

SESSION OF 2017

SUPPLEMENTAL NOTE ON SENATE BILL NO. 202

As Recommended by Senate Committee on
Federal and State Affairs

Brief*

SB 202 would approve and adopt by reference as state law the compact relating to cigarette and tobacco sales, taxation, and escrow collection between the Kickapoo Tribe in Kansas and the State of Kansas. The bill would require the Secretary of State to publish the compact in the *Kansas Register*.

The bill would be in effect upon publication in the *Kansas Register*.

Background

The bill was introduced by the Senate Committee on Federal and State Affairs following publication of the compact in the journals of the Senate and the House of Representatives on January 27, 2017.

Under the compact, the State will receive the information necessary to enforce the escrow requirements, to verify sales data, and to provide documentation to the participating manufacturers of the Master Settlement Agreement (MSA) and the ability to require continued certification and compliance with the Kansas MSA statutes by manufacturers.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Those appearing before the Senate Committee as proponents of the bill included the Chief Deputy Attorney General; the Assistant Attorney General for the Tobacco Enforcement Unit; the Interim Executive Director of Kansas Native American Affairs, Office of the Governor; and a representative of the Kickapoo Tribe in Kansas.

No other testimony was provided on the bill.

The fiscal note prepared by the Division of the Budget states the Attorney General indicates enactment of the bill 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 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, the State agreed to diligently enforce its obligations under the MSA, including accounting for cigarette sales within the state. In 2012, Kansas resolved a long-standing dispute with tobacco companies, which had accused the state of, among other things, 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 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 indicates the compact includes language that requires the State of Kansas to pay \$200,000 each year for ten years (\$50,000 per calendar quarter) to the Kickapoo Tribe to reimburse the tribe for its costs to assist the state for the enforcement efforts that are required under the MSA. In addition, the Kickapoo Tribe would also receive a \$50,000 payment on July 1, 2017, for entering into an agreement for voluntary compliance for

cigarette sales and reporting that became effective on July 28, 2016. The Kickapoo Tribe would also receive a sales tax exemption for all purchases of tangible personal property and services that are used exclusively for tribal purchases. [No estimate of fiscal effect was provided.] The compact includes language that requires the State of Kansas to produce cigarette and tobacco tax stamps for the Kickapoo Tribe with the costs equally split between the Kickapoo Tribe and the State of Kansas. Any fiscal effect associated with the bill is not reflected in *The FY 2018 Governor's Budget Report*.