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Mark Dodd, Interim Executive Director

Sam Brownback, Governor

Testimony before the Senate State and Federal Affairs Committee

**Of Mark Dodd, Interim Executive Director
Kansas Native American Affairs, Office of the Governor
March 7, 2016**

RE: SB 484 and SB 485

The Prairie Band Potawatomi Nation (PBPB) and the Iowa Tribe of Kansas and Nebraska (Iowa Tribe) are two federally recognized sovereign Native American tribes whose reservations fall in part or in whole within the borders of the State of Kansas. Both have wholly owned tribal businesses that sell tobacco products and cigarettes. The Attorney General's Office (AG) discussed with the Office of the Governor the situation regarding how tribal sales of cigarettes can have a 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.

The Governor of Kansas has the authority to negotiate and sign compacts with the tribes (see *State ex rel Stephan v. Finney*, 251 Kan. 559, 583 (1992)), not the AG. As the Interim Executive Director of the Kansas Native American Affairs, Tribal Liaison for the Governor, and an attorney that focuses on Federal Indian law, I was asked to head up a negotiation team that included members from the AG's office and the Department of Revenue. We began discussions with the tribes in February of 2015.

After many months of negotiations the final compacts were submitted for approval by the Governor and tribal leaders in February of this year. Compacts signed by a tribe and the Governor require legislative approval when amending existing laws or creating new laws. For this purpose the Governor submitted these two compacts to the Kansas Legislature to be approved and adopted into state law.

The Governor's Office feels that these two compacts accomplish what the AG needs to fulfill the state's obligations under the MSA. The agreements maintain basically the status quo and current relationship between the tribes and the State and ensure that the State has the assistance necessary by each tribe to maintain current and future MSA payments. For these reasons I request this committee approve SB 484 and SB 485.

I am available for more information at 785-296-1904 or at mark.dodd@ks.gov.

I would be happy to stand for any questions you may have.