



# **PERFORMANCE AUDIT REPORT**

**Department of Commerce: A K-GOAL  
Audit Reviewing The Department's  
Management Staffing Levels**

**A Report to the Legislative Post Audit Committee  
By the Legislative Division of Post Audit  
State of Kansas  
December 2008**

# ***Legislative Post Audit Committee***

---

## ***Legislative Division of Post Audit***

**THE LEGISLATIVE POST** Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$13 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. Government Accountability Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators

or committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

### **LEGISLATIVE POST AUDIT COMMITTEE**

Senator Derek Schmidt, Chair  
Senator Nick Jordan  
Senator Les Donovan  
Senator Anthony Hensley  
Senator Chris Steineger

Representative Virgil Peck Jr., Vice-Chair  
Representative Tom Burroughs  
Representative John Grange  
Representative Peggy Mast  
Representative Tom Sawyer

### **LEGISLATIVE DIVISION OF POST AUDIT**

800 SW Jackson  
Suite 1200  
Topeka, Kansas 66612-2212  
Telephone (785) 296-3792  
FAX (785) 296-4482  
E-mail: [LPA@lpa.state.ks.us](mailto:LPA@lpa.state.ks.us)  
Website:  
<http://kslegislature.org/postaudit>  
Barbara J. Hinton, Legislative Post Auditor

### **DO YOU HAVE AN IDEA FOR IMPROVED GOVERNMENT EFFICIENCY OR COST SAVINGS?**

The Legislative Post Audit Committee and the Legislative Division of Post Audit have launched an initiative to identify ways to help make State government more efficient. If you have an idea to share with us, send it to [ideas@lpa.state.ks.us](mailto:ideas@lpa.state.ks.us), or write to us at the address above.

You won't receive an individual response, but all ideas will be reviewed, and Legislative Post Audit will pass along the best ones to the Legislative Post Audit Committee.

The Legislative Division of Post Audit supports full access to the services of State government for all citizens. Upon request, Legislative Post Audit can provide its audit reports in large print, audio, or other appropriate alternative format to accommodate persons with visual impairments. Persons with hearing or speech disabilities may reach us through the Kansas Relay Center at 1-800-766-3777. Our office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday.



LEGISLATURE OF KANSAS

**LEGISLATIVE DIVISION OF POST AUDIT**

800 SOUTHWEST JACKSON STREET, SUITE 1200  
TOPEKA, KANSAS 66612-2212  
TELEPHONE (785) 296-3792  
FAX (785) 296-4482  
E-MAIL: lpa@lpa.state.ks.us

December 12, 2008

To: Members, Legislative Post Audit Committee

Senator Derek Schmidt, Chair  
Senator Les Donovan  
Senator Anthony Hensley  
Senator Nick Jordan  
Senator Chris Steineger

Representative Virgil Peck Jr., Vice-Chair  
Representative Tom Burroughs  
Representative John Grange  
Representative Peggy Mast  
Representative Tom Sawyer

This report contains the findings, conclusions, and recommendations from our completed performance audit, *Department of Commerce: A K-GOAL Audit Reviewing the Department's Management Staffing Levels*.

The report also contains several appendices, including additional comparisons of the Department's management levels to other Kansas agencies, and salary amounts for the Department's management positions.

The report includes several recommendations for the Department of Commerce and the Department of Administration. We recommended that the Department of Commerce develop a plan to reduce the proportion of its staff in management positions, and conduct a thorough review of its non-salaried managers. We recommended that the Department of Administration require agencies to submit detailed organization charts and actual staffing levels each fiscal year, and that Department staff compare actual staffing levels with authorized positions to ensure that they are generally consistent. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton  
Legislative Post Auditor

# READER'S GUIDE

<b><i>The Big Picture</i></b>		<b><i>The Details</i></b>	
<b>Executive Summary</b>	Provides an overview of the questions we asked and the answers we found	<b>“At-a-Glance Box”</b>	Used to describe key aspects of the audited agency; generally appears in the first few pages of the main report
<b>Conclusions and Recommendations</b>	Located at the end of the report sections, and referenced in the Executive Summary	<b>Side Headings</b>	Point out key issues and findings
<b>Agency Response</b>	Included as the last Appendix in the report	<b>Charts, Tables, and Graphs</b>	Visually help tell the story of what we found
<b>List of Figures</b>	Lists all figures used in the report and their location (as shown at the end of the Executive Summary)	<b>Narrative Text Boxes</b>	Highlight interesting information or provide detailed examples

**EXECUTIVE SUMMARY**  
LEGISLATIVE DIVISION OF POST AUDIT

**Overview of the Department of Commerce**

**The Department has nearly quadrupled in staff size since 2004, when it took over all workforce development programs from the Department of Labor.** ..... page 4  
*In January 2004, the Governor issued Executive Reorganization Order 31, which resulted in the transfer of 300 employees from the Department of Labor to the Department of Commerce. Most of the transferred employees were placed within the Department’s Business and Workforce Development Divisions, but a few were placed in other areas such as legal, fiscal, and human resources.*

**Is the Department of Commerce Top Heavy with Management Compared to Similar-Sized Agencies in Kansas or Similar Types of Agencies in Other States, and Could Reducing Management Staff Result in Significant Salary Savings?**

**We compared management levels in the Department of Commerce to five other Kansas agencies.** ..... page 5  
*Although no two agencies are identical, we tried to select State agencies that had programs that were at least moderately complex and those with a similar number of employees to the Department of Commerce. Also, we intended to compare the Department to similar agencies in other states, but found that significant structural differences made those comparisons impractical. Finally, for all agencies included in our comparisons, we defined management staff as employees in a policy-making role and those with Public Service Executives job titles—management-level positions according to the Division of Personnel Services.*

**The Department has a higher proportion of management-type positions than any of our five comparison agencies.** ..... page 8  
*About 15% of the Department’s staff is management, compared to only 4% to 9% in other agencies. The Department had more than triple the percentage of staff in management positions than both the Department of Wildlife and Parks and the Department of Agriculture. We conducted several other analyses that defined management staff a little bit differently than we had at first, all of which generally supported our initial findings in this area.*

**On average, managers in the Department have fewer people reporting to them, and are lower in the organizational structure than in the comparison agencies.** ..... page 9  
*In general, a low number of people reporting directly to a manager can indicate that an agency is management heavy. The Department’s average of 3.7 subordinates reporting directly*

to each manager was the lowest of our comparison agencies, but it wasn't significantly different than three of the five, which had about 4 direct reports per manager. Also, we would typically expect to see management positions placed at the top of an agency's organizational structure. The Department had a higher percentage of its management in the lower levels of the organization than four of our five comparison agencies.

**One area within the Department that looked management heavy was the Division of Workforce Development.** Two areas within that Division—the employment services section and the workforce development regions—appear to significantly contribute to the Department's overall high proportion of management positions. The Department's employment services section has a ratio of 1 manager for every 1.2 non-management staff member, which was much higher than the Department's overall average of 1 manager for about every 6 non-management positions.

..... page 11

The five workforce development regions have a double layer of management. The director of each region is responsible for business outreach, while the assistant director manages day-to-day operations. These regions typically have a total of 11 to 23 non-management staff. Department officials told us that having the director perform business outreach improves credibility with business leaders. However, officials in Oklahoma and Utah—states with comparable funding and program outcomes as Kansas—reported that they perform a similar outreach function through staff-level positions.

**Bringing the Department's proportion of managers more in line with our five comparison agencies could save about \$61,000 to \$99,000 annually.** Reducing the percentage of management positions at the Department of Commerce to the high end of the range for comparison agencies would require eliminating or restructuring 20 management positions. We identified at least 17 management positions that feasibly could be reallocated to regular staff positions. Restructuring the five directors of the workforce development regions as staff positions could save between \$37,000 and \$75,000 a year. In addition, reducing 12 lower-level Public Service Executives to regular staff positions could save about another \$24,000 annually. Only about \$1,500 of these cost savings are State money; the rest are funded with fees or federal dollars.

..... page 15

**This audit identified two information weaknesses that hamper good analyses of agency staffing levels.** First, authorized position counts shown in the Governor's Budget don't always accurately reflect an agency's true staffing levels. In fiscal year 2008, for example, the number of authorized positions shown in the Governor's Budget overstates actual staffing levels for the Department of Commerce by 90 positions, or about 27%. Second, agencies aren't required to submit organizational charts to the Division of Budget, and those that do don't always provide a sufficient level of detail.

..... page 16

<b>Conclusion</b>	.....	page 17
<b>Recommendations</b>	.....	page 18

## List of Figures

<b>At-a-Glance Box:</b> Department of Commerce .....	page 4
<b>Figure 1-1:</b> Factors Influencing Management Levels and Oversight .....	page 5
<b>Figure 1-2:</b> Kansas Agencies Selected for Comparison to the Department of Commerce .....	page 7
<b>Figure 1-3:</b> Percent of Staff in Management Positions for the Department of Commerce and Five Comparison Kansas Agencies .....	page 8
<b>Figure 1-4:</b> Average Number of People Reporting Directly to Each Manager For the Department of Commerce and Five Comparison Kansas Agencies .....	page 9
<b>Figure 1-5:</b> Percent of Management in the Upper and Lower Reporting Layers for the Department of Commerce and the Five Comparison Kansas Agencies .....	page 10
<b>Figure 1-6:</b> Workforce Development Employment Services Division Management Structure .....	page 11
<b>Figure 1-7:</b> Department of Commerce Workforce Development Region Management Structure .....	page 13

## List of Appendices

<b>Appendix A:</b> Scope Statement .....	page 19
<b>Appendix B:</b> Supplemental Analyses of Management Positions .....	page 21
<b>Appendix C:</b> Department of Commerce Management Salaries .....	page 23
<b>Appendix D:</b> Agency Response .....	page 25

This audit was conducted by Justin Stowe. Leo Hafner was the audit manager. If you need any additional information about the audit's findings, please contact Justin Stowe 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](mailto:LPA@lpa.state.ks.us).



# Department of Commerce: A K-GOAL Audit

## Reviewing the Department's Management Staffing Levels

---

The Kansas Governmental Operations Accountability Law (K-GOAL) subjects any State agency or program to audits, reviews, and evaluations as determined by the Legislative Post Audit Committee. Through this process, the Legislature can, in the words of the Act, “retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations.”

The Committee is required to direct at least four audits each year under the law; it has chosen to focus these audits on efficiency and cost savings issues. The law states that each audit may determine whether the agency is still needed, whether another agency could effectively perform the functions of the agency or program, whether the agency or program could be operated more efficiently and still fulfill its intended purpose, and other factors as determined by the Legislative Post Audit Committee. The Committee has designated this audit of the Department of Commerce as a K-GOAL audit.

Recently, legislators have expressed concerns about whether the Department has more management staff than it needs, and whether having those staff is contributing to higher administrative costs for that agency.

This performance audit answers the following question:

**Is the Department top heavy with management compared to similar-sized agencies in Kansas or similar types of agencies in other states, and could reducing management staff result in significant salary savings?**

To answer this question, we reviewed organizational charts from the Department of Commerce and other similar-sized Kansas agencies to identify the number of management positions and how they are structured. Also, we collected data from the Division of Personnel Services to determine when the Department of Commerce' management positions had been created, and whether they were newly created or had been reallocated from existing non-management positions.

For divisions or areas within the Department of Commerce that appeared to have a high proportion of management, we interviewed agency staff and officials to better understand the reasons why.

Where appropriate, we made limited comparisons to other states' management structures in these areas. Finally, we estimated cost savings that could be achieved if the Department of Commerce brought its management proportions in line with comparable Kansas agencies.

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

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our findings begin on page five, following a brief overview.

---

## Overview of the Department of Commerce

---

The Department of Commerce' overall mission is to assist in the efficient use of the State's labor, capital and land resources. Specifically, its goal is to empower businesses and communities through strong leadership using strategic resources to help Kansas prosper. The Department also fosters State economic development through the promotion of business, commerce, and industry.

To accomplish this, the Department has established the following nine divisions:

- **Operations and Legal Services** – provides centralized administrative services to support the programmatic divisions of the Department.
- **Agricultural Marketing** – implements programs, undertakes joint ventures, and creates projects that lead to the most advantageous marketing, promotion, and distribution of Kansas agricultural products into domestic and international markets.
- **Trade Development** – helps Kansas businesses increase the sale of goods and services in domestic and international markets.
- **Business Development** – This division has programs in four areas: business assistance, business finance, business recruitment, and the Office of Minority and Women Business Development. Two of the main functions of this division are providing assistance to existing Kansas businesses and attracting new businesses from outside Kansas.
- **Workforce Development** – links businesses, job seekers, and educational institutions to ensure that Kansas employers find well-trained employees.
- **Travel and Tourism Development** – promotes a positive image of Kansas as a good place to live and visit.
- **Community Development** – the purpose of this division is to preserve and enhance the livability of rural Kansas communities by increasing their capacity to finance infrastructure improvements, enhancing the economic vitality of the downtowns and businesses, planning and funding community development projects, and increasing entrepreneurial development.
- **The Kansas Commission On Disability Concerns**- works with State, federal, and local governments as well as businesses, labor, private citizens, and non-profit organizations in order to enhance the employment opportunities and quality of life of Kansans who are disabled.
- **Debt Service and Capital Improvements** – pays the principal and interest on capital improvement projects such as the purchase and renovation of workforce centers throughout the State.

The Department receives a small portion of funds from the Economic Development Initiatives Fund and from the State General Fund. The majority of its funding (85%) comes from other sources such as federal funding for the Workforce Investment Act and the Wagner Peyser Act.

**The Department has nearly quadrupled in size since 2004, when it took over all workforce development programs from the Department of Labor.** In January 2004, the Governor issued Executive Reorganization Order 31 which proposed moving the Division of Employment and Training from the Department of Labor to the Department of Commerce.

As a result, about 259 employees were transferred from the Department of Labor to the Department of Commerce in June 2004. An additional 41 employees were transferred in July 2005 when the Department of Commerce took over the America’s Job Link Alliance Program—a national information technology field center for job seekers and employers nationwide—in order to combine all workforce development systems in one agency.

Most employees associated with the transferred programs were placed within the Department’s Business and Workforce Development Divisions, but a few were placed in various administrative areas, such as legal, fiscal, and human resources.

**Department of Commerce**  
**AT A GLANCE**

<b>Authority:</b>	The Department has its origin in K.S.A. 74-3601 in which the 1939 Legislature created the Industrial Development Commission. Since then several reorganizations took place, including a Governor’s reorganization order in 1975 in which the Department became a cabinet-level agency.
<b>Staffing:</b>	In FY 2008, the Department had 422.75 authorized positions.
<b>Budget:</b>	The Department’s majority of funding (85%) comes from Other Fund appropriations, including federal grants such as the Workforce Investment Act and Wagner Peyser. The Department also receives moneys from the Economic Development Initiatives Fund (EDIF) and the State General Fund.

FY 2008 Expenditures	Sources of Funding for Expenditures (in millions)																											
	<table style="margin-left: auto; margin-right: auto;"> <tr> <td>EDIF</td> <td>\$18.4</td> <td>15%</td> </tr> <tr> <td>State General Fund</td> <td>\$0.6</td> <td>0%</td> </tr> <tr> <td>Other Funds</td> <td>\$106.4</td> <td>85%</td> </tr> </table>	EDIF	\$18.4	15%	State General Fund	\$0.6	0%	Other Funds	\$106.4	85%																		
EDIF	\$18.4	15%																										
State General Fund	\$0.6	0%																										
Other Funds	\$106.4	85%																										
	<table style="margin-left: auto; margin-right: auto;"> <tr> <td>Other Assistance</td> <td>\$ 74,295,786</td> <td>59%</td> </tr> <tr> <td>Aid to Local Governments</td> <td>\$ 19,675,831</td> <td>16%</td> </tr> <tr> <td>Salaries &amp; Wages</td> <td>\$ 17,146,347</td> <td>14%</td> </tr> <tr> <td>Contractual Services</td> <td>\$ 11,438,901</td> <td>9%</td> </tr> <tr> <td>Non-expense Items</td> <td>\$ 1,735,036</td> <td>1%</td> </tr> <tr> <td>Capital Outlay &amp; Improvements</td> <td>\$ 575,564</td> <td>0%</td> </tr> <tr> <td>Commodities</td> <td>\$ 529,931</td> <td>0%</td> </tr> <tr> <td>Debt Service</td> <td>\$ 66,017</td> <td>0%</td> </tr> <tr> <td><b>Total Expenditures:</b></td> <td><b>\$ 125,463,413</b></td> <td><b>100%</b></td> </tr> </table>	Other Assistance	\$ 74,295,786	59%	Aid to Local Governments	\$ 19,675,831	16%	Salaries & Wages	\$ 17,146,347	14%	Contractual Services	\$ 11,438,901	9%	Non-expense Items	\$ 1,735,036	1%	Capital Outlay & Improvements	\$ 575,564	0%	Commodities	\$ 529,931	0%	Debt Service	\$ 66,017	0%	<b>Total Expenditures:</b>	<b>\$ 125,463,413</b>	<b>100%</b>
Other Assistance	\$ 74,295,786	59%																										
Aid to Local Governments	\$ 19,675,831	16%																										
Salaries & Wages	\$ 17,146,347	14%																										
Contractual Services	\$ 11,438,901	9%																										
Non-expense Items	\$ 1,735,036	1%																										
Capital Outlay & Improvements	\$ 575,564	0%																										
Commodities	\$ 529,931	0%																										
Debt Service	\$ 66,017	0%																										
<b>Total Expenditures:</b>	<b>\$ 125,463,413</b>	<b>100%</b>																										
	<table style="margin-left: auto; margin-right: auto;"> <tr> <td><b>Total Funding:</b></td> <td><b>\$ 125,463,413</b></td> </tr> </table>	<b>Total Funding:</b>	<b>\$ 125,463,413</b>																									
<b>Total Funding:</b>	<b>\$ 125,463,413</b>																											

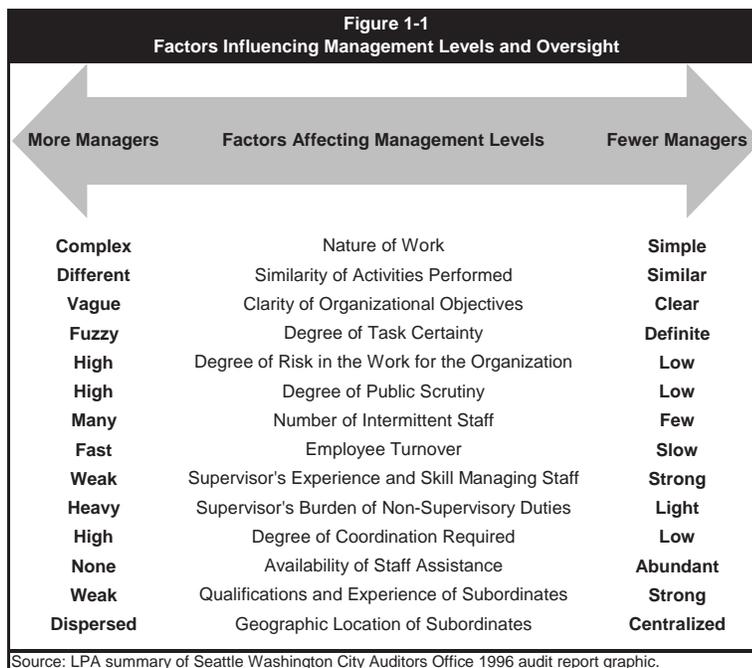
Source: The Governor’s Budget Report, Vol. 2, FY 2009 and Division of Budget data.

## Is the Department of Commerce Top Heavy with Management Compared to Similar-Sized Agencies in Kansas or Similar Types of Agencies in Other States, and Could Reducing Management Staff Result in Significant Salary Savings?

**ANSWER IN BRIEF:** *The Department of Commerce has more management positions for the number of people it employs than any of the other five Kansas agencies we looked at. Also, on average, the Department has fewer people reporting to each of its managers. Many of these are located at fairly low reporting levels in the Department and continue to be subject to the provisions of the Fair Labor Standards Act, which usually only apply to non-management positions. The heaviest concentration of management—one management position for every 1.2 non-management positions—was in the Employment Services section of the Department’s Workforce Development Division. Also, we noted that the Department has organized its five workforce development regions in a way that results in a double layer of management. Overall, we estimated that \$61,000 to \$99,000 could be saved annually by bringing the Department’s proportion of management more in line with other agencies. These and related findings are discussed in more detail in the sections that follow.*

***We Compared Management Levels In The Department of Commerce To Five Other Kansas Agencies***

A number of factors can affect the amount of management an agency needs. These include the complexity of work performed, experience levels of staff, and whether staff are centralized or dispersed in remote locations. In 1996, the Seattle City Auditor’s Office issued a report that identified a number of these factors that affect management levels, summarized in **Figure 1-1**.



Generally speaking, the Department of Commerce isn't performing repetitive tasks and is performing moderately complex work. As a result, the amount of management needed by the Department could be higher than an agency that performs a lot of routine processes.

**We selected five agencies that generally were similar to the Department of Commerce for comparison.** Although no two agencies will be identical in terms of the factors shown in *Figure 1-1*, we tried to select State agencies that had programs that were at least moderately complex, and those with a similar number of employees. One exception we made was the Department of Health and Environment. We originally selected it because its two major divisions – the Division of Health and the Division of Environment — individually had about the same number of employees as the Department of Commerce. Difficulties in equitably allocating upper-management positions to the two divisions required us to analyze the agency as a whole. However, because our analyses were done on a proportional basis, we were able to keep our analyses generally comparable despite the differences in agency size.

*Figure 1-2* at right identifies each of the agencies we selected for comparison and provides some general information about them.

In selecting comparison agencies, we avoided institutional agencies, such as prisons or mental hospitals, because of the likelihood that they could be substantially different from the Department of Commerce in the type of management structure they'd need.

Also, we had originally set out to compare the Department of Commerce to similar types of agencies in other states. However, once we began to look at other states we realized that it was impractical to make fair and uniform comparisons of management to staffing ratios due to significant differences in how other states are structured and the management titles they use.

**We included two types of positions in our definition of management.** Management can be defined in a number of ways. Because we wanted to be as consistent as possible and focus primarily on upper-level management, we defined management as:

- **Policy-making managers** – Generally these types of positions included the agency head, and other high-level managers such as deputy directors, division directors, general counsels, and the like.
- **Public Service Executives** – We included all staff who held a “public service executive” title in either the classified or unclassified service. We chose the Public Service Executive class because officials at the Division of Personnel Services told us that this class generally is reserved for management positions.

**Figure 1-2  
Kansas Agencies Selected for Comparison to the Department of Commerce**

Agency	Total Positions (a)	Total Management Positions as Defined by LPA	FY 2007 Actual Expenditures (in millions)	Agency Mission	FY 2008 Average Years of Service - Classified Regular Staff
<b>Department of Commerce</b>	333	50	\$112.3	To empower businesses and communities through bold leadership using strategic resources to realize prosperity in Kansas; foster the economic development of the State through the promotion of business, commerce, and industry; and to assist in the efficient use of the State's labor, capital, and land resources.	15.4
<b>Department on Aging</b>	207	18	\$454.2	To improve the security, dignity, and independence of Kansas seniors, their families, caregivers, and all Kansans living in adult care homes.	13.7
<b>Corporation Commission</b>	226	20	\$19.4	To protect the public interest through impartial and efficient resolution of all jurisdictional issues associated with the rates, services, and safety of public utilities, common carriers, and motor carriers; regulate oil and gas production to protect correlative rights and environmental resources; regulate underground natural gas storage to ensure the safety of Kansans; and to promote renewable energy and energy conservation.	15.1
<b>Department of Agriculture</b>	386	17	\$27.9	To regulate various agricultural industries, promote agricultural development, regulate water resources and disseminate information on Kansas agriculture; to ensure public safety and consumer protection by enforcing laws concerning food safety and production and quality of agricultural supplies; to protect the State's natural and plant resources by regulating and overseeing activities concerning pesticide application, invasive insects, and plant diseases.	13.2
<b>Department of Wildlife and Parks</b>	410	20	\$56.1	To conserve and enhance Kansas' natural heritage, its wildlife, and its habitats to assure future generations the benefits of the State's diverse, living resources, and to provide the public with opportunities for use and appreciation of the natural resources of Kansas consistent with the conservation of those resources.	14.2
<b>Department of Health and Environment</b>	957	82	\$230.2	To protect and promote the health of Kansans by providing community and personal health services, ensuring adequate sanitary conditions in public facilities and health facilities, and regulating and promoting environmental quality.	13.2

(a) These totals won't match authorized FTE counts in the Governor's Report for several reasons, including a large number of authorized positions not currently filled in some agencies, and temporary staff positions.

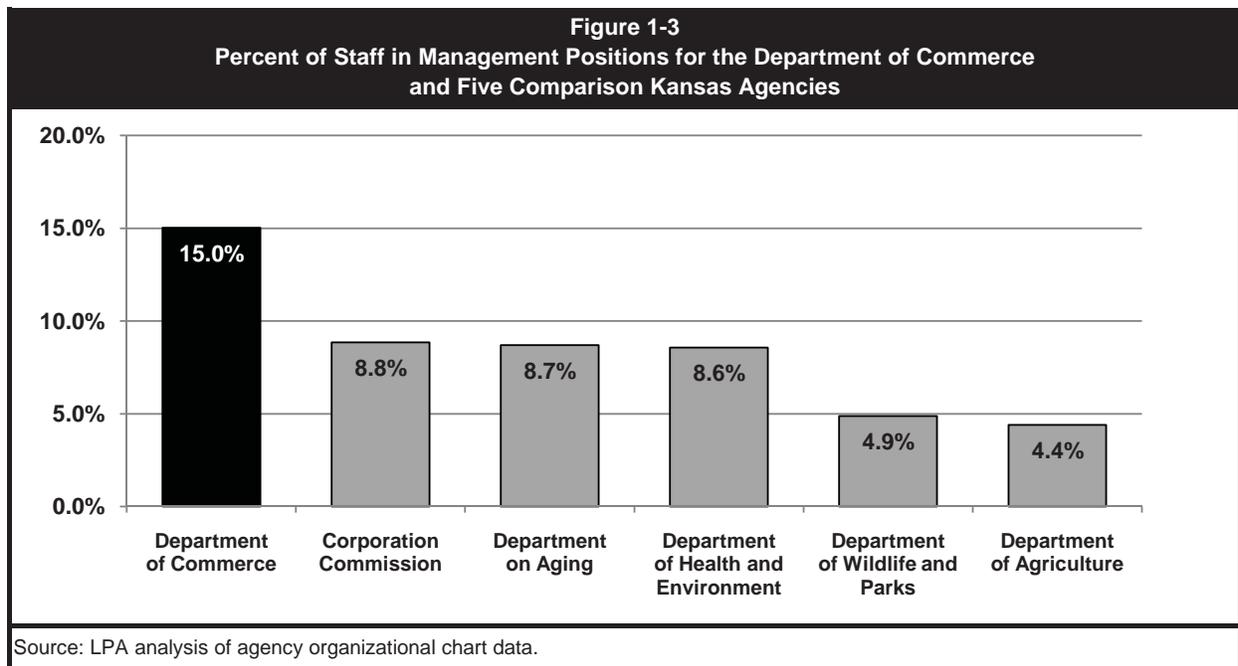
Source: LPA summary of data compiled from the Governor's 2009 Budget Report, the 2009 Budget Comparison Report, and the Division of Personnel Services.

To ensure the accuracy of our comparisons, we talked to officials from each agency and confirmed that we had correctly identified their policy-making management positions.

***The Department of Commerce Has a Higher Proportion of Its Staff In Management-Type Positions***

One of the first steps we took to determine whether the Department of Commerce was management heavy was to calculate the proportions of management to total staff for the Department and the five comparison agencies.

**About 15% of the Department of Commerce’s staff is management, compared to only 4% to 9% in other agencies.** *Figure 1-3* shows this information for all six agencies, based on the definition of management positions described earlier in this report.



As the figure shows, at 15.0%, the Department of Commerce has almost twice the percentage of management staff as the next highest agency – The Corporation Commission—and more than triple the percentage found in the Department of Wildlife and Parks and the Department of Agriculture.

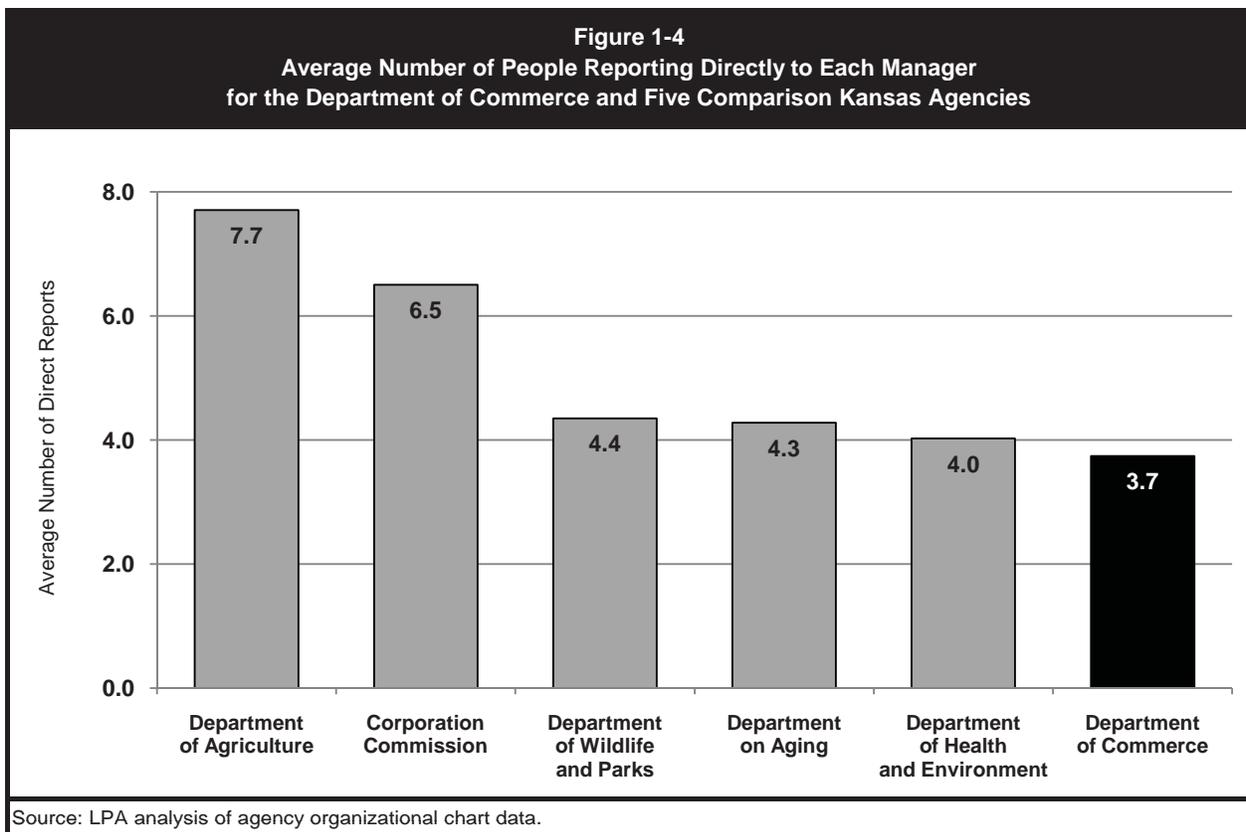
Through our discussions with the Division of Personnel Services, we learned that in addition to top-level managers, people holding positions in the top rank of some professional classes such as accountants, engineers, or lawyers can sometimes have management roles. Consequently, we performed several supplemental analyses to ensure that the relationships we saw in *Figure 1-3* weren’t simply the result of differences in the types of job titles or classes used by the agencies we chose for comparison.

*Appendix B* provides the results of these additional analyses, all of which generally support our findings regarding the Department’s management levels discussed above.

***On Average, Managers In the Department of Commerce Have Fewer People Reporting to Them, and Are Lower In the Organizational Structure Than In the Comparison Agencies***

The next two steps we took to evaluate the Department’s management structure was look at the average number of people reporting directly to a manager, and where those managers were located in the overall agency hierarchy.

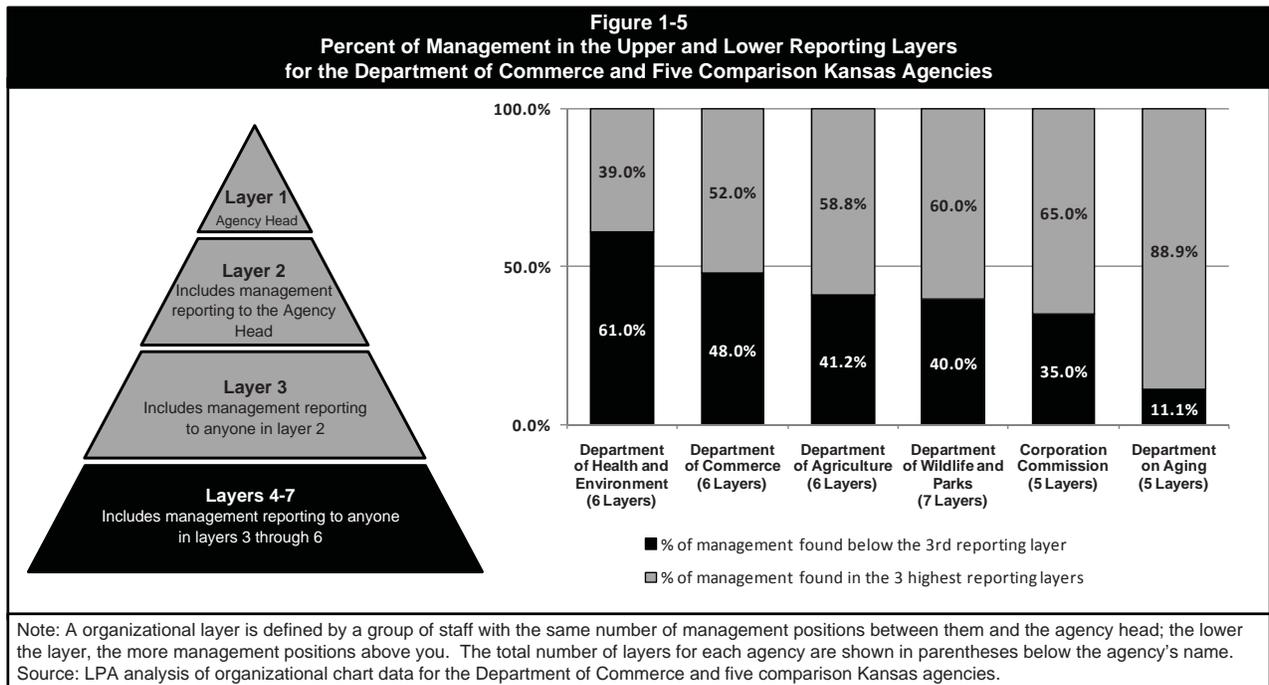
**On average, management positions at the Department of Commerce had fewer people reporting directly to them than the other agencies in our sample. *Figure 1-4* below compares the average number of people directly reporting to each manager for the Department and each of the comparison agencies we selected. In general, a low number of people directly reporting to managers can indicate that an organization is management heavy.**



As shown in the figure, the Department of Commerce has an average of 3.7 subordinates directly reporting to each manager. Despite having the lowest average, the Department wasn’t significantly different from three of the five comparison agencies, which had about four people reporting to their managers on average.

**More of the Department’s management employees can be found in lower levels of its organizational hierarchy than in most of the other State agencies we examined.** Typically, we would expect to see management positions placed at the top of an agency’s organizational structure. When we analyzed the reporting structures for the Department of Commerce and our comparison agencies, we found that the Department of Commerce had more management positions further down in the chain of command than most of the other agencies.

*Figure 1-5* below shows the percentage of management within the top and lower reporting level’s of each agency’s organizational structure.



As shown in the figure, the Department of Commerce had more management positions in the lowest levels of its organization than any of the other agencies except the Department of Health and Environment.

**The Department of Commerce has a significant number of management positions that aren’t exempt from the requirements of the Fair Labor Standards Act.** Typically, management positions are paid on a salaried, rather than hourly basis—reflecting the expectation that they will work whatever hours are needed to get the job done. Accordingly, they should be exempt from the provisions of the Fair Labor Standards Act, which requires payment or compensatory time off for any time worked in excess of forty hours per week.

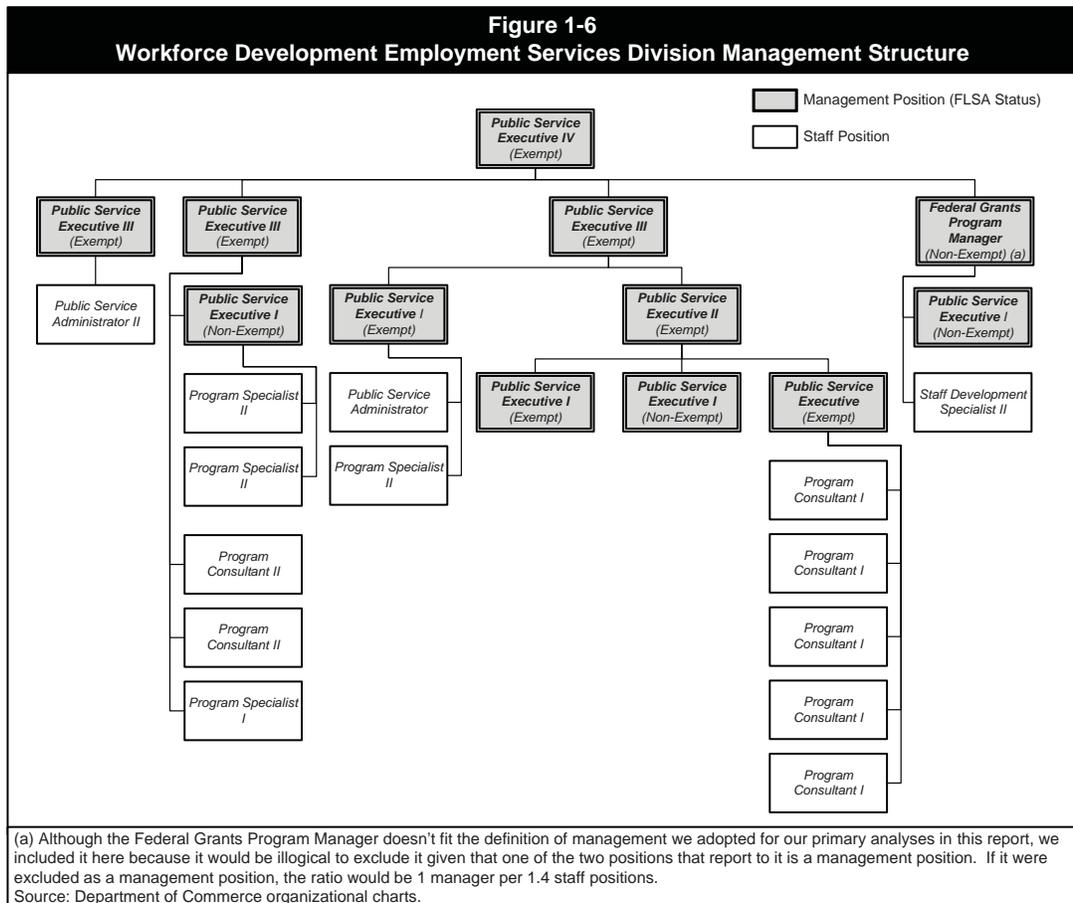
Almost one-fifth of the Department’s management positions aren’t exempt from the Fair Labor Standards Act. This means that although these positions hold management titles, they aren’t salaried and could receive overtime like hourly employees.

Division of Personnel Services staff told us that at one time, all Public Service Executive positions were required to be exempt from the provisions of the Fair Labor Standards Act. Although that is no longer a requirement, they told us that management staff who aren't exempt from this Act should be the exception and not the rule.

***One Area That Looked Management Heavy Was the Division of Workforce Development***

When we looked at the Department's organizational chart, we noted that many management positions were located within the Workforce Development Division. In particular, two areas within that Division—the employment services section and five workforce development regions—appear to significantly contribute to the Department's overall high proportion of management. Issues related to each of those areas are discussed in the following sections.

**Overall, the Division's employment services section has a ratio of 1 manager for every 1.2 non-management staff members.** As mentioned earlier in this report, the Department of Commerce has about 15% of its staff in management positions; or a ratio of one manager for about every six non-management positions. Consequently, this section had an unusually large number of managers compared to the rest of the Department. *Figure 1-6* shows the organization structure for the employment services section.



As the figure shows, 7 of the 12 management positions have 2 or fewer subordinates. Moreover, half of the management positions in this section were reallocated from a non-management position within the last five years; four of which are paid on an hourly, and not salaried, basis.

When we asked agency officials why this section within the Workforce Development Division required so many management positions, they told us that this division had responsibility for about 13 federal and State programs accounting for about \$50 million dollars in funding.

We reviewed a sample of the job descriptions for the management positions in this division and identified some level of programmatic responsibility for each. However, without a more thorough review of the work each of these positions performs, it's not possible to say whether all of these positions are justifiable. Given the Department's overall management proportions and the large number of lower-level management positions recently reallocated, we think there is likely to be potential for management reductions in this division.

**The five workforce development regions have a double-tiered management layer that also contributes to the Department's overall high ratio of management to non-management staff.** The regional director for each workforce development region is largely responsible for business outreach, and the assistant director manages the day-to-day operations of the region. *Figure 1-7* at right shows this management structure.

In reviewing this structure, we found that only about 20% of the Regional Director's time is spent managing operations of the workforce region; most of their time is spent on business outreach, which includes:

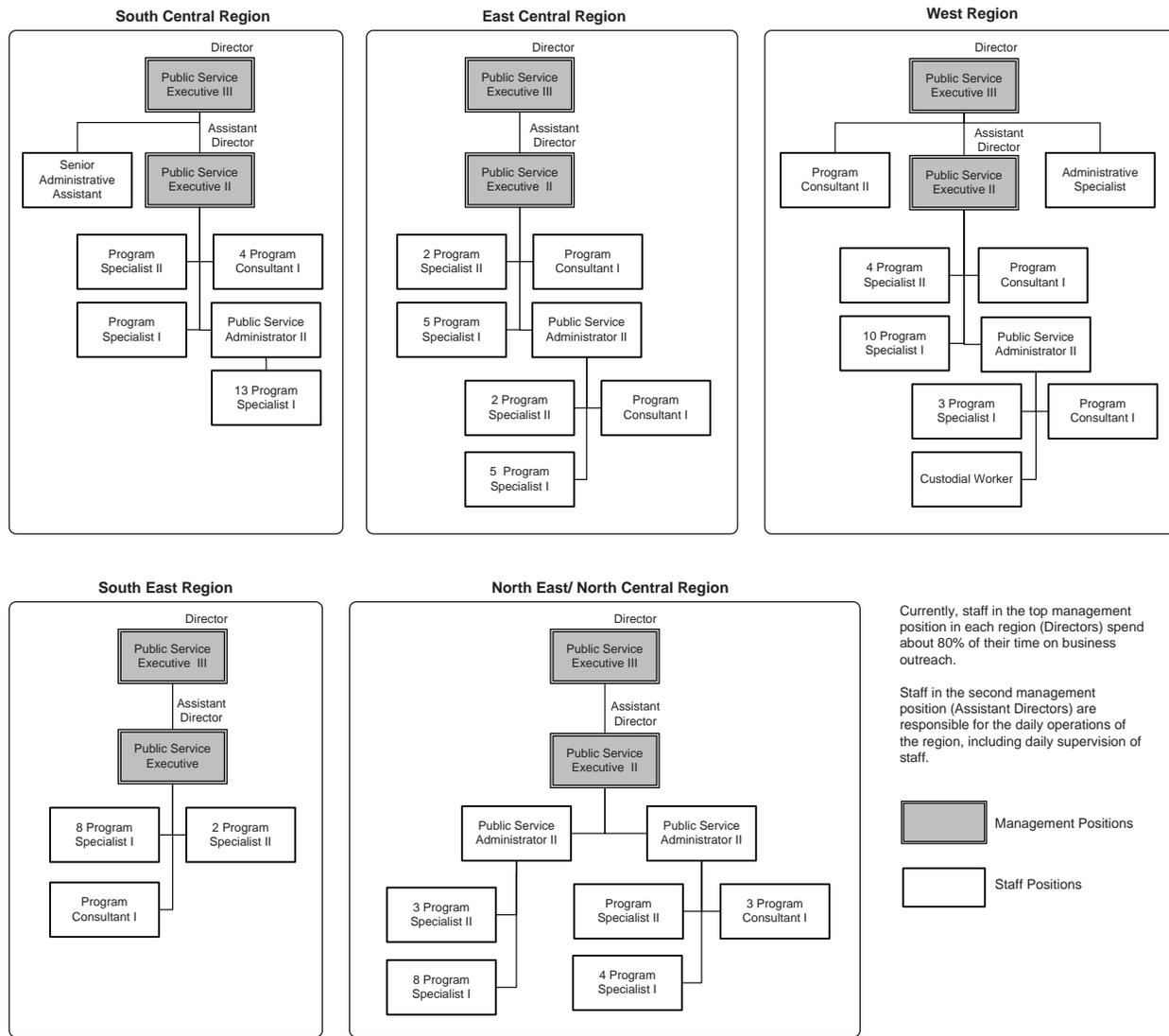
- Networking with business leaders regarding federal and State training services.
- Participating in business recruitment with economic development organizations and governments.
- Working with workforce development leadership to identify improvements, gaps, and duplication in existing workforce development programs at Regents institutions.

Officials from the Division of Personnel Services told us that it isn't unusual for agencies to have director and assistant director positions for regional operations such as those in the Department of Commerce

Workforce Development Division. However, we questioned whether the outreach function could be performed by a lower-level employee such as an Economic Development Representative.

Department of Commerce officials told us that, in their opinion, this function needed to be at the management level to provide additional credibility in networking with high-level business officials, and community leaders such as political officials and chamber of commerce officials. They also told us that although regional directors can't independently commit money to a business, once money is committed by the agency's upper management, the regional directors have major responsibilities for determining how the money should be

**Figure 1-7  
Department of Commerce Workforce Development Region Management Structure**



Currently, staff in the top management position in each region (Directors) spend about 80% of their time on business outreach.

Staff in the second management position (Assistant Directors) are responsible for the daily operations of the region, including daily supervision of staff.

Source: LPA analysis of the Department of Commerce organizational charts.

spent to best serve the needs of the business or the community. Some examples of the work these regional directors perform are summarized in the box below.

**Directors of the Workforce Development Regions  
Handle a Wide Variety of Tasks Related to Business Outreach**

We asked Department officials to provide us with some concrete examples of the type of work regional directors perform as part of their outreach function. Some of the recent events regional directors have been a part of include:

- **Tyson beef processing plant layoff.** In January 2008, the Tyson beef processing plant in Emporia laid-off about 1,500 employees. As the key contact for the Department of Commerce, the regional director was responsible for organizing informational meetings with Tyson staff, participating in community meetings, maintaining contact with the city manager, and holding conference calls with the Department of Labor, SRS, and local technical colleges.
- **Site location selection for eServ.** In October 2008, an engineering services firm named eServ was considering Wichita as one of their final business locations. To aid eServ in their decision, the regional director developed a presentation that included a statistical analysis of the labor market and services available through the local Workforce Center. Eventually eServ located one of its offices in Wichita, and currently employs 16 engineers.

**Some other states we contacted appear to use lower-level staff for business outreach.** To determine if business outreach could be performed by lower level staff, we gathered information from four other states—Maryland, Oklahoma, Iowa, and Utah. We selected these states because they received comparable amounts of federal funding for the Workforce Investment Act and the Wagner Peysner Act; significant federal funding sources for workforce development programs. In addition, these states had outcomes for both federal programs that were often as good as or better than those achieved by the Department of Commerce.

Because each state structures its workforce development programs differently, we had to use our best judgment to identify their comparable business outreach functions. We found that:

- All four of these states perform a business outreach function that's similar; although not necessarily identical, to the one performed in Kansas.
- Officials from two of the states, Oklahoma and Utah, said they perform this function through staff, rather than management-level positions. The other two states also appear to perform business outreach through staff-level positions, but we weren't able to contact officials to confirm this.

Consequently, it appears that many of the duties currently performed by regional directors of the workforce development regions could be done through staff positions.

---

***Bringing the Department's Proportion of Managers More In Line With Comparison Agencies Could Save About \$61,000 to \$99,000 Annually***

As mentioned earlier, the Department has a higher percentage of its staff in management positions (15%) compared to the other agencies we looked at (4% to 9%). Reducing the percentage of management positions at the Department of Commerce to the high end of the range for comparison agencies (9%) would require eliminating or restructuring 20 management positions.

While there are a number of potential ways to reduce management staff, we identified two areas where at least 17 management positions could feasibly be reallocated to regular staff positions.

- **Eliminating the double-tiered management layer in the workforce development regions by performing business outreach through staff positions could save between \$37,000 to \$75,000 a year.** As mentioned earlier, the primary job responsibility of the workforce development regional directors is the business outreach function. We think this work could be assigned to lower-level staff such as an Economic Development Representative III or IV, in a manner more consistent with how this function is performed in some other states. Reducing these regional director positions to an Economic Development Representative III position could save about \$75,000, and reducing them to Economic Development Representative IV positions could save about \$37,000.
- **Reallocating 12 lower-level Public Service Executives could save about another \$24,000 annually.** During the last five years, the Department has taken a number of actions with regard to management positions, as shown in the box on the next page. This included decisions to upgrade 15 non-management positions into management level positions, many of which are lower-level Public Service Executive positions with few, if any, subordinates.

We identified 12 lower-level Public Service Executive positions that have few subordinates and could potentially be reallocated to non-management positions; 7 of which (58%) are non-exempt from provisions of the Fair Labor Standards Act. To estimate cost savings in this area, we calculated the difference between the current salaries of 10 of these positions and the salaries those positions would receive if they hadn't been reallocated to a management position. For two additional positions that had been newly created, we calculated the difference between their current salary and the next lowest pay grade.

Together, these actions would reduce 17 management class positions to non-management positions, which would bring the Department more in line with comparison Kansas agencies. It should be noted that the potential savings from each of these actions wouldn't be particularly large for two reasons. First, many of the management positions in these areas aren't particularly highly paid. Overall, 42% of the 50 management positions we identified at the Department of Commerce make less than \$60,000 per year. (See **Appendix C** for a list of management positions and their salaries.) The second reason is that no positions would be eliminated entirely; the work would just be done by someone in a lower-level position.

**Over the Past Five Years, the Department of Commerce  
Has Created or Reallocated a Net Total of 27 New Management Positions**

We analyzed historical data for the Department's current management positions to determine when they'd been created. We found that over the past five years:

The Department has eliminated 16 management positions.

- Many of these, about 60%, were upper-level Public Service Executive positions.
- About 31% of these positions were eliminated in 2007; the time period in which Department officials told us they had begun contracting out workforce development services in two regions.

The Department has created or reallocated 43 management positions over that same time.

- The Department has created 28 new management positions. Of these, about 70% were upper-level Public Service Executive positions. In addition, almost half of these newly created management positions occurred in 2004, when workforce development programs and services were transferred from the Department of Labor to the Department of Commerce.
- The Department has also reallocated 15 non-management positions to management positions. Of these, 80% were lower-level Public Service Executive positions, and about two-thirds resulted in a pay grade increase for the position. Half of these reallocations occurred in 2008.

Other options exist that potentially could yield larger savings, such as the complete elimination of positions. Making an assessment of the potential for eliminating positions would require a detailed review of the various tasks and functions performed by each of the 50 management positions we identified in the Department. That was not feasible within the time frame for this audit.

Finally, based on funding information the Department provided to us, it appears that only about \$1,500 of the cost savings we identified would be from State funds. That's because most of the management salaries included in this analysis are federally funded or fee-funded.

---

***This Audit Identified  
Information Weaknesses  
That Hamper  
Good Analyses of Agency  
Staffing Levels***

In conducting this audit, we identified two issues related to the completeness and accuracy of information the State collects regarding agency management and staffing levels. Each of those is discussed below.

- **Authorized position counts don't always accurately reflect an agency's true staffing levels.** The Governor's Budget Report shows the total number of authorized positions for each State agency. That number isn't very reflective of the actual number of employees in an agency. Although the Division of Budget estimates staff head count by using payroll records, the only source of actual staffing levels is agencies themselves. For example, in fiscal year 2008, the Department of Commerce had 423 authorized positions. However, during the audit we learned that the Department had only 333 positions currently filled, or that it planned to fill in the near future. Hence, the authorized number of positions shown in Governor's budget overstates true staffing levels in the Department by some 90 positions or about

27%. When the numbers of positions are that different, it creates difficulties in accurately comparing agencies.

Officials from the Division of Budget told us that it isn't uncommon for agencies to have more authorized than filled positions because it allows management flexibility to upgrade positions as needed. The number of positions an agency can fill ultimately is limited by the salary moneys they have available. However, having 90 more authorized positions than the Department of Commerce currently uses appears to be beyond what is needed for flexibility to manage its personnel resources.

Department of Commerce officials told us that a large number of the excess positions we identified were supposed to have been inactivated in previous years but hadn't been. They told us they currently are in the process of reviewing these positions, and will reduce them in the future.

- **Agencies aren't required to submit organization charts to the Division of the Budget, and many don't do so.** Analyzing management structures across State agencies requires a detailed look at agency organization charts to determine what management positions exist, where they are in the organization, and how many people are reporting to each manager. Even within a single agency, detailed organization charts are a useful tool in evaluating the overall structure of the agency.

When we started this audit we were surprised to find that agencies aren't required to submit a detailed organization chart to the Division of Budget as part of their annual budget submission. When contacting agencies to gather organization charts for comparison purposes, we found that some of the organization charts aren't very detailed and only show agency structures at the very highest level. If organization charts were consistently prepared in a sufficient level of detail and were provided to the Division of Budget each year, it would allow State officials to look across agency structures and identify anomalies in staffing patterns that could suggest inefficiencies in State operations.

***Conclusion:***

With almost double the proportion of staff in management positions compared to other agencies, the Department of Commerce clearly is management heavy. To come into line with the other agencies, the Department would need to reduce its management ranks by at least 20 positions. The most likely area to make reductions is in the Division of Workforce Development, where many positions have been upgraded to management levels in the last five years, and where at least one section has almost one management position for every non-management employee. Downgrading positions from management to non-management position classes won't necessarily produce large savings because many of the managers are in pay grades that aren't significantly higher than the pay grades associated with the positions they held previously. Larger savings could be achieved if the Department could find ways to eliminate some management positions entirely, or if the work currently performed by employees

with management titles could be done by other employees in much lower pay grades. Savings to the State General Fund from any management positions being downgraded or eliminated would be fairly small because many of the management salaries are funded with federal funds or fee funds.

***Recommendations for  
the Department of  
Commerce:***

1. To ensure that its management levels are more in line with other Kansas agencies, the Department of Commerce should use the information in this report and work with the Division of Personnel Services to develop a plan to reduce the proportion of its staff in management positions, and should provide a preliminary proposal to the Legislative Post Audit, House Appropriations, and Senate Ways and Means Committees by March 1, 2009.
2. The Department should conduct a thorough review of its management positions that are non-exempt from the provisions of the Fair Labor Standards Act to ensure that those positions truly warrant being placed in a management class, and that there is good justification for leaving them non-exempt from the Act.

***Recommendations  
for the Department of  
Administration:***

1. To ensure that the State has complete and accurate information about staffing and management levels in State agencies, the Department of Administration should require all agencies to:
  - a. Prepare a detailed organization chart showing each position in the agency, complete with position titles and position numbers.
  - b. Provide information as of the end of each fiscal year about the number of actual positions filled or that they plan to fill.
  - c. Periodically review the actual and authorized positions within each agency and direct agencies to eliminate any excess authorized positions that they have no plans to fill in the foreseeable future that aren't needed for prudent management of personnel resources.

## APPENDIX A

### Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on April 29, 2008. The audit was requested by the Legislative Post Audit Committee.

#### **Department of Commerce: Determining Whether the Department Has More Management Staff than Similar-Sized Agencies in Kansas or Similar Agencies in Other States**

The Department of Commerce is a cabinet-level agency with a Secretary appointed by the Governor. The agency has nine divisions. The Operations Division is responsible for centralized administrative operations, public relations, communications, and research functions of the Department. The Legal Services Division deals with legal matters and lawsuits. The Kansas Commission on Disability Concerns facilitates equal access for those with disabilities to employment opportunities and living outside institutions. The Agricultural Marketing Division assists in the marketing of agriculture products and development of value-added businesses. The Business Development Division provides services to strengthen small and minority business growth and assists in the location and expansion of manufacturing facilities. The Workforce Development Division operates workforce training programs and operates America's Job Link Alliance which is a computer-based system serving Kansas and the national workforce development community. The Community Development Division provides technical assistance to communities to stimulate economic development. The Trade Development Division creates opportunities for Kansas businesses to market their products internationally and domestically. Finally, the Travel and Tourism Division promotes attractions and provides information to travelers.

During fiscal year 2007, the Department had approximately 468 full-time-equivalent staff and it spent just over \$112 million. The operations and legal services divisions employed just over 72 full-time-equivalent staff, or about 15% of the Department's total positions.

Legislators have raised questions about whether the Department has more management staff than it needs, and whether having those staff is contributing to higher administrative costs for that agency.

A performance audit of this topic would answer the following question.

- 1. Is the Department top heavy with management compared to similar-sized agencies in Kansas or similar types of agencies in other states, and could reducing management staff result in significant salary savings?** To answer this question we would gather information about the Department and the various management positions it has created. We would gather the same information about selected State agencies that have a similar number of staff as the Department, and about the equivalent agencies in a sample of other States that are most similar to Kansas' Department of Commerce. If we find that the Department has relatively more management staff than the other agencies, we would talk to officials at the agency to try to determine why. We would also estimate

how much money could be saved by bringing the number of management positions in line with the other agencies we used for comparison. We would conduct additional work in this area as needed.

**Estimated time to complete:** 4-6 weeks

## APPENDIX B

### Supplemental Analyses of Management Positions

This appendix contains additional analyses we conducted related to the percent of staff in management positions for the Department of Commerce and five comparison Kansas agencies.

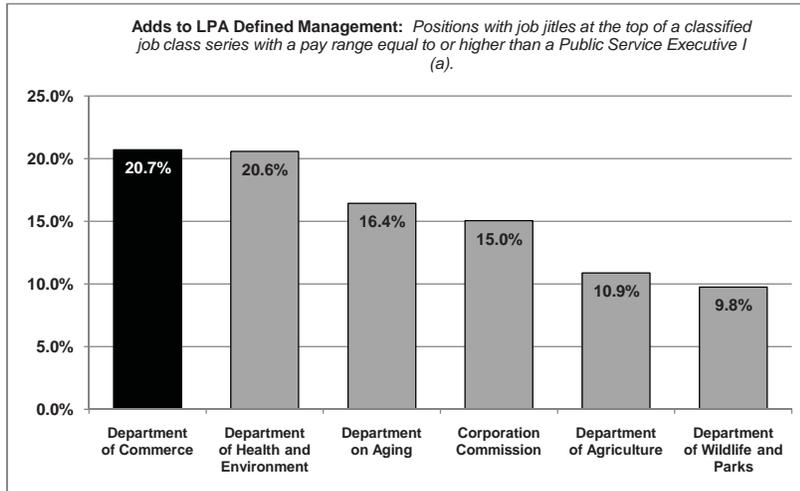
In addition to policy-level managers and public service executives, these supplemental comparisons include:

- **Comparison #1** – All positions with a job title at the top of a classified job class series with a pay grade equal to or higher than a Public Service Executive I. These positions include job titles such as Accountant V, Environmental Scientist V, and Veterinarian.
- **Comparison #2** – All positions with a reference to “manager” in their job title with a pay grade equal to or higher than a Public Service Executive I. These positions include job titles such as Federal Program Grants Manager and Public Service Manager III.
- **Comparison #3** – All positions defined as management in all of the comparisons described above.

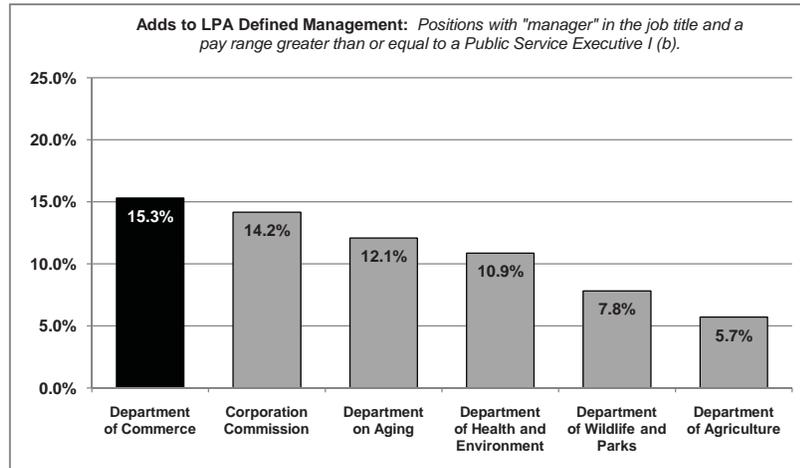
We performed these supplemental comparisons to ensure that our findings regarding the level of management at the Department of Commerce weren't simply the result of how we chose to define management positions.

**Appendix B  
Percent of Staff in Management Positions for the Department of Commerce  
and Five Comparison Kansas Agencies**

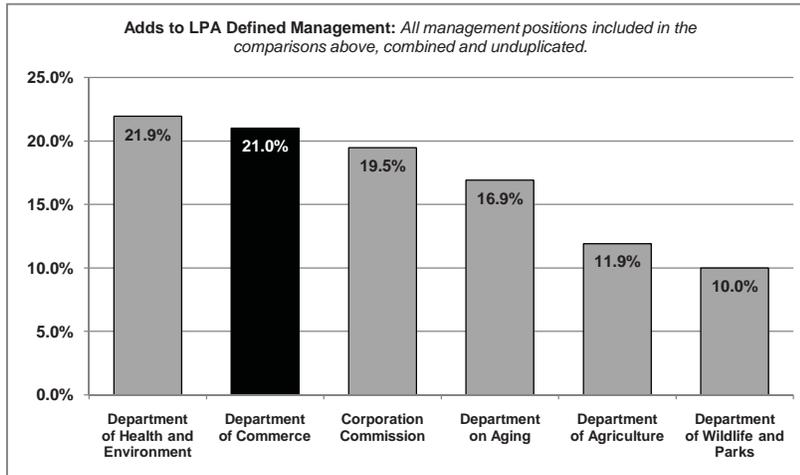
**Comparison #1**



**Comparison #2**



**Comparison #3**



(a) Includes unclassified staff with job titles at the top of a classified service' job series.  
 (b) Includes all unclassified staff positions, and classified staff positions with pay grades equal to or greater than a Public Service Executive I position.  
 General Note: There is some overlap in the positions included in comparisons 1 and 2; but these positions are counted only once when combined in comparison 3.  
 Source: LPA analysis of organizational chart data for the Department of Commerce and five comparison agencies.

## APPENDIX C

### Department of Commerce Management Salaries

This appendix contains 2009 budgeted salary information for the management positions we identified within the Department of Commerce.

**Appendix C**  
**Summary of 2009 Budgeted Salaries**  
**for Management Positions in the Department of Commerce**

Job Title	2009 Budgeted Salary
Secretary	\$105,888
Deputy Secretary	\$101,592
Deputy Secretary	\$97,597
Public Service Executive IV	\$88,727
Chief Attorney	\$85,681
Public Service Executive IV	\$84,926
Director Communication & Marketing	\$84,000
Division Director	\$83,962
Division Director	\$82,961
Public Service Executive IV	\$79,566
Public Service Executive III	\$79,458
Public Service Executive III	\$78,936
Public Service Executive III	\$75,150
Public Service Executive III	\$73,800
Public Service Executive III	\$73,320
Public Service Executive III	\$73,185
Director Rural Development	\$72,420
Public Service Executive III	\$72,140
Public Service Executive III	\$71,983
Public Service Executive II	\$70,528
Public Service Executive II	\$66,518
Public Service Executive	\$66,431
Public Service Executive III	\$64,938
Public Service Executive II	\$63,653
Public Service Executive II	\$63,357
Public Service Executive III	\$63,357
Public Service Executive I	\$61,838
Public Service Executive II	\$60,382
Public Service Executive	\$59,963
Public Service Executive III	\$58,826
Public Service Executive II	\$58,494
Public Service Executive	\$56,650
Public Service Executive II	\$56,650
Public Service Executive II	\$56,650
Public Service Executive III	\$56,500
Public Service Executive I	\$56,118
Public Service Executive	\$56,004
Public Service Executive I	\$54,683
Public Service Executive II	\$54,683
Public Service Executive I	\$53,414
Public Service Executive II	\$53,414
Public Service Executive I	\$52,104
Public Service Executive I	\$50,918
Public Service Executive I	\$49,650
Public Service Executive I	\$47,258
Public Service Executive I	\$47,258
Public Service Executive I	\$47,258
Public Service Executive I	\$46,093
Public Service Executive	\$41,000
Public Service Executive I	(a)

(a) At the time we did our analyses for this audit, information the Department provided indicated they planned to fill this position. When assembling this Appendix and requested additional information for this positions, Department officials told us they no longer plan to fill the position. Because this was only 1 of 50 management positions, and the impact was negligible, we didn't adjust our analyses.

Source: LPA summary of Division of Budget data.

## **APPENDIX D**

### **Agency Response**

On November 29, we provided copies of the draft audit report to the Department of Commerce. Its response is included as this Appendix.

The Department of Commerce generally concurred with the report's findings, conclusions, and recommendations.

We also provided the Department of Administration with a draft of the audit section regarding the issue of authorized versus filled positions, and the limited availability of organization chart data. The Department chose not to provide a formal response.

December 8, 2008

Ms. Barbara J. Hinton  
Legislative Post Auditor  
Legislative Division of Post Audit  
800 SW Jackson Street, Suite 1200  
Topeka, KS 66612

Dear Ms. Hinton:

Thank you for the opportunity to respond to Legislative Post Audit's review of the Department of Commerce's management staffing levels. I do want to commend Justin Stowe and Leo Hafner on the professional and thorough manner in which they conducted the audit. Their willingness to solicit information and consistently communicate with Commerce was certainly appreciated.

Since the Audit recommendations focus primarily on the Workforce Development organization within Commerce, I believe there is value in reviewing the significant progress that has recently been made in this area. I also believe it is imperative that we be reminded that workforce is the single largest and most critical issue facing businesses both in Kansas as well as nationally.

Much has been accomplished to improve the state's workforce programs over the past four years since they were transferred to Commerce. Dramatic improvements have been made as documented by the following accomplishments in managing the state's workforce programs:

- Approximately 300 positions moved from the Department of Labor to Commerce, increasing the agency's total workforce to 400. Currently, a total of 317 filled positions reside within the department despite the addition of tens of millions of dollars in new programs to administer over the past four years.
- There has been a significant transition of the workforce system from one that previously failed to meet minimum federal performance standards to the current status of meeting or exceeding all standards for the past two years, with the current year on course to again meet or exceed standards for the third consecutive year.
- The state workforce investment board has been transformed from an entity that was unable to meet the quorum attendance requirement to currently meeting quarterly and actively engaging in policy development, including multiple

subcommittees meeting regularly. Additionally, the Board has developed and implemented a statewide brand (**KANSASWORKS**) for the public workforce system. Both of these efforts were directives from the Legislature two years ago.

- As a result of the efforts of the Regional Directors, state investment in training projects in critical industries increased from 48 percent in FY 2006 to 65 percent in FY 08. State investment in training projects in non-metro regions of the state has increased from 10 percent of project funding in FY 2006 to 37 percent in FY 2008.

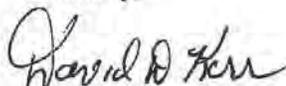
Notwithstanding the significant progress made, due in part to the current organizational structure, and the minimal financial impact associated with the audit recommendations, Commerce will execute the following actions:

- In concert with the Department of Administration Division of Personnel Services' (DPS), Commerce will review all management positions, particularly the Public Service Executive I and II positions, to determine the most appropriate job classification, including the designation of management vs. non-management.
- Commerce does not take exception with the suggestion that there is a close correlation between a management position and an "exempt" status. Commerce, in concert with DPS, will review every management position and follow the recommendation of DPS, based upon federal labor requirements, regarding the appropriate designation of each management position as "exempt" or "non-exempt".
- Commerce believes that the Regional Directors bring tremendous value to our ability to improve the availability and training of the Kansas workforce. It is acknowledged that the current organizational structure is innovative and unique in state government, making an evaluation of such positions difficult. Commerce will work with DPS to utilize the Hay Group or a comparable entity to evaluate and determine the appropriate classification and level of compensation.

It is the intent of Commerce to complete the proposed action by March 1, 2009.

Please feel free to contact me if you have any questions and/or concerns.

Sincerely,



David D. Kerr  
Secretary