

MINUTES OF THE HOUSE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson John Barker at 3:30 pm on Wednesday, March 09, 2016, 112-N of the Capitol.

All members were present except:

Representative Mark Kahrs – Excused

Committee staff present:

Robert Gallimore, Legislative Research Department

Jason Thompson, Office of Revisor of Statutes

Jenna Seematter, Office of Revisor of Statutes

Lauren Douglass, Legislative Research Department

Connie Bahner, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Derek Schmidt, Attorney General

Rocky Nichols, Disability Rights Center

Senator Molly Baumgardner

Professor Mike Kautsch

Doug Anstaett, Kansas Press Association

Kent Cornish, Kansas Association of Broadcasters

Others in attendance:

[See Attached List](#)

Hearing on: SB334 — Requiring notice to the attorney general before any Kansas court determines that a statute or constitutional provision is invalid or unconstitutional.

Chairperson Barker opened the hearing on **SB334**. Jason Thompson, Revisor, provided an overview of the bill.

Chairperson Barker recognized Attorney General Derek Schmidt as a proponent of **SB334** ([Attachment 1](#)). Questions were asked by Chairperson John Barker and Representatives Craig McPherson, Dennis Highberger, and John Carmichael.

Seeing no further conferees, Chairperson Barker closed the hearing on **SB334**.

Hearing on: SB361 — Open records act; definitions, public agency and public record.

Chairperson Barker opened the hearing on **SB361**. An overview was given by Jason Thompson, Revisor. Questions were asked by Chairperson Barker and Representative Jim Ward.

Chairperson Barker recognized Attorney General Derek Schmidt as a proponent on **SB361** ([Attachment 2](#)).

CONTINUATION SHEET

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Senator Molly Baumgardner testified as a proponent of the bill ([Attachment 3](#)).

Professor Mike Kautsch testified as a proponent ([Attachment 4](#)).

Chairperson Barker recognized Kent Cornish on behalf of the Kansas Association of Broadcasters as a proponent ([Attachment 5](#)).

Chairperson Barker left the room.

Vice-Chairperson Charles Macheers called upon Doug Anstaett who testified as a proponent of **SB361** on behalf of the Kansas Press Association ([Attachment 6](#)).

Chairperson Barker returned to the room and advised the Committee that questions could be addressed to any of the conferees. Representative John Whitmer had a question about texts between legislators, which was responded to by Professor Kautsch and Senator Baumgardner. Representatives John Rubin and Leslie Osterman directed questions to General Schmidt.

Chairperson Barker noted that there was written proponent testimony from Melissa Wangemann, Kansas Association of Counties ([Attachment 7](#)); Christy Molzen for the Kansas Judicial Council ([Attachment 8](#)); Eric Smith, League of Kansas Municipalities ([Attachment 9](#)); Ron Keefover, Kansas Sunshine Coalition for Open Government ([Attachment 10](#)); and Ashley All, Open Kansas Initiative ([Attachment 11](#)).

The hearing on **SB361** was closed.

Hearing on: SB408 — Reporting and investigation of abuse, neglect and exploitation of persons; duties and powers of attorney general, law enforcement and department of corrections.

Chairperson Barker opened the hearing on **SB408**. Jason Thompson, Revisor, provided an overview of the bill.

Chairperson Barker recognized Attorney General Derek Schmidt as a proponent of **SB408** ([Attachment 12](#)). Representatives Steve Becker and Craig McPherson questioned General Schmidt.

Rocky Nichols, Disability Rights Center, testified as a proponent ([Attachment 13](#)).

Questions were then directed to Attorney General Derek Schmidt by Representatives John Rubin, Janice Pauls, and John Carmichael.

Chairperson Barker noted that there was written proponent testimony from Rachel Monger, Leading Age Kansas ([Attachment 14](#)); Judy Davis-Cole, AARP ([Attachment 15](#)); and Kathy Armstrong of the Department for Children and Families ([Attachment 16](#)).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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Chairperson Barker closed the hearing on **SB408**.

Possible action on bills previously heard

SB334 -Requiring notice to the attorney general before any Kansas court determines that a statute or constitutional provision is invalid or unconstitutional

Chairperson Barker asked if there was any objection to working **SB334** and **SB361** today.
Representative John Carmichael objected.

*Vice-Chairperson Charles Macheers moved to suspend the rule and work **SB334** and **SB361**, seconded by Representative Blake Carpenter. A vote was taken, and the Chair noted that the ayes had it. Division was called by Representative John Carmichael. Fourteen voted in favor and six voted no. The motion carried.*

*Representative John Rubin moved to recommend **SB334** favorably for passage, seconded by Representative John Whitmer.*

Representative John Carmichael stated that the hearing on the bill was just held today and there are things that need to be worked on so he opposes the bill.

*Representative John Rubin closed. A vote was taken, and the Chair noted the ayes have it. Division was called by Representative Carmichael. Fifteen ayes were counted and five nos. **SB334** was favorably passed.*

SB361 - An act concerning the open records act; relating to definitions; public agency and public record.

*Vice-Chairperson Charles Macheers moved to recommend **SB361** favorably for passage, seconded by Representative Erin Davis.*

Representative John Carmichael stated they just heard **SB361** today and believes it is a bad idea to work this bill at this time. As a result, he opposes the bill.

Representative Dennis Highberger supports the contents of the bill; however, he shares Representative Carmichael's concerns and will, therefore, oppose **SB361**.

*Vice-Chairperson Charles Macheers closed. A vote was taken, and the Chair noted the ayes had it. Division was called by Representative John Carmichael, and a vote was taken by a show of hands. There were thirteen ayes and seven nos. **SB361** was favorably passed.*

SB415 - Legislative review of exceptions to disclosure of public records.

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CONTINUATION SHEET

MINUTES of the Committee on Judiciary at 3:30 pm on Wednesday, March 09, 2016 in Room 112-N of the Capitol.

Chairperson Barker reminded the Committee that yesterday there was a motion and second to recommend **SB415** favorably for passage. In addition, there was a balloon amendment ([Attachment 17](#)) handed out before yesterday's adjournment.

Representative Janice Pauls renewed her motion to amend **SB415**, seconded by Representative Erin Davis.

There was discussion between Representative Leslie Osterman and Representative Pauls.

Representative Pauls closed on her motion to amend **SB415** as reflected in the balloon amendment. A vote was taken and the amendment was adopted.

Representative John Rubin expressed his concerns with this bill and his opposition to the bill. Further discussion ensued.

Representative Janice Pauls moved to recommend **SB415, as amended**, favorably for passage, seconded by Representative Erin Davis. A vote was taken, and the Chair noted the ayes had it. Division was called by Representative Carmichael. There were nine votes in favor of passage and eleven no votes. **SB415, as amended**, failed to pass.

There being no further business, the meeting was adjourned at 5:20 p.m.