

March 27, 2024

The Honorable Rick Billinger, Chairperson
Senate Committee on Ways and Means
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Billinger:

SUBJECT: Fiscal Note for SB 543 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 543 is respectfully submitted to your committee.

SB 543 would prohibit certain ideological oaths that undermine academic freedom and open inquiry and impede the discovery, preservation, and transmission of knowledge at state educational institutions.

No state educational institution or institutional review board could do the following:

1. Compel, require, induce, or solicit any applicant, employee, student, or contractor to endorse any discriminatory ideology;
2. Compel, require, induce, or solicit, any applicant, employee, student, or contractor to provide a diversity, equity, and inclusion statement; or
3. Provide preferential consideration to any applicant, employee, student, or contractor on the basis of such applicant, employee, student, or contractor supplying an unsolicited statement based on a discriminatory ideology.

Nothing in the bill would be construed to restrict academic research or coursework; prevent a state educational institution from requiring applicants to disclose or discuss the content of such applicant's research or artistic creations, certify compliance with state and federal anti-

discrimination laws, and discuss pedagogical approaches or experience with students with learning disabilities; or prevent an applicant or candidate from providing on such applicant's or candidate's own initiative and pursuant to no specific requirement or request from a state educational institution any of the information specified in the bill. Each state educational institution's general counsel would be required to submit a written report annually on compliance with the bill's provisions to the Legislature.

An applicant, employee, student, or contractor who was compelled, required, induced, or solicited to endorse a discriminatory ideology or to provide a diversity, equity, and inclusion statement or who was adversely affected by a state educational institution's preferential consideration of another person for such person's unsolicited statement based on a discriminatory ideology in violation of the bill's provisions could pursue an action for injunctive or declaratory relief against the state educational institution. Any injunction issued by a court in favor of an applicant, employee, student, or contractor against a state educational institution because of a violation could include an order requiring the state educational institution to admit the applicant for enrollment as a student; re-enroll a student who was suspended or expelled; hire a person for the position for which the person's employment application was rejected; re-hire in the same or equal position an employee who was dispossessed of the employee's job; promote an employee who was denied a promotion; or provide tenure to an employee who was denied tenure.

A state educational institution could not assert any sovereign or governmental immunity against any action brought pursuant to the bill's provisions and any such action could be brought against a state educational institution. Notwithstanding the Kansas Administrative Procedures Act, the Kansas Judicial Review Act, or any other statute to the contrary, a person could commence an action and relief could be granted regardless of whether the person sought or exhausted available administrative relief or legal remedies. The prevailing party in an action could be awarded reasonable attorney fees and costs. The bill outlines penalties for an employee who violates the bill's provisions.

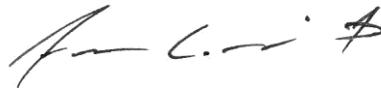
The Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts because it allows for a court action to be filed for violations, which would increase the time spent by judges and court employees processing, researching, and hearing cases. The Office states enactment of the bill could result in the collection of docket fees in those cases filed under the bill's provisions, which would be credited to the State General Fund. The Office indicates until the courts have had an opportunity to operate under the bill's provisions a fiscal effect cannot be estimated.

The Office of the Attorney General states the bill, if enacted, could face litigation. The agency states the cost of litigation is unpredictable and it cannot estimate a fiscal effect on costs associated with a legal challenge. The Office of Administrative Hearings states any fiscal effect resulting from the bill's enactment would be negligible. The Kansas Board of Regents indicate there would be no fiscal effect to agency operations if the bill is enacted.

The state universities are unable to estimate a precise fiscal effect because the universities do not have enough information to determine how many individuals might seek injunctive relief

or declaratory relief. Any fiscal effect associated with SB 543 is not reflected in *The FY 2025 Governor's Budget Report*.

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: Becky Pottebaum, Board of Regents
Trisha Morrow, Judiciary
Matt Spurgin, Office of Administrative Hearings
Wesley Wintch, Fort Hays State University
Jeff Dewitt, University of Kansas
Stephanie McDowell, Kansas State University
Werner Golling, Wichita State University
Douglas Ball, Pittsburg State University
Angela Wolgram, Emporia State University
William Hendrix, Office of the Attorney General