

SENATE BILL No. 607

By Senators D. Schmidt, Barnett, Donovan, Huelskamp, Jordan, Journey,
Lynn, Ostmeyer, Palmer, Petersen, Pine, Pyle, Schodorf, Steineger,
Taddiken, Wagle and Wilson

2-12

11 AN ACT establishing the Kansas government efficiency commission;
12 providing for an independent efficiency review of state agencies of the
13 executive branch of state government; prescribing powers, duties and
14 functions for the commission and certain other state agencies; amend-
15 ing K.S.A. 46-1001 and K.S.A. 2007 Supp. 75-2973 and 75-4319 and
16 repealing the existing sections.
17

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

19 New Section 1. (a) Sections 1 through 10, and amendments thereto,
20 shall be known and may be cited as the Kansas government efficiency
21 commission act of 2008.

22 (b) The purposes of the Kansas government efficiency commission
23 act of 2008 are to improve the performance, streamline the operations,
24 improve the efficiency, and reduce the operating costs of the executive
25 branch of state government by reviewing state programs, policies, agen-
26 cies, boards, and commissions, identifying those that should be elimi-
27 nated, combined, reorganized, downsized or otherwise altered, and rec-
28 ommending proposed legislation, rules and regulations or other actions
29 to accomplish such changes and achieve such results.

30 New Sec. 2. As used in sections 1 through 10, and amendments
31 thereto:

32 (a) "Act" means the Kansas government efficiency commission act of
33 2008;

34 (b) "commission" means the Kansas government efficiency commis-
35 sion established by section 3, and amendments thereto;

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

39 (d) "state agency" means any state agency in the executive branch of
40 state government;

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

42 (f) "paid public office or position" means a public office or position
43 for which any compensation is paid for service, but "paid public office or

1 position” does not include any public office or position for which only
2 reimbursement is paid for travel and other expenses incurred for service
3 in such public office or position.

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

- 8 (1) One person appointed by the president of the senate;
- 9 (2) one person appointed by the majority leader of the senate;
- 10 (3) one person appointed by the minority leader of the senate;
- 11 (4) one person appointed by the speaker of the house of
12 representatives;
- 13 (5) one person appointed by the majority leader of the house of
14 representatives;
- 15 (6) one person appointed by the minority leader of the house of rep-
16 resentatives; and
- 17 (7) one person appointed by the governor.

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

- 19 (1) Each member shall be a citizen of the United States of America
20 and shall reside in the state of Kansas;
- 21 (2) not more than five members shall be affiliated with the same
22 political party;
- 23 (3) a member may not (A) currently hold or have held within the
24 preceding five years any paid office or position with any state agency or
25 local governmental entity in Kansas or (B) hold any paid public office or
26 position with any state or federal governmental entity at the time of ap-
27 pointment or during the member’s tenure as a member of the
28 commission;
- 29 (4) a member may not be a party to an ongoing and continuing con-
30 tract with any state agency or local governmental entity in Kansas, or be
31 an employee of an entity that is a party to any such contract; and
- 32 (5) a member may not be a lobbyist or be engaged in lobbying, as
33 defined by either K.S.A. 46-225, and amendments thereto, or under any
34 federal law, at the time of the appointment of the member.

35 (c) Members of the commission shall be appointed subject to confir-
36 mation by the senate as provided in K.S.A. 75-4315b, and amendments
37 thereto. Except as provided in K.S.A. 46-2601, and amendments thereto,
38 no person appointed to the commission shall exercise any power, duty or
39 function as a member of the commission until confirmed by the senate.
40 The first members appointed to the commission shall be appointed within
41 30 days after the date this act takes effect. The terms of the first members
42 appointed to the commission by the majority leader of the senate, the
43 majority leader of the house of representatives or the governor shall end

1 on January 15, 2009, except that each such member's term shall continue
2 until a successor is appointed and confirmed. The terms of the first mem-
3 bers appointed to the commission by the president of the senate, the
4 minority leader of the senate, the speaker of the house of representatives
5 or the minority leader of the house of representatives shall end on January
6 15, 2010, except that each such member's term shall continue until a
7 successor is appointed and confirmed. Thereafter, members shall be ap-
8 pointed for terms of two years and until their successors are appointed
9 and confirmed. Each member may be reappointed for a second term as
10 a member of the commission. No person shall serve more than two terms
11 as a member of the commission.

12 (d) The commission shall select one member to serve as chairperson
13 of the commission. The chairperson shall serve at the pleasure of the
14 commission.

15 (e) Four members shall constitute a quorum for meetings of the com-
16 mission. A lesser number of members may conduct hearings, but no ac-
17 tion shall be taken at meetings at which such hearings are conducted. All
18 actions of the commission shall be by affirmative vote of a majority of all
19 members of the commission.

20 (f) In the event that a member accepts a position as an officer or
21 employee of any state agency or local governmental entity in Kansas, the
22 member shall resign from the commission within 30 days from the date
23 the member accepts such position.

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

28 (h) Members shall serve without compensation, but members at-
29 tending meetings of the commission, or meetings of a subcommittee au-
30 thorized by the commission, shall receive subsistence allowances, mileage
31 and other expenses as provided in K.S.A. 75-3212, and amendments
32 thereto, for members of the legislature.

33 New Sec. 4. (a) The commission shall meet in session at least once
34 per month at the call of the chairperson. Additionally, as part of its review
35 process, the commission shall conduct three public hearings across Kan-
36 sas. The final hearing shall be held in Topeka, not later than March 1,
37 2009.

38 (b) The commission may:

39 (1) Meet at any time and at any place within the state, upon the call
40 of the chairperson, except as provided for the final hearing of the com-
41 mission and subject to the provisions of appropriation acts;

42 (2) administer oaths, issue subpoenas to compel the attendance of
43 witnesses and the production of documents, and other powers authorized

1 in the exercise of compulsory process in accordance with the provisions
2 of K.S.A. 46-1001 through 46-1017, and amendments thereto;

3 (3) recess in closed or executive meetings in accordance with K.S.A.
4 75-4319, and amendments thereto, to conduct discussions and delibera-
5 tions and to receive testimony in the discharge of the duties imposed
6 under this act, but all votes shall be made in open meeting and no binding
7 action shall be taken during closed or executive recesses; and

8 (4) enter into contracts, as the commission considers appropriate,
9 subject to the provisions of appropriation acts, for the provision of serv-
10 ices, facilities, studies and reports that will assist the commission in car-
11 rying out its powers, duties and responsibilities.

12 (c) Subject to the provisions of appropriation acts, the commission
13 shall appoint such employees as needed to assist the commission. Em-
14 ployees of the commission shall be in the unclassified service and shall
15 preform such duties and functions as specified by the commission.

16 (d) In the discharge of the duties imposed under this act, the com-
17 mission and officers and employees of the commission may require state
18 agencies to preserve and make available their accounts, records, docu-
19 ments, vouchers, requisitions, payrolls, canceled checks or vouchers and
20 coupons, and other evidence of financial transactions.

21 (e) In the discharge of the duties imposed under this act, the com-
22 mission and officers and employees of the commission shall have access
23 to all books, accounts, records, files, documents and correspondence, con-
24 fidential or otherwise, of any state officer or employee or state agency of
25 the executive branch of state government or in the custody of any such
26 officer, employee or state agency. Except as otherwise provided in this
27 subsection, the members of the commission and officers and employees
28 of the commission acting under authority of this act, and all former mem-
29 bers of the commission and former officers and employees of the com-
30 mission who acted under authority of this act, shall be subject to the same
31 duty of confidentiality imposed by law on any such person or state agency
32 with regard to any such books, accounts, records, files, documents and
33 correspondence, and any information contained therein, and shall be sub-
34 ject to any civil or criminal penalties imposed by law for violations of such
35 duty of confidentiality. The duty of confidentiality imposed on all current
36 and former members of the commission and all current and former of-
37 ficers and employees of the commission acting in the discharge of the
38 duties imposed under this act shall be subject to the provisions of sub-
39 section (f), and the post auditor may furnish all such books, accounts,
40 records, files, documents and correspondence, and any information con-
41 tained therein to the attorney general pursuant to subsection (f). Upon
42 receipt thereof, the attorney general and all assistant attorneys general
43 and all other employees and former employees of the office of attorney

1 general shall be subject to the same duty of confidentiality with the ex-
2 ceptions that any such information contained therein may be disclosed in
3 civil proceedings, ouster proceedings and criminal proceedings which
4 may be instituted and prosecuted by the attorney general in accordance
5 with subsection (f), and any such books, accounts, records, files, docu-
6 ments and correspondence furnished to the attorney general in accord-
7 ance with subsection (f) may be entered into evidence in any such pro-
8 ceedings. Nothing in this subsection shall be construed to supersede any
9 requirement of federal law.

10 (f) The commission shall report immediately in writing to the legis-
11 lative post audit committee, governor and attorney general whenever it
12 appears in the opinion of the commission that there may have occurred
13 any violation of penal statutes or any instances of misfeasance, malfea-
14 sance or nonfeasance by a public officer or employee of the executive
15 branch of state government that is disclosed by any investigation or review
16 conducted under authority of this act. The commission shall furnish the
17 attorney general all information in the possession of the commission rel-
18 ative to any report referred to the attorney general. The attorney general
19 shall institute and prosecute civil proceedings against any such delinquent
20 officer or employee, or upon such officer or employee's official bond, or
21 both, as may be needed to recover for the state any funds or other assets
22 misappropriated. The attorney general shall also prosecute such ouster
23 and criminal proceedings as the evidence in the case warrants. Any person
24 receiving tax information under the provisions of this subsection shall be
25 subject to the same duty of confidentiality imposed by law upon the per-
26 sonnel of the department of revenue and shall be subject to any civil or
27 criminal penalties imposed by law for violations of such duty of
28 confidentiality.

29 (g) The commission shall immediately report to the committee on
30 surety bonds and insurance when any investigation or review conducted
31 under authority of this act discloses a shortage in the accounts of any state
32 agency, officer or employee of the executive branch of state government.

33 (h) The operating expenses of the commission shall be paid from
34 moneys appropriated for the operations of the legislature.

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

39 (b) Upon approval by the legislative post audit committee, the divi-
40 sion of post audit shall conduct financial and compliance audits, perform-
41 ance audits and other audit work with respect to state agencies in the
42 manner provided by the legislative post audit act.

43 New Sec. 6. (a) The commission shall have authority to review any

1 agency, board, commission or program of the executive branch of state
2 government. In determining which aspects of the executive branch of
3 state government are to be reviewed, the commission shall consider any
4 recommendations made to it by the governor, by any legislator, by any
5 executive branch personnel or by any member of the public. The chair-
6 person of the commission shall determine which aspects of the executive
7 branch of state government shall be reviewed by the commission and
8 shall present the scope of such review to the commission. The chairper-
9 son's determination shall prescribe the commission's scope of review un-
10 less it is rejected or modified by a motion adopted by the affirmative vote
11 of five or more commissioners. The commission may review multiple
12 aspects of the executive branch of state government at the same time and
13 may change or amend the scope of review under this section at any time.

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

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

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

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.

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

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

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

29 (3) any state programs that have accomplished their original objec-
30 tives and should be terminated;

31 (4) any state services that could be provided at lower cost by the
32 private sector;

33 (5) budget process reforms that could yield savings, increase account-
34 ability and efficiency, and enhance public confidence in the budget pro-
35 cess; and

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

37 (c) In addition, the commission shall review existing audit reports of
38 the legislative division of post audit, together with any other existing state
39 or federal governmental and nongovernmental recommendations for re-
40 ducing waste in state agencies, including findings and recommendations
41 developed by the governor's initiatives to improve efficiency in state
42 government.

43 New Sec. 8. (a) Upon completing its review of any aspect of the

1 executive branch of state government, the commission shall make such
2 recommendations for changes to the executive branch of state govern-
3 ment as it determines to be appropriate in order to achieve the purposes
4 of the commission. Upon completion of its review of any aspect of the
5 executive branch of state government, the commission may recommend
6 any of the following:

- 7 (1) The abolition of any state program, agency, board or commission
8 of the executive branch of state government;
- 9 (2) the reorganization or combination of any state program, agency,
10 board or commission of the executive branch of state government;
- 11 (3) a change in any state procedure or process of the executive branch
12 of state government; and
- 13 (4) such other changes regarding the executive branch of state gov-
14 ernment as the commission may deem appropriate to fulfill its purposes.

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

- 17 (1) Recommend that any agency or office of the executive branch of
18 state government use existing authority to change policies, procedures or
19 organization in order to achieve the purposes of the commission;
- 20 (2) recommend that the governor issue an executive directive, exec-
21 utive order or executive reorganization order to change policies, proce-
22 dures or organization of the executive branch of state government in order
23 to achieve the purposes of the commission;
- 24 (3) present legislation to achieve the purpose of the commission to
25 the speaker of the house of representatives or the president of the senate
26 for consideration by the legislature; and
- 27 (4) make such other recommendations for action as the commission
28 determines advisable to carry out the purposes of the commission.

29 New Sec. 9. The provisions of this section constitute an exercise of
30 the constitutional rulemaking power of the Senate and House of Repre-
31 sentatives, acting jointly, to adopt the following joint rule, which shall be
32 printed in the Joint Rules of the Senate and the House of Representatives,
33 to read as follows: **Joint Rule 6. Consideration of Legislation Rec-**
34 **ommended By the Kansas Government Efficiency Commission.** (a)
35 *Application of this joint rule.* When the Kansas government efficiency
36 commission established by the Kansas government efficiency commission
37 act of 2008 recommends enactment of legislation, any legislation so rec-
38 ommended shall be considered by the senate and the house of represen-
39 tatives under procedures established by this joint rule. To the extent any
40 provision of this joint rule conflicts with any other rule, procedure, or
41 custom of the legislature, or of either house thereof, the provisions of this
42 joint rule shall govern.

43 (b) *Introduction of proposed government reform bill.* When the pres-

1 ident of the senate or the speaker of the house has received from the
2 Kansas government efficiency commission prior to the 60th day of any
3 regular session of the legislature any draft legislation the commission rec-
4 ommends be enacted, the president or speaker shall promptly introduce
5 or arrange for introduction of the bill. Draft legislation received by the
6 president or the speaker after the 60th day of any regular session may, in
7 the discretion of the president or the speaker, be promptly introduced or
8 may be held for introduction during the first week of the next regular
9 session of the legislature. The deadlines for introduction and considera-
10 tion of bills established by Joint Rule 4 shall not apply to any bill consid-
11 ered under this joint rule. Each bill draft received from the Kansas gov-
12 ernment efficiency commission shall be introduced in either the house of
13 representatives or the senate, but not in both. Any bill introduced under
14 authority of this joint rule shall bear the notation “FOR EXPEDITED
15 CONSIDERATION UNDER JOINT RULE 6.”

16 (c) *Consideration by standing committee.* The president or speaker
17 shall promptly refer any bill introduced under this joint rule to a standing
18 committee, which shall conduct a hearing on the bill not later than 10
19 days after such referral. The committee shall provide the opportunity for
20 public comment and may provide for such other consideration as the
21 chairman deems appropriate. After such hearing, the president or speaker
22 shall withdraw such bill from the standing committee and refer the same
23 to the committee of the whole. The standing committee shall file with
24 the secretary of the senate or the clerk of the house a report describing
25 the committee’s consideration of the bill. Such report may include the
26 committee’s recommendation as to whether the bill should be considered
27 favorably, unfavorably, or without recommendation by the full house. The
28 secretary of the senate or chief clerk of the house shall arrange for dis-
29 tribution of the committee’s report to all members of the chamber prior
30 to consideration of the bill by the full house.

31 (d) *Consideration by committee of the whole.* Not later than 10 days
32 after the bill is referred to the committee of the whole, it shall be sched-
33 uled for floor debate and shall be disposed of only by final action.

34 (e) *Consideration by second house.* If a bill is approved by a majority
35 of all members elected, or appointed, and qualified in the house of origin,
36 it shall be transmitted to the second house, which shall consider it under
37 the procedures set forth in subsections (c) and (d) as applicable.

38 (f) *Amendments not in order.* No bill considered under this rule shall
39 be subject to amendment, either in committee or in the committee of
40 the whole or in the full senate or house of representatives.

41 New Sec. 10. On July 1, 2012, the commission is hereby abolished
42 and the provisions of sections 1 through 9 shall expire.

43 Sec. 11. K.S.A. 46-1001 is hereby amended to read as follows: 46-

- 1 1001. As used in this act, unless the context otherwise requires, “investigating committee” means any of the following:
- 2
- 3 (a) A standing, special or select committee of either the house of
4 representatives or the senate, a joint committee of both houses of the
5 legislature, or an authorized subcommittee of any such committee; or
- 6 (b) The legislative coordinating council, the legislative budget com-
7 mittee, the joint committee on special claims against the state, the joint
8 committee on administrative rules and regulations, the legislative post
9 audit committee, any special or select committee appointed by the leg-
10 islative coordinating council, or any authorized subcommittee of any such
11 committee or said council; or
- 12 (c) Any committee, commission or board created by the legislature
13 by concurrent resolution or enactment when, as one or all of its duties,
14 it is to perform an inquiry, study or investigation for the legislature, except
15 that an advisory committee is not an investigating committee; or
- 16 (d) Any committee heretofore or hereafter created by law or reso-
17 lution of either house of the legislature or by concurrent resolution, when
18 all of the members of such committee, who are authorized to vote on
19 actions of the committee, are legislators; or
- 20 (e) *The Kansas government efficiency commission established by sec-*
21 *tion 3, and amendments thereto, in the performance of powers, duties and*
22 *functions under the Kansas government efficiency commission act of 2008.*
- 23 Sec. 12. K.S.A. 2007 Supp. 75-2973 is hereby amended to read as
24 follows: 75-2973. (a) This section shall be known and may be cited as the
25 Kansas whistleblower act.
- 26 (b) As used in this section:
- 27 (1) “Auditing agency” means the (A) legislative post auditor, (B) any
28 employee of the division of post audit, (C) any firm performing audit
29 services pursuant to a contract with the post auditor, (D) any state agency
30 or federal agency or authority performing auditing or other oversight
31 activities under authority of any provision of law authorizing such activi-
32 ties, ~~or~~ (E) the inspector general created under K.S.A. 2007 Supp. 75-
33 7427, and amendments thereto, or (F) *the Kansas government efficiency*
34 *commission established by section 3, and amendments thereto.*
- 35 (2) “Disciplinary action” means any dismissal, demotion, transfer,
36 reassignment, suspension, reprimand, warning of possible dismissal or
37 withholding of work.
- 38 (3) “State agency” and “firm” have the meanings provided by K.S.A.
39 46-1112, and amendments thereto.
- 40 (c) No supervisor or appointing authority of any state agency shall
41 prohibit any employee of the state agency from discussing the operations
42 of the state agency or other matters of public concern, including matters
43 relating to the public health, safety and welfare either specifically or gen-

1 erally, with any member of the legislature or any auditing agency.

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

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

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

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

9 (1) Prohibiting a supervisor or appointing authority from requiring
10 that an employee inform the supervisor or appointing authority as to leg-
11 islative or auditing agency requests for information to the state agency or
12 the substance of testimony made, or to be made, by the employee to
13 legislators or the auditing agency, as the case may be, on behalf of the
14 state agency;

15 (2) permitting an employee to leave the employee's assigned work
16 areas during normal work hours without following applicable rules and
17 regulations and policies pertaining to leaves, unless the employee is re-
18 quested by a legislator or legislative committee to appear before a legis-
19 lative committee or by an auditing agency to appear at a meeting with
20 officials of the auditing agency;

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

23 (4) prohibiting disciplinary action of an employee who discloses in-
24 formation which: (A) The employee knows to be false or which the em-
25 ployee discloses with reckless disregard for its truth or falsity, (B) the
26 employee knows to be exempt from required disclosure under the open
27 records act, or (C) is confidential or privileged under statute or court rule.

28 (f) Any officer or employee of a state agency who is in the classified
29 service and has permanent status under the Kansas civil service act may
30 appeal to the state civil service board whenever the officer or employee
31 alleges that disciplinary action was taken against the officer or employee
32 in violation of this act. The appeal shall be filed within 90 days after the
33 alleged disciplinary action. Procedures governing the appeal shall be in
34 accordance with subsections (f) and (g) of K.S.A. 75-2949, and amend-
35 ments thereto, and K.S.A. 75-2929d through 75-2929g, and amendments
36 thereto. If the board finds that disciplinary action taken was unreasonable,
37 the board shall modify or reverse the agency's action and order such relief
38 for the employee as the board considers appropriate. If the board finds
39 a violation of this act, it may require as a penalty that the violator be
40 suspended on leave without pay for not more than 30 days or, in cases of
41 willful or repeated violations, may require that the violator forfeit the
42 violator's position as a state officer or employee and disqualify the violator
43 for appointment to or employment as a state officer or employee for a

1 period of not more than two years. The board may award the prevailing
2 party all or a portion of the costs of the proceedings before the board,
3 including reasonable attorney fees and witness fees. The decision of the
4 board pursuant to this subsection may be appealed by any party pursuant
5 to law. On appeal, the court may award the prevailing party all or a portion
6 of the costs of the appeal, including reasonable attorney fees and witness
7 fees.

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

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

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

22 Sec. 13. K.S.A. 2007 Supp. 75-4319 is hereby amended to read as
23 follows: 75-4319. (a) Upon formal motion made, seconded and carried,
24 all bodies and agencies subject to the open meetings act may recess, but
25 not adjourn, open meetings for closed or executive meetings. Any motion
26 to recess for a closed or executive meeting shall include a statement of
27 (1) the justification for closing the meeting, (2) the subjects to be dis-
28 cussed during the closed or executive meeting and (3) the time and place
29 at which the open meeting shall resume. Such motion, including the re-
30 quired statement, shall be recorded in the minutes of the meeting and
31 shall be maintained as a part of the permanent records of the body or
32 agency. Discussion during the closed or executive meeting shall be limited
33 to those subjects stated in the motion.

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

- 36 (1) Personnel matters of nonelected personnel;
37 (2) consultation with an attorney for the body or agency which would
38 be deemed privileged in the attorney-client relationship;
39 (3) matters relating to employer-employee negotiations whether or
40 not in consultation with the representative or representatives of the body
41 or agency;
42 (4) confidential data relating to financial affairs or trade secrets of
43 corporations, partnerships, trusts, and individual proprietorships;

- 1 (5) matters relating to actions adversely or favorably affecting a per-
2 son as a student, patient or resident of a public institution, except that
3 any such person shall have the right to a public hearing if requested by
4 the person;
- 5 (6) preliminary discussions relating to the acquisition of real property;
- 6 (7) matters permitted to be discussed in a closed or executive meeting
7 pursuant to K.S.A. 74-8804, and amendments thereto;
- 8 (8) matters permitted to be discussed in a closed or executive meeting
9 pursuant to subsection (d)(1) of K.S.A. 38-1507, and amendments
10 thereto, or subsection (e) of K.S.A. 38-1508, and amendments thereto;
- 11 (9) matters permitted to be discussed in a closed or executive meeting
12 pursuant to subsection (j) of K.S.A. 22a-243, and amendments thereto;
- 13 (10) matters permitted to be discussed in a closed or executive meet-
14 ing pursuant to subsection (e) of K.S.A. 44-596, and amendments thereto;
- 15 (11) matters permitted to be discussed in a closed or executive meet-
16 ing pursuant to subsection (g) of K.S.A. 39-7,119, and amendments
17 thereto;
- 18 (12) matters required to be discussed in a closed or executive meeting
19 pursuant to a tribal-state gaming compact;
- 20 (13) matters relating to security measures, if the discussion of such
21 matters at an open meeting would jeopardize such security measures,
22 that protect: (A) Systems, facilities or equipment used in the production,
23 transmission or distribution of energy, water or communications services;
24 (B) transportation and sewer or wastewater treatment systems, facilities
25 or equipment; (C) a public body or agency, public building or facility or
26 the information system of a public body or agency; or (D) private property
27 or persons, if the matter is submitted to the agency for purposes of this
28 paragraph. For purposes of this paragraph, security means measures that
29 protect against criminal acts intended to intimidate or coerce the civilian
30 population, influence government policy by intimidation or coercion or
31 to affect the operation of government by disruption of public services,
32 mass destruction, assassination or kidnapping. Security measures include,
33 but are not limited to, intelligence information, tactical plans, resource
34 deployment and vulnerability assessments;
- 35 (14) matters permitted to be discussed in a closed or executive meet-
36 ing pursuant to subsection (f) of K.S.A. 65-525, and amendments thereto;
37 ~~and~~
- 38 (15) matters permitted to be discussed in a closed or executive meet-
39 ing pursuant to K.S.A. 2007 Supp. 75-7427, and amendments thereto;
40 *and*
- 41 (16) *matters permitted to be discussed in a closed or executive meeting*
42 *pursuant to section 4, and amendments thereto.*
- 43 (c) No binding action shall be taken during closed or executive re-

1 cesses, and such recesses shall not be used as a subterfuge to defeat the
2 purposes of this act.

3 (d) Any confidential records or information relating to security meas-
4 ures provided or received under the provisions of subsection (b)(13), shall
5 not be subject to subpoena, discovery or other demand in any adminis-
6 trative, criminal or civil action.

7 Sec. 14. K.S.A. 46-1001 and K.S.A. 2007 Supp. 75-2973 and 75-4319
8 are hereby repealed.

9 Sec. 15. This act shall take effect and be in force from and after its
10 publication in the statute book.