

Date: February 6, 2019

To: House Transportation

From: Eric B. Smith, Deputy General Counsel

Re: Neutral Testimony HB 2088 **WRITTEN ONLY**

I want to thank Chairman Proehl and the Committee members for allowing the League of Kansas Municipalities, on behalf of our member cities, to provide written neutral testimony on HB 2088.

The League understands the reasoning behind HB 2088 and the desire to have the ability to charge something other than the higher-level crime of “reckless driving,” which requires “willful or wanton disregard for the safety of persons or property.” “Willful or wanton disregard” requires a mental state of mind that a negligent or inattentive driver does not possess and so they cannot be charged with the crime of reckless driving.

The League publishes the Standard Traffic Ordinance which is adopted by many cities in this state and it contains the charge of “Inattentive Driving.” To convict a driver of inattentive driving the prosecution has to show that because of his or her driving error or negligent inattention, the driver collides with another vehicle, a person or fixed object.

The League is concerned that, unlike the charge of inattentive driving, the new infraction proposed by HB 2088 is vague and does not provide drivers with a real understanding of what would subject them to this infraction.

The League would encourage the Committee to carefully consider if the new infraction created by HB 2088 is one that drivers can understand when they may be in violation and law enforcement can understand when it can be charged.