

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Pete Brungardt at 10:30 a.m. on February 12, 2009, in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Theresa Kiernan, Office of the Revisor of Statutes  
Jason Long, Office of the Revisor of Statutes  
Julian Efird, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Connie Burns, Committee Assistant

Conferees appearing before the committee:

George Wingert,  
Senator Julia Lynn,  
Maggie Childs, Kansas Equality Coalition  
Cora Holt, Manhattan  
Thomas Witt, Kansas Equality Coalition  
Pedro Irigonegaray, Counsel, Kansas Equality Coalition  
Judy Smith, Concerned Women of America of Kansas  
Representative Jan Pauls,  
Kansas Human Rights Commission,

Others attending:

See attached list.

**Introduction of Bills:**

George Wingert, Ruffin Company, requested a bill introduction regarding an amendment to expanded lottery relating to racetrack gaming facilities.

Senator Morris moved that this request should be introduced as a committee bill. Senator Faust-Goudeau seconded the motion. The motion carried.

Senator Julia Lynn requested a bill introduction adding prostitution, promoting prostitution, and patronizing prostitution to the list of offenses that could require forfeiture of assets.

Senator Owens moved that this request should be introduced as a committee bill. Senator Francisco seconded the motion. The motion carried.

Senator Owens requested a bill introduction regarding Driving Under the Influence.

Senator Owens moved that this request should be introduced as a committee bill. Senator Reitz seconded the motion. The motion carried.

Senator Reitz requested four bill introductions regarding:

- 1) concerning elections and voters residing outside the United States or as a member of the U.S. armed forces.
- 2) concerning criminal procedure relating to consolidation of community corrections and court services in certain judicial districts.
- 3) relating to bidding requirements on certain contracts.
- 4) relating to persons incompetent to stand trial.

Senator Reitz moved that the four requests should be introduced as committee bills. Senator Owens seconded the motion. The motion carried.

**SB 215 - Non-gubernatorial appointments subject to confirmation; procedure.**

Chairman Brungardt opened the hearing on **SB 215**.

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Theresa Kiernan, Kansas Legislative Research Department, (KLRD) provided an overview of the changes in the bill. The bill is a technical clean up from the 2008 Legislative Session, and was introduced at the request of Senator Derek Schmidt, the Chair of the Confirmation Oversight Committee. ([Attachment 1](#))

Chairman Brungardt closed the hearing on **SB 215**

### **SB 169 - Kansas Act Against Discrimination, inclusion of sexual orientation and gender identity.**

Chairman Brungardt opened the hearing on **SB 169**.

Maggie Childs, Chair, Kansas Equality Coalition, appeared as a proponent of the bill. ([Attachment 2](#)) The Kansas Acts Against discrimination was established in 1953, and has been amended at least nine times since then; the law currently protects Kansans from discrimination in housing, employment, and public accommodations based on race, religion, color, sex, disability, familial status, national origin, or ancestry. This bill does not include any amendments to the current affirmative action statutes. There are no quotas, no mandate requiring benefits that must be offered, and private/fraternal/religious organizations are exempt.

Currently there are 26 states, plus Washington D.C., that have some level of protection against discrimination based on sexual orientation; more than 200 towns, cities and counties that ban sexual orientation discrimination, and a Presidential Executive Order banning discrimination in Federal employment. In September 2007, Governor Sebelius issued an executive order protecting state employees in Kansas from discrimination on the basis of sexual orientation. Also provided:

- 1) Policy Brief: "The Extent of Sexual Orientation discrimination in Topeka, KS" by Roddrick Colvin - National Gay and Lesbian Task Force Policy Institute
- 2) Statewide Employment Laws & Policies - Human Rights Campaign
- 3) Employer Information - Human Right's Campaign

Cora Holt, Manhattan, spoke in favor of the bill. ([Attachment 3](#)) Ms. Holt stated that in 2006 an attempt to have "sexual orientation and gender presentation" included in the list of protected groups in the Manhattan city ordinances, she provided a short "speech" and stated that by speaking out she could loose her job at a Manhattan area college. The next morning she received a phone call from the college's Academic Dean that she was on Academic Leave effective immediately, and was not to step foot on campus. Her teaching ability was never once called into question. Ms Holt felt it was not safe to speak out, because by speaking out many may lose what little safety they have. The situation, to her, seems untenable.

Thomas Witt, Kansas Equality Coalition, appeared as a proponent of the bill; and spoke to the cost of the bill. He believes that the number of complaints, as a percentage of current rates, will be small enough to address without any significant additional costs to the State of Kansas, and urged the committee to pass **SB 169**. ([Attachment 4](#)) Also provided were:

- 1) A report from the United States General Accounting Office, Washington D.C., subject: Sexual-Orientations-Based Employment Discrimination: States' Expenerience With Statutory Prohibitions Since 1997
- 2) An article: By William B. Rubenstein, Do Gay Right Laws Matter?: An Empirical Assessment

Pedro Irigonegaray, Counsel, Kansas Equality Coalition, spoke in favor of the bill. ([Attachment 5](#)) Mr. Irigonegarary stated he has been contacted by Kansas' homosexual citizens (gay men and lesbian women as well as transgendered persons) for his professional help for sufferings inflicted for no other reason than their sexual orientation, or gender identity issues. Mr Irigonegarary urged the committee to insure that all Kansas citizens are made to feel safe, equal, and respected.

James Wood, Prairie Village ([Attachment 6](#)) and Jason Chalka, Topeka, ([Attachment 7](#)) submitted written testimony in support of the bill.

Judy smith, Concerned Women of America of Kansas, (CWA) spoke in opposition of the bill. ([Attachment 8](#)) CWA is opposed to adding sexual orientation and gender identity to discrimination statutes; discrimination and civil rights laws have traditionally been based upon immutable characteristics such as gender, age, ethnicity, race, handicaps ...all things that are clearly visible and unchangeable. This bill places sexual orientation and self-perceived gender identity not as a protected class, but as a privileged group. Sexual

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orientation and other manifestations of gender identity do not fit into what constitutes a true minority and should not be added to laws dealing with discrimination.

Representative Jan Pauls appeared as an opponent to the bill. (Attachment 9) The bill amends the entire Kansas Act Against Discrimination. The Kansas Act protects against discrimination by reason of race, religion, color, sex, disability, national origin or ancestry. This bill adds two new categories to the classes protected: sexual orientation or gender identity. Page 4 lines 9-15 states “sexual orientation” means “male or female heterosexuality, homosexuality or bisexuality by indication, practice, or expression.” The change in the law would have far reaching ramifications.

Kansas Human Rights Commission, provided written testimony as informational and the fiscal impact if the bill is enacted. (Attachment 10)

Chairman Brungardt closed the hearing on **SB 169**.

The next meeting is scheduled for February 13, 2009. The meeting was adjourned at 11:40 am.