

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Kenny Wilk at 9:00 A.M. on March 15, 2005 in Room 519-S of the Capitol.

All members were present except:

Representative Paul Davis- excused

Committee staff present:

Chris Courtwright, Legislative Research Department

Gordon Self, Revisor of Statutes

Richard Cram, Department of Revenue

Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:

Representative Nancy Kirk

Representative Ward Loyd

Representative Barbara Craft

Bill Dillion, The Corporation for National Community Services

Randall Allen, Kansas Association of Counties

Rick Dykstra, Geary County Convention & Visitors Bureau

Chris Tymeson, Chief Counsel, Wildlife and Parks

Ron Hein, Kansas Restaurant & Hospitality Association

Dick Carter, Travel Industry Association of Kansas (TLAK)

Others attending:

See attached list.

Representative Huff made the motion to introduce a bill regulating certain amusement machines. Representative O'Malley seconded the motion. The motion carried.

Representative Thull made the motion to introduce a bill regarding taxation relating to the retailers sales tax in Neosho county. Representative Wilk seconded the motion. The motion carried.

**HB 2207** - Determination of income to not include supplemental security income payments for homestead property tax refunds purposes.

Mr. Self stated that the bill eliminates Supplemental Security Income (SSI) from the income calculations for the Homestead Property Tax Rebate.

The Chairman opened the public hearing on **HB 2207**.

Representative Nancy Kirk, sponsor of the bill, testified in support of **HB 2207** (Attachment 1). SSI payments are provided to those persons who are disabled and who meet seven income guidelines. The disabled persons receiving SSI are generally those who are physically disabled as adults, and those with a severe and persistent mental illness. The current maximum SSI payment for one individual is \$579 per month.

She reviewed the homestead property tax relief program. The fiscal note of **HB 2207** is approximately \$5 million. She proposed a *second option* which would reduce the fiscal note to \$2 million. The Homestead Act would have to be amended to change the formula used to determine the amount of rebate returned. Discussion followed regarding the calculation resulting in a savings of \$3 million.

Representative Kirk stated that it would simplify matters to amend **HB 2207** to accomplish those changes. The Chairman requested that she have a balloon prepared to present to the Committee.

Bill Dillion, The Corporation for National Community Services, appeared concerning **HB 2207** in order to submit testimony in support of hundreds of low income citizens of Kansas (Attachment 2). His testimony included information on the Foster Grandparent and Senior Companion Programs describing the qualifications and the small stipends received for their participation in those programs. The Domestic Volunteer Service Act

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 15, 2005 in Room 519-S of the Capitol.

of 1973 contains language that he requested the Committee consider amending into HB 2207. Amend House Bill No. Section 1, paragraph (a), last sentence (lines 26-30, to read as follows: *"Income does not include; Gifts from nongovernmental sources, surplus food or other relief in kind supplied by a governmental agency, supplemental security income payments. Foster Grandparent and Senior Companion stipends paid to participants provided under 42 United States Code, 5011 (d) & 5013 (b), nor net operating operating losses and net capital losses. (Emphasis added on new language).* This new language would simply clarify what serves as income.

The Chairman closed the public hearing on **HB 2207**.

### **HB 2406 - Providing for public improvement districts**

The Chairman opened the public hearing on **HB 2406**.

Representative Ward Loyd, sponsor of **HB 2406**, stated that to ensure the viability of rural areas, they must begin to think and promote regionally (Attachment 3). They should identify ways to create institutions of forms of government, or abilities of government to associate, which can forge regional partnerships.

The concept expressed in **HB 2406** was first conceptualized last year, and inserted as a floor amendment into **2004 House Bill 487**. As that measure was primarily focused on Southwest Kansas, last year's amendment provided a mechanism by which nine counties in Southwest Kansas might enter into interlocal agreements to construct, operate and maintain public infrastructure. Local voters would designate the way these structures would be funded.

Only the State may grant taxing authority. Kansas communities may already have interlocal agreements. This bill puts in place the taxing authority which geographic communities of interest in Kansas may avail themselves, should they elect to do so.

Bullet points on the "Public Improvement District"

- ▶ Any three or more counties may enter into interlocal agreement
- ▶ except those counties included in a Metropolitan Statistical Area
- ▶ which improvements might be financed, at the option of the PIDs through
  - ✓ ad valorem tax levy not to exceed 1 mill
  - ✓ impose a sales tax of not to exceed 0.50%
  - ✓ or both
  - ✓ for not to exceed 10 years
- ▶ provided, no tax authorized without affirmative public vote
- ▶ if any county (residents) vote no, no such tax may be imposed in such county

**HB 2406** is not a solution to the problems of rural Kansas, but I hope the idea it represents might be considered a part of the answer to the complexities of our evolving society, one that favors rural Kansas.

Randall Allen, Kansas Association of Counties, appeared in support of **HB 2406**, that anticipates a future need for smaller, more rural counties to join together to build, operate, or maintain public infrastructure improvements (Attachment 4) Many jurisdictions, in and of themselves, are too small to finance public facilities and improvements necessary to sustain and enhance a quality of life desired by citizens. This bill looks to the future of Kansas.

The Chairman closed the public hearing on **HB 2406**.

### **HB 2476 - Imposition of transient guest tax on Department of Wildlife and Parks (KDWP) in certain circumstances**

Mr. Self stated that **HB 2476** was an amendment to the various transient guest tax statutes to include, in the definitions, language that would trigger transient guest tax to be charged in certain circumstances. In specific

## CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 15, 2005 in Room 519-S of the Capitol.

language it deals with basically cabins, or other structures, on state park property, operated by the KDWP, when engaged in a specific activity.

Representative Barbara Craft spoke to the Committee regarding a unfair situation that had occurred near Junction City (Attachment 5). The KDWP does not collect the transient guest tax (TGT) on three cabins, within the park, which has created an unfair situation for two other, privately-owned, businesses that are required to collect and remit TGT under the requirements of the Transient Guest Tax Act. There are two reasons that this is unfair (1) the Department has an economic advantage over the competing private businesses in the area, and (2) the Department has eliminated the means by which monies are collected through the transient guest tax, which is the only source of revenue for the Geary County Convention and Visitors Bureau. The bill would correct this situation by including KDWP in the statutory definition of "person" and state park cabins in the definition of "hotel, motel, or tourist court," the bill would impose the TGT on cabin rentals in state parks.

Rick Dykstra, Geary County Convention & Visitors Bureau, testified in support of **HB 2476** (Attachment 6). He displayed a large poster advertising an upcoming fishing tournament in Geary County. He spoke about the importance of tourism to the county. They believe that all public assessable lodging businesses, private or government, should operate by the same rules concerning the Kansas Transient Guest Tax Act; that is "Collect and Remit." The Legislature should help in making the compliance system fair and balanced, as it relates to TGT collection and pass **HB 2476**. His testimony included written testimony from Gary L. Boan, Owner, Flagstop Resort & RV Park, LLC.

There being no opponents to **HB 2476**, the Chairman acknowledged there were three neutral conferees.

Chris Tymeson, Chief Counsel, Wildlife and Parks, stated that KDWP neither supports nor opposes the imposition of the transient guest tax on cabins located in the state parks (Attachment 7). The tax would affect only two state parks. They asked the Committee to consider two points: (1) How the tax would be collected in state parks that are situated in multiple counties and, (2) the tax would be passed on to the users of the cabins in Cedar Bluff and Milford, which may cause some constituent discontent.

The state never envisioned fifty years ago, that they would have cabins in state parks. Do we not also envision perhaps that counties would operate similar cabin ventures in the future. Perhaps instead of specifically targeting one entity of government, language should be drafted somewhat similar to the retailers sales tax act, where it states city or other political sub-divisions of the state, etc. The Chairman requested that he prepare a balloon with his suggested changes. He agreed to do so.

Ron Hein, Kansas Restaurant & Hospitality Association, stated they were neutral on the bill (Attachment 8). In the case of **HB 2476**, philosophically, government lodging, if it does exist, should pay the same taxes as the private sector so there is no competitive advantage. That would be true of TGT collection as well. They understand the concept of lower government taxes not being assessable against higher jurisdiction governments, however, they think when government is entering what is generally accepted as the private business arena and is departing from generally accepted governmental functions, the rules must be interpreted differently to insure that government "business" does not inappropriately compete with the private sector.

Dick Carter, Travel Industry Association of Kansas (TIAK), stated that the travel industry believed that it is important to fund tourism promotion in the local communities (Attachment 9). The bill would only affect cabins in two state parks - Cedar Bluff and Milford. He provided a formula to reflect the amount of money that would be available if the transient guest tax was imposed on the two state parks.

TIAK would suggest that there are potentially more beneficial ways to raise dollars that would have a significant impact on the ability to draw visitors to Kansas communities and their attractions - including state parks. He cited two ways that would increase funding for tourism in Kansas stating that it seemed appropriate to focus on finding ways to fund tourism promotion in Kansas that would help the communities bank a return on their investments on a much larger scale.

The Chairman closed the public hearing on **HB 2476**.

CONTINUATION SHEET

MINUTES OF THE House Taxation Committee at 9:00 A.M. on March 15, 2005 in Room 519-S of the Capitol.

Representative Thull made the motion to approve the minutes from February 22 and 25, March 2, 3 and 11. Representative Treaster seconded the motion. The motion passed.

The meeting was adjourned at 11:00 a.m. The next meeting is on March 16, 2005.

# HOUSE TAXATION COMMITTEE GUEST LIST

DATE: March 15, 2005

NAME	REPRESENTING
Rep John Comye	Melissa Vinsan / Wanda
Bill Dillon	Corporation for National & Community Service
Ann Mason	Intern Rep Kirk
Dani Davey	Intern - Dillmore
Robin R Corindo	Corporation for National & Community Service
LaVera D. Butler	Corporation for National & Community Service
Hal Hudson	NFIB / KS - Topeka
George Peterson	Ks Taxpayers Network
Rick DUKSTRA	GEAR COUNTY CVB
Chris Wilson	KS Building Industry Ass'n
Jenny Davis	Conlee, Consulting
Brent Hahn	KS Livestock Assoc.
Ryan Higbie	KS Livstck Assoc
Jerome BOOTH	KS Livstck Assoc.
JEFF BAXTER	KS LIVSTCK ASSN.
Bandall Allen	KS Assn. of Counties
LARRY R BAER	LKIM
Rt Murphy	HEIN Law Firm
Nancy Weeks	Harbell Co Treasurer



NANCY A. KIRK  
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 SHAWNEE COUNTY  
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 (785) 234-8806

OFFICE: ROOM 284-W, STATE CAPITOL  
 TOPEKA, KANSAS 66612-1504  
 (785) 296-7673



TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 RANKING DEMOCRAT: HEALTH & HUMAN SERVICES  
 MEMBER: INSURANCE  
 TAXATION

## TESTIMONY FOR HB2207

March 15, 2005

HB 2207 eliminates Supplemental Security Income from the income calculations for the Homestead Property Tax Rebate. You heard a similar bill regarding veteran and railroad disability payments earlier this year. Two or three years ago a conceptual amendment was added to the Homestead program eliminating disability payments from the income calculation. When the actual bill was drafted and passed, the only disability payment mentioned was Social Security Disability. I do not believe it was the intention of the committee to limit this exemption to Social Security.

Supplemental Security Income payments are provided to those persons who are disabled and who meet the income guidelines of the program. Those disabled persons receiving SSI are generally those who are MR/DD, physically disabled as adults, and those with a severe and persistent mental illness.

1. The individual must be determined disabled by Disability Determination. The criteria used in this process is exactly the same as the criteria used for Social Security Disability
2. The individual cannot have assets in excess of \$2000.
3. The individual cannot be employed
4. The individual cannot have pension or other disability payments that are more than the maximum allowed under SSI
5. SSI recipients are those who have not been able to work or who have not worked long enough to qualify for Social Security Disability Insurance.
6. Some SSI recipients are those who may also receive SSDI or other pensions, but the amount is below the maximum payment under SSI.
7. The current maximum SSI payment for one individual is \$579.00 per month

Currently, SSDI recipients who have payments under \$579.00 per month are eligible for SSI, but only the amount received from Social Security Disability is exempted from the income calculations. This bill is an effort to correct this inequity.

Representative Nancy Kirk

Hs Taxation Committee  
 March 15, 2005  
 Attachment 1

Testimony of Bill Dillon, Kansas State Director  
Corporation for National and Community Service  
Before the Kansas House Committee on Taxation

March 15, 2005

Mr. Chair and Members of the Committee: Thank you for the opportunity to testify before your committee today.

My name is Bill Dillon, and I am the Kansas State Director for the Corporation for National and Community Service, a wholly-owned U.S. Government Corporation and Federal Executive Agency of the United States. We have our state office here in Topeka, in Room 260, in the Federal Courthouse, 444 SE Quincy Street. I am pleased to appear today concerning House Bill No. 2207 and to submit testimony in support of hundreds of low income citizens of Kansas, all whom are over the age of 60, who volunteer their time and efforts to help their fellow citizens throughout the state. These volunteers are participants in one of two Federal programs funded by the Corporation for National and Community Service: (1) the Foster Grandparent Program and (2) the Senior Companion Program.

These two national service programs operate throughout the United States and add great value and capacity to the social services structure in each state and territory in which the programs are operating. Individuals must meet certain qualifications in order to participate in this program. Two of these criteria are: there is a minimum age limit (60) and there is also an income ceiling that they may not exceed (125% of the Federal Poverty Guidelines) Therefore, only low income, senior adults qualify for the programs.

In order to help defray the costs of participating in the program, low-income seniors receive a very small stipend for their service (\$2.65 per hour for a maximum of 40 hours per week). The Domestic Volunteer Service Act of 1973, the statute that governs these two Federal Programs, contains language that specifically states that the stipend should not be considered as income to the participant, nor should it be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, workers' compensation, or similar benefit payment or minimum wage laws. 42 U.S.C. 5058. In addition, Section 404 (f) (1), states that "payments to volunteers under the Act shall not in any way reduce or eliminate the level of, or eligibility for, assistance or services any such volunteers may be receiving under any governmental program. . ."42 U.S.C. § 5044(f)(1) I am submitting for the record a copy of a memorandum by the Corporation's General Counsel that sets out the Corporation's position on this subject.

In view of these two Federal statutory provisions that specifically address the status and treatment of Foster Grandparent and Senior Companion stipends, I respectfully request that this committee consider the following change to House Bill No. 2207:

Amend House Bill No. Section 1, paragraph (a), last sentence (lines 26-30), to read as follows:

"Income does not include: Gifts from nongovernmental sources, surplus food or other relief in kind supplied by a governmental agency, supplemental security income payments, **Foster Grandparent and Senior Companion stipends paid to participants provided under 42 United States Code, §§ 5011(d) & 5013(b)**, nor net operating operating losses and net capital losses."(Emphasis added on new language).

His Taxation Committee

March 15, 2005

Thank you for your time and consideration of this important matter Attachment 2



Corporation for  
**NATIONAL &  
COMMUNITY  
SERVICE** 

June 13, 2002

**MEMORANDUM TO NATIONAL SENIOR SERVICE CORPS STAFF  
AMERICORPS\*VISTA STAFF  
CORPORATION STATE OFFICE STAFF  
FROM: Frank R. Trinity General Counsel**

**SUBJECT:** Senior Companions, Foster Grandparent, Retired and Senior Volunteer and AmeriCorps\*VISTA Programs – Income Disregard Provisions

It continues to come to our attention that state and local governments, and on occasion federal entities, are not properly applying federal law governing the disregard of payments to Senior Companions, Foster Grandparent, Retired and Senior volunteer and AmeriCorps\*VISTA members when determining eligibility for assistance and benefits.

Section 404 IV (Administration and Coordination) of the Domestic Volunteer Service Act of 1973, as amended, (DVSA), states, in relevant part, as follows:

(f)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the leave of or eligibility for assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is greater.

(f)(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under Title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment of training during the period of such service.



June 13, 2002, continued

42 U.S.C. § 5044 (f)(1) and (2).

In a few cases, government programs agencies have erroneously attempted to substitute their judgments for the DVSA's authority in determining under (f)(1) if volunteer payments to participants are equivalent to or greater than the applicable minimum wage. Only the Corporation for National and Community Service may make this determination, and to date payments to members participants under this Title have not been determined to exceed the federal or state minimum wage, whichever is greater.

Section 418 of the DVSA also states at as follows:

Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to Title II of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, workers' compensation, or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act [October 1, 1973]. 42 U.S.C. § 5058

In summary, (1) the law is quite clear that a government program may not consider payments to members individuals under Title IV of the DVSA in determining to reduce or eliminate the individual's level of or eligibility for public assistance or services; (2) that entitlements to assistance shall may not be denied because of a participant's failure or refusal to seek or accept employment or training, including those established for welfare to work programs; and (3) that no payments to members participants shall be considered wages or unemployment for the purposes of any tax, unemployment, workers' compensation, or for similar benefit payments.

In addition, the legislative history concerning this matter indicates that Congress did not want to damage efforts to recruit participants by reducing or eliminating government assistance for them and placing financial burdens on sponsors of the programs.

This memorandum should be forwarded to anyone with questions concerning this matter. In the event this memorandum does not resolve the issue, please contact this office immediately.

Frank R. Trinity  
General Counsel  
(202) 606-5000, Ext 290



# SENIOR CORPS

Corporation for  
NATIONAL &  
COMMUNITY  
SERVICE

## KANSAS

### **The Foster Grandparent Program (FGP)**

It is part of Senior Corps, a network of national service programs that provide older Americans the opportunity to put their life experiences to work for local communities. Foster Grandparents in Kansas are serving as mentors, tutors, and caregivers for at-risk children and youth with special needs through a variety of community organizations, including schools, hospitals, drug treatment facilities, correctional institutions, and Head Start and day-care centers. In fiscal year 2004 more than **472 Kansas Foster Grandparents** tended to the needs of more than **2,900** young people in Kansas with special needs.

#### **Eligibility:**

**The Foster Grandparent Program is open to people age 60 and over with limited incomes.** All applicants undergo a background check and a telephone interview, as well as pre-service and in-service training. Foster Grandparents serve 20 hours a week.

#### **Partners/Operations**

Local nonprofit organizations and public agencies receive grants to sponsor and operate local Foster Grandparent projects. Organizations that address the needs of abused and neglected children, troubled teens, young mothers, premature infants, and children with physical disabilities work with the local Foster Grandparent program to place and coordinate the services of the Foster Grandparent volunteers. These local partners are called volunteer stations. Volunteer stations include children's services agencies, child and youth-oriented charities, and faith based institutions.

#### **Volunteer Benefits**

For their service, Foster Grandparents receive \$2.65 an hour (**tax free**), reimbursement for transportation, meals during service, annual physical examinations, and accident and liability insurance while on duty.

### **The Senior Companion Program (SCP)**

Is part of Senior Corps, a network of national service programs that provides older Americans with the opportunity to apply their life experiences to meeting community needs. Senior Companions serve one-on-one with the frail elderly and other homebound persons who have difficulty completing everyday tasks. They assist with grocery shopping, bill paying, and transportation to medical appointments, and they alert doctors and family members to potential problems. Senior Companions also provide short periods of relief to primary caregivers. Because of the program,

thousands of citizens are able to live with dignity in their own homes. In fiscal year 2004, **Over 200 Senior Companions in Kansas** tended to the needs of **more than 870 home-bound elderly Kansans**.

### **Eligibility**

**The Senior Companion Program is open to healthy individuals age 60 and over with limited incomes.** All applicants undergo a background check and a telephone interview, as well as pre-service and in-service training on such topics as Alzheimer's disease, diabetes, and issues related to mental health. Senior Companions serve 20 hours a week.

### **Partners/Operations**

Local nonprofit organizations and public agencies receive grants to sponsor and operate Senior Companion projects. Community organizations that address the health needs of older persons work with the local SCP projects to place and coordinate the services of the SCP volunteers. These local partners – which include hospitals, Area Agencies on Aging, and home health groups – are called volunteer stations. The stations' professional staff identify individuals who need assistance and work with SCP projects to place them with Senior Companions.

### **Volunteer Benefits**

For their service, Senior Companions receive \$2.65 an hour **(tax free)**, reimbursement for transportation, annual physical examinations, meals, and accident and liability insurance during service.

WARD LOYD  
123RD DISTRICT  
"THE HEART OF GARDEN CITY"  
E-MAIL: loyd@gcnet.com



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEES  
CHAIR: CORRECTIONS & JUVENILE JUSTICE  
MEMBER: JUDICIARY

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE  
IN SUPPORT OF HOUSE BILL NO. 2406  
by Ward Loyd  
March 15, 2005

Honorable Chairman Wilk and Committee Members:

I appear today as sponsor and advocate for House Bill No. 2406, or something closely resembling what was intended when the bill draft was requested, and respectfully request your favorable consideration of this measure.

To ensure the viability of rural areas, I believe we must recognize that agricultural policy alone is no longer sufficient to meet the needs of the new global economy. We must begin to think and promote regionally, recognizing that a global economy requires some level of critical mass. We should identify ways to create institutions or forms of government, or abilities of government to associate, which can forge regional partnerships.

The future of rural Kansas depends upon regionalization and cooperative effort, and HB 2406 facilitates both.

This initiative begins the process of reversing the effects felt by what has been referred to as the "Buffalo Commons," a regional metaphor predicting the emptying and decline in population of the High Plains from Canada on the north to New Mexico in the south, including virtually all of rural Kansas. In 1987, as part of their famous, controversial proposal for a "Buffalo Commons," Drs. Frank and Deborah Popper of Rutgers University showed that hundreds of

counties in the American West still have less than a sparse 6 persons per square mile -- the density standard Frederick Jackson Turner used to declare the American Frontier closed in 1893. Many have less than 2 persons per square mile!

The idea of the Buffalo Commons, while initially resisted, was recently revisited and endorsed by former Governor Mike Hayden. Last year Hayden said that not only was the "Buffalo Commons" phenomena becoming a reality, it was occurring much more rapidly than originally anticipated. Hayden further noted that the only way to preserve our rural areas is through the availability of public infrastructure (i.e., public, community facilities). He noted that if you looked at those communities on the High Plains and in Kansas which are surviving, you would see the locations where public infrastructure in some form existed, be it a hospital, a civic or regional center, an airport, or schools, to give a few examples.

The concept expressed in this bill was first conceptualized last year, and inserted as a floor amendment into 2004 House Bill 487. As that measure was primarily focused on Southwest Kansas, last year's amendment provided a mechanism by which nine counties in Southwest Kansas might enter into interlocal agreements to construct, operate and maintain public infrastructure, which in the amendment were identified as "community facilities". Local voters would designate the way these structures would be funded, with such options as a tax levy, imposition of a sales tax, or both. Ultimately individual voters would have the deciding power, with no tax without public approval.

Only the State may grant taxing authority. Our communities may already do interlocal agreements. See K.S.A. 12-2901 *et seq.* This bill puts in place the taxing authority which geographic communities of interest in Kansas may avail themselves, should they elect to do so.

As I thought about the concept during the interim, I recognized that if a Public Improvement District with taxing authority was a good idea, it would be good for all of rural Kansas, not just those of us who live in the Southwest part of the state.

Bullet points on the "Public Improvement District"

- Any three or more counties may enter into interlocal agreement

- except those counties including in a Metropolitan Statistical Area
- to construct, operate & maintain public improvements
- which improvements might be financed, at the option of the PIDs through
  - ad valorem tax levy not to exceed 1 mill
  - impose a sales tax of not to exceed 0.50%
  - or both
  - for not to exceed 10 years
- provided, no tax authorized without affirmative public vote
- if any county (residents) vote no, no such tax may be imposed in such county

The general concept of a Metropolitan Statistical Area (MSA) is that of a large population nucleus, together with adjacent communities having a high degree of social and economic integration with that core. Metropolitan areas comprise communities having a high degree of social and economic integration with that core. The Federal Office of Management and Budget (OMB) defines metropolitan areas by applying published standards to Census Bureau data.

This bill excludes MSAs from being one of the counties that can participate in a PID. It is not intended that our larger, more prosperous counties be penalized in any way, but rather that we recognize these counties, or those Kansans living in MSAs, already enjoy the benefits of critical mass, and opportunities of wealth and collective taxation authority not available in other areas. This bill is an effort to extend to less populated areas an ability to do what those who now live in the MSAs take for granted.

Attached are four pages taken from the OMB website identifying recognized MSAs in Kansas. Please note the distinction between "Metropolitan" and "Micropolitan" areas. HB 2406 only excluded the "Metropolitan" areas from being able to participate in a PID. Only five areas in Kansas are, according to this data, a MSA – Kansas City, Lawrence, St. Joseph (area), Topeka, Wichita.

This approach represents only the initial effort of one person. You may and likely will have ideas that will supplement this concept, and make it better. All such suggestions and modifications are encouraged and welcome. They can only make Kansas better.

HB 2406 is not a solution to the problems of rural Kansas, but I hope the idea it represents might be considered a part of the answer to the complexities of our evolving society, one that favors rural Kansas.

In rural Kansas, we must leverage our resources, and use them collectively for the public good. The key to the survival of rural communities is facilitating conditions that will encourage a sense of community, and that will promote business starts and expansions, the true anchors of any new rural economy.





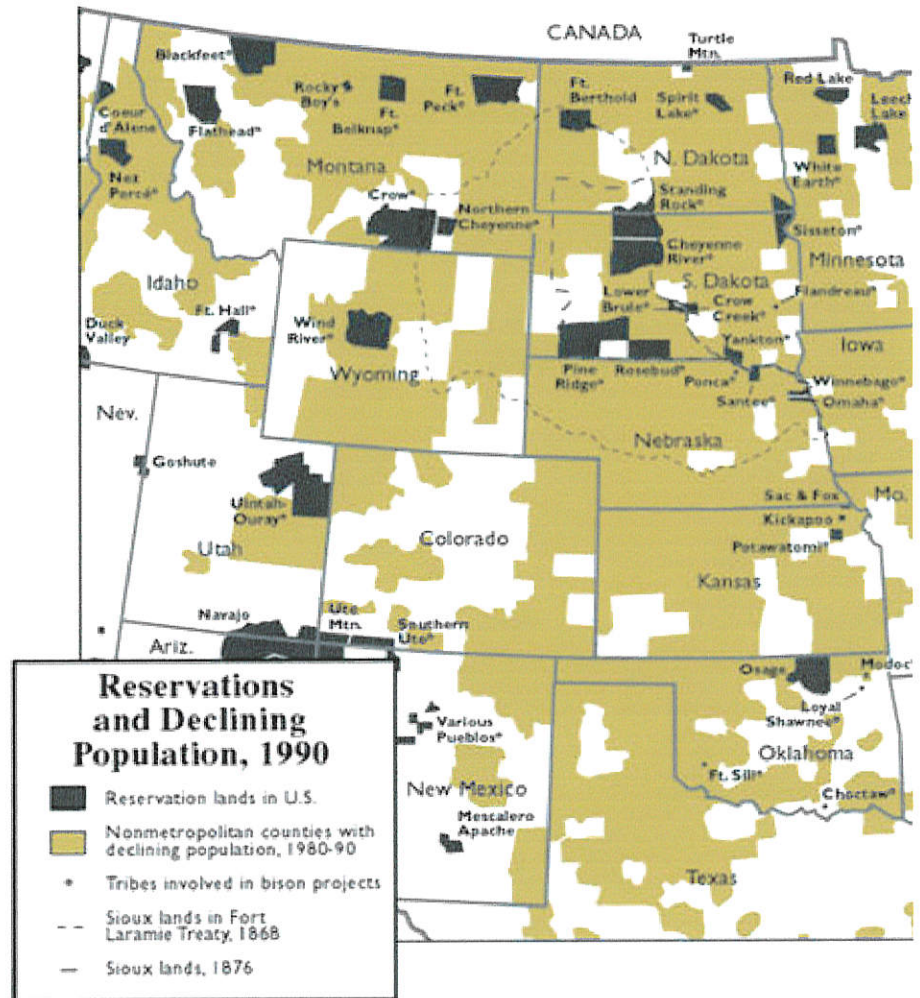
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Map above, showing "frontier" counties (in yellow), and Indian Reservations (in black). Co Grossman mtn@igc.apc.org  
 Courtesy of Honor the Earth

[BACK](#)

2

**Population Estimates for Kansas, July 1, 2000 and 2003**  
**One Dimensional Demographic Summaries (Hispanic, Race, Age and Sex)**  
**By Metropolitan and Micropolitan Statistical Areas (CBSA's)**  
**Kansas Portions Only**

	CBSA: Core Based Statistical Area											
	GreatBend, KS Micropolitan Statistical A		Hays,KS Micropolitan Statistical Area		Hutchinson, KS Micropolitan Statistical		KansasCity, MO-KS Metropolitan Statistic		Lawrence, KS Metropolitan Statistical Ar		Liberal, KS Micropolitan Statistical Are	
	2003	2000	2003	2000	2003	2000	2003	2000	2003	2000	2003	2000
<b>Total Population</b>	27,467	28,123	27,212	27,422	63,832	64,681	779,602	744,225	102,983	100,182	23,091	22,541
<b>Hispanic</b>												
<b>Non-hispanic</b>	24,740	25,763	26,463	26,772	60,032	61,016	722,986	696,557	99,329	96,901	11,843	12,983
<b>Hispanic or Latino</b>	2,727	2,360	749	650	3,800	3,665	56,616	47,668	3,654	3,281	11,248	9,558
<b>Race</b>												
<b>White alone</b>	26,513	27,261	26,519	26,751	60,446	61,285	671,353	647,128	89,872	87,654	20,970	20,409
<b>Black alone</b>	414	343	195	187	1,805	1,924	69,733	65,565	4,247	4,331	938	947
<b>American Indian &amp; Alskan Native alone</b>	161	156	55	56	417	409	4,009	3,860	2,628	2,600	222	240
<b>Asian alone</b>	63	59	241	231	355	296	22,233	16,983	3,712	3,238	710	712
<b>Native Hawaiian &amp; Other Pac Islndr alone</b>	53	52	0	1	25	15	480	365	63	51	43	35
<b>Two or more races</b>	263	252	202	196	784	752	11,794	10,324	2,461	2,308	208	198
<b>Age</b>												
<b>0 to 4</b>	1,683	1,782	1,644	1,570	4,127	4,124	56,524	55,424	5,867	5,640	2,313	2,146
<b>5 to 9</b>	1,775	1,926	1,475	1,493	3,973	4,146	56,055	56,394	5,420	5,615	2,050	2,002
<b>10 to 14</b>	1,958	2,205	1,498	1,792	4,165	4,551	58,473	57,315	5,732	5,826	1,938	1,883
<b>15 to 19</b>	2,262	2,363	2,272	2,682	4,540	4,904	54,144	51,813	9,424	10,525	1,852	1,973
<b>20 to 24</b>	2,000	1,561	3,461	3,652	4,848	4,087	52,832	43,699	16,163	19,507	2,017	1,818
<b>25 to 29</b>	1,205	1,310	2,352	1,678	3,445	3,724	53,415	52,121	12,720	8,486	1,660	1,811
<b>30 to 34</b>	1,323	1,459	1,468	1,474	3,601	3,734	57,474	55,793	7,470	6,603	1,797	1,739
<b>35 to 39</b>	1,565	1,990	1,474	1,767	3,931	4,727	59,640	64,220	6,080	6,564	1,653	1,727
<b>40 to 44</b>	2,129	2,274	1,818	1,956	4,856	5,157	65,225	63,403	6,552	6,466	1,575	1,605
<b>45 to 49</b>	2,203	2,030	1,991	1,958	4,927	4,834	61,267	56,939	6,368	6,117	1,481	1,353
<b>50 to 54</b>	1,843	1,629	1,698	1,465	4,458	4,092	52,748	48,680	5,722	5,091	1,180	1,077
<b>55 to 59</b>	1,438	1,331	1,242	1,060	3,598	3,213	41,550	34,079	4,300	3,320	888	790
<b>60 to 64</b>	1,228	1,231	947	952	2,833	2,775	29,163	25,141	2,816	2,438	685	627
<b>65 to 69</b>	1,103	1,267	912	976	2,458	2,541	21,895	21,162	2,201	2,122	545	550
<b>70 to 74</b>	1,142	1,201	910	956	2,337	2,584	19,179	19,575	1,956	1,934	494	468
<b>75 to 79</b>	1,020	1,037	793	806	2,296	2,268	16,656	16,819	1,766	1,707	344	398
<b>80 to 84</b>	757	758	615	586	1,710	1,639	12,258	11,319	1,299	1,176	277	254
<b>85+</b>	833	769	642	599	1,729	1,581	11,104	10,329	1,127	1,045	342	320
<b>Sex</b>												
<b>Male</b>	13,399	13,615	13,354	13,414	32,055	32,476	386,133	367,056	51,259	49,770	11,921	11,571
<b>Female</b>	14,068	14,508	13,858	14,008	31,777	32,205	393,469	377,169	51,724	50,412	11,170	10,970

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**Population Estimates for Kansas, July 1, 2000 and 2003**  
**One Dimensional Demographic Summaries (Hispanic, Race, Age and Sex)**  
**By Metropolitan and Micropolitan Statistical Areas (CBSA's)**  
**Kansas Portions Only**

	CBSA: Core Based Statistical Area											
	Manhattan, KS Micropolitan Statistical A		McPherson, KS Micropolitan Statistical A		Parsons, KS Micropolitan Statistical Are		Pittsburg, KS Micropolitan Statistical A		St. Joseph, MO-KS Metropolitan Statistica		Salina, KS Micropolitan Statistical Area	
	2003	2000	2003	2000	2003	2000	2003	2000	2003	2000	2003	2000
<b>Total Population</b>	107,318	108,942	29,346	29,585	22,259	22,750	38,398	38,222	8,149	8,247	59,914	59,798
<b>Hispanic</b>												
<b>Non-hispanic</b>	101,931	103,259	28,748	29,014	21,585	22,059	37,321	37,305	8,020	8,151	56,123	56,500
<b>Hispanic or Latino</b>	5,387	5,683	598	571	674	691	1,077	917	129	96	3,791	3,298
<b>Race</b>												
<b>White alone</b>	90,175	91,261	28,523	28,838	20,066	20,657	36,004	36,103	7,753	7,881	55,790	55,840
<b>Black alone</b>	10,069	10,882	277	245	1,140	1,098	762	726	204	174	1,765	1,745
<b>American Indian &amp; Alaskan Native alone</b>	792	744	109	97	442	438	395	364	101	105	288	316
<b>Asian alone</b>	3,215	3,077	113	105	98	75	601	443	24	23	1,091	950
<b>Native Hawaiian &amp; Other Pac Islndr alone</b>	283	289	12	10	0	2	54	43	0	0	17	6
<b>Two or more races</b>	2,784	2,689	312	290	513	480	582	543	67	64	963	941
<b>Age</b>												
<b>0 to 4</b>	8,063	7,654	1,724	1,744	1,387	1,415	2,557	2,452	447	522	4,108	4,090
<b>5 to 9</b>	6,710	6,932	1,743	1,889	1,431	1,577	2,255	2,267	533	569	4,121	4,288
<b>10 to 14</b>	6,400	6,881	2,053	2,322	1,615	1,769	2,285	2,389	565	593	4,305	4,441
<b>15 to 19</b>	9,649	11,121	2,645	2,592	1,727	1,785	2,887	3,428	760	824	4,347	4,608
<b>20 to 24</b>	15,970	20,003	2,258	1,985	1,656	1,274	4,430	4,503	713	543	4,202	3,616
<b>25 to 29</b>	12,344	8,933	1,501	1,450	1,068	1,200	3,224	2,447	426	424	3,386	3,594
<b>30 to 34</b>	7,223	6,794	1,424	1,525	1,230	1,319	2,283	2,183	443	454	3,731	3,883
<b>35 to 39</b>	5,982	6,918	1,661	2,068	1,409	1,687	2,221	2,349	470	517	3,933	4,549
<b>40 to 44</b>	6,463	6,758	2,289	2,392	1,645	1,624	2,380	2,545	585	643	4,676	4,772
<b>45 to 49</b>	6,204	5,910	2,302	2,171	1,540	1,525	2,533	2,413	601	603	4,664	4,403
<b>50 to 54</b>	5,292	4,844	1,979	1,794	1,480	1,477	2,259	2,186	564	538	4,000	3,721
<b>55 to 59</b>	4,052	3,531	1,612	1,388	1,328	1,226	1,938	1,736	454	375	3,298	2,862
<b>60 to 64</b>	3,121	2,866	1,212	1,151	1,048	922	1,597	1,449	324	314	2,542	2,404
<b>65 to 69</b>	2,481	2,554	1,043	1,070	802	881	1,206	1,205	299	303	2,143	2,193
<b>70 to 74</b>	2,362	2,359	1,096	1,164	844	907	1,116	1,258	273	328	2,040	2,133
<b>75 to 79</b>	1,974	2,029	994	1,052	758	816	1,081	1,271	283	301	1,806	1,787
<b>80 to 84</b>	1,511	1,428	908	885	634	669	973	1,059	209	189	1,384	1,255
<b>85+</b>	1,517	1,427	902	943	657	677	1,173	1,082	200	207	1,228	1,199
<b>Sex</b>												
<b>Male</b>	55,522	56,324	14,467	14,486	10,911	11,121	18,752	18,642	4,035	4,093	29,729	29,544
<b>Female</b>	51,796	52,618	14,879	15,099	11,348	11,629	19,646	19,580	4,114	4,154	30,185	30,254

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**Population Estimates for Kansas, July 1, 2000 and 2003**  
**One Dimensional Demographic Summaries (Hispanic, Race, Age and Sex)**  
**By Metropolitan and Micropolitan Statistical Areas (CBSA's)**  
**Kansas Portions Only**

	CBSA: Core Based Statistical Area					
	Topeka, KS Metropolitan Statistical Area		Wichita, KS Metropolitan Statistical Area		Winfield, KS Micropolitan Statistical Area	
	2003	2000	2003	2000	2003	2000
<b>Total Population</b>	226,268	224,834	582,781	572,015	35,860	36,279
<b>Hispanic</b>						
Non-hispanic	211,615	211,510	535,309	530,230	34,015	34,970
Hispanic or Latino	14,653	13,324	47,472	41,785	1,845	1,309
<b>Race</b>						
White alone	200,181	199,433	500,055	493,728	32,864	33,335
Black alone	16,176	15,965	45,475	43,774	1,140	1,004
American Indian & Alaskan Native alone	3,197	3,257	6,300	6,357	690	717
Asian alone	2,061	1,776	18,137	16,154	526	582
Native Hawaiian & Other Pac Islndr alone	154	137	428	367	0	0
Two or more races	4,499	4,266	12,386	11,635	640	641
<b>Age</b>						
0 to 4	15,053	15,132	43,833	43,758	2,353	2,308
5 to 9	15,140	15,676	43,479	45,021	2,329	2,583
10 to 14	15,984	16,665	45,245	44,948	2,631	2,737
15 to 19	16,116	16,406	42,219	42,373	2,936	3,121
20 to 24	15,443	12,929	41,876	37,684	2,958	2,261
25 to 29	12,854	13,243	37,765	38,581	1,869	1,960
30 to 34	13,888	14,272	39,030	39,148	1,985	2,109
35 to 39	14,950	16,947	40,011	44,433	2,209	2,627
40 to 44	17,724	18,334	46,223	47,074	2,684	2,699
45 to 49	17,953	17,507	45,261	41,765	2,564	2,512
50 to 54	16,271	15,286	37,786	34,269	2,232	2,206
55 to 59	13,182	11,556	29,472	24,625	1,993	1,839
60 to 64	10,228	9,500	21,092	19,526	1,575	1,552
65 to 69	8,433	8,338	17,727	18,273	1,400	1,406
70 to 74	7,401	7,743	16,561	16,924	1,228	1,364
75 to 79	6,632	6,621	14,500	14,926	1,123	1,155
80 to 84	4,790	4,409	10,965	10,011	844	929
85+	4,226	4,270	9,736	8,676	947	911
<b>Sex</b>						
Male	110,701	109,677	288,887	282,941	17,651	17,742
Female	115,567	115,157	293,894	289,074	18,209	18,537



**Testimony re. HB 2406**  
House Taxation Committee  
Randall Allen, Executive Director  
Kansas Association of Counties  
March 15, 2005

Chairman Wilk and members of the committee, I am Randall Allen, Executive Director of the Kansas Association of Counties. I am here today to express support for HB 2406, a creative bill introduced by Representative Ward Loyd anticipating a future need for smaller, more rural counties to join together to build, operate, or maintain public infrastructure improvements.

Kansas is a state with many, many political jurisdictions, including counties, cities, townships, and various types of special districts. Many such jurisdictions, in and of themselves, are too small to finance public facilities and improvements necessary to sustain and enhance a quality of life desired by citizens. Increasingly, such jurisdictions will consider working together to build, maintain, and jointly operate facilities whose costs can be borne by a larger land area and population base. HB 2406 anticipates this need and provides both property and sales tax authority to the residents of a public improvement district to finance such facilities, subject to a public vote in each of the participating counties. HB 2406 looks to the future of Kansas. It is a refreshing anticipation of what Kansans will need ten and twenty or even fifty years from now. I urge the committee to give this bill full consideration and report it favorably for passage.

Thank you for the opportunity to comment on this bill. I will be happy to answer your questions.

The Kansas Association of Counties, an instrumentality of member counties under K.S.A. 19-2690, provides legislative representation, educational and technical services and a wide range of informational services to its member counties. For more information, please contact Randall Allen or Judy Moler at (785) 272-2585.

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House Taxation Committee  
March 15, 2005  
Attachment 4

**BARBARA CRAFT**  
 REPRESENTATIVE, 65TH DISTRICT  
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TOPEKA  
 HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: EDUCATION  
 FEDERAL AND STATE AFFAIRS  
 GOVERNMENTAL ORGANIZATION  
 AND ELECTIONS  
 HIGHER EDUCATION

Testimony in Support of HB 2476  
 March 15, 2005

Good morning, Chairman Wilk and members of the House Taxation Committee. I am here today to speak in support of HB 2476.

Last summer one of my constituents, Rick Dykstra, came to me for assistance in addressing a situation that had developed at Milford State Park at Milford Lake, near Junction City. Mr. Dykstra is Assistant Director of the Geary County Convention and Visitors Bureau. Three cabins located in the park were being operated by the Kansas Department of Wildlife and Parks (KDWP) as lodging accommodations for use by the public. This matter was one of concern since the Department was not collecting a transient guest tax (TGT) on its cabin rentals and remitting the tax to the Kansas Department of Revenue. Two other, privately-owned, businesses –Thunderbird Marina and Milford Flagstop – which also provide rental cabins at Milford Lake, do collect and remit TGT under the requirements of the Transient Guest Tax Act (K.S.A. 12-1692 et seq.).

✓ The fact that KDWP does not collect TGT on its cabin rentals at Milford State Park has created an unfair situation for two reasons: (1) the Department has an economic advantage over the competing private businesses in the area, and (2) the Department has eliminated the means by which monies are collected through the transient guest tax, which is the only source of revenue for the Geary County Convention and Visitors Bureau.

✓ HB 2476 would correct this situation. By including KDWP in the statutory definition of “person” and state park cabins in the definition of “hotel, motel, or tourist court,” the bill would impose the TGT on cabin rentals in state parks.

✓ Although the dollar amount of TGT collected on the cabins would not be large, it is important funding for the activities of the Geary County CVB. The reputation of Milford Lake as the “fishing capital” of Kansas has grown significantly in recent years due to its selection as the host site for several national-level fishing tournaments. All kinds of outdoor recreational activities are expected to expand in the near future, including the use of the cabins in the state park. HB 2476 would help to level the playing field for private businesses that might want to develop more lodging facilities.

**Geary County  
Convention and Visitors  
Bureau**

823 N. Washington St.  
Junction City, KS 66441

March 15, 2005

**Testimony to the House Taxation Committee on HB 2476  
By Richard Dykstra, Assistant Director**

As was stated in a letter to the Kansas Attorney General on May 14, 2004, by the County Attorney of Geary County, Mr. Steven Opat, "*KDWP has created a situation which looks patently unfair, not only to these merchants, but also to the governing body, the convention and visitors bureau and the local populace.*" And just what was the situation, Public Lodging.

As all of you know, cities or counties in Kansas have the option of enacting a "Transient Guest Tax" (TGT) which is paid by the consumer when they spend a night in a lodging establishment. As stated in K.S.A. 12-1697 (c) "*The taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect...*"

We believe that all public accessible lodging businesses, private or government, should operate by the same rules concerning the Kansas Transient Guest Tax Act; that is "Collect and Remit."

I won't go into all the details of the TGT, as it relates to Geary County, though if a person stays in a public lodging facility within Geary County, they pay transient guest tax, in addition to other applicable taxes. Yes, there are some exceptions, though as I said, I won't go into exact details. If the same public stays in public lodging in Milford State Park, they pay no transient guest tax. In fact, even when persons representing non-profit agencies and/or organizations stay in lodging and get waivers for sales tax, they do not get waivers for TGT. In Geary County, we currently have two lodging operations at Milford Lake, which collect and remit TGT, see attachment.

Why is no collection being made by KDWP, it's due to the definition of a "person" within the TGTA.

Without a doubt, when the Kansas TGTA was written, the State of Kansas did not think they would be operating public lodging facilities. As was written by Mr. Richard Cram of the Kansas Department of Revenue in a letter dated June 15, 2004, *"Comparing the Transient Guest Tax Act with the Kansas Retailers Sales Tax Act (RSTA), the conclusion appears manifest. K.S.A. 79-3602(a) defines "person" to specifically mean "any city or other political subdivision of the state of Kansas..." Thus, it is apparent that when the legislature wants to impose a "collect and remit" requirement on a governmental entity, the legislature knows how to define a term to include a governmental entity. Because the legislature did so in the RSTA, but not in the TGTA, it can reasonably be inferred that governmental entities are not subject to the collect and remit requirements of TGTA."*



As noted by Attorney General Phil Kline, in a letter sent to Mr. Opat, dated May 24, 2004, "*State agencies or other governmental entities are not automatically immune from compliance with rules established by local municipalities.*" I'm asking for your help, help in making the compliance system fair and balanced, as it relates to TGT collection. We ask that you pass House Bill 2476.

We fully support and encourage governmental economic assistance as it relates to the development of private lodging facilities, to include tax incentives for private developers. We just believe that when government competes directly against private industry, they should not be given advantage.

Remember, funds collected under the Transient Guest Tax Act are used for "Travel and Tourism" marketing and promotion in Kansas, which in the case of Geary County, includes Milford State Park.

## FLAGSTOP RESORT & RV PARK, LLC

PO Box 329  
Millford, KS 66514-0329  
785-463-5318  
flagstopresort@flinthills.com

March 14, 2005

House Taxation Committee

RE: House Bill 2476

As owner and operator of a campground facility in Kansas for the last eight years, we have found it challenging to operate a basically seasonal business.

Not only are the problems of good seasonal help and everyday repairs major expenses, we also have crippling taxes and utilities to deal with.

We are continually reminded by our customers of the nice blacktop roads the state and corps parks have, compared to our gravel roads which are expensive to maintain. Of course the government parks are paved at taxpayer expense and by the National Guard, of which we have absolutely no help from.

Our county assessor has advised us that our taxes have gone up yet again this year. We also have new franchise taxes for some unexplained reason.

Campers patronizing our parks and other private parks are currently paying transient guest tax. The state park doesn't feel they should have to pay this because they are a government entity.

This is government in direct competition with private business, and a blatant attempt to overburden private operators and force them from the camping industry. House Bill 2476 would at the very least make the government parks on a more level playing field with the private campgrounds.

We support House Bill 2476 and encourage you to vote to pass this bill. Thank you for your time and consideration.

Sincerely,

  
Gary L. Boan, Owner

# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2476 Relating to Transient Guest Taxes  
To  
House Taxation Committee  
By Christopher J. Tymeson  
Chief Legal Counsel  
Kansas Department of Wildlife and Parks  
March 15, 2005**

In reviewing HB 2476, the Kansas Department of Wildlife and Parks neither supports nor opposes the imposition of the transient guest tax on cabins located in the state parks.

As summarized in the table below, currently the tax will affect only 2 state parks.

<b>State Park</b>	<b>County</b>	<b># of primitive cabins</b>	<b># of modern cabins</b>	<b>County Transient Guest Tax Rate</b>
Cedar Bluff	Trego	2	3	2%
Milford	Geary	0	3	5%

While other state parks have cabins, they are situated in counties that do not collect a transient guest tax. We are planning cabins at Wilson State Park in Russell county that will be open later this summer, and Russell collects a 4% transient guest tax.

We recognize that the transient guest tax funds convention and visitors bureaus and economic development agencies that promote the state parks, and outdoor recreation in Kansas in general, and we appreciate their support.

We would like the Committee to note that the tax will be passed on to the users of the cabin, which may cause some constituent discontent.

One question we would like the Committee to consider is how the tax would be collected in state parks that are situated in multiple counties? For example, parts of Cheney State Park are in Reno, Sedgwick, and Kingman Counties. Of those 3 counties, only Sedgwick collects a transient guest tax, however, the cabins at Cheney are located in Kingman County.

# HEIN LAW FIRM, CHARTERED

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*Ronald R. Hein*

*Attorney-at-Law*

Email: rhein@heinlaw.com

**Testimony Re: HB 2476  
House Taxation Committee  
Presented by Ronald R. Hein  
on behalf of  
Kansas Restaurant and Hospitality Association  
March 15, 2005**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Kansas Restaurant and Hospitality Association (KRHA). The KRHA is the Kansas professional association for restaurant, hotel, lodging and hospitality businesses in Kansas.

KRHA is neutral on HB 2476. We understand the intent and the impact of the bill and might otherwise be inclined to support legislation which requires lodging facilities on government properties to pay taxes so that they are not given a competitive advantage with regards to privately owned lodging facilities.

However, we have several questions about this bill and the factual situations to which the legislation is applicable.

First of all, the issue that our board of directors needed to address was as follows: Should state or local governments develop lodging facilities, contract for development of lodging facilities, or permit development of lodging facilities on government owned property.

The KRHA position that was adopted is as follows: KRHA recognizes the need for government to facilitate development of lodging facilities to promote tourism and economic development in certain instances, but development of such facilities should be accomplished by the private sector lodging industry.

The KRHA acknowledges that situations arise where government is trying to promote tourism and economic development, but due to a number of factors, the private sector is not able to facilitate development of the lodging facilities necessary to accomplish those goals. An example of lodging facilities that might be developed by the government or privately developed on government property include property around Corps of Engineers lakes where private acquisition of the land may not be permitted by federal law.

In all cases, KRHA encourages that consideration be given to the occupancy rates of private facilities within a competitive distance.

House Taxation Committee  
March 15, 2005  
Attachment 8

KRHA also feels that, as a general rule, government should not compete with the private sector. However, we recognize exceptions to the general rule as well. Development of a governmentally owned lodging facility raises issues relating to tax revenue lost, competition with private business, government subsidy of one competing business vs. another, and numerous other philosophical issues. Government involvement in development of lodging facilities, should be done as a last resort only, if at all.

Governmental involvement in such lodging facilities should always be at the least possible level. The first option should always be to attempt to attract a private sector industry to locate on privately owned real estate to serve the economic development and the tourism goal of the governmental unit. If a private facility cannot be located on private property, consideration should be given to contracting for the lodging facility to be developed on government property utilizing an open bid process. The facility should be a private sector operation, paying taxes and being subject to requirements of all other competing facilities.

In the case of HB 2476, philosophically, government lodging, if it does exist, should pay the same taxes as the private sector so there is no competitive advantage. That would be true of transient guest taxes as well (TGT).

However, since KRHA is unaware of the specific facts surrounding the project which is the subject of this legislation, we are here today to express our concerns and to raise questions for the committee. If this is applicable to lodging facilities which the private sector has expressed no interest in developing, or under other circumstances, assessment of the TGT may not be appropriate. However, if there is a major development being planned, the KRHA would prefer to see the private sector consulted and, if appropriate, permitted to bid on the development(s).

We understand the concept of lower government taxes not being assessable against higher jurisdiction governments, however, we think when government is entering what is generally accepted as the private business arena and is departing from generally accepted governmental functions, the rules must be interpreted differently to insure that government "business" does not inappropriately compete with the private sector.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.



## Statement to the House Committee on Taxation

HB 2476

March 15, 2005

**Dick Carter, Jr.**  
**Executive Director**

Chairman Wilk and members of the House Committee on Taxation, my name is Dick Carter and I am the executive director for the Travel Industry Association of Kansas (TIAK). TIAK is a private, non-profit association whose mission is to speak with a unified voice for the tourism industry in Kansas. Our members are chambers of commerce, convention and visitor bureaus, attractions, hotels/motels, restaurants and other entities who have an interest in promoting tourism in Kansas.

HB 2476 would require that cabins within a state park system be subject to transient guest tax collection and remittance to the state. The travel industry believes that it is important to fund tourism promotion in our local communities. In fact, the first statement in the TIAK' legislative agenda is to protect and preserve the transient guest tax laws:

**Monitor legislation related to the Transient Guest Tax. Maintain awareness of tax issues that may affect Chambers of Commerce, Convention & Visitors Bureaus, Sports Commissions and travel related entities. Oppose efforts to lessen the impact of convention and tourism promotion through the use of the Transient Guest Tax.**

According to calculations based on the current disposition of cabins in state park system, which reside in counties or cities which collect and remit transient guest tax, this bill would only affect cabins in two state parks – Cedar Bluff and Milford.

- Based on 2% TGT collection in Trego County, Cedar Bluff would generate a TGT collection of \$633.30, on cabin rental revenue of \$31,665.
- Based on a 5% TGT collection in Geary County, Milford would generate a TGT collection of \$909.25, on cabin rental revenue of \$18,185.

When you subtract the 2% administrative fee retained by the Kansas Department of Revenue (KDOR), a total of \$620.64 and \$891.06 would be redistributed to the respective communities.

If one was to assume that a transient guest tax could be collected for the remaining cabins located within state park system in Kansas, the disbursement after subtracting KDOR administrative fees would be \$1775.86 (to be divided among 7 counties), assuming you

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Attachment 9

calculated the TGT rate of 2% - the base rate established in statute for cities or counties where no TGT is currently collected.

While it is difficult to point to this particular piece of legislation as lessening the impact of convention and tourism promotion through the use of the transient guest tax, TIAK would suggest that there are potentially much more beneficial ways to raise dollars that would have a significant impact on the ability to draw visitors to our communities and their attractions – including state parks.

For example, the Kansas Department of Wildlife and Parks has studied and promoted a piece of legislation (SB 87) which would fund our state parks at a level that would allow the system to fully realize its potential – something that has never been done before. SB 87 would also return money to the local park system through a local recreation grant. The result would improve the quality of life components both locally and on a statewide basis.

Fully funding the budget request of the Kansas Department of Commerce (which includes the Travel & Tourism Division) would allow proper marketing of our state, and would give state officials the dollars necessary to compete with our neighboring states.

Even if you don't agree with the two previous examples of how to fund tourism promotion on a level that would have an impact on the Kansas economy, other suggestions have been discussed in prior legislative sessions, from the "Grow Kansas" initiative to an entertainment surcharge associated with industries that provide services that travelers and tourists who visit our state.

As we reflect on the recent advances made in efforts to promote Kansas tourism (development and implementation of a state brand image, use of STAR bonds to develop destination type tourist attractions, Kansas Economic Growth Act legislation), it would seem appropriate to focus on finding ways to fund tourism promotion in Kansas that would help our communities bank a return on their investments on a much larger scale.