

STATE OF KANSAS

HOUSE OF REPRESENTATIVES

MR. CHAIRMAN:

I move to amend **SB 438**, as amended by House Committee, on page 1, after line 5, by inserting:

"New Section 1. (a) On and after January 1, 2013, all state agencies, departments, boards and commissions who are an employer shall enroll and actively participate in e-verify for verification of employment status of all employees whose employment commences after January 1, 2013.

(b) (1) On and after January 1, 2013, no state agency, department, board or commission shall award either a public works or a purchase contract for goods or services having a value of at least \$50,000 to a bidder, contractor or employer unless such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify.

(2) On and after January 1, 2013, no bidder, contractor or employer shall be eligible to bid for or receive either a public works contract or a purchase contract having a value of at least \$50,000 from any state agency, department, board or commission unless such bidder, contractor or employer certifies that such bidder, contractor or employer verifies the employment eligibility of the employees of such bidder, contractor or employer through e-verify.

(3) Each such bidder, contractor or employer who bids on or receives a contract referenced in either paragraph (1) or (2) shall be responsible for ensuring that any subcontractor used by the bidder, contractor or employer in the performance of the public works contract or a purchase contract having a value of at least \$50,000 certifies the employment eligibility of the employees of such subcontractor through e-verify.

(4) Certification required by this subsection shall be in the form of an affidavit filed by the bidder, contractor or employer with the state agency, department, board or commission that offers or

awards the public works contract or a purchase contract having a value of at least \$50,000.

(c) Any bidder, contractor or employer who is found by the secretary to have violated this section shall be prohibited from being awarded, bidding on or otherwise attempting to obtain a public works or purchase contract for a period of two years commencing on the date of the secretary's final determination that such bidder, contractor or employer violated this section.

(d) Any person who believes a bidder, contractor or employer has violated any provision of this section may file a complaint with the secretary. Such complaint shall be in writing and signed by the individual filing the complaint. The secretary shall review and may investigate any such complaints. If, after an investigation, the secretary determines that a violation of this section has occurred, the secretary shall notify the bidder, contractor or employer who has been found to be in violation of this section that such bidder, contractor or employer has been found to be in violation of this section and shall be placed on the list of bidders, contractors and employers prohibited from being awarded public works or purchase contracts. Such bidder, contractor or employer shall be given an opportunity for a hearing in accordance with the Kansas administrative procedures act.

(e) The secretary shall create and maintain a list of all bidders, contractors and employers found by the secretary to be in violation of this section. Such bidders, contractors and employers shall remain on such list for the duration of the two-year period set forth in subsection (c). At the expiration of such two-year period, the bidder, contractor or employer shall be removed from the list. The secretary shall make the list readily available to municipalities in this state in such form and manner as prescribed by the secretary.

(f) The requirement for certain businesses to participate in e-verify shall not apply if the federal government:

- (1) Discontinues e-verify; or
- (2) fails to authorize e-verify.

(g) Nothing in this section shall be construed to require a bidder, contractor or employer to

take any action that the bidder, contractor or employer believes in good faith would violate federal or state law.

(h) The secretary is hereby authorized to and shall adopt rules and regulations necessary to implement and administer the provisions of this section. Such rules and regulations shall be adopted on or before January 1, 2013.

(i) As used in this section, unless the context otherwise requires:

(1) "Employee" means any person who performs employment services for an employer pursuant to an employment relationship between the employee and the employer.

(2) "Employer" means any individual or type of organization that transacts business in this state and that employs one or more individuals who perform employment services in this state.

(3) "E-verify" means an electronic system as jointly administered by the United States department of homeland security and the social security administration or its successor program, pursuant to 8 U.S.C. § 1324a, which is used to verify the employment authorization of employees.

(4) "Secretary" means the secretary of labor.

(j) This section shall be known and may be cited as the Kansas employer e-verify accountability act.";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 1, after "concerning" by inserting employment; pertaining to"; in line 2, after the semicolon by inserting "pertaining to the use of e-verify by certain employers;"

_____ District.