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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 1, 2023

Subject: SB 50 – Prohibiting censorship of certain content on social media websites.

Senate Bill No. 50 (SB 50) would add a new section of law to the Kansas Consumer Protection Act (Act). The new section would prohibit terms of service agreements between an interactive computer service and a user that restrict, censor, or suppress information published to a social media website. An interactive computer service is defined by the bill as any information service, system, or software that provides access to the internet via a computer server. Such agreements are generally standard terms a user must agree to for access to the internet, including any social media websites, through the interactive computer service. There is an exception for restricting or censoring information that is obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable.

If an agreement violates the law by censoring information, then the user can report the censorship to the Attorney General. The Attorney General is required to investigate and may bring an action against the interactive computer service under the Act to stop the censorship and to impose a civil penalty of up to \$10,000 for each violation.

Additionally, SB 50 provides the user with a private cause of action in state court against the interactive computer service. The user may seek statutory damages of \$75,000 or more for each instance of censorship, actual damages suffered by the user, punitive damages in certain cases, and a court order to stop the censorship.

An interactive computer service may restore the censored information to mitigate damages claimed by the user. Also, the interactive computer service may limit or restrict the content on a social media website to specific subjects as described in the agreement.

If enacted, SB 50 would become effective on publication in the Kansas Register.