

Approved February 7, 1990
Date

MINUTES OF THE Senate COMMITTEE ON Agriculture

The meeting was called to order by Senator Jim Allen at
Chairperson

10:07 a.m./~~p.m.~~ on February 6, 1990 in room 423-S of the Capitol.

All members were present except: Senator Montgomery (excused)

Committee staff present: Raney Gilliland, Legislative Research Department
Lynne Holt, Legislative Research Department
Jill Wolters, Revisor of Statutes Department

Conferees appearing before the committee: Tom Wilson, Director, Kansas Grain Inspection
Department
Tom Tunnell, Kansas Grain and Feed Association
Joe Lieber, Kansas Cooperative Council
Dr. Allan T. Kimmell, Livestock Commissioner,
Animal Health Department
Representative Ginger Barr
Ms. Audrey McCaig, Helping Hands Humane Society,
Inc., Topeka
Wendell Maddox, Regional Director, The Humane
Society of the United States
Ken Carpenter, Attorney, Topeka

Senator Allen called the Committee to order and called attention to SB 504 and then called on Tom Wilson and the following to testify.

Mr. Wilson gave the Committee copies of his testimony of explanation for the changes proposed in SB 504 (attachment 1).

Tom Tunnell explained that he had worked with the preparation of SB 504 and that the bill is positive legislation. Mr. Tunnell requested the Committee support the bill.

Joe Lieber gave the Committee copies of his testimony (attachment 2) and expressed support for SB 504 but discouraged the raising of fees because of drought problems which have left many farmers in bad financial situations.

The Chairman turned Committee attention to SB 470 and called on the following to testify.

Dr. Kimmell provided copies of his testimony for the Committee (attachment 3) and then expressed opposition to SB 470. Dr. Kimmell explained that the bill had been requested by Rules and Regulations because of complaints that had been received regarding the cost of the fee, \$150, for non-profit humane societies to be licensed. The fee is proposed to be changed to be \$25. Dr. Kimmell explained that the proposed cut in the cost of that fee would make problems for the budget of the Animal Health Department. Dr. Kimmell stated that he had received no complaints from humane shelters about the present fee for a license.

Representative Barr gave the Committee copies of her testimony (attachment 4). Representative Barr expressed opposition to SB 470.

During Committee questions Representative Barr suggested that to solve problems that monies available be used to find kennels that are not licensed and to work with the kennels to correct problems. Committee suggestions suggested that a post-audit be completed on the Animal Health Department and suggested that maybe a fine for noncompliance would encourage kennels to become licensed.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Agriculture,

room 423-S, Statehouse, at 10:07 a.m.~~XXX~~ on February 6, 1990

Audrey McCaig gave the Committee copies of her testimony (attachment 5) and expressed opposition to SB 470. Ms. McCaig requested the Committee kill SB 470 in Committee.

Wendell Maddox expressed opposition to SB 470 and stated that the Humane Society of the United States located in Kansas City would make some grant funds available to the humane societies that are unable to pay the \$150 licensing fee.

Mr. Maddox answered that the Humane Society of the United States is funded by private donations and trusts. Mr. Maddox answered that the biggest problem in the industry is fraudulent birth certificates for animals that are sold.

Ken Carpenter gave the Committee copies of his testimony (attachment 6) and expressed some support and some changes for SB 470. Mr. Carpenter suggested that federally licensed kennels be exempt from state inspections. Mr. Maddox suggested that the licensing fee for a hobby kennel be increased from \$25 to \$60, and also suggested that greyhound breeders not be exempt from the licensing and inspection regulations that kennels are required to follow.

The Chairman declared the hearing closed for SB 470 and called for action on Committee minutes.

Senator Frahm made a motion the Committee minutes of February 1 be approved. Senator Daniels seconded the motion. Motion carried.

The Chairman adjourned the Committee at 11:02 a.m.

GUEST LIST

COMMITTEE: Senate Agriculture

DATE: February 6, 1990

NAME	ADDRESS	ORGANIZATION
Audrey B. McGig	Topeka	Helping Hands Humane
A. T. Kimmel	Topeka	Ks Animal Health Dept.
Marcia Stolman	Topeka	Helping Hands Humane Society
M. Hauver	"	Capital Journal
L. Meredith	Topeka	—
Rep. George Barr	Dubuque	Legislature
Todd Punnell	Topeka	Ks Grain & Feed Assn
Rick Leath	Topeka	Hygiene Inspector
Tom Wilson	Topeka	Hygiene Inspector
—	—	—
—	—	—
—	—	—
Bakley Kerr	Silver Lake, Ks.	Kerr Kennels
Burt Kerr	Silver Lake	Kerr Kennels
Chris Bute	Yonkers, Ks	Legislative Intern
M. Bohnhoff	Topeka	Div. of Budget
LARRY D. WOODSON	TOPEKA	Ks Bd of Agric.
Joe Lieber	Topeka	Ho. Co-op Council
Chris Wilson	Topeka	Ks Grain & Feed Assn
Mendell E. Maddox, Jr.	K. C. Ks	Humane Society of U.S.
Murrie Glessif	Topeka	Rep. George Barr
Rep. Kaye Hallenberg	Russell Springs	Legislature
Kenneth M. Lee	Topeka	Atty. Kerr Kennels

THE STATE OF KANSAS

attach 1
2-

MIKE HAYDEN
GOVERNOR



T. D. WILSON
DIRECTOR

INSPECTION POINTS

ATCHISON	KANSAS CITY
COLBY	SALINA
DODGE CITY	TOPEKA
HUTCHINSON	WICHITA

GRAIN INSPECTION DEPARTMENT

GENERAL OFFICE

700 Jackson, Suite 800, P.O. Box 1918, Topeka, Kansas 66601-1918

INSPECTION DIVISION

WAREHOUSE DIVISION

PHONE (913) 296-3451



TO: Senator Jim Allen, Chairman
Senate Committee on Agriculture

FROM: T. D. Wilson, Director
Kansas State Grain Inspection Department *T. D. Wilson*

DATE: February 6, 1990

SUBJECT: Senate Bill 504

The Senate Bill 504 incorporates five (5) different issues into one bill. These issues are addressed in the (5) "Sections" of the bill and they are:

Section 1 (K.S.A. 34-101)

We are proposing an addition to this statute at the recommendation of the Attorney General's office that would allow the department to be a part of and cooperate with any local, state or national organization engaged in similar work and activities. The department has been a member of two national organizations for over 30 years but nothing in our statutes addresses this issue. There would be no fiscal impact with this addition.

Section 2 (K.S.A. 34-103a [a])

The department has been authorized and designated by the FGIS and the AMA to perform Official Aflatoxin tests. There is nothing in the statues that allows us to assess a fee for this service. This authorization has been granted since the preparation of the FY 91 budget. We are proposing a statutory fee for aflatoxin of not more than \$30.00. We are also proposing a Special Service fee of not more than \$30.00 that would allow us to go to Rules and Regulations with a fee to cover short notice or new required services. The equipment will be purchased from the FY 90 Capital Outlay and will not require any additional budgeting for operation.

Senate agriculture committee
2-6-90

Memorandum
Senator Jim Allen
February 6, 1990
Page Two

Section 3 (K.S.A. 34-228 [f] [1])

While preparing the FY 91 budget we considered raising the license fee for each functional unit to help with the Warehouse Division budget. We discovered the functional unit fee was already at the statutory limit. This would allow us a fee increase consideration for the FY 92 budget.

Section 4 (K.S.A. 34-233)

This statute is out-dated and needs to be corrected in the interest of the public and to protect the depositor. There is no fiscal impact on the budget.

Section 5 (K.S.A. 34-235)

The Attorney General's office advised us that this statute was in conflict with K.S.A. 34-125 and should be corrected. There is no fiscal impact on the budget.

Nothing in this bill would create additional positions or operating expenditures not currently included in our budget.

TDW:bak

Testimony on SB 504
Senate Agriculture Committee
February 6, 1990
Prepared by Joe Lieber
Kansas Cooperative Council

Mr. Chairman and members of the Committee, for the record I'm Joe Lieber, Executive Vice President of the Kansas Cooperative Council.

The Council has had an opportunity to discuss with the Kansas State Grain Inspection Department the provisions in SB 504.

Even though the Council supports SB 504 we did express some concerns to the Department and would like to share those concerns with you now.

Because of the droughts of 1988 and 1989 many of our members are having a hard time making ends meet in 1990. Some of them did not have a fall harvest in 1989 and some others took in 70 to 80 percent less grain than their average.

Couple this condition with the fact that the government has decided to quit storing grain, you can understand why some of our members are facing financial hardships.

We have no problem with the Grain Inspection Department wanting to raise the maximum on their fees, but we only hope that before they do decide to increase their fees that they be sensitive to the financial situations in certain areas of the state.

(OVER)
Senate Agriculture Committee
2-6-90
attachment 2

Remember, these fees are just one of many of the fees that cooperatives must pay.

Again, the Council supports SB 504 and appreciates the Kansas Grain Inspection Department's willingness to work with the industry.

This concludes my remarks. Thank you for your time, and I will attempt to answer any questions.

011113

Animal Health Department's
Objection to Senate Bill 470

Mr. Chairman, members of the Committee, I am pleased to have the opportunity to speak our Agency's objection to Senate Bill 470.

I believe it would be best if I first inform the Committee some of the history of the Animal Dealer's Law. In 1975 the original Animal Dealer's Law licensed and inspected all the pet shops in Kansas. We also registered, but did not charge any fee to the pounds and shelters of the 23 1st Class Cities. However, they were inspected as they were located in the cities of Kansas where most pet shops were located. Until the new program was legislated in 1988, the pet shops paid \$100 annual license fee. The pounds and shelters paid nothing.

The group that worked on the present Law included representatives of the KVMA, KLA, USDA, our Animal Health Agency, breeders and those representing the Humane Societies. The Humane Societies for the most part are those that operate the pounds and shelters.

Early in our studies it was determined that any new legislation would need to be self-supporting, but we were dealing with a lot of unknowns. No one knew the number of kennels in Kansas. No one had any idea how many hobby breeders operate in this state; however, we did have some known facts. There were approximately 112 pet shops, there were 23 cities of the 1st Class Cities having pounds and shelters and there were approximately 375 animal-dealers licensed by USDA. It was certainly the consensus of the group that each would need to pay their fair share, if we were to succeed.

*Senate Agriculture Committee
2-6-90*

3-1

attachment 3

Later when I met with the Kansas Federation of Humane Societies on October 2, 1988 here in Topeka, we discussed in detail the fees to be charged. There was no objection to the licensing or the \$150 that was being initiated on those establishments.

The unknowns, as it turned out, has been greatly overestimated and our Agency is still groping to find ways to find enough funds to support the program.

Because of these reasons, I object to the provisions of Senate Bill 470 that would decrease the revenues each year of the Companion Animal Program by \$2,875.

A. T. Kinnel
Deputy

LICENSED ESTABLISHMENTS AS OF SEPTEMBER 8, 1989

February 1, 1990

<u>LICENSE CATEGORY</u>	<u># EST.</u>	<u>\$ EST.</u>	<u># ACTUAL</u>	<u>\$ ACTUAL</u>
A & B Dealer with USDA License \$75.00	550	\$41,250	<i>570</i> 475	\$35,625
No Federal License (cannot sell to pet shops, broker or re- search facility) \$150.00	1,270	190,500	<i>29</i> 22	3,300
Pet Shops/Pounds & Shelters \$150.00	170	25,500	<i>135</i> 127	19,050
Research Facilities \$150.00	12	1,800	<i>10</i> 9	1,350
Hobby Breeders \$25.00	1,925	48,125	<i>317</i> 272	6,800
TOTAL	3,927	\$307,175	<i>1001</i> - 905	\$66,125

\$172,275

BUDGET

SALARIES	\$105,000
Secretary	
Inspectors (3)	
Veterinarian	
TRAVEL EXPENSE	35,000
TOTAL	\$141,000

GINGER BARR
 REPRESENTATIVE, FIFTY-FIRST DISTRICT
 SHAWNEE COUNTY
 P.O. BOX 58
 AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
 REPRESENTATIVES

February 6, 1990

COMMITTEE ASSIGNMENTS
 CHAIRMAN: FEDERAL AND STATE AFFAIRS
 MEMBER: ENERGY AND NATURAL RESOURCES

Chairman Allen and Members of the Senate Agriculture Committee:

I appreciate the intent of SB 470 in trying to assist non-profit shelters which provide a community service. However, I must oppose SB 470 in view of the state's current fiscal problem as well as those of the Animal Health Department.

As you know, I am very supportive of trying to see commercial dog and cat kennels raise their standards and improve the state's reputation in this area.

Two years ago humane societies across Kansas supported the bill known as the "puppy mill bill", knowing the cost of the inspection. Granted, the humane societies are for community service in dealing with unwanted animals, where commercial kennels are profit motivated. However, I truly believe that the shelters should pay their share. If six people in their community paid \$25.00 a year, the \$150.00 license fee could be paid. If a shelter is hurt by paying \$150.00, we know that they have a more serious problem than just the license fee.

Also, I would like to state that if an amendment is offered to not have the state inspect U.S.D.A. kennels, that you would vote "no". Currently, there are problems with U.S.D.A. kennels. If you take the U.S.D.A. kennels out of current law, you defeat the program. You will have a more difficult time than now in trying to locate existing non-U.S.D.A. kennels.

The Wichita Eagle has studied the current situation and I have attached copies of that story.

Mrs. Linda Meredith and I have worked very hard in trying to clean up this industry and the reputation of Kansas. We have studied the issue for five years and are probably the most knowledgeable laymen (we do not have an interest in a commercial kennel or a humane society) in Kansas on this subject. We'd be happy to answer any questions.

Senate Agriculture Committee
 2-6-90
 attachment 4

attach 4
 2-6

The Wichita Eagle

Established 1872
Incorporating The Wichita Beacon

Reid Ashe
Publisher
Davis Merritt, Jr.
Executive Editor
Keith Murray
General Manager
William R. Handy
Managing Editor
George Neavoll
Editorial Page Editor

EDITORIALS

Puppy mills Breeders spurn law to regulate industry

The Kansas puppy mill industry is still churning out sick and dying animals and shipping them around the country. Most breeders are simply ignoring a new Kansas law designed to license and regulate them, and the state isn't doing anything about it.

The Eagle reported Jan. 28 on the continuing abuses in one of Kansas' shadowy industries, which generates about \$42 million a year by some estimates.

It's puppies for profit. The welfare of the animals means nothing to some breeders. The profit is everything. It is tragic and inhumane, with a degrading impact on the state's image.

The state's pet breeding law does not work because one involved really wants it to work. The official in charge, Alan Kimmell, executive director of the Kansas Animal Health Department, seems only concerned about lack of staff and money. So does D.A. Hogan, formerly the veterinarian for the Companion Animal Program.

The plain fact is that these men have been using inadequate funding as an excuse to do little or nothing.

The puppy mill law will always be difficult to enforce, because pet breeders often are hostile and hard to find. But the industry is far from impossible to regulate.

Animal health department officers too often have been simply ignoring the problems. The Kansas Humane Society is more than willing to help find the thousands of breeders and brokers who need to be inspected and licensed. If state inspectors want more kennels to inspect, they can just look in the classified ads.

Yes, the Companion Animal Program does not have enough inspectors. Yes, it is underfunded. Yes, even its tiny budget has been trimmed. But with the will, animal health officers could do much more. Plenty of Kansans say they've come forward with complaints and nothing gets done.

The problem is that the puppy mill industry and its regulators are as inbred as many of the sick puppies and kittens that are coming out of the state.

Enforcement is riddled with conflicts of interest. Mr. Hogan actually hired as a state inspector the son of one of the state's largest pet brokers. That man has since been fired, but not because Mr. Hogan ever saw or admitted to a conflict of interest.

Mr. Hogan never seemed committed to enforcing the law; he called strong supporters of animal welfare "humaniacs."

Of course, the animal health department has been getting almost no help from the breeders, the brokers or any other people involved in the industry. Fewer than 25 percent of the estimated 3,900 pet breeders have complied with the new law and paid their fees. No surprise here. Animal breeders fought establishment of the new law long and hard. As long as they can continue to do business without any regulation whatsoever, they will.

Obviously, the state is going to have to force compliance, one breeder at a time, if it has to.

As for the Companion Animal Program budget, it could be increased by hiking licensing fees. But there's no certainty that will encourage the reluctant Mr. Kimmell and his staff to begin doing what they should have been doing — go out and find and inspect breeders, to make sure they're licensed and obeying the law.

The puppy mill program is in shambles. Mr. Hogan resigned his position a couple of weeks ago. Mr. Kimmell, who didn't want the law in the first place, has taken over and apparently is doing exactly what Mr. Hogan did: virtually nothing.

If Mr. Kimmell and his staff won't stay out of the arms of the industry and vigorously enforce the law, they should be replaced by someone who will. Immediately.

CROWSON'S VIEW



MAN'S BEST FRIEND

**KANSAS PUPPY MILL
OWNER'S BEST FRIEND**

Crowson ©1990
2-4 THE WICHITA EAGLE



TOPEKA

HOUSE OF
REPRESENTATIVES

Rep. Kay E. McManaway
Rep. Delbert L. Gray
Ginger Barr

Legislation failing to enforce better care of state's pets

By Jennifer Comes

The Wichita Eagle

Rep. Ginger Barr, R-Auburn, thought she was trying to pass a "simple little bill" to guarantee more humane conditions for Kansas pets.

"I thought most dogs were bred by small, individual breeders," she said. But to verify that pictures of abused animals she'd been shown were photos of animals bred in Kansas kennels, she toured one of the operations in 1987.

"Some animals were placed in small rabbit huts that had not been cleaned for some time," she recalled. "Some animals, it would be hard to recognize what type of breed they were because they were never combed, never brushed.

"I remember seeing one large Airedale, in a wire cage, that had no hair on his rear end, and you could watch the fleas move around."

That experience made a believer out of Barr. She and former Kansas Sen. Jeanne Hoferer were successful in 1988 in passing legislation intended to bring humane standards to more Kansas commercial pet-breeding facilities.

"When the bill first became law, I had heard from some people that they thought the bill was helping people come up to standards," Barr said. But when a Canadian TV crew came to Kansas in November to film another feature on puppy mills, "that's when I began to get the feeling that this legislation wasn't working."

The experience has frustrated Barr, who understands that financing was part of the problem with a state inspection and licensure program.

"Granted, money has a place in this whole realm, but more than money, it takes interest and dedication of the people who are administering the program," she said. "The only problem I've heard from (former program chief D.A.) Hogan is, 'We need more money.'" Hogan, she said, could have been more aggressive in identifying bad operations that many Kansans knew of and reported.

Barr said she thought state regulations are necessary because a number of Kansas breeders are licensed, but barely regulated, by the U.S. Department of Agriculture. A federal license allows breeders to sell

animals to pet shops, brokers or research facilities. An agriculture department license means two federal inspectors, annually check 475 federally licensed facilities in Kansas to see whether they meet federal animal-care standards.

The nature of the Agriculture Department licensure and inspection situation provides ample opportunities for small "hobby breeders" to break into a full-scale commercial enterprise or move marginal breeding operations to Kansas from neighboring states. Even revocation of an Agriculture Department license doesn't mean much, if breeders can hide income by selling animals to similarly unlicensed brokers.

As it turns out, the problems with the state legislation Barr helped enact mirrored problems with Agriculture Department procedures.

Proponents of stronger enforcement of existing kennel regulations suggest county-by-county enforcement. That, they say, would give more people less territory to cover as they try to track the commercial breeding industry's bad apples.

That's a bad idea, Barr says.

Expenses for stricter enforcement of state regulations, Barr knows, would cost money. And in an election year characterized by fiscal penny-pinching, "I don't see dogs as being a high priority," she said. "I mean, they're taking medicine away from people" as the result of proposed budgetary cutbacks.

But legislative pressure from California is making the state regulation issue crucial again, Barr said:

"I think it's terrible that another state would pass a resolution to get us to clean up a problem that we already know exists."



Gone to the dogs

Kansas' image as a puppy mill hard to dispel

By Jennifer Comes

The Wichita Eagle

Sick dogs bred in Kansas and shipped to pet stores across North America have drawn renewed adverse attention to the state — despite legislation to clean up Kansas' pet-breeding industry.

The state's image as a "puppy mill," a place where dogs are mass-produced for out-of-state retailers, seems almost impossible to dispel. The Los Angeles Times, the Canadian Broadcasting Corp., The Atlantic magazine, KABC-TV in Los Angeles and the San Jose Mercury-News in recent weeks have been following the paper trails of sick and genetically inbred dogs and cats back to Kansas breeders.

Amid renewed media attention, the two veterinarians who have been in charge of inspecting and licensing Kansas breeders for the past 18 months have defended their efforts.

"I think the program has to learn to crawl before it can walk, before it can run," said D.A. Hogan, who resigned as Kansas companion animal veterinarian on Jan. 14. "I don't think it's been given a crawling chance, frankly."

The regulations, passed in May 1988, took effect the following July.

Hogan said financing frustrations and widespread criticism spurred his resignation.

See PUPPIES, Page 6A

PUPPIES

From Page 1A

Alan Kimmell, executive director of the Kansas Animal Health Department, echoes concerns about financing.

"We don't have a strong program because we don't have funds," said Kimmell, who was Hogan's boss before the resignation and who since has assumed Hogan's responsibilities.

"It seemed to me that breeders wanted some regulations, humane societies wanted others, and we didn't have enough money, and we all were frustrated from the start," Kimmell said last week.

Kansas' commercial kennels produce about 180,000 puppies and kittens each year, worth an estimated \$15 million to Kansas pet breeders and brokers. That \$15 million, Hogan said, translates into a \$42 million industry for the state each year.

Before the state intervened in their industry, Kansas breeders had been known for their failure to protect animals from temperature extremes; provide adequate nutrition, especially for whelping bitches and nursing pups; comply with minimal sanitary standards and offer proper veterinary care.

Many documented cases have shown young animals, especially vulnerable to parasites and diseases, who become sick soon after purchase because of the physical stress that shipment to other states places on them. Too many times, Baker says, American Kennel Club registry papers and state health inspection certificates identify Kansas as such animals' state of origin.

Under the regulations imposed in 1988, all Kansas pet dealers were to be subject to state licensing as of Jan. 1, 1991. Dealers whose only license would be state-issued must undergo two inspections yearly. Those to be licensed by the U.S. Department of Agriculture must submit to one state and one federal

Legislator frustrated in battle for well-bred pets

By Jennifer Comes
The Wichita Eagle

Sam Farr, a California state assemblyman, has spent three years trying to enact legislation to protect consumers in his state from buying sick puppies and kittens bred in Kansas.

Now, he's ready to throw down the gauntlet.

"Show us a hundred good breeders in Kansas and prove to us that Kansas is not a puppy mill state," he challenges. "If California was selling poisoned produce, you would have a right to ask why we would put poisons on the produce we grow, and we would put pressure on those growers to stop. We're asking Kansas to do the same thing."

Commercially produced puppies

from Kansas that are sold in California pet stores are fast becoming a serious consumer-protection issue. According to the Los Angeles Times, one-tenth of all retail pet stores in the United States are in Southern California.

"We're quite the market," Farr said last week. "This really is the battleground."

Though Farr cannot yet quote figures on the number of dogs that go to California from Kansas, he said, "We're looking for empirical data that shows that dogs that come from Kansas are worse than dogs that come from anywhere else."

Farr said he had hoped that Kansas' tighter state inspection and licensing requirements would improve the quality of pet store

animals sold in California.

But 18 months after Kansas enacted laws to wipe away the tarnish of the "puppy mill" label, Farr says, nothing has changed. California pet stores still buy sick and genetically inbred Kansas puppies, and California consumers still are victimized.

Last year, Farr introduced a measure to force pet retailers not to sell dogs younger than 12 weeks, giving consumers a better idea of whether the puppy was sick or poorly bred.

"The jump from 8 to 12 weeks is very, very obvious," Farr said.

But pressure from commercial pet breeders and brokers was intense, Farr said, and the bill fell one vote short of passage. Commercial breeders encouraged an

alternative measure that would provide new pet owners with warranties if their animals developed illnesses soon after purchase.

"Consumers don't care about getting their money back, they're concerned with getting the dog healthy," Farr said.

Educating California consumers, Farr said, is his legislative strategy for the current session in Sacramento.

"People ought to know that if they buy a dog from a pet store, they need to ask where it came from. They ought to wonder why these dogs came from places so far away when there are plenty of dog breeders in California. Why is Kansas dog country, is the question you've got to ask yourself."

which of five categories governs a dealer, license fees range from \$25 to \$150 yearly.

At Hogan's insistence, Kimmell agreed to move the mandatory-inspection date forward one year, to Jan. 1, 1990. The program was to employ four inspectors, a part-time clerk and Hogan as chief administrator.

"We started out with three (inspectors), and I was promised we would have four," Hogan said. "But it didn't take long for me to see the writing on the wall." By the time Hogan tendered his resignation on Jan. 14, he had two field inspectors.

But getting pet breeders to comply voluntarily to legislation they had opposed vigorously may have been the program's fatal flaw. As of Sept. 8, 1989, only 905 of the estimated 3,927 breeders and dealers in Kansas had been state-inspected and licensed. Almost \$100,000 was appropriated as start-up funding, but the program operating budget from

licensing fees.

"This was a doomsday dog bill, simply because, how can we accomplish what is expected without having adequate funding to proceed?" Hogan asked. "I'm supposed to work with a \$66,000 actual budget and get anything done on that? I mean, gee whiz. I'd have never taken this job if I'd known the shortcomings of it."

Linda Meredith, who lobbied on behalf of the 1988 regulations, agreed that financing was an insurmountable problem but not necessarily all of the problem.

"I don't think they really had the funds to maybe go out and check each person that said, no, they didn't breed or sell dogs," she said.

"There could be 1,600 or 1,800 kennels out there, and Hogan's office has been operating on an honor system, waiting for these people to voluntarily comply. The only ones that have been inspected regularly are the humane societies. They knew where they were and they

Ellen Querner, immediate past-president of the Kansas Humane Society, agreed.

"I was telling them every single puppy mill in this (Wichita) area

that needed to be inspected, and I don't believe they went to many, if any, of them," Querner said.

The "humaniacs," as Hogan calls them, have criticized him for be-

friending the breeders and brokers he was attempting to regulate. Such conflicts of interest, they say, didn't help program credibility — especially after Hogan hired Jerry Hoppe as a state inspector.

"Most of the breeders go through brokers, and this inspector's mother (JoAnne Kleffer of Glen Elder) was one of the largest in the state of Kansas," Baker said. He and Querner question Hoppe's ability to objectively inspect breeding facilities from which his mother purchased puppies.

Hogan said: "I did not think that his relationship should interfere with the job he was instructed to do. When we identified that there was a problem with the man, he was relieved of his position."

Of hiring Hoppe, Hogan said, "The man who makes no mistakes does nothing." But it was Hoppe's work habits, Hogan said, and not his family connection, that led to Hoppe's dismissal.

The veterinarians, Humane Society and animal control officers all agree on one point: American Kennel Club assistance in identifying Kansas breeders and brokers would

See PUPPIES, Page 7A

PUPPIES

From Page 6A

have given the program its best possible chance of success.

Rep. Ginger Barr, R-Auburn — who wrote the bill to establish regulations and mandatory licensing — said her frustration with the AKC began years ago.

"When trying to help with the funding of this program and trying to make sure this happened correctly, I contacted the American Kennel Club in New York to provide us with information on who was registering dogs thru the AKC," she said. "We received no cooperation."

Very early in the program, Hogan said, he asked the AKC for assistance and "did not even receive the courtesy of a response."

Repeated phone calls by The Wichita Eagle to AKC offices in New York were not answered last week.

"I was telling them every single puppy mill in this (Wichita) area that needed to be inspected, and I don't believe they went to many, if any, of them."

*Ellen Querner, immediate past-president
Kansas Humane Society*

"The AKC could ... ultimately stop this whole thing," Querner said. "The AKC could refuse to issue papers to individuals who refuse to comply with minimal standards. The problem is, it would cut their income. These puppy mills pay big money to AKC for registrations."

Nonetheless, said Kimmell, "Dr. Hogan's done a tremendous job, and they have made some tremendous changes, and we've got some people who really believe in this program now who did not when we started."

One of them, Kimmell said, is Doug Lambert, vice president of Lambriar Kennels, a breeder-bro-

kerage in Mahaska.

"Talking with people, there was an uncertainty at first," Lambert said. "Since the bill has taken effect, people are impressed that we are interested in fixing the puppy mill problem. The quality of pups, I feel, has improved."

Rep. Gayle Mollenkamp, R-Russell Springs, disagrees. Mollenkamp tells the story of a constituent who bought an AKC-registered cocker spaniel puppy from a kennel, also in his district. A week or so after the dog found a home, it infected the family with scabies, a parasite that burrows under the skin, Mollen-

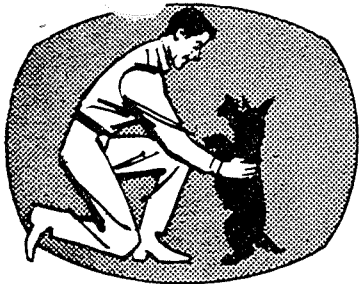
kamp said.

Treatment to rid the dog and family of the itchy parasites was costly and rendered the puppy useless for later breeding, he said. A veterinarian determined that the dog had picked up scabies while in the kennel, Mollenkamp said.

The constituents filed a report with the Animal Health Department, and Mollenkamp said he helped identify the kennel, "so they shouldn't have had any trouble in finding it." Almost two years later, the Animal Health Department denied any knowledge of the kennel owner.

"They just weren't enthused about this program to begin with, in the (Animal Health) Department," Mollenkamp said. "But being as how it was a voluntary program, they (breeders and brokers) just basically didn't volunteer. I suppose you could say that's a lack of enforcement."

4-6



Helping Hands Humane Society, Inc.

OFFICE AND ANIMAL SHELTER
2625 Rochester Road
Topeka, Kansas 66617
Telephone 233-7325

February 6, 1990

To: Committee on Agriculture, Concerning S.B. 470

FROM: Miss Audrey B. McCaig, Executive Director
Helping Hands Humane Society

Mr. Chairman and Members of the Committee :

I am Audrey B. McCaig, Executive Director of the Helping Hands Humane Society of Topeka, Kansas, and I am here today to make known my objections to S. B. 470, which reduces the licensing fee for non-profit humane societies from \$150.00 per year to \$25.00 per year.

When H.B. 2219 was passed we made no objection to the \$150.00 license fee because we felt that everyone should be treated alike and we were willing to go along with this, even though we were not the ones causing the problem.

We feel very strongly that the licensing fee of \$150.00 should remain and not be reduced in order to fund the inspection program. I have also learned from a reliable source that a Senator has made the statement that if the fee is reduced for Humane Societies, he in turn will add an amendment to S.B. 470 to exempt U.S.D.A. Kennels from being inspected

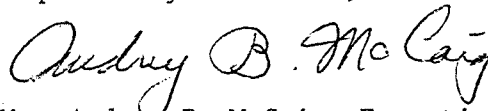
by the State. We all know that should this happen, it would completely destroy the whole purpose of the inspection program. *Senate agriculture committee*
2-6-90
attachment 5

"Paws for Pleasure"

Therefore, I request that S.B. 470 be killed by this Committee, thereby leaving the licensing fee for non-profit humane societies at \$150.00 per year,

Thank you very much for your consideration of this request.

Respectfully submitted,

A handwritten signature in cursive script that reads "Audrey B. McCaig".

Miss Audrey B. McCaig, Executive Director
Helping Hands Humane Society

sub 6
-6

TESTIMONY BEFORE SENATE AGRICULTURE COMMITTEE
AS A PROPONENT OF SENATE BILL 470
WHICH WAS A BILL REQUESTED BY THE JOINT
COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
REGARDING K.S.A. 47-1701 et seq.

Kenneth M. Carpenter, Attorney at Law, Topeka, Kansas representing Kerr Kennels of Silver Lake, Kansas, offers the following testimony in support of Senate Bill 470 with recommendations for further expansion of that bill.

The 1988 Legislature amended Article 17, Chapter 47 of the Kansas Statutes Annotated to expand the duties of the Animal Health Department. Under prior law, federally licensed dealers were exempt from its application. The 1988 amendments removed this exemption and required not only the payment of licensing fees but inspection of their already federally licensed and inspected facilities. The supporters of this amendment projected the existence of unlicensed kennels as high as 3,900 and the Legislative Research Department estimated the number to be 1,270. In fact the Kansas Department of Animal Health has only located 27 unlicensed kennels.

The legislature was lead to believe that given the projected number of unlicensed kennels once discovered and licensed, that the license fee would generate sufficient levels to be self-supporting. After a year

and a half since the passage of this legislation only 27 kennels have been discovered and licensed. Dr. Kimmell and Dr. Hogan have made it clear that they have no reason to believe there are any more unlicensed kennels operating in the state other than these.

The consequences to the formerly exempted federally licensed dealers is submission to duplicate licensure and duplicate inspection by both state and federal authorities. In fiscal year 1989, \$29,999 of general funds were required to support this allegedly self-sufficient program. No general revenue funds have been budgeted for fiscal year 1990. The concern of my client, Kerr Kennels, as a federally licensed dealer is that the cost of this program will either be taken from general revenue or will be passed on, through increased fees, to the federally licensed dealers in order to subsidize the program.

The Animal Health Department has proposed regulations which would mirror identically the federal regulations. The consequences to the federally licensed dealers are that they now are subject to double fees, multiple inspections by both state and federal authorities in order to cover the cost of inspecting 27 kennels formerly unlicensed.

My client as a federally licensed dealer would propose an expansion of Senate Bill 470 to exempt by regulation federally licensed dealers from inspections as are individual hobby kennels which are to be inspected only when the department receives a complaint. Since federally licensed dealers are already required to be inspected by federal inspectors such inspections by law abiding and federally complying dealers is burdensome, superfluous, and unnecessary. This would substantially reduce the need for inspectors throughout the state to inspect operations which are both federally licensed and subject to federal inspections to determine compliance with identical regulations.

My client as a federally licensed dealer would further propose an increase in the fees for hobby kennels from their current \$25 to \$60. This fee is consistent with operators under federal law involved in inter-state activity at the same levels defined by Kansas statute as hobby kennels. Such an increase in the fees would provide for sufficient revenue to inspect non-federally licensed dealers and the exemption of federally licensed dealers from inspection would reduce the budgetary demands for additional inspectors to inspect under the same regulations federally licensed dealers.

The Animal Health Department figures indicate that for FY 1989 there were 470 U.S.D.A. approved dealers licensed. The department estimates for FY 1990 an increase to 513. We believe that such an estimate is unrealistic and overstates the likelihood of such an increase in federally licensed dealers. The department's figures also reflect the number of hobby breeders registered for FY 1989 was 1,028 and estimates an increase in FY 1990 to 1,062. An increase in the fees for the hobby breeders from \$25 for 1,028 dealers which totals \$25,700 at \$60 for those same 1,028 dealers would result in \$61,680. Further, the legislature elected to exempt greyhound breeders. There are 363 greyhound breeders identified in the state of Kansas, if they were to come under the jurisdiction of this act at \$150 per breeder, the total revenue to the department would be an additional \$54,450. The exemption of greyhound breeders from this law is the subject of federal litigation currently pending in the Federal District Court alleging unequal protection under the law.

The legislature was deceived and the facts misrepresented as to the severity of the problem and as to the financial ability of these alleged unlicensed kennels to provide sufficient income to support the program. Senate Bill 470 is a step in the right direction by requiring animal

shelters to pay even the minimum fee of \$25. However, we believe that the modifications recommended herein will go even further towards making this program both self-supporting and the least intrusive upon those persons already subject to inspection and complying with existing law.

One further comment regarding animal shelters who are now opposing Senate Bill 470 and who were the advocates for this program and claim to be concerned about animal welfare. They have testified before a public hearing regarding proposed regulation for inspection of their facilities that they now wish to be exempt from the inspection requirements under this law. Apparently they only wish to have others be required to submit to inspections and ask that you take their word and reject the word of federally licensed dealers that they are doing their job properly. At least the federally licensed dealers are subject to mandatory federal inspection. If these persons are as deeply concerned about the protection of animals as they claim, why were they willing for the sake of political expediency to exempt greyhounds and their breeders from coverage by this law.