

## **South Dakota Ellsworth Development Authority**

HB1301, offered by Gov. Mike Rounds

### **Overview**

The bill is intended to help ensure the future of EAFB as a good home for the military in South Dakota to defend the country for decades to come.

Working with local government and the Governor's Office of Economic Development, the Ellsworth Development Authority will devise a long-term business plan to assure that South Dakota continues to be a great place for the Air Force to conduct its national defense mission at Ellsworth Air Force Base.

Since 2007, state economic development officials have been working with local communities and corporate volunteers around Ellsworth to establish a long-term "outside the fence" master plan to move forward with Ellsworth Air Force Base.

The effort determined that state government should play an essential role in working with local governments to foster development around Ellsworth Air Force Base that is compatible with a military airport that protects and expands the economic impact of EAFB, protects property owners' rights and assures the health and safety of those who live near the base.

An initial way to support the base will be to help it meet new requirements for wastewater treatment by building a regional bulk wastewater treatment plant to handle both Ellsworth's needs but also the increased wastewater treatment demands of the growing Box Elder, I-90 corridor.

The Authority will apply for a loan from the state Clean Water Revolving Loan fund to build a regional wastewater treatment plant. Preliminary design and feasibility work recently completed by the Air Force found that building one treatment plant would save \$8.8 million dollars instead of building two separate plants that would be half the size. The governor says federal money will be available for the plant.

Another reason for creation of the Ellsworth Development Authority is the effort of the South Dakota Congressional Delegation in developing new missions at Ellsworth Air Force Base. A 2006 South Dakota Department of Labor economic impact study scored Ellsworth's economic impact on the state at over \$324 million annually.

"South Dakota has an important role in working with local communities to prepare for additional growth in missions at Ellsworth Air Force Base", Gov. Mike Rounds said. "This new authority will provide an important mechanism to help deal with that growth. Ellsworth's current and future economic impact benefits the whole state and is something we cannot afford to lose."

The governor likens this authority to establishment of the South Dakota Science & Technology Authority, which showed the National Science Foundation that South Dakota is a great home for its long-term efforts in advancing science and education. In the same way, creation of the Ellsworth Development Authority is intended to confirm that Ellsworth Air Force Base is an 'area of critical state concern' and that we are committed to providing a good home for the Air Force in South Dakota to defend our country now and for decades to come.

## HB 1301

### South Dakota Ellsworth Development Authority

#### *Answers to potential concerns about this bill.*

- Does this bill take power from local government?

That was never the intent of the initial bill submitted to House State Affairs. To clarify, an amendment will be offered by Governor Rounds in the initial hearing of HB1301 that will specifically state, in a new stand alone section of the bill, that nothing authorized by HB1301 will limit the powers granted by state law to municipal or county government, nor will the legislation seek for the proposed authority any police or taxation power.

- Why does the authority need eminent domain power?

The primary goal of the authority is to provide new funding mechanisms that might be used to protect and promote the current and growing economic impact of Ellsworth Air Force Base. Having bonding facilities as an economic development tool have put the SD Energy Infrastructure Authority and the SD Science & Technology Authority in strong positions to advance the economic impact of energy development and research-based activity in the State. In order for an authority to sell tax free bonds, it must have one of three powers -- police, taxation or eminent domain power. Like the proposed SD Ellsworth Development Authority, neither of these two authorities mentioned above have any police or taxation power, but they do have eminent domain power. Having a "very limited" eminent domain power allows the SD Ellsworth Development Authority to sell tax free bonds to fund projects and purposes that will protect and promote the economic impact of Ellsworth Air Force Base and related industry. These bonds would not be a general obligation of the state but are basically project bonds that must be repaid by a specific project or purpose they might finance. That is primarily why HB1301 has a "very limited" eminent domain power.

- So when would the authority use its eminent domain power?

Only in a very limited area, and only for a very limited purpose. The purpose is limited to protecting people and property that might be endangered by being in unsafe areas called Air Installation Compatible Use Zones. These zones are defined around every commercial or military airport. The SD Ellsworth Development Authority, using various financing sources, will develop a detailed business plan in 2009 and beyond as to how it might play the role of a "willing buyer" to work with a "willing seller" that might need to be relocated out of unsafe or incompatible areas of land adjacent to or in the immediate vicinity of Ellsworth Air Force Base. These areas and recommendations as to how these areas should be used [again, so as to protect people and property of South Dakotans] are defined by a Department of Defense, Ellsworth Air Force Base -- Air Installation Compatible Use Study. The eminent domain power is more to establish a funding mechanism and would only be used as a very last resort to secure compatible uses around a military airport like Ellsworth Air Force Base and only for a very specific purpose, protecting the health and safety of South Dakotans.

- Will HB1301 require any 2009 general fund appropriations? **NO**

# HB 1301

## South Dakota Ellsworth Development Authority

### Top 10 Reasons WHY ?

- (1) Ellsworth Air Force Base is an area of critical state concern and a significant contributor to the economy of South Dakota and the budget of State government.
- (2) As in other industries important to the State's economy, such as tourism and agriculture, the State should play an active role in helping to protect and promote the economic impact of Ellsworth Air Force base and associated industry within the State.
- (3) Ellsworth Air Force Base, according to a March 2006 South Dakota Department of Labor economic impact study determined that in 2004, total direct and indirect economic impact of Ellsworth Air Force Base was 7,827 jobs and an annual economic impact of \$324 million on South Dakota's economy.
- (4) This economic impact was with only one mission at Ellsworth Air Force Base and 5,182 military and civilian on base jobs. At one time Ellsworth had over 10,000 on base jobs conducting as many as 5 missions. Ellsworth is now growing again with its 2<sup>nd</sup> current mission, the Financial Services Center for 93 Air Force bases.
- (5) There are not very many places where South Dakota can lose or gain multiples of \$300,000,000 in economic impact like we can at Ellsworth Air Force Base.
- (6) The March 2006 South Dakota Department of Labor Economic Impact report also determined that the annual economic activity of Ellsworth Air Force Base in 2004 generated total State/Local tax revenues of \$10,221,361.
- (7) Additionally, the report stated that if Ellsworth Air Force Base and the families of its military personnel were not a part of local School Districts, the State school funding formula would have to replace \$6,114,022 in federal impact aid to schools.
- (8) As Ellsworth receives new national defense missions, the economic impact of that growth can create development challenges on the State and local communities, as does any growing industry in the State. The State has an essential role in helping manage the economic impact of a growing national defense mission at Ellsworth Air Force Base.
- (9) The State has an indispensable role in working with local government and the private sector to establish compatible civilian development around Ellsworth Air Force Base; so as to not encroach or hinder the important national defense mission of the Air Force.
- (10) The SD Ellsworth Development Authority is being established to be a full partner with local government in implementing compatible civilian development best practices that protects property owner rights and secures the health and safety of South Dakotan's living near Ellsworth Air Force Base.

## County backs concept of Ellsworth board

**EAFB AUTHORITY:**  
Language of legislation divides some commission members.

By Emilie Rusch  
Journal staff

Pennington County commissioners like the idea behind Gov. Mike Rounds' proposed Ellsworth Development Authority but stopped short Tuesday of endorsing the House bill that would create it.

Commissioners instead voted unanimously to support the "reason, purpose and intent" of HB1301 without weighing in on the bill's actual language.

The bill would create a seven-member board, appointed by the governor, to work with local communities and obtain funding to pursue a long-range development plan for the area

around Ellsworth Air Force Base.

The House State Affairs Committee is to hold a hearing on the bill today in Pierre.

According to the bill, the authority's purpose is to "protect and promote the economic impact of Ellsworth Air Force Base and associated industry."

Commissioners Ethan Schmidt and Nancy Trautman clashed over the bill's language during Tuesday's meeting.

Trautman said it isn't the board's place to nitpick and said the bill overall would get the job done.

"There are some pieces that maybe we need to work on, but the point is we need to look at a bigger, bigger picture," Trautman said. "Ellsworth is critical to our state."

Schmidt went through the bill section by section to outline his concerns. Problem areas included where the unelected

members would be from and how some decisions they would be making are defined.

"I sure support the idea, but I don't know if I want to give the broad discretion of the Legislature to address all those concerns," Schmidt said.

Trautman compared the authority to the South Dakota Science and Technology Authority, which worked with the National Science Foundation to secure the proposed underground laboratory at the old Homestake Mine in Lead.

"It seems to be doing its job," Trautman said. "Our state is becoming pretty well experienced in these development authorities."

Schmidt disagreed, calling the comparison "not relevant or persuasive with this seven-person authority for a separate specific use and purpose."

The Ellsworth authority

would have the power to issue bonds and acquire property surrounding the base, either by voluntary sale or eminent domain.

Rounds said Friday that the authority would receive no general fund money.

If approved, the authority's first project would be a regional wastewater treatment plant to serve the city of Box Elder and Ellsworth.

Marvin Kammerer, a rancher with land adjacent to the base, said the 13-page bill would take away too much power from Pennington and Meade counties.

"It's a poor bill," Kammerer said. "They could have done it in two pages, but it's so ambiguous, it leaves so many avenues open, that it could destroy my rights as a citizen of South Dakota."

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OURS

# Ellsworth board secures base's future

**THE ISSUE:** A House bill would create a seven-member authority to address economic issues at Ellsworth.

**OUR VIEW:** The board will serve not only to grow the base's mission but it should help keep it off a future BRAC list.

It's hard to find a serious downside to the revised version of House Bill 1301. The bill would create a seven-member governor-appointed Ellsworth Development Authority to work with local authorities and pursue economic development around Ellsworth Air Force Base.

Early concerns were right on target: The board's power would trump that of local and county officials and the board's authority as far as eminent domain appeared too broad. But those were addressed and the bill easily passed its House committee and enjoyed fairly good success on the House floor.

Now it's off to other side — the

Closure and Realignment Commission list of bases to close.

After months of lobbying by city and state leaders, Ellsworth survived the BRAC list at the last minute, and only after serious lobbying efforts.

We don't want to see that happen again and this authority could provide development of the base to ensure it doesn't.

But Mark Merchen said the proposed Ellsworth authority isn't so much about protecting the base from closure, but about positive growth and development.

Merchen, manager of economic development, legislative and public affairs with West River Electric is working with a number of corporate citizens making sure South Dakota is home for a number of high impact economic initiatives. From Pierre, Merchen said the Ellsworth board is not about BRAC, it's about growth.

"This is about making sure we

have a safe place for this military mission as it grows to operate and have a formal state entity addressing that and being a conduit for all good things," Merchen said.

Growth and development of the base's mission will increase its value to South Dakota and, we think, could help defend against being placed on another BRAC list at some point in the future. It's a win-win.

In August 2005, after Ellsworth had officially survived the BRAC list, Sen. John Thune said: "We can reveal in this for a minute, because it's been a long, hard fight. But we need to start taking steps now to continue to work to BRAC-proof Ellsworth. In 10 years, they might come back and take another bite of the apple."

The Ellsworth Development Authority — in its economic mission around the base — is a step to grow the state and hopefully BRAC-proof the base. Again, it's a win-win.

# Lt. Governor: Ellsworth bills changes respect landowners

By Emilie Rusch  
Journal staff

Local officials' concerns about the broadness of the proposed Ellsworth Development Authority didn't fall on deaf ears. Lt. Gov. Dennis Daugaard said Friday, and recent changes should make the legislation friendlier to the communities that would be affected the most.

"Whenever you have a decision to make or a proposal to consider, the more viewpoints you can gain, the more perspectives you have, you can realize how certain words can be interpreted in different ways by different people," Daugaard said. "They helped us see we could tighten language and still have the authority maintain its ability to do everything they want to do."

HB1301 would create a seven-member authority, appointed by the governor, to work with local communities and provide the funding to pursue compatible economic development around Ellsworth Air Force Base. Its first project would be a regional wastewater treatment plant to serve both Ellsworth and the city of Box Elder.

The House delayed a vote on the bill Friday until at least Monday.

"We didn't want counties or cities to be concerned that somehow this authority was usurping their power or authority in some way," Daugaard said.

Many of the changes had to do with eminent domain and removing passages that appeared to give the authority blanket power to do anything to protect Ellsworth's economic impact.

The bill would give the authority the power to acquire property surrounding the base either by voluntary sale or eminent domain.

The revised language, which was added in the House State Affairs Committee, narrowly defines the area subject to eminent domain to only what is described in Ellsworth's Air Installation Compatible Use Zone Study, completed by the Department of Defense in 1994.

Only property in the base's clear zone and accident potential zones 1 and 2, which extend from either end of the runway and within the noise contours would be subject to eminent domain and then only if the current use is incompat-

ible with what the study lays out.

"We tried to narrow it geographically, and then even within geographically, eminent domain only springs up on incompatible uses," Daugaard said. "I don't know how you get it any more narrow than that. We want to respect the rights of property owners."

The bill's language also protects property owners if the Air Force changes its compatible uses in the future, Daugaard said.

"If they do, it's up to the Legislature to agree and decide whether they want to change the statute," Daugaard said. "The Air Force can't just change these rules willy-nilly."

Local officials said Friday they were largely happy with the efforts made in Pierre to address their concerns.

Box Elder Mayor Al Dial said the revisions fix most of the problems his city had with the bill. Most of those issues dealt with the eminent domain powers.

"At this point, we're fairly comfortable with the wording. They reduced the area where the eminent domain issue can be affected, which we're very pleased with," Dial said. "We're happy with the progress."

Dial said the Box Elder City Council will consider endorsing the bill at its next meeting.

Meade County Commissioner Alan Aker didn't give quite such a strong endorsement of the changes but still liked the way the bill was going.

He had said he opposed the bill as originally written because it would give unelected officials undefined powers.

"Now, I'm neutral toward it," Aker said. "I think the possibility of the sewer treatment plant is wonderful, and I'm hoping that any condemnation would run through county government. I still believe it should be run through the county government."

Daugaard said he hopes the authority can become a neutral party to help local governments work together toward something that will benefit all South Dakotans; ensuring the state stays a good home for the Air Force.

"It can help foster good communication among government entities and find common interest," Daugaard said. "Sometimes we let those things that divide us define us. That's not how it should be."

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