AN ACT concerning immigration; relating to verification of work authorization.

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

Section 1. As used in sections 1 and 2, and amendments thereto:

(a) (1) "Business entity" means any person or group of persons performing or engaging in any activity, enterprise, profession or occupation for gain, benefit, advantage or livelihood, including, but not limited to, self-employed individuals, partnerships, corporations, contractors and subcontractors.

(2) "Business entity" shall not include a self-employed individual with no employees, entities utilizing services of direct sellers or any state agency, department, board, commission, county or municipality.

(b) "Direct seller" means services performed as a direct seller who is engaged in the trade or business of the delivering or distribution of newspapers or shopping news, including any services directly related to such trade or business, or services performed as a direct seller who is engaged in the trade or business of selling, or soliciting the sale of, consumer products in the home or otherwise than in, or affiliated with, a permanent, fixed retail establishment, if 80% or more of the remuneration, whether or not paid in cash, for the services performed rather than the number of hours worked is directly related to sales performed pursuant to a written contract between such direct seller and the person for whom the services are performed, and such contract provides that the individual will not be treated as an employee with respect to such services for federal tax purposes.

(c) "Employee" means any person performing work or service of any kind or character for hire within the state of Kansas.

(d) "Employer" means any person or entity employing any person for hire within the state of Kansas. Where there are two or more putative employers, any person or entity taking a business tax deduction for the employee in question shall be considered an employer of that person for purposes of sections 1 through 5, and amendments thereto.

(e) "Employment" means the act of employing or state of being employed, engaged or hired to perform work or service of any kind or character within the state of Kansas.
(f) "Federal work authorization program" means any of the electronic verification of work authorization programs operated by the United States department of homeland security or an equivalent federal work authorization program operated by the United States department of homeland security to verify information of newly hired employees under public law 99-603, the immigration reform and control act of 1986.

(g) "Municipality" has the same meaning ascribed thereto in K.S.A. 75-1117, and amendments thereto.

(h) "Work" means any job, task, employment, labor, personal services or any other activity for which compensation is provided, expected or due, including, but not limited to, all activities conducted by business entities.

Sec. 2. (a) On and after January 1, 2012, all state agencies, departments, boards and commissions, counties or any municipality who is an employer shall enroll and actively participate in a federal work authorization program with respect to all employees whose employment commences after January 1, 2012.

(b) On and after January 1, 2012, no state agency, department, board, commission, county or municipality shall award a public works or purchase contract, which is in excess of $5,000, to a business entity, nor shall a business entity be eligible to bid for or receive such public works or purchase contract unless such business entity affirms, by sworn affidavit and provision of documentation, that it is enrolled in and actively participating in a federal work authorization program with respect to all employees whose employment commences after January 1, 2012. A business entity shall be responsible for ensuring that any subcontractor, which such business entity contracts with for a public works or purchase contract, certifies the employment eligibility of the employees of such subcontractor through a federal work authorization program.

(c) Nothing in this section shall be construed to require a business entity to take any action that the business entity believes in good faith would violate federal or state law.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.