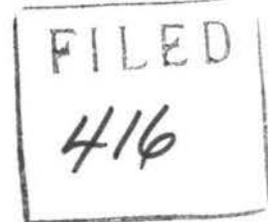


September 16, 1971

OPINION LETTER NO. 416
Answer by Letter - Klaffenbach

Honorable Donald L. Manford
Missouri Senate, District 8
9409 Oakland
Kansas City, Missouri 64138



Dear Senator Manford:

This letter is in answer to your opinion request in which you ask whether under the provisions of Senate Bill No. 318 of the 76th General Assembly, state agencies under the control of the Governor are required to provide information and access to their books and accounts, reports, vouchers, correspondence files and all other records and property to the Committee on State Fiscal Affairs or whether such agencies are prohibited from doing so by reason of an executive order.

We assume that the information and records to be requested will be germane to the functions and duties of the Committee.

You indicate in your opinion request that the Governor issued an executive order prohibiting "such information by some agencies" and that the Governor then signed Senate Bill No. 318 effective September 28, 1971, amending Section 21.500, RSMo 1969.

First of all we note that the only change made in Section 21.500, RSMo 1969 by Senate Bill No. 318 was to add paragraph 5 which requires the Committee to compile and distribute to the members of the General Assembly a compendium of federal funds received and expended by all state agencies and institutions of higher education. The pertinent portion of that section to which you refer is Subsection 4 which was not changed and which states:

"The committee and its staff may use information and data made available to it by the state auditor and state comptroller and, on

Honorable Donald L. Manford

written request of the committee, state departments, divisions, institutions and agencies shall provide information and access to their books, accounts, reports, vouchers, correspondence files and all other records and property. The access to such information, records and accounts shall be secondary to their use by the auditor and comptroller in the performance of their official duties, except that the priority of the auditor and comptroller is limited to ten calendar days following a written request for access by the committee."

Subsection 4 is from the laws of 1965, p. 132-133, and pertains literally to "state departments, divisions, institutions and agencies." An executive order contrary to the provisions of that section could not have the effect of invalidating existing law with respect to the subject in question. There would be no constitutional basis to support such an executive order, and in fact, the Missouri Constitution expressly provides that under Section 2 of Article IV, the Governor shall take care that the laws are "faithfully executed."

In answer to your question, we thus conclude that an executive order by the Governor could not interfere with the right of the Committee on State Fiscal Affairs to request and receive information and records under Subsection 4 of Section 21.500.

Very truly yours,

JOHN C. DANFORTH
Attorney General