

Approved Feb. 18, 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 Thursday, February 13, 1992 in room 423-S of the Capitol.

All members were present except: Representative Rock, Representative Doug Lawrence, Representative Heinemann, and Representative Jennison (all were excused)

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

Conferees appearing before the committee: Senator Gerald "Jerry" Karr  
District 17  
Emporia, Kansas

Ken Boughton  
Marketing Division  
State Board of Agriculture

Brent Culver  
Kansas Fish Growers Association  
McPherson, Kansas

Chairman Hamm opened hearings on **SB 203** - relating to humane slaughter; concerning aquaculture.

Senator Jerry Karr, District 17, appeared before the committee in favor of **SB 203** and presented for the committee's consideration a "balloon." Senator Karr called attention to page 3, where it is further clarified on the taxation issue regarding Aquaculture machinery and equipment in the same context as Agriculture equipment. He pointed out the other amendments to the bill stating this would provide a framework or an umbrella in which we can develop an industry such as Aquaculture in the state of Kansas. (Attachment 1).

Ken Boughton, State Board of Agriculture, appeared before the committee in favor of **SB 203**. He informed the committee that **SB 203** addresses some of the statutory concerns and recommendations expressed in the Kansas Aquaculture Task Force Report. One of the first concerns addressed by the Task Force was the definition of aquaculture. It is defined in the report as the controlled cultivation and harvest of aquatic plants and animals. The bill also responds to the recommendation by the Task Force that Aquaculture be defined as agriculture for ad valorem taxation purposes and other appropriate tax statutes. (Attachment 2).

Brent Culver, Kansas Fish Growers Association, testified in favor of **SB 203**. Mr. Culver asked for the committee's support of this legislation.

A question and answer period followed the testimonies.

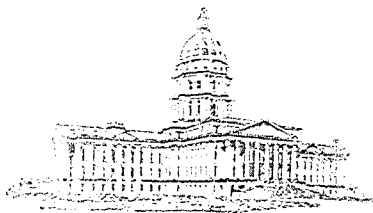
Hearings were closed on **SB 203**.

The meeting adjourned at 9:42 a.m. The next meeting of the House Agriculture Committee will be Friday, February 14, 1992, in room 423-S, State Capitol.

# State of Kansas

## Senate Chamber

GERALD "JERRY" KARR  
SENATOR, SEVENTEENTH DISTRICT  
CHASE, LYON, MARION, MORRIS,  
OSAGE COUNTIES  
R.R. 2 BOX 101  
EMPORIA, KANSAS 66801



### Office of Democratic Leader

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**STATEMENT BY SENATOR GERALD "JERRY" KARR  
BEFORE THE HOUSE AGRICULTURE COMMITTEE  
CONCERNING SENATE BILL 203  
FEBRUARY 13, 1992**

I am pleased to have the opportunity to appear in front of the House Agriculture Committee in regard to Senate Bill 203, an act concerning Aquaculture.

The Aquaculture bill was introduced in the 1991 Session as an effort to try to clarify the role of Aquaculture or fish farming in the context of our current statutes that relate to the broader area of Agriculture. The bill passed the Senate without difficulty and was held up in committee because of questions that developed in regard to the Workers Compensation Act and related issues.

Over the summer, there has been a major effort put forth by the Kansas Agriculture Task Force in which they developed a long-term strategy for Aquaculture in our state. That effort was a cooperative effort on the part of individuals not only in the Kansas Fish Growers Association but representatives from the Kansas Department of Wildlife and the Kansas Value Added Center and Kansas University. Also, contributions were made by individuals from Pittsburg State, Department of Commerce,

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2-13-92  
ATTACHMENT 1

Department of Agriculture, and the Dillon Companies in Kansas.

The bill I am presenting this day will include some technical amendments as well as some recommendations that were included in the Aquaculture Task Force Report. I am presenting for your consideration a "balloon."

I call your attention to the "balloon," particularly on page 3, where we have further clarified the taxation issue regarding Aquaculture machinery and equipment in the same context as Agriculture equipment. Also, note on page 9 of the amended material, I further clarify the question regarding sales tax on aquatic organisms, which is used in this case instead of fish. This allows for the other possible production areas such as crawfish.

On page 16 is new section 9 which designates the State Board of Agriculture as the lead agency to coordinate Aquaculture activities and to implement an Aquaculture plan. In that section, we also indicate the role the Department as well as the industry would play in considering research, addressing the promotion, and eventually propagating rules and regulations.

Section 10 allows for the establishment of an 11-person advisory council which would include one legislator from each House, as well as a representative from the College of Agriculture (KSU), the Department of Agriculture, and the Department of Commerce. It would also include six citizen members. This advisory council would then become the key initiating group as far as further changes that might be needed

in Aquaculture and general commercial fish production.

I think this provides a framework or an umbrella in which we can develop an industry such as Aquaculture in the state of Kansas. I would ask that the committee seriously consider the amendments and note that I have removed sections that relate to questions which the Department of Human Resources raised last year. I certainly would be glad to answer any questions that you may have in regard to Senate Bill 203 and am pleased that members from the industry, as well as the department are here to testify in regard to this bill. Thank you very much, Mr. Chairman.

[As Amended by Senate Committee of the Whole]

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-~~ creating the aquaculture advisory council; relating to the  
 12 ~~ployment practices~~ thereof; relating to humane slaughter; ~~amend-~~ powers and duties thereof;  
 13 ing K.S.A. 12-1617, ~~[44-125, 44-505, 44-915]~~ 47-1402, 79-201j, 79-  
 14 1545, 79-32, 15-~~f~~ 79-3602 ~~and 79-3606~~ and K.S.A. ~~[1990]~~ Supp. ~~[44-]~~ 1991  
 15 703 and 44-1202) and repealing the existing sections. 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 plants and animals  
 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

- Note: 1.KSA 44-125, 44-505, 44-915, 79-3606 and KSA 1990 supp.  
 44-703 and 44-1202 will be deleted from the bill.  
 2.KSA 1991 supp. 79-3606 is added reflecting the 1991  
 amendments.  
 3.SB 203, p. 25, line 15, strike "1990", insert "1992".  
 4.Renumber sections accordingly  
 5.Everywhere in bill where it refers to "aquatic organisms"  
 strike "organisms" and insert "plants and animals"

C 1

1 process at the plant or facility;

2 (D) office machines and equipment including computers and re-

3 lated peripheral equipment not directly and primarily used in con-

4 trolling or measuring the manufacturing process;

5 (E) furniture and buildings; and

6 (F) machinery and equipment used in administrative, accounting,

7 sales or other such activities of the business;

8 (nn) all sales of educational materials purchased for distribution

9 to the public at no charge by a nonprofit corporation organized for

10 the purpose of encouraging, fostering and conducting programs for

11 the improvement of public health.

12 (oo) all sales of seeds and tree seedlings; fertilizers, insecticides,

13 herbicides, germicides, pesticides and fungicides; and services, pur-

14 chased and used for the purpose of producing plants in order to

15 prevent soil erosion on land devoted to agricultural use;

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

17 rendered by an advertising agency or licensed broadcast station or

18 any member, agent or employee thereof;

19 (qq) all sales of tangible personal property purchased by a com-

20 munity action group or agency for the exclusive purpose of repairing

21 or weatherizing housing occupied by low income individuals;

22 (rr) all sales of drill bits and explosives actually utilized in the

23 exploration and production of oil or gas;

24 (ss) all sales of tangible personal property and services purchased

25 by a nonprofit museum or historical society or any combination

26 thereof, including a nonprofit organization which is organized for the

27 purpose of stimulating public interest in the exploration of space by

28 providing educational information, exhibits and experiences, which

29 is exempt from federal income taxation pursuant to section 501(c)(3)

30 of the federal internal revenue code of 1986; and

31 (tt) all sales of tangible personal property which will admit the

32 purchaser thereof to any annual event sponsored by a nonprofit

33 organization which is exempt from federal income taxation pursuant

34 to section 501(c)(3) of the federal internal revenue code of 1986.

35 ~~Sec. 12-13 [14].~~ K.S.A. 12-1617, 44-125, 44-505, 44-915, 47-

36 ~~1402, 79-201j, 79-1545, 79-32,154, 79-3602 and 79-3606 and K.S.A.~~

37 ~~[1990] Supp. [44-703 and 44-1202] are hereby repealed.~~

38 ~~Sec. 13-14 [15].~~ This act shall take effect and be in force from

39 and after its publication in the statute book.

see attachment

12

1991

79-213 and 79-3606

13

1-5

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; and (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.

(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, 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" 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 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 equipment purchased will be used only in farming or ranching. 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.

NewSec. 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.

**PRESENTED**

**TO**

**House Agricultural Committee**

**Lee Hamm, Chairperson**

**February 13, 1992**

**Submitted By:**

**Sam Brownback, Secretary**

**Kansas State Board of Agriculture**

**Eldon Fastrup, Director**

**Marketing Division**

*HS. Ag.  
2-13-92  
ATTACHMENT 2*

Mr. Chairman and members of the committee, I am Ken Boughton, with the State Board of Agriculture's Marketing Division. I appreciate the opportunity to speak in favor of Senate Bill 203.

Senate Bill 203 addresses some of the statutory concerns and recommendations expressed in the Kansas Aquaculture Task Force Report, which the committee members should have received at an earlier date. If any of the committee has not received one, I have copies with me.

The Task Force, made up of both public and private sector members worked very hard this past year to develop a strategic plan that would assist in the healthy growth of the states aquaculture industry.

The National Aquacultural Act of 1980 requests that individual states develop aquaculture plans for the purpose of defining the role of public agencies and private industry in aquaculture development. Such planning makes good sense for Kansas, which has a small but energetic aquaculture industry and a strong and continuing commitment to economic development and diversification.

One of the first concerns addressed by the Task Force was the definition of aquaculture. It is defined in the report as the controlled cultivation and harvest of aquatic plants and animals. This definition as used in Senate Bill 203 is compatible with that of the National Aquaculture Act and that of other states.

The bill also responds to the recommendation by the Task Force that Aquaculture be defined as agriculture for ad valorem taxation purposes and other appropriate tax statues.

The Task Force also strongly recommend that a lead agency be designated to coordinate aquaculture activities in the state and be responsible for implementation of the strategy for development. Coupled with that was the recommendation that a Kansas Aquaculture Advisory Council be formed to assist in guiding future aquaculture development in the state.

Senate Bill 203, I believe adequately addresses both of these recommendations.

There is little doubt that we are in a dynamic and challenging growth period for U.S. aquaculture. American consumers are eating 22 percent more fish and seafood today than they did ten years ago. According to the National Fisheries Institute industry analysis, seafood consumption will continue to increase from the current 15.5 pounds per person to 20 pounds by the year 2000. The industry appears poised to handle the demand into the next decade and beyond. Kansas now needs the full support of state government in order to position itself in the strongest competitive posture to effectively meet the challenges ahead. Given this support, there is every reason to expect Kansas aquaculture to thrive and become an even stronger contributor to the state's economy.