

Journal of the Senate

FIFTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Wednesday, March 21, 2001—2:30 p.m.

The Senate was called to order by Vice-President Sandy Praeger.
The roll was called with forty senators present.

Vice-President Praeger introduced as guest chaplain, Rev. Jerry Quiring, Susanna Wesley Methodist Church, Topeka, Kansas, who delivered the invocation:

Gracious God, how good it is to stop for this moment to relax our bodies, to remember who and whose we are, and to renew our spirits, our minds, and our attitudes. In our personal lives, our family lives, and here in the Senate, it is our attitudes that can:

Make us or break us
Heal us or hurt us
Make us friends or make us enemies
Wind us up or set us at ease
Make us miserable or make us happy
Point us to failure or steer us to success

Scriptures remind us that "as we think in our hearts, so we are." Let us think wholesome thoughts and allow you, O God, to put a right spirit within each of us. It is for that spirit we pray today. Amen.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following resolution was introduced and read by title:

SENATE CONCURRENT RESOLUTION No. 1611—

By Committee on Federal and State Affairs

A CONCURRENT RESOLUTION expressing the Legislature's opposition to amendments to the Indian Gaming Regulatory Act which eliminate the Governor's right to concur in acquisitions of land for gaming purposes.

WHEREAS, In 1995, the State of Kansas entered into a tribal-state gaming compact with each of the resident tribes of the state, namely the Iowa Tribe of Kansas and Nebraska, the Kickapoo Tribe in Kansas, the Prairie Band Potawatomi Nation of Kansas and the Sac and Fox Nation of Missouri in Kansas and Missouri; and

WHEREAS, The four resident tribes each currently operate a tribal gaming casino under tribal-state gaming compacts; and

WHEREAS, The Wyandotte Tribe of Oklahoma, a nonresident tribe seeks to construct and operate a gaming casino in downtown Kansas City, Kansas, on land which is adjacent to the Huron Cemetery; and

WHEREAS, The Wyandotte Tribe of Oklahoma claims that the Huron Cemetery is a reservation; and

WHEREAS, The Governor of the State of Kansas has expressed opposition to the establishment of casino gaming by nonresident tribes; and

WHEREAS, Litigation has been filed to stop the construction and operation of a casino by the Wyandotte Tribe of Oklahoma; and

WHEREAS, The Tenth Circuit Court of Appeals rendered a decision on February 27, 2001, finding that the Huron Cemetery is not a reservation and requested a review by the Department of Interior on the trust status of land purchased by the Wyandotte Tribe of Oklahoma; and

WHEREAS, House Resolution No. 291, introduced in the United States House of Representatives on January 30, 2001, would authorize gaming without the Governor's prior approval on land to be purchased by the Wyandotte Tribe of Oklahoma; and

WHEREAS, The amendment proposed in House Resolution No. 291 would eliminate the right of the Governor of the State of Kansas under the Indian Gaming Regulatory Act to concur in acquisition of land for gaming purposes within the State of Kansas; and

WHEREAS, The Governor of the State of Kansas recently wrote to the Kansas Republican Congressional Delegation expressing his opposition to the legislation: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the Legislature of the State of Kansas joins with the Governor of the State of Kansas in expressing its opposition to House Resolution No. 291 or any similar legislation which would nullify the legal rights of the State of Kansas preserved by the Indian Gaming Regulatory Act and the interpretation of such act by the decision of the Tenth Circuit Court of Appeals; and

Be it further resolved: That the Secretary of State be directed to provide an enrolled copy of this resolution to the Honorable: Secretary of State Colin L. Powell; President pro tempore of the United States Senate, Senator Strom Thurmond; Speaker of the United States House of Representatives, Representative J. Dennis Hastert; Chairperson of the Senate Committee on Indian Affairs, Senator Ben Nighthorse Campbell; Chairperson of the House Committee on Resources, Representative James V. Hansen; and to each member of the Kansas Congressional Delegation, Senator Sam Brownback, Senator Pat Roberts, Representative Todd Tiaht, Representative Jerry Moran, Representative Jim Ryun and Representative Dennis Moore.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills and resolution were referred to Committees as indicated:

Education: **HB 2408**.

Federal and State Affairs: **SB 358**.

Utilities: **SR 1828**.

MESSAGE FROM THE HOUSE

Announcing passage of **Substitute HB 2489; HB 2493**.

Also, passage of **SB 11**, as amended, **SB 53**, as amended, **SB 115**, as amended.

The House nonconcur in Senate amendments to **HB 2068**, requests a conference and has appointed Representatives Ray, Campbell and Gilbert as conferees on the part of the House.

INTRODUCTION OF HOUSE BILLS AND CONCURRENT RESOLUTIONS

Substitute HB 2489; HB 2493 were thereupon introduced and read by title.

ORIGINAL MOTION

On motion of Senator Allen, the Senate acceded to the request of the House for a conference on **HB 2068**.

The Vice-President appointed Senators Allen, O'Connor and Gilstrap as conferees on the part of the Senate.

INTRODUCTION OF ORIGINAL MOTIONS AND SENATE RESOLUTIONS

Senators Haley and Teichman introduced the following Senate resolution, which was read:

SENATE RESOLUTION No. 1829—

A RESOLUTION in memory of Oscar Micheaux.

WHEREAS, On March 24-25, 2001, the Great Bend community is sponsoring the golden anniversary memorial celebration of Oscar Micheaux, noted pioneer African-American film maker and author who died March 25, 1951, and is buried in the Great Bend cemetery; and

WHEREAS, Oscar Micheaux is highly deserving of this belated recognition:

- He was the first African-American to produce a feature film (1919);
- He was the first African-American to produce a talking feature film (1931);
- He was the first African-American to produce a film that opened in white theaters (1948);
- He has a star on Hollywood's "Walk of Fame";
- He produced 43 feature films in his lifetime;
- He wrote seven novels, one of which was a best seller; and

WHEREAS, Oscar Micheaux was born in 1884 near Metropolis, Illinois, the middle child of 11 children born to freed slaves. He worked as a shoe shine boy and Pullman porter before homesteading a farm in South Dakota. While on the farm he started writing novels. To sell his novels he formed his own publishing company and sold his books door-to-door. He became interested in the developing silent film industry and formed his own company to produce his own autobiographical novel "The Homesteader" into a movie in 1919. He wrote, produced and directed 43 movies in his life—27 silent films and 16 sound features. His last film "The Betrayal" was released in 1948. Oscar Micheaux died of a heart attack at the age of 67 while on a trip to the South to promote his work.

WHEREAS, Several of Oscar Micheaux's exoduster relatives homesteaded in Stafford County and his parents moved to Great Bend in 1901. Oscar Micheaux considered Great Bend his adopted hometown, and his younger siblings all attended Great Bend schools, including his youngest brother Swan Micheaux (1896-1975) who served as Secretary-Treasurer of the Micheaux Book and Film Company: Now, therefore,

Be it resolved by the Senate of the State of Kansas: That we honor the memory of this pioneer film maker and author and urge participation in his golden anniversary memorial celebration; and

Be it further resolved: That the Secretary of the Senate be directed to send an enrolled copy of this resolution to the Black Filmmaker's Hall of Fame, 1322 Webster St., Suite 400, Oakland, California 94612; The Kansas African American Museum, 601 N. Water, Wichita, Kansas 67203; Kevin Willmott, 705 Fox Chase Court, Lawrence, Kansas 66049; Harley Robinson, Jr., 6069 So. Vermont Avenue, Los Angeles, California 90044-3747; Pearl Bowser, African Diaspora Images, 71 Joralemon, Brooklyn, New York 11201, Martin J. Keenan, Keenan Law Firm, P.A., 2200 Larkin, P.O. Drawer 459, Great Bend, Kansas 67530 and six copies to Senator Haley.

On emergency motion of Senator Haley **SR 1829** was adopted unanimously.

Introduced as guests were cousins, Theresa Carter, Charlotte Perry, Anthony Robinson and Donald Robinson; Marion Cott, Kansas Humanities Council; and Martin Keenan, who worked with the Barton County Arts Council in recognizing Oscar Micheaux.

REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **HB 2316**, as amended by House Committee, be amended on page 2, after line 21, by inserting the following:

"Sec. 2. K.S.A. 2000 Supp. 65-171d is hereby amended to read as follows: 65-171d. (a) For the purpose of preventing surface and subsurface water pollution and soil pollution detrimental to public health or to the plant, animal and aquatic life of the state, and to protect beneficial uses of the waters of the state and to require the treatment of sewage predicated upon technologically based effluent limitations, the secretary of health and environment shall make such rules and regulations, including registration of potential sources of pollution, as may in the secretary's judgment be necessary to: (1) Protect the soil and waters of the state from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas; (2) control the disposal, discharge or escape of sewage

as defined in K.S.A. 65-164 and amendments thereto, by or from municipalities, corporations, companies, institutions, state agencies, federal agencies or individuals and any plants, works or facilities owned or operated, or both, by them; and (3) establish water quality standards for the waters of the state to protect their ~~beneficial~~ *designated* uses. *In no event shall the secretary's authority be interpreted to include authority over the beneficial use of water, water quantity allocations, protection against water use impairment of a beneficial use, or any other function or authority under the jurisdiction of the Kansas water appropriation act, K.S.A. 82a-701, and amendments thereto.*

(b) The secretary of health and environment may adopt by reference any regulation relating to water quality and effluent standards promulgated by the federal government pursuant to the provisions of the federal clean water act and amendments thereto, as in effect on January 1, 1989, which the secretary is otherwise authorized by law to adopt.

(c) For the purposes of this act, including K.S.A. 65-161 through 65-171h and K.S.A. 2000 Supp. 65-1,178 through 65-1,198, and amendments thereto, and rules and regulations adopted pursuant thereto:

(1) "Pollution" means: (A) Such contamination or other alteration of the physical, chemical or biological properties of any waters of the state as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to public health, safety or welfare, or to the plant, animal or aquatic life of the state or to other designated ~~beneficial~~ uses; or (B) such discharge as will or is likely to exceed state effluent standards predicated upon technologically based effluent limitations.

(2) "Confined feeding facility" means any lot, pen, pool or pond: (A) Which is used for the confined feeding of animals or fowl for food, fur or pleasure purposes; (B) which is not normally used for raising crops; and (C) in which no vegetation intended for animal food is growing.

(3) "Animal unit" means a unit of measurement calculated by adding the following numbers: The number of beef cattle weighing more than 700 pounds multiplied by 1.0; plus the number of cattle weighing less than 700 pounds multiplied by 0.5; plus the number of mature dairy cattle multiplied by 1.4; plus the number of swine weighing more than 55 pounds multiplied by 0.4; plus the number of swine weighing 55 pounds or less multiplied by 0.1; plus the number of sheep or lambs multiplied by 0.1; plus the number of horses multiplied by 2.0; plus the number of turkeys multiplied by 0.018; plus the number of laying hens or broilers, if the facility has continuous overflow watering, multiplied by 0.01; plus the number of laying hens or broilers, if the facility has a liquid manure system, multiplied by 0.033; plus the number of ducks multiplied by 0.2. However, each head of cattle will be counted as one full animal unit for the purpose of determining the need for a federal permit. Animal unit" also includes the number of swine weighing 55 pounds or less multiplied by 0.1 for the purpose of determining applicable requirements for new construction of a confined feeding facility for which a permit or registration has not been issued before January 1, 1998, and for which an application for a permit or registration and plans have not been filed with the secretary of health and environment before January 1, 1998, or for the purpose of determining applicable requirements for expansion of such facility. However, each head of swine weighing 55 pounds or less shall be counted as 0.0 animal unit for the purpose of determining the need for a federal permit.

(4) "Animal unit capacity" means the maximum number of animal units which a confined feeding facility is designed to accommodate at any one time.

(5) "Habitable structure" means any of the following structures which is occupied or maintained in a condition which may be occupied and which, in the case of a confined feeding facility for swine, is owned by a person other than the operator of such facility: A dwelling, church, school, adult care home, medical care facility, child care facility, library, community center, public building, office building or licensed food service or lodging establishment.

(6) "Wildlife refuge" means Cheyenne Bottoms wildlife management area, Cheyenne Bottoms preserve and Flint Hills, Quivera, Marais des Cygnes and Kirwin national wildlife refuges.

(d) In adopting rules and regulations, the secretary of health and environment, taking into account the varying conditions that are probable for each source of sewage and its

possible place of disposal, discharge or escape, may provide for varying the control measures required in each case to those the secretary finds to be necessary to prevent pollution. If a freshwater reservoir or farm pond is privately owned and where complete ownership of land bordering the reservoir or pond is under common private ownership, such freshwater reservoir or farm pond shall be exempt from water quality standards except as it relates to water discharge or seepage from the reservoir or pond to waters of the state, either surface or groundwater, or as it relates to the public health of persons using the reservoir or pond or waters therefrom.

(e) (1) Whenever the secretary of health and environment or the secretary's duly authorized agents find that the soil or waters of the state are not being protected from pollution resulting from underground storage reservoirs of hydrocarbons and liquid petroleum gas or that storage or disposal of salt water not regulated by the state corporation commission or refuse in any surface pond is causing or is likely to cause pollution of soil or waters of the state, the secretary or the secretary's duly authorized agents shall issue an order prohibiting such underground storage reservoir or surface pond. Any person aggrieved by such order may within 15 days of service of the order request in writing a hearing on the order.

(2) Upon receipt of a timely request, a hearing shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(3) Any action of the secretary pursuant to this subsection is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(f) The secretary may adopt rules and regulations establishing fees for the following services:

(1) Plan approval, monitoring and inspecting underground or buried petroleum products storage tanks, for which the annual fee shall not exceed \$5 for each tank in place;

(2) permitting, monitoring and inspecting salt solution mining operators, for which the annual fee shall not exceed \$1,950 per company; and

(3) permitting, monitoring and inspecting hydrocarbon storage wells and well systems, for which the annual fee shall not exceed \$1,875 per company.

(g) Prior to any new construction of a confined feeding facility with an animal unit capacity of 300 to 999, such facility shall register with the secretary of health and environment. Facilities with a capacity of less than 300 animal units may register with the secretary. Any such registration shall be accompanied by a \$25 fee. Within 30 days of receipt of such registration, the department of health and environment shall identify any significant water pollution potential or separation distance violations pursuant to subsection (h). If there is identified a significant water pollution potential, such facility shall be required to obtain a permit from the secretary. If there is no water pollution potential posed by a facility with an animal unit capacity of less than 300, the secretary may certify that no permit is required. If there is no water pollution potential nor any violation of separation distances posed by a facility with an animal unit capacity of 300 to 999, the secretary shall certify that no permit is required and that there are no certification conditions pertaining to separation distances. If a separation distance violation is identified, the secretary may reduce the separation distance in accordance with subsection (i) and shall certify any such reduction of separation distances.

(h) (1) Any new construction or new expansion of a confined feeding facility, other than a confined feeding facility for swine, shall meet or exceed the following requirements in separation distances from any habitable structure in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999; and

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 or more.

(2) A confined feeding facility for swine shall meet or exceed the following requirements in separation distances from any habitable structure or city, county, state or federal park in existence when the application for a permit is submitted:

(A) 1,320 feet for facilities with an animal unit capacity of 300 to 999;

(B) 4,000 feet for facilities with an animal unit capacity of 1,000 to 3,724;

(C) 4,000 feet for expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion is within the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility; and

(D) 5,000 feet for: (i) Construction of new facilities with an animal unit capacity of 3,725 or more; or (ii) expansion of existing facilities to an animal unit capacity of 3,725 or more if such expansion extends outside the perimeter from which separation distances are determined pursuant to subsection (k) for the existing facility.

(3) Any construction of new confined feeding facilities for swine shall meet or exceed the following requirements in separation distances from any wildlife refuge:

(A) 10,000 feet for facilities with an animal unit capacity of 1,000 to 3,724; and

(B) 16,000 feet for facilities with an animal unit capacity of 3,725 or more.

(i) (1) The separation distance requirements of subsections (h)(1) and (2) shall not apply if the applicant for a permit obtains a written agreement from all owners of habitable structures which are within the separation distance stating such owners are aware of the construction or expansion and have no objections to such construction or expansion. The written agreement shall be filed in the register of deeds office of the county in which the habitable structure is located.

(2) (A) The secretary may reduce the separation distance requirements of subsection (h)(1) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to public notice; or (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances.

(B) The secretary may reduce the separation distance requirements of subsection (h)(2)(A) or (B) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); (ii) the board of county commissioners of the county where the confined feeding facility is located submits a written request seeking a reduction of separation distances; or (iii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(C) The secretary may reduce the separation distance requirements of subsection (h)(2)(C) or (D) if: (i) No substantial objection from owners of habitable structures within the separation distance is received in response to notice given in accordance with subsection (l); or (ii) the secretary determines that technology exists that meets or exceeds the effect of the required separation distance and the facility will be using such technology.

(j) (1) The separation distances required pursuant to subsection (h)(1) shall not apply to:

(A) Confined feeding facilities which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility, including any expansion for which an application was pending on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(2) The separation distances required pursuant to subsections (h)(2)(A) and (B) shall not apply to:

(A) Confined feeding facilities for swine which were permitted or certified by the secretary on July 1, 1994;

(B) confined feeding facilities for swine which existed on July 1, 1994, and registered with the secretary before July 1, 1996; or

(C) expansion of a confined feeding facility which existed on July 1, 1994, if: (i) In the case of a facility with an animal unit capacity of 1,000 or more prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure prior to the expansion; or (ii) in the case of a facility with an animal unit capacity of less than 1,000 prior to July 1, 1994, the expansion is located at a distance not less than the distance between the facility and the nearest habitable structure

prior to the expansion and the animal unit capacity of the facility after expansion does not exceed 2,000.

(3) The separation distances required pursuant to subsections (h)(2)(C) and (D) and (h)(3) shall not apply to the following, as determined in accordance with subsections (a), (e) and (f) of K.S.A. 2000 Supp. 65-1,178 and amendments thereto:

(A) Expansion of an existing confined feeding facility for swine if an application for such expansion has been received by the department before March 1, 1998; and

(B) construction of a new confined feeding facility for swine if an application for such facility has been received by the department before March 1, 1998.

(k) The separation distances required by this section for confined feeding facilities for swine shall be determined from the exterior perimeter of any buildings utilized for housing swine, any lots containing swine, any swine waste retention lagoons or ponds or other manure or wastewater storage structures and any additional areas designated by the applicant for future expansion. Such separation distances shall not apply to offices, dwellings and feed production facilities of a confined feeding facility for swine.

(l) The applicant shall give the notice required by subsections (j)(2)(B) and (C) by certified mail, return receipt requested, to all owners of habitable structures within the separation distance. The applicant shall submit to the department evidence, satisfactory to the department, that such notice has been given.

(m) All plans and specifications submitted to the department for new construction or new expansion of confined feeding facilities may be, but are not required to be, prepared by a professional engineer or a consultant, as approved by the department. Before approval by the department, any consultant preparing such plans and specifications shall submit to the department evidence, satisfactory to the department, of adequate general commercial liability insurance coverage.

New Sec. 3. The following terms when used in this act shall have the limitations and meanings respectively ascribed to them in this section:

(a) "Agricultural groundwater user" means a groundwater user that uses water for growing crops, raising livestock or other uses associated with a farming operation.

(b) "Aquifer" means any geological formation capable of yielding water in sufficient quantities that it can be extracted for beneficial purposes.

(c) "Board" means the board of directors constituting the governing body of the equus beds groundwater management district.

(d) "Chief engineer" means the chief engineer of the division of water resources of the Kansas state board of agriculture.

(e) "District" means the equus beds groundwater management district, organized as groundwater management district no. 2 in 1976 under the provisions of K.S.A. 82a-1020 et seq., and amendments thereto, as such district is shown by the records of the state of Kansas on the effective date of this act and as the area may be increased or decreased from time to time.

(f) "Eligible voter" means any person who is a landowner or a water user as defined in this act except as hereafter qualified. Every natural person of the age of 18 years or upward shall be an eligible voter of the district if (1) such natural person is a landowner who owns, of record, any land, or any interest in land, comprising 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) such natural person withdraws or uses groundwater from within the boundaries of the district in an amount of one acre-foot or more per year.

Except as is hereafter qualified, every public or private corporation shall be an eligible voter of the district either (1) if it is a landowner who owns of record any land, or any interest in land, comprised of 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) if it is a corporation that withdraws groundwater from within the district in an amount of one acre-foot or more per year.

Each tract of land of 40 or more contiguous acres and each quantity of water withdrawn or used in an amount of one acre-foot or more per year shall be represented by but a single eligible voter. If the land is held by lease, under an estate for years, under contract, or otherwise, the fee owner shall be the one entitled to vote, unless the parties in interest agree

otherwise. If the land is held jointly or in common, the majority in interest shall determine which natural person or corporation shall be entitled to vote. Each qualified voter shall be entitled to cast only one vote. A person duly authorized to act in a representative capacity for estates, trusts, municipalities, public corporations or private corporations may also cast one vote for each estate, trust, municipality, or public or private corporations so represented. Nothing herein shall be construed to authorize proxy voting.

Any landowner who is not a water user may have the landowner's land excluded from any district assessments and thereby abandon the landowner's right to vote on district matters by serving a written notice of election of exclusion with the steering committee or the board. Such a landowner may again become an eligible voter by becoming a water user or by serving a written notice of inclusion on the board stating that the landowner has elected to be reinstated as a voting member of the district and will be subject to district assessments.

Any eligible voter who is a landowner or water user as defined in this act, and also is the owner of a tract or tracts of land comprising not less than 640 acres in area, located within the boundaries of the district, on which no water is being used or from which no water is being withdrawn, may have such tract or tracts of land on or from which no water is used or withdrawn, excluded from district assessment in the manner described above.

All notices of inclusion or exclusion of land shall be submitted to the board not later than January 1 of the effective year.

(g) "Groundwater" means water below the surface of the earth.

(h) "Groundwater user" means any person who is withdrawing or using groundwater from a point of diversion within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a groundwater user within the district, it shall represent all persons within its corporate limits who are not groundwater users.

(i) "Industrial groundwater user" means a groundwater user utilizing water in connection with the manufacture, production, transport, mining or storage of products, or the use of water in connection with providing commercial services, including water used in connection with the generation or production of energy and thermal exchange.

(j) "Land" means real property as that term is defined by the laws of the state of Kansas.

(k) "Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements or mortgages shall not be considered landowners by reason of such ownership.

(l) "Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.

(m) "Municipal groundwater user" means a groundwater user operating a common water delivery system for an incorporated city.

(n) "Person" means any natural person, private corporation, or municipality, or other public corporation.

(o) "Point of diversion" means the point at which water is diverted from a groundwater supply source.

(p) "Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and any acts amendatory thereof or supplemental thereto.

(q) "Water user" means any person who is withdrawing or using groundwater from within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.

New Sec. 4. (a) The district shall enjoy separate statutory authority pursuant to this act.

(b) No action attacking the legality of the incorporation of the district shall be maintained unless commenced within 90 days after the effective date of this act and any alleged illegality of the incorporation of the district shall not be interposed as a defense to any action brought after that time.

New Sec. 5. (a) The board shall hold an annual meeting for the election of directors whose terms expire, to report on the financial condition and activities of the district and to adopt a proposed budget covering the anticipated expenses of the district for the ensuing year.

(b) The date of the annual meeting may be changed at any annual meeting if notice of the proposition is included in the notice of the annual meeting at which the changes are to be considered.

(c) A notice of the meeting shall be given by the board at least 10 days prior to the meeting date by one publication in a newspaper of general circulation in each of the counties of which the groundwater management district is a part.

(d) Each eligible voter of the district shall be entitled to vote for as many candidates as the number of directors that are to be elected but may not cast more than one vote for any one candidate.

(e) The candidates receiving the greatest number of votes cast for industrial groundwater user, municipal groundwater user, agricultural groundwater user or other eligible voters shall respectively be declared elected.

New Sec. 6. (a) All powers granted to the district under the provisions of this act shall be exercised by an elected board of directors which shall be composed of nine natural persons. Each director shall be an eligible voter and shall serve for a period of three years and until a successor is duly elected and qualified. The directors shall serve without compensation but shall be allowed actual and necessary expenses incurred in the performance of their official duties.

(b) The board, after being duly elected, shall elect annually from its number a president, a vice-president, a secretary, and a treasurer.

(c) A majority of the directors shall constitute a quorum for the transaction of business and a majority of those voting shall determine all actions taken by the board. In the absence of any of the duly elected officers, those directors present at any meeting may select a director to act as an officer pro tem.

(d) The board shall fill any vacancy occurring on the board prior to the expiration of the term of any director by selecting a replacement having the same qualifications from among the eligible voters of the district to serve for the unexpired term.

(e) The board shall consist of natural persons representative of industrial groundwater users, agricultural groundwater users, municipal groundwater users and other eligible voters as follows:

- (1) A minimum of three board members shall be municipal groundwater users;
- (2) a minimum of three board members shall be agricultural groundwater users;
- (3) a minimum of one board member shall be an industrial groundwater user; and
- (4) all remaining board members shall be eligible voters.

(f) The board shall also serve terms that assure that no more than $\frac{1}{3}$ of the board will be elected in any annual meeting.

(g) The board shall adopt a standard and policy that provides for elections of the members of the board consistent with the provisions of this act.

New Sec. 7. The district shall be a body politic and corporate and shall have the power to:

- (a) Adopt a seal;
- (b) sue and be sued in its corporate name;
- (c) rent space, maintain and equip an office, and pay other administrative expenses;
- (d) employ such legal, engineering, technical, and clerical services as may be deemed necessary by the board;

(e) purchase, hold, sell and convey land, water rights and personal property, and execute such contracts as may, in the opinion of the board, be deemed necessary or convenient;

(f) acquire land and interests in land by gift, exchange or eminent domain, the power of eminent domain to be exercised within the boundaries of the district in like manner as provided by K.S.A. 26-501 to 26-516, and amendments thereto, except that any land holdings acquired pursuant hereto or in accordance with the provisions of the next preceding subsection shall not in the aggregate exceed 1,000 acres. In any case where a district has land

holdings in excess of the described limitation, the district shall dispose of such excess in a reasonable and expeditious manner;

(g) construct, operate and maintain such works as may be determined necessary for drainage, recharge, storage, distribution or importation of water, and all other appropriate facilities of concern to the district;

(h) levy water user charges and land assessments, issue general and special bonds and incur indebtedness within the limitations prescribed by this act;

(i) contract with persons, firms, associations, partnerships, corporations or agencies of the state or federal government, and enter into cooperative agreements with any of them;

(j) take appropriate actions to extend or reduce the territories of the district as prescribed by this act;

(k) construct and establish research, development, and demonstration projects, and collect and disseminate research data and technical information concerning the conservation of groundwater;

(l) install or require the installation of meters, gauges, or other measuring devices and read or require water users to read and report those readings as may be necessary to determine the quantity of water withdrawn;

(m) provide advice and assistance in the management of drainage problems, storage, groundwater recharge, surface water management, and all other appropriate matters of concern to the district;

(n) adopt, amend, promulgate, and enforce by suitable action, administrative or otherwise, reasonable standards and policies relating to the conservation and management of groundwater within the district which are not inconsistent with the provisions of this act or article 7 of chapter 82a of the Kansas Statutes Annotated, and all acts amendatory thereof or supplemental thereto;

(o) recommend to the chief engineer rules and regulations necessary to implement and enforce the policies of the board. Such rules and regulations shall be of no force and effect unless and until adopted by the chief engineer to implement the provisions of article 7 of chapter 82a of the Kansas Statutes Annotated, and all acts amendatory thereof or supplemental thereto. All such regulations adopted shall be effective only within a specified district;

(p) enter upon private property within the district for inspection purposes, to determine conformance of the use of water with established rules and regulations, including measurements of flow, depth of water, water wastage and for such other purposes as are necessary and not inconsistent with the purposes of this act;

(q) select a residence or home office for the groundwater management district which shall be at a place in a county in which the district or any part thereof is located and may be either within or without the boundaries of the district. The board shall designate the county in which the residence or home office is located as the official county for the filing of all official acts and assessments;

(r) seek and accept grants or other financial assistance that the federal government and other public or private sources shall make available and to utilize the same to carry out the purposes and functions of the district; and

(s) recommend to the chief engineer the initiation of proceedings for the designation of a certain area within the district as an intensive groundwater use control area.

New Sec. 8. The board shall prepare a management program. Upon completion of the management program the board shall transmit a copy to the chief engineer with a request for the chief engineer's approval. The chief engineer shall examine and study the management program and, if the chief engineer finds that it is compatible with article 7 of chapter 82a of the Kansas Statutes Annotated, and amendments thereto, and any other state laws or policies, the chief engineer shall approve it and notify the board of the chief engineer's action. When the management program is approved by the chief engineer, the board shall fix a time and place either within or conveniently near the district for a public hearing upon the management program. A notice of the hearing shall be given by one publication in a newspaper or newspapers of general circulation within the district, at least 28 days prior to the date fixed for the hearing, setting forth the time and place of the hearing. The notice shall state that a copy of the management program is available for public inspection in the office of the secretary of the district. Any person desiring to be heard in the matter must

file, in duplicate, with the board at its office at least five days before the date of the hearing a written statement of the person's intent to appear at the hearing and the substance of the testimony the person wishes to present. Upon receipt of any such statements, the board shall immediately transmit one copy of the statements to the chief engineer. The chief engineer or the chief engineer's duly appointed representative shall attend the hearing. At the hearing any person who has duly filed a written statement shall be heard and may present information in support of the person's position in the matter. After hearing and considering all relevant testimony and information, the board by resolution shall adopt, modify or reject the management program. The board shall then notify the chief engineer of its action. If it is determined that the management program should be modified, any proposed changes approved by the board shall be incorporated in a modified management program which shall be submitted to the chief engineer for further consideration. The chief engineer shall review the modified management program and shall transmit a supplemental written report of the results of the chief engineer's study and investigation to the board, including the chief engineer's written approval or disapproval of the modified management program. If the modified management program is approved by the chief engineer, the board shall by resolution adopt it as the official management program of the district and notify the chief engineer of its action. The board shall periodically and at least once each year review the officially adopted management program. Following that review, the board shall either reaffirm adoption of the management program or propose that it be revised. If it is proposed that the management program be revised, the board shall follow the same procedure towards adoption of a revised management program as is prescribed above for the preparation, approval and adoption of the original management program.

New Sec. 9. (a) In order to finance the operations of the district, the board may assess an annual water user charge against every person who withdraws groundwater from within the boundaries of the district. The board shall base such charge upon the amount of groundwater allocated for such person's use pursuant to such person's water right. Such charge shall not exceed \$1.19 for each acre-foot (325,851 gallons) of groundwater withdrawn within the district or allocated by the water right. Whenever a person shows by the submission to the board of a verified claim and any supportive data which may be required by the board that the person's actual annual groundwater withdrawal is in a lesser amount than that allocated by the water right of such person, the board shall assess such annual charge against such person on the amount of water shown to be withdrawn by the verified claim. Any such claim shall be submitted by April 1 of the year in which such annual charge is to be assessed. The board may also make an annual assessment against each landowner of not to exceed \$.05 for each acre of land owned within the boundaries of the district. Special assessments may also be levied, as provided hereafter, against land specially benefitted by a capital improvement without regard to the limits prescribed above.

(b) Before any assessment is made, or user charge imposed, the board shall submit the proposed budget for the ensuing year to the eligible voters of the district at a hearing called for that purpose by one publication in a newspaper or newspapers of general circulation within the district at least 28 days prior to the meeting. Following the hearing, the board shall, by resolution, adopt either the proposed budget or a modified budget and determine the amount of land assessment or user charge, or both, needed to support such budget.

(c) Both the user charges assessed for groundwater withdrawn and the assessments against lands within the district shall be certified to the proper county clerks and collected the same as other taxes in accordance with K.S.A. 79-1801, and amendments thereto, and the amount thereof shall attach to the real property involved as a lien in accordance with K.S.A. 79-1804, and amendments thereto. All moneys so collected shall be remitted by the county treasurer to the treasurer of the groundwater management district who shall deposit them to the credit of the general fund of the district. The accounts of the district shall be audited annually by a public accountant or certified public accountant.

(d) The board shall be authorized to issue no-fund warrants in amounts sufficient to meet the operating expenses of the district until money therefor becomes available pursuant to user charges or assessments under subsection (a). In no case shall the amount of any such issuance be in excess of 20% of the total amount of money receivable from assessments which could be levied in any one year as provided in subsection (a). No such warrants shall

be issued until a resolution authorizing the issuance has been adopted by the board and published once in a newspaper having a general circulation in each county within the boundaries of the district. Whereupon such warrants may be issued unless a petition in opposition to the same, signed by not less than 10% of the eligible voters of such district and in no case by less than 20 of the eligible voters of such district, is filed with the county clerk of each of the counties in such district within 10 days following such publication. In the event such a petition is filed, it shall be the duty of the board of such district to submit the question to the eligible voters at an election called for such purpose. Such election shall be noticed and conducted as provided by subsection (a) of section 10, and amendments thereto.

Whenever no-fund warrants are issued under the authority of this subsection, the board shall make an assessment each year for three years in approximately equal installments for the purpose of paying such warrants and the interest thereon. All such assessments shall be in addition to all other assessments authorized or limited by law. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by said statute and may be issued without the approval of the state board of tax appeals. Any surplus existing after the redemption of such warrants shall be handled in the manner prescribed by K.S.A. 79-2940, and amendments thereto.

New Sec. 10. (a) If the board by resolution provides that all or any part of the capital cost of works of improvement within the district is to be paid by the issuance of general improvement bonds of the entire district, it shall be the duty of the board to submit the question of approval of the bond issue to the eligible voters of the district. Notice of the time, place and purpose for which the election is to be held shall be given by one publication in a newspaper or newspapers of general distribution within the district at least 28 days prior to the date fixed for the election. Except as hereinbefore provided, the election shall be held and conducted by the board in the manner prescribed by K.S.A. 82a-1025, and amendments thereto, for conducting and holding the election for the organization of a groundwater management district.

(b) If the board by resolution provides that all or any part of the capital cost of works of improvement is to be paid by the issuance of improvement bonds to be funded by special assessment against the lands specially benefited by a project, the board shall proceed to determine the particular lands within the district upon which special assessments are to be levied and it shall be the duty of the board to submit the question of approval of the bond issue to an election of the owners of those lands. Notice of the time and place and the purpose for which the election is to be held shall be given by one publication in a newspaper or newspapers of general circulation within the district at least 28 days prior to the date of the election. Except as hereinbefore provided, the election shall be held and conducted in the manner prescribed in subsection (a) of this section. If it is proposed to issue improvement bonds to be paid partially by the entire district and partially by lands specially benefited, it shall be the duty of the board of directors to submit each question for approval separately.

New Sec. 11. If a resolution of the board provides that all or any part of the cost of the works contemplated is to be paid by special assessment against lands specially benefited by a project, the board shall appoint three disinterested appraisers who shall recommend apportionment of the special assessment to the tracts of land subject to the special assessment. The appraisers shall have access to all available engineering reports and data pertaining to the works contemplated and may request additional engineering data or counsel necessary to carry out their duties. The appraisers shall take an oath to appraise fairly and impartially the benefits accruing to each tract of land and shall recommend the apportionment of assessment according to the relative benefits to be received by the several tracts of land subject to assessment. They shall make a written report of their findings to the board. Upon receiving the report, the board shall prepare a resolution which shall contain a list of the tracts of land found to be specially benefited and the amount of assessment to be levied against each tract. No assessment so specified against any tract of land shall exceed the estimated benefits to the land by the project. Each tract of land shall be legally described and the name of its owner or owners shall be set forth beside the description of each tract listed. After adopting the resolution, the board shall fix a time and place for hearing any complaint that may be made as to the estimated benefit to any tract of land appraised and

a notice of the hearing shall be given by the board by one publication in a newspaper or newspapers of general circulation within the district at least 10 days prior to the date set for the hearing. The board at the hearing may alter the estimated benefit to any tract of land if, in its judgment, the benefit has been appraised too high or too low. The board shall immediately thereafter pass a resolution fixing the benefit to be assigned to each tract of land and providing for the benefit assessment thereof, which sum may be spread equally over a period of not to exceed 20 years. The board shall immediately thereafter mail a written notice of the assessment to the owner or owners of each tract of land. The notice shall state that if the assessment is not paid in full within 30 days from the date of notice, bonds will be issued and an assessment will be levied annually against the tract of land for a period of not to exceed 20 years in an amount sufficient to pay the total assessment plus the interest due on the bonds. No action to set aside the assessment shall be maintained unless commenced within 90 days from the date of the notice. The amount assessed against each tract of ground to pay for the special assessment bonds falling due each year and the interest thereon shall be levied, certified to the proper county clerk, and collected the same as other taxes.

New Sec. 12. (a) The chief engineer shall have the power, upon proper petition being presented by the board for that purpose, to extend or reduce the territory of the district. The petition to extend or reduce the territory of the district shall be addressed to the chief engineer and shall:

(1) Describe the territory to be annexed or removed by township, range and section numbers and fraction thereof and other platted areas as appropriate.

(2) Have a map attached thereto as an exhibit, and incorporated therein by reference, showing the district and the lands proposed to be annexed or removed.

(3) Show that the proposed extension or reduction of territory has been recommended by the district by resolution duly adopted by the board.

(b) The chief engineer shall fix a time for a hearing upon the petition and the district shall give notice thereof for three consecutive weeks in a newspaper or newspapers of general circulation within the district, the first publication to be at least 28 days before the day fixed for the hearing. The notice shall state the name and general location of the district and describe the lands proposed to be annexed or removed. It shall state that a hearing will be held on whether the petition of the district should be approved. It shall state the day, hour and place of the hearing, which shall be at a suitable location, and that all persons may appear before the chief engineer at the hearing and be heard.

(c) After the hearing the chief engineer shall approve such petition if the chief engineer finds that:

(1) The lands proposed to be included in the district substantially comprise a hydrologic community of interest.

(2) The proposed area would not include any of the lands of an existing groundwater management district.

(3) The proposed area to be included or part thereof overlies an aquifer or aquifers subject to management.

(4) The map attached to the petition is substantially correct.

(5) The proposed area and existing and prospective uses of groundwater within the proposed area and the existing district are sufficient to support a groundwater management program.

(6) The public interest will be served by the annexation or reduction of the district.

(d) The chief engineer shall fix the time when the annexation or reduction of territory shall become effective. A certified copy of the chief engineer's order approving the petition shall be sent to the board of directors and to the secretary of state. The board of directors shall file a copy of the order for record in the office of the register of deeds of each county in which the district, as modified, or any part thereof lies.

New Sec. 13. (a) Whenever the board finds reasons for the dissolution of the district, the board may, by resolution adopted by a $\frac{2}{3}$ vote of all members of the board at a special meeting of the board called for that purpose, notice of which shall specify the purpose for which the meeting is to be called, provide for the calling of an election of the eligible voters of the district for the purpose of determining whether the district shall be dissolved. The

board shall also provide for the calling of an election if written petitions therefor, signed by 20% of the eligible voters of the district, are filed with the secretary of the board. The election to determine whether the district shall be dissolved shall be held and conducted by the board in the same manner as provided for conducting the election for the organization of the district insofar as those provisions can be made applicable. If a majority of the votes cast are in favor of dissolution of the district, the board shall immediately certify the results of the election to the secretary of state who shall thereupon issue and deliver to the secretary of the board a certificate of dissolution.

(b) Upon receipt from the secretary of state of the certificate of dissolution of the district, the secretary of the board shall notify the board of the certification and the board shall immediately pay all obligations of the district, including all costs incurred by the district, the chief engineer and the secretary of state in regard to the dissolution proceedings. The treasurer of the board shall thereupon distribute all moneys in the treasurer's hands belonging to the district in the manner prescribed by this act and immediately after making the distribution the treasurer shall notify the secretary of the board of the distribution. Upon receipt of the notification the secretary of the board shall have the certificate of dissolution published once in a newspaper or newspapers of general circulation within the district and proof of the publication shall be filed in the office of the secretary of state. The effective date of the dissolution, unless otherwise provided, shall be the date on which the proof of publication is filed in the office of the secretary of state, but in no event shall the date of dissolution be a date prior to the date of the publication of the certificate of dissolution. A certified copy of the certificate of dissolution of the district shall also be recorded in the office of the county clerk of each county where any portion of the district was located.

(c) Any funds or other assets of the district shall be apportioned and paid to the general fund of any county located within or partially within the district in the proportion which the assessed valuation of the property in the district located within the county bears to the total assessed valuation of the district, based on equalized assessed valuations for the preceding year. The treasurer of the district, upon notification of receipt of the certificate of dissolution, shall immediately pay the amounts due each county located within the district to the treasurer of the county.

(d) The secretary of the board of the district shall file all minutes and records of the district with the register of deeds of the county where the designated office of the district was located.

New Sec. 14. Whenever the district recommends the same or whenever a petition signed by not less than 300 or by not less than 5% of the eligible voters of the district, whichever is less, is submitted to the chief engineer, the chief engineer shall initiate, as soon as practicable thereafter, proceedings for the designation of a specifically defined area within the district as an intensive groundwater use control area. The petition shall state that the petitioners have reason to believe that any one or more of the following conditions exist in such groundwater use area: (a) Groundwater levels in the area in question are declining or have declined excessively; (b) the rate of withdrawal of groundwater within the area in question equals or exceeds the rate of recharge in such area; (c) preventable waste of water is occurring or may occur within the area in question; (d) unreasonable deterioration of the quality of water is occurring or may occur within the area in question; or (e) other conditions exist within the area in question which require regulation in the public interest.

New Sec. 15. In any case where proceedings for the designation of an intensive groundwater use control area within the district are initiated, the chief engineer shall hold and conduct a public hearing on the question of designating such an area as an intensive groundwater use control area. Written notice of the hearing shall be given to every person holding a water right in the area in question and notice of the hearing shall be given by one publication in a newspaper or newspapers of general circulation within the area in question at least 30 days prior to the date set for such hearing. The notice shall state the question and shall denote the time and place of the hearing. At the hearing, documentary and oral evidence shall be taken, and a full and complete record of the same shall be kept.

New Sec. 16. (a) In any case where the chief engineer finds that any one or more of the circumstances set forth in section 14, and amendments thereto, exist and that the public interest requires that any one or more corrective controls be adopted, the chief engineer

shall designate, by order, the area in question, or any part thereof, as an intensive groundwater use control area.

(b) The order of the chief engineer shall define specifically the boundaries of the intensive groundwater use control area and shall indicate the circumstances upon which the findings of the chief engineer are made. The order of the chief engineer may include any one or more of the following corrective control provisions: (1) A provision closing the intensive groundwater use control area to any further appropriation of groundwater in which event the chief engineer shall thereafter refuse to accept any application for a permit to appropriate groundwater located within such area; (2) a provision determining the permissible total withdrawal of groundwater in the intensive groundwater use control area each day, month or year, and, insofar as may be reasonably done, the chief engineer shall apportion such permissible total withdrawal among the valid groundwater right holders in such area in accordance with the relative dates of priority of such rights; (3) a provision reducing the permissible withdrawal of groundwater by any one or more appropriators thereof, or by wells in the intensive groundwater use control area; (4) a provision requiring and specifying a system of rotation of groundwater use in the intensive groundwater use control area; and (5) any one or more other provisions making such additional requirements as are necessary to protect the public interest.

(c) Except as provided by subsection (d), the order of designation of an intensive groundwater use control area shall be in full force and effect from the date of its entry in the records of the chief engineer's office unless and until its operation shall be stayed by an appeal from an order entered on review of the chief engineer's order pursuant to K.S.A. 2000 Supp. 82a-1901, and amendments thereto, in accordance with the provisions of the act for judicial review and civil enforcement of agency actions. The chief engineer upon request shall deliver a copy of such order to any interested person who is affected by such order, and shall file a copy of the same with the register of deeds of any county within which such designated control area lies.

(d) If the holder of a groundwater right within the area designated as an intensive groundwater use control area applies for review of the order of designation pursuant to K.S.A. 2000 Supp. 82a-1901, and amendments thereto, the provisions of the order with respect to the inclusion of the holder's right within the area may be stayed in accordance with the Kansas administrative procedure act.

New Sec. 17. Nothing in this act shall be construed as limiting or affecting any duty or power of the chief engineer granted pursuant to the Kansas water appropriation act.

Sec. 18. K.S.A. 2000 Supp. 79-201a is hereby amended to read as follows: 79-201a. The following described property, to the extent herein specified, shall be exempt from all property or ad valorem taxes levied under the laws of the state of Kansas:

First. All property belonging exclusively to the United States, except property which congress has expressly declared to be subject to state and local taxation.

Second. All property used exclusively by the state or any municipality or political subdivision of the state. All property owned, being acquired pursuant to a lease-purchase agreement or operated by the state or any municipality or political subdivision of the state, including property which is vacant or lying dormant, which is used or is to be used for any governmental or proprietary function and for which bonds may be issued or taxes levied to finance the same, shall be considered to be used exclusively by the state, municipality or political subdivision for the purposes of this section. The lease by a municipality or political subdivision of the state of any real property owned or being acquired pursuant to a lease-purchase agreement for the purpose of providing office space necessary for the performance of medical services by a person licensed to practice medicine and surgery or osteopathic medicine by the board of healing arts pursuant to K.S.A. 65-2801 *et seq.*, and amendments thereto, dentistry services by a person licensed by the Kansas dental board pursuant to K.S.A. 65-1401 *et seq.*, and amendments thereto, optometry services by a person licensed by the board of examiners in optometry pursuant to K.S.A. 65-1501 *et seq.*, and amendments thereto, or K.S.A. 74-1501 *et seq.*, and amendments thereto, podiatry services by a person licensed by the board of healing arts pursuant to K.S.A. 65-2001 *et seq.*, and amendments thereto, or the practice of psychology by a person licensed by the behavioral sciences regulatory board pursuant to K.S.A. 74-5301 *et seq.*, and amendments thereto, shall be con-

strued to be a governmental function, and such property actually and regularly used for such purpose shall be deemed to be used exclusively for the purposes of this paragraph. The lease by a municipality or political subdivision of the state of any real property, or portion thereof, owned or being acquired pursuant to a lease-purchase agreement to any entity for the exclusive use by it for an exempt purpose, including the purpose of displaying or exhibiting personal property by a museum or historical society, if no portion of the lease payments include compensation for return on the investment in such leased property shall be deemed to be used exclusively for the purposes of this paragraph. All property leased, other than property being acquired pursuant to a lease-purchase agreement, to the state or any municipality or political subdivision of the state by any private entity shall not be considered to be used exclusively by the state or any municipality or political subdivision of the state for the purposes of this section except that the provisions of this sentence shall not apply to any such property subject to lease on the effective date of this act until the term of such lease expires but property taxes levied upon any such property prior to tax year 1989, shall not be abated or refunded. Any property constructed or purchased with the proceeds of industrial revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-1740 to 12-1749, or purchased with proceeds of improvement district bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-2776, or with proceeds of bonds issued prior to July 1, 1963, as authorized by K.S.A. 19-3815a and 19-3815b, or any property improved, purchased, constructed, reconstructed or repaired with the proceeds of revenue bonds issued prior to July 1, 1963, as authorized by K.S.A. 13-1238 to 13-1245, inclusive, or any property improved, reimproved, reconstructed or repaired with the proceeds of revenue bonds issued after July 1, 1963, under the authority of K.S.A. 13-1238 to 13-1245, inclusive, which had previously been improved, reconstructed or repaired with the proceeds of revenue bonds issued under such act on or before July 1, 1963, shall be exempt from taxation for so long as any of the revenue bonds issued to finance such construction, reconstruction, improvement, repair or purchase shall be outstanding and unpaid. Any property constructed or purchased with the proceeds of any revenue bonds authorized by K.S.A. 13-1238 to 13-1245, inclusive, 19-2776, 19-3815a and 19-3815b, and amendments thereto, issued on or after July 1, 1963, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Any property, all or any portion of which is constructed or purchased with the proceeds of revenue bonds authorized by K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, issued on or after July 1, 1963 and prior to July 1, 1981, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased wholly with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation only for a period of 10 calendar years after the calendar year in which the bonds were issued. Except as hereinafter provided, any property constructed or purchased in part with the proceeds of revenue bonds issued on or after July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, shall be exempt from taxation to the extent of the value of that portion of the property financed by the revenue bonds and only for a period of 10 calendar years after the calendar year in which the bonds were issued. The exemption of that portion of the property constructed or purchased with the proceeds of revenue bonds shall terminate upon the failure to pay all taxes levied on that portion of the property which is not exempt and the entire property shall be subject to sale in the manner prescribed by K.S.A. 79-2301 *et seq.*, and amendments thereto. Property constructed or purchased in whole or in part with the proceeds of revenue bonds issued on or after January 1, 1995, under the authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments thereto, and used in any retail enterprise identified under the standard industrial classification codes, major groups 52 through 59, inclusive, except facilities used exclusively to house the headquarters or back office operations of such retail enterprises identified thereunder, shall not be exempt from taxation. For the purposes of the preceding provision "standard industrial classification code" means a standard industrial classification code published in the Standard Industrial Classification manual, 1987, as prepared by the statistical policy division of the office of management and budget of the office of the president of the United States. "Headquarters

or back office operations" means a facility from which the enterprise is provided direction, management, administrative services, or distribution or warehousing functions in support of transactions made by the enterprise. Property purchased, constructed, reconstructed, equipped, maintained or repaired with the proceeds of industrial revenue bonds issued under the authority of K.S.A. 12-1740 *et seq.*, and amendments thereto, which is located in a redevelopment project area established under the authority of K.S.A. 12-1770 *et seq.* shall not be exempt from taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto for any poultry confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation. Property purchased, acquired, constructed, reconstructed, improved, equipped, furnished, repaired, enlarged or remodeled with all or any part of the proceeds of revenue bonds issued under the authority of K.S.A. 12-1740 to 12-1749a, inclusive, and amendments thereto, for a rabbit confinement facility on agricultural land which is owned, acquired, obtained or leased by a corporation, as such terms are defined by K.S.A. 17-5903 and amendments thereto, shall not be exempt from such taxation.

Third. All works, machinery and fixtures used exclusively by any rural water district or township water district for conveying or production of potable water in such rural water district or township water district, and all works, machinery and fixtures used exclusively by any entity which performed the functions of a rural water district on and after January 1, 1990, and the works, machinery and equipment of which were exempted hereunder on March 13, 1995.

Fourth. All fire engines and other implements used for the extinguishment of fires, with the buildings used exclusively for the safekeeping thereof, and for the meeting of fire companies, whether belonging to any rural fire district, township fire district, town, city or village, or to any fire company organized therein or therefor.

Fifth. All property, real and personal, owned by county fair associations organized and operating under the provisions of K.S.A. 2-125 *et seq.* and amendments thereto.

Sixth. Property acquired and held by any municipality under the municipal housing law (K.S.A. 17-2337 *et seq.*) and amendments thereto, except that such exemption shall not apply to any portion of the project used by a nondwelling facility for profit making enterprise.

Seventh. All property of a municipality, acquired or held under and for the purposes of the urban renewal law (K.S.A. 17-4742 *et seq.*) and amendments thereto except that such tax exemption shall terminate when the municipality sells, leases or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

Eighth. All property acquired and held by the Kansas armory board for armory purposes under the provisions of K.S.A. 48-317, and amendments thereto.

Ninth. All property acquired and used by the Kansas turnpike authority under the authority of K.S.A. 68-2001 *et seq.*, and amendments thereto, K.S.A. 68-2030 *et seq.*, and amendments thereto, K.S.A. 68-2051 *et seq.*, and amendments thereto, and K.S.A. 68-2070 *et seq.*, and amendments thereto.

Tenth. All property acquired and used for state park purposes by the Kansas department of wildlife and parks.

Eleventh. The state office building constructed under authority of K.S.A. 75-3607 *et seq.*, and amendments thereto, and the site upon which such building is located.

Twelfth. All buildings erected under the authority of K.S.A. 76-6a01 *et seq.*, and amendments thereto, and all other student union buildings and student dormitories erected upon the campus of any institution mentioned in K.S.A. 76-6a01, and amendments thereto, by any other nonprofit corporation.

Thirteenth. All buildings, as the same is defined in subsection (c) of K.S.A. 76-6a13, and amendments thereto, which are erected, constructed or acquired under the authority of K.S.A. 76-6a13 *et seq.*, and amendments thereto, and building sites acquired therefor.

Fourteenth. All that portion of the waterworks plant and system of the city of Kansas City, Missouri, now or hereafter located within the territory of the state of Kansas pursuant to

the compact and agreement adopted by chapter 304 of the 1921 Session Laws of the state of Kansas. [See K.S.A. 79-205.]

Fifteenth. All property, real and personal, owned by a groundwater management district organized and operating pursuant to K.S.A. 82a-1020, and amendments thereto, or by a groundwater management district operating pursuant to sections 3 through 17, and amendments thereto.

Sixteenth. All property, real and personal, owned by the joint water district organized and operating pursuant to K.S.A. 80-1616 *et seq.*, and amendments thereto.

Seventeenth. All property, including interests less than fee ownership, acquired for the state of Kansas by the secretary of transportation or a predecessor in interest which is used in the administration, construction, maintenance or operation of the state system of highways, regardless of how or when acquired.

Eighteenth. Any building used primarily as an industrial training center for academic or vocational education programs designed for and operated under contract with private industry, and located upon a site owned, leased or being acquired by or for an area vocational school, an area vocational-technical school, a technical college, or a community college, as defined by K.S.A. 72-4412, and amendments thereto, and the site upon which any such building is located.

Nineteenth. For all taxable years commencing after December 31, 1997, all buildings of an area vocational school, an area vocational-technical school, a technical college or a community college, as defined by K.S.A. 72-4412, and amendments thereto, which are owned and operated by any such school or college as a student union or dormitory, and the site upon which any such building is located.

Except as otherwise specifically provided, the provisions of this section shall apply to all taxable years commencing after December 31, 1998.

Sec. 19. K.S.A. 2000 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 65-3424d, and amendments thereto, and dry-cleaning and laundry services taxed pursuant to K.S.A. 2000 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract

for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without

the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 *et seq.* and amendments thereto, *or by a groundwater management district operating pursuant to sections 3 through 17, and amendments thereto*, which property or services are used in the operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to

K.S.A. 79-201b *Second* through *Sixth*. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof.

This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 *et seq.*, and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) (1) (A) all sales of machinery and equipment which are used in this state as an integral or essential part of an integrated production operation by a manufacturing or processing plant or facility;

(B) all sales of installation, repair and maintenance services performed on such machinery and equipment; and

(C) all sales of repair and replacement parts and accessories purchased for such machinery and equipment.

(2) For purposes of this subsection:

(A) "Integrated production operation" means an integrated series of operations engaged in at a manufacturing or processing plant or facility to process, transform or convert tangible personal property by physical, chemical or other means into a different form, composition or character from that in which it originally existed. Integrated production operations shall include: (i) Production line operations, including packaging operations; (ii) preproduction operations to handle, store and treat raw materials; (iii) post production handling, storage, warehousing and distribution operations; and (iv) waste, pollution and environmental control operations, if any;

(B) "production line" means the assemblage of machinery and equipment at a manufacturing or processing plant or facility where the actual transformation or processing of tangible personal property occurs;

(C) "manufacturing or processing plant or facility" means a single, fixed location owned or controlled by a manufacturing or processing business that consists of one or more structures or buildings in a contiguous area where integrated production operations are conducted to manufacture or process tangible personal property to be ultimately sold at retail. Such term shall not include any facility primarily operated for the purpose of conveying or assisting in the conveyance of natural gas, electricity, oil or water. A business may operate one or more manufacturing or processing plants or facilities at different locations to manufacture or process a single product of tangible personal property to be ultimately sold at retail;

(D) "manufacturing or processing business" means a business that utilizes an integrated production operation to manufacture, process, fabricate, finish, or assemble items for wholesale and retail distribution as part of what is commonly regarded by the general public as an industrial manufacturing or processing operation or an agricultural commodity processing operation. (i) Industrial manufacturing or processing operations include, by way of illustration but not of limitation, the fabrication of automobiles, airplanes, machinery or transportation equipment, the fabrication of metal, plastic, wood, or paper products, electricity power generation, water treatment, petroleum refining, chemical production, wholesale bottling, newspaper printing, ready mixed concrete production, and the remanufacturing of used parts for wholesale or retail sale. Such processing operations shall include operations at an oil well, gas well, mine or other excavation site where the oil, gas, minerals, coal, clay, stone, sand or gravel that has been extracted from the earth is cleaned, separated, crushed, ground, milled, screened, washed, or otherwise treated or prepared before its transmission to a refinery or before any other wholesale or retail distribution. (ii) Agricultural commodity processing operations include, by way of illustration but not of limitation, meat packing, poultry slaughtering and dressing, processing and packaging farm and dairy products in

sealed containers for wholesale and retail distribution, feed grinding, grain milling, frozen food processing, and grain handling, cleaning, blending, fumigation, drying and aeration operations engaged in by grain elevators or other grain storage facilities. (iii) Manufacturing or processing businesses do not include, by way of illustration but not of limitation, nonindustrial businesses whose operations are primarily retail and that produce or process tangible personal property as an incidental part of conducting the retail business, such as retailers who bake, cook or prepare food products in the regular course of their retail trade, grocery stores, meat lockers and meat markets that butcher or dress livestock or poultry in the regular course of their retail trade, contractors who alter, service, repair or improve real property, and retail businesses that clean, service or refurbish and repair tangible personal property for its owner;

(E) "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including, but not limited to, dies, jigs, molds, patterns and safety devices that are attached to exempt machinery or that are otherwise used in production, and parts and accessories that require periodic replacement such as belts, drill bits, grinding wheels, grinding balls, cutting bars, saws, refractory brick and other refractory items for exempt kiln equipment used in production operations;

(F) "primary" or "primarily" mean more than 50% of the time.

(3) For purposes of this subsection, machinery and equipment shall be deemed to be used as an integral or essential part of an integrated production operation when used:

(A) To receive, transport, convey, handle, treat or store raw materials in preparation of its placement on the production line;

(B) to transport, convey, handle or store the property undergoing manufacturing or processing at any point from the beginning of the production line through any warehousing or distribution operation of the final product that occurs at the plant or facility;

(C) to act upon, effect, promote or otherwise facilitate a physical change to the property undergoing manufacturing or processing;

(D) to guide, control or direct the movement of property undergoing manufacturing or processing;

(E) to test or measure raw materials, the property undergoing manufacturing or processing or the finished product, as a necessary part of the manufacturer's integrated production operations;

(F) to plan, manage, control or record the receipt and flow of inventories of raw materials, consumables and component parts, the flow of the property undergoing manufacturing or processing and the management of inventories of the finished product;

(G) to produce energy for, lubricate, control the operating of or otherwise enable the functioning of other production machinery and equipment and the continuation of production operations;

(H) to package the property being manufactured or processed in a container or wrapping in which such property is normally sold or transported;

(I) to transmit or transport electricity, coke, gas, water, steam or similar substances used in production operations from the point of generation, if produced by the manufacturer or processor at the plant site, to that manufacturer's production operation; or, if purchased or delivered from offsite, from the point where the substance enters the site of the plant or facility to that manufacturer's production operations;

(J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil, solvents or other substances that are used in production operations;

(K) to provide and control an environment required to maintain certain levels of air quality, humidity or temperature in special and limited areas of the plant or facility, where such regulation of temperature or humidity is part of and essential to the production process;

(L) to treat, transport or store waste or other byproducts of production operations at the plant or facility; or

(M) to control pollution at the plant or facility where the pollution is produced by the manufacturing or processing operation.

(4) The following machinery, equipment and materials shall be deemed to be exempt even though it may not otherwise qualify as machinery and equipment used as an integral or essential part of an integrated production operation: (A) Computers and related periph-

eral equipment that are utilized by a manufacturing or processing business for engineering of the finished product or for research and development or product design; (B) machinery and equipment that is utilized by a manufacturing or processing business to manufacture or rebuild tangible personal property that is used in manufacturing or processing operations, including tools, dies, molds, forms and other parts of qualifying machinery and equipment; (C) portable plants for aggregate concrete, bulk cement and asphalt including cement mixing drums to be attached to a motor vehicle; (D) industrial fixtures, devices, support facilities and special foundations necessary for manufacturing and production operations, and materials and other tangible personal property sold for the purpose of fabricating such fixtures, devices, facilities and foundations. An exemption certificate for such purchases shall be signed by the manufacturer or processor. If the fabricator purchases such material, the fabricator shall also sign the exemption certificate; and (E) a manufacturing or processing business' laboratory equipment that is not located at the plant or facility, but that would otherwise qualify for exemption under subsection (3)(E).

(5) "Machinery and equipment used as an integral or essential part of an integrated production operation" shall not include:

(A) Machinery and equipment used for nonproduction purposes, including, but not limited to, machinery and equipment used for plant security, fire prevention, first aid, accounting, administration, record keeping, advertising, marketing, sales or other related activities, plant cleaning, plant communications, and employee work scheduling;

(B) machinery, equipment and tools used primarily in maintaining and repairing any type of machinery and equipment or the building and plant;

(C) transportation, transmission and distribution equipment not primarily used in a production, warehousing or material handling operation at the plant or facility, including the means of conveyance of natural gas, electricity, oil or water, and equipment related thereto, located outside the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not used directly and primarily to control or measure the manufacturing process;

(E) furniture and other furnishings;

(F) buildings, other than exempt machinery and equipment that is permanently affixed to or becomes a physical part of the building, and any other part of real estate that is not otherwise exempt;

(G) building fixtures that are not integral to the manufacturing operation, such as utility systems for heating, ventilation, air conditioning, communications, plumbing or electrical;

(H) machinery and equipment used for general plant heating, cooling and lighting;

(I) motor vehicles that are registered for operation on public highways; or

(J) employee apparel, except safety and protective apparel that is purchased by an employer and furnished gratuitously to employees who are involved in production or research activities.

(6) Subsections (3) and (5) shall not be construed as exclusive listings of the machinery and equipment that qualify or do not qualify as an integral or essential part of an integrated production operation. When machinery or equipment is used as an integral or essential part of production operations part of the time and for nonproduction purpose at other times, the primary use of the machinery or equipment shall determine whether or not such machinery or equipment qualifies for exemption.

(7) The secretary of revenue shall adopt rules and regulations necessary to administer the provisions of this subsection;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes, and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease; and

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers;

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization;

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the provisions of this section if purchased

directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code, and used exclusively for religious purposes, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization which would be exempt from taxation under the provisions of this section if purchased directly by such organization. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such organization. When any such organization shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such organization concerned a sworn statement, on a form to be provided by the director of taxation, that all

purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such organization concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto. Sales tax paid on and after July 1, 1998, but prior to the effective date of this act upon the gross receipts received from any sale exempted by the amendatory provisions of this subsection shall be refunded. Each claim for a sales tax refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof;

(ccc) on and after July 1, 1999, all sales of tangible personal property and services purchased by a primary care clinic or health center the primary purpose of which is to provide services to medically underserved individuals and families, and which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center which would be exempt from taxation under the provisions of this section if purchased directly by such clinic or center. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any such clinic or center. When any such clinic or center shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to such clinic or center concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, such clinic or center concerned

shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(ddd) on and after January 1, 1999, and before January 1, 2000, all sales of materials and services purchased by any class II or III railroad as classified by the federal surface transportation board for the construction, renovation, repair or replacement of class II or III railroad track and facilities used directly in interstate commerce. In the event any such track or facility for which materials and services were purchased sales tax exempt is not operational for five years succeeding the allowance of such exemption, the total amount of sales tax which would have been payable except for the operation of this subsection shall be recouped in accordance with rules and regulations adopted for such purpose by the secretary of revenue;

(eee) on and after January 1, 1999, and before January 1, 2001, all sales of materials and services purchased for the original construction, reconstruction, repair or replacement of grain storage facilities, including railroad sidings providing access thereto;

(fff) all sales of material handling equipment, racking systems and other related machinery and equipment that is used for the handling, movement or storage of tangible personal property in a warehouse or distribution facility in this state; all sales of installation, repair and maintenance services performed on such machinery and equipment; and all sales of repair and replacement parts for such machinery and equipment. For purposes of this subsection, a warehouse or distribution facility means a single, fixed location that consists of buildings or structures in a contiguous area where storage or distribution operations are conducted that are separate and apart from the business' retail operations, if any, and which do not otherwise qualify for exemption as occurring at a manufacturing or processing plant or facility. Material handling and storage equipment shall include aeration, dust control, cleaning, handling and other such equipment that is used in a public grain warehouse or other commercial grain storage facility, whether used for grain handling, grain storage, grain refining or processing, or other grain treatment operation; and

(ggg) all sales of tangible personal property and services purchased by or on behalf of the Kansas Academy of Science which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, and used solely by such academy for the preparation, publication and dissemination of education materials.

Sec. 20. K.S.A. 82a-1021 is hereby amended to read as follows: 82a-1021. ~~The following terms when used in this act shall have the limitations and meanings respectively ascribed to them in this section. As used in this act:~~

(a) "Aquifer" means any geological formation capable of yielding water in sufficient quantities that it can be extracted for beneficial purposes.

(b) "Board" means the board of directors constituting the governing body of a groundwater management district.

(c) "Chief engineer" means the chief engineer of the division of water resources of the Kansas state board of agriculture.

(d) "District" means a contiguous area which overlies one or more aquifers, together with any area in between, which is organized for groundwater management purposes under this act and acts amendatory thereof or supplemental thereto. *"District" does not include a groundwater management district operating pursuant to sections 3 through 17, and amendments thereto.*

(e) "Eligible voter" means any person who is a landowner or a water user as defined in this act except as hereafter qualified. Every natural person ~~of the age of eighteen (18) years or upward 18 or more years of age~~ shall be an eligible voter of a district under this act if (1) ~~he or she~~ *such person* is a landowner who owns, of record, any land, or any interest in land, comprising ~~forty (40)~~ 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) ~~he or she~~ *such person*

withdraws or uses groundwater from within the boundaries of the district in an amount of one acre-foot or more per year.

Except as is hereafter qualified, every public or private corporation shall be an eligible voter of a district under this act either (1) if ~~it~~ *such corporation* is a landowner who owns of record any land, or any interest in land, comprised of ~~forty (40)~~ 40 or more contiguous acres located within the boundaries of the district and not within the corporate limits of any municipality, or (2) if ~~it~~ *such corporation* is a corporation that withdraws groundwater from within the district in an amount of one acre-foot or more per year.

Each tract of land of ~~forty (40)~~ 40 or more contiguous acres and each quantity of water withdrawn or used in an amount of one acre-foot or more per year shall be represented by but a single eligible voter. If the land is held by lease, under an estate for years, under contract, or otherwise, the fee owner shall be the one entitled to vote, unless the parties in interest agree otherwise. If the land is held jointly or in common, the majority in interest shall determine which natural person or corporation shall be entitled to vote. Each qualified voter shall be entitled to cast only one vote. A person duly authorized to act in a representative capacity for estates, trusts, municipalities, public corporations or private corporations may also cast one vote for each estate, trust, municipality, or public or private corporations so represented. Nothing herein shall be construed to authorize proxy voting.

Any landowner who is not a water user may have ~~his or her~~ *the landowner's* land excluded from any district assessments and thereby abandon his or her right to vote on district matters by serving a written notice of election of exclusion with the steering committee or the board. Such a landowner may again become an eligible voter by becoming a water user or by serving a written notice of inclusion on the board stating that ~~he or she~~ *such landowner* has elected to be reinstated as a voting member of the district and will be subject to district assessments.

Any eligible voter who is a landowner or water user as defined in this act, and also is the owner of a tract or tracts of land comprising not less than ~~six hundred forty (640)~~ 640 acres in area, located within the boundaries of the district, on which no water is being used or from which no water is being withdrawn, may have such tract or tracts of land on or from which no water is used or withdrawn, excluded from district assessment in the manner described above.

All notices of inclusion or exclusion of land shall be submitted to the board not later than January 1 of the effective year.

(f) "Land" means real property as that term is defined by the laws of the state of Kansas.

(g) "Landowner" means the person who is the record owner of any real estate within the boundaries of the district or who has an interest therein as contract purchaser of ~~forty (40)~~ 40 or more contiguous acres in the district not within the corporate limits of any municipality. Owners of oil leases, gas leases, mineral rights, easements, or mortgages shall not be considered landowners by reason of such ownership.

(h) "Management program" means a written report describing the characteristics of the district and the nature and methods of dealing with groundwater supply problems within the district. It shall include information as to the groundwater management program to be undertaken by the district and such maps, geological information, and other data as may be necessary for the formulation of such a program.

(i) "Person" means any natural person, private corporation, or municipality, or other public corporation.

(j) "Water right" shall have the meaning ascribed to that term in K.S.A. 82a-701, and ~~any acts amendatory thereof or supplemental amendments thereto.~~

(k) "Water user" means any person who is withdrawing or using groundwater from within the boundaries of the district in an amount not less than one acre-foot per year. If a municipality is a water user within the district, it shall represent all persons within its corporate limits who are not water users as defined above.

Sec. 21. K.S.A. 82a-1021 and K.S.A. 2000 Supp. 65-171d, 79-201a and 79-3606 are hereby repealed."

Re-number remaining section accordingly;

On page 1, in the title, in line 11, before the period by inserting "; relating to the equus beds groundwater management district no. 2; amending K.S.A. 82a-1021 and K.S.A. 2000

Supp. 65-171d, 79-201a and 79-3606 and repealing the existing sections"; and the bill be passed as amended.

Committee on **Assessment and Taxation** recommends **HB 2245**, **HB 2266**, both as amended by Senate Committee, be passed.

Committee on **Commerce** recommends **HB 2301** be amended on page 2, in line 1, by striking all after the stricken material; in line 2, by striking all before the first comma, and inserting "attendants, as defined in subsection (d) of K.S.A. 65-6112 and amendments thereto, drivers of ambulances as defined in subsection (b) of K.S.A. 65-6112";

On page 5, after line 18, by inserting new material as follows:

"(r) "Usual charge" means the amount most commonly charged by health care providers for the same or similar services.

(s) "Customary charge" means the usual rates or range of fees charged by health care providers in a given locale or area.";

On page 7, in line 7, by striking "A" and inserting "With the exception of the rules and regulations established for the payment of selected hospital inpatient services under the diagnosis related group prospective payment system, a"; in line 9, after "usual", by inserting "and customary"; also in line 9, by striking ", so long as reasonable,";

On page 10, by striking all in line 26; in line 27, by striking all before "or" and inserting "ambulance attendants and drivers as provided in subsection (b) of K.S.A. 44-508 and amendments thereto"; in line 31, after "of", by inserting "the dollar amount closest to, but not exceeding, 112.5% of"; and the bill be passed as amended.

Also **HB 2505**, as amended by House Committee, be amended on page 9, in line 29, before the period, by inserting "or the fair value of its assets plus any prior qualified and liquidating distributions which equal or exceed 110% of its certified capital. In addition, to the extent that marketable securities have been received in liquidation of a qualified venture capital investment, such securities may be distributed as liquidating distributions. Notwithstanding any other provisions of this act, cash liquidating distributions are permitted solely for the purpose of providing funds to investors to pay income taxes attributable to earnings of the CFC";

On page 10, in line 12, by striking "assets"; in line 13, by striking "of a CFC" and inserting "greater of: (A) The original certified capital investment in the CFC; or (B) the original certified capital investment plus the amount equal to the net gains, losses, income and expenses realized by the CFC at such time"; also in line 13, after "invested", by inserting "by a CFC"; and the bill be passed as amended.

Committee on **Elections and Local Government** recommends **HB 2161**, as amended by House Committee, be amended by substituting a new bill to be designated as "SENATE Substitute for HOUSE BILL No. 2161," as follows:

"SENATE Substitute for HOUSE BILL No. 2161

By Committee on Elections and Local Government

"AN ACT concerning governmental ethics; relating to gifts and hospitality; amending K.S.A. 46-229, 46-237, 46-237a, 46-269 and 46-271 and repealing the existing sections.";

and the substitute bill be passed.

Committee on **Federal and State Affairs** recommends **HCR 5021** be adopted.

Committee on **Financial Institutions and Insurance** recommends **HB 2031** be passed.

Committee on **Judiciary** recommends **HB 2074**, **HB 2194** be passed.

Also **HB 2329**, as amended by House Committee, be passed.

HB 2136, as amended by House Committee, be amended on page 2, in line 10, by striking all after "thereto"; in line 11, by striking all before "shall"; and the bill be passed as amended.

HB 2175, as amended by House Committee, be amended on page 3, after line 31, by inserting the following:

"Sec. 2. K.S.A. 60-4001 is hereby amended to read as follows: 60-4001. As used in this act:

(a) "Engages in a domestic animal activity" means riding, training, boarding, loading, hauling, breeding, racing, providing or assisting in medical treatment of, driving, or being a passenger upon a domestic animal or in or on a vehicle pulled or pushed by a domestic animal, whether mounted or unmounted or any person assisting a participant or show man-

agement. The term "engages in an activity involving domestic animals" does not include being a spectator at an activity involving domestic animals, except in cases where the spectator places the spectator's self in an unauthorized area and in immediate proximity to the activity involving domestic animals.

(b) "Domestic animal" means a cow, swine, sheep, goat, domesticated deer, llama, poultry, rabbit, horse, pony, mule, jenny, donkey or, hinny, *bison or any creature of the ratite family, including but not limited to, an ostrich, emu or rhea.*

(c) "Domestic animal activity" means, but is not limited to:

(1) Shows, fairs, competitions, performances or parades that involve any or all breeds of domestic animals and any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, three-day events, combined training, rodeos, driving, pulling, cutting, polo, steeple chasing, English and western performance riding, trail riding, endurance trail riding and western games, and hunting;

(2) domestic animal training or teaching activities or both;

(3) boarding domestic animals;

(4) riding, inspecting or evaluating domestic animals belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the domestic animals or is permitting a prospective purchaser of the domestic animals to ride, inspect or evaluate the domestic animals;

(5) rides, trips, hunts or other domestic animal activities of any type however informal or impromptu that are sponsored by a domestic animal activity sponsor; and

(6) hoofcare and placing or replacing shoes on a domestic animal.

(d) "Domestic animal activity sponsor" means an individual, group, club, partnership or corporation, whether or not the sponsor is operating for profit or nonprofit, which sponsors, organizes or provides the facilities for, a domestic animal activity, including but not limited to: Pony clubs, 4-H clubs, hunt clubs, riding clubs, trail rides, racetrack, school and college-sponsored classes, programs and activities, therapeutic riding programs, breeding farms, training farms and operators, instructors, and promoters of domestic animal facilities, including, but not limited to, stables, clubhouses, pony ride strings, fairs and arenas at which the activity is held.

(e) "Domestic animal professional" means an individual, partnership or corporation and such individual or entities' employees engaged in a domestic animal activity for compensation:

(1) In instructing a participant or renting to a participant a domestic animal for the purpose of riding, driving or being a passenger upon the domestic animal, or a passenger in or on a vehicle pulled or pushed by a domestic animal; or

(2) in renting equipment or tack to a participant.

(f) "Inherent risks of domestic animal activities" means those dangers or conditions which are an integral part of domestic animal activities, including, but not limited to:

(1) The propensity of a domestic animal to run, buck, bite, shy, stumble, rear, fall, step on or behave in ways that may result in injury, harm or death to persons on or around them;

(2) the unpredictability of a domestic animal's reaction to such things as sounds, sudden movement and unfamiliar objects, persons or other animals;

(3) certain hazards such as surface and subsurface conditions;

(4) collisions with other domestic animals or objects; and

(5) the potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over the animal or not acting within such participant's ability.

(g) "Participant" means any person who engages in a domestic animal activity.;"

And by renumbering sections accordingly;

Also on page 3, in line 32, before "K.S.A." by inserting "K.S.A. 60-4001 and"; also in line 32, by striking "is" and inserting "are";

On page 1, in the title, in line 10, before "amend-" by inserting "liability for domestic animal activity;"; in line 11, after "ing" by inserting "K.S.A. 60-4001 and"; in line 12, by striking "section" and inserting "sections"; and the bill be passed as amended.

Committee on **Public Health and Welfare** recommends **HB 2275** be amended on page 1, in line 20, by striking all after "(a)" and inserting: " "Secretary" means the secretary of

health and environment.”; in line 32, after “inserting” by inserting “removable”; in line 34, after the period, by inserting: “This act shall not be construed to authorize a licensed body piercer to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.”;

On page 2, in line 21, by striking “board” and inserting “secretary”; in line 24, by striking “board” and inserting “secretary”; in line 27, by striking “board” and inserting “secretary”; in line 29, by striking “board” and inserting “secretary”; in line 35, before the period, by inserting: “or any other person specifically permitted to use electrolysis or tattooing by law”; in line 37, by striking “board” and inserting “secretary”; in line 39, by striking “board” and inserting “secretary”; in line 43, by striking “board” and inserting “secretary”;

On page 3, in line 1, by striking “board” where it appears for the first time and inserting “secretary”; also in line 1, by striking “board” where it appears for the last time and inserting “secretary”; in line 2, by striking “board” and inserting “secretary”; in line 3, by striking “board” and inserting “secretary”; in line 4, by striking “board” and inserting “secretary”; in line 22, by striking “board” and inserting “secretary”; in line 23, by striking “board” and inserting “secretary”; in line 25, by striking “board” and inserting “secretary”; in line 29, by striking “board” and inserting “secretary”; in line 33, by striking “board”; in line 35, before the semicolon, by inserting “secretary”; in line 39, by striking “board”; in line 40, before the semicolon, by inserting “secretary”; in line 43, by striking “board” and inserting “secretary”;

On page 4, in line 3, by striking “board” and inserting “secretary”; in line 4, by striking “board” and inserting “secretary”; in line 15, by striking “board” and inserting “secretary”; in line 26, by striking “board” and inserting “secretary”; in line 30, by striking “board” and inserting “secretary”; in line 31, by striking “board” and inserting “secretary”; in line 39, by striking “board” and inserting “secretary”; in line 43, by striking “board” and inserting “secretary”;

On page 5, in line 6, by striking “board” and inserting “secretary”; in line 15, by striking “board” and inserting “secretary”; in line 20, by striking “board” and inserting “secretary”; in line 25, by striking “board” and inserting “secretary”; in line 27, by striking “board” and inserting “secretary”; in line 30, by striking “board” and inserting “secretary”; in line 32, by striking “board” and inserting “secretary”; in line 33, by striking “board” and inserting “secretary”; in line 39, by striking “board” and inserting “secretary”; in line 40, by striking “board” and inserting “secretary”; in line 41, by striking “board” and inserting “secretary”;

On page 6, in line 1, by striking “board” where it appears for the first time and inserting “secretary”; also in line 1, by striking “board” where it appears for the last time and inserting “secretary”; in line 5, by striking “board” and inserting “secretary”; in line 13, by striking “board” and inserting “secretary”; in line 22, by striking “board” and inserting “secretary”; in line 23, by striking “board” and inserting “secretary”; in line 25, by striking “board” and inserting “secretary”; in line 30, by striking “board” and inserting “secretary”; in line 37, by striking “board” and inserting “secretary”;

On page 7, in line 6, by striking “board” and inserting “secretary”; in line 11, by striking “board” and inserting “secretary”; in line 15, by striking “board” and inserting “secretary”; in line 24, by striking “board” and inserting “secretary”; in line 27, by striking “board” and inserting “secretary”; in line 29, by striking “board” and inserting “secretary”; in line 30, by striking “board” and inserting “secretary”; in line 35, by striking “board” and inserting “secretary”; in line 39, by striking “board”; in line 40, before the semicolon by inserting “secretary”;

On page 8, in line 5, by striking “board” and inserting “secretary”; in line 17, by striking “board” and inserting “secretary”; in line 32, by striking “board” and inserting “secretary”; by striking all of lines 38 through 42 and by relettering subsections accordingly;

On page 9, in line 6, by striking “board” where it appears for the first time and inserting “secretary”; also in line 6, by striking “board” where it appears for the last time and inserting “secretary”; in line 9, by striking “board” and inserting “secretary”; in line 16, by striking “board” and inserting “secretary”; in line 18, by striking “board” and inserting “secretary”; in line 19, by striking “board” and inserting “secretary”; in line 39, before the period, by inserting: “for the purposes of administering this act”; in line 41, by striking “board” and inserting “secretary”;

On page 10, in line 6, by striking "board" and inserting "secretary"; in line 10, by striking "board" and inserting "secretary"; in line 11, by striking "board" and inserting "secretary"; in line 33, by striking "board" and inserting "secretary"; in line 34, by striking "board" and inserting "secretary"; in line 35, by striking "board" and inserting "secretary";

On page 11, in line 1, by striking "board" and inserting "secretary"; in line 6, by striking "board" and inserting "secretary"; in line 11, by striking "board" and inserting "secretary"; in line 15, by striking "board" and inserting "secretary"; in line 18, by striking "board" and inserting "secretary"; in line 20, by striking "board" and inserting "secretary"; by striking all in lines 29 through 31 and inserting in lieu thereof the following:

"Sec. 17. K.S.A. 2000 Supp. 65-1953 is hereby amended to read as follows: 65-1953. No person shall perform body piercing or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given is granted by a guardian, shall be retained by the person administering such body piercing or tattooing for a period of five years. Violation of this section is a class ϵ A misdemeanor.

New Sec. 18. (a) On and after July 1, 2001, the state board of cosmetology established under K.S.A. 74-2701 and amendments thereto and the position of executive director established under K.S.A. 74-2701 and amendments thereto are hereby abolished.

(b) On July 1, 2001, all of the powers, duties and functions of the state board of cosmetology and the position of executive director thereof are hereby transferred to and imposed upon the secretary of health and environment.

(c) On and after July 1, 2001, whenever the state board of cosmetology or the executive director thereof are referred to or designated by this act, any other statute, rule and regulation, contract or other document, such reference or designation shall apply to the secretary of health and environment.

(d) All rules and regulations of the state board of cosmetology in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment under this act until revised, amended, revoked or nullified pursuant to law.

(e) All orders and directives of the state board of cosmetology in existence on the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of health and environment under this act until revised, amended or nullified pursuant to law.

(f) On July 1, 2001, all books, records and other property of the state board of cosmetology are hereby transferred to the secretary of health and environment.

(g) On July 1, 2001, officers and employees who immediately prior to the effective date of this act were engaged in the exercise and performance of the powers, duties and functions specified in this section and who, in the opinion of the secretary of health and environment, are necessary to perform the powers, duties and functions transferred under this section shall become officers and employees of the department of health and environment. Any such officer or employee shall retain all retirement benefits and all rights of civil service which had accrued to or vested in such officer or employee prior to the effective date of this act. The service of each such officer and employee so transferred shall be deemed to have been continuous. All transfers and any abolition of personnel positions in the classified service under the Kansas civil service act shall be in accordance with civil service laws and any rules and regulations adopted thereunder.

(h) Whenever any conflict arises as to the proper disposition of any property or records as a result of any abolishment and transfer made under this act, or under authority of this act, such conflict shall be resolved by the governor, and the decision of the governor shall be final.

Sec. 19. K.S.A. 39-938 is hereby amended to read as follows: 39-938. Adult care homes shall comply with all the lawfully established requirements and rules and regulations of the secretary of health and environment and the state fire marshal, and any other agency of government so far as pertinent and applicable to adult care homes, their buildings, operators, staffs, facilities, maintenance, operation, conduct, and the care and treatment of residents.

The administrative rules and regulations of the ~~state board of~~ *secretary of health and environment relating to* cosmetology and of the Kansas board of barbering shall not apply to adult care homes.

Sec. 20. K.S.A. 65-1,148 is hereby amended to read as follows: 65-1,148. (a) As used in this section, "sanitation standards" means standards for personal and environmental sanitation and for the prevention of infectious and contagious diseases.

(b) The secretary of health and environment shall adopt rules and regulations establishing sanitation standards for professions, shops, salons, clinics, schools and colleges regulated by the state board of barber examiners or the ~~state board of~~ *practice of* cosmetology.

Sec. 21. K.S.A. 2000 Supp. 65-1901 is hereby amended to read as follows: 65-1901. As used in K.S.A. 65-1901 through 65-1912, and amendments thereto:

(a) "Apprentice" means any person engaged in learning the practice of cosmetology, nail technology, esthetics or electrology in a school of cosmetology, nail technology, esthetics or electrology licensed by the ~~board~~ *secretary*, except until such time as an electrology school is established in this state apprenticeship of electrology will be subject to approval by the board in a clinic or establishment.

(b) ~~"Board" means the state board of cosmetology.~~ "Secretary" means the secretary of health and environment.

(c) "Cosmetologist" means any person, other than a manicurist or esthetician, who practices the profession of cosmetology for compensation.

(d) (1) "Cosmetology" means the profession of:

(A) Arranging, dressing, permanently curling, curling, waving, cleansing, temporarily or permanently coloring, conditioning or cutting the hair;

(B) massaging, cleansing, stimulating, manipulating or performing similar work on the scalp, face, neck, arms or hands, by use of either the hands or mechanical or electrical appliances;

(C) removing superfluous hair from the face or any part of the body by use of either the hands or mechanical or electrical appliances other than electric needles;

(D) using cosmetic preparations, antiseptics, lotions, creams or other preparations in performing any of the practices described in paragraphs (A), (B) and (C) of this subsection (d)(1);

(E) manicuring, pedicuring or sculpturing nails; or

(F) performing any other beautifying process on any person.

(2) "Cosmetology" shall not include a service that results in tension on hair strands or roots by twisting, wrapping, weaving, extending, locking, or braiding by hand or mechanical device so long as the service does not include the application of dyes, reactive chemicals or other preparations to alter the color of the hair or to straighten, curl or alter the structure of the hair and so long as the requirements of K.S.A. 2000 Supp. 65-1928 and amendments thereto are met. Nothing in this paragraph shall be construed to preclude a licensed cosmetologist from performing the service described in this paragraph.

(e) "Esthetician" means any person who, for compensation practices the profession of cosmetology only to the following extent:

(1) Performing facials, skin care and eyebrow and eyelash services; or

(2) removing superfluous hair from the face or body, using either the hands or mechanical or electrical appliances other than electric needles.

(f) "Manicurist" means any person who, for compensation practices the profession of cosmetology only to the extent of manicuring, pedicuring and sculpturing nails.

(g) "Nail technology" means manicuring, pedicuring and sculpturing nails.

(h) "Electrologist" means any person who, for compensation removes hair from, or destroys hair on, the human body for beautification by use of an electric needle only.

(i) "Person" means any individual, corporation, partnership, association or other entity.

Sec. 22. K.S.A. 2000 Supp. 65-1902 is hereby amended to read as follows: 65-1902. (a) Except as provided in subsection (b), no person shall:

(1) Engage in practice of cosmetology, esthetics, nail technology or electrology unless the person holds a valid license, issued by the ~~board~~ *secretary*, to engage in that practice;

(2) conduct a school for teaching cosmetology unless the person holds a valid license, issued by the ~~board~~ *secretary*, to conduct the school;

(3) teach cosmetology in a licensed school unless the person holds a valid cosmetology instructor's license issued by the ~~board~~ *secretary*;

(4) conduct a school for teaching nail technology unless the person holds a valid license, issued by the ~~board~~ *secretary*, to conduct the school;

(5) teach nail technology in a licensed school unless the person holds a valid cosmetology or manicuring instructor's license issued by the ~~board~~ *secretary*;

(6) conduct a school for teaching electrology unless the person holds a valid license, issued by the ~~board~~ *secretary*, to conduct the school;

(7) teach electrology in a licensed school or clinic unless the person holds a valid electrology instructor's license issued by the ~~board~~ *secretary*;

(8) conduct a school for teaching esthetics unless the person holds a valid license, issued by the ~~board~~ *secretary*, to conduct the school;

(9) teach esthetics in a licensed school unless the person holds a valid cosmetology or esthetics instructor's license issued by the ~~board~~ *secretary*;

(10) own or operate a school, salon or clinic where cosmetology, esthetics, nail technology or electrology is taught or practiced unless the person holds a valid school, salon or clinic license issued by the ~~board~~ *secretary*; or

(11) teach or practice cosmetology, esthetics, nail technology or electrology in a school, salon or clinic unless the owner or operator of the school, salon or clinic holds a valid school, salon or clinic license issued by the ~~board~~ *secretary*.

(b) The provisions of this act shall not apply to:

(1) Any person licensed as a barber or apprentice barber;

(2) any person licensed to practice medicine and surgery, chiropractic, optometry, nursing or dentistry, while engaged in that practice;

(3) any person who is a registered physical therapist or certified physical therapist assistant while engaged in that practice; or

(4) any teacher while engaged in instructing elementary or secondary school students in the proper care of their own persons.

(c) A person holding a license as a cosmetology technician on the day immediately preceding the effective date of this act shall continue to be a licensed cosmetology technician and perform the functions of a cosmetology technician, as such term was defined immediately prior to the effective date of this act, and may renew such license subject to the payment of fees and other conditions and limitations on the renewal of licenses under article 19 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof.

Sec. 23. K.S.A. 2000 Supp. 65-1903 is hereby amended to read as follows: 65-1903. (a) Licensed schools may be established and maintained in this state where the profession of cosmetology may be taught or acquired, under the following conditions and regulations:

(1) Any person may apply to the ~~board~~ *secretary* for a license for conducting a school for the teaching of the profession of cosmetology. The license shall be granted by the ~~board~~ *secretary* upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the ~~board~~ *secretary* for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the license, the applicant shall pay to the ~~board~~ *secretary* the nonrefundable license application fee established under K.S.A. 65-1904 and amendments thereto. School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904 and amendments thereto. No license fee shall be required of schools operating under the state board of regents or any tax-supported school. Nothing in this act shall prohibit any person who is a licensed electrologist, while acting as owner and manager of the person's clinic or establishment, from teaching electrology in the regular course of the person's business, but at no time shall any clinic or establishment have more than one apprentice or charge tuition for its teaching services.

(2) Each school licensed under this subsection (a) shall remain under the constant supervision of the ~~board~~ *secretary*. Each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at

least one instructor for every 25 students. Each licensed school shall provide a course of training requiring not less than 1,500 clock hours of instruction and practice in preparation for the profession of cosmetology covering a period of not less than nine nor more than 12 months of training for full-time students. In addition, the school may provide a course of training of 350 clock hours of instruction and practice in the profession of nail technology, and a course of training of 650 clock hours of instruction and practice in the profession of esthetics. Such course of training shall include the practices of cosmetology for all major ethnic groups residing in the state, and the ~~board~~ *secretary* shall require by rules and regulations that each school shall provide instruction for part-time students who are unable to attend a full schedule of classes each week because of part-time employment; enrollment in an accredited public or private school of secondary education by a student who is pursuing a course of study leading to a diploma from such school; enrollment in a cooperative industrial training program, approved by the division of vocational education of the state department of education, by a student who is working toward an occupational objective; or the principles or tenets of the student's religion preventing full-time attendance. Instruction of a part-time student shall be completed by the student within 18 months after the student's enrollment in the school.

(b) Any person who teaches the profession of cosmetology in a licensed school of cosmetology shall be required to obtain a cosmetology instructor's license from the ~~board~~ *secretary*. To qualify for a cosmetology instructor's license, the applicant must (1) be licensed as a cosmetologist under this act, (2) have practiced as a cosmetologist for one year prior to licensure, with 300 hours of instructor training, (3) pass a cosmetology instructor exam, administered by the ~~board~~ *secretary* or the ~~board's~~ *secretary's* designee, and (4) pay the nonrefundable instructor license application fee established by K.S.A. 65-1904 and amendments thereto. A cosmetology instructor license shall be renewed every two years by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding a cosmetology instructor license on the effective date of this act, has completed 20 clock hours of continuing education approved by the ~~board~~ *secretary* in the practice of cosmetology and teaching skills and methods, and by paying the nonrefundable license renewal fee established by K.S.A. 65-1904 and amendments thereto.

(c) Licensed schools may be established and maintained in this state where nail technology may be taught or acquired, under the following conditions and regulations:

(1) Any person may apply to the ~~board~~ *secretary* for a license for conducting a school for the teaching of nail technology. The license shall be granted by the ~~board~~ *secretary* upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the ~~board~~ *secretary* for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the license, the applicant shall pay to the ~~board~~ *secretary* the nonrefundable license application fee established under K.S.A. 65-1904 and amendments thereto. School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904 and amendments thereto. No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(2) Each school licensed under this subsection (c) shall remain under the constant supervision of the ~~board~~ *secretary*. Each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one instructor for every 25 students. Each licensed school shall provide a course of training requiring not less than 350 clock hours of instruction and practice in preparation for the profession of manicurist. The ~~board~~ *secretary* shall require by rules and regulations that each school shall provide instruction for part-time students who are unable to attend a full schedule of classes each week because of part-time employment; enrollment in an accredited public or private school of secondary education by a student who is pursuing a course of study leading to a diploma from such school; enrollment in a cooperative industrial training program, approved by the division of vocational education of the state department of education, by a student who is working toward an occupational objective; or the principles or tenets of the student's religion preventing full-time attendance. Instruction of all students

shall be completed by the student within six months after the student's enrollment in the school.

(d) Any person who teaches nail technology in a licensed school of cosmetology or nail technology shall be required to obtain a manicuring instructor's license from the ~~board~~ *secretary*, unless the person holds a valid cosmetology instructor's license issued under subsection (b). To qualify for a manicuring instructor's license, the applicant must (1) be licensed as a cosmetologist or manicurist under this act, (2) have practiced as a manicurist or cosmetologist for one year prior to licensure, with 300 hours of instructor training, (3) pass a manicuring instructor exam, administered by the ~~board~~ *secretary* or the ~~board's~~ *secretary's* designee and (4) pay a nonrefundable instructor license application fee established by K.S.A. 65-1904 and amendments thereto. A manicuring instructor license shall expire every two years and shall be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding a manicuring instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the ~~board~~ *secretary*, in the practice of manicuring and teaching skills and methods and paying the nonrefundable license renewal fee established by K.S.A. 65-1904 and amendments thereto.

(e) Licensed schools may be established and maintained in this state where the profession of esthetics may be taught or acquired, under the following conditions and regulations:

(1) Any person may apply to the ~~board~~ *secretary* for a license for conducting a school for the teaching of the profession of esthetics. The license shall be granted by the ~~board~~ *secretary* upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the ~~board~~ *secretary* for proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the license, the applicant shall pay to the ~~board~~ *secretary* the nonrefundable license application fee established under K.S.A. 65-1904 and amendments thereto. School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904 and amendments thereto. No license fee shall be required of schools operating under the state board of regents or any tax-supported school.

(2) Each school licensed under this subsection (e) shall remain under the constant supervision of the ~~board~~ *secretary*. Each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one full-time instructor for every 25 students. Each licensed school shall provide a course of training requiring not less than 650 clock hours of instruction and practice in esthetics.

(f) Any person who teaches esthetics in a licensed school of cosmetology or esthetics shall be required to obtain an esthetics instructor's license from the ~~board~~ *secretary*, unless the person holds a valid cosmetology instructor's license issued under subsection (b). To qualify for an esthetics instructor's license, the applicant must (1) be licensed as a cosmetologist or esthetician under this act, (2) have practiced as an esthetician or cosmetologist for one year prior to licensure, with 300 hours of instructor training, (3) pass an esthetician instructor exam, administered by the ~~board~~ *secretary* or the ~~board's~~ *secretary's* designee and (4) pay a nonrefundable license application fee established by K.S.A. 65-1904 and amendments thereto. An esthetics instructor license shall expire every two years and shall be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding an esthetics instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the ~~board~~ *secretary*, in the practice of esthetics and teaching skills and methods and by paying the nonrefundable license renewal fee established by K.S.A. 65-1904 and amendments thereto.

(g) Licensed schools may be established and maintained in this state where the profession of electrology may be taught or acquired, under the following conditions and regulations:

(1) Any person may apply to the ~~board~~ *secretary* for a license for conducting a school for the teaching of the profession of electrology. The license shall be granted by the ~~board~~

secretary upon proper and sufficient showing of competency of the applicant and assurance of compliance by the applicant with the requirements of this act, all reasonable rules and regulations adopted by the ~~board~~ *secretary* for the proper conduct of the school and all applicable sanitation standards adopted by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto. Prior to issuance of the license, the applicant shall pay to the ~~board~~ *secretary* the nonrefundable license application fee established under K.S.A. 65-1904 and amendments thereto. School licenses shall be renewed before July 1 of each year by submitting an application and payment of the nonrefundable license renewal fee established under K.S.A. 65-1904 and amendments thereto. No license fee shall be required of schools operating under the state board of regents or any tax-supported school. Nothing in this act shall prohibit any person who is a licensed instructor of electrology or who is and has been for at least three years a licensed electrologist, while acting as owner and manager of the person's salon, clinic or establishment, from teaching electrology in the regular course of the person's business, but at no time shall any salon, clinic or establishment have more than one apprentice or charge tuition for its teaching services.

(2) Each school licensed under this subsection (e) shall remain under the constant supervision of the ~~board~~ *secretary*. Each licensed school at all times shall employ and maintain a sufficient number of instructors, duly licensed in the practices they teach, to provide at least one full-time instructor for every four students. Each licensed school shall provide a course of training requiring not less than 500 clock hours of instruction and practice in electrology covering a period of not less than four months of training for full-time students and not less than eight months of training for part-time students.

(h) Any person who teaches electrology in a licensed school of cosmetology or electrology shall be required to obtain an electrology instructor's license from the ~~board~~ *secretary*. To qualify for an electrology instructor's license, the applicant must (1) be licensed as an electrologist under this act, (2) have practiced as an electrologist for one year prior to licensure, with 300 hours of instructor training, (3) pass an electrology instructor exam, administered by the ~~board~~ *secretary* or the ~~board's~~ *secretary's* designee and (4) pay a nonrefundable instructor license application fee established under K.S.A. 65-1904 and amendments thereto. Electrology instructor licenses shall expire every two years and may be renewed by furnishing satisfactory evidence that the applicant, except the first renewal period following licensure for applicants not holding an electrology instructor license on the effective date of this act, has completed 20 clock hours of continuing education, approved by the ~~board~~ *secretary*, in the practice and teaching of electrology and paying the nonrefundable license renewal fee established under K.S.A. 65-1904 and amendments thereto. To teach in a licensed salon, the electrologist is issued a license for the period of training for the student. To qualify they must: (1) Be a licensed practicing electrologist for a three-year period and (2) pay a nonrefundable instructor license application fee established under K.S.A. 65-1904 and amendments thereto.

(i) The ~~board~~ *secretary* may adopt through rules and regulations a curriculum for cosmetology, nail technology, esthetics and electrology instructor training to be provided in a licensed school of cosmetology.

(j) The ~~board~~ *secretary* may provide by rules and regulations that instructor licenses may expire less than two years from the date of issuance in order for the expiration date of the instructor license to correspond with the expiration date of the individual's license to practice cosmetology, nail technology, esthetics or electrology. In each case in which an instructor license is issued for a period of time of less than two years, the ~~board~~ *secretary* shall prorate the instructor license application fee from the month of the date of application to the month of the date of expiration of the license to practice cosmetology, nail technology, esthetics or electrology.

Sec. 24. K.S.A. 2000 Supp. 65-1904 is hereby amended to read as follows: 65-1904. (a) Unless revoked for cause, all licenses of cosmetologists, cosmetology technicians, estheticians, electrologists and manicurists issued or renewed by the ~~board~~ *secretary* shall expire on the expiration dates established by rules and regulations adopted by the ~~board~~ *secretary* under this section. Subject to the other provisions of this subsection, each such license shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration of the license, payment of the nonrefundable license renewal fee established under

this section and with renewal applications filed on and after July 1, 2000, the filing of a successfully completed written renewal examination prescribed by the ~~board~~ *secretary* under this subsection. For renewal applications filed on and after July 1, 2000, the ~~board~~ *secretary* shall prescribe a written renewal examination for each classification of licensee under this subsection which will test the applicant's understanding of the laws relating to the practice for which the applicant holds a license, will test the applicant's understanding of health and sanitation matters relating to the practice for which the applicant holds a license and will test the understanding of the applicant about safety matters relating to the practice for which the applicant holds a license. The ~~board~~ *secretary* shall fix the score for the successful completion of a written renewal examination. The ~~board~~ *secretary* shall develop an information booklet to be sent to an applicant for renewal of a license along with the written renewal examination. The information booklet shall contain information on the subjects to be tested on the written renewal examination and shall be provided to the applicant along with the written renewal examination at least 30 days prior to the date on which the renewal application is to be filed. The written renewal examination may be prepared by the applicant with the use of the information booklet. ~~The board shall report to the 1999 session of the legislature the progress made by the board in developing an information booklet and a written renewal examination.~~

(b) Any cosmetologist's, cosmetology technician's, esthetician's, electrologist's or manicurist's license may be renewed by the applicant within six months after the date of expiration of the applicant's last license upon submission of proof, satisfactory to the ~~board~~ *secretary*, of the applicant's qualifications to renew practice as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist, and payment of the applicable nonrefundable renewal fee and delinquent fee prescribed pursuant to this section. Any applicant whose license as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist has expired for more than six months may obtain a license in the same manner and on payment of the same nonrefundable fees as provided for an applicant for an original license.

(c) Any applicant for a license other than a renewal license shall make a verified application to the ~~board~~ *secretary* on such forms as the ~~board~~ *secretary* may require and, upon payment of the license application fee and the examination fee shall be examined by the ~~board~~ *secretary* or their appointees and shall be issued a license, if found to be duly qualified to practice the profession of cosmetologist, esthetician, electrologist or manicurist.

(d) The ~~board~~ *secretary* is hereby authorized to adopt rules and regulations fixing the amount of nonrefundable fees for the following items and to charge and collect the amounts so fixed, subject to the following limitations:

Cosmetologist license application fee, for two years—not more than.....	\$60
Cosmetologist license renewal fee	60
Delinquent cosmetologist renewal fee	25
Cosmetology technician license renewal fee, for two years—not more than	35
Delinquent cosmetology technician renewal fee	25
Electrologist license application fee, for two years—not more than	35
Electrologist license renewal fee	35
Delinquent electrologist renewal fee.....	25
Manicurist license application fee, for two years—not more than	30
Manicurist license renewal fee	30
Delinquent manicurist renewal fee	25
Esthetician license application fee, for two years—not more than.....	30
Esthetician license renewal fee.....	30
Delinquent esthetician renewal fee	25
Any apprentice license application fee—not more than	15
New school license application fee.....	150
School license renewal fee—not more than	75
Delinquent school license fee—not more than.....	50
New cosmetology services salon or electrology clinic license application fee—not more than.....	50

Cosmetology services salon or electrology clinic license renewal fee—not more than	30
Delinquent cosmetology services salon or electrology clinic renewal fee	30
Cosmetologist's examination—not more than	50
Electrologist's examination—not more than	50
Manicurist's examination—not more than	50
Esthetician examination—not more than	50
Instructor's examination—not more than	75
Reciprocity application fee—not more than	50
Verification of licensure	20
Any duplicate of license	25
Instructor's license application fee, for two years—not more than	75
Renewal of instructor's license fee	50
Delinquent instructor's renewal fee—not more than	75
Temporary permit fee	15
Statutes and regulations book	5

(e) Whenever the ~~board~~ *secretary* determines that the total amount of revenue derived from the fees collected pursuant to this section is insufficient to carry out the purposes for which the fees are collected, the ~~board~~ *secretary* may amend ~~its~~ *the* rules and regulations to increase the amount of the fee, except that the amount of the fee for any item shall not exceed the maximum amount authorized by this subsection. Whenever the amount of fees collected pursuant to this section provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the ~~board~~ *secretary* to decrease the amount of the fee for one or more of the items listed in this subsection by amending the rules and regulations which fix the fees.

(f) Any person who failed to obtain a renewal license while in the armed forces of the United States shall be entitled to a renewal license upon filing application and paying the nonrefundable renewal fee for the current year during which the person has been discharged on and after July 1, 1996[.]

~~(g) Any person who was formerly licensed as a cosmetologist, a cosmetology technician, an esthetician, an electrologist or a manicurist and whose license expired on or after July 1, 1996, and was not renewed may obtain reinstatement of the license until July 1, 1999, upon application to the board and upon payment of the applicable delinquent renewal fee.~~

~~(h)~~ (g) Any person who is currently licensed as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist on inactive status shall be deemed licensed on active status. Upon application for renewal of the license as provided in rules and regulations, the person shall be issued a license which does not indicate inactive status. Prior to application for renewal of the license and upon request to the ~~board~~ *secretary*, such person may obtain a license which does not indicate inactive status.

~~(i)~~ (h) From and after the effective date of this act, there shall be no continuing education requirement imposed by the ~~board~~ *secretary* upon any person who was formerly or is currently licensed as a cosmetologist, cosmetology technician, esthetician, electrologist or manicurist as a condition of reinstatement or renewal of the person's license to practice.

Sec. 25. K.S.A. 2000 Supp. 65-1904a is hereby amended to read as follows: 65-1904a. Any licensed cosmetologist, esthetician, electrologist, manicurist, or person desiring to establish a salon or clinic shall make application, on a form provided, to the ~~Kansas state board of cosmetology~~ *secretary*, accompanied by the new salon or clinic license fee established under K.S.A. 65-1904 and amendments thereto. Upon filing of the application, the ~~board~~ *secretary* shall inspect the equipment as to safety and sanitary condition of the premises and if the equipment and premises are found to comply with the rules and regulations of the ~~secretary of health and environment and the rules and regulations of the Kansas state board of cosmetology~~, the ~~board~~ *secretary* shall issue a new salon or clinic license. Nothing herein contained shall be construed as preventing any licensed person from practicing cosmetology or electrology in a licensed cosmetologist's private home or residence if the home or residence complies with rules and regulations of the ~~secretary and the state board~~. A licensed cosmetologist may provide cosmetology services in a place other than the licensed

salon or clinic or a private home or residence of the licensed cosmetologist. Excluding services provided by a licensed cosmetologist in a health care facility, hospital or nursing home or in the residence of a person requiring home care arising from physical or mental disabilities, in order to provide such services, such licensed cosmetologist shall be employed in a salon or clinic or in the licensed cosmetologist's private home or residence for at least 51% of the total hours per week employed; and shall attest by affidavit that such cosmetology services shall be provided only in the residence or office of the person receiving services. Licensed salons and clinics may be reinspected in accordance with a schedule determined by the ~~board~~ *secretary* by rules and regulations or upon a complaint made to the ~~board~~ *secretary* that such salon or clinic is not being maintained in compliance with rules and regulations of the ~~board~~ *secretary*. The license shall expire on June 30 following its issuance. Any such license may be renewed upon application accompanied by the salon or clinic license renewal fee made to the ~~board~~ *secretary* before July 1 of the year in which the license expires. Any license may be renewed by the applicant within 60 days after the date of expiration of the last license upon payment of a delinquent renewal fee.

Sec. 26. K.S.A. 2000 Supp. 65-1904b is hereby amended to read as follows: 65-1904b.

(a) Upon application to the ~~Kansas state board of cosmetology~~ *secretary* on a form provided for application for a cosmetologist, esthetician, electrologist or manicurist license, accompanied by the application fee, a person practicing as a cosmetologist, esthetician, electrologist or manicurist under the laws of another state or jurisdiction shall be granted a license entitling the person to practice in this state if:

(1) The person is not less than 17 years of age and a graduate of an accredited high school, or equivalent thereof;

(2) the person submits to the ~~board~~ *secretary* verification of date of birth;

(3) the person submits to the ~~board~~ *secretary* a written statement from a person licensed to practice medicine and surgery under the laws of any state showing that the person is free from infectious or contagious disease; and

(4) the person meets at least one of the following criteria:

(A) The person's training and qualifications, including examination requirements, are equal to the requirements for licensure in this state; or

(B) the person has been licensed in a state or jurisdiction which has substantially the same requirements for licensure as this state.

(b) The renewal of a license issued pursuant to this section shall be in the manner provided in K.S.A. 65-1904 and amendments thereto.

Sec. 27. K.S.A. 2000 Supp. 65-1905 is hereby amended to read as follows: 65-1905. (a)

All examinations held or conducted by the ~~board~~ *secretary* shall be in accordance with rules and regulations adopted by the ~~board~~ *secretary*. The examinations shall include practical and written tests. Examinations to qualify for an instructor's license shall be limited to written tests.

(b) Each applicant for licensure by examination shall:

(1) Be at least 17 years of age;

(2) be a graduate of an accredited high school, or equivalent thereof. The provisions of this paragraph shall not apply to any applicant who was at least 25 years of age and licensed as an apprentice on May 21, 1998;

(3) submit to the ~~board~~ *secretary* verification of date of birth;

(4) submit to the ~~board~~ *secretary* a written statement from a person licensed to practice medicine and surgery under the laws of any state showing that the applicant is free from contagious and infectious diseases; and

(5) have served as an apprentice for the period of time provided by K.S.A. 65-1912, and amendments thereto.

(c) Any person making application who apparently possesses the necessary qualifications to take an examination provided herein, upon application and payment of the nonrefundable temporary permit fee, may be issued a temporary permit by the ~~board~~ *secretary* to practice cosmetology until the next regular examination conducted by the ~~board~~ *secretary*.

Sec. 28. K.S.A. 2000 Supp. 65-1907 is hereby amended to read as follows: 65-1907.

The ~~chairperson, with the approval of the board,~~ *secretary* shall employ inspectors to inspect schools, salons and clinics and the inspectors shall perform all of the inspection duties of

the ~~board secretary~~, as required by this act, rules and regulations of the ~~board secretary~~ and sanitation standards adopted by the ~~secretary of health and environment~~ pursuant to K.S.A. 65-1,148 and amendments thereto. The ~~board secretary~~ shall provide training to the inspectors to enable the inspectors to provide current information to school, salon and clinic personnel regarding requirements of applicable statutes and regulations. It shall be the duty of the ~~board secretary~~ to determine the number of hours and practice work required of students in each subject of cosmetology, nail technology, esthetics and electrology taught in a licensed school.

Sec. 29. K.S.A. 2000 Supp. 65-1908 is hereby amended to read as follows: 65-1908. (a) The ~~state board of cosmetology~~ ~~secretary~~ may revoke any license provided for by this act, may censure, limit or condition any license or may refuse to issue, renew or suspend any license or assess a fine, not to exceed \$1,000 per violation, for any of the following reasons:

- (1) Failure to comply with the sanitary requirements prescribed by the secretary of health and environment pursuant to K.S.A. 65-1,148 and amendments thereto;
- (2) failure to comply with any provision of this act, with the rules and regulations of the ~~board of cosmetology~~ ~~secretary~~ or with any order issued by the ~~board secretary~~;
- (3) has become a danger to the public by reason of alcohol or drug abuse;
- (4) conviction of a felony unless the applicant or licensee is able to demonstrate to the ~~board's secretary's~~ satisfaction that such person has been sufficiently rehabilitated to warrant the public trust;
- (5) the obtaining of, or the attempt to obtain, a license by fraudulent misrepresentation or bribery;
- (6) advertising by means of false or knowingly deceptive matter or statement;
- (7) failure to display the annual license or inspection report as provided for in this act;

or

- (8) being found guilty of gross negligence or unprofessional conduct as defined by rules and regulations of the ~~board secretary~~.

(b) The ~~board secretary~~ may order the remedying of any violations of rules and regulations of the ~~board secretary~~ or any provision of this act, and the ~~board secretary~~ may issue a cease and desist order upon ~~board~~ ~~the secretary's~~ determination that the holder of a license has violated any order of the ~~board secretary~~, any rules and regulations of the ~~board secretary~~ or any provision of this act.

(c) Inspectors employed by the ~~board secretary~~ shall have such powers as the ~~board secretary~~ may prescribe by rules and regulations to make inspections, investigations, and inquiries, except that a permanent order for closing any establishment licensed by the ~~board secretary~~ shall be issued only by the ~~board secretary~~. *The secretary may contract for the conduct of inspections under the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated.*

(d) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 30. K.S.A. 2000 Supp. 65-1909 is hereby amended to read as follows: 65-1909. (a) No person shall:

- (1) Knowingly employ an individual to engage in any activity for which a license is required pursuant to K.S.A. 65-1902 and amendments thereto unless such individual holds a currently valid license issued to such individual;
- (2) violate any order or ruling of the ~~state board of cosmetology~~ *under this act*;
- (3) fail or refuse to comply with rules and regulations prescribed by the ~~board secretary~~ or applicable sanitation standards adopted by the ~~secretary of health and environment~~ pursuant to K.S.A. 65-1,148; or

(4) violate any of the provisions of article 19 of chapter 65 of Kansas Statutes Annotated.

(b) Violation of subsection (a) is a misdemeanor punishable by a fine of not less than \$10 nor more than \$100, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, or by both such fine and imprisonment.

(c) The ~~board secretary~~ may bring an action to enjoin any person from practicing or teaching cosmetology, esthetics, nail technology or electrology or from operating a salon, clinic or school if such person does not hold a currently valid license. If the court finds that such person is unlawfully teaching or practicing cosmetology, esthetics, nail technology or

electrology or operating a salon, clinic or school without a currently valid license, the court shall enter an injunction restraining such person from such unlawful acts.

Sec. 31. K.S.A. 2000 Supp. 65-1912 is hereby amended to read as follows: 65-1912. (a) Any person desiring to practice as an apprentice shall be required to pay to the ~~board~~ *secretary* the fee required pursuant to K.S.A. 65-1904 and amendments thereto and obtain an apprentice license from the ~~board~~ *secretary*. Application for an apprentice license allowing a person to practice in a licensed school shall be submitted to the ~~board~~ *secretary* not more than 15 days after the person's enrollment in the school.

(b) (1) An applicant for examination and licensure as a cosmetologist shall be required to have practiced as an apprentice in a licensed school for not less than 1,500 clock hours.

(2) An applicant for examination and licensure as an esthetician shall be required to have practiced as an apprentice in a licensed school for not less than 650 clock hours.

(3) An applicant for examination and licensure as a manicurist shall be required to have practiced as an apprentice in a licensed school of cosmetology or nail technology for not less than 350 clock hours.

(4) An applicant for examination and licensure as an electrologist shall be required to have practiced as an apprentice in a licensed school of cosmetology or electrology for not less than 500 clock hours or in a licensed clinic or establishment for not less than 1,000 clock hours of training. The duration of practice as an apprentice in a clinic or establishment must be in the clinic or establishment in which practice was commenced, except that the ~~board~~ *secretary* may permit, upon written application and for good cause, the transfer of the apprentice to another clinic or establishment for completion of the term of apprenticeship. Any licensed cosmetologist who is practicing electrology in a licensed clinic or establishment on July 1, 1987, may apply for and be issued an electrologist's license without examination.

(c) No apprentice shall make any charge for the apprentice's services, but a licensed school of cosmetology, electrology or nail technology or a proprietor of a licensed clinic or establishment in which an apprentice of electrology practices may charge for services of the apprentice.

(d) For purposes of subsection (b), a person is not required to have practiced as an apprentice continuously or without interruption in obtaining the required number of hours.

Sec. 32. K.S.A. 65-1920 is hereby amended to read as follows: 65-1920. (a) As used in this act:

(1) "Authorized agent" means an employee of the ~~state board of cosmetology~~ *secretary* designated by the ~~board~~ *secretary* to enforce this act.

~~(2) "Board" means the state board of cosmetology.~~

~~(3) (2)~~ "Phototherapy device" means equipment that emits ultraviolet radiation that is used in the treatment of disease or other medical use.

~~(4) (3)~~ "Tanning device" means equipment that emits electromagnetic radiation with wavelengths in the air that is used for tanning of human skin and includes any accompanying items incidental to operation of the tanning device.

~~(5) (4)~~ "Tanning facility" means any facility, whether independent or part of a salon, health spa or any other facility, which provides access to tanning devices but shall not include private residences if access to tanning devices is provided without charge.

(b) This act does not apply to use of a phototherapy device by or under supervision of a person licensed to practice medicine and surgery.

Sec. 33. K.S.A. 65-1925 is hereby amended to read as follows: 65-1925. (a) The ~~board~~ *secretary* may adopt rules and regulations to implement this act. The ~~board, after consultation with the secretary of health and environment,~~ *secretary* shall adopt rules and regulations relating to the safe functioning of tanning devices.

(b) An authorized agent shall have access at all reasonable times to any tanning facility to inspect the facility to determine compliance with this act.

(c) If an authorized agent finds that a person has violated, or is violating or threatening to violate this act and that the violation or threat of violation creates an immediate threat to the health and safety of the public, the authorized agent may petition the district court for a temporary restraining order to restrain the violation or threat of violation.

(d) If a person has violated, or is violating or threatening to violate this act, the ~~board~~ secretary, after a hearing in accordance with the administrative procedure act, may suspend the license of a tanning facility until such time that the tanning facility can demonstrate to the ~~board~~ secretary that it has corrected deficiencies and is in compliance with this act and rules and regulations adopted pursuant to this act.

(e) On application for injunctive relief and a finding that a person is violating or threatening to violate this act, the district court shall grant any injunctive relief warranted by the facts.

Sec. 34. K.S.A. 65-1926 is hereby amended to read as follows: 65-1926. (a) ~~On and after January 1, 1993;~~ A person may not operate a tanning facility without a valid license issued by the ~~board~~ secretary.

(b) The license shall be displayed in a conspicuous place in the tanning facility.

(c) On application, on forms provided by the ~~board~~ secretary, and on receipt of the appropriate fee, a license shall be renewed by the ~~board~~ secretary.

(d) The ~~board~~ secretary may adopt a system under which licenses expire on various dates during the year. As part of this system the annual renewal fee may be prorated on a monthly basis to reflect the actual number of months the license is valid.

(e) The ~~board~~ secretary may revoke, cancel, suspend or place on probation a license to operate a tanning facility for any of the following reasons:

- (1) A failure to pay a license fee or an annual renewal fee for a license;
- (2) the applicant obtained or attempted to obtain a license by fraud or deception;
- (3) a violation of any of the provisions of this act; or
- (4) a violation of a *rule and* regulation of the ~~board~~ secretary adopted under this act.

(f) The ~~board~~ secretary shall establish appropriate licensure and renewal fees, not to exceed \$100 per year for each tanning facility, by adoption of rules and regulations. The ~~board~~ secretary may establish the fees based upon the number of beds used for tanning which the facility maintains. In addition to the fee for licensure and the fee for renewal of a license, the ~~board~~ secretary may establish a fee not to exceed \$150 for delinquent renewal of a license and a fee not to exceed \$200 for reinstatement of a license.

(g) ~~The executive director of the board~~ secretary shall remit all moneys received from fees under this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit such moneys in the manner specified under K.S.A. 74-2704 and amendments thereto.

Sec. 35. K.S.A. 2000 Supp. 65-1951 is hereby amended to read as follows: 65-1951. The ~~board, the director~~ secretary or a person authorized by the ~~board~~ secretary shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the cosmetology fee fund.

New Sec. 36. (a) There is hereby created the state advisory board on cosmetology, which shall be composed of seven members, appointed by the governor, to advise the secretary of health and environment on the administration of article 19 of chapter 40 of the Kansas Statutes Annotated. A member shall be appointed from each congressional district and the remainder from the state at large. Not more than four members shall be of the same political party. Four members shall be licensed cosmetologists; one member shall be a licensed permanent color technician and tattoo artist or a licensed body piercer; and two members shall represent the general public interest, except that no manufacturer, wholesaler or retailer of cosmetic supplies or equipment used by the profession of cosmetology, or any representative of such manufacturer, wholesaler or retailer, shall become a member of the board.

(b) Of the members first appointed to the advisory board on and after the effective date of this act, two members shall be appointed for terms of one year, two members shall be appointed for terms of two years and three members shall be appointed for terms of three years. Thereafter each member of the advisory board shall be appointed for a term of three years, and until a successor is appointed and qualifies. The advisory board shall annually select a chairperson from its membership.

(c) When a vacancy occurs by death or resignation, appointees to the board shall have the prescribed qualifications. All vacancies in the board shall be filled by the governor for the unexpired terms. The members of the board shall take the oath of office prescribed for public officers before entering upon the discharge of their duties.

(d) The advisory board shall meet on the call of the chairperson, except that for the first meeting after the effective date of this act the advisory board shall meet on call of the governor. Members of the advisory board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

New Sec. 37. The secretary of health and environment or the secretary's designee, shall remit all moneys received from fees, charges or penalties under article 19 of chapter 65 of the Kansas Statutes Annotated to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the cosmetology fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or by a person or persons designated by the secretary.

Sec. 38. K.S.A. 2000 Supp. 75-3717 is hereby amended to read as follows: 75-3717. (a) As provided in this section, each state agency, not later than October 1 of each year, shall file with the division of the budget its budget estimates for the next fiscal year, and all amendments and revisions thereof, except that, in lieu of such annual filing, each agency listed in subsection (f), not later than October 1, 2000, and every two years thereafter, shall file budget estimates for the next fiscal year and for the ensuing fiscal year thereafter. Each agency listed in subsection (f) may file adjustments to such agency's budget that was approved by the legislature during a prior fiscal year. All such budget estimates shall be in the form provided by the director of the budget. Each agency's budget estimates shall include:

(1) A full explanation of the agency's request for any appropriations for the expansion of present services or the addition of new activities, including an estimate of the anticipated expenditures for the next fiscal year and for each of the three ensuing fiscal years which would be required to support each expansion of present services or addition of new services as requested by the state agency; and

(2) a listing of all programs of the agency that provide services for children and their families and the following information regarding each such program: Of the amount of the agency's request for appropriations to fund the program, that amount which will be spent on services for children or families with children and the number of children or families with children who are served by the program.

(b) At the same time as each state agency submits to the division of the budget a copy of its budget estimate, and all amendments and revisions thereof, each such state agency shall submit a copy of such estimate, and all amendments and revisions thereof, directly to the legislative research department for legislative use.

(c) The director of the budget shall require the agencies to submit a sufficient number of copies of their budget estimates, and all amendments and revisions thereof, to the director's office to satisfy the requirements of such office and one additional copy for legislative use which shall be retained in the division of the budget until the budget of the governor is submitted to the legislature. On or before the day that such budget is submitted to the legislature such legislative use copy, posted to reflect the governor's budget recommendations, shall be submitted to the legislative research department for use by the ways and means committee of the senate and the committee on appropriations of the house of representatives. Following presentation of the governor's budget report to the legislature, the legislative research department may request and shall receive detailed information from the division of the budget on the governor's budget recommendations.

(d) The director of the budget may prepare budget estimates for any state agency failing to file a request.

(e) As used in this section, "services for children and their families" includes but is not limited to any of the following services, whether provided directly or made accessible through subsidies or other payments:

- (1) Financial support for children and families with children or enforcement of the obligation to support a child or a family with one or more children;
- (2) prenatal care, health care for children or immunizations for children;
- (3) mental health or retardation services for children;
- (4) nutrition for children or families with children or nutritional counseling or supplements for pregnant or nursing women;
- (5) child care, early childhood education or parenting education;
- (6) licensure or regulation of child care or early childhood education programs;
- (7) treatment, counseling or other services to preserve families;
- (8) care, treatment, placement or adoption of children without functioning families;
- (9) services to prevent child abuse and to treat and protect child abuse victims;
- (10) services for children who are pregnant, substance abusers or otherwise involved in high risk behavior;
- (11) services related to court proceedings involving children; and
- (12) youth employment services.

(f) On a biennial basis, the following state agencies shall file budget estimates under the provisions of subsection (a): Abstracters' board of examiners, behavioral sciences regulatory board, board of accountancy, board of examiners in optometry, board of nursing, consumer credit commissioner, Kansas board of barbering, Kansas board of examiners in fitting and dispensing of hearing aids, Kansas dental board, Kansas real estate commission, ~~Kansas state board of cosmetology~~, office of the securities commissioner of Kansas, real estate appraisal board, state bank commissioner, state board of healing arts, state board of mortuary arts, state board of pharmacy, state board of technical professions, state board of veterinary examiners, governmental ethics commission and state department of credit unions.

Sec. 39. K.S.A. 39-938, 65-1,148, 65-1920, 65-1925, 65-1926, 74-2702 and 74-2705 and K.S.A. 2000 Supp. 65-1901, 65-1902, 65-1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1907, 65-1908, 65-1909, 65-1912, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1952, 65-1953, 65-1954, 74-2701, 74-2702a, 74-2703, 74-2704 and 75-3717 are hereby repealed.”;

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 9, after the semicolon, by inserting: “abolishing such board and transferring the powers, duties and functions thereof to the secretary of health and environment.”; in line 10, by striking “by the board”; in line 11, by striking all after “amending”; by striking all in lines 12 through 14 and inserting in lieu thereof the following: “K.S.A. 39-938, 65-1,148, 65-1920, 65-1925 and 65-1926 and K.S.A. 2000 Supp. 65-1901, 65-1902, 65-1903, 65-1904, 65-1904a, 65-1904b, 65-1905, 65-1907, 65-1908, 65-1909, 65-1912, 65-1940, 65-1941, 65-1942, 65-1943, 65-1944, 65-1945, 65-1946, 65-1947, 65-1948, 65-1949, 65-1950, 65-1951, 65-1953, 65-1954 and 75-3717 and repealing the existing sections; also repealing K.S.A. 74-2702 and 74-2705 and K.S.A. 2000 Supp. 65-1952, 74-2701, 74-2702a, 74-2703 and 74-2704.”; and the bill be passed as amended.

Committee on **Transportation** recommends **HB 2143** be reported without recommendation.

Also **HB 2369**, as amended by House Committee, be amended on page 1, in line 14, by striking “this section” and inserting “sections 1 and 2, and amendments thereto”; in line 21, by striking “The” and inserting “Except as provided in subsection (c), the”; in line 22, by striking “other city, county.”; in line 23, by striking all following “entity”; by striking all in lines 24 through 27; in line 28, by striking all preceding the period; following line 28, by inserting:

“(c) The provisions of subsection (b) shall not apply if the governing body has:

- (1) Made a determination that such paving materials are not readily available from a nongovernmental entity; or
- (2) adopted a resolution declaring the existence of a disaster, emergency or the threat of disaster or emergency.

Sec. 2. The governing body of any city or county is hereby authorized to establish or participate in the mining or manufacturing of paving materials for the use of such county. Establishment of or participation in any such mining or manufacturing operation shall not occur unless:

(a) Prior to the establishment of or participation in any such mining or manufacturing operation, the governing body shall hold a public hearing to consider the merits of the proposed mining or manufacturing operation;

(b) notice of such public hearing has been published in both the Kansas Register and a newspaper having general circulation in the city or county in which such proposed mining or manufacturing operation is to be established or participated in not less than 20 days prior to the date of such public hearing;

(c) the governing body shall notify any city or county resident or taxpayer, as determined by such city or county's vendor list, who customarily provides construction materials, of the date, time and location of such public hearing. Such notification shall be made by mail not less than 20 days prior to the date of such hearing; and

(d) prior to such hearing, the governing body has prepared or caused to be prepared a verifiable cost/benefit analysis of the proposed mining or manufacturing operation. Copies of such cost/benefit analysis shall be available at the public hearing for consideration by the governing body and the public.”;

By renumbering section 2 as section 3; and the bill be passed as amended.

Committee on **Utilities** recommends **HB 2268**, as amended by House Committee of the Whole, be amended on page 1, in line 42, by striking “a coal-fired” and inserting “an”; also in line 42, by striking “a”; in line 43, by striking “coal-fired” and inserting “an”;

On page 2, in line 1, by striking all following the semicolon; by striking all in lines 2 through 4; in line 5, by striking all preceding “the” and inserting “or (E)”; in line 8, by striking all following “be”; in line 9, by striking “fired” and inserting “connected to an”; by striking all in lines 11 through 38; in line 39, by renumbering section 3 as section 2; in line 40, by striking “all property or ad valorem” and inserting “property”; in line 41, by striking all preceding the colon and inserting “pursuant to the provisions of K.S.A. 72-6431, 76-6b01, 76-6b04 and 76-6b09, and amendments thereto”; in line 43, by striking “or (b)(2)(E)”;

On page 3, in line 1, by striking all following the period; by striking all in lines 2 through 8; in line 15, by striking “or (b)(2)(E)”;

following line 22, by inserting:

“New Sec. 3. The board of county commissioners of any county or the governing body of any city may, by resolution or ordinance, as the case requires, exempt from all property taxes levied the following described property, to the extent herein provided:

(a) All electric generation facilities and additions to electric generation facilities described in subsection (b)(2)(D) of K.S.A. 66-128, and amendments thereto.

The provisions of this subsection shall apply from and after commencement of construction of such property and for the 10 taxable years immediately following the taxable year in which construction of such property is completed.

(b) All pollution control devices purchased for or constructed or installed at electric generation facilities described in subsection (b)(2)(D) of K.S.A. 66-128, and amendments thereto.

The provisions of this subsection shall apply from and after purchase or commencement of construction or installation of such property and for the 10 taxable years immediately following the taxable year in which such property is purchased or construction or installation of such property is completed.

(c) The provisions of this section shall apply to all taxable years commencing after December 31, 2000.”;

Also on page 3, in line 27, by striking “(b)(2)(F)” and inserting “(b)(2)(E)”;

By renumbering sections accordingly; and the bill be passed as amended.

Committee on **Ways and Means** recommends **SB 344** be amended on page 3, in line 9, by striking “\$120,000” and inserting “\$146,532”; after line 15, by inserting the following: “Dorm renovation

For the fiscal year ending June 30, 2002..... \$384,686”;

Also on page 3, in line 22, by striking “\$4,743,000” and inserting “\$4,443,000”; in line 35, by striking “\$1,242,472” and inserting “\$1,542,472”;

On page 4, after line 28, by inserting the following material to read as follows:

(g) In addition to the other purposes for which expenditures may be made by the department of corrections from the correctional industries fund for fiscal year 2002 as authorized by this or other appropriation act of the 2001 regular session of the legislature,

expenditures may be made by the department of corrections for the construction of an industries building and warehouse at Topeka correctional facility: *Provided*, That expenditures for such purpose from the correctional industries fund for fiscal year 2002 shall not exceed \$527,000.”;

On page 9, by striking all in line 18;

On page 11, by striking all in lines 10 through 25;

On page 14, by striking all in lines 14 through 22;

And by renumbering sections accordingly;

On page 23, in line 22, by striking “\$4,740,000” and inserting “\$5,240,000”; after line 42, by inserting the following material to read as follows:

(c) On the effective date of this act, the expenditure limitation established by section 93(a) of chapter 130 of the 2000 Session Laws of Kansas on the construct and equip research support facility fund is hereby increased from \$4,740,000 plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any bond to \$5,240,000 plus all amounts required for costs of any bond issuance, costs of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any bond.”;

On page 24, after line 36, by inserting the following material to read as follows:

Athletic facilities enhancements—special revenue fund No limit
Provided, That Wichita state university may renovate and expand athletic facilities at such university and make expenditures from the athletic facilities enhancements—special revenue fund for such capital improvement project, in addition to the expenditure of other moneys appropriated therefor or obtained by such university from other sources: *Provided, however*, That expenditures from this fund for such capital improvements project shall not exceed \$15,000,000 plus all amounts required for costs of any bond issuance, cost of interest on any bond issued or obtained for such capital improvement project and any required reserves for payment of principal and interest on any such bond: *Provided further*, That such capital improvement project is hereby approved for Wichita state university for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *And provided further*, That all moneys received from the issuance of any bonds issued pursuant to subsection (b) of K.S.A. 74-8905 and amendments thereto shall be deposited in the state treasury to the credit of this fund.”;

On page 25, in line 12, by striking “\$75,000” and inserting “\$50,000”; after line 37, by inserting the following material to read as follows:

Purchase of building and parking lot at 1430 SW Topeka Ave., Topeka,
KS fund..... No limit

Provided, That the department of human resources may make expenditures from the purchase of building and parking lot at 1430 SW Topeka Ave., Topeka, KS fund for the capital improvement project to purchase the building and parking lot at 1430 SW Topeka Ave.: *Provided, however*, That expenditures from this fund for such capital improvement project shall not exceed \$1,690,000, plus all amounts required for cost of bond issuance, cost of interest on the bonds issued for such capital improvement project and any required reserves for the payment of principal and interest on the bonds: *Provided further*, That such capital improvement project is hereby approved for the department of human resources for the purposes of subsection (b) of K.S.A. 74-8905 and amendments thereto and the authorization of the issuance of bonds by the Kansas development finance authority in accordance with that statute: *And provided further*, That all moneys received from the issuance of any such bonds shall be deposited in the state treasury to the credit of this fund.

Employment security administration property sale fund..... No limit

Provided, That the secretary of human resources, in consultation with the secretary of administration, is hereby authorized to make expenditures for fiscal year 2002 from the employment security administration property sale fund to purchase or acquire by exchange additional real estate to provide space for the job service and unemployment insurance programs of the department of human resources, including the initiation and completion of capital improvements on such real estate for such purposes: *Provided, however*, That no

expenditures shall be made from this fund for a proposed purchase or other acquisition of additional real estate to provide space for the job service and unemployment insurance programs of the department of human resources until such proposed purchase or other acquisition, including the preliminary plans and program statement for any capital improvement project that is proposed to be initiated and completed by or for the department of human resources on such real estate for such purposes, have been reviewed by the joint committee on state building construction.

(c) In addition to the other purposes for which expenditures may be made by the department of human resources from moneys appropriated from any special revenue fund for fiscal year 2002 as authorized by this or other appropriation act of the 2001 regular session of the legislature, expenditures may be made by the department of human resources for fiscal year 2002 from the moneys appropriated from any special revenue fund for the expenses of the sale, exchange or other disposition conveying title for any portion or all of the real estate of the department of human resources: *Provided*, That such expenditures may be made and such sale, exchange or other disposition conveying title for any portion or all of the real estate of the department of human resources may be executed or otherwise effectuated only upon specific authorization by the state finance council acting on this matter, which is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in subsection (c) of K.S.A. 75-3711c and amendments thereto and acting after receiving the recommendations of the joint committee on state building construction: *Provided, however*, That no such sale, exchange or other disposition conveying title for any portion of the real estate of the department of human resources shall be entered into until the proposed sale, exchange or other disposition conveying title for such real estate has been reviewed by the joint committee on state building construction: *Provided further*, That the net proceeds from the sale of any of the real estate of the department of human resources shall be deposited in the state treasury to the credit of the employment security administration property sale fund of the department of human resources.

(d) For the fiscal years ending June 30, 2001, and June 30, 2002, the above agency may make expenditures for the purpose of selling the following described property: (1) The North forty- six and two-thirds (46 2/3) feet of Lot numbered sixty-three (63) and the South twenty-three and one- third (23 1/3) feet of Lot numbered sixty-one (61), and the North ten (10) feet of the South thirty- three and one-third (33 1/3) feet of Lot numbered sixty-one (61), all on Kentucky Street in the City of Lawrence, Douglas County, Kansas; and (2) Beginning at the Northeast corner of Lot 436, in Ward 2, City of Manhattan, Riley County, Kansas; thence South 150 feet, more or less, to the Southeast corner of Lot 434, Ward 2; thence West along the South line of said Lot 434 a distance of 30 feet; thence North and parallel with the East line of Lots 434 and 435, a distance of 85 feet; thence West and parallel with the North line of Lot 435 a distance of 20 feet; thence North 65 feet, more or less, to the North line of Lot 436; thence East along the North line of Lot 436 to the place of beginning, and, the West Twenty Five (25) feet of Lot 433, in Ward 2, City of Manhattan, Riley County, Kansas.”;

On page 26, by striking all in lines 18 through 21;

And by relettering subsections accordingly;

On page 31, in line 35, by striking “ending June 30, 2002” and inserting “or years specified”; in line 40, by striking all after “education”; preceding line 41, by inserting the following material to read as follows:

“For the fiscal year ending June 30, 2002	\$10,000,000
For the fiscal year ending June 30, 2003	\$10,000,000”;

On page 32, in line 11, by striking all after “institutions”; preceding line 12, by inserting the following material to read as follows:

“For the fiscal year ending June 30, 2002	\$15,000,000”;
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and the bill be passed as amended.

REPORT ON ENGROSSED BILLS

SB 235, SB 236, SB 329; SCR 1609 reported correctly engrossed March 21, 2001.

COMMITTEE OF THE WHOLE

On motion of Senator Oleen, the Senate resolved itself into Committee of the Whole for consideration of bills on the calendar under the heading of General Orders with Senator Wagle in the chair.

Senator Oleen moved to suspend the rules and **S Sub for HB 2034** be advanced on the calendar under the heading of General Orders for consideration.

On motion of Senator Wagle the following report was adopted:

Recommended **S Sub for HB 2034** be amended by adoption of the committee report recommending a substitute bill, be amended by motion of Senator Emler on page 7, in line 3, after the comma, by inserting "and"; also in line 3, after "care,", by inserting "or for intentional acts,"

Senator Brownlee amended the bill on page 5, in line 39, before the semicolon, by inserting "including costs of training PSAP personnel to provide effective service to all users of the emergency telephone system who have communications disabilities"

Senator Clark amended the bill on page 4, by striking all on line 13, 14, 15 and by striking all preceding "The" on line 16.

Senator Huelskamp amended the bill on page 3, line 29, by inserting "No tax shall be imposed pursuant to this section on a wireless connection used for remote control purposes and capable of accessing only one number."

On motion to recommend **S Sub for HB 2034**, as amended, favorably for passage, the motion failed and **S Sub for HB 2034** remains on the calendar under the heading of General Orders.

On motion of Senator Oleen the Senate adjourned until 2:30 p.m., Thursday, March 22, 2001.

HELEN A. MORELAND, *Journal Clerk*.

PAT SAVILLE, *Secretary of Senate*.

