

HOUSE BILL No. 2836

By Representatives Kinzer, Landwehr, Judy Morrison, Ruff, Brown, Crum, Faber, Fund, Gatewood, Hodge, M. Holmes, Kelley, Keigerl, Mast, McLeland, Merrick, Jim Morrison, Myers, Otto, Pauls, Peck, B. Wolf and Worley

2-12

12 AN ACT enacting the Kansas illegal alien reform act; amending K.S.A.
13 21-3830, 22-2802 and 25-2416 and K.S.A. 2007 Supp. 8-240, 8-1324,
14 79-32,120 and 79-32,138 and repealing the existing sections.
15

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

17 New Section 1. As used in this act:

18 (a) "E-verify" means the electronic verification of work authorization
19 program of the illegal immigration reform and immigrant responsibility
20 act of 1996, P.L. 104-208, division C, section 403(a); 8 U.S.C. 1324a, and
21 operated by the United States department of homeland security or a
22 successor program established by the federal government.

23 (b) "Business entity" means any person or group of persons perform-
24 ing or engaging in any activity, enterprise, profession or occupation for
25 gain, benefit, advantage or livelihood, whether for profit or not-for-profit.
26 "Business entity" shall not include an individual employing casual do-
27 mestic labor. "Business entity" shall include, but not be limited to:

28 (1) Self-employed individuals, business entities filing articles of in-
29 corporation pursuant to article 60 of chapter 17 of the Kansas Statutes
30 Annotated, and amendments thereto; a partnership pursuant to chapter
31 56a of the Kansas Statutes Annotated, and amendments thereto; a limited
32 partnership pursuant to article 1a of chapter 56 of the Kansas Statutes
33 Annotated, and amendments thereto; a limited liability company pursuant
34 to article 76 of chapter 17 of the Kansas Statutes Annotated, and amend-
35 ments thereto; a foreign corporation, a foreign limited partnership or a
36 foreign limited liability company authorized to transact business in this
37 state; a business trust pursuant to article 20 of chapter 17 of the Kansas
38 Statutes Annotated, and amendments thereto; and any business entity
39 that registers with the secretary of state.

40 (2) Any business entity that possesses a business license, permit, cer-
41 tificate, approval, registration, charter or similar form of authorization
42 issued by the state, any business entity that is exempt by law from ob-
43 taining such a business license, and any business entity that is operating

1 unlawfully without such a business license.

2 (c) “Contractor” means a person, employer or business entity that
3 enters into an agreement to perform any service or work or to provide a
4 certain product in exchange for valuable consideration. “Contractor” shall
5 include, but not be limited to, a subcontractor, independent contractor,
6 contract employee or a recruiting or staffing entity.

7 (d) “Employee” has the meaning ascribed thereto in K.S.A. 44-313,
8 and amendments thereto.

9 (e) “Employer” means any person employing or seeking to employ
10 any person for hire. Where there are two or more putative employers,
11 the person or entity taking a deductible business expense for state income
12 tax purposes for the employee in question shall be considered the em-
13 ployer of that person for purposes of this act.

14 (f) “Employment” means the act of employing or state of being em-
15 ployed, engaged or hired.

16 (g) “Illegal alien” means any person who is not a citizen or national
17 of the United States, according to the terms of 8 U.S.C. 1101 et seq. The
18 state of Kansas shall not conclude that a person is an illegal alien unless
19 and until an authorized representative of the state has verified with the
20 federal government, pursuant to 8 U.S.C. 1373(c), that the person is an
21 alien who is not lawfully present in the United States.

22 (h) “Unauthorized alien” means an alien who does not have the legal
23 right or authorization under federal law to work in the United States, as
24 defined by 8 U.S.C. 1324a(h)(3).

25 (j) “Work” means any job, task, employment, labor, personal services,
26 or any other activity for which compensation is provided, expected or
27 due, including, but not limited to, all activities conducted by business
28 entities.

29 (k) “Law enforcement” means city, county and state police officers,
30 highway patrol, county sheriff and any other law enforcement officers in
31 the state.

32 (l) “Law enforcement agency” means any agency employing law en-
33 forcement officers.

34 (m) “License” means any license, permit, certificate, approval, reg-
35 istration, charter or similar form of authorization that is required by law
36 and that is issued by any state agency for the purposes of operating a
37 business in this state.

38 (n) “Municipality” has the meaning ascribed thereto in K.S.A. 75-
39 1117, and amendments thereto.

40 (o) “Identification document” has the meaning ascribed thereto in
41 K.S.A. 21-3830, and amendments thereto.

42 (p) “Knowingly employ an unauthorized alien” means the actions de-
43 scribed in 8 U.S.C. 1324a. This term shall be interpreted consistently

- 1 with 8 U.S.C. 1324a and any applicable federal rules and regulations.
- 2 New Sec. 2. (a) It is unlawful for a business entity to knowingly hire,
3 recruit or refer for a fee for employment in the state of Kansas or continue
4 to employ an unauthorized alien.
- 5 (b) As a condition for the initial license for any business entity in the
6 state, all business entities shall, by sworn affidavit and provision of doc-
7 umentation, affirm such entity's enrollment and active participation in e-
8 verify. Every business entity shall also sign an affidavit affirming that it
9 does not knowingly employ any person who is an unauthorized alien.
- 10 (c) As a condition of the periodic renewal of a business license, all
11 employers licensed within the state shall, by sworn affidavit and provision
12 of documentation, affirm such employer's enrollment and active partici-
13 pation in e-verify.
- 14 (d) As a condition for the award of any state contract or grant to a
15 business entity for which the value of employment, labor or personal
16 services exceeds \$10,000, the business entity shall provide documentation
17 affirming its enrollment and participation in e-verify.
- 18 (e) All state agencies, departments, boards or commissions or any
19 municipality who is an employer shall enroll and actively participate in e-
20 verify.
- 21 (f) An employer participating in e-verify shall verify the employment
22 eligibility of every employee in the employer's hire whose employment
23 commences after the employer enrolls in e-verify.
- 24 (g) The provisions of this section shall be enforced in the courts of
25 the state of Kansas by any district attorney, county attorney or by the
26 attorney general.
- 27 (h) On a finding of the first violation of this section by a business
28 entity, the court shall order the suspension of all licenses that are held by
29 such business entity for not less than 10 days and not more than 30 days.
- 30 (i) On a finding of the second violation of this section by a business
31 entity, the court shall order the suspension of all licenses that are held by
32 such business entity for not less than 90 days and not more than one year.
- 33 (j) On a finding of the third violation of this section by a business
34 entity, the court shall order the permanent suspension of all licenses that
35 are held by such business entity as well as the revocation of the business
36 entity's registration as a corporation in the state of Kansas, if applicable.
- 37 (k) (1) A general contractor shall not be held liable under this section
38 if the general contractor:
- 39 (A) Verifies that all subcontractors and independent contractors hired
40 have enrolled with e-verify; and
- 41 (B) reasonably believes that the subcontractors and independent con-
42 tractors hired have complied with this section.
- 43 (2) If a general contractor fails to comply with either of these provi-

1 sions, the general contractor may be found liable for all violations of any
2 subcontractors.

3 (l) In enforcing the provisions of this section, no state, county or local
4 official shall attempt to independently determine whether an individual
5 is an unauthorized alien or an alien not lawfully present in the United
6 States. Such determination shall only be made by verifying the alien's
7 immigration status with the federal government, pursuant to 8 U.S.C.
8 1373(c).

9 (m) For the purposes of this section, when making a determination
10 of whether an employee is an unauthorized alien, a court shall only con-
11 sider the federal government's determination pursuant to 8 U.S.C.
12 1373(c). The court shall take judicial notice of any verification of the
13 immigration status previously provided by the federal government. The
14 court may, and at the request of a party shall, request the federal gov-
15 ernment to provide, in automated, documentary or testimonial form, a
16 new verification of the immigration status of the employee pursuant to 8
17 U.S.C. 1373(c). The most recent determination of the immigration status
18 of an employee by the federal government shall create a rebuttable pre-
19 sumption as to the employee's immigration status.

20 (n) For the purposes of this section, a business entity that has com-
21 plied in good faith with this section through registration and participation
22 in e-verify to confirm the employment authorization of any employee in
23 question shall create a rebuttable presumption that the employer did not
24 knowingly employ an unauthorized alien.

25 New Sec. 3. (a) All state officials, agencies and personnel shall fully
26 comply with, and, to the full extent permitted by law, support the en-
27 forcement of federal law prohibiting the entry into, presence or residence
28 in the United States of aliens in violation of federal immigration law.

29 (b) All state, county and city law enforcement officers shall inquire
30 into the citizenship and immigration status of any person detained for a
31 violation of any state law or municipal ordinance, regardless of the per-
32 son's national origin, ethnicity or race, where such inquiry does not sig-
33 nificantly expand the duration of the detention. In all such cases where a
34 person indicates that such person is not a citizen or national of the United
35 States, the law enforcement agent shall verify with the federal govern-
36 ment whether the alien is lawfully or unlawfully present in the United
37 States, pursuant to 8 U.S.C. 1373(c). If the alien is verified to be unlaw-
38 fully present in the United States, the law enforcement officer shall co-
39 operate with any request by federal immigration authorities to detain the
40 alien or transfer the alien to the custody of the federal government.

41 (c) Pursuant to 8 U.S.C. 1373 and 1644, no official, personnel or
42 agent of a city, county or state law enforcement agency may be prohibited
43 or in any way restricted from sending, receiving or maintaining, infor-

1 mation regarding the immigration status, lawful or unlawful, of any in-
2 dividual, or exchanging such information with any other federal, state or
3 local government entity. No city, county or state law enforcement agency
4 may by ordinance, resolution, official policy or informal policy, prevent
5 its officers from asking individuals their citizenship or immigration status.

6 (d) Any law enforcement agency shall be deemed to be in violation
7 of this section if either the attorney general determines that such a vio-
8 lation has occurred, or a majority of the judiciary committee of the house
9 of representatives determines that such a violation has occurred. An
10 agency found to be in violation of this section shall be denied state funding
11 until it can prove to the attorney general that it is in compliance with this
12 act.

13 (e) The provisions of this section shall be part of and supplemental
14 to the Kansas code of criminal procedure.

15 New Sec. 4. The attorney general shall as quickly as practicable enter
16 into a cooperative agreement with the United States department of home-
17 land security, pursuant to 8 U.S.C. 1357(g), to designate specific state law
18 enforcement officers as officers qualified to exercise the enforcement
19 powers of federal immigration officers in the United States. The attorney
20 general may negotiate the cooperative agreement or participate in its
21 implementation in partnership with other state or local law enforcement
22 agencies.

23 New Sec. 5. (a) No alien who is unlawfully present in the United
24 States shall receive any state or local public benefit, except for state or
25 local public benefits that are required to be offered by 8 U.S.C. 1621(b).

26 (b) In addition to providing proof of other eligibility requirements,
27 at the time of application for any state or local public benefit, an applicant
28 who is 18 years of age or older shall provide affirmative proof that the
29 applicant is a citizen or a permanent resident of the United States or is
30 lawfully present in the United States. Such affirmative proof shall include
31 documentary evidence recognized by the division of motor vehicles when
32 processing an application for a driver's license, as established in K.S.A. 8-
33 240, and amendments thereto, as well as any document issued by the
34 federal government that confirms an alien's lawful presence in the United
35 States.

36 (c) An applicant who cannot provide the proof required under this
37 section at the time of application may alternatively sign an affidavit under
38 oath, attesting to either United States citizenship or classification by the
39 United States as an alien lawfully admitted for permanent residence, in
40 order to receive temporary benefits or temporary identification document
41 as provided in this section. The affidavit shall include the applicant's social
42 security number and an explanation of the penalties under state law for
43 obtaining public assistance benefits fraudulently.

1 (d) An applicant who has provided the sworn affidavit required under
2 subsection (b) is eligible to receive temporary public benefits as follows:

3 (1) For 90 days or until such time that it is determined that the ap-
4 plicant is not lawfully present in the United States, whichever is earlier;
5 or

6 (2) indefinitely if the applicant provides a copy of a completed ap-
7 plication for a birth certificate that is pending in Kansas or some other
8 state. An extension granted under this subsection shall terminate upon
9 the applicant's receipt of a birth certificate or a determination that a birth
10 certificate does not exist because the applicant is not a United States
11 citizen.

12 (e) An applicant who is an alien shall not receive any state or local
13 public benefit unless the alien's lawful presence in the United States is
14 first verified by the federal government, pursuant to 8 U.S.C. 1373(c).
15 State and local agencies administering public benefits in this state shall
16 cooperate with the United States department of homeland security in
17 achieving verification of aliens' lawful presence in the United States in
18 furtherance of this section. The system utilized may include the system-
19 atic alien verification for entitlements program operated by the United
20 States department of homeland security.

21 (f) As used in this section, "public benefit" means: Any grant, con-
22 tract, loan or license provided by an agency of state or local government;
23 or any retirement, welfare, health, disability, housing, food assistance or
24 unemployment benefit under which payments, assistance, credits or re-
25 duced rates or fees are provided.

26 New Sec. 6. Any city or county may enact any ordinance or resolution
27 restricting the rental of housing to an alien unlawfully present in the
28 United States and imposing fines of any amount upon violators of such
29 an ordinance or resolution. Any city or county may enact any ordinance
30 or resolution prohibiting the employment of unauthorized aliens or other
31 unlawful workers, may deny business licenses to employers who employ
32 unauthorized aliens or other unlawful workers, and may allow lawful em-
33 ployees to bring suit against such employers to recover treble damages
34 and reasonable attorney's fees.

35 New Sec. 7. (a) No payment or compensation or other remuneration,
36 including, but not limited to, wages, salaries, bonuses, benefits, in-kind
37 exchanges, expenses or any other economic benefit, paid to an unauthor-
38 ized alien employee, as defined in section 1, and amendments thereto,
39 may be claimed and allowed as a deductible business expense for state
40 income tax purposes. This section shall apply whether or not an internal
41 revenue service form 1099 or form W-2 is issued in conjunction with such
42 payments, compensation or other remuneration.

43 (b) No payment or compensation or other remuneration, including,

1 but not limited to, wages, salaries, bonuses, benefits, in-kind exchanges,
2 expenses or any other economic benefit, paid to an independent contrac-
3 tor may be claimed and allowed as a deductible business expense for state
4 income tax purposes if such independent contractor is not registered with
5 and utilizing e-verify to verify the employment authorization of all new
6 employees under such contractor's employment.

7 (c) This section shall not apply to any business which is exempt from
8 compliance with federal employment verification procedures under fed-
9 eral law which makes the employment of unauthorized aliens unlawful.

10 (d) This section shall not apply to any individual hired by the taxpayer
11 prior to January 1, 2009.

12 (e) All employers shall submit an affidavit to the department of rev-
13 enue accompanying the annual tax return required under state law. This
14 affidavit shall be signed by the employer under penalty of perjury and
15 shall specifically state the following:

16 (1) Whether the employer utilized a business expense or business loss
17 deduction in determining federal adjusted gross income;

18 (2) whether the employer employed any employees or independent
19 contractors for the tax year in question and the number of such employees
20 or independent contractors;

21 (3) whether the employer is enrolled in and is actively participating
22 in e-verify;

23 (4) whether the employer has used e-verify to confirm the employ-
24 ment eligibility of every employee hired on or after January 1, 2009;

25 (5) whether the employer has obtained from any independent con-
26 tractor employed by the employer a signed statement indicating that the
27 independent contractor is registered with and utilizing e-verify to verify
28 the employment authorization of all new employees; and

29 (6) the employer's identification number signifying the employer's
30 enrollment in e-verify.

31 (f) The department of revenue may audit any employer who:

32 (1) Fails to timely submit the affidavit required under this section;
33 and

34 (2) the department has probable cause to believe is not complying
35 with this section.

36 (g) If the department of revenue determines that the employer has
37 knowingly made material misrepresentations of fact regarding informa-
38 tion contained in the affidavit required under this section, the employer
39 shall be required to add back business deductions taken in determining
40 such employer's adjusted gross income used to calculate the employer's
41 state tax liability, to the extent such deductions constitute wages or re-
42 munereration paid to employees whose employment authorization was not
43 verified using e-verify.

1 New Sec. 8. (a) Employment identity fraud is willfully presenting to
2 an employer false or misleading identification documents for the purpose
3 of obtaining employment in the state of Kansas.

4 (b) Employment identity fraud is a severity level 8, nonperson felony.

5 (c) This section shall be part of and supplemental to the Kansas crim-
6 inal code.

7 Sec. 9. K.S.A. 2007 Supp. 8-240 is hereby amended to read as fol-
8 lows: 8-240. (a) Every application for an instruction permit shall be made
9 upon a form furnished by the division of vehicles and accompanied by a
10 fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every
11 other application shall be made upon a form furnished by the division
12 and accompanied by an examination fee of \$3, unless a different fee is
13 required by K.S.A. 8-241, and amendments thereto, and by the proper
14 fee for the license for which the application is made. If the applicant is
15 not required to take an examination the examination fee shall not be
16 required. The examination shall consist of three tests, as follows: (1) Vi-
17 sion; (2) written; and (3) driving. If the applicant fails the vision test, the
18 applicant may have correction of vision made and take the vision test again
19 without any additional fee. If an applicant fails the written test, the ap-
20 plicant may take such test again upon the payment of an additional ex-
21 amination fee of \$1.50. If an applicant fails the driving test, the applicant
22 may take such test again upon the payment of an additional examination
23 fee of \$1.50. If an applicant fails to pass all three of the tests within a
24 period of six months from the date of original application and desires to
25 take additional tests, the applicant shall file an application for reexami-
26 nation upon a form furnished by the division, which shall be accompanied
27 by a reexamination fee of \$3, except that any applicant who fails to pass
28 the written or driving portion of an examination four times within a six-
29 month period, shall be required to wait a period of six months from the
30 date of the last failed examination before additional examinations may be
31 given. Upon the filing of such application and the payment of such re-
32 examination fee, the applicant shall be entitled to reexamination in like
33 manner and subject to the additional fees and time limitation as provided
34 for examination on an original application. If the applicant passes the
35 reexamination, the applicant shall be issued the classified driver's license
36 for which the applicant originally applied, which license shall be issued
37 to expire as if the applicant had passed the original examination.

38 (b) (1) For the purposes of obtaining any driver's license or instruc-
39 tion permit, an applicant shall submit, with the application, proof of age
40 and proof of identity as the division may require. The applicant also shall
41 provide a photo identity document, except that a non-photo identity doc-
42 ument is acceptable if it includes both the applicant's full legal name and
43 date of birth, and documentation showing the applicant's name, the ap-

1 plicant's address of principal residence and the applicant's social security
2 number. The applicant's social security number shall remain confidential
3 and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,
4 and amendments thereto. *If, after communication with the federal gov-*
5 *ernment, the social security number is determined to be incorrect or*
6 *fraudulent, the license or permit shall not be issued. If the license or permit*
7 *has already been issued, the license or permit shall be revoked.* If the
8 applicant does not have a social security number the applicant shall pro-
9 vide proof of lawful presence and Kansas residency. The division shall
10 assign a distinguishing number to the license or permit.

11 (2) The division shall not issue any driver's license or instruction per-
12 mit to any person who fails to provide proof that the person is lawfully
13 present in the United States. Before issuing a driver's license or instruc-
14 tion permit to a person, the division shall require valid documentary ev-
15 idence that the applicant: (A) Is a citizen or national of the United States;
16 (B) is an alien lawfully admitted for permanent or temporary residence
17 in the United States; (C) has conditional permanent resident status in the
18 United States; (D) has an approved application for asylum in the United
19 States or has entered into the United States in refugee status; (E) has a
20 valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry
21 into the United States; (F) has a pending application for asylum in the
22 United States; (G) has a pending or approved application for temporary
23 protected status in the United States; (H) has approved deferred action
24 status; or (I) has a pending application for adjustment of status to that of
25 an alien lawfully admitted for permanent residence in the United States
26 or conditional permanent resident status in the United States.

27 (3) If an applicant provides evidence of lawful presence set out in
28 subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for
29 temporary residence under subsection (b)(2)(B), the division may only
30 issue a driver's license to the person under the following conditions: (A)
31 A driver's license issued pursuant to this subparagraph shall be valid only
32 during the period of time of the applicant's authorized stay in the United
33 States or, if there is no definite end to the period of authorized stay, a
34 period of one year; (B) a drivers' license issued pursuant to this subpar-
35 agraph shall clearly indicate that it is temporary and shall state the date
36 on which it expires; (C) no driver's license issued pursuant to this sub-
37 paragraph shall be for a longer period of time than the time period per-
38 mitted by subsection (a) of K.S.A. 8-247, and amendments thereto; and
39 (D) a driver's license issued pursuant to this subparagraph may be re-
40 newed, subject at the time of renewal, to the same requirements and
41 conditions as set out in this subsection (b) for the issuance of the original
42 driver's license.

43 (4) The division shall not issue any driver's license or instruction per-

1 mit to any person who is not a resident of the state of Kansas, except as
2 provided in K.S.A. 8-2,148, and amendments thereto.

3 (5) The division shall not issue a driver's license to a person holding
4 a driver's license issued by another state without making reasonable ef-
5 forts to confirm that the person is terminating or has terminated the
6 driver's license in the other state.

7 (6) The parent or guardian of an applicant under 16 years of age shall
8 sign the application for any driver's license submitted by such applicant.

9 (c) Every application shall state the full legal name, date of birth,
10 gender and address of principal residence of the applicant, and briefly
11 describe the applicant, and shall state whether the applicant has been
12 licensed as a driver prior to such application, and, if so, when and by what
13 state or country. Such application shall state whether any such license has
14 ever been suspended or revoked, or whether an application has ever been
15 refused, and, if so, the date of and reason for such suspension, revocation
16 or refusal. In addition, applications for commercial drivers' licenses and
17 instruction permits for commercial licenses must include the following:
18 The applicant's social security number; the person's signature; the per-
19 son's colored digital photograph; certifications, including those required
20 by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release
21 driving record information; and, any other information required by the
22 division.

23 (d) When an application is received from a person previously licensed
24 in another jurisdiction, the division shall request a copy of the driver's
25 record from the other jurisdiction. When received, the driver's record
26 shall become a part of the driver's record in this state with the same force
27 and effect as though entered on the driver's record in this state in the
28 original instance.

29 (e) When the division receives a request for a driver's record from
30 another licensing jurisdiction the record shall be forwarded without
31 charge.

32 (f) A fee shall be charged as follows:

33 (1) For a class C driver's license issued to a person at least 21 years
34 of age, but less than 65 years of age, \$18;

35 (2) for a class C driver's license issued to a person 65 years of age or
36 older, \$12;

37 (3) for a class M driver's license issued to a person at least 21 years
38 of age, but less than 65 years of age, \$12.50;

39 (4) for a class M driver's license issued to a person 65 years of age or
40 older, \$9;

41 (5) for a class A or B driver's license issued to a person who is at least
42 21 years of age, but less than 65 years of age, \$24;

43 (6) for a class A or B driver's license issued to a person 65 years of

1 age or older, \$16;

2 (7) for any class of commercial driver's license issued to a person 21
3 years of age or older, \$18; or

4 (8) for class A, B, C or M, or a farm permit, or any commercial driver's
5 license issued to a person less than 21 years of age, \$20.

6 A fee of \$10 shall be charged for each commercial driver's license
7 endorsement, except air brake endorsements which shall have no charge.

8 A fee of \$3 per year shall be charged for any renewal of a license issued
9 prior to the effective date of this act to a person less than 21 years of age.

10 If one fails to make an original application or renewal application for a
11 driver's license within the time required by law, or fails to make appli-
12 cation within 60 days after becoming a resident of Kansas, a penalty of
13 \$1 shall be added to the fee charged for the driver's license.

14 (g) Any person who possesses an identification card as provided in
15 K.S.A. 8-1324, and amendments thereto, shall surrender such identifi-
16 cation card to the division upon being issued a valid Kansas driver's license
17 or upon reinstatement and return of a valid Kansas driver's license.

18 (h) The division shall require that any person applying for a driver's
19 license submit to a mandatory facial image capture.

20 (i) The director of vehicles may issue a temporary driver's license to
21 an applicant who cannot provide valid documentary evidence as defined
22 by subsection (b)(2), if the applicant provides compelling evidence prov-
23 ing current lawful presence. Any temporary license issued pursuant to
24 this subsection shall be valid for one year.

25 (j) *The division shall require that any person applying for a driver's*
26 *license who provides proof by valid documentary evidence that the person*
27 *is a citizen of the United States sign an affidavit stating the following: "I*
28 *hereby declare that I am a citizen of the United States. I understand that*
29 *falsely declaring United States citizenship is a federal crime under 18*
30 *U.S.C. 1015(e); and I understand that swearing falsely on an affidavit is*
31 *a crime pursuant to K.S.A. 8-261a, and amendments thereto."*

32 (k) *No driver's license shall be issued to any alien until the alien has*
33 *been verified by the United States department of homeland security to be*
34 *lawfully present in the United States, pursuant to 8 U.S.C. 1373(c). Such*
35 *verification shall occur through the systematic alien verification for en-*
36 *tlements program operated by the United States department of home-*
37 *land security.*

38 Sec. 10. K.S.A. 2007 Supp. 8-1324 is hereby amended to read as
39 follows: 8-1324. (a) Any resident who does not hold a current valid Kansas
40 driver's license may make application to the division of vehicles and be
41 issued one identification card.

42 (b) For the purpose of obtaining an identification card, an applicant
43 shall submit, with the application, proof of age, proof of identity and proof

1 of lawful presence. An applicant shall submit with the application a photo
2 identity document, except that a non-photo identity document is accept-
3 able if it includes both the applicant's full legal name and date of birth,
4 and documentation showing the applicant's name, the applicant's address
5 of principal residence and the applicant's social security account number.
6 *If, after communication with the federal government, the social security*
7 *number is determined to be incorrect or fraudulent, the identification card*
8 *shall not be issued. If the card has already been issued, the card shall be*
9 *revoked.* The applicant's social security number shall remain confidential
10 and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,
11 and amendments thereto. If the applicant does not have a social security
12 number, the applicant shall provide proof of lawful presence and Kansas
13 residency. The division shall assign a distinguishing number to the iden-
14 tification card. Before issuing an identification card to a person, the di-
15 vision shall make reasonable efforts to verify with the issuing agency the
16 issuance, validity and completeness of each document required to be pre-
17 sented by the applicant to prove age, identity and lawful presence.

18 (c) The division shall not issue an identification card to any person
19 who fails to provide proof that the person is lawfully present in the United
20 States. If an applicant provides evidence of lawful presence as set out in
21 subsections (b)(2)(E) through (2)(I) of K.S.A. 8-240, and amendments
22 thereto, or is an alien lawfully admitted for temporary residence under
23 subsection (b)(2)(B) of K.S.A. 8-240, and amendments thereto, the divi-
24 sion may only issue a temporary identification card to the person under
25 the following conditions: (A) A temporary identification card issued pur-
26 suant to this subparagraph shall be valid only during the period of time
27 of the applicant's authorized stay in the United States or, if there is no
28 definite end to the period of authorized stay, a period of one year; (B) a
29 temporary identification card issued pursuant to this subparagraph shall
30 clearly indicate that it is temporary and shall state the date upon which
31 it expires; (C) no temporary identification card issued pursuant to this
32 subparagraph shall be for a longer period of time than the time period
33 permitted by K.S.A. 8-1325, and amendments thereto; and (D) a tem-
34 porary identification card issued pursuant to this subparagraph may be
35 renewed, subject at the time of renewal, to the same requirements and
36 conditions set forth in this subsection (c) for the issuance of the original
37 temporary identification card.

38 (d) The division shall not issue an identification card to any person
39 who holds a current valid Kansas driver's license unless such driver's li-
40 cense has been physically surrendered pursuant to the provisions of sub-
41 section (e) of K.S.A. 8-1002, and amendments thereto.

42 (e) The division shall refuse to issue an identification card to a person
43 holding a driver's license or identification card issued by another state

1 without confirmation that the person is terminating or has terminated the
2 license or identification card.

3 (f) The parent or guardian of an applicant under 16 years of age shall
4 sign the application for an identification card submitted by such applicant.

5 (g) The division shall require payment of a fee of \$14 at the time
6 application for an identification card is made, except that persons who
7 are 65 or more years of age or who are handicapped, as defined in K.S.A.
8 8-1,124, and amendments thereto, shall be required to pay a fee of only
9 \$10.

10 (h) All Kansas identification cards shall have physical security features
11 designed to prevent tampering, counterfeiting or duplication for fraud-
12 ulent purposes.

13 (i) For the purposes of K.S.A. 8-1324 through 8-1328, and amend-
14 ments thereto, a person shall be deemed to be a resident of the state if:

- 15 (1) The person owns, leases or rents a place of domicile in this state;
- 16 (2) the person engages in a trade, business or profession in this state;
- 17 (3) the person is registered to vote in this state;
- 18 (4) the person enrolls the person's child in a school in this state; or
- 19 (5) the person registers the person's motor vehicle in this state.

20 (j) The division shall require that any person applying for an identi-
21 fication card submit to a mandatory facial image capture.

22 (k) The director of vehicles may issue a temporary identification card
23 to an applicant who cannot provide valid documentary evidence as de-
24 fined by subsection (c), if the applicant provides compelling evidence
25 proving current lawful presence. Any temporary identification card issued
26 pursuant to this subparagraph shall be valid for one year.

27 (l) Upon payment of the required fee, the division shall issue to every
28 applicant qualifying under the provisions of this act an identification card.
29 Such identification card shall bear a distinguishing number assigned to
30 the cardholder, the full legal name, date of birth, address of principal
31 residence, a brief description of the cardholder, a colored digital photo-
32 graph of the cardholder, and a facsimile of the signature of the cardholder.
33 An identification card which does not contain the address of principal
34 residence of the cardholder as required may be issued to persons who
35 are program participants pursuant to K.S.A. 2007 Supp. 75-455, and
36 amendments thereto.

37 (m) *The division shall require that any person applying for an iden-*
38 *tification card who provides proof by valid documentary evidence that*
39 *the person is a citizen of the United States sign an affidavit stating the*
40 *following: "I hereby declare that I am a citizen of the United States. I*
41 *understand that falsely declaring United States citizenship is a federal*
42 *crime under 18 U.S.C. 1015(e); and I understand that swearing falsely*
43 *on an affidavit is a crime pursuant to K.S.A. 8-261a, and amendments*

1 *thereto.*”

2 (n) *No identification card shall be issued to any alien until the alien*
3 *has been verified by the United States department of homeland security*
4 *to be lawfully present in the United States, pursuant to 8 U.S.C. 1373(c).*
5 *Such verification shall occur through the systematic alien verification for*
6 *entitlements program operated by the United States department of home-*
7 *land security.*

8 Sec. 11. K.S.A. 21-3830 is hereby amended to read as follows: 21-
9 3830. (a) Dealing in false identification documents is reproducing, man-
10 ufacturing, selling or offering for sale any identification document which:

11 (1) Simulates, purports to be or is designed so as to cause others
12 reasonably to believe it to be an identification document; and

13 (2) bears a fictitious name or other false information.

14 (b) As used in this section, “identification document” means any card,
15 certificate or document or banking instrument including, but not limited
16 to, credit or debit card, which identifies or purports to identify the bearer
17 of such document, whether or not intended for use as identification, and
18 includes, but is not limited to, documents purporting to be drivers’ li-
19 censes, nondrivers’ identification cards, certified copies of birth, death,
20 marriage and divorce certificates, social security cards and employee iden-
21 tification cards.

22 (c) Dealing in false identification documents is a severity level § 6,
23 nonperson felony.

24 (d) Vital records identity fraud related to birth, death, marriage and
25 divorce certificates is:

26 (1) Willfully and knowingly supplying false information intending that
27 the information be used to obtain a certified copy of a vital record;

28 (2) making, counterfeiting, altering, amending or mutilating any cer-
29 tified copy of a vital record:

30 (A) Without lawful authority; and

31 (B) with the intent to deceive; or

32 (3) willfully and knowingly obtaining, possessing, using, selling or fur-
33 nishing or attempting to obtain, possess or furnish to another for any
34 purpose of deception a certified copy of a vital record.

35 (e) Vital records identity fraud is a severity level § 7, nonperson
36 felony.

37 (f) The prohibitions in subsections (a) and (b) do not apply to:

38 (1) A person less than 21 years of age who uses the identification
39 document of another person to acquire an alcoholic beverage, as defined
40 in K.S.A. 8-1599, and amendments thereto;

41 (2) a person less than 18 years of age who uses the identification
42 documents of another person to acquire:

43 (A) Cigarettes or tobacco products, as defined in K.S.A. 79-3301, and

1 amendments thereto;

2 (B) a periodical, videotape or other communication medium that con-
3 tains or depicts nudity;

4 (C) admittance to a performance, live or film, that prohibits the at-
5 tendance of the person based on age; or

6 (D) an item that is prohibited by law for use or consumption by such
7 person.

8 (g) This section shall be part of and supplemental to the Kansas crim-
9 inal code.

10 Sec. 12. K.S.A. 22-2802 is hereby amended to read as follows: 22-
11 2802. (1) Any person charged with a crime shall, at the person's first
12 appearance before a magistrate, be ordered released pending preliminary
13 examination or trial upon the execution of an appearance bond in an
14 amount specified by the magistrate and sufficient to assure the appear-
15 ance of such person before the magistrate when ordered and to assure
16 the public safety. *If the person charged with a crime is not a citizen or*
17 *national of the United States, such person's immigration status shall be*
18 *verified with the federal government pursuant to 8 U.S.C. 1373(c). For*
19 *the purposes of determining the grant of or issuance of an appearance*
20 *bond, it shall be a rebuttable presumption that a person who has been*
21 *verified by the federal government to be an alien unlawfully present in*
22 *the United States is at risk of flight. If the person is being bound over for*
23 *a felony, the bond shall also be conditioned on the person's appearance*
24 *in the district court or by way of a two-way electronic audio-video com-*
25 *munication as provided in subsection (14) at the time required by the*
26 *court to answer the charge against such person and at any time thereafter*
27 *that the court requires. Unless the magistrate makes a specific finding*
28 *otherwise, if the person is being bonded out for a person felony or a*
29 *person misdemeanor, the bond shall be conditioned on the person being*
30 *prohibited from having any contact with the alleged victim of such offense*
31 *for a period of at least 72 hours. The magistrate may impose such of the*
32 *following additional conditions of release as will reasonably assure the*
33 *appearance of the person for preliminary examination or trial:*

34 (a) Place the person in the custody of a designated person or organ-
35 ization agreeing to supervise such person;

36 (b) place restrictions on the travel, association or place of abode of
37 the person during the period of release;

38 (c) impose any other condition deemed reasonably necessary to as-
39 sure appearance as required, including a condition requiring that the
40 person return to custody during specified hours;

41 (d) place the person under a house arrest program pursuant to K.S.A.
42 21-4603b, and amendments thereto; or

43 (e) place the person under the supervision of a court services officer

1 responsible for monitoring the person's compliance with any conditions
2 of release ordered by the magistrate.

3 (2) In addition to any conditions of release provided in subsection (1),
4 for any person charged with a felony, the magistrate may order such
5 person to submit to a drug abuse examination and evaluation in a public
6 or private treatment facility or state institution and, if determined by the
7 head of such facility or institution that such person is a drug abuser or
8 incapacitated by drugs, to submit to treatment for such drug abuse, as a
9 condition of release.

10 (3) The appearance bond shall be executed with sufficient solvent
11 sureties who are residents of the state of Kansas, unless the magistrate
12 determines, in the exercise of such magistrate's discretion, that requiring
13 sureties is not necessary to assure the appearance of the person at the
14 time ordered.

15 (4) A deposit of cash in the amount of the bond may be made in lieu
16 of the execution of the bond pursuant to paragraph (3). Except as pro-
17 vided in paragraph (5), such deposit shall be in the full amount of the
18 bond and in no event shall a deposit of cash in less than the full amount
19 of bond be permitted. Any person charged with a crime who is released
20 on a cash bond shall be entitled to a refund of all moneys paid for the
21 cash bond, after deduction of any outstanding restitution, costs, fines and
22 fees, after the final disposition of the criminal case if the person complies
23 with all requirements to appear in court. The court may not exclude the
24 option of posting bond pursuant to paragraph (3).

25 (5) Except as provided further, the amount of the appearance bond
26 shall be the same whether executed as described in subsection (3) or
27 posted with a deposit of cash as described in subsection (4). When the
28 appearance bond has been set at \$2,500 or less and the most serious
29 charge against the person is a misdemeanor, a severity level 8, 9 or 10
30 nonperson felony, a drug severity level 4 felony or a violation of K.S.A.
31 8-1567, and amendments thereto, the magistrate may allow the person
32 to deposit cash with the clerk in the amount of 10% of the bond, provided
33 the person meets at least the following qualifications:

34 (A) Is a resident of the state of Kansas;
35 (B) has a criminal history score category of G, H or I;
36 (C) has no prior history of failure to appear for any court appearances;
37 (D) has no detainer or hold from any other jurisdiction;
38 (E) has not been extradited from, and is not awaiting extradition to,
39 another state; and

40 (F) has not been detained for an alleged violation of probation.

41 (6) In the discretion of the court, a person charged with a crime may
42 be released upon the person's own recognizance by guaranteeing pay-
43 ment of the amount of the bond for the person's failure to comply with

1 all requirements to appear in court. The release of a person charged with
2 a crime upon the person's own recognizance shall not require the deposit
3 of any cash by the person.

4 (7) The court shall not impose any administrative fee.

5 (8) In determining which conditions of release will reasonably assure
6 appearance and the public safety, the magistrate shall, on the basis of
7 available information, take into account the nature and circumstances of
8 the crime charged; the weight of the evidence against the defendant; the
9 defendant's family ties, employment, financial resources, character, men-
10 tal condition, length of residence in the community, record of convictions,
11 record of appearance or failure to appear at court proceedings or of flight
12 to avoid prosecution; the likelihood or propensity of the defendant to
13 commit crimes while on release, including whether the defendant will be
14 likely to threaten, harass or cause injury to the victim of the crime or any
15 witnesses thereto; and whether the defendant is on probation or parole
16 from a previous offense at the time of the alleged commission of the
17 subsequent offense.

18 (9) The appearance bond shall set forth all of the conditions of
19 release.

20 (10) A person for whom conditions of release are imposed and who
21 continues to be detained as a result of the person's inability to meet the
22 conditions of release shall be entitled, upon application, to have the con-
23 ditions reviewed without unnecessary delay by the magistrate who im-
24 posed them. If the magistrate who imposed conditions of release is not
25 available, any other magistrate in the county may review such conditions.

26 (11) A magistrate ordering the release of a person on any conditions
27 specified in this section may at any time amend the order to impose
28 additional or different conditions of release. If the imposition of additional
29 or different conditions results in the detention of the person, the provi-
30 sions of subsection (10) shall apply.

31 (12) Statements or information offered in determining the conditions
32 of release need not conform to the rules of evidence. No statement or
33 admission of the defendant made at such a proceeding shall be received
34 as evidence in any subsequent proceeding against the defendant.

35 (13) The appearance bond and any security required as a condition
36 of the defendant's release shall be deposited in the office of the magistrate
37 or the clerk of the court where the release is ordered. If the defendant
38 is bound to appear before a magistrate or court other than the one or-
39 dering the release, the order of release, together with the bond and se-
40 curity shall be transmitted to the magistrate or clerk of the court before
41 whom the defendant is bound to appear.

42 (14) Proceedings before a magistrate as provided in this section to
43 determine the release conditions of a person charged with a crime in-

1 cluding release upon execution of an appearance bond may be conducted
2 by two-way electronic audio-video communication between the defend-
3 ant and the judge in lieu of personal presence of the defendant or de-
4 fendant's counsel in the courtroom in the discretion of the court. The
5 defendant may be accompanied by the defendant's counsel. The defend-
6 ant shall be informed of the defendant's right to be personally present in
7 the courtroom during such proceeding if the defendant so requests. Ex-
8 ercising the right to be present shall in no way prejudice the defendant.

9 (15) The magistrate may order the person to pay for any costs asso-
10 ciated with the supervision of the conditions of release of the appearance
11 bond in an amount not to exceed \$10 per week of such supervision.

12 Sec. 13. K.S.A. 25-2416 is hereby amended to read as follows: 25-
13 2416. (a) Voting without being qualified is knowingly and willfully: ~~(a)~~ (1)
14 Voting or attempting to vote at any election when not a lawfully registered
15 voter.

16 ~~(b)~~ (2) Voting or offering to vote more than once at the same election.
17 ~~(c)~~ (3) Inducing or aiding any person to vote more than once at the
18 same election.

19 (4) *Inducing or aiding any person to vote who is not a lawfully reg-*
20 *istered voter.*

21 (b) Voting without being qualified *pursuant to subsection (2) or (3)*
22 *is a class A misdemeanor. Voting without being qualified pursuant to*
23 *subsection (1) or (4) is a severity level 9, nonperson felony.*

24 Sec. 14. K.S.A. 2007 Supp. 79-32,120 is hereby amended to read as
25 follows: 79-32,120. (a) If federal taxable income of an individual is deter-
26 mined by itemizing deductions from such individual's federal adjusted
27 gross income, such individual may elect to deduct the Kansas itemized
28 deduction in lieu of the Kansas standard deduction. The Kansas itemized
29 deduction of an individual means the total amount of deductions from
30 federal adjusted gross income, other than federal deductions for personal
31 exemptions, as provided in the federal internal revenue code with the
32 modifications specified in this section. *No deduction shall be allowed for*
33 *any payment, compensation or other economic benefit disallowed by sec-*
34 *tion 7, and amendments thereto.*

35 (b) The total amount of deductions from federal adjusted gross in-
36 come shall be reduced by the total amount of income taxes imposed by
37 or paid to this state or any other taxing jurisdiction to the extent that the
38 same are deducted in determining the federal itemized deductions and
39 by the amount of all depreciation deductions claimed for any real or
40 tangible personal property upon which the deduction allowed by K.S.A.
41 2007 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-
42 32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been
43 claimed.

- 1 Sec. 15. K.S.A. 2007 Supp. 79-32,138 is hereby amended to read as
2 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
3 under this act shall be the corporation's federal taxable income for the
4 taxable year with the modifications specified in this section.
- 5 (b) There shall be added to federal taxable income: (i) The same
6 modifications as are set forth in subsection (b) of K.S.A. 79-32,117, and
7 amendments thereto, with respect to resident individuals.
- 8 (ii) The amount of all depreciation deductions claimed for any prop-
9 erty upon which the deduction allowed by K.S.A. 2007 Supp. 79-32,221,
10 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-
11 32,256, and amendments thereto, is claimed.
- 12 (iii) The amount of any charitable contribution deduction claimed for
13 any contribution or gift to or for the use of any racially segregated edu-
14 cational institution.
- 15 (iv) *The amount of the payments, compensation or other economic*
16 *benefit disallowed by section 7, and amendments thereto.*
- 17 (c) There shall be subtracted from federal taxable income: (i) The
18 same modifications as are set forth in subsection (c) of K.S.A. 79-32,117,
19 and amendments thereto, with respect to resident individuals.
- 20 (ii) The federal income tax liability for any taxable year commencing
21 prior to December 31, 1971, for which a Kansas return was filed after
22 reduction for all credits thereon, except credits for payments on estimates
23 of federal income tax, credits for gasoline and lubricating oil tax, and for
24 foreign tax credits if, on the Kansas income tax return for such prior year,
25 the federal income tax deduction was computed on the basis of the federal
26 income tax paid in such prior year, rather than as accrued. Notwithstand-
27 ing the foregoing, the deduction for federal income tax liability for any
28 year shall not exceed that portion of the total federal income tax liability
29 for such year which bears the same ratio to the total federal income tax
30 liability for such year as the Kansas taxable income, as computed before
31 any deductions for federal income taxes and after application of subsec-
32 tions (d) and (e) of this section as existing for such year, bears to the
33 federal taxable income for the same year.
- 34 (iii) An amount for the amortization deduction allowed pursuant to
35 K.S.A. 2007 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
36 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto.
- 37 (iv) For all taxable years commencing after December 31, 1987, the
38 amount included in federal taxable income pursuant to the provisions of
39 section 78 of the internal revenue code.
- 40 (v) For all taxable years commencing after December 31, 1987, 80%
41 of dividends from corporations incorporated outside of the United States
42 or the District of Columbia which are included in federal taxable income.
- 43 (d) If any corporation derives all of its income from sources within

1 Kansas in any taxable year commencing after December 31, 1979, its
2 Kansas taxable income shall be the sum resulting after application of
3 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
4 taxable income in any such taxable year, after excluding any refunds of
5 federal income tax and before the deduction of federal income taxes pro-
6 vided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-3271
7 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any refund
8 of federal income tax as determined under paragraph (iv) of subsection
9 (b) of K.S.A. 79-32,117, and amendments thereto, and minus the deduc-
10 tion for federal income taxes as provided by subsection (c)(ii) shall be
11 such corporation's Kansas taxable income.

12 (e) A corporation may make an election with respect to its first taxable
13 year commencing after December 31, 1982, whereby no addition modi-
14 fications as provided for in subsection (b)(ii) of K.S.A. 79-32,138 and
15 subtraction modifications as provided for in subsection (c)(iii) of K.S.A.
16 79-32,138, as those subsections existed prior to their amendment by this
17 act, shall be required to be made for such taxable year.

18 New Sec. 16. This act shall be construed so as to be fully consistent
19 with federal immigration and labor laws.

20 New Sec. 17. If any section, subsection, paragraph or provision of
21 this act shall be held to be invalid by any court for any reason, it shall be
22 presumed that this act would have been passed by the legislature without
23 such invalid section, subsection, paragraph or provision, and such finding
24 or construction shall not in any way affect the remainder of this act.

25 Sec. 18. K.S.A. 21-3830, 22-2802 and 25-2416 and K.S.A. 2007 Supp.
26 8-240, 8-1324, 79-32,120 and 79-32,138 are hereby repealed.

27 Sec. 19. This act shall take effect and be in force from and after its
28 publication in the statute book.