

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on March 16, 2006 in Room 231-N of the Capitol.

All members were present except:  
Senator Hensley - excused

Committee staff present:  
Athena Andaya, Kansas Legislative Research Department  
Mary Ann Torrence, Revisor of Statutes Office  
Connie Burns, Committee Secretary

Conferees appearing before the committee:  
Tuck Duncan, Kansas Wine & Spirits Wholesalers Association

Others attending:  
See attached list.

**SB 590 - Kansas flavored malt beverage act**

Chairman Brungardt opened the hearing on **SB 590**.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, appeared before the committee in support of the bill. (Attachment 1) The bill preserves the current practice of classifying these products as malt beverages and recognizes the federal labeling rules; without action the Kansas Department of Revenue has informed the industry that it will classify these products as spirits. Also attached is correspondence signed off by the industry supporting this bill. (Attachment 2)

Winnfield Atkins, Diageo North America, provided written testimony in support of the bill. (Attachment 3)

Chairman Brungardt closed the hearing on **SB 590**.

**Final Action:**

**SB 580 - Repeal of Topeka/Shawnee County consolidation law**

Senator Vratil moved to pass SB 580 out favorably. Senator Reitz seconded the motion. The motion carried.

**SB 590 - Kansas flavored malt beverage act**

Senator Vratil moved to pass SB 590 out favorably. Senator Gilstrap seconded the motion. The motion carried.

**HB 2541 - No marriage license for persons 15 and under; persons 16 and 17 may have license with parent or judicial consent**

Senator Reitz moved to pass HB 2541 out favorably. Senator Wilson seconded the motion. The motion carried.

**Hearing on:**

**HB 2809 - Unification of city of Tribune and Greeley county**

Chairman Brungardt opened the hearing on **HB 2809**.

Senator Ostmeyer, spoke in support of the bill. (Attachment 4) The bill would allow to organize a study commission to prepare the unification of County Commission and Tribune City Council.

CONTINUATION SHEET

MINUTES OF THE Senate Federal and State Affairs Committee at 10:30 a.m. on March 16, 2006 in Room 231-N of the Capitol.

Written testimony was submitted in support of the bill by Representative Gary Hayzlett, (Attachment 5) and Nancy Weeks, Kansas County Officials Association. (Attachment 6)

Chairman Brungardt closed the hearing on **HB 2809**.

**Final Action:**

**HB 2809 - Unification of city of Tribune and Greeley county**

Senator Ostmeyer moved to pass **HB 2809** out favorably. Senator Reitz seconded the motion. The motion carried.

The meeting was adjourned at 11:03 am. The next scheduled meeting is March 21, 2006.

**SENATE FEDERAL AND STATE AFFAIRS COMMITTEE**  
**GUEST LIST**

DATE 3/16/06

NAME	REPRESENTING
HOLLI JOHNSON	ABC
<del>Jackson Ambassador</del>	ABC
Phil Wilkes	"
<del>Amy Campbell</del>	KABR
Neal Whitaker	KBWA
Philip Bradley	KLBA
LISA BELLOD	
Mark Tomb	LKM
<del>Sharon Pin</del>	KBWA
Nancy Weeks	HASKELL CO TREASURER
Siand Bentley	Greeley Co. Treasurer
Missie Geritzen	Kearny County Register of Deeds
Lindsey Douglas	Hein Law Firm
Fannie Ann Hower	Winn Institute
Martin Hower	Hower's Capital Reps

K · A · N · S · A · S  
**WINE & SPIRITS**  
WHOLESALE ASSOCIATION

March 16, 2006

To: Senate Federal and State Affairs Committee:  
From: R.E. "Tuck" Duncan  
Kansas Wine & Spirits Wholesalers Association  
RE: SB 590

The Committee currently has pending before it SB 590 regarding flavored malt beverages. This bill will preserve the *status quo* in Kansas regarding these products; however, without action the Kansas Department of Revenue has informed the industry that it will classify these products as spirits. Flavored malt beverages have been produced and marketed in the United States for many years. Although the direct addition of distilled spirits is not permitted in the production of any malt beverage, the Trade and Tax Bureau, Dept. of Treasury, (formerly ATF) has permitted the addition of flavoring materials that are alcohol based under the definition of malt beverage in the Federal Alcohol Administration Act (FAA Act).

A new federal regulation effective in January, 2006, permits the addition of flavors and other nonbeverage materials containing alcohol to beers and malt beverages. Malt beverages that contain not more than 6% alcohol by volume may derive no more than 49% of their alcohol content from flavors and other nonbeverage materials. The new rule also requires an alcohol content statement on the label of any malt beverage that contains any alcohol derived from added flavors or other added nonbeverage ingredients (other than hop extract) containing alcohol.

Since these products may contain alcohol that was originally distilled and is part of the flavoring, the Kansas Department of Revenue has indicated that absent direction from the Kansas Legislature it will classify these products as spirits inasmuch as they interpret current law to so require. Obviously, when the Kansas law was written this circumstance was not anticipated.

**Thus, the Flavored Malt Beverage Act as set forth in SB 590 merely preserves the current practice of classifying these products as malt beverages and recognizes the federal labeling rules.**

For additional information you will find Frequently Asked Questions about Regulation TTB TD-21 – Flavored Malt Beverage and Related Regulatory Amendments at: [http://www.ttb.gov/alcohol/info/faq/flavored\\_malt.htm](http://www.ttb.gov/alcohol/info/faq/flavored_malt.htm)

*Thank you for your attention to and consideration of this matter.*

Sen Fed & State Affairs  
3-16-06  
Attachment 1



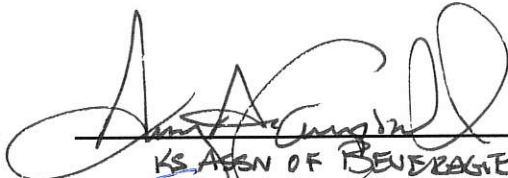
March 16, 2006


To: Committee on Federal and State Affairs


RE: SB 590


The undersigned support SB 590, an act concerning "flavored malt beverages". As the result of a modification in regulations of the Trade and Tax Bureau (TTB) which regulates beverage alcohol [previously regulated by the Bureau of Alcohol, Tobacco and Firearms], SB 590 is necessary to continue to categorize flavored malt beverages the same as malt beverages under Kansas law. Current law, as a result of these regulations, will classify flavored malt beverages as liquor under Kansas law because they contain some distilled alcohol as part of the flavoring. The Department of Revenue has notified the industry that effective July 1, 2006 they will consider flavored malt beverages to be classified as liquor, although the agency has been treating them as malt beverages, unless the Legislature reconciles the federal regulations with the Liquor Control Act. SB 590 makes that reconciliation and preserves the *status quo*.

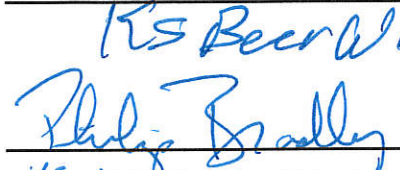
Please approve SB 590 favorably for passage. Thank you for your attention to this matter.

\_\_\_\_\_   
 KANSAS ASSN OF BEVERAGE RETAILERS

\_\_\_\_\_   
 KANSAS

\_\_\_\_\_   
 Diageo Inc.

\_\_\_\_\_   
 KANSAS BEER WHOLESALERS

\_\_\_\_\_   
 KANSAS LICENSED BEVERAGE ASSN

**WRITTEN TESTIMONY OF  
Winnfield Atkins  
Director, State Government Relations  
Diageo North America, Inc.**

**SUBMITTED FOR THE RECORD TO THE  
Senate Committee on Federal and State Affairs  
Kansas State Senate**

**March 16, 2006**

Chairman Brungardt and distinguished members of the Committee, thank you for the opportunity to submit written testimony regarding legislation concerning flavored malt beverages (FMBs) that is pending before the committee. My name is Winnfield Atkins, Director for State Government Relations, and I am submitting this written testimony on behalf of Diageo North America. Diageo is the world's leading premium drinks business, with brands such as Guinness, Bailey's, Johnnie Walker, Smirnoff, Crown Royal, BV and Sterling wines, among others. Diageo also produces Smirnoff Ice, the leading FMB in the U.S.

The Flavored Malt Beverage Act (HB 2955/SB 590) is a simple and straightforward correction of a technical ambiguity in Kansas law that will ensure that Kansas' treatment of FMBs remains consistent with national standards set by the U.S. Government that have been accepted by states across the country. Last year, the federal Alcohol and Tobacco Tax and Trade Bureau (TTB), formerly the Bureau of Alcohol Tobacco and Firearms, issued final regulations to establish a national standard for flavored malt beverages. Unless the FMB Act is enacted to correct the technical discrepancy in Kansas law, FMBs will be incorrectly subjected to the state's distilled spirits tax rate instead of the beer tax rate. Kansas currently imposes the beer tax rate on FMBs, which correctly reflects the classification of FMBs according to federal law.

Enactment of this legislation is necessary in order to avoid any potential disruptions to sales of FMBs in Kansas. This bill ensures that FMBs will continue to be distributed and taxed in the same manner they are currently treated today in Kansas. The current treatment of FMBs in Kansas from both a tax and distribution standpoint is entirely consistent with the recent change in federal regulations and, therefore, this legislation is necessary to ensure that FMBs continue to be classified correctly.

I respectfully request the Committee give favorable consideration to this important measure and I thank you for providing me with the opportunity to submit this written testimony.

STATE OF KANSAS



TOPEKA

SENATE CHAMBER

RALPH OSTMEYER  
SENATOR, 40TH DISTRICT  
P.O. BOX 97  
GRINNELL, KS 67738-0097

STATE CAPITOL  
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(785) 296-7399  
ostmeyer@senate.state.ks.us

COMMITTEE ASSIGNMENTS

VICE-CHAIR: NATURAL RESOURCES  
MEMBER: AGRICULTURE  
EDUCATION  
FEDERAL AND STATE AFFAIRS  
JOINT COMMITTEE ADMINISTRATIVE  
RULES AND REGULATIONS

March 16, 2006

Chairman Brungardt, and members of the committee.

I support HB-2809, unification of City of Tribune and Greeley County. As population shifts and declines, we as elected officials must come up with policies that are fiscally responsible and efficient. There are over lapping levels of government and there should be savings to our small communities. I support this bill.

A handwritten signature in blue ink that reads "Ralph Ostmeyer". The signature is written in a cursive, flowing style.

Ralph Ostmeyer  
Senator, 40<sup>th</sup> District

(5)

**GARY K. HAYZLETT**

REPRESENTATIVE, 122ND DISTRICT  
GREELEY, HAMILTON, KEARNY,  
SCOTT, & PARTS OF  
HASKELL & FINNEY COUNTIES

P.O. BOX 66  
LAKIN, KANSAS 67860  
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hayzlett@house.state.ks.us



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

CHAIR: TRANSPORTATION

MEMBER: ENVIRONMENT

WILDLIFE, PARKS AND TOURISM

SELECT COMMITTEE ON  
SCHOOL FINANCE

**Testimony for the Senate Federal and State Affairs Committee  
Presented March 16, 2006, in Support of HB 2809**

Thank you Chairman Brungardt and Members of the Committee for hearing House Bill 2809.

For the record, I am Representative Gary Hayzlett, from the 122<sup>nd</sup> District which includes Greeley County.

Some of the citizens and elected officials of Greeley County and Tribune approached me about two years ago to discuss unification.

Greeley County has a population of 1400. They are the least populated county in the state. Small counties and communities strive continually to make their area a desirable place to live and raise a family.

This plan would have to have a majority of the qualified electors outside the corporate limits of the city and a majority of the qualified electors inside the corporate city limits vote on the plan.

Greeley County and Tribune have already made great efforts to consolidate services. HB 2809 would help them to be a pro-active county and community.

Thank you.



*Testimony Regarding HB2809*

*Before the Governmental Organization and Elections*

*My name is Alan Peter, and I am a banker, farmer and a lifetime resident of Greeley County, Tribune Kansas. I have served on several local boards over the past twenty-five years including Soil Conservation District, Farm Bureau Insurance, Agricultural Extension, President of our Local Coop, and on the community city county government action team. Additionally, I was a board member for the Kansas Corn Growers Association and was elected President for four years. I would like to thank you for the opportunity to speak today on behalf to House Bill 2809.*

*This is a great opportunity for our community to move forward toward restoring our community to become a more desirable place to live and raise a family. We feel that this would help us turn the corner on economic growth in Greeley County. Our community would rather be pro-active in changing the trends that we have been faced with in recent years. We have to make changes ourselves, we cannot expect Topeka or Washington to care only about one community in Western Kansas.*

*House Bill 2809 would allow us to organize a study commission to prepare the unification of County Commission and Tribune City council. This plan would have to have the majority of the qualified electors voting on the plan who reside outside of the corporate limits of the city and a majority of the qualified electors voting on the plan who reside within the corporate limits of the city. Also, keeping budgets and tax base of the county and city separate should simplify the unification process.*

*The positive aspects of the unification are as follows: 1) A single policy-making board that looks to the community as a whole. 2) Improvement of the day-to-day operation between personnel, equipment and the response time to the issues between the City and County government. Already in place are the unified police and fire departments, which have been in place for several years and are working well. Also as an additional note, we were the first community in the State of Kansas to unify our school district.*

*I am asking this committee to approve House Bill 2809 for the future of Greeley County.*

Testimony Regarding HB 2809

Before the Governmental Organization & Elections

My name is Gary DuPree, and I am the Mayor of Tribune. I serve the city of Tribune, KS. I want to thank you for the opportunity to speak today in support of HB 2809.

As most of you know we are the smallest county in population of the 105 counties. We want to survive the enormous struggle that's going on in our country. In order to survive we must unify our city and county governments.

We know our community is well worth saving. The people of Greeley County are fighters, and we want the best for the county and city. This unification process is just one phase of the solution.

The unification process will not eliminate any jobs, but it will make the governments work smoothly.

So, I am asking this Governmental Organization to say yes to HB 2089.

Sincerely,  
Gary DuPree

**Testimony regarding HB-2809**  
**Before House Committee on Governmental Organization and**  
**Elections**

My name is Mike Thon, and I currently serve as chairman of the Greeley County Commission. I thank you for the opportunity to speak today in favor of House Bill 2809. The Greeley County Commission unanimously supports House Bill 2809.

Unification is not a new idea in the Greeley County/City of Tribune community. We were the first unified school district in the state of Kansas. There is a joint agreement between Greeley County and the city of Tribune for law enforcement. The Tribune Municipal Airport is jointly owned and operated by the Greeley County/City of Tribune Airport Board. At this time all the fire districts have consolidated into one. Other numerous joint efforts occur often in the day to day operations of the two governments.

House Bill 2809 would provide a legal structure for those other efforts and the opportunity for those efforts to expand into other areas.

The separation of budgets and tax bases allows each entity to maintain its own identity and meet its specific needs. Unification recognizes that we are one community and that there are overlapping needs.

The unification study and the resulting proposal, H/B 2809, is a direct result of a grass root community development process started in 2004. We recognize that our survival as a community is dependent on our community/our citizens taking actions to insure that survival.

The unification of the governments of Greeley County and the City of Tribune is just one of those steps.

House Bill 2809 is not asking for some one to save our community. It is asking for permission to develop a plan, that we vote on, that can be part of the overall plan to save our community.

Thank you and I urge you to say yes to House Bill 2809 and the future of our community.

**Testimony by Terry Woodbury  
President, Kansas Communities LLC**

**RE: House Bill 2809**

I am testifying in support of Greeley County's effort to unify city and county government.

I began working with Greeley County's new "Community-Building" effort in August 2004 – stimulated by the community's desire to reverse downward trends in the population and economy.

In November 2004, 12% of the county's 1400 residents joined in an inspiring Community Conversation that generated over 100 improvement ideas for the county's future. Then they selected 32 leaders to refine these ideas and develop a community Vision and new Goals.

One of the seven goals that emerged at the Vision Retreat was to unify city and county government. As Retreat facilitator, I double-checked with those 32 leaders – particularly city and county officials in attendance – whether the community at large was ready to address this challenging goal. Unanimously, they said to go forward.

A citizen-led Action Team was then appointed to implement all 7 goals – including Government Unification.

One year later this Team has done their homework: conducting national research, conferencing with Wyandotte County leaders to learn from their experience, and presenting their recommendations to City and County governing bodies.

Additionally, they shared their government unification plans with leaders from 5 other communities across the state at the Kansas Communities Conference 3 months ago in Great Bend. The other communities were greatly inspired by Greeley County's long-range vision and thorough preparation.

I applaud Greeley County's entrepreneurial spirit and dedicated search for ways to sustain and grow their community. The citizens who have led this effort represent both farm and town people, and they have built consensus.

As western Kansas faces difficult, if not desperate, circumstances in county after county, the core message of this proposal by Greeley County is **HOPE**. Business-as usual is not delivering a hopeful future. So Greeley County citizens and leaders are working hand in hand to break new ground, to better utilize the resources of government to lead the way in generating new ideas, new energy and new leadership.

Your support of Greeley County's proposal will strengthen their resolve and urge them to go bravely forward.

**Testimony Regarding House Bill 2809  
House Governmental Organizational and Elections Committee  
February 14, 2006**

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**My name is Clark Harris, a lifelong resident of Greeley County. I co-chair the Unification Action Team.**

**Greeley County is unique in our state. We are the least populated county in Kansas, have only two incorporated towns and they are less than two miles apart. We were the first county unified school district in Kansas, and have always thought of ourselves as a single community. I am here today to speak in favor of House Bill 2809, which would allow us to seek unification of Tribune and Greeley County. We have researched this issue and are unanimous in our support to proceed with the process. We do so with the support of the Tribune City Council and the Greeley County Commissioners, both who are on record by unanimous vote. We believe that unification does the following:**

- ALLOWS COUNTY AND CITY TO CONTINUE TO HAVE SEPARATE BUDGETS AND TAX BASES**
- IMPROVES SHARING OF PEOPLE AND EQUIPMENT**
- ALLOWS OUR COMMUNITY TO MORE QUICKLY RESPOND TO OPPORTUNITIES AND PROBLEMS**
- ELMINATES CONFLICTS OF INTEREST, BUT RETAINS BALANCE OF POWER**
- OFFERS HOPE OF SURVIVAL**

**Presently, in our community, law enforcement and fire services are countywide, making unification easier. Cooperation exists between the County Commissioners and the Tribune City Council, making unification easier. And, we will customize the process to fit the needs of our community.**

**I firmly believe that unification is progressive and proactive. I hope that your committee will feel the same and support House Bill 2809.**

# KCOA

Kansas County Officials Association

1200 SW 10th Avenue  
Topeka, Kansas 66604  
Phone: (785) 234-5859  
Fax: (785) 234-2433  
Web: [www.kscountyofficials.org](http://www.kscountyofficials.org)



To: House Governmental Organization and Elections Committee  
Re: House Bill 2809  
Date: February 14, 2006

Chairman Vickery and Committee Members,

On behalf of the over 400 county elected officials in Kansas, I submit this written testimony on House Bill 2809. The KCOA is a member association made up of County Clerks, County Sheriffs, County Register of Deeds and County Treasurers.

Our association does not oppose the theory of consolidation and recognizes the fact that this is a local issue and should be decided by citizens at a local level. We do support the fact that citizens should have all options of consolidation made available to them with accurate facts given to them to make an informed decision.

We believe that the citizens of a county should have the right to vote to eliminate their elected officials. The decision to eliminate elected officials should not be left to an appointed consolidation committee. We believe strongly and support language that would require a separate vote to eliminate elected officials.

It is our understanding that proponents of the bill are offering an amendment that would require a vote of the people to eliminate an elected official. Our association urges your support for such an amendment and stands ready to support HB 2809 if the bill is amended to allow a separate ballot question on the elimination of elected officials. Our association would urge you to support the amendment offered by proponents of the bill that would require a separate vote to eliminate elected officials.

Sincerely,

Nancy Weeks, President  
Haskell County Treasurer

Kansas County Clerks and Election Officials Association  
Kansas County Treasurer's Association  
Kansas Register of Deeds Association

# KCOA

Kansas County Officials Association

1200 SW 10th Avenue  
Topeka, Kansas 66604  
Phone: (785) 234-5859  
Fax: (785) 234-2433  
Web: [www.kscountyofficials.org](http://www.kscountyofficials.org)

To: Senate Federal & State Affairs Committee  
Re: House Bill 2809, Written Testimony  
Date: March 16, 2006

Chairman Brungardt and Committee Members,

On behalf of the over 400 county elected officials in Kansas, I submit this written testimony on House Bill 2809. The KCOA is a member association made up of County Clerks, County Sheriffs, County Register of Deeds and County Treasurers.

Our association does not oppose the theory of consolidation and recognizes the fact that this is a local issue and should be decided by citizens at a local level. We do support the fact that citizens should have all options of consolidation made available to them with accurate facts given to them to make an informed decision.

We believe that the citizens of a county should have the right to vote to eliminate their elected officials. The decision to eliminate elected officials should not be left to an appointed consolidation committee. We believe strongly and support the language in the bill requiring a separate vote to eliminate elected officials.

Our association also urges your support of the dual majority provisions outlined in the bill. The KCOA believes a dual majority vote would allow all citizens a voice in the process.

The KCOA is very supportive of HB 2809 because it is a bill that represents a working product of the local officials in Greeley County. We urge your support and passage of the bill.

Nancy Weeks, President  
Haskell County Treasurer

Kansas County Clerks and Election Officials Association  
Kansas County Treasurer's Association  
Kansas Register of Deeds Association

Sen Fed & State Affairs  
3-16-06  
Attachment 6