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**Testimony in Support of Senate Bill 455
An Act Concerning the Kansas Cigarette and Tobacco Products Act**

**Presented to the Senate Committee on Judiciary
By Assistant Attorney General Jordan Brewer, Tobacco Enforcement Unit**

February 17, 2016

Chairman King and Members of the Committee:

The Office of the Attorney General respectfully submits the following testimony to the Committee in support of Senate Bill 455, an Act Concerning the Kansas Cigarette and Tobacco Products Act.

Under the Master Settlement Agreement (“MSA”), the State of Kansas is tasked with “diligently enforcing” its “qualifying statute.” In 2012, Kansas settled a 2003 dispute regarding “diligent enforcement” of the MSA (the “2003 NPM Adjustment Settlement”) and avoided the potential of having to repay hundreds of millions of dollars received from the MSA. By virtue of this settlement, Kansas agreed to make certain changes regarding “diligent enforcement” of the MSA. Several of these changes were made by this Legislature during the 2015 session in passing Senate Substitute for House Bill 2124. In addition to what is required under the 2003 NPM Adjustment Settlement, through the MSA arbitration panel’s awards in fifteen cases against other states, Kansas was able to learn what the panel deemed important for “diligent enforcement” purposes. The panel listed the following eight factors:

1. [Escrow] Collection Rate
2. Lawsuits Filed
3. Gathering of Reliable Data
4. Resources Allocated to Enforcement
5. Preventing Non-Compliant NPMs from Future Sales
6. Legislation Enacted
7. Actions Short of Legislation
8. Efforts to be Aware of National Association of Attorneys General (NAAG) and Other States’ Enforcement Efforts

The amendments proposed in Senate Bill 455 focus on changes that the Department of Revenue says will aid its efforts to enhance Kansas's "diligent enforcement" of the MSA using the arbitration panel's factors as a model. Among all potential benefits, the amendments will allocate more resources toward enforcement, enable the gathering of more reliable data, increase the scope and penalties for violations, provide for more efficient collection of relevant cigarette data through electronic filing and ultimately deter the trafficking and sale of contraband cigarettes.

In recent years, Kansas has received approximately \$60,000,000 per year from the MSA, although that figure is expected to trend slightly lower due to decreased tobacco sales and other factors. In order to help ensure that Kansas continues to receive its annual payment under the MSA, Kansas needs to continue to "diligently enforce" its "qualifying statutes," which includes the enactment of relevant statutory and administrative changes to aid in enforcement. Senate Bill 455, through its amendments to the Cigarette and Tobacco Products Act, would aid the Department of Revenue in enhancing Kansas's "diligent enforcement."

Thank you for the opportunity to present this testimony on behalf of the Office of the Attorney General.

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