

MINUTES

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

August 30-31, 1993
Room 531-N -- Statehouse

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Legislative
Administrative Services

Members Present

Senator Al Ramirez, Chairperson
Senator August "Gus" Bogina, Vice-Chairperson (August 30 only)
Senator Paul Feleciano, Jr. (August 31 only)
Senator U. L. "Rip" Gooch
Senator Mike Harris
Senator Lillian Papay
Senator Marian Reynolds
Senator Ben Vidricksen

Staff Present

Julian Efird, Kansas Legislative Research Department
Bill Wolff, Kansas Legislative Research Department (August 30 only)
Fred Carman, Revisor of Statutes Office
Jackie Brey Meyer, Committee Secretary

Conferees

Representative Walker Hendrix
Gary Reser, Governor's Legislative Liaison
Barbara Hinton, Legislative Post Auditor
Chris McKenzie, Executive Director, League of Kansas Municipalities
Barry Hokanson, Johnson County Planning Director
Kenneth A. Keen, Director of Information Services, Sedgwick County
Gerry Ray, Intergovernmental Coordinator, Johnson County Commissioners
Jim Reardon, Kansas Association of Counties
David Furnas, Executive Director, Kansas Press Association
Steven A. Smith, Managing Editor, *Wichita Eagle*
Frederick Sherman, World GEO Solutions

**August 30, 1993
Morning Session**

Chairperson Ramirez called the meeting to order and welcomed all present. He commented on the sunset review process which has been replaced by the Kansas Governmental Operations Accountability Law (K-GOAL) and new procedures for reviewing agencies and programs of state government. He stated that the Committee would be dealing with the concept underlying 1993 H.B. 2228, on which the Committee had held hearings during the 1993 Session, but for which the Senate failed to adopt the Committee report, thereby killing the bill. Another bill to be taken up on Tuesday, August 31, will be S.B. 268, which would establish the Computer Technology and Data Management Act. The Chairperson stated that he had attended a meeting about S.B. 268 that included the Kansas Association of Counties, Kansas League of Municipalities, and members of the press.

The Chairperson called on Julian Efird of the Kansas Legislative Research Department (KLRD) to brief the Committee on K-GOAL. The memorandum is included as Attachment 1. Staff noted that the concept of a comprehensive management review inherent in 1993 H.B. 2228 is different from K-GOAL which relies on incremental reviews each year of certain preselected agencies and programs in state government, rather than a comprehensive review of all of state government as anticipated by H.B. 2228. The Committee discussed the role of the Legislature in oversight and how the current process under K-GOAL differs from the procedures associated with the Kansas Sunset Law which was repealed.

Bill Wolff of KLRD gave a brief history of the legislative review of rules and regulations in response to a Committee question about legislative oversight. The Committee discussed the various practices associated with legislative oversight, including auditing state agencies and reviewing rules and regulations.

Afternoon Session

Representative Walker Hendrix appeared as a proponent of the concept inherent in 1993 H.B. 2228. Representative Hendrix stated that since the end of the legislative session, it is his understanding that the Governor has moved forward with her plan of reviewing state government and has implemented the concept of H.B. 2228. He said that a better way to characterize this concept would be to call it a statewide management review instead of "reinventing government." Representative Hendrix distributed materials on the Reinventing Kansas Government project undertaken by the Governor (Attachment 2).

One of the problems with the Governor's project is that the Legislature has not been involved to the extent it would have been under provisions of H.B. 2228, Representative Hendrix said. That bill would have made the Legislative Post Auditor the central point in the review process, and Representative Hendrix felt that the Office could have provided some independence to the overall review process, as well as to have applied the expertise and experience of the staff from the Legislative Division of Post Audit and other legislative agencies during the review process.

Gary Reser, Legislative Liaison to Governor Finney, appeared next on H.B. 2228. Copies of his materials are included as Attachment 3. He updated the Committee on many of the initiatives which the Governor has implemented since 1991, including the Quality Management Program. Mr. Reser traced

the history of the Reinventing Kansas Government project and the methodology followed during the review.

It was noted that the project has been divided into two phases, with Phase 1 currently under way with a scheduled completion of November 1, 1993, and Phase 2 scheduled to start thereafter, with a conclusion targeted for April 15, 1994. Five topics were addressed in Phase 1 by five task forces and five other task forces will address five new topics in Phase 2. Enclosure 5 of Attachment 3 lists the project teams for Phase 1 and the topics which each will address: delivery of human services (aging and youth), information systems management, budgeting process/role, and inventory asset management.

The Committee discussed the implications of the Governor's project and the possibility of legislative involvement. Mr. Reser pointed out that various legislative leaders had been invited to participate in some of the study activities and that the final reports would be made available to the Legislature. The Chairperson asked if the reports could be made available for review by the Committee at its November 4-5 meeting. Mr. Reser indicated that he thought presentations could be made at that time to report the results and recommendations to the Committee. The Chairperson expressed interest in receiving the same type of reports in April during the 1994 Legislature when the other task forces complete their work.

Barbara Hinton, the Legislative Post Auditor, addressed the Committee in regard to H.B. 2228. She noted that, as originally introduced, the bill would have directed the Legislative Division of Post Audit and the Post Auditor to play a central role in the comprehensive review of government agencies and programs. Some people thought that this would allow for a more independent and objective review of these programs. It is also the kind of work Post Audit has been doing for the last 20 years. All other audit work would have been stopped and all audit staff would essentially have been assigned to this project. In Texas, the project was done in-house. Questions were raised by the Committee during the last legislative session as to whether or not Post Audit was as independent as this process and project needed to be. It was noted that other states have used outside paid consultants or accounting firms to perform this type of management review in conjunction with audit staff.

In response to a question on how much staff it would take to perform the duties under H.B. 2228, she replied that originally it had a six-month timeframe, but then it was expanded to a year. It would have involved taking people off their regular jobs for a few months to work on the project. Ms. Hinton said that it is her personal opinion that this review would have been the most important thing that Post Audit could have done. No other audits would have been done and those that have been done would have been as important and as useful in the long term. A number of the audits, although important and useful for very specific topics, are not applicable to the overall scheme of things, and therefore are not as important as stepping back and trying to look at all of state government. The Governor's task forces may identify areas which Post Audit should review in future audits, Ms. Hinton noted.

**August 31, 1993
Morning Session**

The second day of the meeting was convened by Chairperson Ramirez at 9:00 a.m. Chairperson Ramirez outlined the agenda for the meeting on S.B. 268.

Chris McKenzie, Executive Director of the League of Kansas Municipalities, presented a summary for the proponents of the bill. Mr. McKenzie's testimony covered background, policy issues, and options (Attachment 4). The League has appeared previously in support of this bill and its position is still one of general support. In 1984, the Legislature enacted the Kansas Open Records Act. Mr. McKenzie noted that the law has served Kansans very well over the past nine years. In response to the enactment of that law, the League developed a manual for local officials. The law was designed to deal with a different era, the era of manual records. It reflects some recognition that computer systems existed in 1984. Since that time there has been a virtual revolution in the ability to manipulate data. Government owned data has become much more extensive and can be viewed as a very valuable public asset. Massive data bases of public information can be manipulated and used extensively for many purposes.

Under current law, Mr. McKenzie noted, local units of government are restricted to collecting minimal user fees. The actual cost of providing the record can be collected. If a computer system is used, the actual computer usage can be calculated. Extensive user fees are not allowed to be imposed. This means the out-of-state business that requests the data is charged the same thing as the in-state business or person who requests the data. The reality is that most of the cost of public information systems today are supported by the property tax payers at the local level. The more valuable public information becomes, the more questions custodians of public records have about whether they should be recovering some of the expense of developing and maintaining these records. There is an implied tax policy question: Should the general taxes of this state and its local units be used to support these systems or should there be a fee-based system which recovers a portion of the costs from the user?

State government has already answered this question, in part, for itself, according to Mr. McKenzie. For certain types of records, such as motor vehicle records and drivers license records, there are specific charges which are in addition to the cost of supplying a record that are authorized. The Legislature has made the policy decision that user fees should support particular types of information systems and other public projects from these revenues, Mr. McKenzie pointed out.

Barry Hokanson, Johnson County Planning Director, gave an informal slide/visual demonstration with emphasis on a mapping application run on a personal computer. The creation of layers of information was shown visually as used for a variety of purposes. The base for most of these systems created is an aerial photograph. Mr. Hokanson explained that when the aerial photograph is converted into a computer-based map, this digitized information is very useful once it is in electronic form.

Kenneth Keen, Director of Information Services for Sedgwick County, gave some examples of his county's experience with the Kansas Open Records Act and supplying data-based records. There are a number of issues with the Open Records Act as seen by Sedgwick County. Compliance with the Act requires a response of three days. Some requests are vague and it is difficult to plan a response or a time frame for processing the work. Requesters sometimes propose that their programmers, or contract programmers be provided to circumvent the limited resources of the county. The county's external audit firm has issued a strongly worded statement against the advisability of permitting noncounty staff access to data files.

Mr. Keen stated that the Kansas Open Records Act sometimes places an unusual burden on local governments which have data in an electronic form. The separation of materials not subject to disclosure from those that can be disclosed is costly. Mr. Keen cited two Attorney General opinions. One states that the Open Records Law imposes no duty on an agency to create a record to compile information, while the other states that while an individual has the right to obtain copies of public records, there is no right to obtain them in the least expensive manner. Mr. Keen stated that except for very simple requests, it is very difficult to avoid writing programs to comply with requests, and once this is done, the question of ownership comes into play. Other questions involve response to agencies and individuals residing outside the State of Kansas, the providing of maintenance to programs written to create records, and conflicts of interest.

Mr. Keen ended his testimony by stating that the proposed changes would benefit the taxpayers as a whole. Mr. Keen responded to several questions from the Committee and stated that if a record exists within the government agency in a particular form, you have the right to ask for the information in that form or in an electronic form. If data has to be manipulated in a certain way to meet the requesters requirements for the information, then the new way that they need the information will require a computer program be developed in order to provide the requester with information.

Gerry Ray, Johnson County Board of Commissioners, pointed out that Johnson County had asked in 1992 for the Kansas Association of Counties to sponsor a request for legislation to allow more flexibility for counties to determine what can be charged for information to be used for commercial purposes. Last summer there was an interim study by the Joint Committee on Computers and Telecommunications. S.B. 268 was introduced in the 1993 Legislature to address this area. Ms. Ray pointed out that it seems logical that if we have a system that is capable of producing a product with a commercial value, that we should investigate how we could offer this product for commercial use. The proposal has no intent of denying the general public access to any information or charging them any more than the reproduction costs. Anyone, under the bill, could come into the courthouse and get whatever they need short of total data base. However, when they use that product to make a profit by taking the whole database, then our feeling is that we need to look into how the taxpayers' investment could be protected. We believe that the way to do this is to seek some form of a user fee for those who wish to obtain these data bases to make a profit, Ms. Ray stated. There is no objection to them making a profit, that is the American way, but the question is, should our taxpayers be responsible for subsidizing that profit-making endeavor?

Ms. Ray said that when information is viewed as a government asset, then you can look at it differently than as the right of everyone because they pay taxes to come in and walk out with it. It is a user fee concept and an accepted practice in government because it is a fair and equitable method to support such things as park programs and many other services throughout government. Without them, many services would have to be cut back or eliminated. That is how the information system is being looked at. With fees, our services can be enhanced to benefit everyone. Ms. Ray stated that the local units are really asking for no more than what the state does since it is charging more than the actual cost of a record for certain types of information, namely driver license records.

Jim Reardon, Kansas Association of Counties (KAC), appeared in support of S.B. 268. Mr. Reardon's testimony (Attachment 5) contains the KAC's position on computerized information. KAC does support new legislation that would allow county government to enter into joint ventures with other public and private partners, particularly when implementing new and needed data like has been seen today with the GIS system and the complex technology that goes into the development of the product. The major points of the platform are that public information is an asset to be held in public trust. Mr. Reardon emphasized that the local units recognize that the reason for the public records law is for government

officials to be responsible and responsive to the citizens of our state. Recovery of costs associated with developing the public asset of information is very important to us and to you as well, Mr. Reardon concluded.

David Furnas, Kansas Press Association, appeared in opposition to the bill. His remarks are included in Attachment 6. He noted that there are two basic fundamental issues. First, the bill suggests faulty public policy in which double taxation for users of information may be implemented. Second, the bill, as originally drafted, can effectively deny information to the media, or anyone else in the public, by simply pricing access out of reach.

Steve Smith, Managing Editor of the *Wichita Eagle*, next addressed the bill (Attachment 7). S.B. 268, by allowing local governments to establish a pricing schedule that goes beyond actual delivery costs, will further restrict access to public information. On that basis, alone, the legislation deserves to be rejected, Mr. Smith argued. Public records maintained by local governments are maintained in the public interest and we support rules that allow local governments to recover the actual costs of production and delivery of these records. Even if the Legislature would determine that local governments should be able to make a profit on the sale of public records, the bill fails on the mechanics. This legislation is flawed in its ability to address some of the specific problems, Mr. Smith noted.

The Committee asked about the lawsuit the *Eagle* has against the State of Kansas regarding the \$2.00 fee for drivers licenses. Mr. Smith had no idea when that case was coming up. It may very well have some bearing on what is being discussed today. It is their belief that the precedent set by the state in charging fees on the basis of what has been described here is an inappropriate precedent. Their belief is that there is a substantial public purpose in obtaining and analyzing the drivers license data and that the pricing structure established by the state is abusive and has the effect of closing that data to inspection.

Frederick Sherman, World GEO Solutions, also appeared in opposition to the bill (Attachment 8). The bill would alter the state's basic public policy on access to information. Commercialization of government must be examined to set a public policy of uniform fairness. The bill in its present form was described by Mr. Sherman as a "knee jerk" reaction to a couple of counties with funding dilemmas. He cautioned against establishing an unrealistic precedent which would have an impact on the relationships among the private, public, and not-for-profit sectors.

The Chairperson commented that after a meeting last week on this subject which he attended and today's testimony, he felt only the tip of the iceberg had been revealed. He observed that it will require all the people involved to find some middle ground in order to find a solution that the Legislature can accept. Over the years many issues have been resolved by various groups working together to resolve the problems. In this case, someone ought to get the different groups together to try to find a solution and report back to the November Committee meeting.

Mr. McKenzie stated that he would be glad to facilitate this. He hoped there would be the will from all interested parties for compromise. The Chairperson stated that he thought no segment of those interested should be left out of the discussion to find a solution because all parties need to have their concerns addressed. He urged the different groups to try to come up with a workable solution and to present a balloon bill draft at the next meeting.

The Chairperson asked that if there was any information which should be presented to the Committee at the November meeting, members should let staff or the Chairperson know. The meeting was adjourned.

Prepared by Julian Efird

Approved by Committee on:

November 4, 1993

MEMORANDUM

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August 27, 1993

To: Senate Committee on Governmental Organization

From: Julian Efird, Principal Analyst

Re: Legislative Oversight and Review

In a 1971 landmark study of the 50 state governments, the Citizens Conference on State Legislatures stressed that legislative oversight was one of the five traits of an independent legislature (*The Sometimes Governments*, 1971: 120-133; 167). The report cites that the ability "... to oversee and evaluate the programs and expenditures which it has authorized ... should characterize the legislature when adequately equipped to exercise its role ... to oversee the operations of the bureaucracy, to make sure they are spending the public's money honestly and efficiently, and running the public's programs properly."

In Kansas, legislative oversight has been institutionalized as part of the activity of legislative committees. Traditionally, the House and Senate committees responsible for appropriations bills have reviewed agency programs and budgets, as well as expenditures. The process of legislative review was modified in the 1970s when the Kansas Legislature adopted one of the recommendations made by the Citizens Conference on State Legislatures. The creation of a fiscal staff within the Legislative Research Department has provided the House Appropriations Committee and the Senate Ways and Means Committee with independent, full-time fiscal analysts. Prior to its establishment, the Division of the Budget had provided staffing for both legislative committees.

The standing committees of the House and Senate generally have operated only during the session. Their legislative oversight activity has been limited by the length of the session and the other matters on the legislative agenda which require attention during the regular committee meetings. Many of the recommendations for interim study made by standing committees reflect the need for additional research and analysis associated with state programs and agencies which cannot be accomplished during the traditional 90 days of the session.

Another recommendation of the Citizens Conference on State Legislatures which was adopted by the Kansas Legislature was the transfer of audit functions to the legislative auditor. The Citizens Conference noted that "A significant part of the legislature's ability to exercise oversight over executive departments and administrative agencies depends upon the power and capacity to conduct audits (financial and functional) of these units of the state government." The Legislative Post Audit Committee was created by 1971 legislation which established a joint committee of five representatives and five senators. A separate legislative staff was authorized under the supervision of the Legislative Post Auditor.

G.O. Comm.
Attachment 1
8/30/93

Other joint committees, which generally have met during the interim (but can and do meet during the session) have been created to provide the Kansas Legislature with additional oversight capability in a variety of functional areas: administrative rules and regulations, state building construction, budget, educational planning, economic development, health care, children and families, pensions, computers and telecommunications, arts and cultural resources, and school district finance.

The joint committees and special committees made up of house and senate members previously met during the interim, studying topics between sessions of the Legislature. The special committees, composed of members from the standing committees, played a role in legislative oversight by studying governmental programs during the interim. However, it has only been in recent years that a special interim committee on governmental organization has been authorized by the Legislative Coordinating Council. A Special Committee on Governmental Organization was authorized during the 1991 interim to study confirmations, sunset review, and consolidation in state government. During the 1992 interim, a Special Committee on Governmental Organization was directed to study redistricting procedures, reorganization of the Department of Health and Environment, and library laws.

This 1993 interim marks the first time that the Senate Committee on Governmental Organization (SGO) has met other than during the session. This Committee and its House counterpart in past years generally have been the legislative committees assigned the task of sunset reviews which were authorized by provisions of the Kansas Sunset Law, but those reviews were conducted only during the regular legislative session. Sunset laws were an attempt to increase legislatures' oversight capability and to reduce the size of the bureaucracy by abolishing unneeded programs and agencies.

The 1992 Legislature repealed the statutes which established the Kansas Sunset Law and replaced the old provisions with the Kansas Governmental Operations Accountability Law (K-GOAL). The K-GOAL legislation became effective on July 1, 1992, establishing new legislative review procedures. Beginning with the 1993 Legislature, the President of the Senate designated the Senate Committee on Governmental Organization to be responsible for implementing certain responsibilities prescribed by the new law. The House Committee on Governmental Organization and Elections performed a similar function in the other chamber during the 1993 Session. Two state entities, the Department of Social and Rehabilitation Services and the Capitol Area Security Patrol were scheduled for legislative review during the 1993 Session.

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

Audit, review, and evaluation of the designated state agencies is required at least every eight years. Subsequent timing of evaluations of designated state agencies is subject to legislative determination. In summary, K-GOAL provides that:

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

- No abolition of any state agency scheduled for evaluation is threatened.

The years in which designated state agencies are subject to audit, review, and evaluation by the Legislature are noted below. The 1993 Legislature took no action to reschedule for future review either agency which had been scheduled for review during the 1993 Session.

1993	Department of Social and Rehabilitation Services Capitol Area Security Patrol
1994	Department of Administration Department of Commerce
1995	Department of Health and Environment Kansas Water Office and Water Authority
1996	Department of Transportation State Board of Agriculture Agricultural Value Added Processing Center
1997	Department of Revenue State Conservation Commission
1998	State Corporation Commission Department of Education
1999	Department on Aging Department of Human Resources
2000	Department of Corrections Department of Wildlife and Parks

K-GOAL, according to the statutory declaration of purpose, is intended to provide for a review system which allows the Legislature to:

1. determine the necessity, propriety, and legality of agency operations which are reviewed and evaluated;
2. identify inefficient and ineffective agency operations;
3. take action to retain and maintain appropriate and effective agency operations;
4. remediate defective agency operations; and
5. terminate inappropriate or obsolete agency operations.

K-GOAL anticipated legislative review in committees of both the House and Senate. The following factors are cited in K-GOAL as guides, where appropriate, to the reviews and evaluations to be performed by committees of reference:

1. whether all operations of the state agency have been authorized by the Legislature and whether the effects of such operations accord with legislative intent;
2. whether all operations of the state agency are being performed efficiently and effectively and whether any such operations could be performed in a more efficient, effective, or economical manner;
3. whether regulatory operations of the state agency are reasonably related to and are designed for the purpose or benefit of the public;
4. whether regulatory operations of the state agency could be performed in a less restrictive manner which could adequately protect the public;
5. whether regulatory operations of the state agency have the effect of directly or indirectly increasing the cost of any goods or services;
6. whether there is need for any change in the organization of the state agency or its operations which would enable the state agency to fulfill its purposes in a more efficient, effective or economical manner; and
7. whether the termination of any of a state agency's operations would significantly harm or endanger the rights, health, safety, or welfare of the public or result in the reduction or foreclosure of services required or desired by the public.

Originally, 1992 S.B. 471 was recommended by the Special Committee on Governmental Organization which reviewed the Kansas Sunset Law during the 1991 Interim. The Sunset Law was scheduled to expire on July 1, 1992, and K-GOAL was intended to improve upon that law by instituting required audits and by not threatening abolition of agencies scheduled for review.

A number of state agencies which were subject to provisions of the Kansas Sunset Law were not included for review under K-GOAL. Those entities include the following: the Kansas Lottery, Behavioral Sciences Regulatory Board, Commission on Epilepsy, Human Rights Commission, Kansas Film Services Commission, Board of Nursing, Commission on Governmental Standards and Conduct, Real Estate Appraisal Board, Board of Healing Arts, Insurance Department, State Treasurer's Office, and Pooled Money Investment Board.

The 1992 Legislature also added five agencies to periodic legislative review under K-GOAL. Those entities which were not included in the Kansas Sunset Law, but were added to K-GOAL, include the following: the Capitol Area Security Patrol, the State Board of Agriculture, the State Conservation Commission, and the Department of Education, and the Agricultural Value Added Processing Center at Kansas State University.

The Committee may wish to discuss K-GOAL and its effectiveness in providing for legislative oversight, based on its experience of the 1993 Session. The second year cycle of K-GOAL, involving audits of two state agencies, will begin this fall in order for the results to be presented to the 1994 Legislature as required by law. Any modifications to the current law might be introduced by this Committee.

74-7283. Citation of act. This act shall be known and may be cited as the Kansas governmental operations accountability law or K-GOAL.

74-7284. Declaration of purpose of state government and intention of act. The legislature hereby declares that the purpose of state government is to keep secure the constitutional rights of Kansas citizens, to protect their health, safety and welfare, and to otherwise serve the public need in the most economically beneficial, operationally efficient, and cost effective manner possible. Therefore, it is the intention of this act to provide for a governmental operations accountability system under which the legislature may ensure accomplishment of the declared purpose of state government by periodically reviewing and evaluating the operations of selected state agencies, determining the necessity, propriety and legality of the operations reviewed and evaluated, identifying inefficiency and ineffectiveness, and taking action to retain and maintain appropriate and effective governmental operations, remediate defective governmental operations, and terminate inappropriate or obsolete governmental operations.

74-7285. Performance audits of agencies subject to review and evaluation; time, scope and objectives; audit reports; review, approval and availability. (a) The legislative post audit committee shall direct the post auditor to conduct a performance audit of each state agency which is subject to legislative review and evaluation under the Kansas governmental operations accountability law. Each performance audit conducted pursuant to the requirements of this subsection shall be completed not sooner than two years prior to nor later than the 30th calendar day of the regular session of the legislature set for review and evaluation of the state agency.

(b) Any performance audit directed to be conducted by the post auditor and the division of post audit under the provisions of subsection (a) may be general in scope, addressing all operations of the state agency, or may be restricted to a particular operation of the state agency. In directing the post auditor to conduct any such performance audit, the legislative post audit committee may specify the objectives and scope and direct the details of the audit. In conducting any such audit, the post auditor shall include a determination of the applicable factors specified in subsection (b) of K.S.A. 74-7287, and amendments thereto, and such other factors as may be directed to be included by the legislative post audit committee. Upon completion of the performance audit, the legislative post audit committee shall review and approve the audit report. A copy of the audit report shall be made available to each member of the legislature in accordance with the provisions of K.S.A. 46-1212c, and amendments thereto.

74-7286. Retention under law; future audit, review and evaluation; period of time. Each state agency subjected to audit, review and evaluation under the Kansas governmental operations accountability law may be retained under such law by act of the

legislature and, if so retained, shall be subjected to future audit by the post auditor and the division of post audit. Only one state agency shall be retained under K-GOAL in any one act of the legislature and the name of the state agency shall be included in the title of such act. Each such act shall specify a regular session of the legislature in futuro for the next succeeding review and evaluation of the state agency, but no such review and evaluation shall be deferred for a period of time in excess of eight years.

74-7287. Legislative review, evaluation and recommendations; public hearings on legality and propriety of agency operations; factors to be considered. (a) Prior to retention under K-GOAL and subjection to audit, review and evaluation in futuro of a state agency, a committee of reference in each house of the legislature shall review and evaluate the operations of the state agency. Each such committee shall familiarize itself with the provisions of law by which the state agency acquired existence, the manner in which the state agency is supposed to be organized and how the state agency actually is organized, the powers granted to and the operations authorized to be performed by the state agency, what powers are being exercised and what operations are being performed by the state agency, and the manner in which the state agency is exercising its powers and performing its operations. Each committee shall also consider any performance audit conducted by the post auditor and the division of post audit under the direction of the legislative post audit committee pursuant to the provisions of K.S.A. 74-7285, and amendments thereto. During the course of the review and evaluation of the state agency and its operations, each committee of reference shall hold a public hearing for the purpose of receiving testimony from the public, the involved state agency and its officers and employees, and other appropriate state officers and employees. In all such hearings, the involved state agency shall be held accountable for the legality and propriety of the operations under review and be responsible for producing evidence of the necessity for and extent of any changes in the organization, powers or operations of the state agency or in its enabling laws which would increase efficiency or effectiveness.

(b) In reviewing and evaluating a state agency, each committee of reference shall take into consideration the following factors, if applicable, among others, in developing its recommendations regarding the state agency and its operations:

(1) Whether all operations of the state agency have been authorized by the legislature and whether the effects of such operations accord with legislative intent;

(2) whether all operations of the state agency are being performed efficiently and effectively and whether any such operations could be performed in a more efficient, effective or economical manner;

(3) whether regulatory operations of the state agency are reasonably related to and are designed for the purpose of protection or benefaction of the public and have such protection or benefaction as a primary effect;

(4) whether regulatory operations of the state agency could be performed in a less restrictive manner which could adequately protect the public;

(5) whether regulatory operations of the state agency have the effect of directly or indirectly increasing the cost of any

goods or services involved and, if so, whether the increase in cost is more harmful to the public than the harm which could result from the termination of such regulatory operations;

(6) whether there is need for any change in the organization of the state agency or in any of its operations which would enable the state agency to fulfill its purposes in a more efficient, effective or economical manner; and

(7) whether the termination of any of a state agency's operations would significantly harm or endanger the rights, health, safety or welfare of the public or result in the reduction or foreclosure of services required or desired by the public.

74-7288. State conservation commission subjected to audit, review and evaluation. The state conservation commission, created by K.S.A. 2-1904 and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1997 regular session of the legislature.

74-7289. Department of wildlife and parks subjected to audit, review and evaluation. The Kansas department of wildlife and parks and the office of secretary of wildlife and parks, established by K.S.A. 1992 Supp. 32-801, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 2000 regular session of the legislature.

74-7290. Department of education subjected to audit, review and evaluation. The state department of education, established by K.S.A. 72-7701, and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1998 regular session of the legislature.

74-7291. Board of agriculture subjected to audit, review and evaluation. The state board of agriculture, created by K.S.A. 74-502 and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1996 regular session of the legislature.

74-7292. State corporation commission subjected to audit, review and evaluation. The state corporation commission, created by K.S.A. 74-601, and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1998 regular session of the legislature.

74-7293. Kansas water office subjected to audit, review and evaluation. The Kansas water office and the director of the Kansas water office, created by K.S.A. 74-2613 and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1995 regular session of the legislature.

74-7294. Kansas water authority subjected to audit, review and evaluation. The Kansas water authority, created by K.S.A. 74-2622 and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1995 regular session of the legislature.

74-7295. Department of commerce subjected to audit, review and evaluation. The department of commerce and the office of secretary of commerce, created by K.S.A. 74-5002a, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1994 regular session of the legislature.

74-7296. Department of administration subjected to audit, review and evaluation. The department of administration and the office of secretary of administration, created by K.S.A. 75-3702a, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1994 regular session of the legislature.

74-7297. Capitol area security patrol subjected to audit, review and evaluation. The capitol area security patrol, created by K.S.A. 75-4503 and amendments thereto, hereby is subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1993 regular session of the legislature.

74-7298. Department of transportation subjected to audit, review and evaluation. The department of transportation and the office of secretary of transportation, established by K.S.A. 75-5001, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1996 regular session of the legislature.

74-7299. Department of revenue subjected to audit, review and evaluation. The department of revenue and the office of secretary of revenue, created by K.S.A. 75-5101, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and

evaluation during the 1997 regular session of the legislature.

74-72,100. Department of corrections subjected to audit, review and evaluation. The department of corrections and the office of secretary of corrections, established by K.S.A. 75-5203, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 2000 regular session of the legislature.

74-72,101. Department of social and rehabilitation services subjected to audit, review and evaluation. The department of social and rehabilitation services and the office of secretary of social and rehabilitation services, created by K.S.A. 75-5301, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1993 regular session of the legislature.

74-72,102. Department of health and environment subjected to audit, review and evaluation. The department of health and environment and the office of secretary of health and environment, created by K.S.A. 75-5601, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1995 regular session of the legislature.

74-72,103. Department of human resources subjected to audit, review and evaluation. The department of human resources and the office of secretary of human resources, established by K.S.A. 75-5701, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1999 regular session of the legislature.

74-72,104. Department on aging subjected to audit, review and evaluation. The department on aging and the office of secretary of aging, created by K.S.A. 75-5903, and amendments thereto, hereby are subjected to audit under the Kansas governmental operations accountability law, and to review and evaluation during the 1999 regular session of the legislature.

Reinventing Kansas Government Project Scope

The scope of this study will be focused primarily on identifying opportunities to increase efficiency and effectiveness in state government. It will also be focused on a limited number of study categories due to the need to optimally allocate scarce resources. Individual study teams will be able to broaden their scope, if needed, given available time and resources.

Implementation will not be within the scope of the study teams, although agencies will be encouraged to begin implementation of "low hanging fruit" during the course of the study through the KQM program.

The scope of this study differs somewhat from many of the studies conducted in other states which primarily focused on cost-reduction. Kansas has defined three components to government operations:

- Program
- Effectiveness
- Efficiency

Programs are legislatively mandated services or entitlements which are unlikely to change in the short term. While they are open to question, they should not be the study focus.

Effectiveness measures our ability to deliver programs as mandated and with a level of service satisfactory to customers.

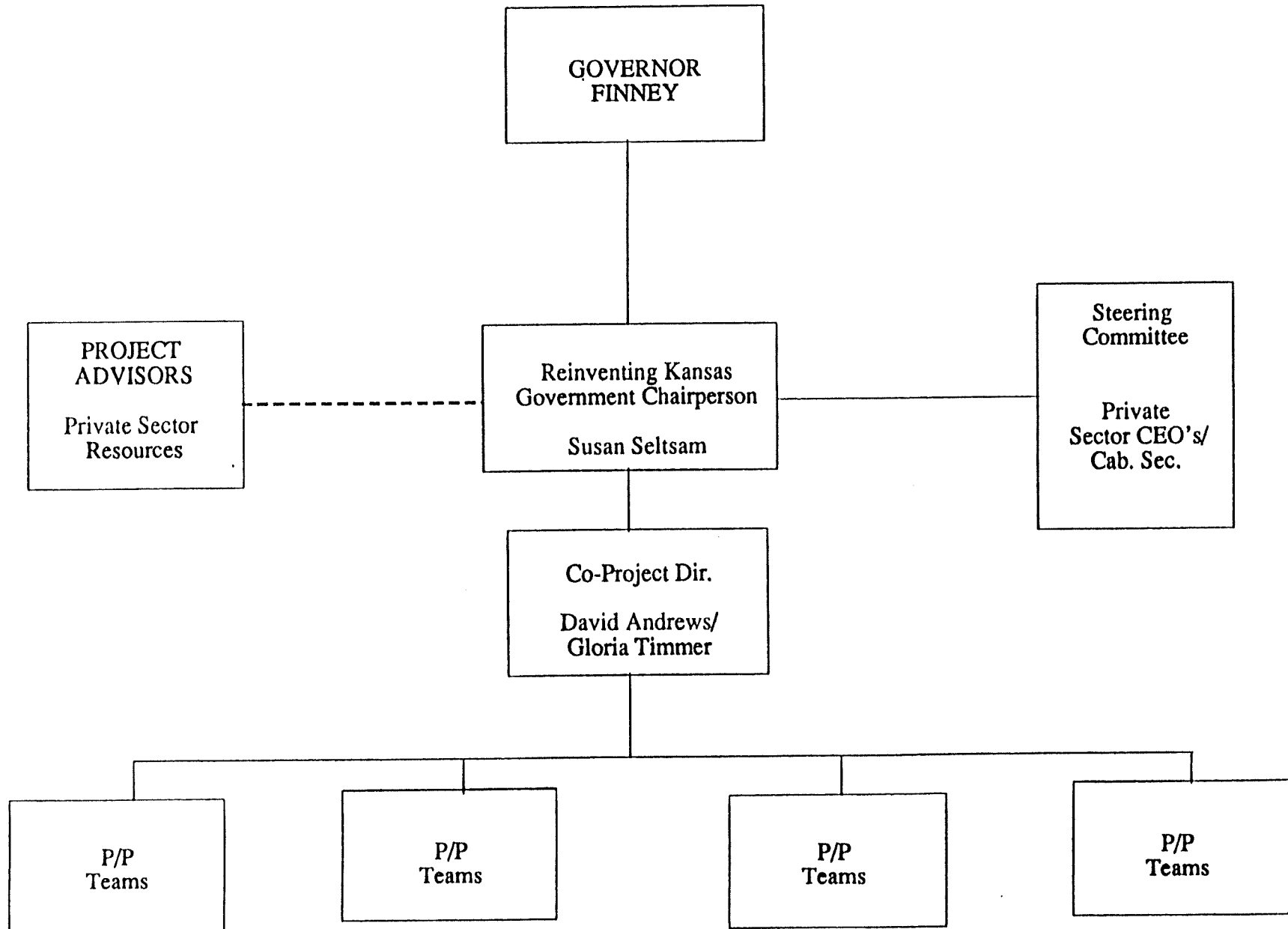
Efficiency measures our cost per unit of program delivery.

G. O.
Attachment 2
8/30/93

REINVENTING KANSAS GOVERNMENT PROJECT STUDY TEAMS

	Information System Management	Inventory Asset Management	Human Service Delivery		Budget
			Aging	Youth	
Leader (Private)	Boeing Ron Terzian	SWB Mike Laughon		Bank IV Tim Sipes	Western Resources Jim Clark
Team (Private)	Western Resources Ken Wymore	Boeing Sherri Boyer	Bank IV Joyce Mermis	Western Resources Jim Haines	Boeing Bill Jarrell
Team (Private)					
Team (ST/Ext)	DHR Bill Hall	Admin-Purch Jerry Merryman	SRS Joyce Sugrue Carla Nakata	Admin-DPS Phil Anderson	DOC&H Sherry Brown
Team (ST/Ext)	KDH&E Rich Miller	KDOT Dale Jost	DOR Tom Laing	DHR Katie Krider	KDH&E Chris Stanfield
Team (ST/Ext)	DOR Gary Russell	W&P Darrell Monteil	KDH&E Joe Kroll	W&P Joe Kramer	DOR Susan Duffy
Team (ST/Int)	Admin-DISC Jean Turner	SRS Bill Buxton	Aging Dr. Lyndon Drew	SRS John Alquest Harry Allen	KDOT Robert Haley
Team (ST/Int)	Admin-DISC Warren Neudorff	SRS Steve Kohnle	Aging Richard Wagner	DOC Jan Johnson Roger Werholtz	DOC Dennis Williams
Team (ST/Int)				KDHE Linda Kenney	
Budget Analyst	Lisa Unruh	Elaine Frisbie	Sabrina Wells	Dan Hermes	Jim Langford
STAFF					
Research	KDOT Ben Nelson	Admin-A&R Galen Bremer	Aging George Dugger	Budget Greg Tugman	Budget Kathy Sexton
Coordination	SRS		W&P David Katz		
Advisory		DHR Gerald Schneider		DOC&H Mark Barcellina	
Facilitation					

REINVENTING KANSAS GOVERNMENT



REINVENTING KANSAS GOVERNMENT

Phase I

Phase II

May 25	Establish scope, approach, deliverables, timeframe, study topics.
June 15	Announce teams.
June 21	Kick off Phase I teams (training and organization).
June 28	Begin Assess Customer Requirements tasks (4 weeks).
July 26	Steering Committee Meeting. Project Teams - Completed Customer Requirements task. Project Teams report to Steering Committee this date.
August 31	Steering Committee Meeting. Project Teams - Completed Assess Current Capabilities (6 weeks). Project Teams report to Steering Committee this date.
September 7	Issue preliminary report to Governor.
September 27	Project Teams - Complete Develop Shared Operating Vision Tasks (3 weeks).
September 28	Steering Committee Meeting. Phase II Discussion. Project Teams report on Developed Shared Operating Vision to Steering Committee this date.
October 4	Complete Identify Initiatives task (2 weeks). <ul style="list-style-type: none">- Quick Hit Initiatives- Major initiatives Begin assigning KQM teams to work Quick Hit Initiatives

	<p>Monitor and report results to Project Co-Directors</p> <ul style="list-style-type: none"> - Timeframe - Responsibility - Accountability 	
October 18	Project Teams - Complete Assess Priority and Benefits task (2 weeks).	
October 19	<p>Steering Committee Meeting Phase II - Discussion and Consensus.</p> <p>Project Teams report Assess Priority and Benefits to Steering Committee.</p>	
November 1	Publish Phase I team reports (2 weeks).	Kick off Phase II teams (training and organization).
November 2	Steering Committee meeting. Review reports.	
December 7	Steering Committee meeting.	<p>Project Teams - Complete Assess Customer Requirements task (4 weeks).</p> <p>Project Teams report Assess Customer Requirement task.</p>
January 7		Project Teams - Complete Assess Current Capabilities task (6 weeks).
January 31		Project Teams - Complete Develop Shared Operating Vision task (2 weeks).
February 15		<p>Project Teams - Complete Identify Initiatives task (2 weeks).</p> <p>Assign KQM teams to work Quick Hit Initiatives.</p> <p>Monitor and report results</p> <ul style="list-style-type: none"> - Timeframe - Responsibility - Accountability
February 28		Project Teams -Complete Assess Priority and Benefits task (2 weeks).
March 15		Publish Phase II team reports (2 weeks).
April 15	<p>Issue final report to Governor.</p> <p>Continue monitoring and reporting results.</p> <p>Determine approach for major initiatives.</p>	

**REINVENTING KANSAS GOVERNMENT
PROJECT TEAM TRAINING
JUNE 21, 1993**

EXPECTED RESULTS AND TIMEFRAME

- SEPTEMBER 7 - PRELIMINARY REPORT TO GOVERNOR
- NOVEMBER 1 - PUBLISH PHASE I REPORTS
- MARCH 15 - PUBLISH PHASE II REPORTS
- APRIL 15 - FINAL REPORT TO GOVERNOR
 - SIGNIFICANT "QUICK HIT" INITIATIVES
 ACCOMPLISHED AND IN-PROCESS

STATE OF KANSAS



OFFICE OF THE GOVERNOR

JOAN FINNEY, Governor
State Capitol, 2nd Floor
Topeka, KS 66612-1590

913-296-3232
1-800-432-2487
TDD# 1-800-992-0152
FAX# (913) 296-7973

TO: Members of the Senate Governmental Organization
Committee

FROM: Gary Reser
Governor Joan Finney's Legislative Liaison

DATE: August 30, 1993

SUBJECT: Reinventing Kansas Government

Background

On March 31, 1993, Governor Joan Finney announced the creation of the Reinventing Kansas Government Steering Committee, comprised of representatives from private industry and state government. Half of the committee's membership is made up of managing officers of the following Kansas companies: Bank IV, Boeing, Security Benefit Group, Southwestern Bell Telephone, and Western Resources, Inc. The balance of the committee is composed of Cabinet secretaries from the Department of Aging, Department of Corrections, Department of Transportation, Department of Health and Environment, and the Department of Administration. The committee is chaired by Secretary of Administration Susan Seltsam.

The Reinventing Kansas Government project was a natural extension of two of the Governor's initiatives organized under Executive Order No. 91-133: the Kansas Office of Efficiency Management and Kansas Quality Management program. The approach utilized in this initiative is based upon the principles of the best-selling book, Reinventing Government, by David Osborne and Ted Gaebler.

The Reinventing Kansas Government Steering Committee was directed by the Governor personally in an initial meeting to identify ways to reduce state spending while retaining high quality services and establish methods to increase the participation of the private sector in meeting challenges facing Kansas government.

Methodology

An initial list of 125 opportunity areas was identified by the Division of Budget staff to identify common problems and positive solutions in state government. In addition, initiatives identified in other states were considered. These 125 opportunity areas were then evaluated by the Division of Budget staff and representatives of Andersen Consulting, which has offered its assistance to this project at no cost to the state. This initial list of 125 was cut down to 19 functional areas which was then passed on to the Steering Committee for review.

*G.O.
Attachment 3
8/30/93*

Senate Governmental Organization Committee

The Steering Committee discussed the 19 functional study areas and evaluated them on the bases of opportunity for cost savings, private sector expertise, and the likelihood of success. The list of nineteen was reduced to 10 and after further discussion, to the five areas presently under evaluation. The areas are: Budget, Human Service Delivery for Youth, Human Service Delivery for the Aging, Inventory and Asset Management, and Information Systems Management.

Work groups for each of the areas were then selected by the steering committee utilizing a combination of private and public sector managers with the private sector executives serving as team leaders. The Reinventing Kansas Government work groups then attended an orientation session led by the project co-directors Gloria Timmer, Director of the Division of the Budget, and Dave Andrews, partner, Andersen Consulting. This session introduced the participants to the Reinventing Government approach and to their fellow team members.

Project Organization

The project organizational chart is shown below:

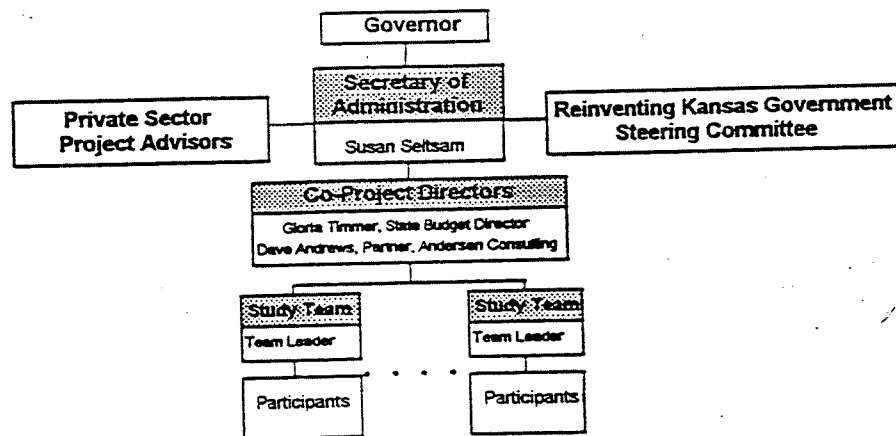


Figure 1

Approach

Reinventing Kansas Government has been organized into two phases. The Phase I is currently in progress and Phase II study topics will be identified in October with work to begin in November. The teams will utilize the same approach and schedule in each phase to ensure that everyone is moving in the same direction.

Each study group will approach their study area in the following manner:

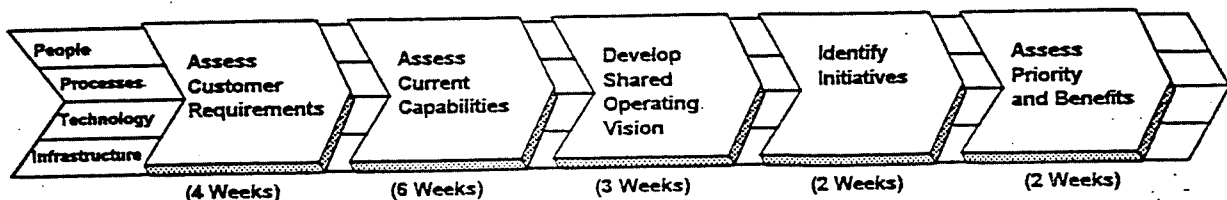


Figure 2

page 3

Senate Governmental Organization Committee

Working groups have completed the first segment, Assessing Customer Requirements, and have presented their deliverables to the project co-directors. They are currently in the process called Assessing Current Capabilities.

The final report of the project is to be presented to the Governor on April 15, 1994. The final report include all of the reports produced by the working groups. These reports will include major and "quick hit" initiatives aimed at cost cutting and efficiency in Kansas government.

Kansas Quality Management teams will be assigned to implement the quick hit initiatives and work will begin on implementing the major initiatives.



OFFICE OF THE GOVERNOR

JOAN FINNEY, Governor
State Capitol, 2nd Floor
Topeka, KS 66612-1590

PRESS RELEASE

913-296-3232
1-800-432-2487
TDD# 1-800-992-0152
FAX# (913) 296-7973

FOR IMMEDIATE RELEASE: March 31, 1993
FOR MORE INFORMATION
CONTACT: Martha Walker
(913) 296-2714

Governor Joan Finney announced today she has assembled a panel of Kansas business executives to investigate, analyze and recommend opportunities to improve Kansas government.

"The *Reinventing Kansas Government* initiative will build on accomplishments we have made since 1991, on citizens' recommendations from the *Creating Tomorrow* work, and on the strengths of *Kansas Quality Management* efforts," Governor Finney said.

The Governor said selected cabinet secretaries will also serve on the panel.

"It is time to fundamentally change 20th century government, reinventing a 21st century state government that will see this state and its people safely into the next century," Governor Finney said.

Governor Finney said the *Reinventing Kansas Government* initiative is aimed at developing solutions to challenges facing Kansas; at delivering state government services with existing resources available; and at creating more opportunities for people to participate in state government that is directly accountable to the people it serves.

Governor Finney said the *Reinventing Kansas Government* steering committee will especially focus on ways to reduce state budgets while retaining services and on ways to increase participation of the private sector in meeting challenges facing Kansas government.

"We have made good beginnings in these areas, curtailing the growth in government programs and in consolidations of administrative services such as printing operations to produce substantial savings," Governor Finney said.

"Within revenues available, we have created a Division of Housing to ensure shelter for all Kansans and embarked upon a building program at our universities to meet the needs of students in the 21st century," Governor Finney added. "Five of the seven *Creating Tomorrow* task forces have reported and much progress has been made implementing their visions for a better Kansas."

"The *Reinventing Kansas Government* initiative will utilize some of the best talent in Kansas businesses to merge these beginnings into a working strategy to position Kansas to be competitive meeting the challenges of the 21st century," Governor Finney said.

age 2
Reinventing Kansas Government
March 29, 1993

Governor Finney said Kansas business and government executives who have agreed to serve in this endeavor include: James W. Callaway, president of Southwestern Bell Telephone Company, Topeka; John E. Hayes, Jr., Chairman of the Board, President and Chief Executive Officer of Western Resources, Inc., Topeka; Howard Fricke, President and Chief Executive Officer of the Security Benefit Group, Topeka; and Dan Heidt, Vice President and General Manager of Boeing Commercial Airplane Group, Wichita.

The Governor said each corporate participant has also been asked to loan two or three executive management staff people who will work on project teams with government managers to make in-depth assessments in specific areas of government operations.

Secretary of Administration Susan Seltsam will chair the *Reinventing Kansas Government* steering committee. Secretary of Aging JoAnn Hurst, Secretary of Corrections Gary Stotts, Secretary of Transportation Michael Johnston and Secretary of Health and Environment Robert Harder will also serve the *Reinventing Kansas Government* initiative.

Reinventing Kansas Government

Mission:

To identify cost effective opportunities to significantly improve the efficiency and effectiveness of the delivery of citizen focused services.

Objectives:

- Identify methods to improve citizen focused service delivery;
- Increase focus on essential functions;
- Aggressively identify budget reduction opportunities;
- Reinforce Kansas Quality Management projects;
- Utilize the private sector to challenge existing paradigms; and,
- Invigorate, focus and mobilize the State workforce toward desired outcomes.

#2

Reinventing Kansas Government Project Scope

This study will focus on the identification of opportunities to increase efficiency and effectiveness in state government. It will also focus on a specific number of study categories to optimally allocate limited resources. Individual study teams will broaden their scope, if needed, given available time and resources.

Implementation will not be the responsibility of the study teams, although agencies will be encouraged to begin implementation of "Quick Hit" initiatives during the course of the study [through the KQM program].

This study differs somewhat from many of the studies conducted in other states which primarily focused on cost-reduction. Kansas has defined three components to government operations for review:

- Programs
- Effectiveness
- Efficiency

Programs are legislatively mandated services or entitlements which are unlikely to change in the short term. While they are open to question, they should not be the study focus.

Effectiveness measures the State's ability to deliver programs as mandated and with a level of service satisfactory to customers.

Efficiency measures the State's cost per unit of program delivery.

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Reinventing Kansas Government
Proposed Study Categories

front and
ack
regulators

Inclosure 3

Project management proposes the following study categories for consideration and prioritization by the Steering Committee:

Study Category	Budget Analysts Ranking	Frequency of Occurrence in other States Studies	Kansas Survey Ranking			Summary Mathematical Ranking
			Efficiency	Customer Service	Overall	
① Delivery of Human Services ✓	4	44%	1	2	2	1
Prevention Programs ✓	5		2	1	1	2
② Human Resources Mgmt. ✓	1	36%	3	6	5	3
③ Information Systems Mgmt. ✓	3	44%	5	3	4	4
④ Budgeting Process/Role ✓	2		8	4	3	5
Delivery of Taxation Services ✓	8	33%		5	7	6
Federal Reimbursements/Grants		56%	6	9	9	7
Natural Resource Mgmt.	7		7	8	8	8
Fee-based Services ✓		56%	4			9
⑤ Purchasing ✓	9	44%		10	6	10
⑥ Inventory/Asset Mgmt. ✓	6	36%			10	11
Child Support Enforcement		44%	10	7		12
Highway Contractors		67%				13
Transport/Highways		67%				14
Public Safety		33%	9			15
Motor Vehicles		44%				16
Privatization/Managed Competition		44%				17
Executive Branch Reorganization ✓		44%				18
Boards/Commissions		33%				19

Background

Project management obtained recent similar studies from other states. Upon review of study reports and methodologies, we noted:

- Approximately two-thirds of the studies focused primarily on efficiency rather than effectiveness.
- Many of the studies relied heavily on paid consultants.
- Most studies adopted a programmatic or organizational approach, usually on a statewide basis.
- Studies which focused on service delivery and processes cut across programs and organizations but took up to two months of team effort to identify the topics to be studied.

Given our study mission and objectives, coupled with scarce resources, we determined the need to focus equally on efficiency and effectiveness for a limited number of topics which we could attack quickly and aggressively. Therefore, we decided to select topics based on the following sources of information:

- Topics frequently identified as high priority opportunities from other states studies.

Reinventing Kansas Government
Proposed Study Categories

- Topics identified and ranked independently as high priority opportunities by Kansas Budget Analysts.
- Topics identified as high priority opportunities in a survey to Department Heads, key legislators and other selected individuals knowledgeable of Kansas State Government.

Based on our analysis, we believe several high priority opportunities for study are readily apparent. If project management and the Steering Committee are successful in selecting study topics, we believe hundreds of person days will have been saved. Brief descriptions of each proposed study category follow:

Study Category Descriptions

Delivery of Human Services - This study would focus on the service expectations, strategies, organizational structures, workflows and systems encompassing the delivery of existing human services programs.

Prevention Programs - This study would focus on opportunities for the State to minimize program expenditures for Medicaid, health services, unemployment, child welfare and juvenile justice by focusing greater attention to prevention programs.

Human Resources Management - This study would focus on the opportunities to modify the civil service system to improve efficiency and effectiveness in State government. Employee motivation/compensation, flex time and performance measurement are examples of items for review.

Information Systems Management - This study would focus on the best methods for planning, organizing, obtaining, and managing information systems and information technology in State government.

Budgeting Process/Role - This study would focus on opportunities to improve the budgeting process and budgeting's role in maximizing efficiency and effectiveness in State government. Items for study include the impact of budgeting on agency long-term planning and operations, incentive based budgeting, and the role of budgeting in program education and shaping policy.

Delivery of Taxation Services - This study would focus on the effectiveness and efficiency of the organization structures, work processes and information systems supporting the delivery of taxation services. Key focal points would be the State's effectiveness and efficiency in meeting customer expectations and collecting revenues owed.

Federal Reimbursements/Grants - The focus of this study would be opportunities for the State to maximize revenues available through federal reimbursements and grants.

Natural Resource Management - This study would focus on the effectiveness and efficiency of the organizational structures, communications and information systems for managing the State's natural resources.

Fee-Based Services - This study would focus on the revenues charged versus cost of delivering fee-based services.

**Reinventing Kansas Government
Proposed Study Categories**

Purchasing - This study would examine the objectives of centralized purchasing in State government, the appropriateness of existing purchasing methods, and the effectiveness and efficiency of existing processes and systems.

Inventory/Asset Management - This study would examine the effectiveness and efficiency of the organizational structures, processes and systems used to manage the State's inventories, assets and facilities. Specific areas to be studied would include space management (own-lease), motor pools, private vehicle use, inventory/warehousing, asset usage/location and facility utilization.

Child Support Enforcement - This study would focus on the service delivery expectations, organization structures, work processes and information systems supporting child support enforcement.

Highway Contractors - This study would focus on the effectiveness and efficiency of using contractors versus State personnel for highway design, construction and maintenance.

Transportation/Highways - This study would focus on the strategies, organization structures, work processes and information systems supporting the delivery of transportation services.

Public Safety - This study would examine the need for positions with law enforcement status in public safety and criminal justice.

Motor Vehicles - This study would focus on the service delivery expectations, organizational structures, work processes and information systems supporting the licensing and registration of motor vehicles.

Privatization/Managed Competition - This study would examine opportunities for the State to improve efficiency and effectiveness through greater use of privatization and/or managed competition programs. The study team would seek out and analyze opportunities for privatization and/or managed competition.

Executive Branch Reorganization - This study would focus on the impact of the overall organization structure of the executive branch on the efficiency and effectiveness of service delivery. Specific items for study might include the role and functions of the CEO, COO and direct reports, the number of direct reports, and the overall alignment of functions and services with organizational structures.

Boards/Commissions - This study would focus on the objectives, role, value and life of the State's boards and commissions. Items to be studied would include sunset provisions, facility usage, resource sharing and information management.

REINVENTING KANSAS GOVERNMENT
PROJECT STEERING COMMITTEE

⑦

Inclosure 4

Mr. James W. Callaway, President
Southwestern Bell Telephone
220 East 6th Street
Topeka, Kansas 66603

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and Chief Executive Officer
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Mr. K. Gordon Greer, CEO & Chairman
Bank IV Kansas
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Mr. Howard Fricke, President &
Chief Executive Officer
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Joanne Hurst, Secretary
Department on Aging
DSOB - Room 122-S
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Mike Johnston, Secretary
Department of Transportation
DSOB - Room 754-N
Topeka, Kansas 66612

Gary Stotts, Secretary
Department of Corrections
LSOB - 4th Floor
Topeka, Kansas 66612

3-11

REINVENTING KANSAS GOVERNMENT PROJECT STUDY TEAMS

	Information System Management	Inventory Asset Management	Human Service Delivery		Budget
			Aging	Youth	
Leader (Private)	Boeing Ron Terzian	SWB Mike Laughon	S&G Glenda Overstreet	Bank IV Tim Sipes	Western Resources Jim Clark
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Coordination	SRS		W&P David Katz		
Advisory		DHR Gerald Schneider		DOC&H Mark Barcellina	
Facilitation				KDH&E	

**REINVENTING KANSAS GOVERNMENT
PROJECT TEAM TRAINING
JUNE 21, 1993**

PROJECT TEAM SCOPE

DELIVERY OF HUMAN SERVICES - THIS STUDY WILL FOCUS ON THE SERVICE EXPECTATIONS, STRATEGIES, ORGANIZATIONAL STRUCTURES, WORKFLOWS AND SYSTEMS ENCOMPASSING THE DELIVERY OF EXISTING HUMAN SERVICES PROGRAMS.

INFORMATION SYSTEMS MANAGEMENT - THIS STUDY WILL FOCUS ON THE BEST METHODS FOR PLANNING, ORGANIZING, OBTAINING, AND MANAGING INFORMATION SYSTEMS AND INFORMATION TECHNOLOGY IN STATE GOVERNMENT.

BUDGETING PROCESS/ROLE - THIS STUDY WILL FOCUS ON OPPORTUNITIES TO IMPROVE THE BUDGETING PROCESS AND BUDGETING'S ROLE IN MAXIMIZING EFFICIENCY AND EFFECTIVENESS IN STATE GOVERNMENT. ITEMS FOR STUDY INCLUDE THE IMPACT OF BUDGETING ON AGENCY LONG-TERM PLANNING AND OPERATIONS, INCENTIVE BASED BUDGETING, AND THE ROLE OF BUDGETING IN PROGRAM EDUCATION AND SHAPING POLICY.

INVENTORY/ASSET MANAGEMENT - THIS STUDY WILL EXAMINE THE EFFECTIVENESS AND EFFICIENCY OF THE ORGANIZATIONAL STRUCTURES, PROCESSES AND SYSTEMS USED TO MANAGE THE STATE'S INVENTORIES, ASSETS AND FACILITIES. SPECIFIC AREAS TO BE STUDIED INCLUDE SPACE MANAGEMENT (OWN-LEASE), MOTOR POOLS, PRIVATE VEHICLE USE, INVENTORY/ WAREHOUSING, ASSET USAGE/ LOCATION AND FACILITY UTILIZATION.

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**Reinventing Kansas Government
Upcoming Schedule**

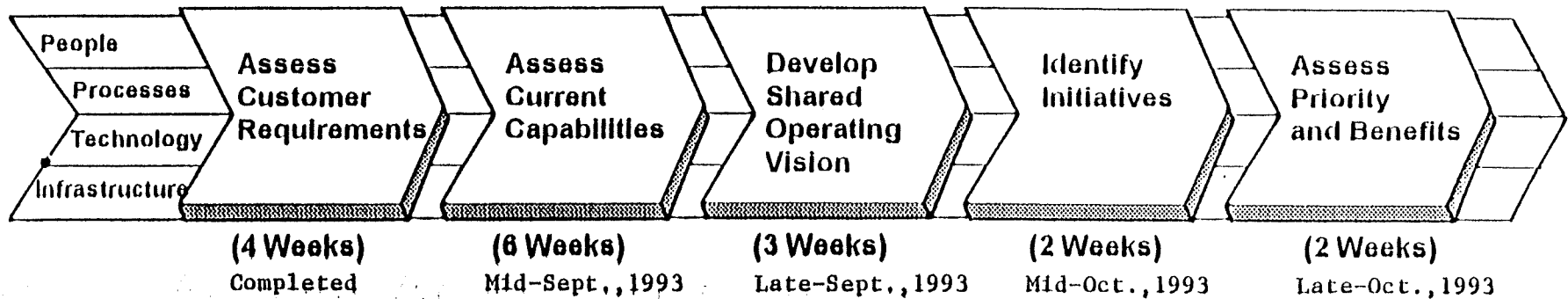
	Phase I	Phase II
May 25	Establish scope, approach, deliverables, timeframe, study topics	
June 15	Announce teams	
June 21	Kick off Phase I teams (training and organization)	
June 28	Begin Assess Customer Requirements task (4 weeks)	
July 27	Complete and report on Customer Requirements task	
August 31	Complete and report on Assess Current Capabilities task (6 weeks)	
September 7	Issue preliminary report to Governor	
September 27	Complete Develop Shared Operating Vision task (3 weeks)	
October 4	<ul style="list-style-type: none"> - Complete Identify Initiatives task (2 weeks) <li style="padding-left: 20px;">- Quick Hit Initiatives <li style="padding-left: 20px;">- Major initiatives - Begin assigning KQM teams to work Quick Hit Initiatives - Monitor and report results <ul style="list-style-type: none"> - Timeframe - Responsibility - Accountability 	
October 18	Complete Assess Priority and Benefits task (2 weeks)	
November 1	Publish Phase I study team reports (2 weeks)	Kick off Phase II teams (training and organization)
December 7		Complete Assess Customer Requirements task (4 weeks)

Reinventing Kansas Government
Upcoming Schedule

Phase I	Phase II
January 7	Complete Assess Current Capabilities task (6 weeks)
January 31	Complete Develop Shared Operating Vision task (2 weeks)
February 15	<ul style="list-style-type: none">- Complete Identify Initiatives task (2 weeks)- Assign teams to work Quick Hit Initiatives- Monitor and report results<ul style="list-style-type: none">- Timeframe- Responsibility- Accountability
February 28	Complete Assess Priority and Benefits task (2 weeks)
March 15	Publish Phase ^{II} study team reports (2 weeks)
April 15	<ul style="list-style-type: none">- Issue final report to Governor- Continue monitoring and reporting results- Determine approach for major initiatives

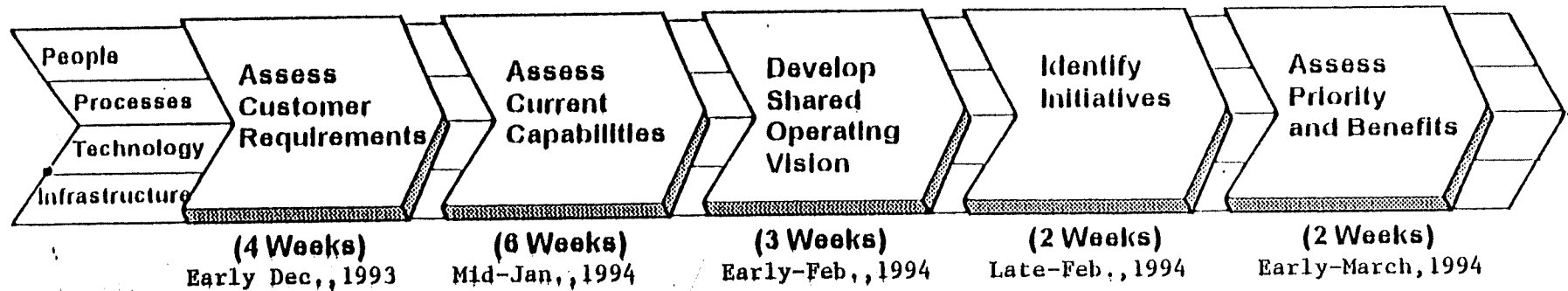
Reinventing Kansas Government Project Approach

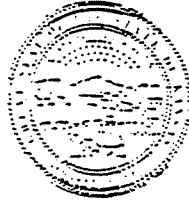
PHASE I



Reinventing Kansas Government Project Approach

PHASE II





OFFICE OF THE GOVERNOR

JOAN FINNEY, Governor
State Capitol, 2nd Floor
Topeka, KS 66612-1590

913-296-3232
1-800-432-2487
TDD# 1-800-992-0152
FAX# (913) 296-7970

EXECUTIVE ORDER NO. 91-133

DIRECTING THE ELIMINATION OF WASTE AND
DUPLICATION AND IMPROVING THE EFFICIENCY
WITHIN THE EXECUTIVE BRANCH OF THE STATE OF KANSAS

WHEREAS, Article 1, §3 of the Constitution of the State of Kansas vests the supreme executive power of the state in the governor; and

WHEREAS, Article 1, §4 of the Constitution of the State vests in the Governor, the power to require information from the officers of the executive department, upon any subject related to their respective duties; and

WHEREAS, Article 1, §6 of the Constitution of the State vests in the Governor the power to issue executive orders, subject to legislative oversight, for the purpose of transferring, abolishing, consolidating the whole or any part of any state agency or the functions thereof, within the executive branch of the state government, when the governor considers the same necessary for efficient administration, and

WHEREAS, administrative efficiency, task accountability and fiscal integrity in government will be enhanced through the elimination of waste and duplication; and

WHEREAS, an in depth examination of agency functions and operations will provide a foundation upon which organization decisions may be based;

NOW THEREFORE, pursuant to the authority vested in me as Governor of the State of Kansas, it is hereby ordered as follows:

- I. The administrative heads of all State boards, commissions, agencies and institutions within the executive department shall develop a comprehensive plan to critically examine its functions and operations for the purpose of: eliminating wasteful, duplicative and marginal programs and practices; improving the efficiency

of each function or service provided; and reviewing all current and future capital outlays for equipment with the objective of extending the life-cycle of existing equipment.

II. The officers and employees of all State boards, commission, agencies and institutions within the executive department are encouraged to actively participate in this effort by providing suggestions and recommendations pertinent to the objectives of this Executive Order.

III. Each such plan, suggestion and recommendation shall be coordinated with and submitted to the Governor's office of Federal and State Affairs, which shall issue additional information such as goals, objectives and progress reporting instructions.

A copy of this Order shall be posted in conspicuous locations in every State agency under my jurisdiction, in order that State officers and employees are informed of the directive contained herein. This Executive Order is effective upon filing with the Secretary of State.

This document shall be filed with the Secretary of State as Executive order

THE GOVERNOR'S OFFICE

By the Governor

April 18, 1991
Date

Bill Graves
Secretary of State
John Vail
Assistant Secretary of State

3032L

FILED

APR 19 1991

BILL GRAVES
SECRETARY OF STATE

3-19

KQM Vision

Our vision for the future is the highest quality Kansas government involving dedicated Kansans committed to providing services that meet the needs of citizens and exceed their expectations through a process of continuous quality improvement.

KQM Guiding Principles

1. Identify customers and meet their needs and expectations.
2. Involve employees at all levels in problem solving and decision making.
3. Enable employees to change and succeed through appropriate education and training.
4. Improve processes and remove barriers to create and reinforce continuous improvement.

9
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Kansas Report/Gubernatorial Reforms

At the beginning of her administration in January 1991, Governor Finney moved quickly to pursue and fulfill three of her major objectives: increased accountability; elimination of waste and inefficiency; and, more prudent use of public funding.

By executive order, Governor Finney created the Governor's Office of Efficiency Management and directed each agency, board and commission within the executive branch to develop a comprehensive plan to achieve these objectives. Additionally, all state employees were encouraged to actively participate by providing their recommendations. Examples of accomplishments to date: consolidation of printing operations which has resulted in a 19.5% reduction in costs for fiscal year 1993; development of a statewide travel contract to provide centralized service to insure the most economical travel, lodging and car rental rates; and, reassessment of the state vehicle retirement rate which resulted in a cost avoidance of \$1million in the first year. Several other initiatives are also underway at this time.

Governor Finney later determined that these same objectives could be enhanced by adopting the quality management principles in state government. The Governor issued another Executive Order directing the implementation of Kansas Quality Management (KQM), a tailored version of total quality management, throughout the executive branch. KQM is geared to make continuing and lasting improvements in work processes, increase involvement in decision-making, enhance job satisfaction and provide quality service. The Governor has also directed that KQM will be implemented within authorized budget limitations.

A KQM Council has been designated by the Governor to guide, promote and monitor quality efforts. The KQM Planning and Guidance committee has been tasked with providing coordination, shared assistance, networking and the development of KQM manuals to be used for reference and training tools. These materials will provide the framework for participation and continued learning, techniques and procedures to be used in quality projects.

3-21 ---

Five agencies are initially piloting KQM with the eventual inclusion of all executive branch agencies. This will facilitate a methodical and uniform implementation while providing opportunities to establish and learn from successful pilot agencies and processes. Agencies individually determine the focus of its pilot program to build and maintain ownership.

The private sector has facilitated quality efforts in Kansas by participating in quality management presentations to the Governor, cabinet secretaries and senior-level managers. Additionally, the private sector has provided assistance and resources as the state implementation plan and KQM materials were developed.

In Governor Finney's initial State of the State address she announced a partnership, "Creating Tomorrow - An Agenda for the Future of Kansas," between the Governor's office and the Board of Regents. This taskforce partnership was formed to conduct a comprehensive review of the state's economic and social standing and to forward recommendations for change and study.

The faculties of the regent's institutions, other colleges and community colleges included private sector resources - business and community leaders - and state agencies to identify suitable policy directions that would produce significant improvements for Kansans.

Four individual reports focusing on education, economic development, health care, and welfare, criminal justice and aging have been submitted to the Governor. Recommendations from these reports have assisted the Governor and the Legislature in aggressively dealing with the challenges facing the State.

The Reinventing Kansas Government initiative recently outlined by Governor Finney is utilizing a public/private partnership to build on the efficiency, Kansas Quality Management and Creating Tomorrow accomplishments. Governor Finney has assembled a panel of Kansas business executives and cabinet secretaries to investigate, analyze and recommend opportunities to improve Kansas government.

This Reinventing Kansas Government steering committee will:

- identify methods to improve citizen focused service delivery;
- increase focus on essential functions;
- aggressively identify budget reduction opportunities;
- reinforce Kansas Quality Management projects;
- utilize the private sector to challenge existing paradigms; and,
- invigorate, focus and mobilize the State workforce toward desired outcomes.

Each corporate participant has been asked to loan two or three executive management staff people to work with government managers. These project teams will make in-depth assessments of specific government operations and focus on short term project opportunities and long term processes.

A preliminary report will be submitted to the Governor in September of this year.

KQM ROLES AND RESPONSIBILITIES

Governor:	Serve as the state KQM champion. Constantly carries the KQM message. Engages in ongoing activities to promote quality management (e.g., discussing with cabinet, developing and supporting incentives).
Council:	Oversee and monitor the uniform and successful implementation of Kansas Quality Management within the executive branch of state government. Approve agency implementation plans.
Governor's Office of Efficiency Management:	Encourage and promote KQM to increase efficiency and more prudent management of the state's financial, natural, and human resources.
Planning and Guidance Committee:	Formulate the state plan, goals and objectives, awareness, reporting procedures, and training materials to ensure uniform application of KQM.
Administrative Office:	Provide staff support to the Office of Efficiency Management and technical assistance to the KQM Planning and Guidance Committee.
Training Office:	Provide staff support and technical assistance on KQM training policy and materials to the Administrative Office.

KANSAS QUALITY MANAGEMENT (KQM)

Governor Finney issued Executive Order 92-149 directing the implementation of Kansas Quality Management (KQM), a tailored version of total quality management, throughout the executive branch. KQM is geared to make continuing and lasting improvements in work processes, increase involvement in decision-making, enhance job satisfaction and provide quality service. The Governor has also directed that KQM will be implemented within authorized budget limitations.

A KQM Council, chaired by the Secretary of Administration Susan Seltsam, has been designated by the Governor to guide, promote and monitor quality efforts. Members of this Council are the heads of the five designated pilot agencies (Adjutant General, the departments of Commerce and Housing, Revenue, SRS and Transportation) with a provision to expand Council membership to include the entire Cabinet when KQM is implemented within their respective agencies. Agencies individually determine the focus of its pilot program to build and maintain ownership.

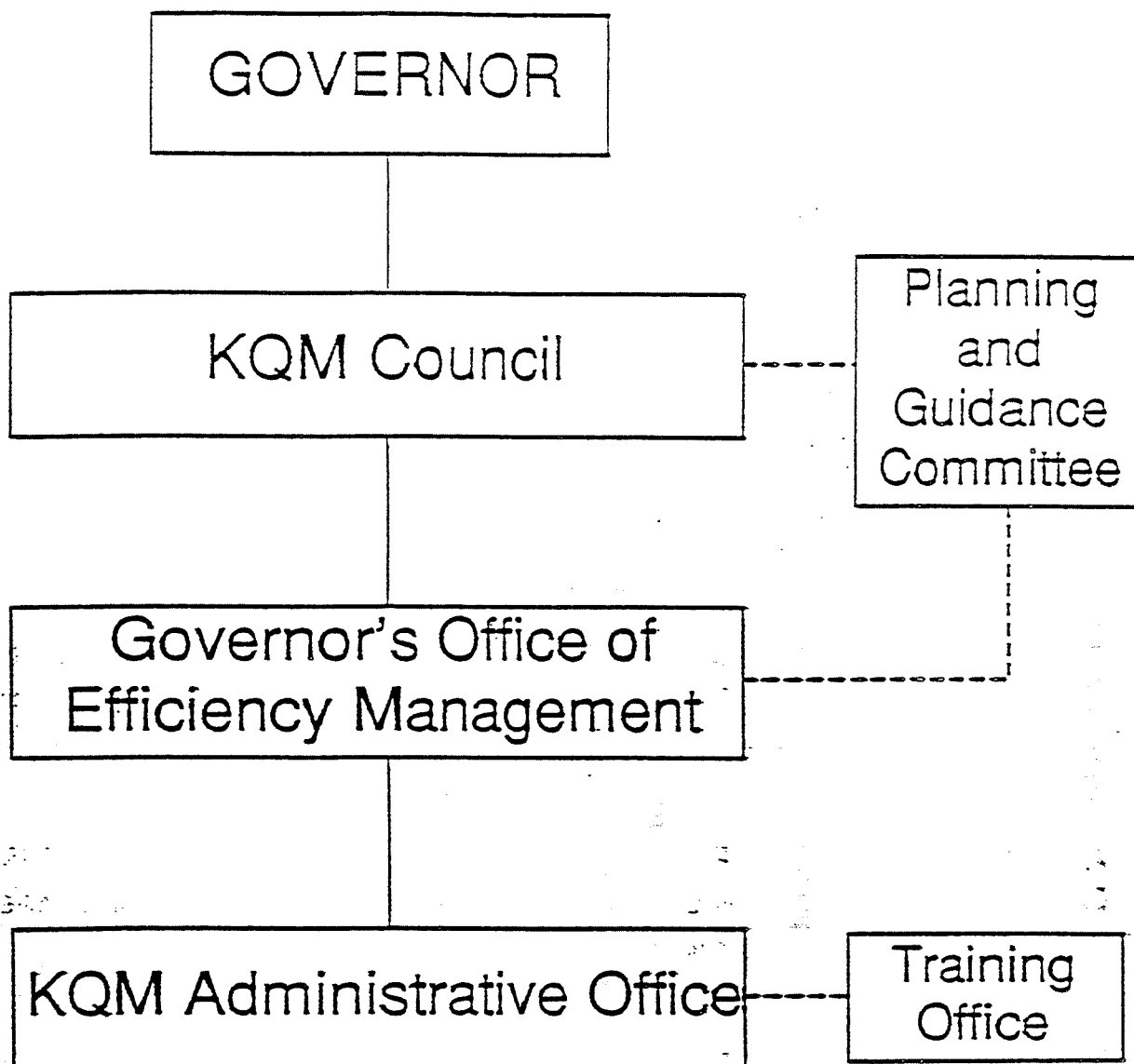
The KQM Planning and Guidance committee has been tasked with providing coordination, shared assistance, networking and the development of KQM manuals to be used for reference and training tools. These materials will provide the framework for participation and continued learning, techniques and procedures to be used in quality projects.

This organizational structure (see attachment) will facilitate a methodical and uniform implementation while providing opportunities to establish and learn from successful pilot agencies and processes. The Council has approved implementation plans for two pilot agencies and two additional pilot agencies' implementation plans are under review by the KQM Planning and Guidance committee. It is anticipated that additional executive agencies will begin the KQM journey in October 1993.

The private sector has facilitated quality efforts in Kansas by participating in quality management presentations to the Governor, cabinet secretaries and senior-level managers. Additionally, the private sector has provided assistance and resources as the state implementation plan and KQM materials were developed.

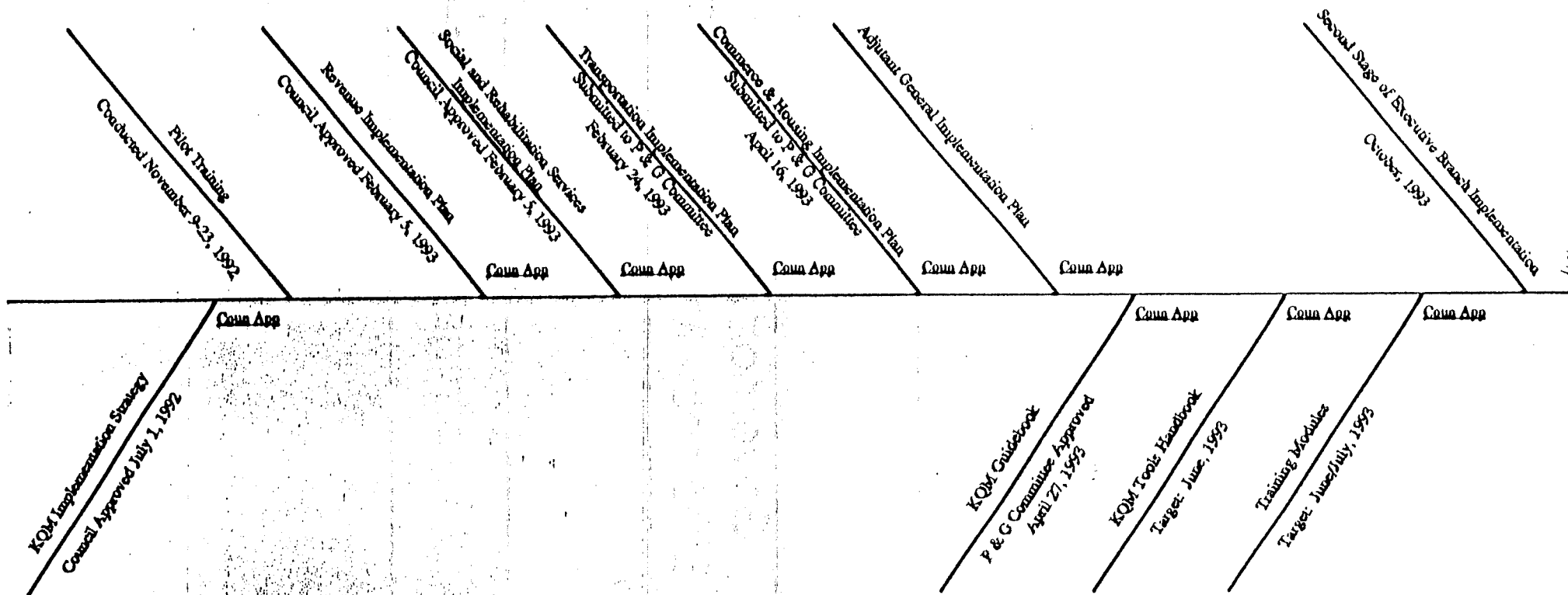
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KQM ORGANIZATIONAL CHART



KANSAS QUALITY MANAGEMENT SCHEDULE

Pilot Agencies



3-2-93

May 20, 1993



THE LEAGUE OF KANSAS MUNICIPALITIES

Municipal Legislative Testimony

AN INSTRUMENTALITY OF KANSAS CITIES 112 S.W. 7TH TOPEKA, KS 66603-3896 (913) 354-9565 FAX (913) 354-4186

TO: Senate Committee on Government Organization

FROM: Chris McKenzie, Executive Director

DATE: August 31, 1993

RE: SB 268; Access to Public Records; and Financing of Public Investment in Electronic Information Systems

PART I

Thank you very much for the time to visit with the Committee about SB 268 and the many issues that it raises. My role today is to explain some of the history behind SB 268. Subsequent speakers will provide more technical details about local data access issues. Following those technical presentations, Jim Reardon of the Kansas Association of Counties, Gerry Ray of Johnson County and I will outline the major policy issues raised by this legislation and suggest some policy options for the Committee's consideration.

1. Background

When the 1984 Kansas Legislature enacted the Kansas Open Records Act (or KORA), the League participated actively in its development. Following the 1984 session we developed a 100 page manual on how to implement, interpret and live with this comprehensive act. Today we devote considerable resources to informing, advising and training local officials about KORA, and I think we can say with some certainty that the Act is being fairly implemented across the state by local officials who believe in and practice the basic tenet of the Act: that easy and affordable access to government data is critical to government's success. The fact that there have only been four (4) Kansas Supreme Court decisions interpreting the Act since 1984, two of which involved local units of government, is an indication of the positive local government track record with KORA since its enactment.

Although it has only been nine (9) years since the enactment of KORA, we have experienced four to five generations of evolution in computer technology and electronic data management during that time. The progress that has occurred in the ability of cities, counties and other parties to store, compress, process, manipulate, enhance, analyze and graphically display data electronically is simply incredible. One of these innovations is known as Geographic Information Systems (or GIS), essentially computerized mapping of data that has been put in digital format at tremendous expense. The desktop personal computer was essentially in its infancy in 1984 when KORA was enacted, with expensive and cumbersome mainframe computer systems being the only way to manage and process data at that time. Today personal computers have provided us with technical abilities that were only dreamed of by a few in 1984.

During this period the methods used by local governments to store, manage and retrieve public data have changed dramatically. The types of interactions between local governments and those who request government data have changed as well. Gone are the days when most requests were for small amounts of data affecting the person making the request (e.g., a copy of a deed, the county's appraisal forms for their property, or a history of their personal utility records). These types of requests typically resulted in a photocopying of records maintained by hand.

Attachment 4
8/31/93

Due to the relative ease with which data can be manipulated by computer, many individuals and private businesses are increasingly requesting that government respond to much more massive data requests, sometimes requiring the investment of considerable public resources to manipulate the data to remove confidential material or to enhance the data so it is in a format deemed more usable by the person or organization making the request.

2. Statewide Property Reappraisal

One year after the enactment of KORA the legislature took an action that had a profound impact on the evolution in government data management mentioned earlier. That was enactment of mandatory statewide property reappraisal, requiring the reappraisal of all real estate parcels in the state over the next four years. As part of reappraisal counties were required to implement a new parcel numbering (PIN) system and develop extensive data bases for reappraisal management purposes. These systems were developed through a joint state-county financial arrangement, but the maintenance of most systems today is largely borne by each county.

The benefits derived from the development of the reappraisal data system have been enhanced in some counties by the development of GIS programs that allow the display of various types of appraisal and other data geographically. In some counties it is these systems that provide the critical "base map" over which additional "layers" of data can be laid for a variety of purposes. Some cities in Kansas today have seen the benefits that are available from GIS for land use planning, locating hazardous materials, mapping of key infrastructure (e.g., location of water and sewer lines, manholes, etc.), and planning of pavement and other infrastructure improvements in a more economical way.

3. Private Use of Government Data

The data available from county and city governments is becoming very valuable to the private sector--especially when it is enhanced through GIS and other means. It is increasingly being used for market research and planning functions. This includes anything from planning the location of a new retail outlet to planning a direct mail campaign. The more businesses know about their prospective customers, the better the marketing strategy, the higher the profits, etc. GIS also can be effective in helping plan delivery routes, maintain electrical distribution systems, track hazard characteristics of individual properties of prospective insureds, avoid unplanned interruptions of utility services due to damage during excavation, and perform a variety of other valuable business functions.

4. Privacy and Commercial Use of Public Data Concerns

(a) Privacy Concerns. One of the most difficult aspects of administering KORA is the issue of protecting individual privacy and handling requests for data for commercial purposes. Paragraph (a)(30) of K.S.A. 45-221 exempts public agencies from disclosure of "**public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of privacy.**" This disclosure exemption indicates a strong preference against personally identifiable records, and other exemptions also reflect this sentiment (e.g., (a)(5), (6), (8), (9), (10), (14), (17), (23), (24), (26), (29), (31), and (34)). If such information is contained in a record that is required to be disclosed, KORA today requires that the public agency remove the "confidential" information and provide the record. The public expense required to comply with this requirement can be recovered from the person requesting the record.

(b) Criminal Use of Data for Commercial Purposes. The second area of concern is when the data request would appear to violate K.S.A. 21-3914, which makes it a crime, punishable by a \$500 fine,

to use a list of names or addresses contained in public records to sell or offer to sell any property or service to the persons listed or persons residing at the addresses on the list or to resell such information to a person to allow them to do so. This criminal statute is clearly designed to discourage the use of such data for marketing, solicitation and other commercial purposes. Unfortunately, local officials believe this statute is being violated frequently, and local governments are threatened with litigation and other forms of retaliation for carrying out the purposes of the a law they are sworn to uphold. While the requestors of such data may sign an affidavit that such use of the data is not their intended purpose, the prospect of a \$500 fine and a criminal record is not always viewed as a sufficient deterrent.

(c) Requests for Special Services; and the Out-of-State Business. The third area of concern is when the person who requests the data insists that the public agency manipulate or enhance the data to better suit their needs. It also is common for the local agency to be asked to give ongoing consultation to individuals or firms requesting the data. While requests for manipulation or enhancement can be treated as lower priority requests under the law, the fact remains that the firms requesting such assistance may be taxpayers as well and expect (and demand at times) to have this type of assistance. Such requests are particularly difficult when the party requesting this "special service" doesn't want to pay the actual costs of the function or they are from out-of-state and expect the public agency to respond promptly.

5. Financing Data System Development

Two sources of funding generally account for the financing of today's local government data systems. The first is the property and other local taxes which make up the mainstay of local government funding. The second source of funding is user fees, but KORA is fairly strict and limits much local government discretion in charging for records subject to mandatory disclosure--whether in electronic or nonelectronic form. Local units are allowed to charge the actual cost of furnishing copies or the actual costs of any computer services, including staff time.

Since public data systems have been developed at great public expense, how the ongoing cost of maintaining existing systems and the cost of developing new systems are financed is of great concern to public officials. Like state government, local governments are using user fees extensively today as a means of shifting the public cost of certain functions to those parties who benefit directly from the government function. Most cities today finance their recreation programs, including swimming, tennis, etc. through a combination of general taxes and user fees. We know that a broad public benefit is received from making recreation programs and facilities available initially. The cost of staffing and maintaining the facilities and programs, however, is shared with the direct users. In this way the public burden is minimized.

Many local officials would argue that public electronic data systems should be financed through the same public/private sector partnership approach. Given the extreme sensitivity to the property tax since statewide reappraisal, local and state officials are both sensitive about increasing the share of the cost of local government borne by it. At the same time, continued and increased reliance on user fees will be necessary if cities and counties are not given broader sources of general revenue. In other words, it could be said that those persons and businesses that desire access to public electronic data systems on a large scale for purely commercial purposes without increased user fees are really arguing for continued public subsidy of such access through the only major sources of tax revenue available to cities and counties--the property tax and the sales tax.

City and county officials also are aware that state government has already answered this question of financing for certain state maintained data bases. Persons interested in securing copies of drivers

license or motor vehicle registration data are required to pay user charges for that data (\$4.00 and \$3.00, respectively for each search) even though **no state agency staff time is dedicated to specific data requests**. In other words, access to these forms of electronic data require payment of a user fee that is not related to the direct cost of access. Didn't the taxpayers of Kansas pay for the development of these systems? Yes, but the legislature has decided that the ongoing maintenance of the systems also should be financed in a significant way by user fees. Similar action has been taken with regard to electronic access to the Kansas Statutes Annotated. Copies of the Kansas Statutes Annotated in electronic form are not available directly from the Revisor of Statutes Office. Instead a CD Rom containing the K.S.A.s and the Kansas Supreme Court reports have to be purchased through West Publishing Company and other vendors at an initial cost of \$2,500 and more. How does this differ from what local governments seek to do?

6. The Horns of the Dilemma

Our next speakers will explain in more detail the explosion in the use of public electronic data systems that has occurred since the enactment of KORA. Upon conclusion of their presentations, it should be easier to understand why today's public data systems can be viewed as a tremendous public asset and the policy questions raised by the demand for such data.

PART II—POLICY ISSUES AND OPTIONS

On August 23, 1993 city and county representatives from the League, KAC, Johnson County, and Wyandotte County met with representatives of the Kansas Press Association, Western Resources, and the Information Network of Kansas (INK) to identify and discuss our different views with regard to access to public data and how the development and maintenance of public electronic data systems is financed in the future. The discussion during that meeting was candid and thorough. It highlighted some of the major policy issues raised by SB 268, as well as the different points of view about how access to such data should be provided and financed. We sincerely appreciated the time of the participants of the meeting, and their views helped shape the following discussion of policy issues.

Based on the August 23rd discussion, SB 268 appears to raise the following policy issues:

1. Should SB 268 deal with the subject of access to both state and local government records?

Background: As discussed above, existing laws single out certain state records for special fees (i.e., motor vehicle title records, drivers license records, and the Kansas Statutes Annotated). Further, officials from both the Information Network of Kansas and the state Geographic Information Systems Board have expressed reservations about any changes in state laws. A representative of the Kansas Press Association has indicated a desire for the same rules applying to state and local government.

Options: (a) Separate state and local agencies; (b) Keep state and local agencies together; and (c) Separate state and local agencies for some purposes (e.g., as in current law).

League Comment: Our major objective is to allow cities and counties to address the data access problems facing them. There presently is not uniformity in access policies. We would not object to separation if it will remove most objections to SB 268.

2. Should cities and counties be authorized to finance a larger share of the cost of operating electronic data systems from user fees and less from tax sources? Should there be different fees for commercial use and noncommercial use?

Background: Local units are restricted at present to recovering the actual cost of providing access to data, plus the cost of computer services and staff time. This means the cost of providing access to electronic data systems is still financed largely by the property tax and sales tax. Representatives of Western Resources and the Kansas Press Association expressed a preference for the present system of financing access.

Options: (a) No change--finance systems largely from general taxes; (b) Authorize local units to recover the actual cost of investment in the development of electronic data systems plus actual operating costs; (c) Authorize local units to levy a surcharge on certain or all user fees to finance future operating and capital costs; (d) authorize local units to enter into licensing agreements with persons and businesses desiring access to whole data bases and the necessary operating software, controlling the resale of the data and requiring the payment of fees that help finance future system operating costs and expansion; or (e) Some combination of the above.

League Comment: Both taxpayer sensitivity to the property tax and the revolution in electronic data systems and products since the enactment of KORA indicate the 1984 policy on charges for data access needs to be revisited. Should major public investments in electronic data systems be protected and recovered in part through a more aggressive user fee approach? We would respectfully suggest the answer to this question is "yes". At a minimum, the surcharge approach discussed as option (b) would allow for a gradual shift toward a more user fee based system. If such a surcharge could be imposed in the same manner as a charter ordinance or resolution, dissatisfied parties would have access to the petition and ballot box to show their disagreement.

3. **If cities and counties are authorized to finance more of the cost of operating and developing electronic data systems from user fees, should special waivers be provided for public agencies, the news media, academic research, and other purposes which serve the public interest?**

Background: Certain users of electronic data, even on a large scale, also carry out a public purpose. Other government agencies, the news media, and academic researchers could argue persuasively that they deserve access to such data at only the actual cost of access (i.e., current law) or less in order to carry out their public functions. The representative of the Kansas Press Association argued that the news media should not be afforded access to public data systems on a lower cost basis than any other commercial venture. Representatives of public agencies that would like to use the data of another public agency also could argue the public interest is served by a no-cost or low-cost user fee arrangement for access.

Options: (a) Current law--which vests discretion in the custodian and the governing body to charge up to actual costs only, plus staff time. Lower charges (or no charges) for the types of users described herein can be offered at local discretion; (b) Allow the types of user fees discussed in No. 2 above, but clearly exempt the news media, other public agencies and persons engaged in academic research from paying any more than they would under current law. Retain the authority to waive even actual costs for access; or (c) Treat all users alike in the law, and leave to local discretion the option of relaxing or waiving charges.

League Comment: Notwithstanding the comments of the representative of the Kansas Press Association, the League and the KAC believe that news media access to public data, electronic or otherwise, should be accomplished at little, if any, cost. In this way the public's right to know can best be protected. There are similar reasons for providing for access to data by other public agencies and academic researchers at limited cost. We would endorse continuing the provisions of existing law with regard to these groups and inclusion of a complete exemption for the Legislative Division of Post Audit.

4. **Are additional safeguards needed to prevent the use of names, addresses and other personally identifiable data for solicitation and other commercial purposes?**

Background: If an individual commits perjury (violating K.S.A. 21-3805) by swearing under oath he or she does not intend to use the names and address secured from public records for solicitation purposes either directly or indirectly and then does so (violating K.S.A. 21-3914), that person has committed a Class E felony and a class C misdemeanor, respectively. In reality the criminal justice system can not pursue such persons for prosecution in the face of other more pressing crimes. As long as K.S.A. 21-3914 is law, however, it essentially requires custodians of local government records to evaluate the chances for such illegal use and to take every reasonable step to prevent it.

Options: (a) Make no changes in the statutes or penalties; (b) Stiffen the penalty for K.S.A. 21-3914 in order to discourage commercial solicitation; and (c) Repeal K.S.A. 21-3914.

League Comment: In its current form, K.S.A. 21-3914 imposes an unreasonable burden on records custodians who also can face criminal liability for knowingly providing names and addresses in response to public data requests which are to be used for commercial solicitation purposes. This statute is about as effective as Prohibition once was. Repeal would seem the more prudent course of action, and it would result in the positive economic effects that come from using public data for marketing and other business purposes.

5. Should requests for access to electronic data systems and products resulting from partnerships between local government agencies and private (or quasi-public) partners be treated differently than requests to public agencies for purely public data?

Background: KORA currently defines "public record" to include "any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is in the possession of any public agency. (K.S.A. 45-217(f)(1)). As a result, data systems that may be jointly developed by two public agencies would be a "public record" under the act. The same would be true of data systems jointly developed by a public agency and a private business in a public/private partnership or between a local agency and a quasi-public entity such as an investor owned utility. The future public cost of developing electronic information systems could be significantly lowered if access to the work product of public/private sector partnerships could be sheltered in part through licensing, copyrighting, and other arrangements that would protect the investment of the private parties. An excellent example of such participation would be a multi-agency partnership between a county, the cities in the county, and the public utilities in the county in developing a GIS system.

Options: (a) No change in current law; (b) Authorize local agencies to provide access to the products of their partnerships with private agencies through licensing arrangements that prevent resale of the information to unauthorized parties and which adequately compensate the local agency and its private partners for their investments; or (c) Authorize local agencies to copyright the products of private/public sector partnerships and license access thereto as described in (b) above.

League Comment: There is a significant amount of rhetoric today about privatization of government functions and private/public sector partnerships. The fact remains that unless the capital investment of potential private partners of local government can be shielded by limiting access to the data systems resulting from private/public sector partnerships, these innovative arrangements are unlikely to happen. Some type of protection would seem in order so local governments and the private sector can cooperate in the fullest sense to develop information systems and products that benefit government and the private economy. Similar protection is offered today by part of KORA (K.S.A. 45-221)) to the records of state educational institution that are "involved in the obtaining and processing of intellectual property rights...".

CONCLUSION

The League stands ready to assist with the preparation of amendments to SB 268 which encompass the policy direction which the Committee may wish to take on the above policy issues. Please let us know any way in which we can assist the Committee in its deliberations on these important policy issues affecting the maintenance of and access to electronic data records and systems of cities and counties.



"Service to County Government"

TO: Senate Governmental Organization Committee,
Senator Al Ramirez, Chairman.

FROM: Jim Reardon
Director of Legal Services,
Kansas Association of Counties

RE: SB 268

Thank you for the opportunity to appear in support of SB 268.

The Kansas Association of Counties supports new legislation that will allow county government to enter into joint ventures with other public and private partners, particularly when implementing new and needed **geographic information systems (GIS)** technology in our state.

Major Points of KAC's platform on computerized information:

1. Public Information is an asset held in public trust.

Our Open Records Act (K.S.A. 45-216 et seq) was adopted in recognition of this public trust. It is part of every public agency's mission to guarantee accountability of public officials and citizen participation in the formation of public policy.

In Kansas, the Open Records Act provides access to records to any member of the public without regard to interest, status, standing or purpose. The courts in Kansas apply the "public records" definition to entire databases of information. This application is central to the practical problems that surround electronic access issues. Electronic manipulation of the data contained in publicly financed databases can create new information that has uses far beyond the simple mission envisioned by the framers of "Open Records" legislation.

2. Recovery of costs associated with developing this public asset is of major importance.

Defining the line between proper use of government-owned technology by non-government users and promoting the sharing of government-owned technology resources among government agencies is a very important issue that reaches beyond traditional public records issues.

GIS technology allows traditional databases to be linked with graphic computer maps allowing for unique applications. These are particularly powerful for infrastructure, real property, tax and land use applications. The cost of conversion and creation of this

*G.O.
Attachment 5
8/31/93*

technology is monumental and the question of who owns and controls the information resources generated by government may become one of the most significant policy issues of this decade.

3. Information management technology is developed at taxpayer expense to promote public purposes.

The public policy position of getting the most information to the most people is compromised by the limitations of laws which were designed and enacted before the explosion of public information technology took place.

Taxpayer subsidies to nongovernmental enterprises result when we allow entire databases to be turned over to "value added resellers" of information products for the mere price of copying while public custodians are prohibited by budgetary constraints from applying staff expertise and software to those same databases to "create" an enhanced information product for use by the average taxpayer.

The lack of proprietary authority over databases on the part of the public agencies which created them limits formulation of public-private partnerships because the private partner would lose control and ownership of all information placed in the database.

If data bases are merely "records" within the meaning of the Open Records Act, then members of a potential consortium have more incentive to wait for the expensive step of data conversion and creation of the land map to be done by others, and to defer action in order to obtain the work later for the cost of a digital copy. With this probable outcome, no agency wants to "go first" and provide the capital financing out of its budget to the benefit of other agencies and commercial enterprises that refuse to cooperate up front.

4. Recovering fair value for this governmental asset...is of major concern.

Given the proper encouragement, counties, universities, regional planners, utilities, and city planning agencies are capable of working together to develop land management information. Successful models for multi-agency partnerships and even public enterprise arrangements with the private sector are occurring around the country.

Those who favor "free access" continually point to the public sector's mission of accountability. They frequently overlook the taxpayer's mandate to operate government more cost effectively. "Free Access" is not intended to promote effective financial arrangements for building, managing, and maintaining geographic databases and expensive automated land management systems. It is important to understand how the Open Records Act can be imposed inappropriately on these systems so as to limit opportunities for saving the taxpayers and ratepayers money without improving accountability.

5. Clarification of existing Open Records laws would encourage local governments to develop cost effective and innovative uses of computerized information.

While GIS is becoming a necessary tool for public agencies to manage more information with less staff, it is also becoming a valuable tool in analyzing markets, routing commercial vehicles, producing maps, supporting litigation, appraising property, designing buildings, providing environmental consulting...the applications are endless. When a zoning board requests a GIS map to make a zoning decision it is clearly a "public record" and the issue is clearly one of public accountability.

When the map is requested by a property owner for the purpose of placing landscaping in areas which are not placed directly over utilities it is clearly a "public record" and supplying it serves a public purpose.

When it is requested by an architect who requires a variety of applications and manipulations for commercial purposes it becomes "information". When the database that produced it is one that costs millions of dollars and has the potential to produce an infinite number of additional applications, what is wrong with asking the beneficiaries of such technology to share the cost of development?

It is necessary for the legislature to draw the line between the basic types of potential uses of government-owned information in order to establish better public policies for financing the systems, offsetting the costs, and putting the custodians in a position to manage the systems as a true public asset.

KAC understands that a large number of issues will be raised with regard to SB268. If direct changes to the Kansas Open Records Act seem inappropriate at this time, the legislature might consider authorizing pilot projects for Johnson, Sedgwick, and Wyandotte Counties to develop model data sharing partnerships and policies.

Thank you for your consideration of this matter. We look forward to continuing discussions with the interested parties and the legislature.

**Kansas Press Association
Inc.**

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Testimony SB 268
August 31, 1993
Senate Committee on Governmental Organization

Mr. Chairman and members of the committee, my name is David Furnas. I am the executive director of the Kansas Press Association, representing the 250 weekly and daily newspapers of the state.

Senate Bill 268 is a complex bill which opens the door for major public policy consideration by this committee and the Legislature. Our organization has participated in several conversations with representatives of cities and counties interested in this issue. In summary, from the Press Association's perspective there are two basic fundamental issues:

First, the bill suggest faulty public policy which can establish an environment of double taxation for users of information and present an unfair competitive advantage for units of government seeking to compete with the private sector.

Second, and of great concern to our association, is that this bill -- as originally drafted -- can effectively deny information to the media or anyone in the public by simply pricing access out of reach.

To provide the committee with detailed examples of how this bill can have a negative impact, I have asked Steve Smith, managing editor of the Wichita Eagle, and Fred Sherman of World Geo Solutions, a subsidiary of the Lawrence Journal-World, to speak briefly and be available to answer questions.

*G. O.
Attachment 6
8/31/93*

The Wichita Eagle

Aug. 31, 1993

TO: Senate Committee on Governmental Organization

FROM: Steven A. Smith
Managing Editor
The Wichita Eagle

RE: S.B. 268

Mr. Chairman, members of the committee:

Thank you for taking the time today to consider these views related to Senate Bill 268. My testimony reflects the position of The Wichita Eagle, and especially its editor, W. Davis Merritt Jr., in opposition to what we see as a fatally flawed bill.

First, our fundamental view is that access to public records should be made easier for all Kansans. S.B. 268, by allowing local governments to establish a pricing schedule that goes beyond actual delivery costs, will further restrict access.

We believe the public has the right to easy and affordable access to public records maintained by local governments in the public interest. We support rules that allow local governments to cover the actual costs of production and delivery of these records. But permitting local governments to go beyond recovery of actual costs to include unspecified portions of capital and operational costs almost certainly ensures establishment of abusive pricing schedules that will keep some records out of the hands of the citizens for whom they are maintained.

On that basis alone, we believe the proposed legislation ought to be rejected.

But even if the Legislature, in its wisdom, were to determine that local governments should be able to make a profit on the sale of public

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*G.O.
Attachment 7
8/31/93*

records, this bill fails on the mechanics. It fails to come to grips with the complexity of the issues it addresses.

Consider these few problems:

1. Exceptions: The legislation provides for the reduction or waiver of fees for records to be used in the public interest, for not-for-profit enterprises, for journalism and academic research. But the scope of the reduction is left to the discretion of local government and there is nothing to prevent meaningless or token reductions.

Furthermore, we are troubled by the exception for journalism, an exception that really constitutes de facto licensing of journalists. Should local governments really be put in the position of determining whether or not a publishing venture constitutes journalism or for-profit enterprise?

2. Comparability: The bill gives local governments discretion in establishing fee schedules for similar records. Because the bill does not specify the portion of operational or capital costs to be included in the user fee, County ``A'' could charge substantially more for records that cost less to produce than similar records being sold for far less by County ``B.'' Even those whose interests are purely commercial deserve a more reliable fee structure.

3. Government-to-government sharing: The proposed legislation provides for the reduction or waiver of fees for public agency program support but does not require such waiver for other public agencies or governments. Frankly, we're more than a little surprised that local governments have not stepped forward to argue that at-cost sharing of records ought to be a fundamental provision of the legislation.

4. Records re-sale: Once a local government has manipulated data to produce an original record and has charged a ``customer'' a substantial fee for the production of that record, should it be able to continue to sell that record at the original price, even though there is no continuing cost of preparation? The proposed legislation is, at best, muddying on this critical point.

These are just four of the mechanical problems posed by this legislation.

We believe strongly that the Legislature should do nothing to fundamentally restrict access to public records, no matter their genesis. But if it becomes the Legislature's intent to give local governments wide fee discretion, then this bill ought to be rejected as bad public policy and all concerned should step back and take the time to draft legislation that will work.

We believe such action, at the least, is in the best interests of all Kansans.

Thank you.

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August 31, 1993

A Public Policy for Access to Digital Data and Information

Laws embody policy and the mechanics for implementing policy. The specific legal setting that authorizes any public agency to exercise proprietary control over its information management system has a direct correlation to the State's overall open records policy. The problem with shaping a cost recovery strategy in the context of government databases is that open records laws which made sense yesterday need to be reexamined in light of the computer age in which we now live. Under virtually all open records laws there is a presumption that "public records" are to be accessible for inspection at any reasonable time, at no cost. Routinely, open records laws also mandate that copies of public records be provided upon payment of a reasonable fee, frequently limited to the actual cost of duplication. Although these types of provisions still make sense in the area of paper records, such as the request for a photocopy of a land plat or deed, the dilemma exists that access to open records laws should be updated, particularly as they address information in electronic form.

Senate Bill 268 in its present form will drastically alter the state's basic public policy on the access, use, and control of public information. Legislative actions regarding the commercialization of government data must be examined in the context of the state's overall policy to provide uniform, fair, and equitable standards to access public information. Senate Bill 268 in its present form is a "knee jerk" reaction to one county's budget dilemma. It establishes an unrealistic precedent on the impact that information technology has on the relationship among the private, non-profit, and public sectors.

The state of Kansas must establish a public policy on the access and storage of digital public information at all spectrums. The state's policy should encourage all levels of government (state, county and local) as well as private and non-profit sectors to progress forward in the conversion, storage, analysis and use of information in a digital or on-line system. Most public and private agencies which have invested in the development of computerized databases can already document a profitable return on their investment stemming solely from a vastly improved ability to manage information. Senate Bill 268 establishes an excessive burden solely on the private sector to pay for public sector computer systems that benefit both governmental bodies and the end users.

This bill establishes the perception that this "Johnson County user-fee model" will provide a "magic" revenue source to develop complicated and expensive data storage and retrieval systems. Primarily, only the urban counties in Kansas can expect to have anywhere near the anticipated user demand to justify any user-fee supported public information system. This bill in its present form will ultimately increase the cost of providing all public records information significantly. This in turn, will further polarize the imbalance between Kansas's urban and rural counties.

The State of Kansas must establish a public policy that promotes appropriate technology for public information at all levels of government. This policy must not encourage an open-check strategy that allows government to unwisely invest in inappropriate or excessively expensive technology at no risk. If established, user-fees for the public information should only reflect a cost of maintaining and updating data. The cost to access information should not reflect the cost of a government's administrative decision to develop or convert public information into a digital form, especially past capital hardware and software that today is essentially useless.

*G. O.
Attachment 8
8/31/93*

The right of access to government information is fundamental to democracy. Providing access to government information for free or at minimal cost stimulates the market and encourages economic growth, benefiting the state. An information policy that charges a reasonable and equitable fee for maintaining public information but allows the information to be copied best serves the "public" interest. Raw data and information alone is not that valuable. The analysis of data and information is of considerable value however. If passed in its present form, Senate Bill 268 will establish dangerous public policies that will increase the cost of all data and information to all users, and initiate treacherous barriers between the public, non-profit, and private sectors.



Frederick L. Sherman AICP
Planning Coordinator