

To: Senate Federal and State Affairs

From: John Goodyear, General Counsel

Date: March 15, 2023

RE: Neutral Testimony on SB 135

I want to thank Chairman Thompson and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide neutral testimony today regarding SB 135.

The League truly is as neutral as we can be on the question of whether or not medical marijuana should be legalized. As an advocate for cities across the state, we represent cities that come in at all points of the spectrum. Some would like to see broad legislation, others would prefer the absolute prohibition on the use of marijuana to remain in state law, and many, many more cities fall somewhere in between. This being the case, our testimony today is guided by a policy statement developed by our Policy Committees and approved by our Governing Body. Both of these groups are wholly made up of city officials and employees representing all corners of the state. The League's policy is as follows:

“The Legislature should carefully weigh the impact of medical marijuana on law enforcement and human resources. In addition, medical marijuana should be subject to existing state and local sales tax and cities should be able to levy their own excise fees and receive a portion of any state funds to offset the impact of medical marijuana. Also, cities should have the ability to opt-in to allowing dispensaries in their city. Kansas should only allow the cultivation and processing of medical marijuana and THC in licensed facilities and should not allow residential grow operations of any sort. In addition, Kansas should delay implementation to give time to study any issues that might result from the passage of medical marijuana legislation.”

Working from this statement, SB 135 has elements that the League and our member cities favor. For example, the League is supportive of provisions requiring compliance with zoning and building codes and prohibiting cultivation by those not holding licenses issued by the state, thus

prohibiting “home-grow” operations that have caused problems in other states. We are also grateful for the allocation to local governments made in Sec. 64 of the legislation. This revenue will go a long way toward helping local governments offset potential costs associated with the inception of medical marijuana in their community.

There are also some key components missing from this Legislation. For example, our members strongly believe that cities should have the ability to opt-in to allowing the sale of medical marijuana in their city. Sec 43(d) of the bill allows for a county option. We would ask that the Committee Consider adding a city option for retail dispensaries located in the corporate limits of a city. This could be accomplished by adding language like this to Sec. 43(d):

A city may prohibit the operation of retail dispensaries within the city by adoption of an ordinance. A county may prohibit the operation of retail dispensaries within the unincorporated territory of such county by adoption of a resolution.

Finally cities may be able utilize home rule to impose business fees that will help to offset these costs, but that is not overwhelmingly clear. Cities utilize home rule to create business licenses for lawful businesses all the time, but where the licensed activity includes activities that are presently outlawed by the criminal code except where they have complied with the provisions of this bill, the ability to create local licensing is not so clear. We would ask that the Committee consider addressing the provision of local licenses or otherwise consider apportioning money from the state licenses to local governments to aid in the administration of the act at the local level.

The League would encourage this Committee to consider SB 135 from all angles. Because of the impact of medical marijuana on local governments across the state, we would ask that these concerns be addressed as you consider the bill and whether to make recommendation to the full Senate for consideration.