

MINUTES OF THE HOUSE VETERANS, MILITARY AND HOMELAND SECURITY COMMITTEE

The meeting was called to order by Chairman Don Myers at 1:30 p.m. on February 4, 2010, in Room 785 of the Docking State Office Building.

All members were present except:
Representative Pat George

Committee staff present:
Art Griggs, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Corey Carnahan, Kansas Legislative Research Department
Lauren Douglass, Kansas Legislative Research Department
Barbara Lewerenz, Committee Assistant

Conferees appearing before the Committee:

Others attending:
See attached list.

Conferees appearing before the Committee: None

Others attending:
See attached list.

Moved by Representative Bollier and seconded by Representative Crow to approve the minutes of the House Committee on Veterans, Military and Homeland Security held February 2, 2010. Motion Carried

Chairman Myers stated that the last day to introduce bills had passed.

Chairman Myers announced that the Committee would work **HB 2445 - Land uses adjacent to military installations** and drew the attention of Committee Members to late arriving written only testimony as a proponent, from Clancy Holeman, Riley County Counselor's Office (Attachment 1). Mr. Holeman directed attention to two key aspects of the bill regarding voluntary easement issues and that **HB-2445** explicitly forbids any portion of the bill from being used as authority for eminent domain. Late arriving written only testimony was also received from an opponent, Wanda Kinney, Carbondale, Ks. Her family farm is close to Forbes Air Force Base. She is concerned about her property rights if the base were ever to be reopened. (Attachment 2)

Representative Mario Goico introduced a balloon amendment to **HB 2445**. He requested comments from Representative Sharon Schwartz and Representative Tom Sloan. Moved by Representative Craft and seconded by Representative Goyle to accept the amendment as amended by changing 60 days to 30 days on page 2, line 13 of the bill and removing the strike on lines 13, 14 and 15. Motion Carried. Further discussion occurred. Moved by Representative Goico and seconded by Representative Goyle to delete the word "improve" from the balloon on page 1, line 39 and change the word "coordinate" to "coordinated" in the balloon on page 1 line 34. Motion Carried. Moved by Representative Tafenelli and seconded by Representative Horst to pass **HB 2445** as amended. Motion Carried

Representative Goico appointed Representative Melanie Meier to carry the bill.

Chairman Myers announced that the next meeting will be Feb 9, 2010. There will be a briefing by Major General Tod Bunting, Kansas Director, Homeland Security and Emergency Management and a hearing on **HB 2480 - Concerning certain public employees; relating to leaves of absence with pay for certain disaster service volunteers.**

The meeting was adjourned at 2:15 P.M..

Barbara Lewerenz

From: Clancy Holeman [choleman@rileycountyks.gov]
Sent: Wednesday, February 03, 2010 3:42 PM
To: Don Myers
Cc: Larry Powell; Mike Kearns; Karen McCulloh; Alvan Johnson; Tom Hawk; Tom Hawk; Tom Hawk; Lee Tafanelli; John Armbrust; Snodgrass, David B NWK; Monty Wedel
Subject: H.B. 2445
Importance: High

Wednesday, February 03, 2010

Chairman Myers:

I represent the Board of Riley County Commissioners, one of the proponents of H.B. 2445. Like Representative Powell, my client is a strong advocate of private landowner property rights. I have reviewed the material provided by Representative Powell, in opposition to H.B. 2445.

I will concede the written material provided by Representative Powell, "To Save the Stars: The McIvor Ranch Story" is compelling. The disappointment that family must feel as the result of the multiple "Nature Conservancy" conservation easements Don McIvor signed cannot be minimized. But I must respectfully disagree that H.B. 2445 leads in any way to a similar result for anyone.

I want to direct your attention, and that of your committee members, to two key aspects of the bill which minimize that chance. First, the only easements discussed in this bill are voluntary. The only easements contemplated by H.B. 2445 are those generated by an existing federal program, "ACUB." As the bill's definition section on page 4, line 15 states, "'ACUB ' means an army compatible use buffer."

The reach of the federal "ACUB" program is not extended in any way by the terms of H.B. 2445. Instead, "ACUB" remains a voluntary federal program which can generate a "military training buffer contract." That "military training buffer contract" is further defined by H.B. 2445 (page 4, lines 23-27) to only exist as a result of a landowner's voluntary act:

"'Military training buffer contract' means land in which the private owner voluntarily provides, sells or leases the development rights for the land or provides, sell or leases the right of the military to reject proposed development that will be incompatible with the training mission and operations of a federal or state military facility... ."

Second, H.B. 2445 explicitly forbids any portion of the bill from being used as authority for eminent domain by the military installations involved. At page 4, lines 28-30 H.B. 2445 states:

"Nothing in the state area of interest, military training buffer area or military training buffer area contract shall provide authority for the use of eminent domain."

Just as any other bill, H.B. 2445 cannot protect a contracting party from a "bad deal" voluntarily entered into. But neither does H.B. 2445 require anyone to enter into any contractual arrangement whatsoever, whether for an easement or any other purpose.

I submit, based on the voluntary nature of the easements described and the explicit prohibition against using those easements (or any other portion for eminent domain by the military installations, the bill promo

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Attachment 1

freedom of landowners who decide to enter voluntarily into easements through the existing separate and distinct "ACUB" federal program.

Local private landowners were involved from the beginning to the end of the 10-month process out of which our local working group created H.B. 2445. That is an additional assurance, I submit, that the interests of private landowners adjoining military installations are addressed and protected by the existing language of the bill.

I respectfully request the committee act favorably on H.B. 2445, without amendment, as a recognition of the consensus it currently represents between the military, local governing bodies and private landowners.

Clancy Holeman
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Manhattan, Kansas 66502
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Thank you for the opportunity to speak to the committee. From the viewpoint Of opposing HB 2445 as a landowner and food producer. Our ranch and farm Lands have been in the Kinney family since 1855 and now are being worked By the 7th generation of the family. The property is in Osage County in close Proximity to Forbes Air Force Base. This base, of course, is no longer an Active base but things do change and who knows but the possibility could be That it might reopen at some time in the future. We would hate to see our Farmland/ranchland be taken in for that use. In light of the fact that 2% of our Nations population produces food and fiber for 100 of all of us, we wish to Continue that use for our property.

Respectfully submitted,

Wanda Kinney
Carbondale, Kansas
Osage County

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Attachment 2