

Date: February 2, 2016

To: Senate Judiciary Committee

From: Nicole Proulx Aiken, Deputy General Counsel

Re: Neutral testimony on SB 360

Thank you for allowing me to appear before you today on behalf of the League of Kansas Municipalities and its member cities.

The League strongly supports open government and believes city business should be conducted in an open meeting. There are times, however, when a city governing body needs to discuss confidential matters in an executive session. Under current law, a motion to recess into executive session requires a statement including: (1) the justification for closing the meeting; (2) the subjects to be discussed; (3) and the time and place the open meeting will resume. The League consistently educates cities on the proper motion to recess into executive session and believes it is well established law that governing bodies follow. The following statement is an example motion provided in the League's *Kansas Open Meetings Manual*: "I move the city council recess into executive session pursuant to the nonelected personnel matters exception, K.S.A. 75-4319(b)(1), in order to discuss a performance matter involving a city employee, the open meeting to resume in the city council chamber at 7:25 p.m."

This bill would amend current law to require: (1) a statement describing the particular subjects to be discussed; (2) the justification for closing the meeting; and (3) the time and place the open meeting will resume. In addition to moving the subject and justification around, the bill adds the language "particular subjects," as found on page 1, line 12 of the bill. The League is not sure what "particular" means in this manner and is concerned that cities will be required to provide information in a motion that will compromise the confidential nature of the executive session. Moreover, adding the word "particular" will likely lead to more litigation, because it is new, ambiguous term. For these reasons, the League respectfully requests that this committee strike the word "particular" on page 1, line 12, from the bill.

Thank you again for allowing the League to testify on this bill. I am happy to answer any questions.