

February 23, 2024

The Honorable Mike Thompson, Chairperson  
Senate Committee on Federal and State Affairs  
300 SW 10th Avenue, Room 144-S  
Topeka, Kansas 66612

Dear Senator Thompson:

**SUBJECT:** Fiscal Note for SB 409 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 409 is respectfully submitted to your committee.

The Kansas Act Against Discrimination (KAAD) protects individuals categorized within classes of race, religion, color, sex, disability, national origin, or ancestry from discrimination. SB 409 would prohibit cities and counties from modifying these classes by providing rights, protecting, prohibiting, or expanding the classes. Any ordinance, resolution, rule, regulation, or policy prohibited by the bill that was adopted prior to July 1, 2024, would be null and void. The bill would also define “sex” as the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen, or subjective experience of gender.

The bill’s provisions would provide statewide uniformity in the application of KAAD and its protections. Only those classes or categories of individuals expressly protected by the KAAD would be protected from unlawful discrimination and any local law or regulation that would modify such classes or categories in any way would be preempted by the bill.

The Kansas Human Rights Commission indicates SB 409 would not have a fiscal effect. The agency also indicates some municipalities prohibit discrimination based on classes not listed in the bill. For example, some cities prohibit discrimination based on sexual orientation, and/or gender identity. The bill’s provisions could be the subject of litigation if municipalities want to establish their own standards that are different from those listed in the bill. However, the agency is unable to estimate a fiscal effect on local governments. Any fiscal effect associated with SB 409 is not reflected in *The FY 2025 Governor’s Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicates SB 409 could have a fiscal effect on counties and cities, if a county or city defines “sex” differently than the Equal Employment Opportunity Commission. If the county’s or city’s definition is different, the county or city would be at risk for losing federal funding or become ineligible for federal grants.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt  
Director of the Budget

cc: Ruth Glover, Human Rights Commission  
Jay Hall, Kansas Association of Counties  
Wendi Stark, League of Kansas Municipalities