



## **Kansas Press Association, Inc.**

*Dedicated to serving and advancing the interests of Kansas newspapers*

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March 9, 2016

To: Rep. John Barker, chair, House Judiciary Committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: SB 361

Mr. Chairman and members of the Committee:

I am Doug Anstaett, executive director of the Kansas Press Association. Thank you for the opportunity to briefly discuss our association's support of SB 361 to close a significant loophole in the Kansas Open Records Act.

As you all know, this issue has been in the news both at the national and state levels. In Washington, D.C., former Secretary of State Hillary Clinton is having great difficulty explaining why she used a private email account while handling highly sensitive governmental communications and classified information.

In Kansas, Attorney General Derek Schmidt pointed out last year that a serious flaw in KORA allows communications on private phones and through private email accounts to skirt the open records law. An attempt to get at the emails of just such a conversation on the budget last year led to a dead end because of the AG's opinion.

A bipartisan committee of the Kansas Judicial Council — composed of legislators and representatives of the media, local government, the attorney general's office, the University of Kansas School of Law and others — met a number of times last fall to address the issue. Sen. Molly Baumgardner did an excellent job of keeping the committee on task and making sure every possible concern was aired during those meetings. Each of us was allowed to weigh in on what would be required to fix the KORA loophole without creating unnecessary intrusions on privacy.

We believe the solution is to specify to those who do the public's business that their actions will indeed fall under KORA even if their communications took place on privately owned electronic devices.

Our wording is quite specific: We will no longer worry about the "location" of the information, only whether its content refers to the business of the public. Any evidence of a conversation that falls under KORA will be considered a public record no matter what device or method was used to exchange or capture the exchange.

Why is this important?

Because if we do not close this loophole, we might as well throw the entire Kansas Open Records Act out the window.

With no fix, far too many conversations involving the public's business will continue to take place without citizens ever becoming aware of them. Decisions will be made behind closed doors, without public knowledge and input. We all know bad things can happen when someone believes no one is watching.

We urge you to support SB 361. It is the result of hard work and dedication from the Kansas Judicial Council's advisory committee on public records.

Thank you.