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MEMORANDUM

To: Chairperson Thompson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: March 6, 2025

Subject: SB 196 – Requiring the use of e-verify by employers to verify employment authorization of employees and prohibiting income tax deductions for wages paid to unauthorized aliens.

Senate Bill No. 196 (SB 196) creates new law requiring all employers in the state to register with and use the federal e-verify program to verify the employment authorization of employees hired after July 1, 2025. E-verify is a federal program that allows employers to submit the information of a potential employee and verify that such person is lawfully present in the United States and authorized to work. Section 1 of the bill provides the relevant definitions of “business entity,” “employee,” and “unauthorized alien.”

Section 2 of SB 196 makes it unlawful to employ an unauthorized alien, contract with an unauthorized alien for work, or contract with another person who employs or uses unauthorized aliens for work. Complaints alleging violations of the statute can be submitted to the Attorney General, who is required to develop and implement a standardized complaint form, or the appropriate county or district attorney. An investigation must be conducted upon receipt of a complaint. If the investigating attorney decides to bring a court action for violation of the statute, then the United States Immigration and Customs Enforcement must be notified.

If a court determines that a business entity has violation Section 2, the court must order the business entity to file an affidavit within three days attesting that it has terminated the employment of all unauthorized aliens and will now knowingly employ unauthorized aliens in the future. Failure to file the affidavit will result in further sanctions by the court. On a first offense, the court must order the suspension of the business entity’s licenses for up to 30 days. On a second offense, the court must order the suspension of the business entity’s licenses for up

to one year. On a third offense, the court must order the permanent suspension of the business entity's licenses and the revocation of the organizing documents filed with the Secretary of State's Office.

A business entity will have a rebuttable presumption of not violating Section 2 if the business enrolls in uses e-verify to verify the employment authorization of its employees and has complied with federal law in verifying the employment authorization of its employees.

Section 3 of SB 196 requires all private and public employers to enroll in and use e-verify to verify the employment authorization of all new employees hired on or after July 1, 2025. Violation of this requirement can result in the suspension of the business entity's licenses for up to one year. Each public employer must also verify that any contractor providing services to the public employer uses e-verify as well.

Sections 4 and 5 of SB 196 prohibit a business entity from taking an income tax deduction for wages paid to employees who are unauthorized aliens. Section 4 requires each business entity to submit an affidavit to the Secretary of Revenue regarding use of e-verify by the entity and any independent contractors used by the entity. Section 5 amends K./S.A. 79-32,117 to provide for an adjustment to a taxpayer's federal adjusted gross income for wages paid to unauthorized aliens that were claimed as deductions for federal income tax purposes.

If enacted, SB 196 would become effective on July 1, 2025.