

1 *As Amended by Senate Committee*

2
3 *As Amended by House Committee*

4 *Session of 2001*

5
6 **HOUSE BILL No. 2316**

7
8 By Committee on Environment

9
10 2-5

11
12 AN ACT concerning water; providing civil penalties for certain violations
13 of laws and orders, terms, conditions and limitations relating thereto;
14 **relating to the equus beds groundwater management district no.**
15 **2; amending K.S.A. 82a-1021 and K.S.A. 2000 Supp. 65-171d, 79-**
16 **201a and 79-3606 and repealing the existing sections.**

17
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. (a) As used in this section:

20 (1) "Chief engineer" means the chief engineer of the division of water
21 resources of the department of agriculture.

22 (2) "Secretary" means the secretary of agriculture.

23 (b) Any person who commits any of the following may incur a civil
24 penalty as provided by this section:

25 (1) Any violation of the Kansas water appropriation act (K.S.A. 82a-
26 701 *et seq.*, and amendments thereto) or any rule and regulation adopted
27 thereunder;

28 (2) any violation of an order issued pursuant to K.S.A. 82a-1038, and
29 amendments thereto, relating to an intensive groundwater use control
30 area; or

31 (3) any violation of a term, condition or limitation imposed by the
32 chief engineer as authorized by law, including, but not limited to: (A)
33 ~~Failure to divert water from an authorized~~ **Diversion of water from an**
34 **unauthorized** point of diversion; (B) failure to limit the use of water to
35 the authorized place of use; (C) failure to submit or comply with the terms
36 of conservation plans as required pursuant to K.S.A. 82a-733, and amend-
37 ments thereto; (D) failure to comply with the maximum annual quantity
38 or rate of diversion authorized; (E) failure to properly install, maintain or
39 assure the accuracy of acceptable water measurement devices; (F) failure
40 to comply with orders related to minimum desirable stream flow, unlawful
41 diversion, impairment of senior water rights or waste of water; or (G)
42 failure to limit the use of water to an authorized type of use.

43 (c) The amount of the civil penalty provided for by this section shall

1 be not less than \$100 nor more than \$1,000 per violation. In the case of
2 a continuing violation, each day such violation continues may be deemed
3 a separate violation. Such civil penalty may be assessed in addition to any
4 other penalty provided by law.

5 (d) The chief engineer or the chief engineer's duly authorized agent,
6 upon a finding that a person has committed a violation specified in sub-
7 section (b), may order the modification or suspension of the person's
8 water right or use of water, in addition to any other penalty provided by
9 law.

10 (e) No civil penalty or suspension or modification of a water right or
11 use of water shall be imposed pursuant to this section except on the
12 written order of the chief engineer or duly authorized agent of the chief
13 engineer. Such order shall state the nature of the violation, the factual
14 basis for the finding, the penalty to be imposed and the appropriate pro-
15 cedure for appeal of the order to the chief engineer or the secretary, as
16 established by K.S.A. 2000 Supp. 82a-1901, and amendments thereto.
17 Upon review, the order shall be affirmed, reversed or modified and the
18 reasons therefor shall be specified.

19 (f) Any person aggrieved by an order of the chief engineer, or the
20 chief engineer's duly authorized agent, pursuant to this section may re-
21 quest review by the secretary as provided by K.S.A. 2000 Supp. 82a-1901,
22 and amendments thereto, and, upon exhaustion of administrative reme-
23 dies, may appeal to the district court in the manner provided by the act
24 for judicial review and civil enforcement of agency actions.

25 **(g) The provisions of this section shall be part of and supple-**
26 **mental to the Kansas water appropriation act.**

27 ***Sec. 2. K.S.A. 2000 Supp. 65-171d is hereby amended to read***
28 ***as follows: 65-171d. (a) For the purpose of preventing surface and***
29 ***subsurface water pollution and soil pollution detrimental to public***
30 ***health or to the plant, animal and aquatic life of the state, and to***
31 ***protect beneficial uses of the waters of the state and to require the***
32 ***treatment of sewage predicated upon technologically based effluent***
33 ***limitations, the secretary of health and environment shall make***
34 ***such rules and regulations, including registration of potential***
35 ***sources of pollution, as may in the secretary's judgment be neces-***
36 ***sary to: (1) Protect the soil and waters of the state from pollution***
37 ***resulting from underground storage reservoirs of hydrocarbons and***
38 ***liquid petroleum gas; (2) control the disposal, discharge or escape***
39 ***of sewage as defined in K.S.A. 65-164 and amendments thereto, by***
40 ***or from municipalities, corporations, companies, institutions, state***
41 ***agencies, federal agencies or individuals and any plants, works or***
42 ***facilities owned or operated, or both, by them; and (3) establish***
43 ***water quality standards for the waters of the state to protect their***

1 ~~beneficial~~ designated **uses**. In no event shall the secretary's authority be
2 interpreted to include authority over the beneficial use of water, water
3 quantity allocations, protection against water use impairment of a bene-
4 ficial use, or any other function or authority under the jurisdiction of the
5 Kansas water appropriation act, K.S.A. 82a-701, and amendments
6 thereto.

7 **(b) The secretary of health and environment may adopt by ref-**
8 **erence any regulation relating to water quality and effluent stan-**
9 **dards promulgated by the federal government pursuant to the pro-**
10 **visions of the federal clean water act and amendments thereto, as**
11 **in effect on January 1, 1989, which the secretary is otherwise au-**
12 **thorized by law to adopt.**

13 **(c) For the purposes of this act, including K.S.A. 65-161 through**
14 **65-171h and K.S.A. 2000 Supp. 65-1,178 through 65-1,198, and**
15 **amendments thereto, and rules and regulations adopted pursuant**
16 **thereto:**

17 **(1) "Pollution" means: (A) Such contamination or other alter-**
18 **ation of the physical, chemical or biological properties of any wa-**
19 **ters of the state as will or is likely to create a nuisance or render**
20 **such waters harmful, detrimental or injurious to public health,**
21 **safety or welfare, or to the plant, animal or aquatic life of the state**
22 **or to other designated ~~beneficial~~ uses; or (B) such discharge as will**
23 **or is likely to exceed state effluent standards predicated upon tech-**
24 **nologically based effluent limitations.**

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

30 **(3) "Animal unit" means a unit of measurement calculated by**
31 **adding the following numbers: The number of beef cattle weighing**
32 **more than 700 pounds multiplied by 1.0; plus the number of cattle**
33 **weighing less than 700 pounds multiplied by 0.5; plus the number**
34 **of mature dairy cattle multiplied by 1.4; plus the number of swine**
35 **weighing more than 55 pounds multiplied by 0.4; plus the number**
36 **of swine weighing 55 pounds or less multiplied by 0.1; plus the**
37 **number of sheep or lambs multiplied by 0.1; plus the number of**
38 **horses multiplied by 2.0; plus the number of turkeys multiplied by**
39 **0.018; plus the number of laying hens or broilers, if the facility has**
40 **continuous overflow watering, multiplied by 0.01; plus the number**
41 **of laying hens or broilers, if the facility has a liquid manure system,**
42 **multiplied by 0.033; plus the number of ducks multiplied by 0.2.**
43 **However, each head of cattle will be counted as one full animal unit**

1 *for the purpose of determining the need for a federal permit. “Animal unit” also includes the number of swine weighing 55 pounds*
2 *or less multiplied by 0.1 for the purpose of determining applicable*
3 *requirements for new construction of a confined feeding facility for*
4 *which a permit or registration has not been issued before January*
5 *1, 1998, and for which an application for a permit or registration*
6 *and plans have not been filed with the secretary of health and en-*
7 *vironment before January 1, 1998, or for the purpose of determining*
8 *applicable requirements for expansion of such facility. However,*
9 *each head of swine weighing 55 pounds or less shall be counted as*
10 *0.0 animal unit for the purpose of determining the need for a federal*
11 *permit.*

12
13 (4) *“Animal unit capacity” means the maximum number of animal units which a confined feeding facility is designed to accom-*
14 *modate at any one time.*

15
16 (5) *“Habitable structure” means any of the following structures*
17 *which is occupied or maintained in a condition which may be oc-*
18 *cupied and which, in the case of a confined feeding facility for*
19 *swine, is owned by a person other than the operator of such facility:*
20 *A dwelling, church, school, adult care home, medical care facility,*
21 *child care facility, library, community center, public building, of-*
22 *fice building or licensed food service or lodging establishment.*

23 (6) *“Wildlife refuge” means Cheyenne Bottoms wildlife man-*
24 *agement area, Cheyenne Bottoms preserve and Flint Hills, Quivera,*
25 *Marais des Cygnes and Kirwin national wildlife refuges.*

26 (d) *In adopting rules and regulations, the secretary of health*
27 *and environment, taking into account the varying conditions that*
28 *are probable for each source of sewage and its possible place of*
29 *disposal, discharge or escape, may provide for varying the control*
30 *measures required in each case to those the secretary finds to be*
31 *necessary to prevent pollution. If a freshwater reservoir or farm*
32 *pond is privately owned and where complete ownership of land bor-*
33 *dering the reservoir or pond is under common private ownership,*
34 *such freshwater reservoir or farm pond shall be exempt from water*
35 *quality standards except as it relates to water discharge or seepage*
36 *from the reservoir or pond to waters of the state, either surface or*
37 *groundwater, or as it relates to the public health of persons using*
38 *the reservoir or pond or waters therefrom.*

39 (e) (1) *Whenever the secretary of health and environment or*
40 *the secretary’s duly authorized agents find that the soil or waters*
41 *of the state are not being protected from pollution resulting from*
42 *underground storage reservoirs of hydrocarbons and liquid petro-*
43 *leum gas or that storage or disposal of salt water not regulated by*

1 *the state corporation commission or refuse in any surface pond is*
2 *causing or is likely to cause pollution of soil or waters of the state,*
3 *the secretary or the secretary's duly authorized agents shall issue*
4 *an order prohibiting such underground storage reservoir or surface*
5 *pond. Any person aggrieved by such order may within 15 days of*
6 *service of the order request in writing a hearing on the order.*

7 *(2) Upon receipt of a timely request, a hearing shall be con-*
8 *ducted in accordance with the provisions of the Kansas administra-*
9 *tive procedure act.*

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

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

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

18 *(2) permitting, monitoring and inspecting salt solution mining*
19 *operators, for which the annual fee shall not exceed \$1,950 per com-*
20 *pany; and*

21 *(3) permitting, monitoring and inspecting hydrocarbon storage*
22 *wells and well systems, for which the annual fee shall not exceed*
23 *\$1,875 per company.*

24 *(g) Prior to any new construction of a confined feeding facility*
25 *with an animal unit capacity of 300 to 999, such facility shall reg-*
26 *ister with the secretary of health and environment. Facilities with*
27 *a capacity of less than 300 animal units may register with the sec-*
28 *retary. Any such registration shall be accompanied by a \$25 fee.*
29 *Within 30 days of receipt of such registration, the department of*
30 *health and environment shall identify any significant water pollu-*
31 *tion potential or separation distance violations pursuant to subsec-*
32 *tion (h). If there is identified a significant water pollution potential,*
33 *such facility shall be required to obtain a permit from the secretary.*
34 *If there is no water pollution potential posed by a facility with an*
35 *animal unit capacity of less than 300, the secretary may certify that*
36 *no permit is required. If there is no water pollution potential nor*
37 *any violation of separation distances posed by a facility with an*
38 *animal unit capacity of 300 to 999, the secretary shall certify that*
39 *no permit is required and that there are no certification conditions*
40 *pertaining to separation distances. If a separation distance violation*
41 *is identified, the secretary may reduce the separation distance in*
42 *accordance with subsection (i) and shall certify any such reduction*
43 *of separation distances.*

1 ***(h) (1) Any new construction or new expansion of a confined***
2 ***feeding facility, other than a confined feeding facility for swine,***
3 ***shall meet or exceed the following requirements in separation dis-***
4 ***tances from any habitable structure in existence when the appli-***
5 ***cation for a permit is submitted:***

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

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

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

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

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

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

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

27 ***(3) Any construction of new confined feeding facilities for swine***
28 ***shall meet or exceed the following requirements in separation dis-***
29 ***tances from any wildlife refuge:***

30 ***(A) 10,000 feet for facilities with an animal unit capacity of***
31 ***1,000 to 3,724; and***

32 ***(B) 16,000 feet for facilities with an animal unit capacity of***
33 ***3,725 or more.***

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

42 ***(2) (A) The secretary may reduce the separation distance***
43 ***requirements of subsection (h)(1) if: (i) No substantial objection***

1 *from owners of habitable structures within the separation distance*
2 *is received in response to public notice; or (ii) the board of county*
3 *commissioners of the county where the confined feeding facility is*
4 *located submits a written request seeking a reduction of separation*
5 *distances.*

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

15 *(C) The secretary may reduce the separation distance require-*
16 *ments of subsection (h)(2)(C) or (D) if: (i) No substantial objection*
17 *from owners of habitable structures within the separation distance*
18 *is received in response to notice given in accordance with subsection*
19 *(I); or (ii) the secretary determines that technology exists that meets*
20 *or exceeds the effect of the required separation distance and the*
21 *facility will be using such technology.*

22 *(j) (1) The separation distances required pursuant to subsec-*
23 *tion (h)(1) shall not apply to:*

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

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

28 *(C) expansion of a confined feeding facility, including any ex-*
29 *pansion for which an application was pending on July 1, 1994, if:*
30 *(i) In the case of a facility with an animal unit capacity of 1,000 or*
31 *more prior to July 1, 1994, the expansion is located at a distance*
32 *not less than the distance between the facility and the nearest hab-*
33 *itable structure prior to the expansion; or (ii) in the case of a facility*
34 *with an animal unit capacity of less than 1,000 prior to July 1, 1994,*
35 *the expansion is located at a distance not less than the distance*
36 *between the facility and the nearest habitable structure prior to the*
37 *expansion and the animal unit capacity of the facility after expan-*
38 *sion does not exceed 2,000.*

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

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

43 *(B) confined feeding facilities for swine which existed on July 1,*

1 **1994, and registered with the secretary before July 1, 1996; or**

2 **(C) expansion of a confined feeding facility which existed on**
3 **July 1, 1994, if: (i) In the case of a facility with an animal unit**
4 **capacity of 1,000 or more prior to July 1, 1994, the expansion is**
5 **located at a distance not less than the distance between the facility**
6 **and the nearest habitable structure prior to the expansion; or (ii)**
7 **in the case of a facility with an animal unit capacity of less than**
8 **1,000 prior to July 1, 1994, the expansion is located at a distance**
9 **not less than the distance between the facility and the nearest hab-**
10 **itable structure prior to the expansion and the animal unit capacity**
11 **of the facility after expansion does not exceed 2,000.**

12 **(3) The separation distances required pursuant to subsections**
13 **(h)(2)(C) and (D) and (h)(3) shall not apply to the following, as**
14 **determined in accordance with subsections (a), (e) and (f) of K.S.A.**
15 **2000 Supp. 65-1,178 and amendments thereto:**

16 **(A) Expansion of an existing confined feeding facility for swine**
17 **if an application for such expansion has been received by the de-**
18 **partment before March 1, 1998; and**

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

22 **(k) The separation distances required by this section for con-**
23 **fining feeding facilities for swine shall be determined from the ex-**
24 **terior perimeter of any buildings utilized for housing swine, any**
25 **lots containing swine, any swine waste retention lagoons or ponds**
26 **or other manure or wastewater storage structures and any addi-**
27 **tional areas designated by the applicant for future expansion. Such**
28 **separation distances shall not apply to offices, dwellings and feed**
29 **production facilities of a confined feeding facility for swine.**

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

35 **(m) All plans and specifications submitted to the department for**
36 **new construction or new expansion of confined feeding facilities**
37 **may be, but are not required to be, prepared by a professional en-**
38 **gineer or a consultant, as approved by the department. Before ap-**
39 **proval by the department, any consultant preparing such plans and**
40 **specifications shall submit to the department evidence, satisfactory**
41 **to the department, of adequate general commercial liability insur-**
42 **ance coverage.**

43 **New Sec. 3. The following terms when used in this act shall**

1 *have the limitations and meanings respectively ascribed to them in*
2 *this section:*

3 (a) *“Agricultural groundwater user” means a groundwater user*
4 *that uses water for growing crops, raising livestock or other uses*
5 *associated with a farming operation.*

6 (b) *“Aquifer” means any geological formation capable of yield-*
7 *ing water in sufficient quantities that it can be extracted for bene-*
8 *ficial purposes.*

9 (c) *“Board” means the board of directors constituting the gov-*
10 *erning body of the equus beds groundwater management district.*

11 (d) *“Chief engineer” means the chief engineer of the division of*
12 *water resources of the Kansas state board of agriculture.*

13 (e) *“District” means the equus beds groundwater management*
14 *district, organized as groundwater management district no. 2 in*
15 *1976 under the provisions of K.S.A. 82a-1020 et seq., and amend-*
16 *ments thereto, as such district is shown by the records of the state*
17 *of Kansas on the effective date of this act and as the area may be*
18 *increased or decreased from time to time.*

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

29 *Except as is hereafter qualified, every public or private corpo-*
30 *ration shall be an eligible voter of the district either (1) if it is a*
31 *landowner who owns of record any land, or any interest in land,*
32 *comprised of 40 or more contiguous acres located within the bound-*
33 *aries of the district and not within the corporate limits of any mu-*
34 *nicipality, or (2) if it is a corporation that withdraws groundwater*
35 *from within the district in an amount of one acre-foot or more per*
36 *year.*

37 *Each tract of land of 40 or more contiguous acres and each quan-*
38 *tity of water withdrawn or used in an amount of one acre-foot or*
39 *more per year shall be represented by but a single eligible voter. If*
40 *the land is held by lease, under an estate for years, under contract,*
41 *or otherwise, the fee owner shall be the one entitled to vote, unless*
42 *the parties in interest agree otherwise. If the land is held jointly or*
43 *in common, the majority in interest shall determine which natural*

1 **person or corporation shall be entitled to vote. Each qualified voter**
2 **shall be entitled to cast only one vote. A person duly authorized to**
3 **act in a representative capacity for estates, trusts, municipalities,**
4 **public corporations or private corporations may also cast one vote**
5 **for each estate, trust, municipality, or public or private corpora-**
6 **tions so represented. Nothing herein shall be construed to authorize**
7 **proxy voting.**

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

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

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

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

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

33 **(i) "Industrial groundwater user" means a groundwater user**
34 **utilizing water in connection with the manufacture, production,**
35 **transport, mining or storage of products, or the use of water in con-**
36 **nection with providing commercial services, including water used**
37 **in connection with the generation or production of energy and ther-**
38 **mal exchange.**

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

41 **(k) "Landowner" means the person who is the record owner of**
42 **any real estate within the boundaries of the district or who has an**
43 **interest therein as contract purchaser of 40 or more contiguous**

1 *acres in the district not within the corporate limits of any municipi-*
2 *ality. Owners of oil leases, gas leases, mineral rights, easements or*
3 *mortgages shall not be considered landowners by reason of such*
4 *ownership.*

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

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

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

16 *(o) "Point of diversion" means the point at which water is di-*
17 *verted from a groundwater supply source.*

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

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

26 *New Sec. 4. (a) The district shall enjoy separate statutory au-*
27 *thority pursuant to this act.*

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

33 *New Sec. 5. (a) The board shall hold an annual meeting for the*
34 *election of directors whose terms expire, to report on the financial*
35 *condition and activities of the district and to adopt a proposed*
36 *budget covering the anticipated expenses of the district for the en-*
37 *suing year.*

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

41 *(c) A notice of the meeting shall be given by the board at least*
42 *10 days prior to the meeting date by one publication in a newspaper*
43 *of general circulation in each of the counties of which the ground-*

1 *water management district is a part.*

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

5 *(e) The candidates receiving the greatest number of votes cast*
6 *for industrial groundwater user, municipal groundwater user, ag-*
7 *ricultural groundwater user or other eligible voters shall respec-*
8 *tively be declared elected.*

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

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

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

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

29 *(e) The board shall consist of natural persons representative of*
30 *industrial groundwater users, agricultural groundwater users, mu-*
31 *nicipal groundwater users and other eligible voters as follows:*

32 *(1) A minimum of three board members shall be municipal*
33 *groundwater users;*

34 *(2) a minimum of three board members shall be agricultural*
35 *groundwater users;*

36 *(3) a minimum of one board member shall be an industrial*
37 *groundwater user; and*

38 *(4) all remaining board members shall be eligible voters.*

39 *(f) The board shall also serve terms that assure that no more*
40 *than 1/3 of the board will be elected in any annual meeting.*

41 *(g) The board shall adopt a standard and policy that provides*
42 *for elections of the members of the board consistent with the pro-*
43 *visions of this act.*

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

3 ***(a) Adopt a seal;***

4 ***(b) sue and be sued in its corporate name;***

5 ***(c) rent space, maintain and equip an office, and pay other ad-***
6 ***ministrative expenses;***

7 ***(d) employ such legal, engineering, technical, and clerical serv-***
8 ***ices as may be deemed necessary by the board;***

9 ***(e) purchase, hold, sell and convey land, water rights and per-***
10 ***sonal property, and execute such contracts as may, in the opinion***
11 ***of the board, be deemed necessary or convenient;***

12 ***(f) acquire land and interests in land by gift, exchange or emi-***
13 ***nent domain, the power of eminent domain to be exercised within***
14 ***the boundaries of the district in like manner as provided by K.S.A.***
15 ***26-501 to 26-516, and amendments thereto, except that any land***
16 ***holdings acquired pursuant hereto or in accordance with the pro-***
17 ***visions of the next preceding subsection shall not in the aggregate***
18 ***exceed 1,000 acres. In any case where a district has land holdings***
19 ***in excess of the described limitation, the district shall dispose of***
20 ***such excess in a reasonable and expeditious manner;***

21 ***(g) construct, operate and maintain such works as may be de-***
22 ***termined necessary for drainage, recharge, storage, distribution or***
23 ***importation of water, and all other appropriate facilities of concern***
24 ***to the district;***

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

28 ***(i) contract with persons, firms, associations, partnerships, cor-***
29 ***porations or agencies of the state or federal government, and enter***
30 ***into cooperative agreements with any of them;***

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

33 ***(k) construct and establish research, development, and demon-***
34 ***stration projects, and collect and disseminate research data and***
35 ***technical information concerning the conservation of groundwater;***

36 ***(l) install or require the installation of meters, gauges, or other***
37 ***measuring devices and read or require water users to read and re-***
38 ***port those readings as may be necessary to determine the quantity***
39 ***of water withdrawn;***

40 ***(m) provide advice and assistance in the management of drain-***
41 ***age problems, storage, groundwater recharge, surface water man-***
42 ***agement, and all other appropriate matters of concern to the***
43 ***district;***

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

7 ***(o) recommend to the chief engineer rules and regulations nec-***
8 ***essary to implement and enforce the policies of the board. Such***
9 ***rules and regulations shall be of no force and effect unless and until***
10 ***adopted by the chief engineer to implement the provisions of article***
11 ***7 of chapter 82a of the Kansas Statutes Annotated, and all acts***
12 ***amendatory thereof or supplemental thereto. All such regulations***
13 ***adopted shall be effective only within a specified district;***

14 ***(p) enter upon private property within the district for inspec-***
15 ***tion purposes, to determine conformance of the use of water with***
16 ***established rules and regulations, including measurements of flow,***
17 ***depth of water, water wastage and for such other purposes as are***
18 ***necessary and not inconsistent with the purposes of this act;***

19 ***(q) select a residence or home office for the groundwater man-***
20 ***agement district which shall be at a place in a county in which the***
21 ***district or any part thereof is located and may be either within or***
22 ***without the boundaries of the district. The board shall designate***
23 ***the county in which the residence or home office is located as the***
24 ***official county for the filing of all official acts and assessments;***

25 ***(r) seek and accept grants or other financial assistance that the***
26 ***federal government and other public or private sources shall make***
27 ***available and to utilize the same to carry out the purposes and func-***
28 ***tions of the district; and***

29 ***(s) recommend to the chief engineer the initiation of proceed-***
30 ***ings for the designation of a certain area within the district as an***
31 ***intensive groundwater use control area.***

32 ***New Sec. 8. The board shall prepare a management program.***
33 ***Upon completion of the management program the board shall trans-***
34 ***mit a copy to the chief engineer with a request for the chief engi-***
35 ***neer's approval. The chief engineer shall examine and study the***
36 ***management program and, if the chief engineer finds that it is com-***
37 ***patible with article 7 of chapter 82a of the Kansas Statutes Anno-***
38 ***tated, and amendments thereto, and any other state laws or policies,***
39 ***the chief engineer shall approve it and notify the board of the chief***
40 ***engineer's action. When the management program is approved by***
41 ***the chief engineer, the board shall fix a time and place either within***
42 ***or conveniently near the district for a public hearing upon the man-***
43 ***agement program. A notice of the hearing shall be given by one***

1 **publication in a newspaper or newspapers of general circulation**
2 **within the district, at least 28 days prior to the date fixed for the**
3 **hearing, setting forth the time and place of the hearing. The notice**
4 **shall state that a copy of the management program is available for**
5 **public inspection in the office of the secretary of the district. Any**
6 **person desiring to be heard in the matter must file, in duplicate,**
7 **with the board at its office at least five days before the date of the**
8 **hearing a written statement of the person's intent to appear at the**
9 **hearing and the substance of the testimony the person wishes to**
10 **present. Upon receipt of any such statements, the board shall im-**
11 **mediately transmit one copy of the statements to the chief engineer.**
12 **The chief engineer or the chief engineer's duly appointed represen-**
13 **tative shall attend the hearing. At the hearing any person who has**
14 **duly filed a written statement shall be heard and may present in-**
15 **formation in support of the person's position in the matter. After**
16 **hearing and considering all relevant testimony and information, the**
17 **board by resolution shall adopt, modify or reject the management**
18 **program. The board shall then notify the chief engineer of its action.**
19 **If it is determined that the management program should be modi-**
20 **fied, any proposed changes approved by the board shall be incor-**
21 **porated in a modified management program which shall be submit-**
22 **ted to the chief engineer for further consideration. The chief**
23 **engineer shall review the modified management program and shall**
24 **transmit a supplemental written report of the results of the chief**
25 **engineer's study and investigation to the board, including the chief**
26 **engineer's written approval or disapproval of the modified manage-**
27 **ment program. If the modified management program is approved**
28 **by the chief engineer, the board shall by resolution adopt it as the**
29 **official management program of the district and notify the chief**
30 **engineer of its action. The board shall periodically and at least once**
31 **each year review the officially adopted management program. Fol-**
32 **lowing that review, the board shall either reaffirm adoption of the**
33 **management program or propose that it be revised. If it is proposed**
34 **that the management program be revised, the board shall follow the**
35 **same procedure towards adoption of a revised management pro-**
36 **gram as is prescribed above for the preparation, approval and adop-**
37 **tion of the original management program.**

38 **New Sec. 9. (a) In order to finance the operations of the district,**
39 **the board may assess an annual water user charge against every**
40 **person who withdraws groundwater from within the boundaries of**
41 **the district. The board shall base such charge upon the amount of**
42 **groundwater allocated for such person's use pursuant to such per-**
43 **son's water right. Such charge shall not exceed \$1.19 for each acre-**

1 *foot (325,851 gallons) of groundwater withdrawn within the district*
2 *or allocated by the water right. Whenever a person shows by the*
3 *submission to the board of a verified claim and any supportive data*
4 *which may be required by the board that the person's actual annual*
5 *groundwater withdrawal is in a lesser amount than that allocated*
6 *by the water right of such person, the board shall assess such annual*
7 *charge against such person on the amount of water shown to be*
8 *withdrawn by the verified claim. Any such claim shall be submitted*
9 *by April 1 of the year in which such annual charge is to be assessed.*
10 *The board may also make an annual assessment against each land-*
11 *owner of not to exceed \$.05 for each acre of land owned within the*
12 *boundaries of the district. Special assessments may also be levied,*
13 *as provided hereafter, against land specially benefitted by a capital*
14 *improvement without regard to the limits prescribed above.*

15 *(b) Before any assessment is made, or user charge imposed, the*
16 *board shall submit the proposed budget for the ensuing year to the*
17 *eligible voters of the district at a hearing called for that purpose by*
18 *one publication in a newspaper or newspapers of general circula-*
19 *tion within the district at least 28 days prior to the meeting. Fol-*
20 *lowing the hearing, the board shall, by resolution, adopt either the*
21 *proposed budget or a modified budget and determine the amount*
22 *of land assessment or user charge, or both, needed to support such*
23 *budget.*

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

35 *(d) The board shall be authorized to issue no-fund warrants in*
36 *amounts sufficient to meet the operating expenses of the district*
37 *until money therefor becomes available pursuant to user charges*
38 *or assessments under subsection (a). In no case shall the amount of*
39 *any such issuance be in excess of 20% of the total amount of money*
40 *receivable from assessments which could be levied in any one year*
41 *as provided in subsection (a). No such warrants shall be issued until*
42 *a resolution authorizing the issuance has been adopted by the board*
43 *and published once in a newspaper having a general circulation in*

1 *each county within the boundaries of the district. Whereupon such*
2 *warrants may be issued unless a petition in opposition to the same,*
3 *signed by not less than 10% of the eligible voters of such district*
4 *and in no case by less than 20 of the eligible voters of such district,*
5 *is filed with the county clerk of each of the counties in such district*
6 *within 10 days following such publication. In the event such a pe-*
7 *tition is filed, it shall be the duty of the board of such district to*
8 *submit the question to the eligible voters at an election called for*
9 *such purpose. Such election shall be noticed and conducted as pro-*
10 *vided by subsection (a) of section 10, and amendments thereto.*

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

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

36 *(b) If the board by resolution provides that all or any part of*
37 *the capital cost of works of improvement is to be paid by the iss-*
38 *uance of improvement bonds to be funded by special assessment*
39 *against the lands specially benefited by a project, the board shall*
40 *proceed to determine the particular lands within the district upon*
41 *which special assessments are to be levied and it shall be the duty*
42 *of the board to submit the question of approval of the bond issue to*
43 *an election of the owners of those lands. Notice of the time and place*

1 *and the purpose for which the election is to be held shall be given*
2 *by one publication in a newspaper or newspapers of general cir-*
3 *ulation within the district at least 28 days prior to the date of the*
4 *election. Except as hereinbefore provided, the election shall be held*
5 *and conducted in the manner prescribed in subsection (a) of this*
6 *section. If it is proposed to issue improvement bonds to be paid*
7 *partially by the entire district and partially by lands specially ben-*
8 *efited, it shall be the duty of the board of directors to submit each*
9 *question for approval separately.*

10 *New Sec. 11. If a resolution of the board provides that all or*
11 *any part of the cost of the works contemplated is to be paid by*
12 *special assessment against lands specially benefited by a project,*
13 *the board shall appoint three disinterested appraisers who shall rec-*
14 *ommend apportionment of the special assessment to the tracts of*
15 *land subject to the special assessment. The appraisers shall have*
16 *access to all available engineering reports and data pertaining to*
17 *the works contemplated and may request additional engineering*
18 *data or counsel necessary to carry out their duties. The appraisers*
19 *shall take an oath to appraise fairly and impartially the benefits*
20 *accruing to each tract of land and shall recommend the apportion-*
21 *ment of assessment according to the relative benefits to be received*
22 *by the several tracts of land subject to assessment. They shall make*
23 *a written report of their findings to the board. Upon receiving the*
24 *report, the board shall prepare a resolution which shall contain a*
25 *list of the tracts of land found to be specially benefited and the*
26 *amount of assessment to be levied against each tract. No assessment*
27 *so specified against any tract of land shall exceed the estimated*
28 *benefits to the land by the project. Each tract of land shall be legally*
29 *described and the name of its owner or owners shall be set forth*
30 *beside the description of each tract listed. After adopting the reso-*
31 *lution, the board shall fix a time and place for hearing any com-*
32 *plaint that may be made as to the estimated benefit to any tract of*
33 *land appraised and a notice of the hearing shall be given by the*
34 *board by one publication in a newspaper or newspapers of general*
35 *circulation within the district at least 10 days prior to the date set*
36 *for the hearing. The board at the hearing may alter the estimated*
37 *benefit to any tract of land if, in its judgment, the benefit has been*
38 *appraised too high or too low. The board shall immediately there-*
39 *after pass a resolution fixing the benefit to be assigned to each tract*
40 *of land and providing for the benefit assessment thereof, which sum*
41 *may be spread equally over a period of not to exceed 20 years. The*
42 *board shall immediately thereafter mail a written notice of the as-*
43 *essment to the owner or owners of each tract of land. The notice*

1 *shall state that if the assessment is not paid in full within 30 days*
2 *from the date of notice, bonds will be issued and an assessment will*
3 *be levied annually against the tract of land for a period of not to*
4 *exceed 20 years in an amount sufficient to pay the total assessment*
5 *plus the interest due on the bonds. No action to set aside the as-*
6 *essment shall be maintained unless commenced within 90 days*
7 *from the date of the notice. The amount assessed against each tract*
8 *of ground to pay for the special assessment bonds falling due each*
9 *year and the interest thereon shall be levied, certified to the proper*
10 *county clerk, and collected the same as other taxes.*

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

16 *(1) Describe the territory to be annexed or removed by town-*
17 *ship, range and section numbers and fraction thereof and other plat-*
18 *ted areas as appropriate.*

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

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

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

36 *(c) After the hearing the chief engineer shall approve such pe-*
37 *tion if the chief engineer finds that:*

38 *(1) The lands proposed to be included in the district substan-*
39 *tially comprise a hydrologic community of interest.*

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

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

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

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

5 **(6) The public interest will be served by the annexation or re-**
6 **duction of the district.**

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

14 **New Sec. 13. (a) Whenever the board finds reasons for the dis-**
15 **solution of the district, the board may, by resolution adopted by a**
16 **$\frac{2}{3}$ vote of all members of the board at a special meeting of the board**
17 **called for that purpose, notice of which shall specify the purpose**
18 **for which the meeting is to be called, provide for the calling of an**
19 **election of the eligible voters of the district for the purpose of de-**
20 **termining whether the district shall be dissolved. The board shall**
21 **also provide for the calling of an election if written petitions there-**
22 **for, signed by 20% of the eligible voters of the district, are filed with**
23 **the secretary of the board. The election to determine whether the**
24 **district shall be dissolved shall be held and conducted by the board**
25 **in the same manner as provided for conducting the election for the**
26 **organization of the district insofar as those provisions can be made**
27 **applicable. If a majority of the votes cast are in favor of dissolution**
28 **of the district, the board shall immediately certify the results of the**
29 **election to the secretary of state who shall thereupon issue and de-**
30 **liver to the secretary of the board a certificate of dissolution.**

31 **(b) Upon receipt from the secretary of state of the certificate of**
32 **dissolution of the district, the secretary of the board shall notify the**
33 **board of the certification and the board shall immediately pay all**
34 **obligations of the district, including all costs incurred by the dis-**
35 **trict, the chief engineer and the secretary of state in regard to the**
36 **dissolution proceedings. The treasurer of the board shall thereupon**
37 **distribute all moneys in the treasurer's hands belonging to the dis-**
38 **trict in the manner prescribed by this act and immediately after**
39 **making the distribution the treasurer shall notify the secretary of**
40 **the board of the distribution. Upon receipt of the notification the**
41 **secretary of the board shall have the certificate of dissolution pub-**
42 **lished once in a newspaper or newspapers of general circulation**
43 **within the district and proof of the publication shall be filed in the**

1 *office of the secretary of state. The effective date of the dissolution,*
2 *unless otherwise provided, shall be the date on which the proof of*
3 *publication is filed in the office of the secretary of state, but in no*
4 *event shall the date of dissolution be a date prior to the date of the*
5 *publication of the certificate of dissolution. A certified copy of the*
6 *certificate of dissolution of the district shall also be recorded in the*
7 *office of the county clerk of each county where any portion of the*
8 *district was located.*

9 *(c) Any funds or other assets of the district shall be apportioned*
10 *and paid to the general fund of any county located within or par-*
11 *tially within the district in the proportion which the assessed val-*
12 *uation of the property in the district located within the county bears*
13 *to the total assessed valuation of the district, based on equalized*
14 *assessed valuations for the preceding year. The treasurer of the dis-*
15 *trict, upon notification of receipt of the certificate of dissolution,*
16 *shall immediately pay the amounts due each county located within*
17 *the district to the treasurer of the county.*

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

21 *New Sec. 14. Whenever the district recommends the same or*
22 *whenever a petition signed by not less than 300 or by not less than*
23 *5% of the eligible voters of the district, whichever is less, is sub-*
24 *mitted to the chief engineer, the chief engineer shall initiate, as soon*
25 *as practicable thereafter, proceedings for the designation of a spe-*
26 *cifically defined area within the district as an intensive ground-*
27 *water use control area. The petition shall state that the petitioners*
28 *have reason to believe that any one or more of the following con-*
29 *ditions exist in such groundwater use area: (a) Groundwater levels*
30 *in the area in question are declining or have declined excessively;*
31 *(b) the rate of withdrawal of groundwater within the area in ques-*
32 *tion equals or exceeds the rate of recharge in such area; (c) prev-*
33 *entable waste of water is occurring or may occur within the area in*
34 *question; (d) unreasonable deterioration of the quality of water is*
35 *occurring or may occur within the area in question; or (e) other*
36 *conditions exist within the area in question which require regula-*
37 *tion in the public interest.*

38 *New Sec. 15. In any case where proceedings for the designation*
39 *of an intensive groundwater use control area within the district are*
40 *initiated, the chief engineer shall hold and conduct a public hearing*
41 *on the question of designating such an area as an intensive ground-*
42 *water use control area. Written notice of the hearing shall be given*
43 *to every person holding a water right in the area in question and*

1 *notice of the hearing shall be given by one publication in a news-*
2 *paper or newspapers of general circulation within the area in ques-*
3 *tion at least 30 days prior to the date set for such hearing. The notice*
4 *shall state the question and shall denote the time and place of the*
5 *hearing. At the hearing, documentary and oral evidence shall be*
6 *taken, and a full and complete record of the same shall be kept.*

7 *New Sec. 16. (a) In any case where the chief engineer finds that*
8 *any one or more of the circumstances set forth in section 14, and*
9 *amendments thereto, exist and that the public interest requires that*
10 *any one or more corrective controls be adopted, the chief engineer*
11 *shall designate, by order, the area in question, or any part thereof,*
12 *as an intensive groundwater use control area.*

13 *(b) The order of the chief engineer shall define specifically the*
14 *boundaries of the intensive groundwater use control area and shall*
15 *indicate the circumstances upon which the findings of the chief en-*
16 *gineer are made. The order of the chief engineer may include any*
17 *one or more of the following corrective control provisions: (1) A*
18 *provision closing the intensive groundwater use control area to any*
19 *further appropriation of groundwater in which event the chief en-*
20 *gineer shall thereafter refuse to accept any application for a permit*
21 *to appropriate groundwater located within such area; (2) a provi-*
22 *sion determining the permissible total withdrawal of groundwater*
23 *in the intensive groundwater use control area each day, month or*
24 *year, and, insofar as may be reasonably done, the chief engineer*
25 *shall apportion such permissible total withdrawal among the valid*
26 *groundwater right holders in such area in accordance with the rel-*
27 *ative dates of priority of such rights; (3) a provision reducing the*
28 *permissible withdrawal of groundwater by any one or more appro-*
29 *priators thereof, or by wells in the intensive groundwater use con-*
30 *trol area; (4) a provision requiring and specifying a system of ro-*
31 *tation of groundwater use in the intensive groundwater use control*
32 *area; and (5) any one or more other provisions making such addi-*
33 *tional requirements as are necessary to protect the public interest.*

34 *(c) Except as provided by subsection (d), the order of designa-*
35 *tion of an intensive groundwater use control area shall be in full*
36 *force and effect from the date of its entry in the records of the chief*
37 *engineer's office unless and until its operation shall be stayed by an*
38 *appeal from an order entered on review of the chief engineer's order*
39 *pursuant to K.S.A. 2000 Supp. 82a-1901, and amendments thereto,*
40 *in accordance with the provisions of the act for judicial review and*
41 *civil enforcement of agency actions. The chief engineer upon re-*
42 *quest shall deliver a copy of such order to any interested person*
43 *who is affected by such order, and shall file a copy of the same with*

1 *the register of deeds of any county within which such designated*
2 *control area lies.*

3 *(d) If the holder of a groundwater right within the area desig-*
4 *nated as an intensive groundwater use control area applies for re-*
5 *view of the order of designation pursuant to K.S.A. 2000 Supp. 82a-*
6 *1901, and amendments thereto, the provisions of the order with*
7 *respect to the inclusion of the holder's right within the area may be*
8 *stayed in accordance with the Kansas administrative procedure act.*

9 *New Sec. 17. Nothing in this act shall be construed as limiting*
10 *or affecting any duty or power of the chief engineer granted pur-*
11 *suant to the Kansas water appropriation act.*

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

16 *First. All property belonging exclusively to the United States, ex-*
17 *cept property which congress has expressly declared to be subject*
18 *to state and local taxation.*

19 *Second. All property used exclusively by the state or any munic-*
20 *ipality or political subdivision of the state. All property owned, be-*
21 *ing acquired pursuant to a lease-purchase agreement or operated*
22 *by the state or any municipality or political subdivision of the state,*
23 *including property which is vacant or lying dormant, which is used*
24 *or is to be used for any governmental or proprietary function and*
25 *for which bonds may be issued or taxes levied to finance the same,*
26 *shall be considered to be used exclusively by the state, municipality*
27 *or political subdivision for the purposes of this section. The lease*
28 *by a municipality or political subdivision of the state of any real*
29 *property owned or being acquired pursuant to a lease-purchase*
30 *agreement for the purpose of providing office space necessary for*
31 *the performance of medical services by a person licensed to practice*
32 *medicine and surgery or osteopathic medicine by the board of heal-*
33 *ing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto,*
34 *dentistry services by a person licensed by the Kansas dental board*
35 *pursuant to K.S.A. 65-1401 et seq., and amendments thereto, optom-*
36 *etry services by a person licensed by the board of examiners in*
37 *optometry pursuant to K.S.A. 65-1501 et seq., and amendments*
38 *thereto, or K.S.A. 74-1501 et seq., and amendments thereto, podiatry*
39 *services by a person licensed by the board of healing arts pursuant*
40 *to K.S.A. 65-2001 et seq., and amendments thereto, or the practice*
41 *of psychology by a person licensed by the behavioral sciences reg-*
42 *ulatory board pursuant to K.S.A. 74-5301 et seq., and amendments*
43 *thereto, shall be construed to be a governmental function, and such*

1 *property actually and regularly used for such purpose shall be*
2 *deemed to be used exclusively for the purposes of this paragraph.*
3 *The lease by a municipality or political subdivision of the state of*
4 *any real property, or portion thereof, owned or being acquired pur-*
5 *suant to a lease-purchase agreement to any entity for the exclusive*
6 *use by it for an exempt purpose, including the purpose of displaying*
7 *or exhibiting personal property by a museum or historical society,*
8 *if no portion of the lease payments include compensation for return*
9 *on the investment in such leased property shall be deemed to be*
10 *used exclusively for the purposes of this paragraph. All property*
11 *leased, other than property being acquired pursuant to a lease-pur-*
12 *chase agreement, to the state or any municipality or political sub-*
13 *division of the state by any private entity shall not be considered*
14 *to be used exclusively by the state or any municipality or political*
15 *subdivision of the state for the purposes of this section except that*
16 *the provisions of this sentence shall not apply to any such property*
17 *subject to lease on the effective date of this act until the term of*
18 *such lease expires but property taxes levied upon any such property*
19 *prior to tax year 1989, shall not be abated or refunded. Any prop-*
20 *erty constructed or purchased with the proceeds of industrial rev-*
21 *enue bonds issued prior to July 1, 1963, as authorized by K.S.A. 12-*
22 *1740 to 12-1749, or purchased with proceeds of improvement*
23 *district bonds issued prior to July 1, 1963, as authorized by K.S.A.*
24 *19-2776, or with proceeds of bonds issued prior to July 1, 1963, as*
25 *authorized by K.S.A. 19-3815a and 19-3815b, or any property im-*
26 *proved, purchased, constructed, reconstructed or repaired with the*
27 *proceeds of revenue bonds issued prior to July 1, 1963, as author-*
28 *ized by K.S.A. 13-1238 to 13-1245, inclusive, or any property im-*
29 *proved, reimproved, reconstructed or repaired with the proceeds of*
30 *revenue bonds issued after July 1, 1963, under the authority of*
31 *K.S.A. 13-1238 to 13-1245, inclusive, which had previously been*
32 *improved, reconstructed or repaired with the proceeds of revenue*
33 *bonds issued under such act on or before July 1, 1963, shall be*
34 *exempt from taxation for so long as any of the revenue bonds issued*
35 *to finance such construction, reconstruction, improvement, repair*
36 *or purchase shall be outstanding and unpaid. Any property con-*
37 *structed or purchased with the proceeds of any revenue bonds au-*
38 *thorized by K.S.A. 13-1238 to 13-1245, inclusive, 19-2776, 19-*
39 *3815a and 19-3815b, and amendments thereto, issued on or after*
40 *July 1, 1963, shall be exempt from taxation only for a period of 10*
41 *calendar years after the calendar year in which the bonds were*
42 *issued. Any property, all or any portion of which is constructed or*
43 *purchased with the proceeds of revenue bonds authorized by K.S.A.*

1 **12-1740 to 12-1749, inclusive, and amendments thereto, issued on**
2 **or after July 1, 1963 and prior to July 1, 1981, shall be exempt from**
3 **taxation only for a period of 10 calendar years after the calendar**
4 **year in which the bonds were issued. Except as hereinafter pro-**
5 **vided, any property constructed or purchased wholly with the pro-**
6 **ceeds of revenue bonds issued on or after July 1, 1981, under the**
7 **authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments**
8 **thereto, shall be exempt from taxation only for a period of 10 cal-**
9 **endar years after the calendar year in which the bonds were issued.**
10 **Except as hereinafter provided, any property constructed or pur-**
11 **chased in part with the proceeds of revenue bonds issued on or after**
12 **July 1, 1981, under the authority of K.S.A. 12-1740 to 12-1749,**
13 **inclusive, and amendments thereto, shall be exempt from taxation**
14 **to the extent of the value of that portion of the property financed**
15 **by the revenue bonds and only for a period of 10 calendar years**
16 **after the calendar year in which the bonds were issued. The exemp-**
17 **tion of that portion of the property constructed or purchased with**
18 **the proceeds of revenue bonds shall terminate upon the failure to**
19 **pay all taxes levied on that portion of the property which is not**
20 **exempt and the entire property shall be subject to sale in the manner**
21 **prescribed by K.S.A. 79-2301 et seq., and amendments thereto. Prop-**
22 **erty constructed or purchased in whole or in part with the proceeds**
23 **of revenue bonds issued on or after January 1, 1995, under the**
24 **authority of K.S.A. 12-1740 to 12-1749, inclusive, and amendments**
25 **thereto, and used in any retail enterprise identified under the stan-**
26 **dard industrial classification codes, major groups 52 through 59,**
27 **inclusive, except facilities used exclusively to house the headquar-**
28 **ters or back office operations of such retail enterprises identified**
29 **thereunder, shall not be exempt from taxation. For the purposes of**
30 **the preceding provision “standard industrial classification code”**
31 **means a standard industrial classification code published in the**
32 **Standard Industrial Classification manual, 1987, as prepared by**
33 **the statistical policy division of the office of management and**
34 **budget of the office of the president of the United States. “Head-**
35 **quarters or back office operations” means a facility from which the**
36 **enterprise is provided direction, management, administrative serv-**
37 **ices, or distribution or warehousing functions in support of trans-**
38 **actions made by the enterprise. Property purchased, constructed,**
39 **reconstructed, equipped, maintained or repaired with the proceeds**
40 **of industrial revenue bonds issued under the authority of K.S.A. 12-**
41 **1740 et seq., and amendments thereto, which is located in a rede-**
42 **velopment project area established under the authority of K.S.A.**
43 **12-1770 et seq. shall not be exempt from taxation. Property pur-**

1 *chased, acquired, constructed, reconstructed, improved, equipped,*
2 *furnished, repaired, enlarged or remodeled with all or any part of*
3 *the proceeds of revenue bonds issued under authority of K.S.A. 12-*
4 *1740 to 12-1749a, inclusive, and amendments thereto for any poul-*
5 *try confinement facility on agricultural land which is owned, ac-*
6 *quired, obtained or leased by a corporation, as such terms are*
7 *defined by K.S.A. 17-5903 and amendments thereto, shall not be*
8 *exempt from such taxation. Property purchased, acquired, con-*
9 *structed, reconstructed, improved, equipped, furnished, repaired,*
10 *enlarged or remodeled with all or any part of the proceeds of rev-*
11 *enue bonds issued under the authority of K.S.A. 12-1740 to 12-*
12 *1749a, inclusive, and amendments thereto, for a rabbit confinement*
13 *facility on agricultural land which is owned, acquired, obtained or*
14 *leased by a corporation, as such terms are defined by K.S.A. 17-*
15 *5903 and amendments thereto, shall not be exempt from such*
16 *taxation.*

17 *Third. All works, machinery and fixtures used exclusively by any*
18 *rural water district or township water district for conveying or pro-*
19 *duction of potable water in such rural water district or township*
20 *water district, and all works, machinery and fixtures used exclu-*
21 *sively by any entity which performed the functions of a rural water*
22 *district on and after January 1, 1990, and the works, machinery and*
23 *equipment of which were exempted hereunder on March 13, 1995.*

24 *Fourth. All fire engines and other implements used for the extin-*
25 *guishment of fires, with the buildings used exclusively for the safe-*
26 *keeping thereof, and for the meeting of fire companies, whether be-*
27 *longing to any rural fire district, township fire district, town, city*
28 *or village, or to any fire company organized therein or therefor.*

29 *Fifth. All property, real and personal, owned by county fair as-*
30 *sociations organized and operating under the provisions of K.S.A.*
31 *2-125 et seq. and amendments thereto.*

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

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

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

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

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

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

14 *Twelfth. All buildings erected under the authority of K.S.A. 76-*
15 *6a01 et seq., and amendments thereto, and all other student union*
16 *buildings and student dormitories erected upon the campus of any*
17 *institution mentioned in K.S.A. 76-6a01, and amendments thereto,*
18 *by any other nonprofit corporation.*

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

23 *Fourteenth. All that portion of the waterworks plant and system*
24 *of the city of Kansas City, Missouri, now or hereafter located within*
25 *the territory of the state of Kansas pursuant to the compact and*
26 *agreement adopted by chapter 304 of the 1921 Session Laws of the*
27 *state of Kansas. [See K.S.A. 79-205.]*

28 *Fifteenth. All property, real and personal, owned by a ground-*
29 *water management district organized and operating pursuant to*
30 *K.S.A. 82a-1020, and amendments thereto, or by a groundwater man-*
31 *agement district operating pursuant to sections 3 through 17, and amend-*
32 *ments thereto.*

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

36 *Seventeenth. All property, including interests less than fee own-*
37 *ership, acquired for the state of Kansas by the secretary of trans-*
38 *portation or a predecessor in interest which is used in the admin-*
39 *istration, construction, maintenance or operation of the state system*
40 *of highways, regardless of how or when acquired.*

41 *Eighteenth. Any building used primarily as an industrial training*
42 *center for academic or vocational education programs designed for*
43 *and operated under contract with private industry, and located*

1 **upon a site owned, leased or being acquired by or for an area vo-**
2 **ccational school, an area vocational-technical school, a technical col-**
3 **lege, or a community college, as defined by K.S.A. 72-4412, and**
4 **amendments thereto, and the site upon which any such building is**
5 **located.**

6 *Nineteenth. For all taxable years commencing after December 31,*
7 *1997, all buildings of an area vocational school, an area vocational-*
8 *technical school, a technical college or a community college, as de-*
9 *defined by K.S.A. 72-4412, and amendments thereto, which are owned*
10 *and operated by any such school or college as a student union or*
11 *dormitory, and the site upon which any such building is located.*

12 *Except as otherwise specifically provided, the provisions of this*
13 *section shall apply to all taxable years commencing after December*
14 *31, 1998.*

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

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

29 (b) *all sales of tangible personal property or service, including*
30 *the renting and leasing of tangible personal property, purchased*
31 *directly by the state of Kansas, a political subdivision thereof, other*
32 *than a school or educational institution, or purchased by a public*
33 *or private nonprofit hospital or public hospital authority or non-*
34 *profit blood, tissue or organ bank and used exclusively for state,*
35 *political subdivision, hospital or public hospital authority or non-*
36 *profit blood, tissue or organ bank purposes, except when: (1) Such*
37 *state, hospital or public hospital authority is engaged or proposes*
38 *to engage in any business specifically taxable under the provisions*
39 *of this act and such items of tangible personal property or service*
40 *are used or proposed to be used in such business, or (2) such polit-*
41 *ical subdivision is engaged or proposes to engage in the business of*
42 *furnishing gas, water, electricity or heat to others and such items*
43 *of personal property or service are used or proposed to be used in*

1 **such business;**

2 **(c) all sales of tangible personal property or services, including**
3 **the renting and leasing of tangible personal property, purchased**
4 **directly by a public or private elementary or secondary school or**
5 **public or private nonprofit educational institution and used pri-**
6 **marily by such school or institution for nonsectarian programs and**
7 **activities provided or sponsored by such school or institution or in**
8 **the erection, repair or enlargement of buildings to be used for such**
9 **purposes. The exemption herein provided shall not apply to erec-**
10 **tion, construction, repair, enlargement or equipment of buildings**
11 **used primarily for human habitation;**

12 **(d) all sales of tangible personal property or services purchased**
13 **by a contractor for the purpose of constructing, equipping, recon-**
14 **structing, maintaining, repairing, enlarging, furnishing or remodel-**
15 **ing facilities for any public or private nonprofit hospital or public**
16 **hospital authority, public or private elementary or secondary**
17 **school or a public or private nonprofit educational institution,**
18 **which would be exempt from taxation under the provisions of this**
19 **act if purchased directly by such hospital or public hospital au-**
20 **thority, school or educational institution; and all sales of tangible**
21 **personal property or services purchased by a contractor for the**
22 **purpose of constructing, equipping, reconstructing, maintaining,**
23 **repairing, enlarging, furnishing or remodeling facilities for any po-**
24 **litical subdivision of the state, the total cost of which is paid from**
25 **funds of such political subdivision and which would be exempt from**
26 **taxation under the provisions of this act if purchased directly by**
27 **such political subdivision. Nothing in this subsection or in the pro-**
28 **visions of K.S.A. 12-3418 and amendments thereto, shall be deemed**
29 **to exempt the purchase of any construction machinery, equipment**
30 **or tools used in the constructing, equipping, reconstructing, main-**
31 **taining, repairing, enlarging, furnishing or remodeling facilities for**
32 **any political subdivision of the state. As used in this subsection,**
33 **K.S.A. 12-3418 and 79-3640, and amendments thereto, “funds of a**
34 **political subdivision” shall mean general tax revenues, the proceeds**
35 **of any bonds and gifts or grants-in-aid. Gifts shall not mean funds**
36 **used for the purpose of constructing, equipping, reconstructing, re-**
37 **pairing, enlarging, furnishing or remodeling facilities which are to**
38 **be leased to the donor. When any political subdivision of the state,**
39 **public or private nonprofit hospital or public hospital authority,**
40 **public or private elementary or secondary school or public or pri-**
41 **ivate nonprofit educational institution shall contract for the purpose**
42 **of constructing, equipping, reconstructing, maintaining, repairing,**
43 **enlarging, furnishing or remodeling facilities, it shall obtain from**

1 *the state and furnish to the contractor an exemption certificate for*
2 *the project involved, and the contractor may purchase materials for*
3 *incorporation in such project. The contractor shall furnish the num-*
4 *ber of such certificate to all suppliers from whom such purchases*
5 *are made, and such suppliers shall execute invoices covering the*
6 *same bearing the number of such certificate. Upon completion of*
7 *the project the contractor shall furnish to the political subdivision,*
8 *hospital or public hospital authority, school or educational insti-*
9 *tution concerned a sworn statement, on a form to be provided by*
10 *the director of taxation, that all purchases so made were entitled to*
11 *exemption under this subsection. As an alternative to the foregoing*
12 *procedure, any such contracting entity may apply to the secretary*
13 *of revenue for agent status for the sole purpose of issuing and fur-*
14 *nishing project exemption certificates to contractors pursuant to*
15 *rules and regulations adopted by the secretary establishing condi-*
16 *tions and standards for the granting and maintaining of such status.*
17 *All invoices shall be held by the contractor for a period of five years*
18 *and shall be subject to audit by the director of taxation. If any*
19 *materials purchased under such a certificate are found not to have*
20 *been incorporated in the building or other project or not to have*
21 *been returned for credit or the sales or compensating tax otherwise*
22 *imposed upon such materials which will not be so incorporated in*
23 *the building or other project reported and paid by such contractor*
24 *to the director of taxation not later than the 20th day of the month*
25 *following the close of the month in which it shall be determined that*
26 *such materials will not be used for the purpose for which such cer-*
27 *tificate was issued, the political subdivision, hospital or public hos-*
28 *pital authority, school or educational institution concerned shall be*
29 *liable for tax on all materials purchased for the project, and upon*
30 *payment thereof it may recover the same from the contractor to-*
31 *gether with reasonable attorney fees. Any contractor or any agent,*
32 *employee or subcontractor thereof, who shall use or otherwise dis-*
33 *pose of any materials purchased under such a certificate for any*
34 *purpose other than that for which such a certificate is issued with-*
35 *out the payment of the sales or compensating tax otherwise imposed*
36 *upon such materials, shall be guilty of a misdemeanor and, upon*
37 *conviction therefor, shall be subject to the penalties provided for in*
38 *subsection (g) of K.S.A. 79-3615, and amendments thereto;*

39 *(e) all sales of tangible personal property or services purchased*
40 *by a contractor for the erection, repair or enlargement of buildings*
41 *or other projects for the government of the United States, its agen-*
42 *cies or instrumentalities, which would be exempt from taxation if*
43 *purchased directly by the government of the United States, its agen-*

1 *cies or instrumentalities. When the government of the United States,*
2 *its agencies or instrumentalities shall contract for the erection, re-*
3 *pair, or enlargement of any building or other project, it shall obtain*
4 *from the state and furnish to the contractor an exemption certificate*
5 *for the project involved, and the contractor may purchase materials*
6 *for incorporation in such project. The contractor shall furnish the*
7 *number of such certificates to all suppliers from whom such pur-*
8 *chases are made, and such suppliers shall execute invoices covering*
9 *the same bearing the number of such certificate. Upon completion*
10 *of the project the contractor shall furnish to the government of the*
11 *United States, its agencies or instrumentalities concerned a sworn*
12 *statement, on a form to be provided by the director of taxation, that*
13 *all purchases so made were entitled to exemption under this sub-*
14 *section. As an alternative to the foregoing procedure, any such con-*
15 *tracting entity may apply to the secretary of revenue for agent*
16 *status for the sole purpose of issuing and furnishing project exemp-*
17 *tion certificates to contractors pursuant to rules and regulations*
18 *adopted by the secretary establishing conditions and standards for*
19 *the granting and maintaining of such status. All invoices shall be*
20 *held by the contractor for a period of five years and shall be subject*
21 *to audit by the director of taxation. Any contractor or any agent,*
22 *employee or subcontractor thereof, who shall use or otherwise dis-*
23 *pose of any materials purchased under such a certificate for any*
24 *purpose other than that for which such a certificate is issued with-*
25 *out the payment of the sales or compensating tax otherwise imposed*
26 *upon such materials, shall be guilty of a misdemeanor and, upon*
27 *conviction therefor, shall be subject to the penalties provided for in*
28 *subsection (g) of K.S.A. 79-3615 and amendments thereto;*

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

32 *(g) sales of aircraft including remanufactured and modified air-*
33 *craft, sales of aircraft repair, modification and replacement parts*
34 *and sales of services employed in the remanufacture, modification*
35 *and repair of aircraft sold to persons using directly or through an*
36 *authorized agent such aircraft and aircraft repair, modification and*
37 *replacement parts as certified or licensed carriers of persons or*
38 *property in interstate or foreign commerce under authority of the*
39 *laws of the United States or any foreign government or sold to any*
40 *foreign government or agency or instrumentality of such foreign*
41 *government and all sales of aircraft, aircraft parts, replacement*
42 *parts and services employed in the remanufacture, modification and*
43 *repair of aircraft for use outside of the United States;*

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

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

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

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

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

21 **(m) all sales of tangible personal property which become an in-**
22 **redient or component part of tangible personal property or serv-**
23 **ices produced, manufactured or compounded for ultimate sale at**
24 **retail within or without the state of Kansas; and any such producer,**
25 **manufacturer or compounder may obtain from the director of tax-**
26 **ation and furnish to the supplier an exemption certificate number**
27 **for tangible personal property for use as an ingredient or compo-**
28 **nent part of the property or services produced, manufactured or**
29 **compounded;**

30 **(n) all sales of tangible personal property which is consumed in**
31 **the production, manufacture, processing, mining, drilling, refining**
32 **or compounding of tangible personal property, the treating of by-**
33 **products or wastes derived from any such production process, the**
34 **providing of services or the irrigation of crops for ultimate sale at**
35 **retail within or without the state of Kansas; and any purchaser of**
36 **such property may obtain from the director of taxation and furnish**
37 **to the supplier an exemption certificate number for tangible per-**
38 **sonal property for consumption in such production, manufacture,**
39 **processing, mining, drilling, refining, compounding, treating, irri-**
40 **gation and in providing such services;**

41 **(o) all sales of animals, fowl and aquatic plants and animals, the**
42 **primary purpose of which is use in agriculture or aquaculture, as**
43 **defined in K.S.A. 47-1901, and amendments thereto, the production**

1 *of food for human consumption, the production of animal, dairy,*
2 *poultry or aquatic plant and animal products, fiber or fur, or the*
3 *production of offspring for use for any such purpose or purposes;*

4 *(p) all sales of drugs, as defined by K.S.A. 65-1626 and amend-*
5 *ments thereto, dispensed pursuant to a prescription order, as de-*
6 *fined by K.S.A. 65-1626 and amendments thereto, by a licensed*
7 *practitioner or a mid-level practitioner as defined by K.S.A. 65-*
8 *1626, and amendments thereto;*

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

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

24 *(s) all sales of tangible personal property or services purchased*
25 *directly by a groundwater management district organized or op-*
26 *erating under the authority of K.S.A. 82a-1020 et seq. and amend-*
27 *ments thereto, or by a groundwater management district operating pur-*
28 *suant to sections 3 through 17, and amendments thereto, which property*
29 *or services are used in the operation or maintenance of the district;*

30 *(t) all sales of farm machinery and equipment or aquaculture*
31 *machinery and equipment, repair and replacement parts therefor*
32 *and services performed in the repair and maintenance of such ma-*
33 *chinery and equipment. For the purposes of this subsection the term*
34 *"farm machinery and equipment or aquaculture machinery and*
35 *equipment" shall include machinery and equipment used in the op-*
36 *eration of Christmas tree farming but shall not include any passen-*
37 *ger vehicle, truck, truck tractor, trailer, semitrailer or pole trailer,*
38 *other than a farm trailer, as such terms are defined by K.S.A. 8-126*
39 *and amendments thereto. Each purchaser of farm machinery and*
40 *equipment or aquaculture machinery and equipment exempted*
41 *herein must certify in writing on the copy of the invoice or sales*
42 *ticket to be retained by the seller that the farm machinery and*
43 *equipment or aquaculture machinery and equipment purchased*

1 *will be used only in farming, ranching or aquaculture production.*
2 *Farming or ranching shall include the operation of a feedlot and*
3 *farm and ranch work for hire and the operation of a nursery;*

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

7 *(v) all sales of food products to any contractor for use in pre-*
8 *paring meals for delivery to homebound elderly persons over 60*
9 *years of age and to homebound disabled persons or to be served at*
10 *a group-sitting at a location outside of the home to otherwise home-*
11 *bound elderly persons over 60 years of age and to otherwise home-*
12 *bound disabled persons, as all or part of any food service project*
13 *funded in whole or in part by government or as part of a private*
14 *nonprofit food service project available to all such elderly or dis-*
15 *abled persons residing within an area of service designated by the*
16 *private nonprofit organization, and all sales of food products for*
17 *use in preparing meals for consumption by indigent or homeless*
18 *individuals whether or not such meals are consumed at a place des-*
19 *ignated for such purpose;*

20 *(w) all sales of natural gas, electricity, heat and water delivered*
21 *through mains, lines or pipes: (1) To residential premises for non-*
22 *commercial use by the occupant of such premises; (2) for agricul-*
23 *tural use and also, for such use, all sales of propane gas; (3) for use*
24 *in the severing of oil; and (4) to any property which is exempt from*
25 *property taxation pursuant to K.S.A. 79-201b Second through Sixth.*
26 *As used in this paragraph, "severing" shall have the meaning as-*
27 *cribed thereto by subsection (k) of K.S.A. 79-4216, and amendments*
28 *thereto;*

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

32 *(y) all sales of materials and services used in the repairing, serv-*
33 *icing, altering, maintaining, manufacturing, remanufacturing, or*
34 *modification of railroad rolling stock for use in interstate or foreign*
35 *commerce under authority of the laws of the United States;*

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

40 *(aa) all sales of materials and services applied to equipment*
41 *which is transported into the state from without the state for repair,*
42 *service, alteration, maintenance, remanufacture or modification*
43 *and which is subsequently transported outside the state for use in*

1 *the transmission of liquids or natural gas by means of pipeline in*
2 *interstate or foreign commerce under authority of the laws of the*
3 *United States;*

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

10 *(cc) all sales of tangible personal property or services pur-*
11 *chased for the purpose of and in conjunction with constructing, re-*
12 *constructing, enlarging or remodeling a business or retail business*
13 *which meets the requirements established in K.S.A. 74-50,115 and*
14 *amendments thereto, and the sale and installation of machinery and*
15 *equipment purchased for installation at any such business or retail*
16 *business. When a person shall contract for the construction, recon-*
17 *struction, enlargement or remodeling of any such business or retail*
18 *business, such person shall obtain from the state and furnish to the*
19 *contractor an exemption certificate for the project involved, and the*
20 *contractor may purchase materials, machinery and equipment for*
21 *incorporation in such project. The contractor shall furnish the num-*
22 *ber of such certificates to all suppliers from whom such purchases*
23 *are made, and such suppliers shall execute invoices covering the*
24 *same bearing the number of such certificate. Upon completion of*
25 *the project the contractor shall furnish to the owner of the business*
26 *or retail business a sworn statement, on a form to be provided by*
27 *the director of taxation, that all purchases so made were entitled to*
28 *exemption under this subsection. All invoices shall be held by the*
29 *contractor for a period of five years and shall be subject to audit*
30 *by the director of taxation. Any contractor or any agent, employee*
31 *or subcontractor thereof, who shall use or otherwise dispose of any*
32 *materials, machinery or equipment purchased under such a certif-*
33 *icate for any purpose other than that for which such a certificate is*
34 *issued without the payment of the sales or compensating tax oth-*
35 *erwise imposed thereon, shall be guilty of a misdemeanor and, upon*
36 *conviction therefor, shall be subject to the penalties provided for in*
37 *subsection (g) of K.S.A. 79-3615 and amendments thereto. As used*
38 *in this subsection, “business” and “retail business” have the mean-*
39 *ings respectively ascribed thereto by K.S.A. 74-50,114 and amend-*
40 *ments thereto;*

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

43 *(ee) all sales of lottery tickets and shares made as part of a lot-*

1 *tery operated by the state of Kansas;*

2 *(ff) on and after July 1, 1988, all sales of new mobile homes or*
3 *manufactured homes to the extent of 40% of the gross receipts, de-*
4 *termined without regard to any trade-in allowance, received from*
5 *such sale. As used in this subsection, “mobile homes” and “manu-*
6 *factured homes” shall have the meanings ascribed thereto by K.S.A.*
7 *58-4202 and amendments thereto;*

8 *(gg) all sales of tangible personal property purchased in ac-*
9 *cordance with vouchers issued pursuant to the federal special sup-*
10 *plemental food program for women, infants and children;*

11 *(hh) all sales of medical supplies and equipment purchased di-*
12 *rectly by a nonprofit skilled nursing home or nonprofit intermediate*
13 *nursing care home, as defined by K.S.A. 39-923, and amendments*
14 *thereto, for the purpose of providing medical services to residents*
15 *thereof. This exemption shall not apply to tangible personal prop-*
16 *erty customarily used for human habitation purposes;*

17 *(ii) all sales of tangible personal property purchased directly*
18 *by a nonprofit organization for nonsectarian comprehensive mul-*
19 *tidiscipline youth development programs and activities provided or*
20 *sponsored by such organization, and all sales of tangible personal*
21 *property by or on behalf of any such organization. This exemption*
22 *shall not apply to tangible personal property customarily used for*
23 *human habitation purposes;*

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

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

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

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

40 *(2) For purposes of this subsection:*

41 *(A) “Integrated production operation” means an integrated se-*
42 *ries of operations engaged in at a manufacturing or processing plant*
43 *or facility to process, transform or convert tangible personal prop-*

1 *erty by physical, chemical or other means into a different form,*
2 *composition or character from that in which it originally existed.*
3 *Integrated production operations shall include: (i) Production line*
4 *operations, including packaging operations; (ii) preproduction op-*
5 *erations to handle, store and treat raw materials; (iii) post produc-*
6 *tion handling, storage, warehousing and distribution operations;*
7 *and (iv) waste, pollution and environmental control operations, if*
8 *any;*

9 *(B) “production line” means the assemblage of machinery and*
10 *equipment at a manufacturing or processing plant or facility where*
11 *the actual transformation or processing of tangible personal prop-*
12 *erty occurs;*

13 *(C) “manufacturing or processing plant or facility” means a sin-*
14 *gle, fixed location owned or controlled by a manufacturing or proc-*
15 *essing business that consists of one or more structures or buildings*
16 *in a contiguous area where integrated production operations are*
17 *conducted to manufacture or process tangible personal property to*
18 *be ultimately sold at retail. Such term shall not include any facility*
19 *primarily operated for the purpose of conveying or assisting in the*
20 *conveyance of natural gas, electricity, oil or water. A business may*
21 *operate one or more manufacturing or processing plants or facilities*
22 *at different locations to manufacture or process a single product of*
23 *tangible personal property to be ultimately sold at retail;*

24 *(D) “manufacturing or processing business” means a business*
25 *that utilizes an integrated production operation to manufacture,*
26 *process, fabricate, finish, or assemble items for wholesale and retail*
27 *distribution as part of what is commonly regarded by the general*
28 *public as an industrial manufacturing or processing operation or*
29 *an agricultural commodity processing operation. (i) Industrial*
30 *manufacturing or processing operations include, by way of illustra-*
31 *tion but not of limitation, the fabrication of automobiles, airplanes,*
32 *machinery or transportation equipment, the fabrication of metal,*
33 *plastic, wood, or paper products, electricity power generation, wa-*
34 *ter treatment, petroleum refining, chemical production, wholesale*
35 *bottling, newspaper printing, ready mixed concrete production, and*
36 *the remanufacturing of used parts for wholesale or retail sale. Such*
37 *processing operations shall include operations at an oil well, gas*
38 *well, mine or other excavation site where the oil, gas, minerals, coal,*
39 *clay, stone, sand or gravel that has been extracted from the earth is*
40 *cleaned, separated, crushed, ground, milled, screened, washed, or*
41 *otherwise treated or prepared before its transmission to a refinery*
42 *or before any other wholesale or retail distribution. (ii) Agricul-*
43 *tural commodity processing operations include, by way of illustra-*

1 *tion but not of limitation, meat packing, poultry slaughtering and*
2 *dressing, processing and packaging farm and dairy products in*
3 *sealed containers for wholesale and retail distribution, feed grind-*
4 *ing, grain milling, frozen food processing, and grain handling,*
5 *cleaning, blending, fumigation, drying and aeration operations en-*
6 *gaged in by grain elevators or other grain storage facilities. (iii)*
7 *Manufacturing or processing businesses do not include, by way of*
8 *illustration but not of limitation, nonindustrial businesses whose*
9 *operations are primarily retail and that produce or process tangible*
10 *personal property as an incidental part of conducting the retail*
11 *business, such as retailers who bake, cook or prepare food products*
12 *in the regular course of their retail trade, grocery stores, meat lock-*
13 *ers and meat markets that butcher or dress livestock or poultry in*
14 *the regular course of their retail trade, contractors who alter, serv-*
15 *ice, repair or improve real property, and retail businesses that*
16 *clean, service or refurbish and repair tangible personal property*
17 *for its owner;*

18 *(E) “repair and replacement parts and accessories” means all*
19 *parts and accessories for exempt machinery and equipment, includ-*
20 *ing, but not limited to, dies, jigs, molds, patterns and safety devices*
21 *that are attached to exempt machinery or that are otherwise used*
22 *in production, and parts and accessories that require periodic re-*
23 *placement such as belts, drill bits, grinding wheels, grinding balls,*
24 *cutting bars, saws, refractory brick and other refractory items for*
25 *exempt kiln equipment used in production operations;*

26 *(F) “primary” or “primarily” mean more than 50% of the time.*

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

30 *(A) To receive, transport, convey, handle, treat or store raw ma-*
31 *terials in preparation of its placement on the production line;*

32 *(B) to transport, convey, handle or store the property under-*
33 *going manufacturing or processing at any point from the beginning*
34 *of the production line through any warehousing or distribution op-*
35 *eration of the final product that occurs at the plant or facility;*

36 *(C) to act upon, effect, promote or otherwise facilitate a phys-*
37 *ical change to the property undergoing manufacturing or*
38 *processing;*

39 *(D) to guide, control or direct the movement of property un-*
40 *dergoing manufacturing or processing;*

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

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

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

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

11 **(I) to transmit or transport electricity, coke, gas, water, steam**
12 **or similar substances used in production operations from the point**
13 **of generation, if produced by the manufacturer or processor at the**
14 **plant site, to that manufacturer's production operation; or, if pur-**
15 **chased or delivered from offsite, from the point where the substance**
16 **enters the site of the plant or facility to that manufacturer's pro-**
17 **duction operations;**

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

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

26 **(L) to treat, transport or store waste or other byproducts of pro-**
27 **duction operations at the plant or facility; or**

28 **(M) to control pollution at the plant or facility where the pol-**
29 **lution is produced by the manufacturing or processing operation.**

30 **(4) The following machinery, equipment and materials shall be**
31 **deemed to be exempt even though it may not otherwise qualify as**
32 **machinery and equipment used as an integral or essential part of**
33 **an integrated production operation: (A) Computers and related pe-**
34 **ripheral equipment that are utilized by a manufacturing or proc-**
35 **essing business for engineering of the finished product or for re-**
36 **search and development or product design; (B) machinery and**
37 **equipment that is utilized by a manufacturing or processing busi-**
38 **ness to manufacture or rebuild tangible personal property that is**
39 **used in manufacturing or processing operations, including tools,**
40 **dies, molds, forms and other parts of qualifying machinery and**
41 **equipment; (C) portable plants for aggregate concrete, bulk cement**
42 **and asphalt including cement mixing drums to be attached to a mo-**
43 **tor vehicle; (D) industrial fixtures, devices, support facilities and**

1 *special foundations necessary for manufacturing and production*
2 *operations, and materials and other tangible personal property sold*
3 *for the purpose of fabricating such fixtures, devices, facilities and*
4 *foundations. An exemption certificate for such purchases shall be*
5 *signed by the manufacturer or processor. If the fabricator pur-*
6 *chases such material, the fabricator shall also sign the exemption*
7 *certificate; and (E) a manufacturing or processing business' labo-*
8 *ratory equipment that is not located at the plant or facility, but that*
9 *would otherwise qualify for exemption under subsection (3)(E).*

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

12 *(A) Machinery and equipment used for nonproduction pur-*
13 *poses, including, but not limited to, machinery and equipment used*
14 *for plant security, fire prevention, first aid, accounting, administra-*
15 *tion, record keeping, advertising, marketing, sales or other related*
16 *activities, plant cleaning, plant communications, and employee*
17 *work scheduling;*

18 *(B) machinery, equipment and tools used primarily in main-*
19 *taining and repairing any type of machinery and equipment or the*
20 *building and plant;*

21 *(C) transportation, transmission and distribution equipment*
22 *not primarily used in a production, warehousing or material han-*
23 *dling operation at the plant or facility, including the means of con-*
24 *veyance of natural gas, electricity, oil or water, and equipment re-*
25 *lated thereto, located outside the plant or facility;*

26 *(D) office machines and equipment including computers and re-*
27 *lated peripheral equipment not used directly and primarily to con-*
28 *trol or measure the manufacturing process;*

29 *(E) furniture and other furnishings;*

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

33 *(G) building fixtures that are not integral to the manufacturing*
34 *operation, such as utility systems for heating, ventilation, air con-*
35 *ditioning, communications, plumbing or electrical;*

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

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

40 *(J) employee apparel, except safety and protective apparel that*
41 *is purchased by an employer and furnished gratuitously to employ-*
42 *ees who are involved in production or research activities.*

43 *(6) Subsections (3) and (5) shall not be construed as exclusive*

1 *listings of the machinery and equipment that qualify or do not qual-*
2 *ify as an integral or essential part of an integrated production op-*
3 *eration. When machinery or equipment is used as an integral or*
4 *essential part of production operations part of the time and for non-*
5 *production purpose at other times, the primary use of the machin-*
6 *ery or equipment shall determine whether or not such machinery*
7 *or equipment qualifies for exemption.*

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

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

14 *(mm) all sales of seeds and tree seedlings; fertilizers, insecti-*
15 *cides, herbicides, germicides, pesticides and fungicides; and serv-*
16 *ices, purchased and used for the purpose of producing plants in*
17 *order to prevent soil erosion on land devoted to agricultural use;*

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

21 *(oo) all sales of tangible personal property purchased by a com-*
22 *munity action group or agency for the exclusive purpose of repair-*
23 *ing or weatherizing housing occupied by low income individuals;*

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

26 *(qq) all sales of tangible personal property and services pur-*
27 *chased by a nonprofit museum or historical society or any combi-*
28 *nation thereof, including a nonprofit organization which is organ-*
29 *ized for the purpose of stimulating public interest in the exploration*
30 *of space by providing educational information, exhibits and expe-*
31 *riences, which is exempt from federal income taxation pursuant to*
32 *section 501(c)(3) of the federal internal revenue code of 1986;*

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

37 *(ss) all sales of tangible personal property and services pur-*
38 *chased by a public broadcasting station licensed by the federal com-*
39 *munications commission as a noncommercial educational television*
40 *or radio station;*

41 *(tt) all sales of tangible personal property and services pur-*
42 *chased by or on behalf of a not-for-profit corporation which is ex-*
43 *empt from federal income taxation pursuant to section 501(c)(3) of*

1 *the federal internal revenue code of 1986, for the sole purpose of*
2 *constructing a Kansas Korean War memorial;*

3 *(uu) all sales of tangible personal property and services pur-*
4 *chased by or on behalf of any rural volunteer fire-fighting organi-*
5 *zation for use exclusively in the performance of its duties and*
6 *functions;*

7 *(vv) all sales of tangible personal property purchased by any of*
8 *the following organizations which are exempt from federal income*
9 *taxation pursuant to section 501 (c)(3) of the federal internal rev-*
10 *enue code of 1986, for the following purposes, and all sales of any*
11 *such property by or on behalf of any such organization for any such*
12 *purpose:*

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

17 *(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose*
18 *of advocacy for persons with mental illness and to education, re-*
19 *search and support for their families;*

20 *(3) the Kansas Mental Illness Awareness Council for the pur-*
21 *poses of advocacy for persons who are mentally ill and to education,*
22 *research and support for them and their families;*

23 *(4) the American Diabetes Association Kansas Affiliate, Inc. for*
24 *the purpose of eliminating diabetes through medical research, pub-*
25 *lic education focusing on disease prevention and education, patient*
26 *education including information on coping with diabetes, and pro-*
27 *fessional education and training;*

28 *(5) the American Lung Association of Kansas, Inc. for the pur-*
29 *pose of eliminating all lung diseases through medical research, pub-*
30 *lic education including information on coping with lung diseases,*
31 *professional education and training related to lung disease and*
32 *other related services to reduce the incidence of disability and death*
33 *due to lung disease; and*

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

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

41 *(xx) all sales of tangible personal property and services pur-*
42 *chased by a nonprofit zoo which is exempt from federal income tax-*
43 *ation pursuant to section 501(c)(3) of the federal internal revenue*

1 *code of 1986, or on behalf of such zoo by an entity itself exempt*
2 *from federal income taxation pursuant to section 501(c)(3) of the*
3 *federal internal revenue code of 1986 contracted with to operate*
4 *such zoo and all sales of tangible personal property or services pur-*
5 *chased by a contractor for the purpose of constructing, equipping,*
6 *reconstructing, maintaining, repairing, enlarging, furnishing or re-*
7 *modeling facilities for any nonprofit zoo which would be exempt*
8 *from taxation under the provisions of this section if purchased di-*
9 *rectly by such nonprofit zoo or the entity operating such zoo. Noth-*
10 *ing in this subsection shall be deemed to exempt the purchase of*
11 *any construction machinery, equipment or tools used in the con-*
12 *structing, equipping, reconstructing, maintaining, repairing, en-*
13 *larging, furnishing or remodeling facilities for any nonprofit zoo.*
14 *When any nonprofit zoo shall contract for the purpose of construct-*
15 *ing, equipping, reconstructing, maintaining, repairing, enlarging,*
16 *furnishing or remodeling facilities, it shall obtain from the state and*
17 *furnish to the contractor an exemption certificate for the project*
18 *involved, and the contractor may purchase materials for incorpo-*
19 *ration in such project. The contractor shall furnish the number of*
20 *such certificate to all suppliers from whom such purchases are*
21 *made, and such suppliers shall execute invoices covering the same*
22 *bearing the number of such certificate. Upon completion of the pro-*
23 *ject the contractor shall furnish to the nonprofit zoo concerned a*
24 *sworn statement, on a form to be provided by the director of taxa-*
25 *tion, that all purchases so made were entitled to exemption under*
26 *this subsection. All invoices shall be held by the contractor for a*
27 *period of five years and shall be subject to audit by the director of*
28 *taxation. If any materials purchased under such a certificate are*
29 *found not to have been incorporated in the building or other project*
30 *or not to have been returned for credit or the sales or compensating*
31 *tax otherwise imposed upon such materials which will not be so*
32 *incorporated in the building or other project reported and paid by*
33 *such contractor to the director of taxation not later than the 20th*
34 *day of the month following the close of the month in which it shall*
35 *be determined that such materials will not be used for the purpose*
36 *for which such certificate was issued, the nonprofit zoo concerned*
37 *shall be liable for tax on all materials purchased for the project,*
38 *and upon payment thereof it may recover the same from the con-*
39 *tractor together with reasonable attorney fees. Any contractor or*
40 *any agent, employee or subcontractor thereof, who shall use or oth-*
41 *erwise dispose of any materials purchased under such a certificate*
42 *for any purpose other than that for which such a certificate is issued*
43 *without the payment of the sales or compensating tax otherwise im-*

1 *posed upon such materials, shall be guilty of a misdemeanor and,*
2 *upon conviction therefor, shall be subject to the penalties provided*
3 *for in subsection (g) of K.S.A. 79-3615, and amendments thereto;*

4 *(yy) all sales of tangible personal property and services pur-*
5 *chased by a parent-teacher association or organization, and all*
6 *sales of tangible personal property by or on behalf of such associ-*
7 *ation or organization;*

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

18 *(aaa) all sales of tangible personal property and services pur-*
19 *chased by a religious organization which is exempt from federal*
20 *income taxation pursuant to section 501(c)(3) of the federal internal*
21 *revenue code, and used exclusively for religious purposes, and all*
22 *sales of tangible personal property or services purchased by a con-*
23 *tractor for the purpose of constructing, equipping, reconstructing,*
24 *maintaining, repairing, enlarging, furnishing or remodeling facili-*
25 *ties for any such organization which would be exempt from taxation*
26 *under the provisions of this section if purchased directly by such*
27 *organization. Nothing in this subsection shall be deemed to exempt*
28 *the purchase of any construction machinery, equipment or tools*
29 *used in the constructing, equipping, reconstructing, maintaining,*
30 *repairing, enlarging, furnishing or remodeling facilities for any*
31 *such organization. When any such organization shall contract for*
32 *the purpose of constructing, equipping, reconstructing, maintain-*
33 *ing, repairing, enlarging, furnishing or remodeling facilities, it shall*
34 *obtain from the state and furnish to the contractor an exemption*
35 *certificate for the project involved, and the contractor may pur-*
36 *chase materials for incorporation in such project. The contractor*
37 *shall furnish the number of such certificate to all suppliers from*
38 *whom such purchases are made, and such suppliers shall execute*
39 *invoices covering the same bearing the number of such certificate.*
40 *Upon completion of the project the contractor shall furnish to such*
41 *organization concerned a sworn statement, on a form to be provided*
42 *by the director of taxation, that all purchases so made were entitled*
43 *to exemption under this subsection. All invoices shall be held by the*

1 *contractor for a period of five years and shall be subject to audit*
2 *by the director of taxation. If any materials purchased under such*
3 *a certificate are found not to have been incorporated in the building*
4 *or other project or not to have been returned for credit or the sales*
5 *or compensating tax otherwise imposed upon such materials which*
6 *will not be so incorporated in the building or other project reported*
7 *and paid by such contractor to the director of taxation not later*
8 *than the 20th day of the month following the close of the month in*
9 *which it shall be determined that such materials will not be used*
10 *for the purpose for which such certificate was issued, such organi-*
11 *zation concerned shall be liable for tax on all materials purchased*
12 *for the project, and upon payment thereof it may recover the same*
13 *from the contractor together with reasonable attorney fees. Any*
14 *contractor or any agent, employee or subcontractor thereof, who*
15 *shall use or otherwise dispose of any materials purchased under*
16 *such a certificate for any purpose other than that for which such a*
17 *certificate is issued without the payment of the sales or compensat-*
18 *ing tax otherwise imposed upon such materials, shall be guilty of a*
19 *misdemeanor and, upon conviction therefor, shall be subject to the*
20 *penalties provided for in subsection (g) of K.S.A. 79-3615, and*
21 *amendments thereto. Sales tax paid on and after July 1, 1998, but*
22 *prior to the effective date of this act upon the gross receipts received*
23 *from any sale exempted by the amendatory provisions of this sub-*
24 *section shall be refunded. Each claim for a sales tax refund shall be*
25 *verified and submitted to the director of taxation upon forms fur-*
26 *nished by the director and shall be accompanied by any additional*
27 *documentation required by the director. The director shall review*
28 *each claim and shall refund that amount of sales tax paid as deter-*
29 *mined under the provisions of this subsection. All refunds shall be*
30 *paid from the sales tax refund fund upon warrants of the director*
31 *of accounts and reports pursuant to vouchers approved by the di-*
32 *rector or the director's designee;*

33 *(bbb) all sales of food for human consumption by an organiza-*
34 *tion which is exempt from federal income taxation pursuant to sec-*
35 *tion 501 (c)(3) of the federal internal revenue code of 1986, pur-*
36 *suant to a food distribution program which offers such food at a*
37 *price below cost in exchange for the performance of community*
38 *service by the purchaser thereof;*

39 *(ccc) on and after July 1, 1999, all sales of tangible personal*
40 *property and services purchased by a primary care clinic or health*
41 *center the primary purpose of which is to provide services to med-*
42 *ically underserved individuals and families, and which is exempt*
43 *from federal income taxation pursuant to section 501 (c)(3) of the*

1 *federal internal revenue code, and all sales of tangible personal*
2 *property or services purchased by a contractor for the purpose of*
3 *constructing, equipping, reconstructing, maintaining, repairing, en-*
4 *larging, furnishing or remodeling facilities for any such clinic or*
5 *center which would be exempt from taxation under the provisions*
6 *of this section if purchased directly by such clinic or center. Nothing*
7 *in this subsection shall be deemed to exempt the purchase of any*
8 *construction machinery, equipment or tools used in the construct-*
9 *ing, equipping, reconstructing, maintaining, repairing, enlarging,*
10 *furnishing or remodeling facilities for any such clinic or center.*
11 *When any such clinic or center shall contract for the purpose of*
12 *constructing, equipping, reconstructing, maintaining, repairing, en-*
13 *larging, furnishing or remodeling facilities, it shall obtain from the*
14 *state and furnish to the contractor an exemption certificate for the*
15 *project involved, and the contractor may purchase materials for*
16 *incorporation in such project. The contractor shall furnish the num-*
17 *ber of such certificate to all suppliers from whom such purchases*
18 *are made, and such suppliers shall execute invoices covering the*
19 *same bearing the number of such certificate. Upon completion of*
20 *the project the contractor shall furnish to such clinic or center con-*
21 *cerned a sworn statement, on a form to be provided by the director*
22 *of taxation, that all purchases so made were entitled to exemption*
23 *under this subsection. All invoices shall be held by the contractor*
24 *for a period of five years and shall be subject to audit by the director*
25 *of taxation. If any materials purchased under such a certificate are*
26 *found not to have been incorporated in the building or other project*
27 *or not to have been returned for credit or the sales or compensating*
28 *tax otherwise imposed upon such materials which will not be so*
29 *incorporated in the building or other project reported and paid by*
30 *such contractor to the director of taxation not later than the 20th*
31 *day of the month following the close of the month in which it shall*
32 *be determined that such materials will not be used for the purpose*
33 *for which such certificate was issued, such clinic or center con-*
34 *cerned shall be liable for tax on all materials purchased for the*
35 *project, and upon payment thereof it may recover the same from*
36 *the contractor together with reasonable attorney fees. Any contrac-*
37 *tor or any agent, employee or subcontractor thereof, who shall use*
38 *or otherwise dispose of any materials purchased under such a cer-*
39 *tificate for any purpose other than that for which such a certificate*
40 *is issued without the payment of the sales or compensating tax oth-*
41 *erwise imposed upon such materials, shall be guilty of a misde-*
42 *meanor and, upon conviction therefor, shall be subject to the pen-*
43 *alties provided for in subsection (g) of K.S.A. 79-3615, and*

1 *amendments thereto;*

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

14 *(eee) on and after January 1, 1999, and before January 1, 2001,*
15 *all sales of materials and services purchased for the original con-*
16 *struction, reconstruction, repair or replacement of grain storage*
17 *facilities, including railroad sidings providing access thereto;*

18 *(fff) all sales of material handling equipment, racking systems*
19 *and other related machinery and equipment that is used for the*
20 *handling, movement or storage of tangible personal property in a*
21 *warehouse or distribution facility in this state; all sales of instal-*
22 *lation, repair and maintenance services performed on such machin-*
23 *ery and equipment; and all sales of repair and replacement parts*
24 *for such machinery and equipment. For purposes of this subsection,*
25 *a warehouse or distribution facility means a single, fixed location*
26 *that consists of buildings or structures in a contiguous area where*
27 *storage or distribution operations are conducted that are separate*
28 *and apart from the business' retail operations, if any, and which do*
29 *not otherwise qualify for exemption as occurring at a manufactur-*
30 *ing or processing plant or facility. Material handling and storage*
31 *equipment shall include aeration, dust control, cleaning, handling*
32 *and other such equipment that is used in a public grain warehouse*
33 *or other commercial grain storage facility, whether used for grain*
34 *handling, grain storage, grain refining or processing, or other grain*
35 *treatment operation; and*

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

42 *Sec. 20. K.S.A. 82a-1021 is hereby amended to read as follows:*
43 *82a-1021. The following terms when used in this act shall have the lim-*

1 itations and meanings respectively ascribed to them in this section As
2 used in this act:

3 (a) **“Aquifer” means any geological formation capable of yield-**
4 **ing water in sufficient quantities that it can be extracted for bene-**
5 **ficial purposes.**

6 (b) **“Board” means the board of directors constituting the gov-**
7 **erning body of a groundwater management district.**

8 (c) **“Chief engineer” means the chief engineer of the division of**
9 **water resources of the Kansas state board of agriculture.**

10 (d) **“District” means a contiguous area which overlies one or**
11 **more aquifers, together with any area in between, which is organ-**
12 **ized for groundwater management purposes under this act and acts**
13 **amendatory thereof or supplemental thereto. “District” does not in-**
14 **clude a groundwater management district operating pursuant to sections**
15 **3 through 17, and amendments thereto.**

16 (e) **“Eligible voter” means any person who is a landowner or a**
17 **water user as defined in this act except as hereafter qualified. Every**
18 **natural person of the age of eighteen (18) years or upward 18 or more**
19 **years of age shall be an eligible voter of a district under this act if**
20 **(1) he or she such person is a landowner who owns, of record, any**
21 **land, or any interest in land, comprising ~~forty (40)~~ 40 or more con-**
22 **tiguous acres located within the boundaries of the district and not**
23 **within the corporate limits of any municipality, or (2) he or she such**
24 **person withdraws or uses groundwater from within the boundaries**
25 **of the district in an amount of one acre-foot or more per year.**

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

34 **Each tract of land of ~~forty (40)~~ 40 or more contiguous acres and**
35 **each quantity of water withdrawn or used in an amount of one acre-**
36 **foot or more per year shall be represented by but a single eligible**
37 **voter. If the land is held by lease, under an estate for years, under**
38 **contract, or otherwise, the fee owner shall be the one entitled to**
39 **vote, unless the parties in interest agree otherwise. If the land is**
40 **held jointly or in common, the majority in interest shall determine**
41 **which natural person or corporation shall be entitled to vote. Each**
42 **qualified voter shall be entitled to cast only one vote. A person duly**
43 **authorized to act in a representative capacity for estates, trusts,**

1 **municipalities, public corporations or private corporations may**
2 **also cast one vote for each estate, trust, municipality, or public or**
3 **private corporations so represented. Nothing herein shall be con-**
4 **strued to authorize proxy voting.**

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

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

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

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

25 **(g) "Landowner" means the person who is the record owner of**
26 **any real estate within the boundaries of the district or who has an**
27 **interest therein as contract purchaser of forty (40) 40 or more con-**
28 **tiguous acres in the district not within the corporate limits of any**
29 **municipality. Owners of oil leases, gas leases, mineral rights, ease-**
30 **ments, or mortgages shall not be considered landowners by reason**
31 **of such ownership.**

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

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

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

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

6 ***Sec. 21. K.S.A. 82a-1021 and K.S.A. 2000 Supp. 65-171d, 79-***
7 ***201a and 79-3606 are hereby repealed.***

8 ***Sec. ~~21~~ 22.*** This act shall take effect and be in force from and after
9 its publication in the statute book.

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