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MEMORANDUM

To: Chairman Barker
Members of the House Committee on Federal and State Affairs

From: Jason B. Long, Senior Assistant Revisor

Date: March 16, 2018

Subject: HB 2778 – Contract requirements regarding anti-Israel boycotts.

House Bill No. 2778 (HB 2778) amends legislation enacted during the 2017 Session (HB 2409) that required individuals and companies contracting with the State to certify that such individual or company was not engaged in a boycott against Israel. That statute, K.S.A. 75-3740e, has been challenged in court on the grounds that it violates the 1st Amendment rights of individuals contracting with the State in that the contractor is required to make a statement in order to transact business with the State.

HB 2778 creates new law establishing the purpose of the non-boycott certification requirement. The purpose, as stated in the bill, is that Israel is a "prominent trading partner of the state of Kansas" and it is in the interest of the State's economic policy that companies contracting with the State not boycott trade with Israel.

HB 2778 also amends K.S.A. 75-3740e and 75-7c3740f in three ways. First, the bill strikes references to individuals and sole proprietorships. With this amendment the certification requirement would apply to organizations, associations, corporations, and other business entities, but not to any specific individual.

Second, HB 2778 defines "contract" to exclude any contract with the State where the total cost is less than \$100,000, and any contracts where an individual is providing the goods or services, such as employment and consulting agreements.

Finally, HB 2778 amends the certification requirement so that the companies would be required to certify that it is not engaged in a boycott of Israel for goods and services that are an integral part of the contract with the State.

If enacted, HB 2778 would become effective on July 1, 2018.