



**Oral Opponent Testimony on
HB 2299, Amending the Kansas Act Against Discrimination
House Education Committee**

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Chair Estes and Members of the Committee,

KASB appears today as an opponent of the changes proposed to the Kansas Act Against Discrimination by HB 2299. While we certainly oppose religious discrimination and antisemitism, we believe particular language of the bill is overly broad, the proposed enforcement provisions overly punitive, and that certain deletions weaken the anti-discrimination protections currently in statute.

Our concerns about the bill are grounded in our member-adopted legislative policy, which provides as follows:

We support local boards' constitutional governing authority and generally oppose unfunded mandates and mandates that create clear conflicts between state and federal requirements and laws, such as mandates that would require a school district to promote a specific religious faith. Such conflicting mandates have negative unintended consequences for public schools, including causing districts to divert resources from their core mission of educating students.

Furthermore, KASB's permanent policies outline our association members' support of both the Free Exercise and the Establishment Clauses of the First Amendment to the United States Constitution:

Essential to that democracy and to the public nature of public education is the separation of church and state set forth in the Constitution of the United States, and we oppose any attempt to erode that separation through or in the public schools.

As institutions that are essential to American democracy and that serve all children, regardless of their backgrounds and religious traditions, public schools must approach questions of faith that arise within the course of carrying out their duties with particular care and respect. We believe this bill upsets the careful balance that exists in current state and federal law and will impede the work our schools do to support and welcome all students and families of all faiths.

Under the U.S. Constitution, schools cannot endorse, establish, or promote religion; consequently, school personnel often must make precise determinations about how best to fairly and equally apply policies and practices in a way that does not give any one religious group fewer or greater privileges than another. Decades of constitutional jurisprudence have established the parameters in which school districts must address these questions. Adversely, the language of the bill that prohibits “promoting or degrading any one religion” is overly broad and vague, especially in the context of the types of decisions that school districts are called upon to make.

For example, district winter music programs may have a mix of secular and nonsecular music—is it obvious that such a program does or does not promote religion or any one religion over another? If not, what standards are being applied and who decides if they have been violated? A U.S. History teacher engages students in a lesson about the Pilgrims or Puritans coming to America to escape religious persecution. Under the proposed language of the bill, is this promoting or degrading a religion? These are the types of situations that frequently arise and where the very broad language proposed in HB 2299 would inject uncertainty in situations that are currently navigated under established constitutional frameworks.

Further, Kansas law already includes protections for families in schools based on their faith. K.S.A. 72-3120(f) allows parents and students to opt out of activities that they find are against their religious teachings:

No child attending public school in this state shall be required to participate in any activity which is contrary to the religious teachings of the child if a written statement signed by one of the parents or a person acting as parent of the child is filed with the proper authorities of the school attended requesting that the child not be required to participate in such activities and stating the reason for the request.

In the context of PK-12 education, we believe that this statute strikes the right balance and encourages parents to partner with schools in addressing these sensitive matters.

In addition to the broad and ill-defined standard set out in the bill, the enforcement provisions proposed are extremely punitive and unnecessarily expand the attorney general’s authority over matters that are already adequately addressed through other avenues. The proposed civil

penalty of \$10,000 is extreme when compared to other civil penalties that apply to school districts—for example, the civil penalty for a KOMA violation is only up to \$500. In law, punitive penalties are reserved for egregious acts. We are concerned that the combination of the broad, uncertain language and an extreme civil penalty will have a chilling effect on any and all matters related to religion to avoid any potential violation.

Finally, Section 5 of the bill removes protections against discrimination in public accommodations by “any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation.” We do not understand the rationale for allowing more people to discriminate against students or parents under the proposed bill by deleting this language and narrowing the Act Against Discrimination’s application.

For these reasons, KASB respectfully requests that the committee vote no on advancing HB 2299.

Thank you.

KASB is a non-profit service organization built on an abiding belief in Kansas public schools. We have put the needs of students and K-12 leaders first since 1917.