

Approved March 16, 1992
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE

The meeting was called to order by Representative Lee Hamm at
Chairperson

9:02 a.m./~~p.m.~~ on Friday, March 6, 1992 in room 423-S of the Capitol.

All members were present except: Representative D. Lawrence, excused

Committee staff present: Raney Gilliland, Legislative Research
Jill Wolters, Revisor of Statutes Office
Pat Brunton, Committee Secretary

Conferees appearing before the committee:

Discussion was opened on **HB 2836** - pet food; animal dealers fee fund.

Representative Gatlin moved to approve favorably **HB 2836**. Representative Correll seconded the motion.

Representative Bryant made a conceptual substitute motion to amend the bill to require that 10% of the tax be retained for the purpose of advertising and promoting the manufacturer. Representative Reinhardt seconded the motion for discussion purposes. Motion failed.

The motion to pass **HB 2836** favorably carried. A division vote was taken with 10 in favor and 9 opposed. "No" votes were recorded for Representative Neufeld, Representative Flower, Representative Rock and Representative Jennison.

Chairman Hamm asked the committee to consider a Resolution proclaiming March 20, 1992, as "Agriculture Day" and March 15-21, 1992 as "Agriculture Week". The Resolution was voted on and passed.

Discussion was opened on **SB 203** - relating to humane slaughter.

Representative Bryant made a motion to amend **SB 203** by adding all Christmas tree machinery and equipment. (Attachment 1). Representative Lloyd seconded. After discussion, the motion passed.

Representative Rezac moved to pass **SB 203** as amended. Representative Neufeld seconded. Motion carried.

The meeting adjourned at 9:40 a.m.

[As Amended by Senate Committee of the Whole]

Rep. Bryant 2-26-92

As Amended by Senate Committee

Session of 1991

SENATE BILL No. 203

By Senator Karr

2-13

11 AN ACT concerning aquaculture; relating to the taxation and em-
12 ployment practices thereof; relating to humane slaughter; amend-
13 ing K.S.A. 12-1617, ~~44-125, 44-505, 44-915, 47-1402, 79-201j, 79-~~
14 1545, 79-32, 154, 79-3602 and ~~79-3606~~ and K.S.A. ~~1990~~ Supp. ~~44-~~
15 703 and ~~44-1202~~ and repealing the existing sections

land and water use; relating to

1991

79-213 and 79-3606

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 *[New Section 1. As used in this act, "aquaculture" means the*
19 *controlled cultivation and harvest of aquatic organisms.]*

20 Section 1 [Sec. 2]. K.S.A. 12-1617 is hereby amended to read
21 as follows: 12-1617. The powers of the cities of the first, second and
22 third classes within this state to impose license or occupation taxes
23 upon peddlers and venders shall not be construed so as to apply to,
24 or create the power to impose license taxes or occupation taxes upon
25 producers and growers, or their agents or employees engaged in the
26 sale of farm, or garden or aquaculture products, or fruits grown
27 within this state.

28 ~~Sec. 2 [3]. K.S.A. 44-125 is hereby amended to read as follows:~~
29 44-125. As used in this act, the following words shall have the
30 meaning respectively ascribed to them herein:

31 (a) "Migrant worker" means any person who is a nonresident of
32 Kansas and who is employed temporarily in agriculturally-related or
33 aquaculturally-related work involving seasonal labor requiring his
34 such person's migration from one area to another in order to gain
35 employment but shall not mean any person who is employed by any
36 custom combine operator.

37 (b) "Crew chief" means any person, other than an employer, who
38 brings a crew or group of migrant workers into the state of Kansas
39 or is responsible for finding employment for them but shall not mean
40 any custom combine operator.

41 Sec. 3 [4]. K.S.A. 44-505 is hereby amended to read as follows:
42 44-505. (a) Subject to the provisions of K.S.A. 44-506 and amend-
43 ments thereto, the workmen's workers compensation act shall apply

ATTACHMENT 1
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1 ness, industry or other gainful employment.

2 (g) "Gratuity" means voluntary monetary contribution received
3 by an employee from a guest, patron or customer for services
4 rendered.

5 (h) "Occasional or part-time basis" means any employee working
6 less than 40 hours per week and, for the purposes of this definition,
7 students 18 years of age and under working between academic terms
8 shall be considered part-time employees regardless of the number
9 of hours worked.

10 *Sec. 7 [8]. K.S.A. 47-1402 is hereby amended to read as follows:*
11 *47-1402. As used in this act: (a) "Person" means any individual,*
12 *partnership, corporation, or association doing business in this state,*
13 *in whole or in part.*

14 (b) "Slaughterer" means any person regularly engaged in the
15 commercial slaughtering of livestock.

16 (c) "Livestock" means cattle, calves, sheep, swine, horses, mules,
17 goats, aquatic organisms and any other animal which can or may
18 be used in and for the preparation of meat or meat products.

19 (d) "Packer" means any person engaged in the business of slaugh-
20 tering of livestock.

21 (e) "Stockyard" means any place, establishment, or facility com-
22 monly known as a stockyard, conducted or operated for compen-
23 sation or profit as a public market, consisting of pens, or other
24 enclosures, and their appurtenances, for the handling, keeping, and
25 holding of livestock for the purpose of sale or shipment.

26 (f) "Humane method" means either: (a) A method whereby the
27 animal is rendered insensible to pain by mechanical, electrical, chem-
28 ical, or other means that is rapid and effective, before being shack-
29 led, hoisted, thrown, cast, or cut; or (b) a method in accordance
30 with ritual requirements of the Jewish faith or any other religious
31 faith whereby the animal suffers loss of consciousness by anemia of
32 the brain caused by the simultaneous and instantaneous severance
33 of the carotid arteries with a sharp instrument.

34 *Sec. 7-8 [9]. K.S.A. 79-201j is hereby amended to read as fol-*
35 *lows: 79-201j. The following described property, to the extent spec-*
36 *ified by this section, shall be exempt from all property or ad valorem*
37 *taxes levied under the laws of the state of Kansas:*

38 (a) All farm machinery and equipment. The term "farm machin-
39 ery and equipment" means that personal property actually and reg-
40 ularly used exclusively in any farming or ranching operation. The
41 term "farming or ranching operation" shall include the performing
42 of farm or ranch work for hire. The term "farm machinery and
43 equipment" shall not include any passenger vehicle, truck, truck

1 tractor, trailer, semitrailer or pole trailer, other than a farm trailer,
2 as the terms are defined by K.S.A. 8-126 and amendments thereto.

3 The provisions of this section subsection shall apply to all taxable
4 years commencing after December 31, 1984.

5 (b) *All aquaculture machinery and equipment. The term "aqua-*
6 *culture machinery and equipment" means that personal property*
7 *actually and regularly used exclusively in any aquaculture operation.*
8 *The term "aquaculture operation" shall include the feeding out of*
9 *fish aquatic organisms; breeding, growing or rearing fish aquatic*
10 *organisms; and selling or transporting fish aquatic organisms. The*
11 *term "aquaculture machinery and equipment" shall not include any*
12 *passenger vehicle, truck, truck tractor, trailer, semitrailer or pole*
13 *trailer.*

(1)

14 The provisions of this subsection shall apply to all taxable years
15 commencing after December 31, ~~1990~~

16 Sec. 8-9-[10]. K.S.A. 79-1545 is hereby amended to read as
17 follows: 79-1545. (a) If the person filing the return elects the ap-
18 plication of this section, the value of qualified real property shall be
19 its value for the use under which it qualifies as qualified real prop-
20 erty. The aggregate decrease in the value of qualified real property
21 which results from the application of this section with respect to the
22 gross estate of any decedent shall not exceed \$500,000 in the case
23 of decedents dying in 1980 or before, \$600,000 in the case of de-
24 cedents dying in 1981, \$700,000 in the case of decedents dying in
25 1982 and \$750,000 in the case of decedents dying in 1983 or
26 thereafter.

(2) All Christmas tree machinery and equipment. The term
"Christmas tree machinery and equipment" means that personal property
actually and regularly used exclusively in any Christmas tree opera-
tion. The term "Christmas tree operation" shall include the planting,
cultivating and harvesting of Christmas trees; and selling or transport-
ing Christmas trees. The term "Christmas tree machinery and equipment"
shall not include any passenger vehicle, truck, truck tractor, trailer,
semitrailer or pole trailer.

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27 (b) For purposes of this section: (1) "Qualified real property"
28 means real property located in the state which, on the date of the
29 decedent's death, was being used for a qualified use by the decedent
30 or a member of the decedent's family, but only if:

31 (A) Fifty percent or more of the adjusted value of the gross estate
32 consists of the adjusted value of real or personal property which:

33 (i) On the date of the decedent's death, was being used for a
34 qualified use by the decedent or a member of the decedent's family;
35 and

36 (ii) was acquired from or passed from the decedent to a qualified
37 heir of the decedent;

38 (B) Twenty-five percent or more of the adjusted value of the
39 gross estate consists of the adjusted value of real property which
40 meets the requirements of subparagraphs (A)(ii) and (C) of this sub-
41 section (b);

42 (C) During the eight-year period ending on the date of the de-
43 cedent's death there have been periods aggregating five years or

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Sec. 7. K.S.A. 1991 Supp. 79-213 is hereby amended to read as follows: 79-213. (a) Any property owner requesting an exemption from the payment of ad valorem property taxes assessed, or to be assessed, against their property shall be required to file an initial request for exemption, on forms approved by the board of tax appeals and provided by the county appraiser.

(b) The initial exemption request shall identify the property for which the exemption is requested and state, in detail, the legal and factual basis for the exemption claimed.

(c) The request for exemption shall be filed with the county appraiser of the county where such property is principally located.

(d) After a review of the exemption request, and after a preliminary examination of the facts as alleged, the county appraiser shall recommend that the exemption request either be granted or denied, and, if necessary, that a hearing be held. If a denial is recommended, a statement of the controlling facts and law relied upon shall be included on the form.

(e) The county appraiser, after making such written recommendation, shall file the request for exemption and the recommendations of the county appraiser with the board of tax appeals.

(f) Upon receipt of the request for exemption, the board shall docket the same and notify the applicant and the county appraiser of such fact.

(g) After examination of the request for exemption, and the county appraiser's recommendation related thereto, the board may fix a time and place for hearing, and shall notify the applicant and the county appraiser of the time and place so fixed. In any case where a party to such request for exemption requests a hearing thereon, the same shall be granted. Hearings shall be conducted in accordance with the provisions of the Kansas administrative procedure act. In all instances where the board sets a request for exemption for hearing, the county shall be represented by its county attorney or county counselor.

(h) In the event of a hearing, the same shall be originally set not later than 90 days after the filing of the request for exemption with the board.

(i) During the pendency of a request for exemption, no person, firm, unincorporated association, company or corporation charged with real estate or personal property taxes pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, on the tax books in the hands of the county treasurer shall be required to pay the tax from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon and the same becomes a final order. In the event that taxes have been assessed against the subject property, no interest shall accrue on any unpaid tax for the year or years in question nor shall the unpaid tax be considered delinquent from the date the request is filed with the county appraiser until the expiration of 30 days after the board issued its order thereon. In the event the board determines an application for exemption is without merit and filed in bad faith to delay the due date of the tax, the tax shall be considered delinquent as of the date the tax would have been due pursuant to K.S.A. 79-2004 and 79-2004a, and amendments thereto, and interest shall accrue as prescribed therein.

(j) In the event the board grants the initial request for exemption, the same shall be effective beginning with the date of first exempt use.

(k) In conjunction with its authority to grant exemptions, the board shall have the authority to abate all unpaid taxes that have accrued from and since the date of first exempt use. In the event that taxes have been paid during the period where the subject property has been determined to be exempt, the board shall have the authority to order a refund of taxes for a period not to exceed three years.

(l) The provisions of this section shall not apply to: (1) Farm machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto; (2) personal property

exempted from ad valorem taxation by K.S.A. 79-215, and amendments thereto; (3) wearing apparel, household goods and personal effects exempted from ad valorem taxation by K.S.A. 79-201c, and amendments thereto; (4) livestock; (5) hay and silage exempted from ad valorem taxation by K.S.A. 79-201d, and amendments thereto; (6) merchants' and manufacturers' inventories exempted from ad valorem taxation by K.S.A. 79-201m and amendments thereto; and (7) grain exempted from ad valorem taxation by K.S.A. 79-201n, and amendments thereto; (8) aquaculture machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto. As used in this section, "aquaculture" has the same meaning as defined in section 1; and (9) Christmas tree machinery and equipment exempted from ad valorem taxation by K.S.A. 79-201j, and amendments thereto.

(m) The provisions of this section shall apply to property exempt pursuant to the provisions of section 13 of article 11 of the Kansas constitution.

Sec. 8. K.S.A. 1991 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, and motor vehicles as defined by K.S.A. 79-1017 and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit

hospital or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state or hospital is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

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

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any public or private nonprofit hospital, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from

funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any political subdivision of the state, public or private nonprofit hospital, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been

incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of

such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

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

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

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

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

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

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

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

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

(n) all sales of tangible personal property which is consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining,

compounding, irrigation and in providing such services;

(o) all sales of animals, fowl and fish aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in Section 1, the production of food for human consumption, the production of animal, dairy, poultry or fish aquatic plants and animals products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) trade fixtures and equipment which are already installed and second-hand when sold by a person ceasing to do business where said fixtures or equipment is installed;

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

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

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

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

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

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

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

(x) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes to residential premises

for noncommercial use by the occupant of such premises and all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes for agricultural use;

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

(z) all sales of intrastate telephone and telegraph services for noncommercial use except noncommercial intrastate long distance telephone service;

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

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

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

(dd) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 1991 Supp. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(ee) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a qualified business facility located within an enterprise zone, which will

qualify for an income tax credit under K.S.A. 79-32,153 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at such a facility. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such facility, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the qualified business facility a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. Notwithstanding the foregoing, that portion of the sales tax paid on the sale of tangible personal property which would have qualified for the exemption under this subsection during calendar year 1987 except that an exemption certificate for the purchase of such property was not timely obtained shall be refunded. The claim for such refund shall be verified and submitted to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director

shall review each claim and shall refund the amount of the sales tax paid as determined under the provisions of this subsection. All refunds shall be paid from the sales tax refund fund upon warrants of the director of accounts and reports pursuant to vouchers approved by the director or the director's designee;

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

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

(hh) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 1991 Supp. 58-4202 and amendments thereto;

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

(jj) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

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

(ll) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant

to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(mm) on and after January 1, 1989, all sales of machinery and equipment used directly and primarily for the purposes of manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility.

(1) For purposes of this subsection, machinery and equipment shall be deemed to be used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of tangible personal property where such machinery and equipment is used during a manufacturing, assembling, processing or finishing, storing, warehousing or distributing operation:

(A) To effect a direct and immediate physical change upon the tangible personal property;

(B) to guide or measure a direct and immediate physical change upon such property where such function is an integral and essential part of tuning, verifying or aligning the component parts of such property;

(C) to test or measure such property where such function is an integral part of the production flow or function;

(D) to transport, convey or handle such property during the manufacturing, processing, storing, warehousing or distribution operation at the plant or facility; or

(E) to place such property in the container, package or wrapping in which such property is normally sold or transported.

(2) For purposes of this subsection "machinery and equipment used directly and primarily" shall include, but not be limited to:

(A) Mechanical machines or major components thereof

contributing to a manufacturing, assembling or finishing process;

(B) molds and dies that determine the physical characteristics of the finished product or its packaging material;

(C) testing equipment to determine the quality of the finished product;

(D) computers and related peripheral equipment that directly control or measure the manufacturing process or which are utilized for engineering of the finished product; and

(E) computers and related peripheral equipment utilized for research and development and product design.

(3) "Machinery and equipment used directly and primarily" shall not include:

(A) Hand tools;

(B) machinery, equipment and tools used in maintaining and repairing any type of machinery and equipment;

(C) transportation equipment not used in the manufacturing, assembling, processing, furnishing, storing, warehousing or distributing process at the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not directly and primarily used in controlling or measuring the manufacturing process;

(E) furniture and buildings; and

(F) machinery and equipment used in administrative, accounting, sales or other such activities of the business;

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

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

(pp) except as otherwise provided in this act, all sales of

services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

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

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

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

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

New Sec. 9. (a) The Kansas state board of agriculture shall be the official lead agency to coordinate aquaculture activities in the state and shall be responsible for the implementation of a state aquaculture plan.

(b) The state board of agriculture shall, in regard to the aquaculture industry, have the following duties, authorities and powers to:

(1) Work with the respective regulatory and resource agencies to delineate individual agency responsibilities and activities in aquaculture research, regulation, service, and development;

(2) serve as an advocate for the industry and assist in promoting and marketing aquaculture products. The board shall provide market development assistance in conjunction with the

industry and shall facilitate improved communication and interaction among aquaculture producers, governmental agencies, both federal and state, and with national organizations representing aquaculture interests;

(3) coordinate the development of aquaculture literature for the general public and fish growers, and act as a central clearing house for the transfer of information;

(4) provide guidance for aquaculture research and development;

(5) assist in the development and conducting of educational seminars, workshops, short courses, and other programs on aquaculture;

(6) accept grants and donations;

(7) provide assistance to the aquaculture advisory council; and

(8) promulgate and adopt rules and regulations for the administration of this act.

(c) In implementing the provisions of this section, aquaculture and aquaculture products shall be deemed to be agriculture products as that term is used in K.S.A. 1991 supp. 74-530. In addition, the state board of agriculture may use any powers and authority granted under K.S.A. 1991 supp. 74-530 in the implementation of this act.

New Sec. 10. (a) There is hereby created the aquaculture advisory council consisting of 11 members as follows:

(1) A member of the house of representatives and a member of the senate appointed by the legislative coordinating council, and such members shall be from different political parties;

(2) the dean of the college of agriculture at Kansas state university or the dean's designee;

(3) the secretary of the state board of agriculture, or the secretary's designee;

(4) the secretary of commerce, or the secretary's designee;

(5) six citizens of Kansas, representing aquaculture producers and a variety of processing interests and including at

least one person having recognized expertise in the marketing of aquaculture products, who shall be appointed by the secretary of the state board of agriculture.

(b) The members of the advisory council appointed under subsection (a)(1) shall be appointed for a term ending on the day preceding the commencement of the regular session of the legislature in the first odd-numbered year following their appointment. The members of the leadership council appointed by the secretary under subsection (a)(5) shall be appointed for terms as follows: (1) Three members shall be appointed for terms ending on June 30, 1993, and (2) three members shall be appointed for terms ending on June 30, 1994. After the expiration of the initial terms of such members appointed by the secretary, members shall be appointed by the secretary for terms of two years. All vacancies in the office of appointed members shall be filled by appointment by the officer or council making the original appointment for the remainder of the unexpired term of the member creating the vacancy.

(c) The advisory council shall organize annually by the election from its membership of a chairperson and a vice-chairperson. The advisory council shall adopt such rules of procedure as it deems necessary for conducting its business.

(d) The members of the advisory council shall be paid subsistence allowance, mileage and other expenses for attendance at meetings of the leadership council, or subcommittee meetings thereof authorized by the council, as provided in K.S.A. 75-3223, and amendments thereto.

New Sec. 11. The aquaculture advisory council shall have the following duties, authorities and powers to:

(a) Advise the state board of agriculture and other state agencies on the aquaculture industry problems and needs;

(b) determine and recommend specific research priorities;

(c) publish an annual report on the status of the aquaculture industry in the state;

(d) assist the state board of agriculture in updating and

modifying the state aquaculture plan; and

(e) advise the state board of agriculture in support of aquaculture.

New Sec. 12. There is hereby created in the state treasury the aquaculture fund. Such fund shall be used to accept donations and grants to promote and market aquaculture and aquaculture products in the state of Kansas.