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

Be it enacted by the Legislature of the State of Kansas:

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

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

(c) The Kansas streamlining government act shall not apply to any fee-funded state agency. The Kansas streamlining government commission shall have no authority to review or make recommendations regarding any fee-funded state agency.

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

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

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

(c) "documents" means books, records, papers, accounts, transcripts, transcriptions and reports, in whatever form or medium they may be preserved;
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(d) "state agency" means any state agency in the executive branch of state government;
(e) "member" means a member of the commission; and
(f) "paid public office or position" means a public office or position for which any compensation is paid for service, but "paid public office or position" does not include any public office or position for which only reimbursement is paid for travel and other expenses incurred for service in such public office or position; and

(g) "fee-funded state agency" means the abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing instruments, Kansas dental board, Kansas real estate commission, Kansas state board of cosmetology, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, the state board of pharmacy, state board of technical professions, state board of veterinary examiners, state department of credit unions and Kansas home inspectors registration board.

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

(1) One person appointed by the president of the senate;
(2) one person appointed by the majority leader of the senate;
(3) one person appointed by the minority leader of the senate;
(4) one person appointed by the speaker of the house of representatives;
(5) one person appointed by the majority leader of the house of representatives;
(6) one person appointed by the minority leader of the house of representatives; and
(7) one person appointed by the governor.

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

(1) Each member shall be a citizen of the United States of America and shall reside in the state of Kansas;
(2) not more than five four members shall be affiliated with the same political party;
(3) a member may not: (A) Currently hold or have held within the preceding three years any paid office or position with any state agency or local governmental entity in Kansas; or (B) hold any paid public office or position with any state or federal governmental entity at the time of appointment or during the member's tenure as a member of the commission;

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

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

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

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

(e) In the event that a member accepts a position as a lobbyist or as an officer or employee of any state agency or local governmental entity in Kansas, the member shall be disqualified to serve as a member of the commission and shall resign from the commission within 10 days from effective on the date the member accepts such position.

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

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

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

(1) Meet at any time and at any place within the state, upon the call of the chairperson, subject to the provisions of appropriation acts; and
(2) recess in closed or executive meetings in accordance with K.S.A. 75-4319, and amendments thereto, to conduct discussions and deliberations and to receive testimony in the discharge of the duties imposed under this act, but all votes shall be made in open meeting and no binding action shall be taken during closed or executive recesses.

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

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

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

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

New Sec. 6. (a) The commission shall have authority to review any agency, board, commission or program of the executive branch of state government. In determining which aspects of the executive branch of state government are to be reviewed, the commission shall consider any recommendations made to it by the governor, by any legislator, by any executive branch personnel, or by any member of the public. The chairperson of the commission shall determine which aspects of the executive branch of state government shall be reviewed by the commission and shall present the scope of such review to the commission. In establishing such data, the chairperson shall settle upon those units of exam where the greatest likelihood for cost savings exists. The chairperson's determination shall prescribe the commission's
scope of review unless it is rejected or modified by a motion adopted by the affirmative vote of five or more commissioners. The commission may review multiple aspects of the executive branch of state government at the same time and may change or amend the scope of review under this section at any time.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The abolition of any state program, agency, board or commission
of the executive branch of state government;
(2) the reorganization or combination of any state program, agency,
board or commission of the executive branch of state government;
(3) a change in any state procedure or process of the executive
branch of state government; and
(4) such other changes regarding the executive branch of state
government as the commission may deem appropriate to fulfill its
purposes.

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

(1) Recommend that any agency or office of the executive branch of
state government use existing authority to change policies, procedures
or organization in order to achieve the purposes of the commission;
(2) recommend that the governor issue an executive directive,
executive order or executive reorganization order to change policies,
procedures or organization of the executive branch of state government
in order to achieve the purposes of the commission; or
(3) make such other recommendations for action as the commission
determines advisable to carry out the purposes of the commission.

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

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

(e) It is declared to be the policy of the state of Kansas that the
house of representatives and the senate each adopt rules for the
proceedings of such body to provide specific procedures for the
consideration and action on any resolutions introduced pursuant to
subsection (d) in support of any recommendations of the commission.

The rules adopted for this purpose by the house of representatives and
the senate should include procedures to provide that no such resolution
shall be subject to amendment during consideration by the body and
final action on such resolution shall be by roll call vote.

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

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

(b) As used in this section:

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

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

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

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

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

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

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

(e) This section shall not be construed as:
(1) Prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor or appointing authority as to legislative or auditing agency requests for information to the state agency or the substance of testimony made, or to be made, by the employee to legislators or the auditing agency, as the case may be, on behalf of the state agency;

(2) permitting an employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee or by an auditing agency to appear at a meeting with officials of the auditing agency;

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

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

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

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

(h) Any officer or employee who is in the unclassified service under the Kansas civil service act who alleges that disciplinary action has been taken against such officer or employee in violation of this section may bring an action pursuant to the Kansas judicial review act within 90 days after the occurrence of the alleged violation. The court may award the prevailing party in the action all or a portion of the costs of the action, including reasonable attorney fees and witness fees.

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

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

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

(1) Personnel matters of nonelected personnel;

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

(3) matters relating to employer-employee negotiations whether or not in consultation with the representative or representatives of the body or agency;
(4) confidential data relating to financial affairs or trade secrets of
corporations, partnerships, trusts, and individual proprietorships;
(5) matters relating to actions adversely or favorably affecting a
person as a student, patient or resident of a public institution, except
that any such person shall have the right to a public hearing if requested
by the person;
(6) preliminary discussions relating to the acquisition of real
property;
(7) matters permitted to be discussed in a closed or executive
meeting pursuant to K.S.A. 74-8804, and amendments thereto;
(8) matters permitted to be discussed in a closed or executive
meeting pursuant to subsection (d)(1) of K.S.A. 38-1507, and
amendments thereto or subsection (e) of K.S.A. 38-1508, and
amendments thereto;
(9) matters permitted to be discussed in a closed or executive
meeting pursuant to subsection (j) of K.S.A. 22a-243, and amendments
thereto;
(10) matters permitted to be discussed in a closed or executive
meeting pursuant to subsection (e) of K.S.A. 44-596, and amendments
thereto;
(11) matters permitted to be discussed in a closed or executive
meeting pursuant to subsection (g) of K.S.A. 39-7,119, and
amendments thereto;
(12) matters required to be discussed in a closed or executive
meeting pursuant to a tribal-state gaming compact;
(13) matters relating to security measures, if the discussion of such
matters at an open meeting would jeopardize such security measures,
that protect:(A) Systems, facilities or equipment used in the production,
transmission or distribution of energy, water or communications
services; (B) transportation and sewer or wastewater treatment systems,
facilities or equipment; (C) a public body or agency, public building or
facility or the information system of a public body or agency; or (D)
private property or persons, if the matter is submitted to the agency for
purposes of this paragraph. For purposes of this paragraph, security
means measures that protect against criminal acts intended to intimidate
or coerce the civilian population, influence government policy by
intimidation or coercion or to affect the operation of government by
disruption of public services, mass destruction, assassination or
kidnapping. Security measures include, but are not limited to,
intelligence information, tactical plans, resource deployment and vulnerability assessments;

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

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

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

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

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

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

(2)(A) Except as otherwise provided by law, any confidential documents, records or reports relating to the parole board provided or received under the provisions of subsection (b)(16) shall not be subject to subpoena, discovery or other demand in any administrative, criminal or civil action.

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

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

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