

**HOUSE BILL No. 2120**

By Committee on Government Efficiency

1-28

1 AN ACT establishing the Kansas streamlining government commission;  
2 providing for an independent review of state agencies of the executive  
3 branch of state government; prescribing powers, duties and functions  
4 for the commission and certain other agencies; amending K.S.A. 2010  
5 Supp. 75-2973 and 75-4319 and repealing the existing sections.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) Sections 1 through 9, and amendments thereto,  
9 shall be known and may be cited as the Kansas streamlining government  
10 act.

11 (b) The purposes of the Kansas streamlining government act are to  
12 improve the performance, streamline the operations, improve the  
13 effectiveness and efficiency, and reduce the operating costs of the  
14 executive branch of state government by reviewing state programs,  
15 policies, processes, original positions, staffing levels, agencies, boards  
16 and commissions, identifying those that should be eliminated, combined,  
17 reorganized, downsized or otherwise altered, and recommending  
18 proposed executive reorganization orders, executive orders, legislation,  
19 rules and regulations, or other actions to accomplish such changes and  
20 achieve such results.

21 New Sec. 2. As used in sections 1 through 9, and amendments  
22 thereto:

23 (a)"Act" means the Kansas streamlining government act;

24 (b)"commission" means the Kansas streamlining government  
25 commission established by section 3, and amendments thereto;

26 (c)"documents" means books, records, papers, accounts, transcripts,  
27 transcriptions and reports, in whatever form or medium they may be  
28 preserved;

29 (d)"state agency" means any state agency in the executive branch of  
30 state government;

31 (e)"member" means a member of the commission; and

32 (f)"paid public office or position" means a public office or position for  
33 which any compensation is paid for service, but "paid public office or  
34 position" does not include any public office or position for which only  
35 reimbursement is paid for travel and other expenses incurred for service  
36 in such public office or position.

1 New Sec. 3. (a) There is hereby established the Kansas streamlining  
2 government commission within the legislative branch of state  
3 government. The commission shall be composed of seven members,  
4 appointed as follows:

5 (1) One person appointed by the president of the senate;

6 (2) one person appointed by the majority leader of the senate;

7 (3) one person appointed by the minority leader of the senate;

8 (4) one person appointed by the speaker of the house of  
9 representatives;

10 (5) one person appointed by the majority leader of the house of  
11 representatives;

12 (6) one person appointed by the minority leader of the house of  
13 representatives; and

14 (7) one person appointed by the governor.

15 (b) Of the members appointed under subsection (a):

16 (1) Each member shall be a citizen of the United States of America  
17 and shall reside in the state of Kansas;

18 (2) not more than five members shall be affiliated with the same  
19 political party;

20 (3) a member may not: (A) Currently hold or have held within the  
21 preceding three years any paid office or position with any state agency or  
22 local governmental entity in Kansas; or (B) hold any paid public office or  
23 position with any state or federal governmental entity at the time of  
24 appointment or during the member's tenure as a member of the  
25 commission;

26 (4) a member may not be a party to an ongoing and continuing  
27 contract with any state agency or local governmental entity in Kansas, or  
28 be an employee of an entity that is a party to any such contract; and

29 (5) a member may not be a lobbyist or be engaged in lobbying, as  
30 defined by either K.S.A. 46-225, and amendments thereto, or under any  
31 federal law, at the time of the appointment of the member or during the  
32 member's tenure as a member of the commission.

33 (c) The commission shall initially convene and organize on call of the  
34 member appointed by the governor. At such meeting the commission  
35 shall select one member to serve as chairperson of the commission.

36 (d) Four members shall constitute a quorum for meetings of the  
37 commission. A lesser number of members may conduct hearings, but no  
38 action shall be taken at meetings at which such hearings are conducted.  
39 All actions of the commission shall be by affirmative vote of a majority  
40 of all members of the commission.

41 (e) In the event that a member accepts a position as a lobbyist or as an  
42 officer or employee of any state agency or local governmental entity in  
43 Kansas, the member shall resign from the commission within 10 days

1 from the date the member accepts such position.

2 (f) A vacancy in the commission shall be filled in the manner in which  
3 the original appointment was made. The appointment of the replacement  
4 member shall be made not later than 30 days after the date on which the  
5 vacancy occurs.

6 (g) Members shall serve without compensation, but members  
7 attending meetings of the commission, or meetings of a subcommittee  
8 authorized by the commission, shall receive subsistence allowances,  
9 mileage and other expenses as provided in K.S.A. 75-3212, and  
10 amendments thereto, for members of the legislature.

11 New Sec. 4. (a) The commission may:

12 (1) Meet at any time and at any place within the state, upon the call of  
13 the chairperson, subject to the provisions of appropriation acts; and

14 (2) recess in closed or executive meetings in accordance with K.S.A.  
15 75-4319, and amendments thereto, to conduct discussions and  
16 deliberations and to receive testimony in the discharge of the duties  
17 imposed under this act, but all votes shall be made in open meeting and  
18 no binding action shall be taken during closed or executive recesses.

19 (b) In the discharge of the duties imposed under this act, the  
20 commission and officers and employees of the commission may require  
21 state agencies to preserve and make available their accounts, records,  
22 documents, vouchers, requisitions, payrolls, canceled checks or vouchers  
23 and coupons, and other evidence of financial transactions.

24 (c) The commission shall report immediately to the appropriate  
25 authority whenever it appears in the opinion of the commission that there  
26 may have occurred any violation of penal statutes or any instances of  
27 misfeasance, malfeasance or nonfeasance by a public officer or employee  
28 of the executive branch of state government that is disclosed by any  
29 investigation or review conducted under authority of this act.

30 New Sec. 5. (a) The staff of the legislative research department, the  
31 office of revisor of statutes and the division of legislative administrative  
32 services shall provide such assistance as may be requested by the  
33 commission, to the extent authorized by the legislative coordinating  
34 council.

35 (b) Upon approval by the legislative post audit committee, the division  
36 of post audit shall conduct government effectiveness and efficiency  
37 audits, financial and compliance audits, performance audits and other  
38 audit work with respect to state agencies in the manner provided by the  
39 legislative post audit act pursuant to request by the commission.

40 New Sec. 6. (a) The commission shall have authority to review any  
41 agency, board, commission or program of the executive branch of state  
42 government. In determining which aspects of the executive branch of  
43 state government are to be reviewed, the commission shall consider any

1 recommendations made to it by the governor, by any legislator, by any  
2 executive branch personnel, or by any member of the public. The  
3 chairperson of the commission shall determine which aspects of the  
4 executive branch of state government shall be reviewed by the  
5 commission and shall present the scope of such review to the  
6 commission. In establishing such data, the chairperson shall settle upon  
7 those units of exam where the greatest likelihood for cost savings exists.  
8 The chairperson's determination shall prescribe the commission's scope of  
9 review unless it is rejected or modified by a motion adopted by the  
10 affirmative vote of five or more commissioners. The commission may  
11 review multiple aspects of the executive branch of state government at  
12 the same time and may change or amend the scope of review under this  
13 section at any time.

14 (b) All state agencies of the executive branch of state government, and  
15 the officers and employees thereof, shall cooperate fully with the  
16 commission and its officers and employees in the discharge of the  
17 commission's duties under this act.

18 New Sec. 7. (a) The commission shall:

19 (1) Examine the current configuration of executive agencies and  
20 investigate their duties and responsibilities;

21 (2) review the operational jurisdictions of state agencies to determine  
22 whether areas of overlap exist and whether the mission of any state  
23 agency, or any portion thereof, has become obsolete or inefficient;

24 (3) establish a systematic method for assessing the effectiveness and  
25 accountability of state agencies;

26 (4) assess programs based on achievement of performance goals; and

27 (5) assess programs based in part on whether the program has fulfilled  
28 the legislative intent surrounding the creation of the program.

29 (b) As part of this review, the commission shall identify and address:

30 (1) Opportunities for increasing effectiveness and efficiency and  
31 reducing costs in state agencies as a result of executive action or  
32 legislation;

33 (2) areas within state agencies where managerial accountability can be  
34 enhanced and administrative control can be improved;

35 (3) any state programs that have accomplished their original objectives  
36 and should be terminated;

37 (4) any state services that could be provided at lower cost by the  
38 private sector, the federal government, any nongovernmental entity or in  
39 any other manner;

40 (5) budget process reforms that could yield savings, increase  
41 accountability, effectiveness and efficiency, and enhance public  
42 confidence in the budget process; and

43 (6) areas for further study based on likelihood for potential savings.

1 (c) In addition, the commission shall review existing audit reports of  
2 the legislative division of post audit, together with any other existing state  
3 or federal governmental and nongovernmental recommendations for  
4 advancing the purposes of the provisions of this act.

5 New Sec. 8. (a) Upon completing its review of any aspect of the  
6 executive branch of state government, the commission shall make such  
7 recommendations for changes to the executive branch of state  
8 government as it determines to be appropriate in order to achieve the  
9 purposes of the commission. Upon completion of its review of any aspect  
10 of the executive branch of state government, the commission may  
11 recommend any of the following:

12 (1) The abolition of any state program, agency, board or commission  
13 of the executive branch of state government;

14 (2) the reorganization or combination of any state program, agency,  
15 board or commission of the executive branch of state government;

16 (3) a change in any state procedure or process of the executive branch  
17 of state government; and

18 (4) such other changes regarding the executive branch of state  
19 government as the commission may deem appropriate to fulfill its  
20 purposes.

21 (b) In presenting its recommendations, the commission may do any of  
22 the following:

23 (1) Recommend that any agency or office of the executive branch of  
24 state government use existing authority to change policies, procedures or  
25 organization in order to achieve the purposes of the commission;

26 (2) recommend that the governor issue an executive directive,  
27 executive order or executive reorganization order to change policies,  
28 procedures or organization of the executive branch of state government in  
29 order to achieve the purposes of the commission; or

30 (3) make such other recommendations for action as the commission  
31 determines advisable to carry out the purposes of the commission.

32 (c) On or before September 1, 2011, December 31, 2011, September 1,  
33 2012, and December 31, 2012, the commission shall submit a report to  
34 the governor and the legislature.

35 (d) The legislature's support and approval of the recommendations  
36 presented by the commission under subsection (b) shall be expressed by  
37 adoption of a concurrent resolution.

38 (e) It is declared to be the policy of the state of Kansas that the house  
39 of representatives and the senate each adopt rules for the proceedings of  
40 such body to provide specific procedures for the consideration and action  
41 on any resolutions introduced pursuant to subsection (d) in support of any  
42 recommendations of the commission. The rules adopted for this purpose  
43 by the house of representatives and the senate should include procedures

1 to provide that no such resolution shall be subject to amendment during  
2 consideration by the body and final action on such resolution shall be by  
3 roll call vote.

4 New Sec. 9. On December 31, 2012, the commission is hereby  
5 abolished and the provisions of sections 1 through 8 shall expire.

6 Sec. 10. K.S.A. 2010 Supp. 75-2973 is hereby amended to read as  
7 follows: 75-2973.(a) This section shall be known and may be cited as the  
8 Kansas whistleblower act.

9 (b) As used in this section:

10 (1) "Auditing agency" means the:(A) Legislative post auditor;:(B)  
11 any employee of the division of post audit;:(C) any firm performing audit  
12 services pursuant to a contract with the post auditor;:(D) any state agency  
13 or federal agency or authority performing auditing or other oversight  
14 activities under authority of any provision of law authorizing such  
15 activities; ~~or~~ (E) the inspector general created under K.S.A. 2010 Supp.  
16 75-7427, and amendments thereto; *or (F) the Kansas streamlining*  
17 *government commission established by section 3, and amendments*  
18 *thereto.*

19 (2) "Disciplinary action" means any dismissal, demotion, transfer,  
20 reassignment, suspension, reprimand, warning of possible dismissal or  
21 withholding of work.

22 (3) "State agency" and "firm" have the meanings provided by K.S.A.  
23 46-1112, and amendments thereto.

24 (c) No supervisor or appointing authority of any state agency shall  
25 prohibit any employee of the state agency from discussing the operations  
26 of the state agency or other matters of public concern, including matters  
27 relating to the public health, safety and welfare either specifically or  
28 generally, with any member of the legislature or any auditing agency.

29 (d) No supervisor or appointing authority of any state agency shall:

30 (1) Prohibit any employee of the state agency from reporting any  
31 violation of state or federal law or rules and regulations to any person,  
32 agency or organization; or

33 (2) require any such employee to give notice to the supervisor or  
34 appointing authority prior to making any such report.

35 (e) This section shall not be construed as:

36 (1) Prohibiting a supervisor or appointing authority from requiring  
37 that an employee inform the supervisor or appointing authority as to  
38 legislative or auditing agency requests for information to the state agency  
39 or the substance of testimony made, or to be made, by the employee to  
40 legislators or the auditing agency, as the case may be, on behalf of the  
41 state agency;

42 (2) permitting an employee to leave the employee's assigned work  
43 areas during normal work hours without following applicable rules and

1 regulations and policies pertaining to leaves, unless the employee is  
2 requested by a legislator or legislative committee to appear before a  
3 legislative committee or by an auditing agency to appear at a meeting  
4 with officials of the auditing agency;

5 (3) authorizing an employee to represent the employee's personal  
6 opinions as the opinions of a state agency; or

7 (4) prohibiting disciplinary action of an employee who discloses  
8 information which:(A) The employee knows to be false or which the  
9 employee discloses with reckless disregard for its truth or falsity;;(B) the  
10 employee knows to be exempt from required disclosure under the open  
11 records act;; or (C) is confidential or privileged under statute or court  
12 rule.

13 (f) Any officer or employee of a state agency who is in the classified  
14 service and has permanent status under the Kansas civil service act may  
15 appeal to the state civil service board whenever the officer or employee  
16 alleges that disciplinary action was taken against the officer or employee  
17 in violation of this act. The appeal shall be filed within 90 days after the  
18 alleged disciplinary action. Procedures governing the appeal shall be in  
19 accordance with subsections (f) and (g) of K.S.A. 75-2949, and  
20 amendments thereto, and K.S.A. 75-2929d through 75-2929g, and  
21 amendments thereto. If the board finds that disciplinary action taken was  
22 unreasonable, the board shall modify or reverse the agency's action and  
23 order such relief for the employee as the board considers appropriate. If  
24 the board finds a violation of this act, it may require as a penalty that the  
25 violator be suspended on leave without pay for not more than 30 days or,  
26 in cases of willful or repeated violations, may require that the violator  
27 forfeit the violator's position as a state officer or employee and disqualify  
28 the violator for appointment to or employment as a state officer or  
29 employee for a period of not more than two years. The board may award  
30 the prevailing party all or a portion of the costs of the proceedings before  
31 the board, including reasonable attorney fees and witness fees. The  
32 decision of the board pursuant to this subsection may be appealed by any  
33 party pursuant to law. On appeal, the court may award the prevailing  
34 party all or a portion of the costs of the appeal, including reasonable  
35 attorney fees and witness fees.

36 (g) Each state agency shall prominently post a copy of this act in  
37 locations where it can reasonably be expected to come to the attention of  
38 all employees of the state agency.

39 (h) Any officer or employee who is in the unclassified service under  
40 the Kansas civil service act who alleges that disciplinary action has been  
41 taken against such officer or employee in violation of this section may  
42 bring an action pursuant to the Kansas judicial review act within 90 days  
43 after the occurrence of the alleged violation. The court may award the

1 prevailing party in the action all or a portion of the costs of the action,  
2 including reasonable attorney fees and witness fees.

3 (i) Nothing in this section shall be construed to authorize disclosure  
4 of any information or communication that is confidential or privileged  
5 under statute or court rule.

6 Sec. 11. K.S.A. 2010 Supp. 75-4319 is hereby amended to read as  
7 follows: 75-4319.(a) Upon formal motion made, seconded and carried, all  
8 bodies and agencies subject to the open meetings act may recess, but not  
9 adjourn, open meetings for closed or executive meetings. Any motion to  
10 recess for a closed or executive meeting shall include a statement of:(1)  
11 The justification for closing the meeting;;(2) the subjects to be discussed  
12 during the closed or executive meeting; and (3) the time and place at  
13 which the open meeting shall resume. Such motion, including the  
14 required statement, shall be recorded in the minutes of the meeting and  
15 shall be maintained as a part of the permanent records of the body or  
16 agency. Discussion during the closed or executive meeting shall be  
17 limited to those subjects stated in the motion.

18 (b) No subjects shall be discussed at any closed or executive  
19 meeting, except the following:

20 (1) Personnel matters of nonelected personnel;

21 (2) consultation with an attorney for the body or agency which  
22 would be deemed privileged in the attorney-client relationship;

23 (3) matters relating to employer-employee negotiations whether or  
24 not in consultation with the representative or representatives of the body  
25 or agency;

26 (4) confidential data relating to financial affairs or trade secrets of  
27 corporations, partnerships, trusts, and individual proprietorships;

28 (5) matters relating to actions adversely or favorably affecting a  
29 person as a student, patient or resident of a public institution, except that  
30 any such person shall have the right to a public hearing if requested by  
31 the person;

32 (6) preliminary discussions relating to the acquisition of real  
33 property;

34 (7) matters permitted to be discussed in a closed or executive  
35 meeting pursuant to K.S.A. 74-8804, and amendments thereto;

36 (8) matters permitted to be discussed in a closed or executive  
37 meeting pursuant to subsection (d)(1) of K.S.A. 38-1507, and  
38 amendments thereto or subsection (e) of K.S.A. 38-1508, and  
39 amendments thereto;

40 (9) matters permitted to be discussed in a closed or executive  
41 meeting pursuant to subsection (j) of K.S.A. 22a-243, and amendments  
42 thereto;

43 (10) matters permitted to be discussed in a closed or executive



1 meeting pursuant to subsection (e) of K.S.A. 44-596, and amendments  
2 thereto;

3 (11) matters permitted to be discussed in a closed or executive  
4 meeting pursuant to subsection (g) of K.S.A. 39-7,119, and amendments  
5 thereto;

6 (12) matters required to be discussed in a closed or executive  
7 meeting pursuant to a tribal-state gaming compact;

8 (13) matters relating to security measures, if the discussion of such  
9 matters at an open meeting would jeopardize such security measures, that  
10 protect:(A) Systems, facilities or equipment used in the production,  
11 transmission or distribution of energy, water or communications services;  
12 (B) transportation and sewer or wastewater treatment systems, facilities  
13 or equipment;(C) a public body or agency, public building or facility or  
14 the information system of a public body or agency; or (D) private  
15 property or persons, if the matter is submitted to the agency for purposes  
16 of this paragraph. For purposes of this paragraph, security means  
17 measures that protect against criminal acts intended to intimidate or  
18 coerce the civilian population, influence government policy by  
19 intimidation or coercion or to affect the operation of government by  
20 disruption of public services, mass destruction, assassination or  
21 kidnapping. Security measures include, but are not limited to, intelligence  
22 information, tactical plans, resource deployment and vulnerability  
23 assessments;

24 (14) matters permitted to be discussed in a closed or executive  
25 meeting pursuant to subsection (f) of K.S.A. 65-525, and amendments  
26 thereto;

27 (15) matters permitted to be discussed in a closed or executive  
28 meeting pursuant to K.S.A. 2010 Supp. 75-7427, and amendments  
29 thereto; ~~and~~

30 (16) matters permitted to be discussed in a closed or executive  
31 meeting pursuant to K.S.A. 2010 Supp. 46-3801, and amendments  
32 thereto; *and*

33 *(17) matters permitted to be discussed in a closed or executive*  
34 *meeting pursuant to section 4, and amendments thereto.*

35 (c) No binding action shall be taken during closed or executive  
36 recesses, and such recesses shall not be used as a subterfuge to defeat the  
37 purposes of this act.

38 (d)(1) Any confidential records or information relating to security  
39 measures provided or received under the provisions of subsection (b)(13),  
40 shall not be subject to subpoena, discovery or other demand in any  
41 administrative, criminal or civil action.

42 (2)(A) Except as otherwise provided by law, any confidential  
43 documents, records or reports relating to the parole board provided or

1 received under the provisions of subsection (b)(16) shall not be subject to  
2 subpoena, discovery or other demand in any administrative, criminal or  
3 civil action.

4 (B) Notwithstanding any other provision of law to the contrary, any  
5 summary statement provided or received under the provisions of  
6 subsection (b)(16) shall not be subject to subpoena, discovery or other  
7 demand in any administrative, criminal or civil action.

8 Sec. 12. K.S.A. 2010 Supp. 75-2973 and 75-4319 are hereby  
9 repealed.

10 Sec. 13. This act shall take effect and be in force from and after its  
11 publication in the statute book.