

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 9, 2011, in Room 144-S of the Capitol.

All members were present except:

Senator Steve Morris - excused

Committee staff present:

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

Conferees appearing before the Committee:

Representative Melanie Meier
Mike Watson, Governor's Task Force on Racial Profiling
Curtis Whitten, Governor's Task Force on Racial Profiling
Ed Klumpp, Kansas Association of Chiefs of Police
Steve A. J. Bukaty, State Lodge of the Fraternal Order of Police

Others attending:

See attached list.

Introduction of Bills

Representative Melanie Meier requested a bill introduction relating to electronic gaming machines and Veterans' service organization.

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

SB 82-Amendments to laws regarding racial profiling and SB 93-Law enforcement; racial profiling and biased policing

Chairman Brungardt opened the hearings on **SB 93 and SB 82**.

SB 93-Law enforcement; racial profiling and biased policing

Staff provided an overview of the bill.

Curtis Whitten and Mike Watson, Co-Chairs of the Governor's Task Force on Racial Profiling, (GTFORP) testified in support **SB 93**. (Attachment 1) This bill represents the final recommendations of the task force. In accordance with statute Kansas law enforcement agencies have reported annually all complaints of racial profiling and the outcome of the respective investigations to the Kansas Attorney General's Office, the results of which can be found on the AG's website. The amendments in the bill enhance these results and will help prohibit and preempt the practice of racial profiling and biased policing in the state of Kansas without unduly interfering and adversely affective appropriate law enforcement activities. The Task Force supports the bill and requests that the committee give appropriate attention to the issues the Task Force was unable to come to consensus on : what agency should conduct investigations at the state level and what entity should be responsible for oversight and accountability.

Kansas Human Rights Commission provided neutral written testimony on the bill. (Attachment 2) The neutral stance reflects the need for the Commission's determinations regarding racial profiling (or biased policing) complaints to be accepted and credible.

SB 82-Amendments to laws regarding racial profiling

Staff provided an overview of the bill.

CONTINUATION SHEET

The minutes of the Federal and State Committee at 10:30 a.m. on February 9, 2011, in Room 144-S of the Capitol.

Ed Klumpp, Kansas Association of Chiefs of Police, Kansas Sheriffs' Association, and Kansas Peace Officers Association, appeared in favor of **SB 82**. (Attachment 3) The bill is designed to generally follow the recommendations of the Governor's Task Force on Racial Profiling with some of the gaps filled in where the Task Force was unable to reach a final recommendation. The bill is designed to address those issues through training, awareness, and understanding; it also allows the application of discipline as provided by the state certifying agency, the city or county personnel standards, and, where applicable labor contracts. The bill includes the following:

- Recommended definition of biased policing including the term "enforcement action" which the Task Force did not define
- Included a list of minimum data elements for data collections and community advisory boards
- Changes to the annual report, training, and KC-POST handling of complaint investigations

Sandy Jacquot, Director of Law/General Counsel, League of Kansas Municipalities, (LKM) provided testimony in support of **SB 82**. (Attachment 4) LKM continues to encourage the Legislature to adopt an approach that strikes a balance between onerous requirements on law enforcement and to take a proactive approach to eliminating racial profiling, and agrees with the law enforcement community that **SB 82** is the most effective means of achieving any needed improvement in the law.

Kansas Human Rights Commission provided neutral written testimony on **SB 82**. (Attachment 5) This bill proposes to place significant investigatory duties on KC-Post. The Commission stands in firm opposition to any suggestion that any of its dwindling resources should be transferred to KC-Post in order for it to fulfill its new duties; this would further hamstring the Commission's ability to fulfill its statutory duty to investigate and remedy allegations of discrimination in employment, housing and public accommodations.

SB 93-Law enforcement; racial profiling and biased policing

SB 82-Amendments to laws regarding racial profiling

Steve A.J. Bukaty, State Lodge Attorney for the Kansas State Lodge of the Fraternal Order of Police, (FOP) testified as a proponent who is supporting both bills with reservations. (Attachment 6) FOP has concerns about the data collections and complaints. All current police departments have internal affairs or professional standards units which are trained in the investigation of complaints against their officers, and there is no reason to change this procedure. The FOP is concerned that allowing CPOST to conduct such investigations and conduct a hearing into the matter, may conflict with the due process rights of many of its members.

Written testimony was provided by Hans Asmussen and Chester Pinkston, Fraternal Order of Police, Wichita Lodge 5, in opposition to the bills. (Attachment 7) The FOP cannot be in favor of amending the statute to give the Kansas Commission of Police Officer Standards and Training (CPOST) the power to investigate racial profiling complaints as it deems necessary.

Chairman Brungardt closed the hearing on **SB 82 and SB 93**.

The next meeting is scheduled for February 10, 2011. The meeting was adjourned at 11:58 a.m.