

March 30, 2017

The Honorable Jacob LaTurner, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-E  
Topeka, Kansas 66612

Dear Senator LaTurner:

**SUBJECT:** Fiscal Note for SB 237 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 237 is respectfully submitted to your committee.

SB 237 would approve a tribal-state compact between the Sac and Fox Nation of Missouri in Kansas and Nebraska and the State of Kansas related to cigarette and tobacco sales, taxation, and escrow collection. The bill would provide legislative approval of the compact that was submitted by the Governor and printed in the Journal of the Senate on March 16, 2017, and the Journal of the House of Representatives on March 15, 2017.

The Attorney General indicates SB 237 would allow the state to resolve a dispute with tobacco companies and would allow the state to continue to be eligible for payments under the Master Settlement Agreement (MSA) from the 1998 tobacco settlement. Under the MSA, most tobacco companies have agreed to make annual cash payments to the State of Kansas. At the same time, Kansas agreed to diligently enforce its obligations under the MSA, including accounting for cigarette sales within the state. In 2012, Kansas resolved a longstanding dispute with tobacco companies, which had accused the state, among other things, of failing to live up to its diligent enforcement obligations under the MSA by not accounting for tobacco sales on qualified tribal lands. The Attorney General indicates that the compact is designed to improve accounting for cigarettes and other tobacco products sold on tribal lands. The compact would significantly improve cooperation between the tribes and the state to prevent the illicit shipment of untaxed and unaccounted-for cigarettes from other states for sale on qualified tribal lands in Kansas. If the compact is not approved, approximately \$50.0 million in annual tobacco payments to Kansas could be at risk.

The Department of Revenue estimates that the tribal-state compact would require expenditures of \$336,000 in FY 2018 and \$299,500 in FY 2019. The Department of Revenue indicates that the compact includes language that requires the State of Kansas to pay \$280,000

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each year for the first five years (\$70,000 per calendar quarter) to the Sac and Fox Nation of Missouri in Kansas and Nebraska to reimburse the tribe for its costs to assist the state for the enforcement efforts that are required under the MSA. After five years, the amount of payments would increase by 15.0 percent for the remaining five years of the compact. In addition, the Sac and Fox Nation of Missouri in Kansas and Nebraska would receive a \$35,000 payment on July 1, 2017, for entering into an agreement for voluntary compliance for cigarette sales and reporting that became effective of January 1, 2017. The Sac and Fox Nation of Missouri in Kansas and Nebraska would also receive a sales tax exemption for all purchases of tangible personal property and services that are used exclusively for tribal purchases. The compact includes language that requires the State of Kansas to produce, at its own expense, cigarette and tobacco tax stamps for the Sac and Fox Nation of Missouri in Kansas and Nebraska. The Department of Revenue estimates that it would cost \$21,000 in FY 2018 and \$19,500 in FY 2019 to design and produce cigarette and tobacco tax stamps and for an annual compliance audit. Any fiscal effect associated with SB 237 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,  
Director of the Budget

cc: Lynn Robinson, Department of Revenue  
Willie Prescott, Office of the Attorney General