

To: House Committee on Federal and State Affairs

From: John Goodyear, Staff Attorney

Date: January 30, 2020

RE: Opposition to HB 2476

I want to thank Chairman Barker and the members of the Committee for affording the League of Kansas Municipalities the opportunity to provide opposition testimony to HB 2476.

The League opposes this bill because it serves as a mandate to local governments. Our issue is not with the language that is required, but the fact that it is being required. Decisions regarding what should be displayed, the size of that display, and the location of that display in city buildings should be left to the city's governing body. It is the League's position that if cities want to display something like the national motto in their buildings, then they should have the choice to do so, but it should be just that – their choice.

A major reason that the League believes this should be left to local control is the potential for litigation that could arise with the national motto being displayed prominently in a local building. The use of the national motto has been challenged on more than one occasion as a violation of the Establishment Clause of the United States Constitution. Notably the Fourth Circuit Court of Appeals upheld the use of the national motto on a government building in Davidson County North Carolina in 2005.ⁱ While the Constitutionality of the motto's use has consistently been upheld by the courts, its use on buildings and currency continue to be challenged. If required to display the national motto, it is foreseeable that someone could file suit against a city citing the display as a violation of the First Amendment, forcing a city to pay for attorney's fees and other litigation costs. For this reason, we ask that if the committee chooses to move this bill forward and take the decision out of the hands of local officials, that the committee add an amendment to the bill making it clear that the state will bear the responsibility and costs of litigation.

The League opposes HB 2476 and asks that this committee make amendments to the bill as written to either make the display of the motto optional or to indemnify local governments should a suit arise before the committee considers passing this bill on to the full house for consideration.

ⁱ *Lambeth v. Board of Commissioners of Davidson County*, 407 F.3d 266 (4th Cir. 2005).