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 LEGISLATURE OF THE STATE OF IDAHO
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1 AN ACT
 2 RELATING TO HIGHER EDUCATION; PROVIDING LEGISLATIVE FINDINGS AND INTENT;
 3 AMENDING CHAPTER 59, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW
 4 SECTION 67-5909D, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT DIVERSITY,
 5 EQUITY, AND INCLUSION OFFICES AND OFFICERS AT INSTITUTIONS OF HIGHER
 6 EDUCATION, TO PROVIDE AN ALTERNATIVE USE FOR CERTAIN FUNDS, TO PROHIBIT
 7 MANDATORY DIVERSITY TRAININGS, TO PROHIBIT BIAS REPORTING SYSTEMS, TO
 8 PROHIBIT CERTAIN GENERAL EDUCATION COURSES, TO PROVIDE FOR EXEMPTIONS
 9 FROM CERTAIN REQUIREMENTS, TO REQUIRE CERTAIN REPORTS, TO PROVIDE THE
 10 ATTORNEY GENERAL WITH CERTAIN ENFORCEMENT AUTHORITY, TO PROVIDE FOR A
 11 PRIVATE CAUSE OF ACTION, AND TO PROVIDE LIMITATIONS; PROVIDING SEVER-
 12 ABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. LEGISLATIVE FINDINGS AND INTENT. The Legislature finds that
 15 this state was founded upon the fundamental truth that all men are created
 16 equal and endowed with inalienable rights. Among these rights is the freedom
 17 of inquiry, which along with the principle of liberal toleration is essen-
 18 tial to the advancement and diffusion of knowledge. The constitution of this
 19 state also declares that the stability of a republican form of government de-
 20 pends mainly upon the intelligence of the people. In contravention of these
 21 principles, a subversive ideology derived from the tenets of critical theory
 22 has infected the administration of this state's system of higher education,
 23 promoting a culture of ignorance, bigotry, and intolerance. Therefore, it
 24 is the intent of the legislature to eliminate all programs and initiatives
 25 within all public institutions of higher education predicated on the tenets
 26 of critical theory, or more commonly known under the title of "diversity, eq-
 27 uity, and inclusion."

28 SECTION 2. That Chapter 59, Title 67, Idaho Code, be, and the same is
 29 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 30 ignated as Section 67-5909D, Idaho Code, and to read as follows:

31 67-5909D. FREEDOM OF INQUIRY IN HIGHER EDUCATION. (1) For the purpose
 32 of this section:

- 33 (a) "Bias reporting system" means any office, department, position, or
 34 system whose function is to:
 - 35 (i) Investigate, threaten disciplinary action, or otherwise pun-
 36 ish enrolled students for expressions of speech protected by state
 37 or federal law, including but not limited to speech pertaining to
 38 disagreements of opinion, political beliefs or affiliations, or
 39 perceived bias, prejudice, stereotypes, or intolerance; or
 - 40 (ii) Solicit the reporting of incidents of student speech pro-
 41 tected by state or federal law, including but not limited to speech

1 pertaining to disagreements of opinion, political beliefs or af-
2 filiations, or perceived bias, prejudice, stereotypes, or intoler-
3 erance.

4 (b) "Diversity, equity, and inclusion" or "DEI" means any trainings,
5 programs, activities, or instruction designed or implemented in ac-
6 cordance with the tenets or concepts of critical theory, including but
7 not limited to the concepts of unconscious or implicit bias, microag-
8 gressions, internalized racism, cultural appropriation, structural
9 equity, settler colonialism, group marginalization, antiracism, sys-
10 temic oppression, social justice, institutional or systemic racism,
11 white fragility, racial privilege, disparate impact, intersection-
12 ality, sexual privilege, patriarchy, gender theory, queer theory,
13 neopronouns, transgender ideology, misgendering, othering, deadnam-
14 ing, heteronormativity, allyship, or any other related formulation of
15 these tenets or concepts. This definition shall also include any pro-
16 gram or initiative established for the purpose of:

17 (i) Influencing hiring or employment practices at the institu-
18 tion of higher education with respect to race, color, ethnicity,
19 sex, disability, or religion, other than through the use of color-
20 blind and sex-neutral hiring processes in accordance with any ap-
21 plicable state and federal anti-discrimination laws;

22 (ii) Promoting differential treatment of, or providing special
23 benefit to, individuals on the basis of race, color, ethnicity,
24 sex, disability, or religion;

25 (iii) Promoting policies or procedures designed or implemented
26 in reference to race, color, ethnicity, sex, disability or reli-
27 gion other than policies or procedures approved in writing by the
28 institution of higher education's legal counsel and the attorney
29 general of the state of Idaho for the sole purpose of ensuring com-
30 pliance with any applicable court order or state or federal law; or

31 (iv) This excludes trainings, programs, or activities developed
32 by an attorney and approved in writing by the institution of higher
33 education's general counsel and the attorney general of the state
34 of Idaho for the sole purpose of ensuring compliance with any ap-
35 plicable court order or state or federal law;

36 (c) (i) "Diversity, equity, or inclusion office" means any divi-
37 sion, office, center, or other unit of an institution of higher ed-
38 ucation that is responsible for creating, developing, designing,
39 implementing, organizing, planning, or promoting policies, pro-
40 gramming, training, practices, activities, or procedures relat-
41 ing to diversity, equity, and inclusion.

42 (ii) A "diversity, equity, and inclusion office" shall not in-
43 clude:

44 1. An office certified by the attorney general of the state
45 of Idaho as operating with the sole and exclusive mission of
46 ensuring legal compliance with the institution of higher ed-
47 ucation's obligations under title IX of the education amend-
48 ments of 1972, as amended; the federal Americans with dis-
49 abilities act, as amended; the federal age discrimination
50 in employment act, as amended; title VI of the federal civil

1 rights act of 1964; an applicable court order; or other ap-
2 plicable state or federal law;
3 2. An academic department defined as a unit of an institu-
4 tion of higher education that exists primarily for the pur-
5 pose of offering courses for degree credit and that does not
6 establish policy or procedures to which other units of the
7 institution of higher education are subject; or
8 3. A student organization that is registered with the insti-
9 tution of higher education.

10 (d) (i) "Diversity, equity and inclusion officer" means an in-
11 dividual whose duties for the institution include coordinating,
12 creating, developing, designing, implementing, organizing, plan-
13 ning, or promoting policies, programming, training, practices,
14 activities, or procedures relating to diversity, equity, and
15 inclusion and who is a full-time or part-time employee of an in-
16 stitution of higher education or subdivision or affiliated entity
17 thereof or an independent contractor of an institution of higher
18 education.

19 (ii) A "diversity, equity, and inclusion officer" shall not in-
20 clude:

21 1. Any full-time or part-time employee who is a licensed at-
22 torney and whose sole job duties related to diversity, eq-
23 uity, and inclusion are to ensure compliance with the insti-
24 tution of higher education's obligations under title IX of
25 the education amendments of 1972, as amended, the federal
26 Americans with disabilities act, as amended, the federal age
27 discrimination in employment act, as amended, title VI of
28 the federal civil rights act of 1964, applicable court or-
29 ders, or other applicable state and federal law;
30 2. Any faculty member while such faculty member is teaching,
31 engaged in research, engaged in the production of creative
32 works, engaged in the dissemination of research or creative
33 works, or advising a registered student organization; or
34 3. Guest speakers or performers who do not receive any form
35 of compensation in exchange for their presentation, perfor-
36 mance, or appearance.

37 (e) (i) "Diversity training" means a training, seminar, discus-
38 sion group, workshop, or other instructional program, whether
39 provided in-person, online or by any other means, with a purpose of
40 advising, counseling, demonstrating, explaining, instructing, or
41 teaching participants about diversity, equity, and inclusion.

42 (ii) "Diversity training" shall not include an academic course
43 offered for credit and not otherwise subject to subsection (2) (d)
44 or (2) (e) of this section, nor shall it include activities of a
45 student organization registered with an institution of higher
46 education that only effects the members of such organization.

47 (iii) "Diversity training" does not limit or prohibit an institu-
48 tion of higher education's authority to establish policies that
49 are necessary to comply with state or federal law, including laws
50 relating to prohibited discrimination or harassment.

1 (f) "DEI related course" means a course of instruction taken for credit
2 whose subject matter or pedagogical methodology is based on or other-
3 wise utilizes any of the concepts of critical theory or DEI outlined in
4 this section.

5 (g) "Institution of higher education" means the following entities
6 that are accredited by the northwest commission on colleges and uni-
7 versities or another accrediting body recognized by the state board of
8 education:

9 (i) Any public institution of higher education or subdivision or
10 affiliated entity thereof that receives funding appropriated by
11 the Idaho legislature; or

12 (ii) Any subdivision or affiliated entity of a private univer-
13 sity, college, or community college in Idaho that receives funding
14 appropriated by the Idaho legislature.

15 (h) "Public institution of higher education" means any public univer-
16 sity, public college, public career technical school, or public junior
17 college located in the state of Idaho.

18 (2) No institution of higher education in the state of Idaho, or any em-
19 ployee, appointee, or committee acting on behalf of an institution of higher
20 education shall:

21 (a) Establish, sustain, support, or staff a diversity, equity, and in-
22 clusion office or department; nor hire an individual to serve as a di-
23 versity, equity, and inclusion officer; nor contract, employ, engage,
24 or hire an individual to serve as a diversity, equity, and inclusion of-
25 ficer or consultant. Any funds that would otherwise have been expended
26 on diversity, equity, and inclusion offices or diversity, equity, and
27 inclusion officers in fiscal year 2026 may be reallocated, at the dis-
28 cretion of the governing board of the institution of higher education,
29 to merit scholarships designed to reduce tuition for in-state students.

30 (b) Either directly or indirectly organize, administer, conduct, pro-
31 mote, or sponsor diversity training;

32 (c) Establish, sustain, support, or staff any bias reporting system;

33 (d) Establish curricula or designate courses at the institution in a
34 manner that requires or otherwise compels a student to enroll in a DEI
35 related course in order to satisfy the requirements of any academic
36 degree program, including general education, major, minor, or cer-
37 tificate requirements, except as provided in subsection (3) of this
38 section.

39 (e) Require, solicit, or incentivize faculty to apply or participate in
40 DEI practices or include DEI related content in any course as a condi-
41 tion of approval, designation, or listing as part of any academic degree
42 program, including general education, major, minor, or certificate re-
43 quirements, or as a condition of consideration in any faculty member's
44 performance assessment, promotion, tenure, salary adjustment, or any
45 other incentive, except as provided in subsection (3) of this section.

46 (3) Every institution of higher education in the state of Idaho shall
47 provide a procedure to allow the governing board of the institution of higher
48 education to exempt, upon written request to the board, any academic de-
49 gree program requirements of any major, minor, certificate, or department
50 whose title clearly establishes its course of study as primarily focused

1 on racial, ethnic, or gender studies from the prohibitions of subsections
2 (2) (d) and (2) (e) of this section, provided that a student may not be re-
3 quired or otherwise compelled to enroll in any such program, department, or
4 course in order to satisfy the requirements of any other academic degree pro-
5 gram, including general education requirements, or any other major, minor,
6 or certificate requirements.

7 (4) (a) Every public institution of higher education shall on or before
8 January 15 of each year, submit an annual report to the attorney general
9 and the education committees of both the house of representatives and
10 the senate signed by the president of the institution of higher education
11 under penalty of perjury that certifies that the institution is in com-
12 pliance with this section.

13 (b) In the year following the passage of this act, this report shall in-
14 clude a list of:

- 15 1. All offices, programs, and initiatives that have existed
16 within the institution;
- 17 2. Officers, employees, and contractors that have been employed
18 by or contracted with the institution; and
- 19 3. Trainings, activities, or courses of instruction required by
20 the institution within the preceding five (5) years that would
21 have constituted a violation of this section if this section were
22 in effect at such time, along with the actions taken by the insti-
23 tution to ensure compliance with the provisions of this section.

24 (5) The provisions of this section shall be enforced by the attorney
25 general as follows:

- 26 (a) Any person may notify the attorney general of a violation or poten-
27 tial violation of this section by an institution of higher education;
- 28 (b) The attorney general may file suit for a writ of mandamus compelling
29 the institution of higher education to comply with this section; and
- 30 (c) The attorney general may seek civil penalties for any violations of
31 this act equal to two percent (2%) of the amount of the institution's op-
32 erating expenses budgeted for the state fiscal year preceding that in
33 which the violation occurred.

34 (6) Any student enrolled in a degree program at an institution of higher
35 education, any staff member of an institution of higher education, or any
36 alumnus of an institution of higher education shall have a private cause of
37 action against such an institution of higher education that violates the
38 provisions of this section to seek injunctive relief, monetary damages,
39 reasonable attorney's fees and costs, and any other appropriate relief.
40 Notwithstanding any other law to the contrary, a civil action brought under
41 this section may be brought in the county in which all or a substantial part
42 of the actions or omissions giving rise to the claim occurred, the county of
43 residence in this state at the time the cause of action occurred for any one
44 of the claimants, the county of the principal office in this state of any one
45 of the defendants that is not a natural person, or the county of residence for
46 the claimant.

47 (7) The provisions of this section shall not be construed to:

- 48 (a) Limit research by students, faculty, or other research personnel
49 of an institution of higher education, or the dissemination of such re-
50 search;

- 1 (b) Limit creative works by students, faculty, or other personnel of an
- 2 institution of higher education, or the dissemination of such creative
- 3 works;
- 4 (c) Limit activities of student organizations registered with an in-
- 5 stitution of higher education;
- 6 (d) Limit the appearance of guest speakers and performers who do not
- 7 receive any form of compensation in exchange for their presentations,
- 8 performances, or appearances;
- 9 (e) Prohibit an institution of higher education from establishing bona
- 10 fide qualifications based on sex that are reasonably necessary to the
- 11 normal operation of an institution of higher education;
- 12 (f) Limit the academic freedom of any individual faculty member of an
- 13 institution of higher education to direct the instruction within such
- 14 faculty member's own course not otherwise subject to this section;
- 15 (g) Prohibit any program or training that is generated by licensed at-
- 16 torneys and required for the institution of higher education to comply
- 17 with its obligation under title IX of the education amendments of 1972,
- 18 as amended; the federal Americans with disabilities act, as amended;
- 19 the federal age discrimination in employment act, as amended; title VI
- 20 of the federal civil rights act of 1964; any applicable court order; or
- 21 other applicable state and federal law, provided that the institution
- 22 of higher education makes any materials associated with such program or
- 23 training publicly available on it's website; or
- 24 (h) Prevent institutions from regulating student speech or activity
- 25 that is prohibited by law or from investigating or soliciting informa-
- 26 tion about potentially illegal speech or speech associated with poten-
- 27 tially illegal activity or incidents in which speech rights were poten-
- 28 tially curtailed. Except as further limited by this Act, institutions
- 29 shall be allowed to restrict student expression not otherwise protected
- 30 by section 9, article 1 of the constitution of the state of Idaho.

31 SECTION 3. SEVERABILITY. The provisions of this act are hereby declared
32 to be severable and if any provision of this act or the application of such
33 provision to any person or circumstance is declared invalid for any reason,
34 such declaration shall not affect the validity of the remaining portions of
35 this act.

36 SECTION 4. An emergency existing therefor, which emergency is hereby
37 declared to exist, this act shall be in full force and effect on and after
38 July 1, 2025.