

As Amended by House Committee

Session of 2011

HOUSE BILL No. 2120

By Committee on Government Efficiency

1-28

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

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

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

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

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

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

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

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

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

1 (d)"state agency" means any state agency in the executive branch of  
2 state government;

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

4 (f)"paid public office or position" means a public office or position  
5 for which any compensation is paid for service, but "paid public office  
6 or position" does not include any public office or position for which  
7 only reimbursement is paid for travel and other expenses incurred for  
8 service in such public office or position-; **and**

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

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

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

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

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

28 (4) one person appointed by the speaker of the house of  
29 representatives;

30 (5) one person appointed by the majority leader of the house of  
31 representatives;

32 (6) one person appointed by the minority leader of the house of  
33 representatives; and

34 (7) one person appointed by the governor.

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

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

38 (2) not more than ~~five~~ **four** members shall be affiliated with the  
39 same political party;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 New Sec. 6. (a) The commission shall have authority to review  
29 any agency, board, commission or program of the executive branch of  
30 state government. In determining which aspects of the executive branch  
31 of state government are to be reviewed, the commission shall consider  
32 any recommendations made to it by the governor, by any legislator, by  
33 any executive branch personnel, or by any member of the public. The  
34 chairperson of the commission shall determine which aspects of the  
35 executive branch of state government shall be reviewed by the  
36 commission and shall present the scope of such review to the  
37 commission. In establishing such data, the chairperson shall settle upon  
38 those units of exam where the greatest likelihood for cost savings  
39 exists. The chairperson's determination shall prescribe the commission's

1 scope of review unless it is rejected or modified by a motion adopted  
2 by the affirmative vote of five or more commissioners. The commission  
3 may review multiple aspects of the executive branch of state  
4 government at the same time and may change or amend the scope of  
5 review under this section at any time.

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

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

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

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

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

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

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

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

24 (1) Opportunities for increasing effectiveness and efficiency and  
25 reducing costs in state agencies as a result of executive action or  
26 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  
30 objectives and should be terminated;

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

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

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

38 (c) In addition, the commission shall review existing audit reports of  
39 the legislative division of post audit, together with any other existing

1 state or federal governmental and nongovernmental recommendations  
2 for advancing the purposes of the provisions of this act.

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

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

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

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

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

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

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

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

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

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

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

36 (e) It is declared to be the policy of the state of Kansas that the  
37 house of representatives and the senate each adopt rules for the  
38 proceedings of such body to provide specific procedures for the  
39 consideration and action on any resolutions introduced pursuant to

1 subsection (d) in support of any recommendations of the commission.  
2 The rules adopted for this purpose by the house of representatives and  
3 the senate should include procedures to provide that no such resolution  
4 shall be subject to amendment during consideration by the body and  
5 final action on such resolution shall be by roll call vote.

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

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

11 (b) As used in this section:

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

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

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

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

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

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

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

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

1 (1) Prohibiting a supervisor or appointing authority from requiring  
2 that an employee inform the supervisor or appointing authority as to  
3 legislative or auditing agency requests for information to the state  
4 agency or the substance of testimony made, or to be made, by the  
5 employee to legislators or the auditing agency, as the case may be, on  
6 behalf of the state agency;

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

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

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

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



1 reasonable attorney fees and witness fees. The decision of the board  
2 pursuant to this subsection may be appealed by any party pursuant to  
3 law. On appeal, the court may award the prevailing party all or a  
4 portion of the costs of the appeal, including reasonable attorney fees  
5 and witness fees.

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

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

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

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

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

- 34 (1) Personnel matters of nonelected personnel;  
35 (2) consultation with an attorney for the body or agency which  
36 would be deemed privileged in the attorney-client relationship;  
37 (3) matters relating to employer-employee negotiations whether or  
38 not in consultation with the representative or representatives of the  
39 body or agency;

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

1 intelligence information, tactical plans, resource deployment and  
2 vulnerability assessments;

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

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

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

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

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

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

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

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

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

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