PERFORMANCE AUDIT REPORT

Private-Sector Input: Ways To Foster Such Input If the Kansas Performance Review Board Is Abolished

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
March 2001

01-15

Legislative Post Audit Committee
Legislative Division of Post Audit

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March 23, 2001

To: Members, Legislative Post Audit Committee

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Representative Dean Newton	Senator Derek Schmidt
Representative Dan Thimesch	Senator Chris Steineger

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Private-Sector Input: Ways To Foster Such Input if the Kansas Performance Review Board Is Abolished*.

In an appendix, the report also contains the executive summary of the Kansas Council on Privatization's final report, *Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government*. That report recommended the State create a performance review board.

We would be happy to discuss the findings presented in this report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Background

The Kansas Performance Review Board was created in 1996 to determine whether State functions were being executed in the most efficient and cost-effective manner, and to recommend whether any functions should be privatized, eliminated, retained, or modified. The executive branch has disagreed with Board recommendations, and some legislators have doubted the value of the Board's studies under the current structure. Senate Bill 180, currently being considered by the Legislature, would repeal the Performance Review Act and abolish the Board.

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Question: What Options Exist for Having Private-Sector Input into Government Operations If the Performance Review Board Is Abolished?

Kansas has several options for fostering private-sector input if the Board <u>is</u> abolished. *Options we identified from other states, current and former Performance Review Board members, other State agency officials, and our staff include these:*

- *Have agencies contract directly with private-sector consulting firms.*
- *Require agency heads to identify activities that the private sector might perform better and at lower cost. Proposed legislation in Texas would require agencies to select some of the identified functions and subject them to competition from the private sector.*
- *Have each agency use competitive business practices to develop specific goals for improved efficiency and cost-effectiveness. In Kansas City, a private-sector committee determines whether such plans are credible.*
- *Use cost-accounting methods to identify and study opportunities to inject competition between state agencies and private vendors. Opportunities for competition could be suggested by the private sector, as is done in Texas.*
- *Encourage agency staff to meet with appropriate people from the private sector and participate in professional associations*
- *Formally transfer the Review Board's function to Legislative Post Audit*.

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We identified several options for change if the Performance Review Board <u>isn't</u> abolished. *In order to be successful, an entity providing input from the private sector into government operations must have political backing, independence, and sufficient funding. The current Board never had a political champion. The Legislature might want to consider 2 options for providing the Board with political backing:*

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- *modify the current Review Board to report directly to the Governor*
- *expand membership on the Board to include stakeholders from the legislative and executive branches, as well as private-sector members*

This audit was conducted by Laurel Murdie, Jill Shelley, and Kate Watson. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Ms. Murdie at the Division's offices. Our address is: Legislative Division of Post Audit, 800 SW Jackson Street, Suite 1200, Topeka, Kansas 66612. You also may call us at (785) 296-3792, or contact us via the Internet at LPA@lpa.state.ks.us.

Private-Sector Input: Ways to Foster Such Input If the Kansas Performance Review Board is Abolished

The Kansas Performance Review Act was passed in 1996. It established the Kansas Performance Review Board to review governmental functions and recommend whether they should be privatized, eliminated, retained, or modified. The Board consists of 5 members appointed by the Governor and confirmed by the Senate. No more than 3 members can belong to the same political party, and at least 1 member is required to have experience in cost accounting. The members of the Board generally have been from the private sector. In addition to the 5 appointed members, the Secretary of Administration or his or her designee serves as an ex-officio member.

Some legislators have doubted the value of Kansas Performance Review Board studies under the current structure. Senate Bill 180, currently being considered by the Legislature, would repeal the Performance Review Act and abolish the Board. This has raised concerns among other legislators that the State is losing valuable input from the private sector about ways to make government more efficient. Those legislators are looking for ways that private-sector input into government operations could be retained if the Performance Review Board were abolished. This performance audit answers the following question:

What options exist for having private-sector input into government operations if the Performance Review Board is abolished?

To answer this question, we interviewed several current and former members of the Board, officials from Kansas' larger state agencies, and officials from several other states, including Texas, Virginia, Arkansas, Missouri, Oklahoma, Colorado, and Nebraska. We also interviewed several members of the Governor's Vision 21st Century Task Force. In addition, we conducted a limited review of relevant federal regulations and other states' laws and regulations.

A copy of the scope statement for this audit approved by the Legislative Post Audit Committee is included in Appendix A.

In conducting this audit, we followed all applicable government auditing standards. Our findings begin on page 5, following a brief overview.

Overview of the Kansas Performance Review Board

The Performance Review Board Was Created To Manage the Privatization Process

As a result of recommendations from a 1993 study, *Reinventing Kansas Government: A Public and Private Initiative*, the 1994 Legislature created the Kansas Council on Privatization to do 3 things:

- study the issues surrounding contracting for private performance of governmental services
- identify State services that may be in competition with the private sector
- develop recommendations that would make State government more competitive and improve the delivery of services to Kansas citizens

In its final report to the Governor and 1995 Legislature, the Council concluded that "Kansas government lacked an overall framework for privatization decisions," and cited a "compelling need for a rigorous methodology and process for determining whether privatization options are appropriate, efficient, and effective." We've included the executive summary of the Council's report in Appendix B.

To create a framework for determining the appropriateness of privatization in Kansas government, the Council recommended that the Kansas Performance Review Board (KPRB) be created. It also recommended that Board be responsible for managing and overseeing the formal decision-making process surrounding the privatization, elimination, retention, or modification of State government services and functions.

The Review Board was created in 1996 and began operations July 1, 1997. Its charge was to provide a continuing process to determine whether State functions were being executed in the most efficient and cost-effective manner, and to recommend whether the function should be privatized, eliminated, retained, or modified. The enabling legislation empowered the Board to initiate such an analysis of any governmental function after it received any of the following:

- a written suggestion or complaint from a Kansas citizen, including legislators and public employees
- a petition from a private firm wanting to provide a service
- a complaint from the private sector that the State is in competition with that firm

- a suggestion from a State employee about a function that has been delegated to the private sector.

The Board considered whether a formal analysis of the topic would be needed and, if so, could conduct its own analysis using its staff and consultants. Through fiscal year 2000, about 19% of the Board's budget had been paid to outside consultants. Since its creation, the Board has conducted reviews of 8 topics.

- Fiscal year 1998: State Central Motor Pool
- Fiscal year 1999: Division of Information Systems and Communications, Long Distance Services
- Fiscal year 2000: State Printing Operations
  Department of Health & Environment Laboratories
  Department of Agriculture Laboratories
  Division of Purchases, Enterprise Resource Planning
- Fiscal year 2001: Department of Transportation Inspection Program

SB 180 Would Repeal the Performance Review Act and Abolish the Board

The executive branch has had considerable disagreement with some of the Board's recommendations and has raised questions about whether the Board has been effective. Board staff point out that the Board managed to conduct the listed reviews of different agency programs despite not having a quorum for more than 15 of its 42 months of existence. They also have indicated their reviews provided common-sense recommendations that led to an estimated annual savings of $1 million at the Central Motor Pool and $500,000 in long distance telephone rate savings at the Department of Administration's Division of Information Systems and Communications (DISC).

Department of Administration staff, on the other hand, have said that although the Board was a well-intended initiative, it simply hasn't worked and isn't responsible for the savings it claims. For example, the Secretary of Administration told us the Board's estimated cost savings at the Central Motor Pool were overstated by $248,000. In addition, the Secretary told us the State would have saved the money on telephone rates without the Board because of the Department's long-standing business practice of renegotiating contract terms with AT&T.

For fiscal year 2002, the Governor recommended no funding for the Board. The Governor's Budget for fiscal year 2002 also included the following recommendation:

> "...The Board was created during the 1996 Legislative Session. Its role in State government in the four years of its existence has not been well defined. Some of its functions appear to overlap those of Legislative Post Audit. And the Board's organizational location in the Department of Administration has been a poor fit. For these reasons, the Governor proposes abolishing the Board in its current form."

To determine options for fostering private sector input if SB 180 passes and the Review Board is abolished, we contacted current and former members of the Review Board, members of the Governor's Vision 21st Century Task Force, agency officials from Kansas' larger State agencies, and officials from neighboring states and states with similar review boards in place.

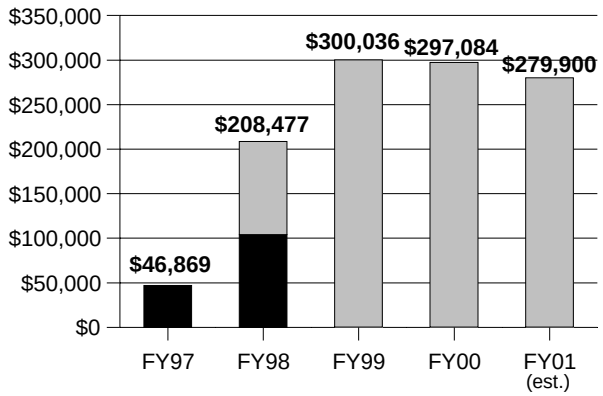
The Kansas Performance Review Board AT A GLANCE

Authority: Created in 1996 by K.S.A. 75-7101 et seq., the Kansas Performance Review Act, to review governmental functions and recommend whether they should be privatized, eliminated, retained, or modified.

Staffing: The Governor is to appoint a 5-member board, subject to Senate confirmation. Board members receive per diem, mileage, and expenses. The Board hired an executive director plus 2 other full-time employees. Consultants were hired to perform several studies.

Budget: Most of the Board's funding has come from the State General Fund; no other funds have been used since fiscal year 1998.

Expenditures of the Kansas Performance Review Board



Sources: Budget Analysis reports prepared by the Kansas Legislative Research Department; The Governor's Budget Reports prepared by the Division of the Budget, Department of Administration

Question 1: What Options Exist for Having Private-Sector Input into Government Operations if the Performance Review Board Is Abolished?

Kansas has several options for fostering private-sector input if the Kansas Performance Review Board is abolished. State agencies could contract directly with private-sector consulting firms to identify ways to make their operations more cost-effective. The State could require agency heads to determine activities the private sector might be able to perform at less cost, or it could encourage agency officials to pick up good ideas from their private-sector counterparts. The State could review operations and adopt "competitive business plans" for its agencies. If the State decides to keep the Performance Review Board but modify it, the Board could report directly to the Governor. Another option is expanding membership on the Board to include legislative and executive branch members, as well as private-sector members. Political backing, independence, and sufficient funding all would be needed to make such an entity successful.

Kansas Has Several Options for Fostering Private-Sector Input if the Kansas Performance Review Board Is Abolished

The options we identified from other states, Review Board members and staff, other State agency officials, and our own staff are summarized below.

- **Have State agencies contract directly with private-sector consulting firms to identify ways to make their operations more efficient or cost-effective, or to identify areas that are "ripe" for privatization.** Private-sector consulting firms could be hired to evaluate agency operations on either a routine or ad hoc basis. For example, the Department of Revenue hired an outside consultant to help it "reinvent" and streamline its operations and implement new tax-processing systems.

- **Adopt a program similar to the Federal Activities Inventory Reform (FAIR) Act, which requires federal agency heads to annually identify activities that might have a private-sector competitor who could perform the activity better and at lower cost.** Currently, Texas has similar proposed legislation. The legislation requires all state agencies to identify competitive opportunities and to respond to suggestions for competition from private vendors. Agencies are to identify each function that it performs that is also commercially available in the private sector. Once identified, agencies are to select a reasonable percent of the functions and subject them to competition with the private sector. Agencies are required to make annual reports summarizing the results of the competition.

- **Adopt a program similar to Kansas City Missouri's new Government Optimization (KC-GO) Program, which focuses on adopting competitive business practices to deliver government services at increasing levels of performance and quality.** The program's long-term goal is to review all city departments; 6 reviews currently are under way. The end-product of each review will be a "Competitive Business Plan" which clearly lays out where each department is now and where it should be in 5 years–with specific milestones for each year–including cost efficiencies and effectiveness in delivering services. To gain input from the private sector, the Mayor has appointed a 16-member Competitive Review Committee. This Committee reviews summaries of the "Competitive Business Plans" to determine whether each plan is credible. If it is, the Committee will recommend that the City Council adopt the plan. This plan reportedly has strong support from the City Council.

- **Adopt a program similar to Texas' Council on Competitive Government, which identifies and studies opportunities to inject competition between state agencies and private vendors.** This Council, which has representatives from the legislative and executive branches, uses cost-accounting methods to analyze agency services and programs. Based on these analyses, the Council may recommend replacing current state agency service providers with private-sector ones; it actually has statutory authority to require state agencies to implement its recommendations. The Texas Council doesn't include private-sector members, but the government services it reviews often are suggested by private-sector vendors. In addition, the Council is authorized to identify competitive opportunities throughout state agencies.

- **Encourage agency staff to meet with the appropriate people from the private-sector and participate in professional associations.** By participating in professional associations or other activities, staff become aware of best practices in their specific areas of responsibility. This would provide staff with a method for obtaining ideas about more efficient and cost-effective ways to operate government programs and functions.

- **Formally transfer the Review Board's function to Legislative Post Audit.** This option would require significant modification of the private-sector Board's role. Such a transfer may have some potential drawbacks. For example, without additional resources, the transfer may take away from Legislative Post Audit's ability to do regular performance audits for the Legislature. Legislative Post Audit also could be directed to conduct more audits looking into issues affecting the efficiency or cost-effectiveness of government agencies or programs. Legislative Post Audit has done some audits looking into efficiency issues in the past, including a review of the Department of Corrections' food service operations, the State's central motor pool, and the Wichita school district's service center.

Several State agency officials also pointed out that Kansas already has many boards, commissions, committees, advisory councils,

task forces, and workgroups that often include individuals from the private sector. Examples include the State Board of Accountancy, the Governor's Public Health Improvement Commission, and the Kansas Rural Development Council. Nearly 170 such entities exist. However, most of these entities were created to provide public input on policy issues, and their members don't get involved in the efficiency of agency operations.

One official we spoke with emphasized the importance of pulling expertise from the right level of private organizations. For example, if what's needed is expertise in the technical aspects of telecommuting, the expertise may come from mid-level technical specialists, not from the CEOs.

We Identified Several Options for Change if the Performance Review Board Isn't Abolished

Many of the people we talked with about fostering private-sector input into governmental operations told us that, in order to be successful, an entity providing such input must have the following characteristics:

- **Political backing.** Political backing ensures that government agencies or functions will implement or at least consider the entity's recommendations. Political backing could take the form of strong support from a political champion, or laws that specify who hears the recommendations and how agencies must deal with them.
- **Independence.** Wherever the entity is housed, it must be able to work without undue pressure from agencies, and it must be able to consider ideas that come from members of the public and private sectors.
- **Sufficient funding.** Funding must be sufficient and dependable, so that reviews of governmental operations can be scheduled, planned, and completed.

During our audit work, we found numerous examples where governments have formed committees to review current government practices. Each of these entities had the same general mission: to foster public-private competition to ensure that government operations are efficient and cost-effective. Some committees included only leaders from the private sector; others were more inclusive, with members from the private sector, government staff, and members of the executive and legislative branches. In each case, the success of introducing and sustaining these review entities was directly related to support from a political leader.

Although the Performance Review Board was set up as an independent entity and received its full budget request during the first 4 budget years after it began operations, it never had political backing in the executive branch. For example, recommendations coming from Board reports weren't actively supported by Department of Administration or the Governor's Office.

If the Legislature does not abolish the Performance Review Board, it might want to consider the following options for providing the Board with political backing.

- **Modify the current Review Board to report directly to the Governor**. Under this option, the Board could continue to operate pretty much like it has in the past, but it would report to the Governor, who ultimately could approve the programs reviewed and the final recommendations from those reviews. The Board's staff could be retained, or the evaluations could be contracted out.

- **Expand membership on the Board to include stakeholders from the legislative and executive branch, as well as private-sector members.** This make-up is more similar to Virginia's Commonwealth Competition Council, a Performance Review Board-type entity that performs analyses to identify state services that can be shifted to the private sector through a competitive process. The Virginia Council includes 4 legislative members, 4 executive branch members, and 7 private-sector members. The Council has developed a cost comparison program that can be used for improving internal business processes, as well as for determining whether the public or private sector can perform the function more efficiently. The Council doesn't have statutory authority to ensure its recommendations are implemented, but those recommendations are usually supported by the governor, legislators, or both.

CONCLUSION Without the Kansas Performance Review Board, Kansas will have no systematic process for evaluating privatization options or for getting private-sector input into the efficiency of government operations. This report identifies models that some other states are using to get this input, any number of which could be adapted for Kansas. For any approach to work, however, it must have strong support from all the entities involved, with the primary goal of improving the efficiency of government services.

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on February 28, 2001. The audit was requested by Senators Jenkins and Barone.

SCOPE STATEMENT

Examining Ways to Get Private-Sector Involvement in Looking at the Efficiency of State Operations

The Kansas Performance Review Act was passed in 1996. It established the Kansas Performance Review Board to review governmental functions and recommend if they should be privatized, eliminated, retained, or modified. The Board consists of 5 members appointed by the Governor and confirmed by the Senate. No more than three members could belong to the same political party, and at least one member was required to have experience in cost accounting. The members of the board generally have been from the private sector. In addition to the five appointed members, the Secretary of Administration or his or her designee serves as an ex officio member.

Some legislators have doubted the useful value of Kansas Performance Review Board studies under the current structure. Senate Bill 180, currently being considered by the Legislature would repeal the Performance Review Act and abolish the Board. This has raised concerns among some Legislators that the State is losing valuable input from the private sector about ways to make government more efficient. Those legislators are looking for ways that private sector input into government operations could be retained if the Performance Review Board is abolished.

A performance audit in this area would address the following questions:

1. **What options exist for having private-sector input into government operations if the Performance Review Board is done away with?** We'd survey some of the larger State agencies such as SRS or the Department of Health and Environment to find out ways that they may have tried to solicit private sector input in the past, and ways that they think it could be encouraged in the future. We'd also contact various groups such as the National Conference of State Legislatures, the Council of State Governments, and other states to determine what other states are doing to foster private-sector input. As needed we'd contact some other states to find out what they are doing in this area. We'd talk with current and past members of the performance review board and other private-sector groups such as the Vision 21st Century Task Force that have been appointed to study and make recommendations on various aspects of State government operations. We'd find out from these people what aspects of their service they've found to be more rewarding and discouraging and what may need to change to encourage others from the private sector to share their input with government officials. We'd make other contacts and conduct additional work as needed.

Estimated completion time: 3-4 weeks

Appendix B

The Kansas Council on Privatization, in its final report *Privatize, Eliminate, Retain or Modify: A Strategy for Competitiveness in Government* dated January 20, 1995, recommended the State take several actions. Those actions included creating a "Kansas Performance Review Board."

This appendix includes the report's executive summary, which summarizes the Council's findings and recommendations.

EXECUTIVE SUMMARY

The Kansas Council on Privatization was created by the 1994 Kansas Legislature (S.C.R. 1626). The 15-member Council, chaired by Jeffrey A. Chanay, was asked to study the issues surrounding contracting for private performance of governmental services, identify state services that may be in competition with the private sector, and develop recommendations that will make state government more competitive and improve the delivery of services to Kansas citizens. This report provides a detailed analysis of the issues surrounding this topic, with special emphasis on cost accounting, Procurement, and the role of public employees. It contains over 30 recommendations to improve state government that are made to the Governor and Legislature of Kansas.

Need For A Privatization Framework

The Council has concluded that despite the extensive use and long experience with various forms of privatization, Kansas state government lacks an overall framework for privatization decisions. There is a compelling need for a rigorous methodology and process for determining whether privatization options are appropriate, efficient, and effective.

Kansas Experience With Contracting Out.

Many agencies of Kansas state government have contracted with the private sector extensively to provide services in accordance with their respective goals and missions. As is discussed ‘in Chapter Two, the Division of Purchases within the Kansas Department of Administration administers over 1,757 contracts for agencies throughout the state. The Council surveyed state agencies to gain information on their experiences with privatization and to obtain suggestions for improving the contractual process. Responses from 74 agencies demonstrate that they have a sophisticated understanding of contracting out, and overall, have had a positive experience with contractual arrangements. The experience in Kansas, as well as that of other states, has shown that privatization alternatives must be considered carefully and the advantages and disadvantages of this approach should be made explicit. A privatization checklist, or set of criteria, can be developed to identify the significant issues that must be considered prior to making a determination as to the appropriateness of contracting out for a given service or services.

Other States’ Experience

State governments have had extensive experience with contracting out to the private sector Chapter Three of the report examines the approaches used in Texas, Michigan, Illinois Massachusetts,, and Colorado. The Council has relied heavily on the approaches and methods adopted in Michigan, particularly the analytical method which has been applied successfully, called the PEM (Privatize, Retain, Eliminate or Modify) analysis. Based on the review of other states, privatization efforts should: 1) define the problem; 2) emphasize competition; 3) identify goals and measurable results of services; 4) integrate privatization review procedures with the budget process; 5) ensure the accuracy of methodologies for comparing costs of public and private services; 6) ensure that contracting governments have sufficient capacity and adequate resources to monitor projects; and 7) recognize the importance of educating the public.

Cost Accounting

Cost Accounting is the subject matter of Chapter Four. The decision to contract out or seek some other alternative to government

delivery of public services has to. be made with full and accurate understanding of cost accounting. How much does it really cost for state government to perform a given function? How much would it cost the state to have one of its functions performed instead by a private sector business? Cost accounting systems are developed for the public sector, but have not been used to fully and accurately account for all indirect costs. Kansas state agencies perform that degree of cost accounting which is sophisticated enough to prepare the annual state budget. Kansas uses a computerized accounting system referred to as STARS (Statewide Accounting and 'Reporting System).- State agencies we required by the federal government to adopt standardized principles for cost accounting. Office of Management and Budget Circular 87 requires state agencies to develop cost allocation Plans.

Accurate comparisons of the delivery of services between the public and private sector depend on identifying fully allocated cost, which is the sum of direct costs, plus overhead or indirect costs. Estimating savings from contracting out also requires the estimation of avoidable costs - those that will not be incurred - and unavoidable costs those that cannot be eliminated It is also important to understand the costs of contracting out, including contract administration costs, one time conversion costs, and potential reconversion costs.

Kansas state government now has adequate capability to perform the cost accounting necessary for fair and reliable analyses. The current system is sufficient to undertake a case-by-case investigation of selected services to determine if privatization or other efficiency-enhancing ideas should be adopted.

Procurement

Procurement policies and practices are outlined in Chapter Five. Currently, state procurement is based on a competitive process, with few exceptions. While the state relies, on the concept of "lowest responsible bidder," it has considerable latitude to ensure that issues of quality, fitness, capacity, and responsiveness are met. The state has also adopted an effective process of relying .on "procurement negotiating Committees' (PNC) of state officials to contract for certain services (K.S.A. 75-37,102). The Council recommends more extensive use of the PNC approach. The Council finds a need to place greater emphasis On qualitative or value-based decisions in the contractual process.

The Council has articulated the following principles to guide future procurement: 1) long-term savings and system improvements should be favored over short-term savings-, 2) private supply of goods and services should be Preferred when there is no significant savings from public sector supply; 3) changes to the procurement Sys tern should encourage competition for state con trac . ts; 4) the procurement system should be de- A signed to provide accountability for procurement m decisions; and 5) proper safeguards should be placed within the system to ensure vendor account ability- The Council has recommended statutory changes to strengthen the state's ability to debar vendors.

The Council takes the position that the procurement system should remain as flexible as possible. However, the system should be designed to fully account for the cost of Public Provision Of goods and services and the long-term value of goods and services provided by the Private sector. At all times the goal of the procurement system should be to obtain the highest quality product at the lowest cost with a fully accountable decision.

Public Employees

The question arises in Chapter Six as to how to address the needs of public employees who are

affected by privatization decisions. The Council acknowledges that decisions resulting from. an analysis that leads to contracting out or privatization of a state service can affect state employees. It also recognizes the important contribution that state employees make to ensure the effective delivery of public services, as well as the personal commitment they have to their careers and to serving the public.

Chapter Six outlines the operating assumptions of the Council, summarizes the existing rules and regulations governing layoff procedures, identifies the strengths and weaknesses of the existing layoff procedures, and outlines a series of proposals for legislative and gubernatorial consideration. These proposals include: 1) avoiding employee displacements by first relying on attrition and retirements; 2) making creative use of reassignments and transfers; 3) modifying the existing bumping procedures; and 4) adopting job sharing or reor- ganization alternatives that borrow from private sector experience.

The Council has recommended a series of proposals to provide assistance to state agency employees facing termination as result of privatization or other changes. These include.

providing skill-based training to enable a displaced employee to enter a vacant position; 2) allowing re-employment if a contract is terminated, 3) examining the treatment of benefits provided terminated employees; and 4) providing out-placement assistance, retraining, counseling, and assistance for entrepreneurial activity. The Council also suggests that the existing employee award program be modified to provide state employees greater incentive to suggest program improvements. A substantial percentage of the cost savings achieved from Private sector service delivery resulting from a PERM analysis should be awarded to the state employee who directly suggested the adopted alternative.

Candidates for PERM Analysis

The Council has identified in Chapter Seven ten specific services provided by state government that might provide an initial agenda for the analysis of Privatization and contracting out. Some of those services are already delivered on a contractual basis, but should be examined to determine if the current arrangements are effective and efficient, and if an acceptable quality of services being provided. The ten suggested services for PERM analysis are: 1) grain inspection, 2) state printing services, 3) travel information centers, 4) tourism marketing and development, 5) maintenance of highway rest areas, 6) state travel arrangements, 7) state motor vehicle ownership, 8) child support debt collection, 9) motor vehicle maintenance, and 10) security services.

A System For Ongoing Analysis

A method for ensuring an ongoing procedure for analyzing privatization and other alternatives is described in Chapter Eight. The primary recommendation of the Council is legislative creation of the "Kansas Performance Review Board" (KPRB) to be responsible for managing and overseeing the formal decision-making process surrounding the privatization, elimination, retention, or modification of state government services and functions.

The KPRB would consist of five members appointed by the Governor and confirmed by the Kansas Senate. The Secretary of Administration would serve as an ex-officio, non-voting member of the Board. No more than three members of the Board would be from the same political party. Board members would be appointed to serve four-year staggered terms with at least two members selected to serve initial terms -of two years. The members of the Board would receive compensation and reimbursement for travel and per diem.

The Board would receive an annual appropriation to fund the salaries and wages of a small staff and the operating expenses and other expenditures of the agency, as determined by the Legislature. The annual appropriation would also include funds to support the conduct of PERM analyses. The amount of state investment which the Council recornmends for PERM-related activities is $500,000 annually. This amount would be appropriated to KPRB alone, with KPRB being responsible for its disbursement for the KPRB staff, reimbursement to state agencies assisting or complying with PERM projects, and the payment of any private sector contractors that KPRB deems appropriate in given situations. Funding of $500,000 would represent the actual total cost of the PERM program each year. However, depending upon KPRB's degree of success in achieving government cost savings and efficiency gains, a higher level of funding may be warranted in outlying years in order to pursue additional PERM projects or projects of a larger scope.

The Council has proposed a detailed process for the management and conduct of a system of analysis that closely follows the successful PERM analytical model adopted by Michigan. This process identifies the role to be played by the KPRB, the Secretary of Administration, and state agencies. It provides opportunities for public participation through open hearings conducted by the KPRB, and it allows informed decision-making by the Governor and oversight by the Legislature.

The Council intends for the KPRB to represent a compromise of interests between the executive branch, the legislative branch, the judicial branch, and the citizens of Kansas. The KPRB would draw upon a flexible blend of the talents of the Kansas Department of Administration, the Legislative Division of Post Audit, state departments and agencies, and private sector specialists. Most important, KPRB would be a new and impartial entity that would operate from a solid, analytical foundation.

APPENDIX C

Agency Responses

On March 20 we provided copies of the draft audit report to the Department of Administration and the Kansas Performance Review Board. Their responses are included in this Appendix.

STATE OF KANSAS

DEPARTMENT OF ADMINISTRATION
State Capitol
Room 263-E
Topeka, Kansas 66612-1572
(785) 296-3011
FAX (785) 296-2702

DAN STANLEY, *Secretary*

BILL GRAVES, *Governor*

March 22, 2001

Barbara J. Hinton
Legislative Post Audit
800 SW Jackson St. Suite 1200
Topeka, KS 66612-2212

Dear Ms. Hinton:

This will acknowledge receipt of the completed performance audit *Private-Sector Input: Ways to Foster Such Input if the Kansas Performance Review Board is Abolished.* I appreciate the opportunity to comment on the audit report.

I would note from the outset that my biggest concern with the Performance Review Board (PRB) has been the *overstatement* of both potential and actual savings due to their recommendations. I would also suggest that while the quality of the board members has been outstanding, neither the staff nor the contracting consultants understand the decision-making process that state government goes through. It is also important to understand that the Governor's Appointments Secretary found it difficult to find people willing to serve on the PRB. The Executive Director comments that the board was unable to meet for more than 15 months because they did not have a quorum. The statute clearly allows members to continue serving until their successor has been named, however, the board choose not to meet even when four members were available.

In the eight reviews conducted by the PRB, not once was a recommendation made to either privatize or eliminate a government function. The recommendations stemming from these eight reviews could have just as easily come from any existing review process such as performance audits conducted by your staff, information gathered from internal agency review processes, or information gathered from participation with both state and national trade organizations.

Your audit suggests several alternatives to the PRB. Each of them has merit, and some of them are current practices. For example, many state agencies currently hire private sector consultants and have in place advisory groups made up of vendors, business people and other stakeholders. Although neither of these approaches is executed on a systematic basis, advisory

groups have been put into place and/or consulting firms have been hired as a direct result of performance audits done by your staff. This approach encourages agencies to " . . . pull expertise from the right level of private organizations."

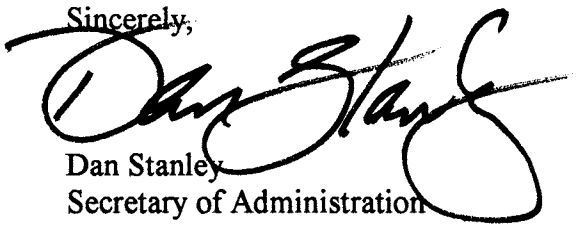
Significant changes are being made everyday by agencies to bring modern business practices into government. For example, Kansas has been a leader in incorporating modern technology into government functions, making it easier for both the agencies to do their jobs and citizens to interact with those agencies. This is true not only of the Department of Administration, but of all state agencies. Through the budget and legislative processes, agency heads have shown their desire to streamline processes and make their operations more cost effective. The PRB is *not* the inherent answer to encouraging and fostering this attitude. Rather, I would suggest that much of this change has been brought about by participation in national organizations and solicitation of input by not only the executive and legislative branches, but by individual citizens.

If such a review function *needs* to exist, I contend that it should rest within the existing post audit function. I believe that the board could be retained to provide input on performance audits much in the fashion that agencies provide input on the audits now. Asking them to look at scope statements prior to approval by the Legislative Post Audit Committee may give insight as to the "right" questions to ask. Asking them to review recommendations and make comments on those items may provide insight as to how citizens and business people perceive government functions. Funding an entirely separate organization with its own offices, an executive director, and staff that simply contracts out for consultants is both unnecessary and wasteful regardless of which branch of government they report to.

Several of the approaches you suggest, encourage or mandate that agencies themselves take on responsibility of systematically reviewing their functions to develop business plans or identify competitive opportunities. Currently, K.S.A. 75-7101 directs state agencies to use the analysis utilized by the PRB when identifying areas for privatization. It would be possible to keep the agency directive to use the analysis defined in current statute and accomplish the goal of reviewing government functions to determine whether they are being executed in the most efficient manner possible, without having a separate organization.

As always, I appreciate the professionalism shown by your staff and thank you for the opportunity to provide these comments.

Sincerely,



Dan Stanley
Secretary of Administration

DS:DN:tb

BILL GRAVES
Governor

Robert L. Stockwell
Executive Director
800 SW Jackson, Suite 817
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Tel (785) 296-4393
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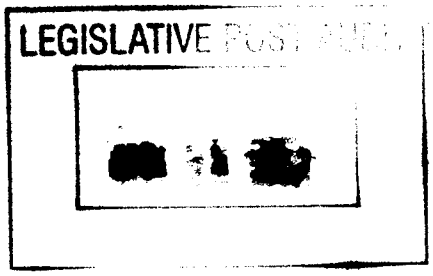
KANSAS PERFORMANCE REVIEW BOARD

March 22, 2001



Barbara J. Hinton
Legislative Post Auditor
800 SW Jackson, Suite 1200
Topeka, Kansas 66612

Dear Ms Hinton,

I have received the draft copy of your completed performance audit on the Kansas Performance Review Board. I have read it and explained the contents of it to the remaining Board members.

In summary, I found no factual error or any incorrect information in the audit that you and your staff assembled. I appreciate your timeliness and accuracy in this matter and the sensitivity that you and your staff showed during the conduct of the audit.

The Kansas Performance Review Board is, by design, a link to innovation and a conduit to the private sector. KPRB can inspire public confidence in government as taxpayers realize the total value they receive for their tax dollars.

I agree with your conclusion that *"Without the Kansas Performance Review Board, Kansas will have no systematic process for evaluating privatization options or for getting private-sector input into the efficiency of government operations."* Moreover, **with no political champion** in either the Executive branch or the Legislature to encourage agencies to systematically evaluate their programs with a sound methodology and no Board to facilitate reviews externally, agencies and the bureaucracy will have no impetus to do so on their own.

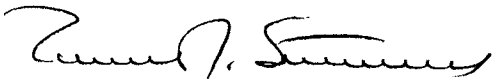
KPRB has added a new dimension of management expertise to the executive branch. The Board members have volunteered their time and experience as they evaluated state programs for efficiency and cost-effectiveness. Their business judgment combined with

an effective review methodology geared to Kansas government operations has provided the Governor and the Legislature a mature, independent voice with which to recommend improvements.

The concept of governmental self-evaluation embodied in the Kansas Performance Review Board will only be realized when the elected leaders in government become actively involved in promoting efficient and cost-effective agencies and programs.

Thank you for the opportunity for me to provide information for this audit and to comment on this draft report.

Sincerely,



Robert L. Stockwell
Executive Director