Landon State Office Building
900 SW Jackson Street, Room 504
Topeka, KS 66612

Kansas
Division of the Budget

Phone: (785) 296-2436
Fax: (785) 296-0231
shawn.sullivan@ks.gov

Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

August 1, 2017

The Honorable Troy Waymaster, Chairperson
House Committee on Appropriations
Statehouse, Room 111-N
Topeka, Kansas 66612

Dear Representative Waymaster:

SUBJECT: Fiscal Note for HB 2430 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2430 is respectfully submitted to your committee.

HB 2430 would authorize the Secretary of Administration to sell all or a portion of tobacco assets to the Great Plains Tobacco Settlement Financing Corporation, which is created by the bill, and to execute an asset sale agreement. "Tobacco assets" would be defined to mean all rights, title and interest in the portion of Maser Settlement Agreement receipts equal to $19.0 million annually that may be sold periodically to the Great Plains Tobacco Settlement Financing Corporation. "Asset sale agreement" would be defined to mean one or more agreements, contracts or other instruments between the state as seller of tobacco assets and the Great Plains Tobacco Settlement Financing Corporation as purchaser of the tobacco assets.

The Secretary of Administration would be required to obtain approval of the State Finance Council prior to executing an asset sale agreement. The asset sale agreement would require the purchase price of the tobacco assets to consist of the net proceeds of bonds issued (after capitalized interest, costs, fees, reserves and credit and liquidity enhancements in such amounts as the financing corporation determines to be necessary or desirable in issuing, securing and marketing the bonds) along with any interest in the residual assets or any subordinate interest provided in the asset sale agreement. The purchase price payable to the state from the periodic sale of all or a portion of the tobacco assets including the net proceeds from any bonds issued would be credited to the State General Fund. The proceeds of the sale would not be subject to the requirements of KSA 38-2101, which requires monies received from the Master Settlement Agreement to be deposited into the Kansas Endowment for Youth Fund.

Any sale of the tobacco assets by the state would be treated as a true sale and absolute transfer of the property. It would not be considered as a pledge or other security interest for any borrowing by the state. The state would have no right, title or interest in the tobacco assets on and after the effective date of a sale.

The Great Plains Tobacco Settlement Financing Corporation would be an affiliate of the Kansas Development Finance Authority (KDFA) and have the following powers:

1. Receive all or a portion of the tobacco assets from the state;

2. Transfer, sell, pledge, assign or otherwise convey a portion of the tobacco assets;

3. Enter into contracts and establish trusts with any portion or entity, including the state, regarding any portion of the tobacco assets;

4. Issue bonds and provide for the security and repayment of bonds; and

5. Issue other obligations secured by a portion of the tobacco assets.

Neither the Great Plains Tobacco Settlement Financing Corporation nor its assets or liabilities could be combined with KDFA's assets or liabilities. The Great Plains Tobacco Settlement Financing Corporation could not dissolve, merge or consolidate with any other entity while any bonds are outstanding. Each provision of the Kansas Development Finance Authority Act regarding the issuance of bonds or exercise of powers would apply to the Great Plains Tobacco Settlement Financing Corporation. The bill would take effect upon its publication in the *Kansas Register*.

The bill would require expenditures for tobacco asset payments to the Great Plains Tobacco Settlement Financing Corporation of up to $19.0 million annually. The bill would also generate revenues based on the negotiated purchase price of the sale of tobacco assets. A financial analysis was not available at the time this note was written. As a result, the precise estimate of the amount of revenue that would be received under the bill is unknown. The amount received could vary widely based on how the sale is structured and the market conditions at the time of the sale.

The Governor proposed securitization of all master tobacco settlement revenue in his budget recommendation. Future receipt of settlement payments would have been securitized with bond debt service being repaid with future settlement receipts. Preliminary analysis at the time the proposal was made showed that the state could have received net proceeds between $480.0 million to $775.0 million depending on the bond issuance structure utilized and market rates.

The Office of the Attorney General indicates that the potential exists for the state to incur a loss if the annual debt service costs exceed what otherwise would have been collected from the

Master Settlement Agreement (MSA) under current law. The Office notes that tobacco revenue projections can fluctuate greatly based on market factors, MSA withholding and litigation issues.

The Department of Administration estimates that the fiscal effect and workload for the Office of Chief Counsel related to the asset sale agreement process would be small and could be handled within existing resources. Any fiscal effect associated with HB 2430 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget