

State of Kansas

Senate Chamber

MARTHA J. "MOLLY" BAUMGARDNER
STATE SENATOR, 37TH DISTRICT
29467 MASTERS COURT
LOUISBURG, KANSAS 66053
(913) 709-1069

ROOM 224-E, STATE CAPITOL
TOPEKA, KANSAS 66612
OFFICE: (785) 296-7368
molly.baumgardner@senate.ks.gov



Oral Proponent of Senate Bill 361/March 9, 2016

Chairman Barker, members of the committee, thank you for this opportunity to present testimony in support of Senate Bill 361.

Last legislative session, I introduced Senate Bill 306 in an effort to move the standing Kansas Open Records Act into the 21st Century. For decades, high school and college journalism faculty have shared with their students the important role the Fourth Estate plays in maintaining a functioning democracy. Additionally, most journalism textbooks include the substantial evidence that changes in technology are so rapid – particularly communication technology – that it is virtually impossible for state and federal laws to stay in step with technological advances.

During the interim session, the Open Records Advisory Committee met on four different occasions to discuss, review, debate, research and recommend the best course of legislative action for applying KORA to electronically transmitted communication concerning public business, by public officials from private devices and/or accounts. Our work included exploring how other states balance privacy issues with appropriate public disclosure and technological limitations of document conservancy.

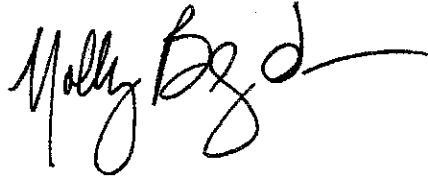
Senate Bill 361 builds upon recent legislative efforts to improve accountability and open communication with Kansans.

- It affords the opportunity to place the appropriate emphasis on the content of electronically transmitted “public work” while taking away the stumbling block of technology ownership.
- It places the emphasis on the recorded information, not the actual location.
- It expands the definition of public record to include emails or text messages about public business without unduly affecting the privacy rights of a public employee or official.
- It identifies that officers or employees of a public agency that have electronic communication related to the work of the public agency need to conserve those documents. The form of conservation is not mandated as this is one technological area that is still developing.

- It maintains the existing penalty and remedy language adopted in 2015 H.B. 2256.

Mr. Chairman and committee members, thank you for your thoughtful consideration of Senate Bill 361 today. This bill proposes we adopt definitions that are in keeping with the changes of how public records are created due to the rapid changes in technology. I appreciate your support of legislation that demonstrates our commitment to Kansans while adhering to the best practices used in other states.

Senator Molly Baumgardner

A handwritten signature in black ink, appearing to read "Molly Baumgardner", with a long horizontal flourish extending to the right.