STATE OF KANSAS

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HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **HB 2638**, as amended by House Committee, on page 27, following line 16, by inserting:

"Sec. 5.   K.S.A. 2011 Supp. 44-766 is hereby amended to read as follows: 44-766.   (a) No person shall knowingly and intentionally misclassify an employee as an independent contractor for the sole or primary purpose of avoiding either state income tax withholding and reporting requirements or state unemployment insurance contributions reporting requirements.

(b) (1) Any person violating subsection (a) shall upon first violation be subject to a civil penalty in an amount computed in the manner prescribed in K.S.A. 79-3228, and amendments thereto.

(2)   Any person violating subsection (a) upon a second or subsequent violation shall be subject to a civil penalty computed as prescribed in paragraph (1) and in addition, upon conviction, shall be guilty of a class C nonperson misdemeanor severity level 10, nonperson felony.

(3)   Any person violating subsection (a) upon a third or subsequent violation shall be subject to a civil penalty computed as prescribed in paragraph (1) and in addition, upon conviction, shall be guilty of a class A nonperson misdemeanor.

(c)   Criminal violations of subsection (a) may be prosecuted by the attorney general or the district or county attorney for the county in which the violation occurred.

(d)   Any civil penalty assessed hereunder shall be remitted to the secretary and deposited in the state treasury.

(e)   Any penalty provided in this section shall be in addition to any other penalty and remedy that may otherwise be imposed under the employment security act and such remedies shall be

cumulative.

    (f)   This section shall be part of and supplemental to the employment security law.";

Also on page 27, in line 17, by striking "and 44-714" and inserting ", 44-714 and 44-766";

And by renumbering sections accordingly;

On page 1, in the title, in line 3, following the second semicolon by inserting "pertaining to penalties for misclassification of employees;"; in line 4, by striking "and 44-714"; and inserting ", 44-714 and 44-766"

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_____District.