

## HOUSE BILL No. 2445

By Committee on Federal and State Affairs

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9 AN ACT concerning land use; relating to military installations and ad-  
10 jacent areas.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. Areas of this state that are wholly or in part within jointly  
14 developed community — military air installation compatible use zone  
15 (AICUZ) study area, joint land use study (JLUS) area, army compatible  
16 use buffer (ACUB), or an environmental noise management plan  
17 (ENMP) of an active duty, national guard or reserve military installation  
18 shall constitute a state area of interest vital to national security and the  
19 economic well being of the state.

20 Sec. 2. (a) It is the desire of the state of Kansas to promote com-  
21 munication, cooperation and collaboration between any military installa-  
22 tion and any municipality adjacent to or surrounding the military  
23 installation.

24 (b) To further communication, cooperation and collaboration:

25 (1) Each military installation shall:

26 (A) Notify each municipality adjacent to or surrounding the military  
27 installation of any development, project or operational change on the  
28 military installation which will alter or amend a JLUS, ACUB, AICUZ or  
29 ENMP or any element therein.

30 (B) Notify each municipality adjacent to or surrounding the military  
31 installation of any change in the name of any contact person, and any  
32 related information thereto, who is used for the purpose of communica-  
33 tion between the military installation and the municipality.

34 (C) Meet at least annually with representatives of each municipality  
35 adjacent to or surrounding military installations for the purpose of deter-  
36 mining any critical area within the state area of interest. A critical area of  
37 interest is any portion of the state area of interest where future use of  
38 such area should be monitored or controlled, or both, to reduce any po-  
39 tential conflict with any military operation at the associated military  
40 installation.

41 (2) Each municipality adjacent to or surrounding a military installa-  
42 tion shall:

43 (A) Meet at least annually with the commander of the active duty,

1 national guard or reserve military installation associated with the state  
2 area of interest in which the municipality is located to jointly determine  
3 what portion, if any, of that state area of interest is a critical area.

4 (B) Notify the commander of each military installation located adja-  
5 cent to or surrounded by a municipality of any change in the name of any  
6 contact person, and any related information thereto, who is used for the  
7 purpose of communication between the military installation and the  
8 municipality.

9 (C) Provide written notice to the commander of each military instal-  
10 lation located adjacent to or surrounded by a municipality of the adoption  
11 of any regulation, including any amendment thereof, or any amendment  
12 to any comprehensive planning document which affects any mutually  
13 agreed upon critical area. Such notice shall be provided at least 60 days  
14 prior to the adoption of any such regulation, or amendment thereof, or  
15 any such amendment to a comprehensive planning document. Failure of  
16 an installation commander to respond after receiving notification under  
17 this subparagraph shall be deemed to indicate such commander's ap-  
18 proval of the regulation, or amendment thereof, or amendment to the  
19 comprehensive planning document.

20 (D) Provide written notice to the commander of each military in-  
21 stallation located adjacent to or surrounded by a municipality of each  
22 development proposal which affect any agreed upon critical area to pro-  
23 vide the commander of any military installation affected an opportunity  
24 to assess any impact and coordinate issues with planning staff. Such notice  
25 shall be provided prior to or concurrently with any statutorily required  
26 notice for public hearing.

27 (E) Evaluate and consider the impact of each of the following factors,  
28 based upon information provided by the installation, before making a final  
29 decision regarding a development proposal located within an agreed upon  
30 critical area:

31 (i) The potential for release into the air of any substance such as  
32 steam, dust or smoke unless such substance is generated by agricultural  
33 use, that would impair visibility or otherwise interfere with military op-  
34 erations, including ground operations.

35 (ii) The potential for production of any light emission, either directly,  
36 or indirectly or by reflective light, that would interfere with pilot vision,  
37 and aerial or ground based night vision training.

38 (iii) The potential for the production of electrical emissions that  
39 would interfere with military ground and aircraft communications and  
40 navigation equipment.

41 (iv) The potential to attract birds or waterfowl including, but not lim-  
42 ited to, operation of any sanitary landfill and the maintenance of any large  
43 scale feeding station.

- 1 (v) Whether or not structures are proposed within 10 feet of any  
2 defined aircraft approach, departure, or transitional surface; or within 100  
3 feet beneath any low-level military aircraft training route as provided by  
4 the federal aviation administration.
- 5 (vi) The potential to expose persons to noise greater than 65 DNL.
- 6 (vii) The potential for obstructed visibility or surveillance, or both, of  
7 direct fire weaponry platforms into permanently populated or operational  
8 areas of military installations.
- 9 (viii) Whether or not there will be a violation of any federal aviation  
10 administration height restriction in title 14 of the code of federal regu-  
11 lations (14 CFR) part 77 entitled “Objects Affecting Navigable Airspace”  
12 or Department of Defense Instruction (DoDI) Number 4165.57 entitled  
13 “Air Installations Compatible Use Zones.”
- 14 (F) Ensure that all comprehensive plans or zoning ordinances or reg-  
15 ulations affecting any mutually agreed upon critical area of a state area  
16 of interest consider the most current jointly developed community —  
17 military JLUS or AICUZ, or both, recommendations sponsored by the  
18 United States air force installation located at McConnell air force base  
19 located in Sedgwick county, Kansas, sponsored by the United States de-  
20 partment of the army installations located at Fort Riley in or adjacent to  
21 Clay, Geary and Riley counties, Kansas, and Fort Leavenworth in Leav-  
22 enworth county, Kansas, or sponsored by the Kansas adjutant general for  
23 Forbes Field in Shawnee county, Kansas, or the Smoky Hill facility lo-  
24 cated in Saline county, Kansas. All such comprehensive plans or zoning  
25 ordinances or regulations shall also consider the presence and effective-  
26 ness of any ACUB and the findings and recommendations of any AICUZ  
27 or ENMP.
- 28 (G) Interpret such plans, ordinances or regulations in a manner that  
29 considers the recommendation or study provided by the military with a  
30 view to protection of public health, safety and welfare and maintenance  
31 of safe military and aircraft operations, and the sustainability of installa-  
32 tion missions.
- 33 (H) Consider the adoption of a mandatory disclosure requirement  
34 for any property within any agreed upon critical area of a state area of  
35 interest, which would inform a buyer of the potential for impact from  
36 noise, smoke, dust, light, electromagnetic interference and aircraft safety  
37 zones on the landowner produced by normal military operations.
- 38 (I) Provide notice to commanders of all construction permits issued  
39 for improvements within the agreed upon critical area.
- 40 (J) Provide the following written notice to individuals receiving a con-  
41 struction permit for improvements within the agreed upon critical area:  
42 “The property for which this permit is issued is situated in an area that  
43 may be subjected to conditions resulting from military training at a nearby

1 military installation. Such conditions may include the firing of small and  
2 large caliber weapons, the over flight of both fixed-wing and rotary-wing  
3 aircraft, the movement of vehicles, the use of generators and other ac-  
4 cepted and customary military training activities. These activities ordi-  
5 narily and necessarily produce noise, dust, smoke and other conditions  
6 that may not be compatible with the permitted improvement according  
7 to established federal guidelines, state guidelines or both.”

8 (c) Nothing herein shall prevent municipalities adjacent to or sur-  
9 rounding military installations from entering into interlocal agreements  
10 with such military installations, in order to accomplish the objectives ex-  
11 pressed herein.

12 Sec. 3. As used in sections 1 through 4, and amendments thereto:

13 (a) “AICUZ” means a jointly developed community — military air  
14 installation compatible use zone.

15 (b) “ACUB” means an army compatible use buffer.

16 (c) “Development proposal” means any development requiring a re-  
17 view process prior to approval including, but not limited to, platting, re-  
18 zoning, conditional use, special use, variance or any other similar action.

19 (d) “DNL” means a day — night noise level.

20 (e) “ENMP” means an environmental noise management plan of an  
21 active duty, national guard or reserve military installation.

22 (f) “JLUS” means a joint land use study.

23 (g) “Military training buffer contract” means land in which the private  
24 owner voluntarily provides, sells or leases the development rights for the  
25 land or provides, sells or leases the right of the military to reject proposed  
26 development that will be incompatible with the training mission and op-  
27 erations of a federal or state military facility of more than 100 acres.  
28 Nothing in the state area of interest, military training buffer area or mil-  
29 itary training buffer area contract shall provide authority for the use of  
30 eminent domain.

31 (h) “Municipality” shall mean a city or county.

32 (i) “State area of interest military training buffer area” means land  
33 that is contiguous to a federal or state military facility of more than 100  
34 acres as specified in the applicable AICUZ, JLUS, ACUB, or ENMP or  
35 is located adjacent to lands already in the program or is under a military  
36 flight path.

37 Sec. 4. Notwithstanding any other provision of this act, the final de-  
38 cision on all planning, development, zoning and land use issues shall be  
39 made by each municipality adjacent to or surrounding a military  
40 installation

41 Sec. 5. This act shall take effect and be in force from and after its  
42 publication in the statute book.