted by school districts; and

23 (5) direct school districts to file assurances of
24 compliance with the rules implementing the provisions of
25 [section 3].

1 **NEW SECTION.** Section 5. Enforcement by
2 superintendent. (1) The superintendent of public instruction
3 shall investigate alleged violations of and enforce
4 compliance with the provisions of [sections 1 through 7] and
5 the rules and guidelines adopted under [sections 1 through
6 7].

7 (2) If reasonable evidence of a violation is obtained,
8 the superintendent shall:

9 (a) notify in writing the appropriate school district
10 board of trustees of the specific violation;

11 (b) set a reasonable time for the district to correct
12 the specified violation;

13 (c) describe the correction required; and

14 (d) advise that if the correction is not made within
15 the time allowed, state equalization or categorical aid to
16 the district may be reduced.

17 **NEW SECTION.** Section 6. Notification of violation --
18 alternatives of board of trustees. (1) Upon receipt of a
19 notification of violation of the provisions of or rules
20 adopted under [sections 1 through 7], the board of trustees
21 of a school district may, by majority vote of the board,
22 decide:

23 (a) to attempt to correct the violation; or

24 (b) to dispute that the:

25 (i) violation exists;

(ii) correction specified is correct; or

(iii) time allowed is reasonable.

(2) If the board disputes the notification for any of the reasons under subsection (1)(b), the board may request and is entitled to a hearing by the superintendent under the provisions of 20-3-107.

NEW SECTION. Section 7. Civil relief for violations.

Any person aggrieved by a violation of [sections 1 through 7] or aggrieved by the violation of any rule or guideline adopted under [sections 1 through 7] has a right of action in district court for civil damages and such equitable relief as the court determines.

Section 8. Section 20-3-107, MCA, is amended to read:

"20-3-107. Controversy appeal. (1) The superintendent of public instruction shall decide matters of controversy when they are appealed from:

(a) a decision of a county superintendent rendered under the provisions of 20-3-210; or

(b) a decision of a county transportation committee rendered under the provisions of 20-10-132.

(2) The superintendent of public instruction shall make his decision on the basis of the transcript of the fact-finding hearing conducted by the county superintendent or county transportation committee and documents presented at the hearing. The superintendent of public instruction may

require, if he deems necessary, affidavits, verified statements, or sworn testimony as to the facts in issue. The decision of the superintendent of public instruction shall be final, subject to the proper legal remedies in the state courts. Such proceedings shall be commenced no later than 60 days after the date of the decision of the superintendent of public instruction.

(3) In order to establish a uniform method of hearing and determining matters of controversy arising under this title, the superintendent of public instruction shall prescribe and enforce rules of practice and regulations for the conduct of hearings and the determination of appeals by all school officials of the state.

(4) Whenever in a contested case the superintendent of public instruction is disqualified from rendering a final decision, he shall appoint a hearing examiner as provided in 2-4-611 and the decision of the hearing examiner constitutes the superintendent's final order except as provided in this subsection. Such final order is subject to all the provisions of Title 2, chapter 4, relating to final agency decisions or orders, including judicial review under Title 2, chapter 4, part 7.

~~(5) Whenever the board of trustees of a school district requests a hearing under [section 6], the superintendent of public instruction shall conduct the~~

1 ~~bearing under the provisions of subsections (3) and (4)."~~
2 **NEW SECTION.** Section 9. Codification instruction.
3 Sections 1 through 7 are intended to be codified as an
4 integral part of Title 20, and the provisions of Title 20
5 apply to sections 1 through 7.

-End-