

Approved: February 4, 1997  
Date

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on January 22, 1997 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research Department  
Fred Carman, Revisor of Statutes  
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Chuck Stones, KBA  
Kathy Taylor, KBA  
Matt Goddard, Heartland Bankers  
Bill Sneed, State Farm  
Tom Wilder, Kansas Insurance Department  
Jerry Slaughter, Kansas Medical Society

Others attending: See attached list

**Hearing on SB 26 -- Financial institutions disclosure of certain information**

Chuck Stones, representing the Kansas Bankers Association, requested passage of a non-permissive bill which would protect banks from legal action when supplying requested confidential information to government agencies regarding the bank's customers (Attachment 1). Banks would be subject to enforcement action if they refuse to comply with the new Welfare Reform legislation which requires them to give confidential information regarding "dead-beat" dads to the SRS. This legislation would protect banks, savings and loan associations, or trust companies when making a good faith disclosure of customer information when requested by a government agency.

Committee discussion included questions addressing the responsibility of confidentiality of information by the requesting agency, including credit unions and credit bureaus under this protection act, benefits to the general public, appropriateness of banks responding to telephone inquiries, requiring all requests for such information to be written and signed, and liability of financial institutions in case of giving out inaccurate information. Requiring SRS to request information by supplying either a court order or subpoena would slow their process considerably.

Kathy Taylor of the Kansas Bankers Association reported to the Committee that usually written agreements (contracts) between governmental agencies and banks regarding such requests for confidential information are made. The feasibility of reviewing each of these contracts was discussed. Ms. Taylor suggested an amendment to the bill which would require written requests for such information and contain a good faith disclosure.

Matt Goddard, Heartland Community Bankers Association, in recommending the bill for passage, stated their willingness to cooperate in assisting with welfare reform (Attachment 2). This bill would offer protection in the involvement of thrifts and others in the financial community from liability even though the problem is addressed in the upcoming welfare reform bill. Colorado has legislation in place at this time to avoid the nuisance of frivolous lawsuits.

Confidentiality for banks is now protected by the Federal Privacy Act by requiring them to respond to only court orders, subpoenas, and search warrants without fear of liability. The banks have no control over what happens to the information or who disperses it.

## CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on January 22, 1997.

The Chair asked the conferees to return to the Committee with a more detailed and restrictive bill which would be narrowly focused on the problems of shared information and protected rights.

The hearing was continued.

### **Hearing on SB 30: Trade secrets and confidential commercial information furnished by or obtained from insurance companies to the Kansas Insurance Department**

Bill Sneed, State Farm, told the Committee that the Kansas Insurance Department can request any privileged, confidential, commercial, or financial information from insurance companies as well as trade secrets of the company (Attachment 3). If the company fails to comply, an administrative hearing is held. The Insurance Department can fine uncooperative insurance companies. The Uniform Trade Secrets Act does not cover entities who willingly provide information to government bodies such as the regulator. When providing information for a survey or general information report of the government agency, there is the possibility of making secret or commercial information available to competitors. Public agencies are required to disclose information contained in the public record. The Open Records Act provides protection for only 42 types of records which are not required to be disclosed. Risk-based capital, actuarial opinions, financial analysis ratios provided by the NAIC, and disclosure reports are the only protected instruments in the insurance industry. The proposed bill would provide the needed protection of trade secrets and confidential information of regulated entities in the state. The KID would still be able to compile information from companies doing business in Kansas without identifying the companies by name. Almost any regulated governmental agency could request information from any other regulated agency and the information would probably be shared with them.

Tom Wilder, Kansas Insurance Department, appeared as an opponent of the proposed legislation (Attachment 4). He provided the exemptions from the Open Records Act that insurance companies already enjoy. Mr. Wilder suggested that any further exemptions from the Act should be narrowly drawn to protect the rights of consumers to gather information on insurance companies.

Jerry Slaughter, Kansas Medical Society, questioned the unintended results which might occur from passage of the bill as it stands now (Attachment 5). What information would be considered privileged would be at the discretion of the insurance company. Insurance companies have leverage and the ability to control physicians, especially those involved in managed care. Such control can lead to influencing health care decisions such as controlling clinical decisions made by a physician's network. He requested specificity in detailing what types of information would be protected as it appears in Lines 14-15 of SB 30 bill.

The hearing SB 30 was continued.

**The hearing on SB 31** was rescheduled for January 23, 1997.

The meeting adjourned at 10:01 a.m. The next meeting is scheduled for January 23, 1997.

SENATE FINANCIAL INSTITUTIONS & INSURANCE  
COMMITTEE GUEST LIST

DATE: 1/22

NAME	REPRESENTING
William W Sneed	Amvestors
Meg Hanson	KMS
Rogers Brazier	St. Treasurer's Office
Roger Froude	BK IV
Judi Stork	OSBC
Trish Copeland	Security Benefit Group
Brenda Kramer	Security Benefit Group
Tom Wilder	Kansas Insurance Dept
Lori Callahan	Kammco
Bill Mitchell	Alliance
STEVE KEARNEY	QIGNA
Chuck Stones	KBA
Susan Baker	Hein + Wein
Kathy Taylor	KBA
Callie Jill Denton	Bottenberg's Assoc.
Nenesa Lattmann	State Farm
JOHN C. BOTTENBERG	AMVESTORS

# Kansas Bankers Association

800 SW Jackson, Suite 1500

Topeka, KS 66612

913-232-3444 Fax - 913-232-3484 E-Mail - kbacs@ink.org

1-22-97

To: Senate Financial Institutions and Insurance Committee  
From: Chuck Stones, Director of Research

Re: SB 26

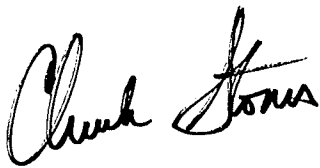
Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before you today in support of SB 26. Every day banks walk a fine line. More and more they are being asked to provide information to Government Agencies pertaining to their customers. They are also charged with the confidentiality of those customers' records. Examples would include subpoenas, garnishment orders, etc. The new Welfare Reform legislation is another example. Banks will be required to provide information to SRS on "dead-beat" dads. The potential exists for legal action by a bank customer if the information is provided, and, on the other side, enforcement action by the government agency if it does not comply with the request. As you can see the bank is between a rock and a hard place.

Therefore, we ask for this very simple addition to the statutes. This new language will simply protect a bank, trust company, or savings and loan association when making a good faith disclosure of customer information when requested by a government agency.

We hope you will see the logic in this request and vote YES on SB 26.

Thank you for your time.



Senate F&I  
Attachment  
1/22/97



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512  
Topeka, Kansas 66603  
(913) 232-8215

To: Senate Financial Institutions and Insurance Committee

From: Matthew Goddard  
Heartland Community Bankers Association

Date: January 22, 1997

Re: Senate Bill No. 26

The Heartland Community Bankers Association appreciates the opportunity to appear before the Senate Committee on Financial Institutions and Insurance in support of SB 26.

Kansas savings associations are willing to do their part in providing customer information to federal and state agencies, when requested. For example, we anticipate financial institutions to play a role in welfare reform. While our industry is most willing to assist in finding the accounts of parents delinquent in paying their child support, concerns about liability exist. This bill will help protect the involvement of thrifts and others in the financial community from liability for disclosing customer information to the government as a third party.

We respectfully request that the Senate Committee on Financial Institutions and Insurance recommend SB 26 for passage.

Thank you.

*Senate F.I.I.  
Attachment 2  
January 22*

## MEMORANDUM

TO: The Honorable Don Steffes, Chairman  
Senate Financial Institutions and Insurance Committee

FROM: William W. Sneed  
The State Farm Insurance Companies

DATE: January 22, 1997

RE: S.B. 30

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Mr. Chairman, Members of the Committee: My name is Bill Sneed and I represent The State Farm Insurance Companies. S.B. 30 would create a new provision for the protection of trade secrets, privileged information, and confidential commercial or financial information furnished by or obtained from an insurance company to the Kansas Insurance Department.

Kansas law has long recognized the importance of protecting trade secrets. The Kansas legislature enacted the Uniform Trade Secrets Act (UTSA) in 1981. This Act prohibits and punishes misappropriation of trade secrets. Trade secret is defined as information that derives economic value from being kept from public view and is the subject of efforts to keep it hidden. One popular example of a trade secret is the formula for Coca-Cola.

Unfortunately, the protection of the UTSA does not encompass situations where entities willingly provide information to government bodies, such as in the instance of a regulated entity providing information to its regulator. One example is when an insurance company provides information to the Kansas Insurance Department to assist the Department in conducting a study of certain aspects of the insurance industry in Kansas. Another good example is the exchange of information between regulated public utilities and the Kansas Corporation Commission for the same sorts of purposes.

*Senate FID  
Attachment 3  
Jan 22, 1997*

A free exchange of information between the regulator and the regulated entity is ultimately threatened by the possibility of trade secret or confidential commercial information becoming available to the general public--more specifically, to competitors. This is exactly the situation that insurance companies face when presented with a request for information from the Kansas Insurance Department. The company is willing to provide the information for purposes of a study, etc., but fears the exposure of the information to competitors who may be able to take the information and use it to the competitor's advantage.

Under current law, such information is not protected. Public agencies are required to disclose information contained in the public record. The Kansas Open Records Act, K.S.A. 45-221 et seq., provides protection for only certain public records held by public agencies in Kansas. K.S.A. 45-221 contains a list of approximately 42 types of records which a public agency is not required to disclose. Four types of protected information are related to insurance: risk-based capital reports, actuarial opinions, financial analysis ratios provided by the NAIC, and disclosure reports required by law relating to acquisitions and reinsurance agreements. This, however, does not protect other basic types of information which insurance companies possess about their business and which would be very valuable in the hands of competitors.

The Kansas legislature has specifically provided for protection of the trade secrets and confidential information of other regulated entities in this state. This protection extends to information of entities regulated by the Kansas Corporation Commission, K.S.A. 66-1220a; information of nuclear energy producers, K.S.A. 48-1614; and information gathered pursuant to Kansas food, drug and cosmetics laws, K.S.A. 65-657(k).

State Farm believes that it is logical and necessary to extend protection of trade secrets and confidential information to that information provided by or obtained from insurance companies to the Kansas Insurance Department. This protection would foster greater cooperation between the

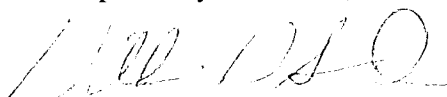
insurance regulator and the regulated companies. The greater the degree of cooperation and free exchange of information between insurance companies and the Kansas Insurance Department, the better the ability of the Department to make well-informed decisions backed by solid data from the industry and thus better serve the insurance consumers of this state.

Nothing in S.B. 30 would prohibit the Department from compiling information from various companies doing business in Kansas and aggregating the information--without specific identification of certain companies with certain information-- for disclosure to the general public. Further, S.B. 30 ultimately allows for release of company-provided information upon receipt of a court order or with written consent of the company. This provision provides built-in protection for both the insurance company and the person requesting the information. The consideration of a Kansas court would forestall release of trade secrets or confidential commercial information detrimental to the company; however, it would also allow a court to release information that is not a trade secret or confidential in nature.

Several states already have some form of trade secret protection for insurance companies. Some specific examples include Alabama, Alaska, Delaware, and Hawaii. As we stated earlier, other regulated entities in this state enjoy some sort of trade secret protection. S.B. 30 would merely extend that protection to certain types of information provided by insurance companies to the Kansas Insurance Department. We respectfully request your favorable action on S.B. 30.

We appreciate the opportunity to present our testimony. Please feel free to contact me if you have any questions.

Respectfully submitted,



William W. Sneed





Kathleen Sebelius  
Commissioner of Insurance  
**Kansas Insurance Department**

MEMORANDUM

TO: Senate Financial Institutions  
and Insurance Committee

FROM: Tom Wilder

Re: Senate Bill No. 30 (Protection of Trade Secrets)

DATE: January 22, 1997

The Insurance Department appears today in opposition to S. B. 30 which exempts insurance company, "trade secrets, privileged information and confidential commercial or financial information" from the Kansas Open Records Act. The Department collects a wide variety of data from insurers and most of this information is open to public inspection. There are already four specific exemptions in the Open Records Act for financial examination and other insurance information given to the Insurance Commissioner by companies. A copy of the current exemptions from the records law are attached to my testimony.

– Companies do have a right to protect business sensitive information from their competitors. Any exemptions from the Open Records Act should be narrowly drawn to protect the rights of consumers to information on insurance companies. If State Farm can point to specific information that they want protected, those reports can be added to the list of exceptions.

The Kansas Insurance Department asks that the Committee not approve S. B. 30.

treasurer shall deposit the entire amount thereof in the state treasury and credit the same to the state general fund or an appropriate fee fund as determined by the agency head.

(e) Each public agency of a political or taxing subdivision shall remit all moneys received by or for it from fees charged pursuant to this act to the treasurer of such political or taxing subdivision at least monthly. Upon receipt of any such moneys, such treasurer shall deposit the entire amount thereof in the treasury of the political or taxing subdivision and credit the same to the general fund thereof, unless otherwise specifically provided by law.

(f) Any person who is a certified shorthand reporter may charge fees for transcripts of such person's notes of judicial or administrative proceedings in accordance with rates established pursuant to rules of the Kansas supreme court.

**History:** L. 1984, ch. 187, § 5; L. 1984, ch. 282, § 2; L. 1994, ch. 100, § 1; L. 1995, ch. 135, § 1; July 1.

**Attorney General's Opinions:**

Open public records; requests; responses; refusals; fees. 93-126.

Insurance verification pilot project; information network of Kansas; charges for services rendered. 93-132.

**45-220.**

**Attorney General's Opinions:**

Open public records; requests; responses; refusals; fees. 93-126.

**45-221. Certain records not required to be open; separation of open and closed information required; statistics and records over 70 years old open.** (a) Except to the extent disclosure is otherwise required by law, a public agency shall not be required to disclose:

(1) Records the disclosure of which is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or the disclosure of which is prohibited or restricted pursuant to specific authorization of federal law, state statute or rule of the Kansas supreme court to restrict or prohibit disclosure.

(2) Records which are privileged under the rules of evidence, unless the holder of the privilege consents to the disclosure.

(3) Medical, psychiatric, psychological or alcoholism or drug dependency treatment records which pertain to identifiable patients.

(4) Personnel records, performance ratings or individually identifiable records pertaining to em-

ployees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such.

(5) Information which would reveal the identity of any undercover agent or any informant reporting a specific violation of law.

(6) Letters of reference or recommendation pertaining to the character or qualifications of an identifiable individual.

(7) Library, archive and museum materials contributed by private persons, to the extent of any limitations imposed as conditions of the contribution.

(8) Information which would reveal the identity of an individual who lawfully makes a donation to a public agency, if anonymity of the donor is a condition of the donation.

(9) Testing and examination materials, before the test or examination is given or if it is to be given again, or records of individual test or examination scores, other than records which show only passage or failure and not specific scores.

(10) Criminal investigation records, except that the district court, in an action brought pursuant to K.S.A. 45-222, and amendments thereto, may order disclosure of such records, subject to such conditions as the court may impose, if the court finds that disclosure:

(A) Is in the public interest;

(B) would not interfere with any prospective law enforcement action;

(C) would not reveal the identity of any confidential source or undercover agent;

(D) would not reveal confidential investigative techniques or procedures not known to the general public;

(E) would not endanger the life or physical safety of any person; and

(F) would not reveal the name, address, phone number or any other information which specifically and individually identifies the victim of any sexual offense in article 35 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

(11) Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil

litigation or reveal the identity of a confidential source or undercover agent.

(12) Records of emergency or security information or procedures of a public agency, or plans, drawings, specifications or related information for any building or facility which is used for purposes requiring security measures in or around the building or facility or which is used for the generation or transmission of power, water, fuels or communications, if disclosure would jeopardize security of the public agency, building or facility.

(13) The contents of appraisals or engineering or feasibility estimates or evaluations made by or for a public agency relative to the acquisition of property, prior to the award of formal contracts therefor.

(14) Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

(15) Records pertaining to employer-employee negotiations, if disclosure would reveal information discussed in a lawful executive session under K.S.A. 75-4319, and amendments thereto.

(16) Software programs for electronic data processing and documentation thereof, but each public agency shall maintain a register, open to the public, that describes:

(A) The information which the agency maintains on computer facilities; and

(B) the form in which the information can be made available using existing computer programs.

(17) Applications, financial statements and other information submitted in connection with applications for student financial assistance where financial need is a consideration for the award.

(18) Plans, designs, drawings or specifications which are prepared by a person other than an employee of a public agency or records which are the property of a private person.

(19) Well samples, logs or surveys which the state corporation commission requires to be filed by persons who have drilled or caused to be drilled, or are drilling or causing to be drilled, holes for the purpose of discovery or production of oil or gas, to the extent that disclosure is limited by rules and regulations of the state corporation commission.

(20) Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

(21) Records of a public agency having legislative powers, which records pertain to proposed legislation or amendments to proposed legislation, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(22) Records of a public agency having legislative powers, which records pertain to research prepared for one or more members of such agency, except that this exemption shall not apply when such records are:

(A) Publicly cited or identified in an open meeting or in an agenda of an open meeting; or

(B) distributed to a majority of a quorum of any body which has authority to take action or make recommendations to the public agency with regard to the matters to which such records pertain.

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate, except that:

(A) The name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate shall be subject to disclosure to any person other than another inmate;

(B) the ombudsman of corrections, the attorney general, law enforcement agencies, counsel for the inmate to whom the record pertains and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law;

(C) the information provided to the law enforcement agency pursuant to the sex offender registration act, K.S.A. 22-4901, et seq., and amendments thereto, shall be subject to disclosure to any person; and

(D) records of the department of corrections regarding the financial assets of an offender in the custody of the secretary of corrections shall be subject to disclosure to the victim, or such victim's family, of the crime for which the inmate is in custody as set forth in an order of restitution by the sentencing court.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency.

(35) Records involved in the obtaining and processing of intellectual property rights that are expected to be, wholly or partially vested in or owned by a state educational institution, as defined in K.S.A. 76-711, and amendments thereto, or an assignee of the institution organized and existing for the benefit of the institution.

(36) Any report or record which is made pursuant to K.S.A. 65-4922, 65-4923 or 65-4924, and amendments thereto, and which is privileged pursuant to K.S.A. 65-4915 or 65-4925, and amendments thereto.

(37) Information which would reveal the precise location of an archeological site.

(38) Any financial data or traffic information from a railroad company, to a public agency, concerning the sale, lease or rehabilitation of the railroad's property in Kansas.

(39) Risk-based capital reports, risk-based capital plans and corrective orders including the working papers and the results of any analysis filed with the commissioner of insurance in accordance with K.S.A. 1995 Supp. 40-2c20, and amendments thereto.

(40) Memoranda and related materials required to be used to support the annual actuarial opinions submitted pursuant to subsection (b) of K.S.A. 40-409, and amendments thereto.

(41) Disclosure reports filed with the commissioner of insurance under subsection (a) of K.S.A. 1995 Supp. 40-2,156, and amendments thereto.

(42) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system.

(b) Except to the extent disclosure is otherwise required by law or as appropriate during the course of an administrative proceeding or on appeal from agency action, a public agency or officer shall not disclose financial information of a taxpayer which may be required or requested by a county appraiser to assist in the determination of the value of the taxpayer's property for ad valorem taxation purposes; or any financial information of a personal nature required or requested by a public agency or officer, including a name, job description or title revealing the salary or other compensation of officers, employees or applicants for employment with a firm, corporation or agency, except a public agency. Nothing contained herein shall be construed to prohibit the publication of statistics; so classified as to prevent identification of particular reports or returns and the items thereof.

(c) As used in this section, the term "cited or identified" shall not include a request to an employee of a public agency that a document be prepared.

(d) If a public record contains material which is not subject to disclosure pursuant to this act, the public agency shall separate or delete such material and make available to the requester that material in the public record which is subject to disclosure pursuant to this act. If a public record is not subject to disclosure because it pertains to an identifiable individual, the public agency shall delete the identifying portions of the record and make available to the requester any remaining portions which are subject to disclosure pursuant to this act, unless the request is for a record pertaining to a specific individual or to such a limited group of individuals that the individuals' identities are reasonably ascertainable, the public agency shall not be required to disclose those portions of the record which pertain to such individual or individuals.

(e) The provisions of this section shall not be construed to exempt from public disclosure statistical information not descriptive of any identifiable person.

(f) Notwithstanding the provisions of subsection (a), any public record which has been in existence more than 70 years shall be open for inspection by any person unless disclosure of the record is specifically prohibited or restricted by federal law, state statute or rule of the Kansas supreme court or by a policy adopted pursuant to K.S.A. 72-6214, and amendments thereto.

**History:** L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 107, § 8; L. 1995, ch. 44, § 1; L. 1995, ch. 257, § 6; July 1.

**Revisor's Note:**

Section was amended four times in 1994 session, see also 45-221a, 45-221b and 45-221c.

**Attorney General's Opinions:**

Provisions of diversion agreements; open public records. 94-7.

Sexually violent predator act; disclosure of medical and other treatment records to prosecutor. 94-81.

**CASE ANNOTATIONS**

6. Review of weight given to state statutes in federal cases considering the privacy interests of police officers regarding discovery requests. *Mason v. Stock*, 369 F.Supp. 828, 832 (1994).

**45-221a.**

**History:** L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 138, § 28; Repealed, L. 1995, ch. 44, § 2; Apr. 27.

**45-221b.**

**History:** L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 101, § 2; Repealed, L. 1995, ch. 44, § 2; Apr. 27.

**45-221c.**

**History:** L. 1984, ch. 187, § 7; L. 1984, ch. 282, § 4; L. 1986, ch. 193, § 1; L. 1987, ch. 176, § 4; L. 1989, ch. 154, § 1; L. 1991, ch. 149, § 12; L. 1994, ch. 89, § 5; Repealed, L. 1995, ch. 44, § 2; Apr. 27.

**Article 3.—LEGISLATIVE DOCUMENTS**

**45-310.**

**Attorney General's Opinions:**

Recovery of protested tax payments; limitation if valuation appeal pursued; retroactivity of statutory amendment. 94-98.

**45-311.**

**Attorney General's Opinions:**

Recovery of protested tax payments; limitation if valuation appeal pursued; retroactivity of statutory amendment. 94-98.

**45-317.**

**Attorney General's Opinions:**

Discrepancy in language of bill passed by legislature and signed by governor; constitutionality. 94-60.

**Article 4.—PUBLIC RECORDS  
PRESERVATION**

**45-402.**

**Attorney General's Opinions:**

State agencies required to appoint a records officer; deferred compensation unit; department of administration; state agency defined. 95-26.



# KANSAS MEDICAL SOCIETY

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January 22, 1997

TO: Senate Financial Institutions and Insurance Committee

FROM: Jerry Slaughter  
Executive Director

SUBJECT: SB 30; concerning trade secrets and confidential information

The Kansas Medical Society appreciates the opportunity to appear today as you consider SB 30, which would prohibit the insurance commissioner from disclosing certain information provided by insurance companies. We do not oppose the concept as we understand it, but we have some questions about the possible unintended effects which may result.

We support the idea of protection against the unauthorized release of trade secrets. Companies should not have to fear that proprietary information that is key to their business will become a public record just because it is required to be submitted to the insurance department for bona fide regulatory purposes. Our questions center around the phrase "privileged information and confidential commercial or financial information" which appears on lines 14 - 15 of the bill. This phrase is quite broad and not specific as to which information is protected. Presumably, the determination of which information is privileged would be a judgment made by the company. That is the point which raises the most questions for us.

In the current environment of managed health care large, well capitalized insurance companies with substantial market power have incredible leverage and the ability to exercise a great deal of control over individual physicians. Couple that with the fact that many managed care systems are moving rapidly to also own and operate hospitals and physician practices. The resulting integrated insurance/provider conglomerates have the potential to wield enormous corporate influence over health care decisions. The broad language noted above holds the potential that such a company could protect from disclosure information which may shed light on internal arrangements designed to control clinical decisions made by network physicians, for example. That would not be in the best interest of patient care, nor does it promote a level playing field for physicians who must contract with the company because of the market power it wields.

As we noted above, we do support the concept of protecting trade secrets. However, we do believe the bill can be made better if the language on lines 14 -15 is more specific about what information is to be protected. We appreciate the opportunity to offer these comments.

*Senate F.I.S. 1  
Attachment 5  
1/22/97*