

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Ralph Ostmeyer at 10:30 am on Monday, March 07, 2016, 144-S of the Capitol.

All members were present except:
Senator Kay Wolf – Excused

Committee staff present:
Joanna Dolan, Legislative Research Department
Connie Burns, Kansas Legislative Committee Assistant
Matt Sterling, Office of Revisor of Statutes
Mike Heim, Office of Revisor of Statutes
Heather O'Hara, Legislative Research Department

Conferees appearing before the Committee:
Jeff Chanay, Attorney General's Office
Jordon Brewer, Attorney General's Office
Mark Dodd, Kansas Native American Affairs, Office of the Governor
Brad Smoot, Prairie Band Potawatomi Nation
Liana Onnen, Prairie Band Potawatomi Nation

Others in attendance:
[See Attached List](#)

SB 484 - Approving a cigarette and tobacco sales and taxation compact between the Prairie Band Potawatomi Nation and the state of Kansas

SB 485 - Approving a cigarette and tobacco sales and taxation compact between Iowa Tribe of Kansas and Nebraska and the state of Kansas

Chairman Ostmeyer opened the hearing on **SB 484** and **SB 485**.

Staff provided an overview of the bills.

Jeff Chanay, Chief Deputy Attorney General, appeared before the committee as a proponent on the bill. [\(Attachment 1\)](#) The bill, as part of the States 2012 settlement obligations, requires the State to broaden the scope of NPM cigarettes sales on which escrow is due. This settlement provision had the practical effect of requiring States to diligently enforce its escrow laws as to Internet sales and sales made on Tribal lands on which SET may not be collected by the State, either by choice or by simple non-compliance. The two compacts being heard have provisions that are mutually beneficial to the Tribes and to the State.

CONTINUATION SHEET

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Jordan Brewer, Assistant Attorney General, Tobacco Enforcement Unit, spoke in favor of the bill. ([Attachment 2](#)) When negotiating both compacts, Kansas focused on several basic needs for enforcement: 1) The collection of sales data to be used for escrow assessment
2) The ability to audit/inspect/verify the reliability and accuracy of such data
3) The ability to prevent manufacturers that are violating the MSA escrow statutes from selling in Kansas

Failing to collect all required escrow puts Kansas at risk of being subject to a downward adjustment in its annual MSA payment.

Mark Dodd, Interim Executive Director Kansas Native American Affairs, Office of the Governor, appeared in favor of the bill. ([Attachment 3](#)) The Attorney Generals Office (AG) discussed with the Office of the Governor the situation regarding how tribal sales of cigarettes can have detrimental effect on current and future Master Settlement Agreement (MSA) payments to the State. Because of jurisdictional issues and the unsettled nature of case law on these issues, the AG explained that the majority of states have approached Native American tribes in their respective states and negotiated compacts to ensure the MSA payments are not affected by tribal sales.

Timothy N. Rhodd, Chairman of the Executive Committee of the Iowa Tribe of Kansas and Nebraska, appeared as a proponent of the bill. ([Attachment 4](#)) Their reservation is located in the Northeast Corner of Kansas and the Southeast Corner of Nebraska, and the compact grants the Iowa Tribe a sales tax and use tax exemption. Chairman Rhodd appeared with other members of the Tribe to support the Compact.

Brad Smoot, Legislative Counsel, Prairie Band Potawatomi Nation, appeared in favor of the bill. ([Attachment 5](#)) Mr. Smoot provided a history about the tribe and the services provided to their members.

Liana Onnen, Chairperson, Prairie Band Potawatomi Nation, spoke in favor of the bill. ([Attachment 6](#)) The compact is a well-thought out solution to the States obligations under the MSA and will be a long term benefit for all Kansans, including the Prairie Band Potawatomi Tribal Members. The Nation is pleased to have been a part of this effort and hope the Legislature will promptly ratify the compact.

Chairman Ostmeier closed the hearing on **SB 484** and **SB 485**.

Discussion and Final Action

SB 484 - Approving a cigarette and tobacco sales and taxation compact between the Prairie Band Potawatomi Nation and the state of Kansas

*Senator Olson moved to pass **SB 484** out favorably and be placed on the consent calendar. Senator*

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Faust-Goudeau seconded the motion. The motion carried.

SB 485 - Approving a cigarette and tobacco sales and taxation compact between Iowa Tribe of Kansas and Nebraska and the state of Kansas

*Senator Olson moved to pass **SB 485** out favorably and be placed on the consent calendar. Senator Wilborn seconded the motion. The motion carried.*

The next meeting is scheduled March 8, 2016. The meeting was adjourned at 11:30 a.m.