RESOLUTION OF THE SENATE
OF
THE ASSOCIATED STUDENTS OF MONTANA STATE UNIVERSITY

Adopted 7 December 2017

Whereas, Ballot Initiative I-183, heretofore referred to as the “Initiative”, would

A. Require transgender and nonbinary people to use the restroom, locker room, or changing facility in government buildings (“public facility”) that corresponds with a sex indicated on their original birth certificate based on anatomy and genetics, or no facility at all.
B. Define “changing facility” as any “facility in which a person may be in a state of undress in the presence of others, including, but not limited to, a locker room, changing room, or shower room, where “State of undress” is not defined.
C. Define “sex” as “a person’s immutable biological sex as objectively determined by anatomy and genetics existing at the time of birth.”
D. Require government entities to label all multi-occupancy public facilities as “women’s” or “men’s,” and prohibit transgender men from using those labeled for men, and prohibit transgender women from using those for women.
E. Create a new private right of action against government entities. The measure creates liability for money damages without cap—specifically, it authorizes damages for emotional and mental distress, reasonable attorney fees and costs, and “other relief.” It would permit people to sue government entities for not sex segregating all multi-occupancy restrooms, changing facilities, and locker rooms in government buildings or under government control, including in public schools. It would also allow individuals to sue government entities for letting transgender people use the public facilities most consistent with their gender identity, privacy, safety, and dignity.
F. Undermine local government attempts to secure the rights guaranteed in the Montana Constitution through adding a new restriction on the power of self-governing local government units.
G. Have significant short and long term fiscal impacts on the State: the Montana Office of Budget and Planning noted: “inventories and assessments will need to be conducted on all state-owned and K-12 facilities.” The Budget Office states that “there are over 2,200 buildings in the K-12 system” and “4,250 state-owned facilities.” Without such an inventory, it appears virtually impossible to predict what the total general fund impact will be. The fiscal impact on local governments is similarly difficult to predict: “The fiscal impact to cities and towns cannot be quantified, as the resources required to enforce the law and the monetary damages that will be awarded pursuant to the provisions of the initiative are unknown.” The Budget Office estimates “the legal reserve needed to address” claims of discrimination brought pursuant to 42 U.S.C. § 18116 “to be $200,000 per biennium.” The Budget Office characterizes these fiscal impacts as “an unfunded mandate on local governments.” The Budget Office estimates that the long-term impacts of the Initiative could
exceed $1 billion per year, and “at a minimum, this amount could exceed $250 million per year”, which could place financial strain on the Montana University System; and,

Whereas, The sponsor of the Initiative, Jeff Laszloffy, is the President/CEO of the Montana Family Foundation, which has historically supported damaging anti-LGBTQ+ measures; and,

Whereas, The Montana Family foundation supported a bill in the state legislature similar to the Initiative, HOUSE BILL NO. 609, which was killed by the House Judiciary Committee in the Montana House of Representatives in the 2017 legislative session; and,

Whereas, Montana State University receives state appropriations, and is therefore a public facility that would be affected by the Initiative; and,

Whereas, There are fifteen gender-neutral restrooms and one multiple occupancy gender-neutral locker room on the Montana State University-Bozeman campus; and,

Whereas, The city of Bozeman adopted a Non-Discrimination Ordinance in 2014 that affords Bozeman citizens the “right to be free from discrimination on the basis of actual or perceived sexual orientation or gender identity or expression”; and,

Whereas, The Bozeman City Commission joined the ACLU of Montana’s lawsuit against the Initiative in October 2017; and,

Whereas, A 2017 study, “Transgender Population Size in the United States: A Meta-Regression of Population-Based Probability Samples”, published by the American Journal of Public Health, evaluated that at the national level 390 per 100,000 adults are estimated to be transgender, and suggests that this proportion will increase as more data on transgender individuals is collected; and,

Whereas, The population of Montana is 1,043 million people, and Montana State University-Bozeman has a population of 16,703 students; and,

Whereas, The Montana State University Code of Conduct states that Montana State University is committed to providing an environment that emphasizes the dignity and worth of every member of its community and that is free from harassment and discrimination based upon gender identity, gender expression, or sexual orientation; and,

Whereas, The Associated Students of Montana State University Constitution states that ASMSU shall not discriminate according to sexual preference and gender identity or expression; and,

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Whereas, ASMSU has historically supported LGBTQ+ student needs unanimously (2016-R-4); now, therefore, be it,

Resolved, That the Associated Students of Montana State University support transgender and nonbinary Montanans and students at Montana State University, and affirm their right to an education free from discrimination in accordance with the ASMSU Constitution and the Montana State University Code of Conduct; and,

Resolved, That the Associated Students of Montana State University stand alongside the city of Bozeman in opposition to the Initiative, which would infringe upon the aforementioned rights of students, and cause harm to transgender and nonbinary students at Montana State University, and transgender and non-binary Montanans.

Theodore Grover – Senate Speaker