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MEMORANDUM

To: Chairperson Estes
Members of the House Committee on Education

From: The Office of Revisor of Statutes

Date: February 11, 2025

Subject: HB 2299 – Prohibiting discrimination based on religion and antisemitism
in public educational institutions and other places of public
accommodation.

House Bill No. 2299 (HB 2299) creates a new law prohibiting discrimination based on religion and antisemitism in public educational institutions. The bill also amends the Kansas Act Against Discrimination (KAAD) to include prohibitions on discrimination based on antisemitism as part of the public policy of the State and to grant investigative and prosecutorial powers to the Attorney General for violations of the Act. Under current law, educational institutions are not subject to the KAAD. Current law also does not specifically reference antisemitism or antisemitic acts. The current protected classes are race, religion, color, sex, disability, familial status, national origin, and ancestry.

New Section 1 of HB 2299 generally prohibits public educational institutions from discriminating on the basis of religion or promoting or tolerating antisemitism or antisemitic acts. Public educational institutions are defined to include all school districts, the six Kansas Board of Regents postsecondary institutions, all community colleges, all technical colleges, Washburn University, and the Washburn Institute of Technology. The terms “antisemitism” and “antisemitic” are defined by reference to the International Holocaust Remembrance Alliance’s working definition of antisemitism, including the contemporary examples, as in effect on May 26, 2016. That definition is as follows:

Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.

Any person, including a minor through their parent or legal guardian, may file a complaint with the Attorney General if they are aggrieved by a violation of Section 1. The Attorney General may investigate any such complaints, including subpoenaing witnesses, taking testimony under oath, examining records and documents, and serving interrogatories. If the Attorney General finds a violation has occurred, the Attorney General shall assess a penalty of up to \$10,000 against the educational institution for each violation. Any fines collected will be deposited in the state treasury and credited to the state general fund.

Sections 2 through 5 amends the KAAD. Section 2 provides the declared public policy of the KAAD. HB 2299 adds new public policies that: (1) Public institutions that receive and expend tax moneys are prohibited from engaging in, implementing, or otherwise promoting policies that are antisemitic; and (2) no person shall be required to participate in training that promotes or degrades any one religion and governmental entities are prohibited from enacting policies that do so. The term “antisemitic” is not defined in the KAAD.

Under current law, the Kansas Human Rights Commission (Commission) serves as the oversight body for the KAAD. Complaints alleging violations of the Act are submitted to the Commission or the Attorney General, and the Commission then investigates the complaint and may prosecute violators through administrative civil action. Sections 3 and 4 of HB 2299 authorize the Commission to refer complaints to the Attorney General for investigation and prosecution. Likewise, the Attorney General is authorized to investigate and prosecute complaints submitted to the Attorney General in a manner similar to Section 1.

Section 5 amends K.S.A. 44-1009, which establishes unlawful discriminatory employment practices. HB 2299 strikes subsections (b) and (c) of the statute in their entirety. Subsection (b) currently provides that it is not an unlawful practice to fill employment vacancies in such a way as to eliminate or reduce an imbalance in the workforce with respect to race, religion, color, sex, disability, national origin, or ancestry. Subsection (c) currently makes it an unlawful employment practice to:

- Discriminate on the basis of one of the protected classes in offering goods, services, facilities, or accommodations;
- Aid, abet, incite, compel, or coerce the doing of any acts prohibited by the KAAD, or attempt to do so; and

- Discriminate on the basis of one of the protected classes in the full and equal use and enjoyment of services, facilities, privileges, and advantages of any state or municipal governmental agency.

If enacted, HB 2299 would become effective on July 1, 2025.