

To: House Committee on Welfare Reform

From: John Goodyear, General Counsel

Date: March 2, 2023

RE: Testimony in Opposition to HB 2430

I want to thank Chairman Averkamp and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide testimony in opposition to HB 2430.

The protection and preservation of Home Rule and local control is always the top priority of our membership, and it is the first thing we consider as we review legislation. Cities put this Home Rule Power to use when they adopt ordinances aimed at protecting the health, safety, and welfare of their citizens. The full measure of local control guaranteed to cities by the Constitution includes the inherent power to enforce these ordinances. Cities should have jurisdiction over municipal offenses. HB 2430 guts local policies, supplanting local enforcement and discretion.

It appears that the goal of this bill is to address a problem that many cities are facing – unhoused individuals occupying areas prohibited by local laws. Cities have conducted extensive research to try and determine lawful and effective strategies for addressing public camping or the obstruction of the right-of way. Some cities have adopted ordinances prohibiting such behaviors and policies for enforcing those ordinances. This is where HB 2430 presents an issue. In crafting these ordinances and policies, cities have been careful to do so in a way that does not run afoul of the Constitution (particularly the 4th, 5th, and 8th amendments). It often takes time to enforce these ordinances in the right way. HB 2430 may prevent this measured approach.

This bill creates a cause of action allowing the Attorney General to enjoin political subdivisions from adopting or enforcing policies that prohibit or discourage the enforcement of local ordinances and provides a mechanism for withholding funds from those cities with a higher than average rate of homelessness. It is unclear whether a policy designed to avoid Constitutional pitfalls that this arena of enforcement is rife with would run afoul of this act. Policies

acknowledging these protections and lending credence to court decisions make enforcement of local ordinances take longer – is that a discouragement now prohibited by HB 2430?

Cities have the ability and authority to pass and enforce these ordinances. If the goal in bringing this legislation is to help in the enforcement of these local policies, then creating a cause of action against cities and creating a mechanism by which the communities facing this problem the most could lose funding seems to be counter intuitive.

The League opposes HB 2430 and would ask that this Committee not recommend it favorably for passage.