Introducing by Hansen, B., 16; Albrecht, 17; Brewer, 43; Clements, 2; Erdman, 47; Friesen, 34; Groene, 42; Halloran, 33; Lowe, 37; Murman, 38.

Read first time January 18, 2022

Committee: Government, Military and Veterans Affairs

A BILL FOR AN ACT relating to government; to provide restrictions and requirements for governmental entities, public postsecondary institutions, and public schools conducting mandatory staff or student training or education involving certain concepts relating to race and sex; to define terms; to provide for enforcement by the Attorney General; to provide for withholding of funds for violations; and to provide duties for the Board of Regents, Coordinating Commission for Postsecondary Education, State Department of Education, and State Treasurer.

Be it enacted by the people of the State of Nebraska,
Section 1. For purposes of sections 1 to 4 of this act:

(1) Governmental entity means any state or local government entity other than a public postsecondary institution or public school;

(2) Protected characteristic means a person's race, color, religion, sex, disability, marital status, or national origin or any other status or characteristic protected by Title VII of the federal Civil Rights Act of 1964, 42 U.S.C. section 2000e et seq., as such act existed on January 1, 2022;

(3) Public postsecondary institution means any public postsecondary institution as defined in section 85-2403;

(4) Public school means any school offering instruction in elementary or high school grades which is supported by public funds and wholly under the control and management of the State of Nebraska or any of its political subdivisions;

(5) Race or sex scapegoating means:

(a) Assigning fault, blame, or bias to a race or sex or to members of a race or sex because of their race or sex; or

(b) Claiming that, consciously or unconsciously, by virtue of an individual's race or sex, members of any race are inherently racist or are inherently inclined to oppress others or that members of a sex are inherently sexist or inclined to oppress others;

(6) Race stereotyping means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or to an individual because of the individual's race; and

(7) Specific defined concepts includes all of the following:

(a) That one race or sex is inherently superior to another race or sex;

(b) That the United States of America or the State of Nebraska are fundamentally or systemically racist or sexist;

(c) That an individual, solely because of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or
unconsciously;
(d) That an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex;
(e) That members of one race or sex cannot and should not attempt to treat others without regard to race or sex;
(f) That an individual's moral character is necessarily determined by the individual's race or sex;
(g) That an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
(h) That any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of that individual's race or sex;
(i) That meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race; and
(j) Any other form of race or sex scapegoating or any other form of race stereotyping.

Sec. 2. (1) Each governmental entity shall ensure that any mandatory staff training provided by an employee or contractor of such entity does not teach, advocate, encourage, promote, or act upon race or sex scapegoating, race stereotyping, specific defined concepts, or prejudice toward others on the basis of any protected characteristic.
(2) A governmental entity shall prohibit its employees from discriminating against other employees on the basis of any protected characteristic.
(3) A person aggrieved by a violation of this section may file a complaint with the Attorney General, in a form and manner prescribed by the Attorney General. The Attorney General may bring a civil action to enjoin compliance with this section.
(4) This section shall not be construed to do any of the following:

(a) Prevent a governmental entity from providing training that fosters a workplace and learning environment that is respectful of all employees;

(b) Prevent an employee or contractor of a governmental entity who is providing mandatory staff training from responding to questions regarding topics described in subsection (1) of this section during such training;

(c) Prevent a governmental entity from promoting racial, cultural, ethnic, or intellectual diversity or inclusiveness, provided such efforts are consistent with this section;

(d) Except as provided in subsection (3) of this section, create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against any governmental entity, its officers, employees, or agents, or any other person;

(e) Prohibit a state or federal court or agency of competent jurisdiction from ordering a training or remedial action containing discussions of specific defined concepts as a remedial action due to a finding of unlawful discrimination, including discrimination based on race or sex; or

(f) Prohibit the use of curriculum that teaches the topics of sexism, slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, segregation, and discrimination.

Sec. 3. (1) Each public postsecondary institution shall ensure that any mandatory staff or student training provided by an employee or contractor of such entity does not teach, advocate, encourage, promote, or act upon race or sex scapegoating, race stereotyping, specific defined concepts, or prejudice toward others on the basis of any protected characteristic.
(2) A public postsecondary institution shall prohibit its employees from discriminating against students and other employees on the basis of any protected characteristic or political ideology.

(3) A public postsecondary institution's diversity and inclusion efforts shall discourage students from discriminating against one another on the basis of any protected characteristic or political ideology.

(4) If the Board of Regents or the Coordinating Commission for Postsecondary Education finds that a public postsecondary institution under its jurisdiction has knowingly violated this section, the board or commission may notify the State Treasurer, who shall withhold state funds from the institution in an amount determined by the board or commission. Such funds shall be withheld until the board or commission is satisfied that the institution is no longer in violation of this section.

(5) This section shall not be construed to do any of the following:

(a) Inhibit or violate the rights of students or employees under the First Amendment of the Constitution of the United States or undermine a public postsecondary institution's duty to protect intellectual freedom and free expression to the fullest degree. The intellectual vitality of students and employees shall not be infringed under this section;

(b) Prevent a public postsecondary institution from providing training that fosters a workplace and learning environment that is respectful of all students and employees;

(c) Prevent an employee or contractor of a public postsecondary institution who is providing mandatory staff or student training from responding to questions regarding topics described in subsection (1) of this section during such training;

(d) Prohibit discussing specific defined concepts as part of a larger course of academic instruction;

(e) Prohibit the use of curriculum that teaches the topics of sexism, slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and
enforcement of laws resulting in sexism, racial oppression, segregation, and discrimination;

(f) Prevent a public postsecondary institution from promoting racial, cultural, ethnic, or intellectual diversity or inclusiveness, provided such efforts are consistent with this section;

(g) Create any right or benefit, substantive or procedural, enforceable at law or in equity, by any party against any public postsecondary institution, its officers, employees, or agents, or any other person; or

(h) Prohibit a state or federal court or agency of competent jurisdiction from ordering a training or remedial action containing discussions of specific defined concepts as a remedial action due to a finding of unlawful discrimination, including discrimination based on race or sex.

Sec. 4. (1) Each public school shall ensure that any mandatory staff or student training provided by an employee, a teacher, or a contractor of such school does not teach, advocate, encourage, promote, or act upon race or sex scapegoating, race stereotyping, specific defined concepts, or prejudice toward others on the basis of any protected characteristic.

(2) A public school shall prohibit its employees and teachers from discriminating against students and other employees and teachers on the basis of any protected characteristic or political ideology.

(3) A public school's diversity and inclusion efforts shall discourage students from discriminating against one another on the basis of any protected characteristic or political ideology.

(4) No public school or teacher of such school shall require, make part of a course, or award course grading or credit, including extra credit, for:

(a) Student work for, affiliation with, or service learning in association with any organization engaged in lobbying for legislation at
the local, state, or federal level or in social or public policy advocacy; or

(b) Political activism, lobbying, or efforts to persuade members of the legislative or executive branch to take specific actions by direct communication at the local, state, or federal level, or any practicum, action project, or similar activity involving social or public policy advocacy.

(5) If the State Department of Education finds that a public school has knowingly violated this section, the department may notify the State Treasurer, who shall withhold state funds from the institution in an amount determined by the department. Such funds shall be withheld until the department is satisfied that the institution is no longer in violation of this section.

(6) This section shall not be construed to do any of the following:

(a) Inhibit or violate the rights of students, teachers, or employees under the First Amendment of the Constitution of the United States or undermine a public school's duty to protect intellectual freedom and free expression to the appropriate degree. The intellectual vitality of students, teachers, and employees shall not be infringed under this section;

(b) Prevent a public school from providing training that fosters a workplace and learning environment that is respectful of all students, teachers, and employees;

(c) Prevent a teacher, an employee, or a contractor of a public school who is providing mandatory staff or student training from responding to questions regarding topics described in subsection (1) of this section during such training;

(d) Prohibit the use of curriculum that teaches the topics of sexism, slavery, racial oppression, racial segregation, or racial discrimination, including topics relating to the enactment and enforcement of laws resulting in sexism, racial oppression, segregation,
and discrimination;

(e) Prevent a public school from promoting racial, cultural, ethnic,
or intellectual diversity or inclusiveness, provided such efforts are
consistent with this section;

(f) Create any right or benefit, substantive or procedural,
enforceable at law or in equity, by any party against any public school,
its officers, employees, teachers, or agents, or any other person; or

(g) Prohibit a state or federal court or agency of competent
jurisdiction from ordering a training or remedial action containing
discussions of specific defined concepts as a remedial action due to a
finding of unlawful discrimination, including discrimination based on
race or sex.