

Approved: 3-22-07

Date

MINUTES OF THE HOUSE ECONOMIC DEVELOPMENT AND TOURISM COMMITTEE

The meeting was called to order by Chairman Lana Gordon at 3:30 P.M. on March 19, 2007 in Room 519-S of the Capitol.

All members were present except:

Annie Tietze- excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research Department

Hank Avila, Kansas Legislative Research Department

Jason Long, Revisor of Statutes

Ann Deitcher, Committee Assistant

Conferees appearing before the committee:

Rep. Barbara Craft

Rick Dykstra, Geary County Convention & Visitors Bureau

Others attending:

See attached list.

HB 2431 - Imposition of transient guest tax on certain activities of the Department of Wildlife and Parks on state park property.

The Chair introduced Representative Craft who addressed the Committee in support of **HB 2431**. (Attachment 1).

Next to address the Committee as a proponent of **HB 2431** was Rick Dykstra. (Attachment 2).

Written only testimony was offered in support of **HB 2431** by Randall Allen. (Attachment 3).

Offering written only testimony as neutral regarding **HB 2431** were Steve Adams, Kansas Department of Wildlife and Parks, (Attachment 4); Ron Hein, Legislative Counsel for the Kansas Restaurant and Hospitality Association, (Attachment 5) and Dick Carter, of the Travel Industry Association of Kansas (TIAK), (Attachment 6).

The hearing on **HB 2431** was closed.

The meeting was adjourned at 4:00 p.m. No other meeting is scheduled at this time.

STATE OF KANSAS



TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: EDUCATION
ECONOMIC DEVELOPMENT, TOURISM
VETERANS, MILITARY AND HOMELAND
SECURITY

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Testimony in Support of HB 2431
House Economic Development & Tourism Committee
March 19, 2007

Dear Chairman Gordon and Members of the Committee:

I am here today to testify in support of HB 2431.

Several years ago the Kansas Department of Wildlife and Parks, a state agency, started operating some cabins in the state park at Milford Lake in Geary County. These cabins are rented out to park visitors for short stays. Other cabins in the area are available, too, and are owned and operated by private individuals. The private business owners are required by state law to collect transient guest tax, but the state agency does not come under that requirement. This inequity allows the state agency to have a competitive advantage over the private owners in the lodging business. It seems only fair that, if the state is going to be involved in the business of renting cabins in the state parks and competing with private owners, that the state should also be subject to the same taxing requirements. In addition, the transient guest tax collected in Geary County provides the primary source of revenue for the Geary County Convention and Visitors Bureau.

HB 2431 corrects this inequity by amending the Transient Guest Tax Act statutes to include the Kansas Department of Wildlife and Parks in the definition of "person" and cabins and other structures on property that is part of the state park system in the definition of "hotel, motel, or tourist court." While there would not be a significant amount of money collected by the transient guest tax on the few cabins involved, the principle in this situation is important--If the state is going to compete with private business, the state should have to play by the same rules.

Thank you for your time and attention to this issue.

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Attachment # 1

Geary County
Convention & Visitors Bureau

**Kansas House Economic Development & Tourism Committee
Written Testimony in support of House Bill 2431**

By:

**Rick J. Dykstra, Assistant Director
Geary County Convention and Visitors Bureau**

Chairperson Lana Gordon and Honorable Committee Members,

Thank you for the opportunity to appear before you on behalf of the Geary County Convention and Visitors Bureau. I would like to take this opportunity to thank Representative Craft and other individuals who have spent many hours working on this house bill. It's uplifting to know that we have elected officials working for positive economic development and to increase tourism in Kansas.

The passage of the House Bill 2431 will provide a level economic playing field, as it relates to private lodging competing against government lodging in state parks. In addition, it also provides additional funding for the growth of tourism in Kansas.

As most of you know, when Kansas officials wrote the Retail Sales Tax Act (RSTA), it had the foresight to include the word "government" in the definition section. The reason, it knew our state would be conducting business, competing against private industry. Though when the state wrote the Transient Guest Tax Act (TGTA), it did not think our state would be in the public lodging business, so it did not include the word "government" in the definition section. For this reason; public lodging in state parks, where applicable, do not collect and remit transient guest tax.

Some would say that due to vehicles having to pay an entrance fee to enter our state parks, it off-sets the need to collect and remit transient guest tax. This logic does not carry weight, as when a citizen has to pay parking fees at a private lodging business, he or she receives no special tax reduction in price. Remember, our state is currently working towards the elimination of all state park entrance fees. If the logic is used for entrance fees versus transient guest tax, then what happens if entrance fees are eliminated?

Others have said the transient guest tax act should never be tampered with, as some elected officials would view it as a chance to siphon funding from the transient guest tax. We do not think along the same lines, as we believe our elected officials will view our request for what it is, a chance to correct an error.

I have spoken to the majority of lodging businesses currently located at Milford Lake, and all support the need for reform and change in the current practice of our state park being exempt from collecting and remitting transient guest tax.

Tourism in Kansas is a major economic growth industry, though will only grow with proper funding, which for communities throughout Kansas comes from the collection of transient guest tax. We ask that you level the economic playing field and help grow tourism in Kansas by including the word "government" in the definition section of the transient guest tax act.

In conclusion, I would like to thank each of you for serving and making Kansas a better place to live and visit. I ask each of you to give a positive voice to the passage of House Bill 2431.

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Economic Development & Tourism
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Attachment # 2



KANSAS
ASSOCIATION OF
COUNTIES

WRITTEN TESTIMONY
concerning House Bill No. 2431

re. transient guest taxes

House Economic Development and Tourism Committee

Presented by Randall Allen, Executive Director

Kansas Association of Counties

March 19, 2007

Madam Chair and members of the committee, my name is Randall Allen, Executive Director of the Kansas Association of Counties. Thank you for the opportunity to provide written testimony *in support of HB 2431*. I regret that I have a scheduling conflict today and am unable to testify in person.

HB 2431 would extend the application of county transient guest taxes to cabins or other structures on property designated as part of the state park system. As such, in counties where there is a transient guest tax in effect, the transient guest tax would apply to cabins in state parks, just like they currently apply to hotel or motel rooms in the same jurisdiction. We support HB 2431 because it 1) levels the playing field for all proprietors of overnight accommodations, including the state of Kansas as well as private operators, and 2) affords the convention and visitors bureau of the community the funds necessary to better market all tourism destinations in the community, including the cabins at the state park. It seems to us that boosting the ability of local convention and visitors bureaus to market all facilities and activities within a jurisdiction is beneficial to all, including the owners/operators of the overnight accommodations, whether privately or publicly owned.

We urge the committee to consider the potential benefits of HB 2431 and report the bill favorably for passage. Thank you for your consideration.

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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. Inquiries concerning this testimony should be directed to Randall Allen or Judy Moler by calling (785) 272-2585.

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KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2431 relating to Transient Guest Tax on KDWP Cabins
To
The House Committee on Economic Development and Tourism**

**By Steve Adams
Natural Resource Coordinator
Kansas Department of Wildlife and Parks**

March 19, 2007

HB 2431 seeks to require the imposition of transient guest tax on cabins owned and operated by the Kansas Department of Wildlife and Parks. The provisions of the bill would be effective on publication in the statute book. **The Department neither supports nor opposes the provisions contained in HB 2431.**

The Department of Wildlife and Parks has cabins located in many state parks and is continuing to expand the popular cabin program. Currently, the Department has in place approximately 48 cabins at various locations throughout the state.

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

It should be noted that the tax, should the bill pass, will flow through to the users of the cabins, which may cause some constituent discontent, particularly given that entry fees to enter the park are required, fees are required to use the cabins, and in addition, state general funds subsidize park operations already.

In addition, the collection of the taxes may also somewhat problematic, particularly given that some state parks are located in multiple counties and rates vary for the cabins within the parks depending on the size and amenities offered. For example, parts of Cheney State Park are in Reno, Sedgwick, and Kingman Counties. Of those 3 counties, only Sedgwick County collects a transient guest tax, however, the cabins at Cheney are located in Kingman County.

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Ronald R. Hein

Attorney-at-Law

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**Testimony Re: HB 2431
House Economic Development and Tourism Committee
Presented by Ronald R. Hein
on behalf of
Kansas Restaurant and Hospitality Association
March 19, 2007**

Madam 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 2431. 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.

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

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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 2431, 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 submit this written testimony.



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**Written Statement to the House Committee on
Economic Development & Tourism**

HB 2431

March 19, 2007

**Dick Carter, Jr.
Executive Director**

Chair Gordon and members of the House Committee on Economic Development & Tourism, 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.

TIAK would like to offer a number of observations from a neutral standpoint on HB 2431. If enacted, HB 2431 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 associations' 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 Destination Marketing Organizations. 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 three state parks – Cedar Bluff, Milford and Wilson. The information below is based on FY 2006 actual revenue:

- Based on 2% TGT collection in Trego County, Cedar Bluff would generate a TGT collection of \$558.00.
- Based on a 5% TGT collection in Geary County, Milford would generate a TGT collection of \$1,145.00.
- Based on a 2% collection in Russell County, Wilson would generate a collection of \$235.00.

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The total collections for the three parks would be \$1,938.00. Of this amount, 2.0 percent or \$39.00 would be deposited into the State General Fund – moneys collected by the Kansas Department of Revenue according to statute. The remaining, proportional amounts would be distributed to the three communities on a quarterly basis during the fiscal year.

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.

First and foremost is the Kansas Tourism Initiative (KTI), currently underway. This broad-scope plan will look at all areas of tourism – including transient guest tax collection/distribution – across the state and amongst the interdependent agencies and organizations to determine the best use and effectiveness of tourism promotion dollars in Kansas. The work product of the KTI is expected to support legislative requests in 2008.

Another proposal (known as SB 87 from the 2005-2006 Legislative Sessions) that has been discussed would fund Kansas 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 have returned 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.

Protecting any erosion from Economic Development Initiative Funding (EDIF) dollars and 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.

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.