



Libertarian Party of Kansas

January 31, 2022

**Senate Committee on Federal and State Affairs
Chair: Sen. Robert Olson**

Thank you Chairman Olson and committee members for holding this hearing and our opportunity to speak. The Libertarian Party of Kansas strongly supports SB370 and asks that you vote for its passage out of committee.

We believe this is an issue that Kansans were not aware of and that the Kansas legislature didn't realize it needed to address. Now, with the new awareness and developing military tensions around the world growing, particularly in Ukraine, Kansas needs to make some important decisions. These decisions need to protect the military members that make up the Kansas National Guard, uphold our nation's and state's constitutional rules of law and protect Kansas state sovereignty. It is our position that we must follow the U.S. Constitution and our belief that the 10th amendment guarantees our state's rights on this issue. It is clearly stated in the Constitution that all wars must be congressionally passed and declared. It is our right and within our power in Kansas to withhold deployment of our National Guard troops from active combat zones (title 10 deployments) without a congressional declaration of war.

The reasons for our support of SB370 can be epitomized by the valued and proven advantages of three ideas important to libertarianism ... process, Constitutionality and humanitarianism.

Process, like words and actions, are tremendously important and have great meaning. Ignoring them have consequences. This applies to the most dangerous and costly government enterprise of all — the decision to switch our nation from a state of peace to a state of war. Yet, since WWII, we have had a system where the federal executive dictates to us rather than a system where representatives make decisions through a process of discovery. Kansans and all Americans are disenfranchised by this lack of representation and process. Our federal legislative representatives are not doing their sworn duty and have handed over this responsibility to the executive for decades. The Constitution not only clearly describes the assigned powers and limitations of government and the relationship between the federal and state governments but it is also a "process document". We have a broken process. The way we go about war since 1942 is not the way it is supposed to work. Congress acts slower, debates the issues of war and it is done transparently. History tells us presidents, emperors and kings are often the most interested in war and most prone to it. The lack of process eliminates and disregards the checks and balance designs of the Constitution. It places the war powers in the hands of one executive. This is not democracy. This becomes a shutting down of the process and starts more of a controlling of the process. It has the potential to change the relationship with the states into an abusive one. It is difficult to reason a just cause and deploy Kansan troops into imminent danger to achieve the righting of wrongs when there is no legal or sufficiently competent authority that the Constitution requires. A just war can not exist with America as the aggressor and it must also be initiated by the legitimate political authority. That being the U.S. Congress. We would rather the power be distributed equally among 535 elected representatives of the people, who will weigh the reasons for war with the costs, instead of leaving this to one individual.

Libertarians are Constitutionlists. We seek a limited and constrained government. The U.S. and Kansas Constitution are the legal rules that stabilize and harmonize our society. Both documents support and clearly instruct us on this topic. The Kansas Constitution states that the governor is the commander and chief of our troops not the federal government and that the Kansas National Guard is an instrument of state power. The 10th Amendment of the U.S. Constitution reserves the power to control and discipline our troops to the states and people. This bill also restraints the power of our state executive. If passed,

the governor will no longer simply follow the request of the President on Authorizations of Military Force. This bill would require the governor to comply with this act until there is an official Congressionally declared war. Historically, there is no precedent that says we cannot withhold our troops. Nor has there been precedent showing this to be tested or examples of retaliation against the states by the federal government for this exact state action. We believe there to be no serious threat to the National Guard funding upon the enactment of this bill. Any threat of eliminating or reducing Kansas funding in retaliation for the passage of this bill would be politically viewed by the populace as extremely unethical, hostile and bullying. We highly doubt Congress, who doesn't currently vote to declare war, would authorize a reduction, nor do we believe our U.S. senators and congressmen would tolerate this action. The Adjutant General's department has issued a fiscal statement for this bill. It states that the enactment of this bill would "have not fiscal effect". Furthermore the Adjutant General's office is aware of this proposed bill and has not offered neutral or opposing testimony to this bill.

Libertarians have a humanitarian/peace-driven philosophy. An original premise of Libertarian philosophy is the non-aggression principle, which fully respects the individual's right to self-preservation and self-defense. This thinking should apply to our relationships with fellow nations through foreign policy which addresses the subject of war as well. As George Washington said, and we also believe, "we should steer clear of tangling alliances with the foreign world." This translates similarly to Kansas, as meaning, we should avoid entangling ourselves with a federal government in illegal, undeclared wars instigated by an impetuous individual executive. President Jefferson said "Peace, commerce, and honest friendship with all nations, entangling alliances with none." This fits well with Kansas' historical independent spirit and republican status. War is destruction. No nation or state that participates in this endeavor wins. We also remember Ben Franklin's wise counsel, "There never was a good war or a bad peace." Kansas should avoid undeclared wars at all costs and use military force for our nations defensive purposes only. Nothing speaks peace and prosperity better than the end of war – or, if there's going to be war, Kansas must demand that it be done through an explicit process and according to the Constitution.

This act also provides good governance that is consistent with, and that propagates, examples of humanitarianism. How we treat and use our military servicemen and women and how it effects their families should be at the top of the list. The best way to show our appreciation and respect for our troops is to deploy them through the legal, constitutional process, on missions that are fully supported by the legislature and the populace. We do not honor them by sending them on missions they should not be on and in foreign lands where they should not be and accompanied by unclear objectives. Our dedicated veterans who sacrificed and fought with distinction in wars like Vietnam and Afghanistan know the pain and frustration of this. This bill respects our Kansas National Guard and their families by not sending them into harms way in error, damaging them financial, disrupting their employment and stressing their family relationships and then too often, returning them damaged physically and emotionally due to real PTSD.

This bill also adds a provision to eliminate the forced Covid vaccination of our National Guard troops. This is consistent with the spirit of respecting our troops embodied in the rest of this bill. It is also consistent with our value of small government and non-aggression. We should not be compelling, using leverage or threats to force compliance. That is what has happened. From a utilitarian position this will have a negative effect on moral, reenlistment and recruitment.

Congress won't end the undeclared wars so the rightful remedy is for the state of Kansas to do it. Thirty-three states have entered similar bills into their legislatures. Kansas has the opportunity to take the lead and show the way to a more peaceful future with less opportunity for war by simply following the Constitution.

Al Terwelp, Political Director, Libertarian Party of Kansas
On behalf of the State Chairman and Executive Committee.