

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Senator Lana Oleen at 11:00 a.m. on January 19, 2000 in Room 254-E of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department  
Theresa Kiernan, Revisor of Statutes  
Judy Glasgow, Committee Secretary

Conferees appearing before the committee: Barbara Hinton, Legislative Post Auditor  
Representative Kenny Wilk

Chairman Oleen stated that Representative Wilk, Vice-Chair of the Legislative Post Audit Committee, indicated that he would appear before the committee upon adjournment of the House. When Representative Wilk arrived she would accommodate his testimony.

The hearing was opened on:

**SB 393-K-GOAL; agencies subject thereto**

Chairman Oleen recognized Barb Hinton, Legislative Post Auditor, appearing on behalf of the Legislative Post Audit Committee in support of **SB 393** - Kansas Governmental Operations Accountability Law. Barb Hinton gave a history of the pre K-GOAL Sunset Law. (Attachment 1). In 1991 the Special Committee on Governmental Organization recommended introducing a new set of legislative oversight procedures through the Kansas Governmental Operations Accountability Law. Key provisions of the law include: 1) Legislative Post Audit Committee would direct performance audits of each state agency subject to legislative review and evaluation 2) the scope of the performance audits could be specific or general as the committee directed; 3) agencies subject to a K-GOAL audit were due over an 8-year cycle that ended in 2000 and 4) the audits had to be completed no sooner than two years before and no later than the 30<sup>th</sup> calendar day of the legislative session. The 1992 Legislature had passed the K-GOAL law, and repealed the Sunset Law.

Chairman Oleen called on Representative Wilk the Vice-Chair of the Legislative Post Audit Committee. (Attachment 2) Representative Wilk testified as a proponent for this bill and stated that a Post Audit Subcommittee's review of K-GOAL unanimously concluded that 1) K-GOAL audits are an integral part of the legislative oversight process and a key tool in the process of improving State government operations 2) past K-GOAL audits have been useful at addressing key aspects of State agency operations, identifying areas for improvement and suggesting ways to reduce costs, clarify State law, and improve agencies' performance. Representative Wilk urged the committee to consider this bill favorably for passage.

Barb Hinton continued with her testimony before the committee. Ms. Hinton stated that under the current law, no more agencies are scheduled for audit under K-Goal. **SB 393** does two primary things 1) it specified the agencies that will be subject to a performance audit under K-GOAL adding four new agencies and 2) it specified when each agency will be subject to audit.

Barb Hinton responded to questions from committee members regarding clarification of the scheduled dates of audits and when the presentations is made to the Committee and forwarded to other legislative committees. The chart provided by Barb Hinton shows that individual legislative requests are used for 80 to 85 percent of the audit resources. Senator Oleen explained that the majority of K-GOAL audits are cabinet level agencies.

Chairman Oleen stated that the committee would continue the discussion on **SB 393**.

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS, Room 254-E Statehouse, at  
11:00 a.m. on January 19, 2000.

CONTINUATION SHEET

Chairman Oleen asked for committee action on approving Committee minutes for the Committee Meeting dated January 13, 2000. Senator Biggs made a motion the minutes be approved, and it was seconded by Senator Vratil; the motion passed.

The meeting adjourned at 12:10 p.m. The next meeting is scheduled for January 20, 2000 at 11:00 a.m.

**Testimony for the  
Senate Federal and State Affairs Committee  
SENATE BILL 393**

Barb Hinton, Legislative Post Auditor  
January 19, 2000  
Room 254-E

Madame Chair and members of the Committee, I'm appearing before your Committee today on behalf of the Legislative Post Audit Committee in support of Senate Bill 393. Before I talk about the bill, though, I'd like to give a brief history of the Kansas Governmental Operations Accountability Law.

**Before K-GOAL: the Kansas Sunset Law.** In 1978, Kansas became the 26<sup>th</sup> state to pass a Sunset Law as part of a national trend to strengthen legislative oversight of State agencies and to make government more responsive to the public. Under that law, specified agencies were abolished on a certain date unless the Legislature took action to continue them. Smaller regulatory agencies were the initial focus of the Sunset Law, because they were subject to less oversight during the appropriations process.

The legislative process for deciding whether to abolish or continue those agencies included hearing the results of a "sunset" performance audit our office conducted, and holding public hearings. The House and Senate Committees on Governmental Organization generally were assigned the tasks of these sunset reviews. These reviews resulted in only a few small agencies—such as the Athletic Commission and the Mobile Home and Recreational Vehicle Commission—ever being abolished.

In 1981, the Sunset Law was amended to exclude many of the smaller regulatory agencies and include more of the larger State agencies. The focus of the legislative sunset reviews shifted to finding ways to improve those agencies' performance, even though the threat of abolition remained. The sunset performance audits that had been done as part of each sunset review became optional at that time. For the most part, these audits were done only sporadically after 1983. The Sunset Law itself was scheduled to "sunset" in 1992.

**History of K-GOAL.** A Special Committee on Governmental Organization reviewed the Sunset Law during the 1991 interim to consider whether to recommend extending, changing, or abolishing it. The Committee concluded that the law hadn't fulfilled the expectation of abolishing unnecessary agencies and programs, but that its most useful aspect had been the periodic reviews of State agencies, especially when performance audits were available to guide legislative consideration of agency performance and programs.

In place of the Sunset Law, the Special Committee recommended introducing a new set of legislative oversight procedures through the Kansas Governmental Operations Accountability Law. The K-GOAL law's stated purpose was to establish a procedure to ensure that State government served the public in the most beneficial,

Sen. Federal & State Affairs Com:  
Date: 1-19-00  
Attachment: # 1

efficient, and cost-effective way possible, without the threat of abolition. Key provisions of that law included the following:

- The Legislative Post Audit Committee would direct performance audits of each State agency subject to legislative review and evaluation under K-GOAL.
- The scope of the performance audits could be specific or general, as the Committee directed.
- The law designated the agencies that were subject to a K-GOAL audit, and specified when those audits were due over an 8-year cycle that ended in 2000. Some of the agencies formerly covered under the Sunset Law were placed under K-GOAL list, and some new agencies were added.
- The audits had to be completed no sooner than two years before—and no later than the 30<sup>th</sup> calendar day of—the legislative session when the agencies were due for legislative review and evaluation. This provision allowed the Post Audit Committee to “count” recently completed audits as K-GOAL audits, when that made sense.

The 1992 Legislature passed the K-GOAL law, and repealed the Sunset Law.

During the 1994 session, the Legislature amended the K-GOAL law to give the Post Audit Committee some flexibility in deciding when a designated agency was scheduled to have a K-GOAL audit, though none could be scheduled beyond 2000. This provision allowed the Committee to approve more of the audits requested by individual legislators and committees as K-GOAL audits. The 1994 Legislature also authorized one additional auditor to help handle the increased workload of audits.

During the 1995 session, legislation was introduced to repeal the K-GOAL law, but that legislation didn't pass.

**How topics were selected for K-GOAL audits.** To help identify issues that might be of interest or concern for K-GOAL audits, Post Audit staff routinely have contacted legislators, Legislative Research staff, and agency staff, and reviewed published reports, budget documents, and other sources. We also identified other legislative requests for audits that could fulfill the K-GOAL audit requirements. This information was provided to the Post Audit Committee for its final decision.

Sometimes, the audit topics selected were more general, focused on how well a particular aspect of an agency was working. Other times, however, the areas selected were the burning issues of the day, and they became obvious choices for a K-GOAL review (i.e., the diversion of federal Park moneys at the Department of Wildlife and Parks).

The next page shows the K-GOAL audits that were done from 1993-2000, and the focus of those audits.

**Agencies Subject to K-GOAL Audits and  
Focus of Audits Conducted (1993-2000)**

<u>Session specified for review:</u>	<u>Session com- pleted for:</u>
<b>1993 Department of Social and Rehabilitation Services</b> <i>(foster care program)</i>	1993 (used 1991 audits)
<b>Capitol Area Security Patrol</b> <i>(general effectiveness)</i>	1993
<b>1994 Department of Administration</b> <i>(Division of Personnel Services)</i>	1994
<b>Department of Commerce and Housing</b> <i>(economic development activities)</i>	1994
<b>1995 Department of Health and Environment</b> <i>(impact of federally mandated regulations, and waste tire disposal program)</i>	1996 (2 audits)
<b>Kansas Water Office and Water Authority</b> <i>(potential duplication of water regulation)</i>	1995
<b>1996 Department of Transportation</b> <i>(highway construction)</i>	1996
<b>Department of Agriculture</b> <i>(weights and measures enforcement program)</i>	1996
<b>1997 Department of Revenue</b> <i>— (sales tax collection and enforcement)</i>	1997
<b>State Conservation Commission</b> <i>(effectiveness at meeting Water Plan goals)</i>	1997
<b>Kansas Public Employees Retirement System</b> <i>(types of benefits provided)</i>	1997
<b>1998 State Corporation Commission</b> <i>(abandoned wells)</i>	1998
<b>Department of Education</b> <i>(Statewide assessment tests)</i>	1998 (used 1996 audit)
<b>1999 Department on Aging</b> <i>(in-home services to the elderly)</i>	1999
<b>Department of Human Resources</b> <i>(implementation of 1993 changes to the Worker's Compensation law)</i>	1999
<b>2000 Department of Corrections</b> <i>(handling of parole violators and safety issues)</i>	2000 (2 audits)
<b>Department of Wildlife and Parks</b> <i>(financial management, efficiency, and effectiveness)</i>	1995

**Discussion of SB 393.** Under the current law, no more agencies are scheduled for audit under K-GOAL, and none of the agencies that have had an audit completed have been retained in law for another audit, as allowed.

Because no further K-GOAL audits would be done unless the Legislature took some action, Representative Wilk, then Chair of the Legislative Post Audit Committee, appointed a Subcommittee on K-GOAL Audits to consider the need for and usefulness of K-GOAL audits, and to make recommendations to the full Committee regarding future K-GOAL audits.

The Subcommittee reviewed the law and the results of audits that had been conducted under K-GOAL, and concluded that both added significantly to the Legislature's current oversight "tools." The Subcommittee's recommendation for continuing to do K-GOAL audits was endorsed by the full Committee.

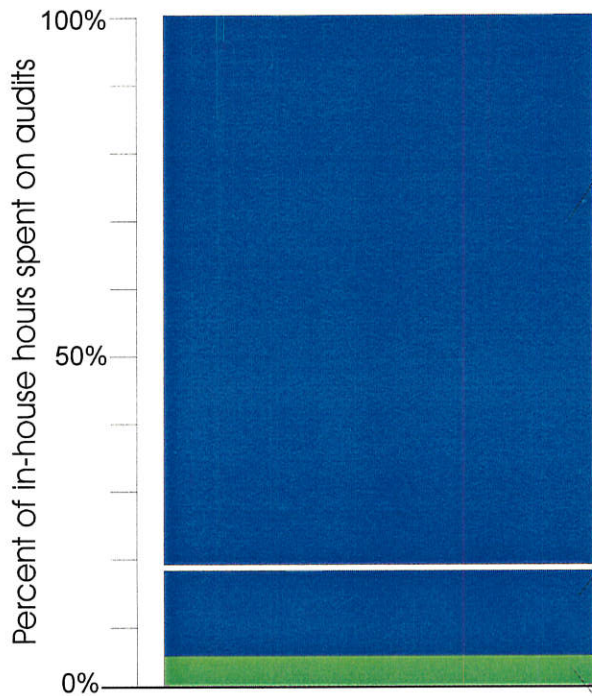
The results of their work have been incorporated into SB 393, which you have before you today. That bill does two primary things:

- **it specifies the agencies that will be subject to a performance audit under K-GOAL.** All agencies currently subject to audit under the law are retained except the State Conservation Commission, the Capitol Area Security Patrol, and KPERS. In addition, several agencies have been added: the Juvenile Justice Authority, the public safety agencies, the Board of Regents, and the judicial branch.
- **it specifies when each agency will be subject to audit.** As with the current law, this bill envisions the agencies being audited over an 8-year cycle, from 2000-2007. The graphic on the next page shows which agencies would be audited under K-GOAL each year. About 10%-15% of Post Audit's total available in-house audit hours are taken up with K-GOAL audits in a typical year.

I've included a summary of the major findings for the K-GOAL audits we completed from 1993 to 2000 as an attachment to my testimony. We've identified some significant and potentially far-reaching problems through these audits, and in many cases have recommended some fairly sweeping changes to address these problems and to improve State agencies' performance and accountability.

Thank you for giving me the opportunity to appear before you today.

# Percentage of Legislative Post Audit Resources Devoted to Audits by Type



**Performance audits** are done as directed by the Legislative Post Audit Committee in response to legislative requests. They're done by Post Audit staff and take about 80%-85% of available audit resources. Depending on their size and complexity, staff can complete about 15-20 performance audits each year.

**K-GOAL performance audits** are required by law, and are done on a statutory schedule rather than by legislative request, but in all other respects are just like any other performance audit. Their scope and specific audit questions are directed by the Legislative Post Audit Committee, and they are done by Post Audit staff. Depending on their size and complexity, these audits generally take about 10%-15% of total in-house audit resources per year. Here is the proposed new schedule:

2000	2001	2002	2003	2004	2005	2006	2007
Dept. of Administration	KDHE	Dept. of Corrections/	SRS	Dept. of Education	Corporation Commission	Judicial Branch	Dept. of Transportation
Dept. of Commerce and Housing	Dept. of Agriculture	Juvenile Justice Authority	Dept. on Aging	Board of Regents	Dept. of Human Resources	Dept. of Wildlife & Parks	Dept. of Revenue
	Water Office/ Water Authority	Public Safety Agency(ies)					

**Compliance and Control audits** generally look at selected financial control areas and related compliance. They are done by Post Audit staff (generally by one person). These audits generally take about 5% of staff resources in a year. They are performed according to a three-year schedule approved by the Legislative Post Audit Committee, and cover about 5-10 agencies per year.

This graphic shows that about 10%-15% of the Division's total available in-house audit hours are taken up with K-GOAL audits in a typical year (the average for fiscal years 1996-1998 was 13%). Another 5% or so are used by compliance and control audits. The remainder are used for non-K-GOAL performance audits. Financial-compliance audits, which are contracted to CPA firms, aren't included in this chart.

AGENCY	FOCUS	ISSUE DATE	SUMMARY OF MAJOR FINDINGS
Department of Social and Rehabilitation Services	Foster Care Program	October 1990 through June 1991	The number of children in the program had risen significantly. The number of foster care providers had kept up, but the number of social workers had not. In fact, average caseloads were more than double a proposed standard. The Department didn't always recommend services needed. In addition, placements weren't always made as recommended, and services weren't always provided as recommended. However, appropriate placements and services weren't always available.
Capitol Area Security Patrol	Effectiveness of the Program	January 1993	Few State employees had experienced security-related problems. Nevertheless, there were some security weaknesses. The Patrol didn't have enough staff, nor did it have written policies and procedures that would have helped ensure adequate security. Two buildings were potentially unsafe because of locked doors or inadequate alarm and detection systems.
Department of Administration	Division of Personnel Services	January 1994	Many personnel functions provided by the Division of Personnel Services and personnel staff in State agencies were carried out efficiently and effectively. However, the hiring process, the performance evaluation plan, and the pay plan used by the State were not serving all of the State's needs. Because the Division approves several routine personnel actions performed by the agencies, these actions require more effort and involve more processing than should be necessary. The state pays its employees as much as \$2 million more a year in overtime than it needs to.
Department of Commerce and Housing	Economic Development Activities	February 1994	The Department has established programs in line with its mission, and it can demonstrate economic results in accord with that mission. In many cases the Department has not established specific criteria or gathered the kinds of data it needs to determine whether specific programs are achieving the intended results. Creating the Division Housing has had little effect on the economic development activities of other divisions. Kansas' organizational structure for housing programs was similar to the structure of other nearby states. The Department did not give proper notice of a public hearing held to consider possible amendment of the State Community Development Block Grant plan.
Department of Health and Environment	Assessing the Impact of Federal Mandates	June 1995	The Department didn't always accurately and completely assess the impact of new regulations. The sample of economic impact statements reviewed did not always contain the information



Department of Health and Environment	Implementation of Waste Tire Disposal Program	June 1995	required by law. These problems are attributed to the agency's lack of standardize procedures, its policy of excluding certain costs from the impact statements, and its failure to involve all those affected by the regulations in the process.
Water Office and Water Authority	Potential Duplication of Water Regulation Activities	September 1994	The Department established adequate regulations for the Waste Tire Disposal Program. However, the Department issues permits to operators who haven't met all the State's requirements, issues permits without inspecting waste tire facilities, allows some facilities to continue operating in apparent violation of State laws and regulations, doesn't routinely inspect facilities or conduct follow-up inspections when problem are identified, and makes no attempt to inspect out-of-State transporters who hold Kansas permits. The Department needs to improve its handling of permit fees collected from waste tire operators. The Department needs to better monitor grant moneys given to local units of government to help clean up, dispose of, or recycle waste tires in Kansas.
Department of Transportation	Highway Construction	November 1995	No significant duplication effort was found in the state agencies given shared responsibility for three water-related programs. In areas where the agencies' activities overlap, they have entered into agreements to help minimize the possibility of duplication. Kansas has a more decentralized organizational structure for regulating water than do other states. Kansas was the only state where the water permitting process is placed within an agricultural agency.
Department of Agriculture	Weights and Measures Regulation	January 1996	If the Department completes the work planned for fiscal years 1996 and 1997, it will accomplish most of the major requirements of the Comprehensive Highway Program. At the end of FY 1995, the State Highway fund has a cash balance over \$1 billion. Even so, the Department's current spending estimates show the balance in the State Highway fund could be depleted by FY 2003. The Department has established and followed good procedures to ensure that quality highways are built at a reasonable cost, but it needs to improve its detection of bidder collusion, and it needs to ensure that its staff conduct all required tests to ensure that roads are well built.
			The Department hasn't been effective at ensuring the accuracy of the State's measuring devices. Factors that have contributed include inadequate oversight by the Department of private companies doing inspections and lack of sufficient enforcement actions. The Department has done very limited testing for octane levels, and hasn't always responded effectively to address problems it found in this area.

Department of Revenue	Sales Tax Enforcement and Collection	November 1996	The Division of Collections isn't very cost-efficient or effective, and it doesn't routinely produce and review the basic management information it needs to track its effectiveness and efficiency. There are several problems with collection activities, including inconsistency and a lack of timeliness. The Department's Audit Bureau appears to be cost-efficient. The current practice of handling sales tax exemptions is the same approach used by most other states. Parts of the sales tax law are hard to interpret, which results in inconsistent treatment of taxpayers. Department officials contend the law should be changed in order to remedy this problem.
Conservation Commission	Effectiveness in Meeting Goals	October 1996	The Commission has done a good job of awarding program moneys for the projects and areas of the State that were targeted as priorities in the State Water Plan. However, the ways in which the Annual Implementation Plan is developed and projects are approved may not ensure that compliance with Water Plan goals will always be as high in the future for Commission-funded programs. Although the Commission collects some information about whether moneys being spent are effective at meeting Water Plan goals, part of that information may not be reliable. The Commission's programs could be transferred to other State agencies and the Commission abolished, but there wasn't a compelling reason to do so, and the savings that could be achieved are unclear.
Kansas Public Employees Retirement System	Benefits Provided	October 1996	The System's benefits and employee contribution rates are average when compared to other state retirement systems. However, Kansas provides a smaller health insurance subsidy and fewer cost-of-living increases for its retirees than other states. The System wasn't as well funded as other retirement systems. Compared with private-sector employer's defined-benefit retirement plans, the System's benefits were in the middle. Defined benefit plans aren't portable and tend to provide smaller total retirement benefits to employees who change jobs frequently. There are ways to increase portability, but these options require some cost to the State.
Corporation Commission	Conservation Division	February 1998	The Division and its staff don't collect all the information need to be sure that it and the well operators it regulates are doing all that's required by State law and Commission regulations. When violations are found, a bottleneck in the Legal Section slows actions against operators, and weakens the Division's enforcement efforts. This results in increased risks to the environment and increases in State costs for plugging abandoned wells. New financial assurance requirements have been put into place to limit these costs, but it's

unclear how well they will work. The Division is working on plugging abandoned wells with the highest risk of causing problems, but it will take until at least 2008 to plug the most dangerous wells.

Department of Education

Use of State Assessment Tests

June 1996

The Department and the University of Kansas Center for Educational Testing and Evaluation said assessment test results shouldn't be used as the sole factor in comparing individual students' performance or in making comparisons between schools or districts. Most school officials are using the assessment test scores appropriately, but some are misusing them, and the Legislature is contributing to such misuse. School officials had mixed feelings about the tests. Teacher liked the performance component of the writing assessment test, but disliked other tests. Assessment tests in other states were similar to those in Kansas, except that their tests generally are scored centrally and other standardized tests are required.

Department on Aging

In-Home Services to the Elderly

February 1999

The Department does a thorough job of evaluating the services provided to elderly Kansans in their homes when those services are paid for with Medicaid. The Department doesn't do enough monitoring of such services paid for by non-Medicaid moneys. More Department oversight would provide more conclusive assurance that spending is appropriate and the quality of service is acceptable for non-Medicaid programs. The State requires most agencies and individuals that provide in-home services to be licensed or certified, but some of those agencies aren't being inspected. State law mandates little regulation of people who provide "hands-on" attendant care services. Area Agencies aren't doing a good job of tracking complaints received about service, and the Department's resolution of complaints wasn't well documented.

Department of Human Resources

Implementation of 1993 Statutory Changes

February 1999

The Department hasn't improved its workers' compensation information system. The Department needs to complete the upgrade of the computer system, and it needs to work toward having more data submitted electronically. The Department has taken steps to implement each amendment of the Workers' Compensation Act (1993). However, in the three specific areas reviewed--fraud investigation, accident prevention, and studies of claims costs--the Department's actions weren't effective.

Department of Wildlife and Parks

Financial Management, Efficiency, Effectiveness

February 1995

The Department's financial management practices weren't adequate to provide needed accountability for restricted moneys, leading the Department to violate state law and misspend \$4 million of wildlife and park moneys during FY's 1989-1992. From a program perspective, the Department has met some of its goals.

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Organizationally, the Department's combination of parks and wildlife staffs is different from most states. The Department also has a layer of management not found in other states, and has devoted proportionally more of its employee resources to support activities and less to field activities than other states.

Department of Corrections

Part 1: Staff Safety and Salary Issues

July 1999

To deal with staff shortages, the prison facilities use relief staff, leave less-critical posts vacant, and rely on overtime. The medium- and minimum-security units at Lansing Correctional Facility are frequently operated at staffing levels that could compromise staff safety, and officials there often don't follow their operational staffing plan. Other Kansas correctional facilities may be experiencing the same types of problems. Low salary levels have contributed to staffing shortages. Kansas also had one of the highest turnover rates in the five-state region over the past five years. Inability to recruit staff to fill positions has worsened staff shortages, tripled overtime costs, and increased the burden on existing staff.

Department of Corrections

Part 2: Procedures for Dealing with Parole Violators

August 1999

Kansas' parolee supervision and sanctioning procedures compare favorably to other states we reviewed, but only a few other states have detailed written criteria parole officers are to follow when issuing sanctions for parole violators. During a recent eight-month period, we found that few of the parole officers had completed all the routine supervision tasks that would help them to know if parolees were committing violations. However, when they did find violations, parole officers followed the sanctioning criteria about 82% of the time. In the 18% of the cases where officers didn't follow the criteria, they tended to be more lenient than allowed. When we reviewed cases involving parolees charged with committing serious crimes, we found that the sanctioning criteria weren't followed as often as in the other random cases. In addition to supervision and sanctioning shortcomings in these serious cases, we also found communication problems.

State of Kansas

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TOPEKA

House of Representatives

COMMITTEE ASSIGNMENTS

CHAIRMAN: KANSAS 2000  
LEGISLATIVE POST AUDIT  
MEMBER: TAXATION

January 19, 2000

Senator Lana Oleen  
Chair, Senate Federal and  
State Affairs Committee  
Capitol Building, Room 136-N  
Topeka, Kansas 66612

Dear Senator Oleen:

As Chairman of the Legislative Post Audit Committee at the time SB 393 was introduced, I'm writing in strong support of this bill.

SB 393 came out of a Post Audit Subcommittee's review of the K-GOAL law and the performance audits that Legislative Post Audit has done over the past eight years under that law. In reporting back to the Committee, Subcommittee members unanimously concluded the following:

- K-GOAL audits are an integral part of the legislative oversight process and of the Post Audit Committee's oversight efforts and responsibilities, and are a key tool in the process of improving State government operations
- past K-GOAL audits have been useful at addressing key aspects of State agency operations, identifying areas for improvement, and suggesting ways to reduce costs, clarify State law, and improve agencies' performance

The Legislative Post Audit Committee endorsed the Subcommittee's position, and voted to introduce the legislation you have before you today.

Because SB 393 continues a powerful legislative tool for "good government," I urge the Senate Federal and State Affairs Committee to consider this bill favorably for passage.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kenny A. Wilk".

Rep. Kenny A. Wilk  
42<sup>nd</sup> district

Sen. Federal & State Affairs Comr  
Date: 1-19-00  
Attachment: # 2