

HOUSE BILL No. 2541

By Committee on Local Government

1-26

9 AN ACT enacting the Kansas illegal immigration relief act; amending
10 K.S.A. 2009 Supp. 8-240, 8-1324, 79-32,120 and 79-32,138 and re-
11 pealing the existing sections; also repealing K.S.A. 2009 Supp. 76-731a.
12

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

14 New Section 1. As used in the Kansas illegal immigration relief act:

15 (a) "Alien" means any person who is not a citizen or national of the
16 United States, as described in Title 8, Section 1101 of the United States
17 Code, et seq., and amendments thereto.

18 (b) "Law enforcement officer" means any city, county and state police
19 officers, highway patrol, county sheriff and any other law enforcement
20 officers in the state.

21 (c) "Employee" has the meaning ascribed thereto in K.S.A. 44-313,
22 and amendments thereto.

23 (d) "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 (e) "Identification document" has the meaning ascribed thereto in
3 K.S.A 21-3830, and amendments thereto.

4 (f) "Public employer" means every department, agency or instru-
5 mentality of the state or a political subdivision of the state.

6 (g) "Unauthorized alien" means an alien who is not authorized to
7 work in the United States, as defined in 8 U.S.C. 1324a(h)(3).

8 (h) "E-verify" means the electronic verification of employment au-
9 thorization program of the illegal immigration reform and immigrant re-
10 sponsibility act of 1996, P.L. 104-208, division C, section 403(a); 8 U.S.C.
11 1324(a), and operated by the United States department of homeland se-
12 curity, or its successor program.

13 (i) "Public employer" means any state agency, department, board or
14 commission or any municipality, as defined in K.S.A. 75-1117, and
15 amendments thereto, that employs one or more employees.

16 New Sec. 2. (a) It is unlawful for a business entity to knowingly hire,
17 recruit or refer for a fee for employment in the state of Kansas an unau-
18 thorized alien.

19 (b) Every business entity within the state of Kansas that employs one
20 or more employees shall register with and utilize e-verify to verify the
21 employment authorization of all new employees.

22 (c) All business entities shall be in compliance with this section on
23 and after January 1, 2011. The business entity shall retain all documen-
24 tation received in connection with its participation in e-verify that verifies
25 the employment authorization of every employee verified through e-ver-
26 ify for at least three years after the termination of the employment of the
27 employee. This documentation shall be provided to the department of
28 revenue upon request.

29 (d) On and after January 1, 2011, public employers:

30 (1) Shall register with and utilize e-verify to verify the employment
31 authorization of all new employees; and

32 (2) shall not enter into a contract for the performance of services
33 within this state unless the contractor is registered with and utilizing e-
34 verify to verify the employment authorization of all new employees under
35 the contractors employment. The provision in this paragraph shall not
36 apply to any contracts entered into prior to January 1, 2011, even though
37 such contracts may involve the performance of labor within this state after
38 January 1, 2011.

39 (e) The provisions of this section may be enforced in the courts of
40 the state of Kansas by any district attorney, county attorney or by the
41 attorney general.

42 (f) On a finding of the first violation of this section by a business
43 entity, the court shall order the suspension of all licenses that are held by

1 such business entity for not less than 10 days and not more than 30 days.

2 (g) On a finding of the second violation of this section by a business
3 entity, the court shall order the suspension of all licenses that are held by
4 such business entity for not less than 90 days and not more than one year.

5 (h) On a finding of the third violation of this section by a business
6 entity, the court shall order the permanent suspension of all licenses that
7 are held by such business entity as well as the revocation of the business
8 entity's registration as a corporation in the state of Kansas, if applicable.

9 (i) In enforcing the provisions of this section, no state, county or local
10 official shall attempt to independently determine whether an individual
11 is an unauthorized alien or an alien not lawfully present in the United
12 States. Such determination shall only be made by verifying the alien's
13 immigration status with the federal government, pursuant to 8 U.S.C.
14 1373(c).

15 (j) For the purposes of this section, when making a determination of
16 whether an employee is an unauthorized alien, a court shall only consider
17 the federal government's determination pursuant to 8 U.S.C. 1373(c).
18 The court shall take judicial notice of any verification of the immigration
19 status previously provided by the federal government. The court may,
20 and at the request of a party shall, request the federal government to
21 provide, in automated, documentary or testimonial form, a new verifi-
22 cation of the immigration status of the employee pursuant to 8 U.S.C.
23 1373(c). The most recent determination of the immigration status of an
24 employee by the federal government shall create a rebuttable presump-
25 tion as to the employee's immigration status.

26 (k) For the purposes of this section, a business entity that has com-
27 plied in good faith with this section through registration and participation
28 in e-verify to confirm the employment authorization of any employee in
29 question shall create a rebuttable presumption that the employer did not
30 knowingly employ an unauthorized alien.

31 (l) For the purposes of this section, where a business entity has con-
32 tracted for the services of an independent contractor, no employment
33 relationship exists between the business entity and the independent con-
34 tractor or its employees.

35 New Sec. 3. (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, 2011.
- 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 confirmed that any independent con-
26 tractor employed by the employer is an independent contractor who is
27 registered with and utilizing e-verify to verify the employment authori-
28 zation 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 munerated paid to employees whose employment authorization was not
43 verified using e-verify.

1 New Sec. 4. (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 New Sec. 5. (a) An alien who is not lawfully present in the United
8 States shall not be eligible to receive any state or local public benefit from
9 any state, county or local government entity in the state of Kansas, except
10 for state or local public benefits that are required to be offered by 8 U.S.C.
11 1621(b).

12 (b) For the purposes of this section, “public benefit” includes: Any
13 grant, contract, loan or license provided by an agency of state or local
14 government; or any retirement, welfare, health, disability, housing, post-
15 secondary education, food assistance or unemployment benefit under
16 which payments, assistance, credits, reduced rates, reduced fees or resi-
17 dent tuition rates are provided or offered.

18 (c) In addition to providing proof of other eligibility requirements, at
19 the time of application for any public benefit, an applicant who is 18 years
20 of age or older shall first establish that the applicant is a citizen of the
21 United States, an alien entitled to lawful permanent residence in the
22 United States or is an alien lawfully present in the United States.

23 (d) An applicant who is an alien shall not receive any public benefit
24 unless the alien’s lawful presence in the United States is first verified by
25 the federal government, pursuant to 8 U.S.C. 1373(c). State, county and
26 local agencies administering public benefits shall cooperate with the
27 United States department of homeland security in achieving verification
28 of aliens’ lawful presence in the United States, and shall seek a memo-
29 randum of understanding with the United States department of homeland
30 security to participate in the systematic alien verification for entitlements
31 program operated by the United States department of homeland security
32 in order to meet the requirements of this section.

33 New Sec. 6. (a) All state officials, agencies and personnel shall fully
34 comply with, and, to the full extent permitted by law, support the en-
35 forcement of federal law prohibiting the entry into, presence or residence
36 in the United States of aliens in violation of federal immigration law.

37 (b) All law enforcement officers shall inquire into the citizenship and
38 immigration status of any person arrested for a violation of any state law
39 or municipal ordinance, regardless of the person’s national origin, eth-
40 nicity or race. In all such cases where a person indicates that such person
41 is not a citizen or national of the United States, the law enforcement
42 officer shall verify with the federal government whether the alien is law-
43 fully or unlawfully present in the United States, pursuant to 8 U.S.C.

1 1373(c). This verification shall occur through communication with the
2 law enforcement support center, operated by the bureau of immigration
3 and customs enforcement of the United States department of homeland
4 security. If the alien is verified to be unlawfully present in the United
5 States, the law enforcement officer shall cooperate with any request by
6 federal immigration authorities to detain the alien or transfer the alien to
7 the custody of the federal government.

8 (c) Pursuant to 8 U.S.C. 1373 and 8 U.S.C. 1644, no official or agent
9 of a state, county or city law enforcement agency may be prohibited or
10 in any way restricted from sending, receiving or maintaining, information
11 regarding the immigration status, lawful or unlawful, of any individual, or
12 exchanging such information with any other federal, state or local gov-
13 ernment entity. No state, county or city law enforcement agency may by
14 ordinance, resolution, official policy or informal policy, prevent, restrict
15 or discourage its officers from asking individuals their citizenship or im-
16 migration status.

17 (d) Any state, county or city law enforcement agency shall be deemed
18 to be in violation of this section if the attorney general determines that
19 such a violation has occurred. Any member of the Kansas legislature may
20 request such a determination by the attorney general. Any agency found
21 to be in violation of this section shall be ineligible to receive any state
22 funding until such agency can prove to the attorney general that the
23 agency is in compliance with this section.

24 New Sec. 7. Sections 1 through 6, and amendments thereto, shall be
25 known and maybe cited as the Kansas illegal immigration relief act.

26 Sec. 8. K.S.A. 2009 Supp. 8-240 is hereby amended to read as fol-
27 lows: 8-240. (a) Every application for an instruction permit shall be made
28 upon a form furnished by the division of vehicles and accompanied by a
29 fee of \$2 for class A, B, C or M and \$5 for all commercial classes. Every
30 other application shall be made upon a form furnished by the division
31 and accompanied by an examination fee of \$3, unless a different fee is
32 required by K.S.A. 8-241, and amendments thereto, and by the proper
33 fee for the license for which the application is made. If the applicant is
34 not required to take an examination the examination fee shall not be
35 required. The examination shall consist of three tests, as follows: (1) Vi-
36 sion; (2) written; and (3) driving. If the applicant fails the vision test, the
37 applicant may have correction of vision made and take the vision test again
38 without any additional fee. If an applicant fails the written test, the ap-
39 plicant may take such test again upon the payment of an additional ex-
40 amination fee of \$1.50. If an applicant fails the driving test, the applicant
41 may take such test again upon the payment of an additional examination
42 fee of \$1.50. If an applicant fails to pass all three of the tests within a
43 period of six months from the date of original application and desires to

1 take additional tests, the applicant shall file an application for reexami-
2 nation upon a form furnished by the division, which shall be accompanied
3 by a reexamination fee of \$3, except that any applicant who fails to pass
4 the written or driving portion of an examination four times within a six-
5 month period, shall be required to wait a period of six months from the
6 date of the last failed examination before additional examinations may be
7 given. Upon the filing of such application and the payment of such re-
8 examination fee, the applicant shall be entitled to reexamination in like
9 manner and subject to the additional fees and time limitation as provided
10 for examination on an original application. If the applicant passes the
11 reexamination, the applicant shall be issued the classified driver's license
12 for which the applicant originally applied, which license shall be issued
13 to expire as if the applicant had passed the original examination.

14 (b) (1) For the purposes of obtaining any driver's license or instruc-
15 tion permit, an applicant shall submit, with the application, proof of age
16 and proof of identity as the division may require. The applicant also shall
17 provide a photo identity document, except that a non-photo identity docu-
18 ment is acceptable if it includes both the applicant's full legal name and
19 date of birth, and documentation showing the applicant's name, the ap-
20 plicant's address of principal residence and the applicant's social security
21 number. The applicant's social security number shall remain confidential
22 and shall not be disclosed, except as provided pursuant to K.S.A. 74-2012,
23 and amendments thereto. If the applicant does not have a social security
24 number the applicant shall provide proof of lawful presence and Kansas
25 residency. The division shall assign a distinguishing number to the license
26 or permit.

27 (2) The division shall not issue any driver's license or instruction per-
28 mit to any person who fails to provide proof that the person is lawfully
29 present in the United States. Before issuing a driver's license or instruc-
30 tion permit to a person, the division shall require valid documentary ev-
31 idence that the applicant: (A) Is a citizen or national of the United States;
32 (B) is an alien lawfully admitted for permanent or temporary residence
33 in the United States; (C) has conditional permanent resident status in the
34 United States; (D) has an approved application for asylum in the United
35 States or has entered into the United States in refugee status; (E) has a
36 valid, unexpired nonimmigrant visa or nonimmigrant visa status for entry
37 into the United States; (F) has a pending application for asylum in the
38 United States; (G) has a pending or approved application for temporary
39 protected status in the United States; (H) has approved deferred action
40 status; or (I) has a pending application for adjustment of status to that of
41 an alien lawfully admitted for permanent residence in the United States
42 or conditional permanent resident status in the United States.

43 (3) If an applicant provides evidence of lawful presence set out in

1 subsections (b)(2)(E) through (2)(I), or is an alien lawfully admitted for
2 temporary residence under subsection (b)(2)(B), the division may only
3 issue a driver's license to the person under the following conditions: (A)
4 A driver's license issued pursuant to this subparagraph shall be valid only
5 during the period of time of the applicant's authorized stay in the United
6 States or, if there is no definite end to the period of authorized stay, a
7 period of one year; (B) a drivers' license issued pursuant to this subpar-
8 agraph shall clearly indicate that it is temporary and shall state the date
9 on which it expires; (C) no driver's license issued pursuant to this sub-
10 paragraph shall be for a longer period of time than the time period per-
11 mitted by subsection (a) of K.S.A. 8-247, and amendments thereto; and
12 (D) a driver's license issued pursuant to this subparagraph may be re-
13 newed, subject at the time of renewal, to the same requirements and
14 conditions as set out in this subsection (b) for the issuance of the original
15 driver's license.

16 (4) The division shall not issue any driver's license or instruction per-
17 mit to any person who is not a resident of the state of Kansas, except as
18 provided in K.S.A. 8-2,148, and amendments thereto.

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

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

25 (c) Every application shall state the full legal name, date of birth,
26 gender and address of principal residence of the applicant, and briefly
27 describe the applicant, and shall state whether the applicant has been
28 licensed as a driver prior to such application, and, if so, when and by what
29 state or country. Such application shall state whether any such license has
30 ever been suspended or revoked, or whether an application has ever been
31 refused, and, if so, the date of and reason for such suspension, revocation
32 or refusal. In addition, applications for commercial drivers' licenses and
33 instruction permits for commercial licenses must include the following:
34 The applicant's social security number; the person's signature; the per-
35 son's colored digital photograph; certifications, including those required
36 by 49 C.F.R. 383.71(a), effective January 1, 1991; a consent to release
37 driving record information; and, any other information required by the
38 division.

39 (d) When an application is received from a person previously licensed
40 in another jurisdiction, the division shall request a copy of the driver's
41 record from the other jurisdiction. When received, the driver's record
42 shall become a part of the driver's record in this state with the same force
43 and effect as though entered on the driver's record in this state in the

1 original instance.

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

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

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

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

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

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

14 (5) for a class A or B driver's license issued to a person who is at least
15 21 years of age, but less than 65 years of age, \$24;

16 (6) for a class A or B driver's license issued to a person 65 years of
17 age or older, \$16;

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

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

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

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

26 If one fails to make an original application or renewal application for a
27 driver's license within the time required by law, or fails to make appli-
28 cation within 60 days after becoming a resident of Kansas, a penalty of
29 \$1 shall be added to the fee charged for the driver's license.

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

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

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

41 (j) *The division shall require that any person applying for a driver's*
42 *license who provides proof by valid documentary evidence that the person*
43 *is a citizen of the United States sign an affidavit stating the following: "I*

1 *hereby declare that I am a citizen of the United States. I understand that*
2 *falsely declaring United States citizenship is a federal crime under 18*
3 *U.S.C. 1015(e); and I understand that swearing falsely on an affidavit is*
4 *a crime pursuant to K.S.A. 8-261a, and amendments thereto.”*

5 (k) *No driver’s license shall be issued to any alien until the alien has*
6 *been verified by the United States department of homeland security to be*
7 *lawfully present in the United States, pursuant to 8 U.S.C. 1373(c). Such*
8 *verification shall occur through the systematic alien verification for en-*
9 *titlements program operated by the United States department of home-*
10 *land security.*

11 Sec. 9. K.S.A. 2009 Supp. 8-1324 is hereby amended to read as fol-
12 lows: 8-1324. (a) Any resident who does not hold a current valid Kansas
13 driver’s license may make application to the division of vehicles and be
14 issued one identification card.

15 (b) For the purpose of obtaining an identification card, an applicant
16 shall submit, with the application, proof of age, proof of identity and proof
17 of lawful presence. An applicant shall submit with the application a photo
18 identity document, except that a non-photo identity document is accept-
19 able if it includes both the applicant’s full legal name and date of birth,
20 and documentation showing the applicant’s name, the applicant’s address
21 of principal residence and the applicant’s social security account number.
22 The applicant’s social security number shall remain confidential and shall
23 not be disclosed, except as provided pursuant to K.S.A. 74-2012, and
24 amendments thereto. If the applicant does not have a social security num-
25 ber, the applicant shall provide proof of lawful presence and Kansas res-
26 idency. The division shall assign a distinguishing number to the identifi-
27 cation card. Before issuing an identification card to a person, the division
28 shall make reasonable efforts to verify with the issuing agency the issu-
29 ance, validity and completeness of each document required to be pre-
30 sented by the applicant to prove age, identity and lawful presence.

31 (c) The division shall not issue an identification card to any person
32 who fails to provide proof that the person is lawfully present in the United
33 States. If an applicant provides evidence of lawful presence as set out in
34 subsections (b)(2)(E) through (2)(I) of K.S.A. 8-240, and amendments
35 thereto, or is an alien lawfully admitted for temporary residence under
36 subsection (b)(2)(B) of K.S.A. 8-240, and amendments thereto, the divi-
37 sion may only issue a temporary identification card to the person under
38 the following conditions: (A) A temporary identification card issued pur-
39 suant to this subparagraph shall be valid only during the period of time
40 of the applicant’s authorized stay in the United States or, if there is no
41 definite end to the period of authorized stay, a period of one year; (B) a
42 temporary identification card issued pursuant to this subparagraph shall
43 clearly indicate that it is temporary and shall state the date upon which

1 it expires; (C) no temporary identification card issued pursuant to this
2 subparagraph shall be for a longer period of time than the time period
3 permitted by K.S.A. 8-1325, and amendments thereto; and (D) a tem-
4 porary identification card issued pursuant to this subparagraph may be
5 renewed, subject at the time of renewal, to the same requirements and
6 conditions set forth in this subsection (c) for the issuance of the original
7 temporary identification card.

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

12 (e) The division shall refuse to issue an identification card to a person
13 holding a driver's license or identification card issued by another state
14 without confirmation that the person is terminating or has terminated the
15 license or identification card.

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

18 (g) The division shall require payment of a fee of \$14 at the time
19 application for an identification card is made, except that persons who
20 are 65 or more years of age or who are handicapped, as defined in K.S.A.
21 8-1,124, and amendments thereto, shall be required to pay a fee of only
22 \$10. In addition to the fees prescribed by this subsection, the division
23 shall require payment of the photo fee established pursuant to K.S.A. 8-
24 243, and amendments thereto, for the cost of the photograph to be placed
25 on the identification card.

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

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

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

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

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

43 (l) Upon payment of the required fee, the division shall issue to every

1 applicant qualifying under the provisions of this act an identification card.
2 Such identification card shall bear a distinguishing number assigned to
3 the cardholder, the full legal name, date of birth, address of principal
4 residence, a brief description of the cardholder, a colored digital photo-
5 graph of the cardholder, and a facsimile of the signature of the cardholder.
6 An identification card which does not contain the address of principal
7 residence of the cardholder as required may be issued to persons who
8 are program participants pursuant to K.S.A. 2009 Supp. 75-455, and
9 amendments thereto.

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

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

24 Sec. 10. K.S.A. 2009 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 3, 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 2009 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. 11. K.S.A. 2009 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. 2009 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 3, 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. 2009 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. 12. If any provisions of this act or the application thereof
19 to any person or circumstances is held invalid, the invalidity shall not
20 affect other provisions or applications of the act which can be given effect
21 without the invalid provisions or application, and to this end the provisions
22 of this act are severable.

23 Sec. 13. K.S.A. 2009 Supp. 8-240, 8-1324, 76-731a, 79-32,120 and
24 79-32,138 are hereby repealed.

25 Sec. 14. This act shall take effect and be in force from and after its
26 publication in the statute book.