

MINUTES OF THE HOUSE COMMITTEE ON VETERANS, MILITARY AND HOMELAND  
SECURITY

The meeting was called to order by Chairman Don Myers at 1:30 P.M. on January 22, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Art Griggs, Revisor of Statutes Office  
Athena Andaya, Kansas Legislative Research  
Heather O'Hara, Kansas Legislative Research  
Betty Caruthers, Committee Assistant

Conferees appearing before the committee:

Representative Ruff  
Senator Ostmeyer  
David Warnken, KS Veterans Claims Assistance Program  
Ken Stodgell, Legislative Chairman of VFW  
George Webb, Director of KS Commission on Veterans Affairs  
Representative Goico  
Jack Alexander, Fire Marshall  
Chris Bannister, Bomb Squad Commander, City of Wichita

Others attending:

See attached list.

Moved by Representative Kelsey, seconded by Representative Bethel for approval of Minutes of the House Committee on Veterans, Military and Homeland Security held on January 18, 2007 be approved.

Motion carried.

Chairman Myers recognized Representative Ruff for a briefing on the Veterans Claims Assistance Program. (Attachment 1) She reported on a rather smooth transition with the creation of the Veterans Claims Assistance Program which was a grant to the VFW and American Legion allowing them to hire their own veteran service officers for VA Hospitals. There has also been an advisory council set up to oversee the implementation of the program. It is believed that the need for veteran services will continue to increase.

Chairman Myers recognized Senator Ostmeyer who continued the briefing. He pointed out that "this is not a Democrat or Republican issue, it's rather a Veterans issue." Senator Ostmeyer is proud of what is happening across Kansas with the care for Veterans and believes we are heading in the right direction.

Chairman Myers recognized David Warnken who spoke on behalf of the American Legion. (Attachment 2) He pointed out some positive issues with the Veterans Claims Assistance Program as well as some concerns. Overall he believes the program has worked well and that funding for it is essential.

Chairman Myers recognized Ken Stodgell, Legislative representative with the VFW. He is very proud of the accomplishments within our State. He reported that for every \$1.00 of the grant program being spent through grants received, \$105.00 is being returned back to the State. (Attachment 3)

Chairman Myers recognized George Webb, the Executive Director of the Kansas Commission on Veterans Affairs. He spoke to what the grants do and where the money comes from. The Legislature last year appropriated \$500,000 to support the grant program. The Statute laid out the requirements of the program. The Commission allocated \$250,000 to the VFW and \$250,000 to the American Legion. The grant money essentially goes to run the offices and pay the salaries of the veterans service representatives and office assistants who are in the VFW and American Legion who are in the VA Hospitals in Leavenworth, Topeka, and Wichita. Wichita serves as a regional office and all claims are filed through them. There are a number of smaller Veterans Service Organizations in Kansas and there was discussion around how they could be assisted. This may be an issue brought before the Legislature later this session. The wording in the Statute

CONTINUATION SHEET

MINUTES OF THE House Committee on Veterans, Military and Homeland Security at 1:30 P.M. on January 22, 2007 in Room 241-N of the Capitol.

may need to be changed and the VSO's would need to be Nationally chartered by the VA. In the ideal situation they would look at cross accreditation as well as quality assurance.

Chairman Myers asked for any bill introductions and there were none.

Chairman Myers opened hearings on **HB 2062 Criminal use of explosives.**

Chairman Myers requested Revisor, Art Griggs, to give a summary of the bill.

Chairman Myers recognized Representative Goico to testify as a sponsor of the bill. (Attachment 4) This bill clarifies defining language of chemical reaction bombs and simulated explosive devices.

Chairman Myers recognized Jack Alexander, State Fire Marshall to testify as a proponent of the bill. (Attachment 5) His concern is materials and devices being in the hands of the wrong people. Safety is foremost for all citizens of Kansas.

Chairman Myers recognized Chris Bannister, Bomb Squad Commander for the city of Wichita who also testified as a proponent for this bill. (Attachment 6) He sees the problem with the current wording in the statute of "explosive" versus "explosion" as well as how easily a chemical reaction bomb can be constructed. To receive a license for fireworks someone must go through a training and testing program and a criminal history background check. They may be renewed every 4 years and must retest. For high explosives someone must also go through a criminal history background check, training, and testing program with licenses being renewed every 3 years. Inspections are also done on the storage sites.

Chairman Myers closed hearings on **HB 2062.**

Chairman Myers announced the working of **HB 2062.**

Chairman Myers recognized Representative Goico who presented an amendment to **HB 2062** replacing the word "hoax" with "simulated", and changing for the bill to take effect upon publication in the Kansas Register.

Moved by Representative Groico, seconded by Representative Bethell to adopt the amendment.

Motion carried.

Moved by Representative Goico, seconded by Representative Colloton to pass **HB 2062** favorably as amended.

Motion carried. 13 Yea, 0 Nay

Chairman Myers requested that Representative Goico carry the bill on the House floor.

Chairman Myers adjourned the meeting at 3:05.

Next meeting is scheduled for January 23.



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TOPEKA  
 HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 RANKING MINORITY MEMBER: COMMERCE & LABOR  
 MEMBER: FEDERAL AND STATE  
 AFFAIRS  
 WILDLIFE, PARKS &  
 TOURISM

To: Committee on Veterans, Military and Homeland Security

From: Rep. L. Candy Ruff

Re: Update on Veterans Claims Assistance Program

Date: Jan. 22, 2007

As legislative members of the Advisory Council created in 2006 to oversee the implementation of the Veterans Claims Assistance Program, Sen. Ralph Ostmeier and I are proud to report that a rather smooth transition has occurred. You will recall that SB 396 passed without one dissenting vote last year as the culmination of what began with much consternation at the beginning of the 2006 legislative session. Let me remind you of the sticky wicket that had been created between the Kansas Commission on Veterans Affairs and the Veterans of Foreign Wars and American Legion. What started at the end of World War II as a dual employment arrangement between the state and these two veteran service organizations had evolved in the past few years into a troubled relationship.

The relationship worked like this. Veteran service representatives were hired by the state to work in the three Kansas veteran medical centers taking applications for VA benefits. As a function of state law and VA mandate, the VSOs, which added other groups like the DAV and Vietnam Veterans, took these applications acting as the veteran's power of attorney. Because the services these gentlemen of the VFW and American Legion performed often replicated what they did for their individual veteran service organization, that VSO supplemented their income. That dual-employment arrangement continued for nearly sixty years until the current KCVA director requested an Attorney General's opinion. On the assumption that a state employee may not serve two masters, the AG questioned the propriety of continuing the arrangement.

You can imagine the disruption that occurred in the VFW and American Legion. Many of us heard from representatives from these two groups in the months leading up to last year's session. Although I didn't know it at the time, I have since pieced together the sequence of events that led to the sticky wicket situation. But this is neither the time nor place to dredge up that ancient history. The point is that last year's Select Committee on Veterans Affairs worked to create a program that would replicate the dual-employment arrangement between the state and VFW and American Legion. For over sixty years, these veteran service officers had worked for the state and now that relationship was coming to an end. The Claims program we created was a grant to these two VSOs that would allow them to hire their own veteran service officers to work in the three VA hospitals. But as with most things, the state money came with strings attached.

House Committee on Veterans, Military  
 and Homeland Security  
 1/22/07  
 Attachment 1

Borrowing from programs in other states, we devised a quality assurance program that designate Wichita VA hospital as a clearing house where KCVA personnel would accept, track and distribute all claims being taken by not only the VSOs in the claims assistance program but KCVA personnel working in regional offices throughout the state. After being logged in and checked, the quality assurance person would then forward the claim to the VSO that the veteran had chosen as his/her power of attorney. In Kansas there are nine VSOs who serve that function, which means they represent the veteran before the VA, offering legal counsel and medical services when applications are denied or questioned.

Last year's appropriation of \$500,000 was divided between the VFW and American Legion. At the Wichita hospital, each VSO hired two veteran service officers and an office assistant; and at the Leavenworth and Topeka VA hospitals, each VSO hired one veteran service officer for each hospital and shared the expense of office assistants at each facility. Following the concept of a one-stop shop, the VSOs are offering cross accreditation to one another as well as KCVA personnel working at the VA hospitals.

Because last year's legislation included an Advisory Council to oversee implementation of the program as well as the rules and regulation, Sen. Ostmeyer and I have been closely monitoring this process. Several legislative changes are being requested this session to improve the program. But frankly, our committee has some policy decisions to make.

For instance, emotions were running high last year as the state dissolved its long-term relationship with the American Legion and VFW. As the eligibility criteria for participation in the claims assistance program was being discussed, Rep. Tapanelli said the VSOs should have a large foot print in Kansas, reflected by a full time presence at all three VA hospitals, members in at least fifty percent of the counties in Kansas, as well as a willingness to offer cross accreditation to other participating VSOs and to submit to the quality assurance dictates of the program. Should our program solidify its eligibility by having its requirements put in statute? Sen. Ostmeyer and I had recommended those criteria be placed in rules and regulations but the KCVA commissioners said they would be more comfortable with them in statute.

Other program changes have been suggested in the form of a bill requested last week and once that bill is slated for a hearing, our committee can more fully discuss the future of the claims assistance program. From the information provided by KCVA, I see a marked increase in the services extended to veterans who seek VA claims at the state's VA hospitals. From where I sit, it appears that the need for veteran services will increase and I'm proud that our state is stepping up to the challenge of meeting those needs.

TESTIMONY ON  
THE VETERANS' CLAIMS ASSISTANCE GRANT PROGRAM  
PRESENTED BY  
DAVID O. WARNKEN  
THE AMERICAN LEGION DEPARTMENT OF KANSAS

Thank you for this opportunity to present my view points of the Veterans' Claims Assistance Grant Program.

The following are issues of concern:

1. Overall several factors, some avoidable some not avoidable combined to delay implementation of the contracts and the actual start up of the program. For example, various provisions contained in the contracts needed to be clarified and/or modified before the contract as a whole met the satisfaction of both the Kansas Commission on Veterans Affairs and the American Legion.
2. The American Legion experienced a few disappointing delays as existing personnel made their decision whether to leave state employment or to become sole employees of the American Legion.
3. Cross accreditation of the American Legion and the Veterans of Foreign Wars proved to take longer than expected.
4. Our committee has met several times and put forth considerable effort to present an acceptable draft of the resolutions that were fair to the veterans service organizations and the KCVA, but more importantly conformed (in our committee's view) with legislative intent. The KCVA disagreed and has completely re-written the KARs more than once and the regulations still haven't been approved. This is especially disappointing because two legislators who serve on our committee and who know and understand the intent of the last legislative session were principal contributors to the suggested regulations that were presented and approved by the Department of Administration.

The following are positive issues.

1. The staffing level at the VA's Regional Office in Wichita has increased. This has resulted in an increase in productivity state wide. This can only improve as new staff members become more efficient prosecuting claims on behalf of veterans and their family members.
2. The Claims Assistance Grant Program has allowed the American Legion to conduct its Outreach Programs without the hindrance experienced in the past. Some examples of our Outreach Program include: The American Legion Veteran's Affairs Tour where over three hundred communities are visited by our staff each year. The purpose of this Outreach Program is to speak directly with veterans, their families, and dependents, where they are informed of their benefits, and to help them file claims. This past fall, more than 3400 veterans and their families attended an American Legion Veterans Affairs stop.

## Veterans, Military & Homeland Security Testimony

Chairman Myers, Committee member's good afternoon and thank you for the opportunity to appear before you today. My name is Ken Stodgell and I am here in my capacity as State Legislative Chairman for the Veterans of Foreign Wars (VFW) and it's 31,000 members to briefly discuss the grant program as provided by SB 396.

Mr. Darrell Bencken our past State Quartermaster/Adjutant and member of the Governor's Advisory Committee was scheduled to be the conferee today but he is home ill.

The state veteran organizations last year were challenged by the Kansas Commission on Veteran Affairs (KCVA) on a number of issues. Mainly, our relationship was at best on shaky ground and we were told if we didn't like their rules change them. The veteran groups of Veteran of Foreign Wars (VFW) and the American Legion (AL) began a lobbying effort and the result was SB396 – the Grant Program.

I wish to tell you about our successes today, rather than our concerns. The VFW began immediately after the bill became law to set in motion the administrative processes necessary to initiate such a program. Employees were hired and our program started on September 1, 2006. We have employees located at the Leavenworth VA hospital, the Topeka VA hospital and in the Wichita VA regional center. The highlights of the VFW program are (1) we have had no employee turmoil or turnover and our employees are professional service officers dedicated to serving the veterans (2) We have recently been told that for every \$1.00 we are spending we have a return of \$105.00 return to the veteran and the state economy. We expect an increase in both volume of the workload and an increase in the dollar amount. Simply put – the program is exceeding our expectations in the first year.

We are proud of what we accomplished this year and we also recognize there is still much work to do. It is unfortunate there are those who would like to see the program fail, if that happens it would be the veteran who is getting hurt. We often hear there are over 50 veteran organizations in Kansas and they should all be allowed to participate in the grant program. It is the implication that the VFW and AL are prohibiting their participation. These two programs have over 60 years each in a working relationship with the state and have many times accomplished what they set out to do. **We are not against other organizations, in fact, many of our members are also members of the DAV and Purple Heart Association.**

There are limited funds and the state and KCVA have a responsibility to fund those programs that have the ability to serve the veteran groups in the most economical manner possible. Allowing any and all veteran organizations to participate in this

program dilutes its effectiveness and it's fiscally unsound. For example, the state of Wisconsin had a similar grant program and they funded all veteran groups that applied for a grant. The Legislative Post Audit in Wisconsin found they were spending a lot of money and a limited number of veterans were being served. After their audit they are now focusing on the larger groups that can reach their largest groups of veterans. It would be nice if we had the money to fund all of the programs, however, the state also has the responsibility to be fiscally responsible.

**In conclusion, it should be pointed out that the VFW and AL did not exclude any other veteran organization in this grant program. In fact, the VFW and AL had no authority to include or exclude any organization. All veteran groups had the opportunity to participate, but by their choice they elected not to apply. However, what's important is any veteran who goes to any VA center for assistance has a choice of electing which organization they want to represent their claim.**



## Testimony on House Bill 2062

Mr. Chairman Myers and honorable members of the Veterans, Military and Homeland Security Committee, it is a pleasure to appear in front of you to testify on HB 2062. This bill clarifies the current language in the Criminal Use of Explosives Statute, 21-3731, by including language that defines a chemical reaction bomb (CRB) and simulated explosive device (SED).

To cite some historical examples that demonstrate the need for this bill, I will tell you about two separate cases that were dismissed by the 18th Judicial District involving SED and CRB. These cases occurred in June 2005. Both of these cases had sufficient evidence to prosecute and convict; yet they were dismissed by the judge. The reason given by the court to dismiss these cases was the vague language in the current Criminal Use of Explosives Statute. The Sedgwick County District Attorney also believes the language is vague and needs better clarification before successful prosecution can be obtained. Since that time we have not had any cases accepted for prosecution in Sedgwick County; although several have occurred.

Let me explain the arguments that have been used successfully in court. On CRB the argument has been that components used to make this type of bomb are not an explosive item by themselves. Examples of some of these materials are: drain cleaner, aluminum foil, lye, dry ice, water and other common products. These materials also would not cause an explosion when they are mixed as described in the current statute. However, when mixed and placed inside a container with an ignition source, they would explode. These chemical reaction bombs operate similar to a pipe bomb, and both are defined as mechanical explosions when detonated.

The issue for SED's is that terrorists can accomplish their aims by developing an unnecessary emergency, causing panic among the public, and creating the need to evacuate an area which will result in an economic impact by closing businesses and day-to-day operations of the affected area. These are instances when a package made to look like a real bomb has been left at a location. The current statute does not address simulated devices that are used to cause panic or disrupt commerce.

The Wichita Police Department (WPD) contacted every bomb squad in the State of Kansas to determine their success in prosecuting CRB's and SED's. The results were that every jurisdiction was prosecuting these cases differently, or not at all, because of the broad interpretation of the current statute by DA's and Judges.

This bill will classify these acts as a level eight felony which results in a penalty of presumptive probation unless there are other felonies involved, or a history of other felonies. This will give the judge discretion in cases involving minors.

The language of this bill has been coordinated with the WPD bomb squad, the Sedgwick County DA's office, the Kansas State Fire Marshall, and Kansas City's ATF and FBI offices.

I request that you will give House Bill 2062 consideration and pass if favorably.

Representative Mario Goico,  
District 100

House Committee on Veterans, Military  
and Homeland Security  
1/22/07  
Attachment 4



# K A N S A S

F.S. JACK ALEXANDER  
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS  
GOVERNOR

**TESTIMONY ON HB 2062  
VETERANS, MILITARY, AND HOMELAND SECURITY COMMITTEE  
CRIMINAL USE OF EXPLOSIVE STATUTE**

**Jack Alexander, State Fire Marshal  
January 22, 2007**

The office of the State Fire Marshal stands as a proponent on HB 2062. The legal use of explosives has an important place in our society and in the area of construction, development, and agriculture. The fire marshal's office investigate explosions and explosive related incidents throughout the state as well as license all explosive users, blasters, and storage facilities in the state as well as the 1.3 commercial fireworks operators. We do not want to restrict the legal use of these materials but when these materials get into the hands of person(s) who are not properly trained or have criminal intentions the result can be devastating.

Explosives are deadly materials in the hands of the wrong people. Explosives still are and will remain the weapon of choice for terrorist, domestic and international. Of all terrorist attacks, 87% involved the use of explosives. The main reason is that the materials are easy to obtain and use many normal household items. Our statutes need to change with the ever changing adaptations and technology criminals use to complete their crimes.

Another area addressed is the amendment to clarify other explosive devices. People, including teenagers, are constructing explosive devices from 1.4 consumer fireworks. These fireworks are the type you can purchase during the forth of July holiday season. One type of device law enforcement agencies in Kansas as well as across the nation are seeing is what is referred to as a 'sparkler bomb'. Last year in Frankfurt, Kansas became the first state to record a death due to this type of bomb. In a ten year period the nation recorded over 400 incidents involving improvised firework devices. It is also determined that this number is very low as these cases are not being reported to the national level because of the nature of the materials used, i.e. fireworks.

Another concern is the increasing bomb threats and use of simulated or hoax devices for public reaction or attention. A typical device incident would last a minimum of four hours with a minimal cost for the response into the thousands. All device calls must be treated as a real until proven otherwise. The members of bomb squads also perform other

duties and only conduct bomb responses when needed. These responders are then taken away from other law enforcement assignments.

Other costs to factor are building evacuations and business interruptions, many in our schools. Safety is foremost and until the incident is mitigated all precautions must be taken to secure the safety of all citizens of Kansas. This disruption of business can cost tens of thousands of dollars of loss income.

The last area to be addressed is in the area of first responder safety. First responders already have inherently dangerous positions but with this new threat of secondary devices it is increasing the dangers. The simulated or hoax devices, improvised fireworks devices, and chemical bombs can also be used to draw the first responders to a specific location only to have a more powerful explosive secondary device target the responders. The question used to be 'IF' but unfortunately it is now 'WHEN'. This has occurred in the state of Georgia just a few years ago and more recently, closer to home in Kansas City, Missouri.

We urge this committee to pass this bill out favorably.



John "Chris" Bannister  
Bomb Squad Commander

# TESTIMONY

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## Kansas State House Veterans, Military and Homeland Security Committee

### House Bill 2062 Criminal Use of Explosives

January 22, 2007

The City of Wichita is supportive of House Bill 2062 and its intent to clarify the current language in the Criminal Use of Explosive Statute (21-3731). Specifically, the inclusion of language that defines a chemical reaction bomb as well as a simulated or hoax explosive device.

As currently written, the Criminal Use of Explosive Statute leaves far too many commonly encountered devices out of the criminal definition, as well as leaving itself open to differing interpretations by judges, prosecutors and defense attorneys alike. For example, some criminal justice professionals from around Kansas believe the existing language of "*chemical compounds that form explosives*" adequately describes chemical reaction bombs and therefore proceed with criminal charges. However, there are just as many that believe this is an inadequate definition and therefore decline chemical reaction bombs for charging under this statute. Likewise, defense attorneys have been successful in defending their clients against prosecution based on the existing vague definition.

The problem lies with the current wording of the statute, "explosive" versus "explosion", as well as the actual physical construction of a chemical reaction bomb. I have witnessed the successful argument in court that components used to make a chemical reaction bomb (e.g. drain cleaner, aluminum foil, lye, dry ice, and/or water) are not "explosive" in and of themselves, nor do they form an "explosive" when they are mixed as described in the current statute. However, these chemicals do cause an explosion when mixed and placed inside a container. Chemical reaction bombs operate under the same principal as a pipe bomb and both are defined as mechanical explosions when detonated.

There are also numerous examples from around Kansas where public safety officials have received reports of suspect packages in and around buildings, highways, schools, hospitals, places of worship as well as public and private businesses. Many times these packages are found to be innocent in nature, but there are still many instances where the package was made to look like a real bomb, thereby causing unnecessary emergency response and the closing of day-to-day operations of the affected area. The current statute does not address simulated devices that are used to cause panic or disrupt commerce.

Therefore, we suggest the Legislature consider adding the proposed language to the current statute that would better define chemical reaction bombs and simulated or hoax devices.