



Council on American-Islamic Relations
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February 13, 2017

Hon. Alan Doane
Chairman of the House Judiciary Committee
Montana House of Representatives
P.O. Box 200400
Helena, MT 59620-0400

Email: alandoane@midrivers.com

Re: Unconstitutional, Anti-Islam Legislation Senate Bill 97

Dear Chairman Doane:

On behalf of the Council on American-Islamic Relations ("CAIR"), the nation's largest American Muslim civil rights and advocacy organization, I write to warn you that Senator Keith Regier's (R-SD 3) sponsored Senate Bill 97 (SB 97), currently pending before the House Judiciary Committee, would if passed be in violation of the United States Constitution and contrary to our nation's values of not elevating or marginalizing one faith or community over another.

This so-called anti-foreign law bill, also being publicly referred to as an "anti-Sharia bill," would prohibit state courts from enforcing a foreign law including, but not limited to, Sharia law, Catholic Canon and Jewish Halacha, if in conflict with a state or federal law.

In debating the merits of SB 97, the *Bozeman Daily Chronicle* reported:

"The bill by Republican Sen. Keith Regier of Kalispell does not mention Sharia law, which is used in some parts of the Islamic world, but that has been the focus of debate on the proposal.

"'There are cases in the United States where foreign doctrines were invoked by parties in a dispute,' Regier told his colleagues Thursday, citing a divorce in which the laws of India were invoked. He said the bill would prevent immigrants from pushing the legal system into chaos."¹

Legislation passed to attack a particular religion is a clear violation of the Establishment Clause, which requires that government be secular and treat all religions equally.

This legislation is very similar to the Oklahoma anti-Sharia constitutional amendment that was struck down as a violation of the Establishment Clause in a federal court challenge brought by CAIR. See *Awad v. Ziriax*, 670 F.3d 1111 (10th Cir. 2012) (holding that the amendment's ban on the application of foreign law, including sharia law, failed the strict scrutiny analysis required by *Larson v. Valente*, 456 U.S. 228 (1982)). That amendment provided that state "courts

¹ http://www.bozemandailychronicle.com/news/mtleg/republican-senators-advance-ban-on-foreign-laws-in-montana/article_b0c95870-d6b5-5c5e-81bd-01a4915c7344.html

shall not look to the legal precepts of other nations or cultures . . . [s]pecifically . . . [including] international law or Sharia Law." Id. at 1118.

As in *Awad*, adopting SB 97 would send a message that Islam is an officially disfavored religion in the state of Montana. It would also be in clear violation of the First Amendment's command that government remain neutral in matters of religion.

Should this legislation become law, I expect that it would meet the same fate as any other adopted bill that is not in line with our Constitution in protecting the religious freedoms of all citizens equally.

Your prompt action in opposing Senate Bill 97 will be highly appreciated in this regard.

Sincerely,



Robert S. McCaw

Director, Government Affairs Department

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CC:

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