

MINUTES OF THE SENATE JUDICIARY COMMITTEE

The meeting was called to order by Chairperson Jeff King at 10:35am on Tuesday, March 08, 2016, 346-S of the Capitol.

All members were present

Committee staff present:

Robert Gallimore, Legislative Research Department
Jason Thompson, Office of Revisor of Statutes
Natalie Scott, Office of Revisor of Statutes
Lauren Douglass, Legislative Research Department
Natalie Nelson, Legislative Research Department
Suzanne Nelson, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Ed Klumpp, Legislative Liaison, Associations for Chiefs of Police, Sheriffs, and KS Peace Officers;
Kansas Attorney General Derek Schmidt;
John Shultz, Deputy General Counsel, Kansas Department of Revenue (KDOR);
Gary Mason, Deputy Secretary for Environment, Kansas Department of Environment (KDHE);
Eric Stafford, VP Government Affairs, The Kansas Chamber;
Larry Zimmerman, on behalf of Kansas Credit Attorneys Association (KCAA);
Scott Heidner on behalf of Eric J. Ellman, Senior VP, Public Policy & Legal Affairs, Consumer Data Industry Association (CDIA);

Others in attendance:

[See Attached List](#)

Hearing continuation on: HB2289 — Substitute for HB 2289 by Committee on Judiciary - DUI test refusal or failure; administrative hearing procedure.

The Chair called the meeting to order and then reconvened the hearing on **HB2289**. Only two proponents, Paul Burmaster and Doug Wells, testified on March 3, 2016 because they could not be present today.

Ed Klumpp presented proponent testimony and supported the proposed amendment. He stood for questions. There were none. ([Attachment 1](#))

Jennifer Roth, Kansas Association of Criminal Defense Lawyers stood to speak when Chair King asked for any other oral proponent testimony. She related that she had been briefed on the proposed amendment and was present to stand for questions on behalf of the two proponents who appeared on

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March 3, plus the written-only proponents listed below:

Robert Gigstad, Attorney Gigstad Law Office LLC, Overland Park, KS ([Attachment 2](#))
Ryan Ginie, Attorney, Pettlon & Ginie Law Offices, Olathe, KS ([Attachment 3](#))
Jay Norton, Attorney, Norton Hare, LLC, Overland Park, KS ([Attachment 4](#))
Jeremiah Platt, Attorney, Clark & Platt, Chtd., Junction City and Manhattan, KS ([Attachment 5](#))
Vincent Roth, Attorney, Roth Law LLC, Wichita, KS ([Attachment 6](#))
Zach Thomas, Attorney, Zach V. Thomas LLC, Olathe, KS ([Attachment 7](#))
Jerry Wallentine, Attorney, Martin & Wallentine, Olathe, KS ([Attachment 8](#))
Michael Whalen, Attorney, Michael P. Whalen Law Office, Wichita, KS ([Attachment 9](#))

John Shultz presented opponent testimony. While they had no objections to some sections of the bill, there were other provisions KDOR would like to see changed. Particularly, passage of the current bill was estimated to cost KDOR over \$300,000 related to the time required by the administrative hearing officers to conduct hearings which was an estimated twenty-five (25) percent increase. Additionally, KDOR estimated a thirty (30) percent increase in the number of hearings requested. For this and other reasons, Mr. Shultz proposed an amendment that was attached to his testimony. Mr. Shultz answered questions from the committee and the Chair. ([Attachment 10](#))

Chair King called attention to the written-only testimony from Christopher Mann, Member of the Advisory Board and Advocate for Mothers Against Drunk Driving. ([Attachment 11](#))

Gary Mason presented oral neutral testimony for **HB2289** as it relates to the Kansas' Breath Alcohol Program. Specifically, Mr. Mason addressed the costs KDHE would incur for software and display upgrade, staff time, and overhead to implement modifications to KDOR's Forms DC-27, DC-28, and CDL-5 to be in the range of \$25,000 - \$75,000. ([Attachment 12](#))

Chair King called attention to the written-only neutral testimony of Eric Smith, Deputy General Counsel, League of Kansas Municipalities. ([Attachment 13](#))

There being no other oral or written proponent, opponent, or neutral testimony, and no further questions or discussion, Chair King closed the hearing on **HB2289**.

The Chair turned the committee's attention to **SB424** and opened the hearing.

Hearing on:

SB424 --- Amending consumer protection laws related to identity theft and security of personal identifying information

Jason Thompson gave an overview of the bill regarding consumer protection and destruction of consumer information and stood for questions. There were none.

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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Kansas Attorney General Derek Schmidt presented testimony supporting **SB424**. He related that this bill mainly focuses on the provisions of K.S.A. 50-7a03, which pertains to disposal of records containing personal information, the duty to take reasonable steps to protect such information, and the penalties for violations. He also proposed some amendments which he believed would address concerns of both proponents and opponents of the bill. He related that he was working with that group of people, and was confident that a consensus agreement would be reached soon. General Schmidt answered questions from the committee. ([Attachment 14](#))

Chair King pointed to the written-only proponent testimony of Judy Bellome, Kansas Executive Council Member of AARP, Inc., and Chair of AARP Kansas Capital City Task Force. ([Attachment 15](#))

Eric Stafford testified as opposed to the bill. He stated that although his group from the Kansas Chamber still had some concerns, they have had several productive meetings with General Schmidt and others regarding proposed amendments. He stated their main concerns were about New Section 2(b) (2); the difference between personal identifying information and personal information; and granting the Attorney General rule-making authority on security standards. ([Attachment 16](#))

Larry Zimmerman also presented opponent testimony. He shared three concerns: 1) Vague requirements; 2) Immediate negative consumer impact; and 3) Delayed negative consumer impact. ([Attachment 17](#))

Chair King asked for questions of the opponents. There were none.

Scott Heidner gave neutral testimony stating that initially his group had opposed **SB424**, but they had sufficiently worked out their issues in meetings with the Attorney General and could now stand as neutral on the bill. ([Attachment 18](#))

Chair King asked if there were other neutral conferees or if there were any questions for Mr. Heidner. There were none.

There being no other written or oral proponent, opponent, or neutral testimony, Chair King closed the hearing on **SB424**. He stated that the committee would not be working the bill until next Tuesday, March 15, to give the parties time to resolve their issues and propose any amendments at that time.

Possible action on bills previously heard

Chair King briefly reopened the hearing on **SB467** to receive and distribute the written-only opponent testimony of Stanton A. Hazlett, Judicial Branch, Disciplinary Administrator, to the committee and audience. The Chair related that Mr. Hazlett would also be meeting with the others and Attorney General Schmidt to resolve any remaining issues. The hearing on **SB467** was then closed. ([Attachment 19](#))

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The minutes of the Senate Judiciary Committee for January 21, January 26, January 27, January 28, and February 2, 2016 were approved.

Chair King turned the committee's attention to action on **Sub HB2062**. Jason Thompson gave a brief refresher on the bill regarding updates and technical corrections to Article 4(a) and Article 9 of the Uniform Commercial Code (UCC).

Senator Bruce moved to amend the effective date on page 6, section 7, to the date the law is published in the Kansas Register; seconded by Senator Smith; the motion carried.

Senator Pilcher-Cook moved to recommend **Sub HB2062**, as amended, favorably for passage; seconded by Senator Petersen; motion carried.

There being no other business for today, the meeting adjourned at 11:30 am. The next meeting will be Thursday, March 10, 2016.