

Approved: 3/13/95
Date

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on March 8, 1995 in Room 531-N of the Capitol.

All members were present except:

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jacqueline Breymeyer, Committee Secretary

Conferees appearing before the committee:

Others attending:

Chairman Ramirez called the meeting to order at 1:35 p.m. He called for action on the minutes of March 7. Senator Papay moved the March 7 minutes be approved. Senator Vidricksen gave a second to the motion. The motion carried.

SB 318--repealing the Kansas Governmental Operation Accountability Law - K-GOAL

Julian Efird, Legislative Services, distributed a Memorandum to the committee on K-GOAL legislation and gave some history on the Sunset Law and sunset reviews, which the Legislature repealed in 1992. In 1992 the Kansas Governmental Operations Accountability Law (K-GOAL) was established. He went through subsequent years, detailing what had happened and what will take place in audit, review and evaluation of audits with regard to state agencies. (Attachment 1)

A member of the committee commented that there should be a better type of audit process without the creation of another bureaucracy. Another member mentioned the 'devastating effect' of the Wildlife and Parks audit.

It was stated that the repeal of K-GOAL will not solve the audit problem. The old Sunset review did not solve the problem either. This has been an ongoing problem for many years.

Barb Hinton, Legislative Post Auditor, was present for input. She commented on several agencies; SRS tends to focus on smaller compliance issues; what the agency has tried to achieve over the years in the audit area has not been able to survive the different secretaries. The Department of Revenue has an internal audit function more like the way Post Audit operates; it reviews for efficiency and effectiveness. The department has had the support of secretaries over the years.

It was commented that if the Department of Revenue can do it, other agencies should be able to do it.

Julian Efird distributed a paper dated March 9, 1983, which contained a House Governmental Organization Subcommittee Report's Subcommittee Recommendations on Internal Auditing. (Attachment 2) The Senate Governmental Organization Committee Chairman played an important part on this subcommittee.

One of the committee mentioned that there used to be some of the finest auditors in the country in Accounts and Reports, but over the years there has been a loss of staff.

The comment was made that if there are no other staff resources in an agency, audit people will have to be pulled from one area of need to another area of need.

Ms. Hinton stated that what K-Goal does from Post Audit's standpoint is that it lays out over the course of years audits of various agencies. An agency such as SRS is huge. The entire agency cannot be done, but programs within the agency can be done; smaller pieces of the agency. The audit report is presented to the Governmental Organization committee. Post Audit also sets the scope of the audit.

There is limited staff. There are four audit teams with four or five persons on a team. KPERS auditing takes one of the four audit teams.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL organization Statehouse, at 1:30 p.m. on March 8, 1995.

In further response Ms. Hinton commented that unless an agency head has a good sense of what the internal audit function is to do, and unless there is a strong direction for them to identify problems and propose solutions, putting more auditors in an agency is not going to work. The secretary of an agency will have to be willing to act on the information.

Ms. Hinton was asked if she has had an opportunity to visit with the new secretaries and she responded that she has not.

The possibility of the Governor having an audit staff that could focus on problem areas and help agencies get into shape was discussed. There would be a lot of political and resource considerations. It would depend on the secretaries or Governor - those persons involved willing to address it.

A committee member commented that he did not think the Governor was the correct person to be involved; the auditors should report to the board of directors - the legislators. The response was that this was not correct either because they do not have the power or authority to make an agency fix the problem. Funding can be fixed, but it cannot be handled like a board of directors. In private business executives could say tell the CEO to get rid of a non-performer.

It was mentioned that with the House having 125 and the Senate 40 persons, the House has more time to look at agency audits, but they do not have the expertise; it reviews what it is given to review. The department heads and agency heads tell the committees what they want them to know.

Ms. Hinton commented that a short time ago there were 44 audit requests. Post Audit cannot begin to fulfill that many requests. It has dropped to 26, and so far this year 20. All K-GOAL audits that have been approved have also been audits requested by individual legislators.

One of the legislators commented that since K-GOAL doesn't provide the proper time and legislators do not have the expertise, maybe the Governor could be convinced to bring on board a group or team of internal auditors that would be answerable to him. Then there would be some accountability; the ferreting out of fact from fiction as to what is happening in the agencies. As crises arise, a target team could then address a problem within a given agency.

Another comment made was that whatever is done, it shouldn't be a knee-jerk reaction.

The concern of the Governor's office having a part was expressed. It would be awkward if an auditor's report showed a bad job done by a certain agency.

It was stated that most states that have an elected auditor do the financial audits; the legislative auditors do the performance audits.

Senator Oleen, former Chairman of Governmental Organization, appeared to state that she was very strong on K-GOAL. She mentioned being in Committee when the audits reports would focus on a particular area of concern and agency heads would give their version, making for the confusion of the committee members.

K-GOAL was implemented to allowed for more flexibility in audits. It is true more people are needed to effectively implement, but this is not unusual because there always have been limited dollars. Once an agency knows it is up for a K-GOAL audit, many times that agency will shape up. With K-GOAL the mechanism is in place to effect change, whether a particular audit is approved or not. K-GOAL does have a purpose. There are some agencies that have internal auditors and some that do not. There must be periodic review of state agencies. Don't get rid of K-GOAL unless there is some other type of mechanism in place.

The comment was made that it will have to be done without the creation of another bureaucracy.

The Chairman thanked the committee and adjourned the meeting.

The next meeting is scheduled for March 9, 1995.

MEMORANDUM

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March 1, 1995

To: Senate Committee on Governmental Organization

From: Julian Efird, Principal Analyst

Re: K-GOAL Legislation

The House and Senate Standing Committees on Governmental Organization in past years generally were the legislative committees assigned the task of "sunset reviews" that were authorized by provisions of the Kansas Sunset Law. However, the 1992 Session of the Legislature repealed the statutes which established the Kansas Sunset Law.

New legislation that became effective on July 1, 1992, replaced "sunset reviews" with new procedures. Beginning with the 1993 Legislature, the President of the Senate designated the Senate Committee on Governmental Organization to be responsible for implementing certain provisions of and legislative responsibilities prescribed by the new K-GOAL law which is described subsequently. The House Committee on Governmental Organization also has continued reviewing agencies under the new procedures.

1992 Sub. for S.B. 471 established the **Kansas Governmental Operations Accountability Law (K-GOAL)**. The new law (K.S.A. 74-7283 *et seq.*), provides for scheduled legislative oversight of designated state agencies, consisting of audit, review, and evaluation of designated state agencies on an annual basis, with no threat of abolition of any state agency which is reviewed.

The audit, review, and evaluation of the designated state agencies was anticipated to take place at least every eight years. Subsequent timing of evaluations of designated state agencies was subject to legislative determination, but none of the agencies reviewed in either 1993 or 1994 has been rescheduled for future reviews under K-GOAL.

Those agencies which are subject to K-GOAL and which have not been reviewed prior to 1995 will be addressed by the year 2000 under the present statutory schedule. The following procedures guide each review:

- A performance audit will be required of each state agency scheduled for evaluation and an audit can be no more than two-years-old to meet this requirement.
- Reviews will be required in each house, with performance audits to be made available by the 30th day of the session.
- No abolition of any state agency scheduled for evaluation is threatened.

*Senate Governmental Organization
Attachment 1
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The year in which designated state agencies either have been, or will be, subject to audit, review, and evaluation by the Legislature is defined in statute as follows:

- 1993 Department of Social and Rehabilitation Services
Capitol Area Security Patrol
- 1994 Department of Administration
Department of Commerce
- 1995 Department of Health and Environment
Kansas Water Office and Water Authority
- 1996 Department of Transportation
State Board of Agriculture
- 1997 Department of Revenue
State Conservation Commission
Kansas Public Employees Retirement System (KPERS)
- 1998 State Corporation Commission
Department of Education
- 1999 Department on Aging
Department of Human Resources
- 2000 Department of Corrections
Department of Wildlife and Parks

The 1994 Legislature modified the original K-GOAL statutes. One state agency (KPERS) was added and another one was deleted, namely the Agricultural Value Added Processing Center. In addition, the 1994 revisions authorized the Legislative Post Audit Committee to modify the statutory schedule by following certain guidelines and completing any rescheduled reviews by the year 2000.

As previously noted, the four agencies which had been reviewed by the Legislature in 1993 and 1994, although still referenced in the K-GOAL statutes, were not rescheduled for review at the later date. At the present time, the K-GOAL procedures will not apply to any state agency after the year 2000.

1995 Legislative Activity. The House Committee on Governmental Organization has begun work in subcommittees reviewing agencies scheduled for 1995 K-GOAL review. The Senate Committee on Governmental Organization heard a report on reinventing Kansas government early in the 1995 Session.

That report, *Internal Audit*, contained recommendations which the Senate Committee might wish to consider as amendments to the K-GOAL statute in order to address a persistent concern of what to do **after** a K-GOAL audit review is completed. The report focused on opportunities for improving the internal audit function within the Executive Branch of state government. It was also noted that many agencies with significant budgets had no internal auditors on staff.

Legislative Options

The Committee might wish to consider adding a statutory requirement that after a K-GOAL review, each Cabinet department without an internal audit unit, be required to establish such a unit within existing resources and attached to the Office of the Secretary. A reporting requirement also could be placed in statute in order to bring information back to the Legislature on an annual basis about the performance of the internal audit units and the recommendations which they made for improving the effectiveness and efficiency of agency operations.

Of the ten Cabinet departments, five have internal audit units identified by the report: Corrections, Revenue, Social and Rehabilitation Services, Transportation, and Wildlife and Parks. Two of the departments, however, only had one internal auditor each. The Committee might wish to recommend strengthening the internal audit function in these agencies by allocating additional staff to serve as internal auditors.

A statutory requirement for internal audit units to be established within cabinet agencies and for annual reporting to the Legislature could be incorporated into the K-GOAL provisions as a means of strengthening that law and expanding the scope of its operation by directing that annual reports be presented to the Legislature from these internal audit units.

The report also recommended that the electronic data processing information systems audit capabilities be strengthened as a part of internal audit procedures.

Three of the Cabinet departments previously reviewed had no internal audit units and have not been scheduled for subsequent review under K-GOAL.

March 9, 1983

SUBCOMMITTEE ON DEPARTMENT OF REVENUE
HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

*Adopted by
House CO*

Subcommittee Recommendations

1. Internal Auditing. Currently, one person is assigned to the Internal Audit Unit. The Internal Auditor is responsible for conducting independent and objective audit activity within the Department of Revenue for the review of operations, both financial and nonfinancial, as a service to management. It is a managerial control which functions by measuring and evaluating the effectiveness of other controls. These audits are performed by a systematic program encompassing the entire Department or on request by the Secretary. The activities of the Internal Auditor include reviewing proposed programs as well as existing programs and making recommendations concerning procedures and policies to enhance effectiveness, increase efficiency, improve control, and strengthen management data flow in such programs.

The Subcommittee believes that the Secretary needs additional staff to conduct an effective internal audit program. The Subcommittee believes that performance auditing of programs should be an integral part of the Internal Audit Unit and that the emphasis to date has been on fiscal auditing. The Internal Audit Unit should be part of the Secretary's Office, reporting directly to the Secretary. Currently, it is within the Controller's Bureau.

In order to develop an effective Internal Audit Unit, at least three new positions will be required: a Revenue Manager or Management Analyst to head the unit and direct the performance auditing; an Auditor II to assist in fiscal and program auditing; and a Clerk III to assist in the unit's operation. Currently, an Auditor III is assigned to the unit and financed exclusively out of the State General Fund.

The Subcommittee recommends financing of the unit be apportioned 59 percent to the State General Fund and 41 percent to the Division of Vehicles Operating Fund since auditing of the entire Department will be conducted. The estimated cost of three new positions in FY 1984 would be \$67,828 and other operating expenses would be \$5,032. The Governor's recommendation for the current Auditor III is \$33,969 of State General Funds for salary and benefits. Additional State General Funds of \$42,987 would be required and \$43,800 from the DOV Operating Fund. Total cost of the Internal Audit Unit is slightly more than \$100,000, of which \$33,969 is included in the Governor's FY 1984 recommendation. New funding of \$72,860 would be required to implement this recommendation.

The Subcommittee believes that the unit will produce considerable cost-savings within the Department and help guard against fraud and other misuse of state funds which may occur within an agency with budget authority in excess of \$37 million.

*Senate Governmental Organization
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One Internal Auditor is not sufficient to provide needed safeguards and to identify through performance auditing potential savings and other means to improve the effectiveness and efficiency of the Department's operation.

2. Unclassified Attorneys. K.S.A. 75-5121 authorizes the Secretary to appoint attorneys for the Department, except attorneys for the Division and Director of Alcoholic Beverage Control. All attorneys appointed by the Secretary are in the unclassified service and receive annual salaries fixed by the Secretary. All attorneys appointed by the Secretary are subject to assignment of duties by the Chief Attorney of the Department, who is designated by the Secretary. K.S.A. 41-201 authorizes the Attorney General, with approval of the Secretary, to appoint an assistant attorney general who serves as the attorney for the Director and Division of Alcoholic Beverage Control and to fix the annual salary with the approval of the ABC Director.

The Subcommittee believes that the Department needs continuity in its legal staff, particularly in the corporate area, and that the establishment of classified attorney positions with a career ladder would provide the basis of that continuity. The Subcommittee recommends a bill be introduced or other legislation amended in order to authorize the Secretary to hire classified attorneys. Currently, all attorneys must be in the unclassified service. In the short term, there would be no fiscal impact of this change since classified attorneys would be paid at the same rates as unclassified. In the long term, as classified attorneys progress up a career ladder, turnover would be reduced and higher costs might be anticipated. The benefits to the Department, however, should more than offset the higher costs.

3. Dealer Licensing Review Board. The Dealer Review Board was created in 1974 and serves two primary functions: to review decisions of the Director of Motor Vehicles if petitioned by an interested party and to review proposed rules and regulations and advise the Secretary of Revenue of its policy recommendations as such reviews pertain to the Vehicle Dealers and Salesmen Licensing Act (K.S.A. 8-2401 et seq). The Post Audit report noted that in FY 1981, the Board met 11 times, but did not hear any appeal cases. The Post Audit report indicated that since 1974 the Board had held four appeal hearings. The Post Audit report recommended that the Legislature should take no action to reestablish the Dealer Licensing Review Board.

The Subcommittee recommends that the Dealer Licensing Review Board be abolished and that the Director of Motor Vehicles be authorized to assume the necessary duties of the Board not already delegated in statute by K.S.A. 8-2411. The Subcommittee recommends that either a bill be introduced to effect this change or that an amendment to pending legislation be adopted for this purpose.

By abolishing the Board, the Subcommittee estimates savings in expenditures recommended by the Governor in FY 1984 of \$3,360 for compensation and \$8,472 for travel and subsistence to be financed by the Division of Vehicles Operating Fund.