

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Representative Kathleen Sebelius at _____
Chairperson

1:30 ~~2:00~~ p.m. on Tuesday, February 18, 1992 in room 526-S of the Capitol.

All members were present except:
Representative James Cates - Excused
Representative Dick Edlund - Excused
Representative Rand Rock - Excused
Representative Bill Roy, Jr. - Excused

Committee staff present:
Mary Galligan, Kansas Legislative Research Department
Lynn Holt, Kansas Legislative Research Department
Connie Craig, Secretary to the Committee

Conferees appearing before the committee:

PROPOSERS - HB 2739

- Representative Joan Wagon, Fifty-fifth District, State of Kansas
- Linda Sutton, Hobby Breeder, Kansas
- Larry Snyder, DVM, University Bird and Small Animal Clinic, PA, Topeka, Kansas
- Marguerite Rowe, President, Animal Welfare Alliance of Wichita, Kansas
- Marlene Green, Managing Director, Labette County Human Society, Kansas
- Margaret McInroy
- Marcia Gitelman, Topeka, Kansas
- Kathy McKee, Johnson County Humane Society, Kansas
- Ann Stacer, Topeka, Kansas

OPPOSERS - HB 2739

- Representative Don Rezac, 61st District, Kansas
- Doug Lambert, Vice-President, Lambriar, Inc., Mahaska, Kansas
- Roger McCartney, DVM, Belleville, Kansas
- JoAnne Kieffer, Waconda Kennels, Glen Elder, Kansas
- Opal Featherston, National Board Member, American Professional Pet Distributors, Inc.
- Bill Moffitt, Frog Hollow Kennel, Washington, Kansas
- Beverly Hashagen, Pet Hotline Ranch, Westmoreland, Kansas

Chair Sebelius called the meeting to order, and recognized Brandon Myers, Kansas Human Rights Commission.

Brandon Myers asked the Committee to introduce legislation modifying certain provisions of the housing discrimination sections of the Kansas Act Against Discrimination, Attachment #1.

Representative Wagon moved that legislation concerning housing discrimination be introduced. Representative Douville made a second to the motion, which passed on a voice vote.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~am~~ p.m. on Tuesday, February 18, 1992.

Chair Sebelius reminded the Committee the Kansas Department of Health and Environment(KDHE) had been asked to meet with the Recreation Department and report back to the Committee with an update on some recommendations for some language for the licensing recreation bill, HB 2699. She recognized Chris Ross, KDHE.

Chris Ross gave a report to suggested changes in HB 2699, Attachment #2.

Questions from the Committee:

- Does this mean that if a school building meets school building codes, they will be alright for an after hours child care center, and a recreation center would have to meet recreation center building codes to have a child care center?
- What happens if this in conflict with the Uniform Building Code or the Life Safety Code that has been adopted by the city?
- Did all the participants of this sign off on this compromise?

Chair Sebelius opened the public hearing for HB 2739.

Representative Wagon testified in favor of HB 2739, Attachment #3.

Linda Sutton appeared before the Committee as a proponent of HB 2739, Attachment #4.

Dr. Larry Snyder gave testimony, Attachment #5, supporting HB 2739.

Marguerite Rowe gave testimony, Attachment #6, in favor of HB 2739.

Marlene Green read testimony, Attachment #7, urging the Committee to pass favorably, HB 2739.

Margaret McInroy urged the Committee to pass favorably HB 2739, Attachment #8.

Marcia Gitelman testified in favor of HB 2739, Attachment #9.

Kathy McKee gave testimony, Attachment #10, supporting HB 2739.

Ann Stacer appeared before the Committee as a proponent of HB 2739, and read her testimony in favor of the bill, Attachment #11.

Attachment #12 is written testimony from Jan Price, who was unable to appear, in support of HB 2739.

Attachment #13 is written testimony from Frances Tutt in favor of HB 2739.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~am~~ p.m. on Tuesday, February 18, 1992

Audrey McCaig submitted written testimony, Attachment #14, in support of HB 2739.

Mary Ann Earp submitted written testimony, Attachment #15, urging the Committee to pass favorably HB 2739.

Paul Decelles submitted written testimony, Attachment #16, supporting the favorable passage of HB 2739.

Written testimony, Attachment #24, was submitted by Stephen Kritsick in support of HB 2739.

Questions from the Committee:

- How and where does one get a state issued health certificate for each animal?
- Does anybody know if KDHE currently licenses any animals?
- What qualifies KDHE to regulate companion animals?

Chair Sebelius asked Susan Stanley, Assistant Attorney General, on loan from the Attorney General's Office to the Animal Health Department, to give a brief update on what has happened since she has come on board.

Ms. Stanley reported that she has been with the Livestock Commissioner since January 24, 1992. She stated that she has been assigned by the Attorney General's office in order to provide prosecution or work up legal papers to get legal processes moving. She added that her paycheck comes from the Animal Health Department. Jack Jones is the replacement for the individual who writes the licensing inspection program.

Questions from Committee members continued:

- Is it fair to KDHE to impose this on them at a time when they need their resources for other things dealing with our children and our health?
- To Jack Jones, one Committee member asked if he was going to oversee the inspectors and coordinate activities? Do you think it is a little premature to make the big change this bill suggests?
- Is there \$180,000 surplus in your budget?

Chair Sebelius asked the opponents of HB 2739 to testify.

Representative Rezac gave testimony, Attachment #17, urging the Committee to vote against the passage of HB 2739.

Doug Lambert testified as an opponent of HB 2739, Attachment #18.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS,
room 526-S, Statehouse, at 1:30 ~~a.m.~~ p.m. on Tuesday, February 18, 1992

Dr. Roger McCartney made comments to the Committee in opposition to HB 2739, Attachment #19.

Joanne Kieffer appeared before the Committee as an opponent of HB 2739, Attachment #20.

Opal Featherston urged the Committee to vote against HB 2739, Attachment #21.

Bill Moffitt gave testimony, Attachment #22, in opposition to HB 2739.

Beverly Hashagen read from her testimony, Attachment #23 opposing HB 2739.

Questions from Committee members:

- Can staff look into and report on what other states that require individual health certificates?
- Who did Jack Jones replace and did that person make reports or put any statistics in regard to U.S.D.A. regulations? What do other states do to follow U.S.D.A. regulations?
- Who is the Livestock Commissioner, and could he appear before the Committee to respond to all of these questions?
- What is the process of obtaining a health certificate?

Chair Sebelius announced that Wednesday and Thursday's Committee meeting will be in 519-S.

Chair Sebelius adjourned the meeting.

GUEST LIST

FEDERAL & STATE AFFAIRS COMMITTEE

DATE 2-19-92

(PLEASE PRINT)

NAME	ADDRESS	WHO YOU REPRESENT
MIKE A ESAU DVM	5501 Sw 29th 66614	KCAA
MARLENE GREEN	Rt 3 Box 325-5 PARSONS 67357	LABETTE HUMANE
ROGER T. MCCARTNEY DVM	2510 SUNSET DR BELLEVILLE, KS. 66935	
KATHY MCKEE	1450 S ASHTON OLATHE, KS	SCHS
David Lambert	Box 86 Mahaska, KS. 66955	Lambrian Inc.
Charles D. Mates	115 E. 7th St. Topeka	Lambrian Inc.
ANN STACER	4405 MARYLAND AV. TOPEKA	LAWRENCE JAYHAWK KENNEL CLUB
Christine Lass	KOITE LSOR	KOITE
Joseph Keiser	KOITE	
LAURA KELLY	700 JACKSON ST # 705 06	KRPA
Ken Gentry	KSBE, 120 E. 70th Topeka	State Board of Education
Don Tutt	Topeka, KS	Head of Jack Hunt
Benedy Haskagen	Westwood, KS	Pos Hotline
Mike Dean	Topeka	K. Lott Ann.
FRAN STUECKE	LEAWOOD	JOHNSON Co. HUMANE SOCIETY
Linda B. Sutton	Olathe	Johnson Co. Humane Society
Marilyn Bender	Shawnee KS.	Johnson Co. Humane Society
Katie Plummer	Shawnee, KS.	Jo Co. Humane Society
Kelly Arnold	516 S Park	
DAVID ROBERTSON	Mepherson, KS	
Jim Coder	700 Jackson suite 600	St Fire Marshal's Office
Frances Tutt	RR, Box 106 Hoyt	Head of Jackson Humane Soc
Gudry B. McCoy	5430 S.W. Area Dr Topeka	
Marvin Mithelman	2625 NWE Rochester - Topeka	Helping Hands Humane Soc
Carol Stubb	3101 S.W. Nestor - Topeka	
Chuck Wethoff	Box 106 St Paul, KS 66721	West Kennel



ALYSON HAYES BROWN, Chairperson
TOPEKA

B. A. VILLARREAL
OVERLAND PARK

FRANCIS ACRE
DODGE CITY

ROBERT WESLEY
INDEPENDENCE

CORBIN R. BENHAM
MULVANE

JOAN FINNEY, GOVERNOR
STATE OF KANSAS



MICHAEL J. BRUNGARDT
EXECUTIVE DIRECTOR

ROBERT G. LAY
ASSISTANT DIRECTOR

ARTHUR R. BRUCE
SUPERVISOR OF COMPLIANCE

WILLIAM V. MINNER
FIELD SUPERVISOR

LINDA L. AUWARTER
OFFICE MANAGER

KANSAS HUMAN RIGHTS COMMISSION

LANDON STATE OFFICE BLDG.—8TH FLOOR
900 S.W. JACKSON ST.—SUITE 851 S.
TOPEKA, KANSAS 66612-1258
(913) 296-3206
TDD# (913) 296-0245

February 18, 1992

The Honorable Kathleen Sebelius, Chairperson
House Federal & State Affairs Committee
State House - Room 280-W
Topeka, Kansas 66612

Dear Representative Sebelius:

The Kansas Human Rights Commission requests that the Federal and State Affairs Committee introduce a bill modifying certain provisions of the housing discrimination sections of the Kansas Act Against Discrimination as amended last year by H.B. 2541. A draft of the bill, from which the Revisor can work, accompanies this letter.

The bill is designed to clean up some technical points and typographical errors. In addition, it allows a court option to parties to KHRC complaints which is more substantially in conformance with the federal housing laws and is a change recommended by the U.S. Department of Housing and Urban Development (HUD) as necessary in order to continue our existing HUD contracts. It also amends the administrative remedies available to the parties and clarifies the limitation period for court filing under the Kansas Act Against Discrimination.

Sincerely,

Brandon L. Myers
Chief Legal Counsel

BLM:la
Enc.

cc: Michael J. Brungardt, Executive Director

House Federal & State Affairs
February 18, 1992
Attachment # 1



Department of Health and Environment
Azzie Young, Ph.D., Secretary

Reply to:

REPORT TO THE COMMITTEE ON FEDERAL AND STATE AFFAIRS

HOUSE BILL 2699

February 18, 1992

Background

House Bill 2699 is sponsored by the Special Committee on Children's Initiatives which has identified the removal of licensing barriers for child care programs operated in schools and recreation centers as a goal in their "blueprint for Kansas." The bill is based on the premise that certain regulations are unduly restrictive and removing them as barriers to licensing these programs will strengthen families by allowing more child care programs to be developed in schools and recreation centers.

Testimony presented by proponents and opponents of the bill on February 3 and 4, 1992, resulted in the House Committee requesting KDHE to work with proponents and opponents of the bill in identifying factual issues and any real concerns with regulatory barriers. The committee specifically requested KDHE report back to the committee on the results of that collaborative effort with any recommendations to the bill that may be appropriate. A listing of those persons participating in person or by consultation is attached.

Discussion

Participants identified that many of the issues providers have identified as being regulatory barriers are not, in fact, required. Examples would be carpeting on flooring, and location of laboratories. KDHE does have authority within regulation to waive certain requirements and has done so, particularly when the child care program is housed in a school. It seems that potential licensees decide not to apply for a license nor inquire into the granting of an exception due to inaccurate information or not knowing how or where to access correct information. Nevertheless, it was also identified that certain physical design requirements normally applied to a licensed child care program are not necessary in a school or recreation center facility. Other group discussion centered around the need to revise or clarify state regulations so that potential licensees know which regulations will need to be met and which regulations will be waived or exceptions granted. We intend to deal with this at KDHE through the regulation revision process and by improving communication from the state to the local level so that potential licensees have accurate information about what is required, know how to request exceptions and have access to pre-application consultation concerning regulatory requirements and the licensing process.

Recommendations

Revised wording to House Bill 2699 is being suggested as part of this report. This revised wording will define what fire and building codes are to be applied to child care programs provided in recreation centers or schools. It is the intent of this wording that the same codes that apply to the school during the school day and to the recreation center during the center's hours of operation will also apply to the licensed child care program's hours of operation. In this way, neither the safety of the children in school or the recreation center is compromised nor are the requirements placed on the school or recreation center to provide child care beyond what is normally expected for such facilities.

We believe that the suggested revision to House Bill 2699, as a part of this report, is not just a compromise negotiated between proponents and opponents of the original bill but rather an actual solution to a very real problem. We believe that the development of programs for school age children in schools and recreation centers should be facilitated and we will support the Special Committee on Children's Initiatives' position in the adoption of the revised regulations and in the licensing process.

I will be happy to answer any questions.

Presented

by: Christine Ross, Director, Child Care Licensing and Registration
Bureau of Adult and Child Care
Kansas Department of Health and Environment
February 18, 1992

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2-2

Persons Participating in Person and by Consultation are as follows:

Ross Bolin, State Fire Marshal's Office

Melissa Cilley, Office of the Speaker

Jim Coder, State Fire Marshal's Office

Kay Coles, KNEA

Jolene Grabill, Office of the Speaker

Connie Hubbell, KS State Board of Education

Karen Juola, SRS

Laura Kelly, KS Recreation and Parks Assoc.

Joseph F. Kroll, KDHE

Shirley Norris, KS Assoc. for the Education of Young Children

Christine Ross, KDHE

Peggy Scally, Douglas County Health Dept.

Mark Tallman, KS Assoc. of School Boards

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HF 351
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7-2

HOUSE BILL No. 2699

By Special Committee on Children's Initiatives

1-14

8 AN ACT concerning child care; relating to application of certain
9 licensing requirements to certain recreation centers and schools.

11 *Be it enacted by the Legislature of the State of Kansas:*

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

13 (1) "Recreation center" means any building used by a political
14 or taxing subdivision of this state, or by an agency thereof, for
15 recreation programs which serve children who are 16 years of age
16 or younger.

17 (2) "School" means any building used by a unified school district
18 or an accredited nonpublic school for student instruction or atten-
19 dance of pupils enrolled in kindergarten or any of the grades 1
20 through 6.

21 (b) No license for a child care center, group day care home or
22 day care home shall be denied on the basis that the building does
23 not meet requirements for licensure if:

24 (1) The building is a recreation center or school; and

25 (2) the center or home does not provide care for children under
26 kindergarten age.

27 Sec. 2. This act shall take effect and be in force from and after
28 its publication in the statute book.

"Child care program" means a day care center,
group day care home or day care home.

(2)

(3)

program for school age children

the building:

(1) Is a recreation center or school;

(2) complies, during all hours of operation of the child care program, with the Kansas fire prevention code or a building code compliance with which is by law deemed to be compliance with the Kansas fire prevention code;

(3) subject to subsection (c), complies, during all hours of operation of the child care program, with all local building code provisions that apply to recreation centers, if the building is a recreation center, or schools, if the building is a school; and

(4) as a recreation center or school, is used by school age children and the same age children are cared for in the child care program.

(c) In the case of an inconsistency in standards with which a building is required to comply pursuant to subsections (b)(2) and (b)(3), the standards provided by subsection (b)(2) shall control

JOAN WAGNON

REPRESENTATIVE, FIFTY-FIFTH DISTRICT
 1606 BOSWELL
 TOPEKA, KANSAS 66604
 (913) 235-5881
 OFFICE:
 STATE CAPITOL, 272-W
 TOPEKA, KANSAS 66612
 (913) 296-7647



TOPEKA

HOUSE OF
 REPRESENTATIVES

Testimony on HB 2739
 February 18, 1992

COMMITTEE ASSIGNMENTS

CHAIR: TAXATION
 MEMBER: ECONOMIC DEVELOPMENT
 FEDERAL & STATE AFFAIRS
 LEGISLATIVE POST AUDIT

I am here today as a proponent of House Bill 2739 which I introduced at the request of several constituents who are concerned about the lack of enforcement of the Companion Animal Act. It is unfortunate that the Legislature has to continue to concern itself with regulation of pet breeders because the policy of protecting the welfare of animals against abuse and neglect has been well established several years ago. The policy is clear; however, enforcement of that policy continues to be a problem. House Bill 2739 attempts to remedy this situation by making a few changes in the way the Companion Animal program is administered, thereby allowing already-established policy to work.

The history of this issue is plagued with emotional charges. Newspapers have frequently reported cases concerning the plight of abused animals in "Puppy Mills" across the state, raising the public's concern. Multiple editorials have focused on this very issue. Recent enforcement actions, or "raids" were brought about only because of concerned individuals' pressure on officials charged with administering the program which forced these officials to take action regarding the unnecessary and inexcusable conditions of many breeding facilities. Finally, the constant turnover of staff in the Kansas Animal Health Department leaves the future of that program uncertain in the minds of advocates.

Two significant points should be noted. First, Kansas's reputation from coast to coast continues to be that of a "Puppy Mill" state. Buyers do not look to Kansas for healthy puppies, allowing potential business and incoming revenue to be diverted out of state. I believe a strong enforcement program would rectify that image.

Second, laws adopted by the legislature to clean up Kansas's animal industry seem to be enforced only when there is continued political pressure. It would appear that compromises made when the laws were enacted somehow weaken the program. This bill attempts to correct that problem.

Specifically, the bill before us makes four changes in the current system. (1) The program is moved from Agriculture to

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Health and Environment. This move eliminates any need for an advisory board. (2) Concurrent jurisdiction given to the Attorney General permits a second avenue for enforcement. (3) State-issued health certificates will be required for each animal sold to ensure animal health and provide adequate funding for the program. (4) One previous issue of contention was whether the USDA regulations were sufficient; it is apparent that they are not, so the bill would allow their use, but no longer requires adoption of USDA regulations.

Thank you for your consideration. I urge your favorable consideration.

Jean Haguen

Wagnon - 7647

THE KANSAS FEDERATION OF HUMANE SOCIETIES, INC.
ESTABLISHED 1952

February 18, 1992

Members of the House Federal and State Affairs Committee
c/o Representative Joan Wagnon

Ms. Wagnon and Committee Members:

The Kansas Federation of Humane Societies, comprised of humane societies in Manhattan, Emporia, Hays, McPherson, Liberal, and Salina, joins other animal welfare advocates in this state in expressing our concern with the lack of enforcement of the Animal Dealers' Act through the Animal Health Department.

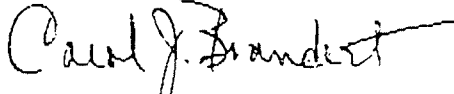
Logically, this is the governmental agency which should be aggressively enforcing the licensure and inspection of pet breeding facilities in this state. However, two administrators of the agency have failed to improve significantly the welfare of animals in kennels throughout the state. Only when media pressure is exerted do we see any action from this department. The result is needless suffering for animals and the continued bad name for Kansas as a breeding ground for diseased animals.

We do believe that the recent hiring of Jack Jones to oversee the administration of the Animal Dealers' Act through the Animal Health Department is a positive step. Jones is a dynamic and highly reputable figure in animal welfare work. Additionally, the Attorney General's appointment of Susan Stanley as special prosecutor for cases arising out of the act is also a major improvement. Stanley brings intelligence, drive, and commitment to her position as well as concern for the welfare of animals. These individuals must, however, have the freedom to pursue the goals of the licensing and inspection program if it is to be successful.

We find it reprehensible that the issue of cleaning up the state's "puppy mills" should occupy so much time on the part of legislators when the basic legislation to do the job is in place. What we must have is vigorous enforcement of the law by any agency or department given the responsibility for management of this program.

Thank you for your deliberation on this matter.

Yours truly,



Carol J. Brandert, Secretary

The Kansas Federation of Humane Societies
746 Manchester Road
Salina, Kansas 67401
1-913-825-1636HF 3-3A
2/18/92
3-3

February 12, 1992

Representative Joan Wagnon
1606 S W Boswell
Topeka, Kansas 66604

Dear Representative Wagnon,

I am an employee in the Animal Health Department. Please keep my name confidential as I am afraid of retaliation, harassment, and fear for my job.

The Animal Welfare Program (or Companion Animal Program) has been under the supervision of the Livestock Commissioner for the last three years. We have witnessed terrible situations being covered up, ignored, reports being lost and even lied about. This has gone on for three years. This is like having one chicken in a house of foxes. The livestock and agricultural people have fought extremely hard to kill this program and render it useless. The livestock industry views this program as a foothold for the humane societies.

There is a flagrant conflict of interest within the Animal Health Department. The Livestock Commissioner has to answer to the Animal Health Advisory Board. These are the same people that are fighting hardest to defeat the purpose of the Companion Animal Program. How can the Livestock Commissioner do justice to both? I think the proof has already been on display for the nation to view, not just this year but for the last several. The problem has been ongoing, we have changed livestock commissioners and supervisors several times, however the problem persists. The solution is obvious. The Companion Animal Program needs to be moved.

The bad publicity is hurting all the good pet breeding facilities and each year we must all endure the embarrassment, not only the Companion Animal Program but our beautiful State of Kansas may not ever recover from this ugly reputation. If the Livestock Commissioner had given the inspectors the backing they deserved and acted aggressively to prosecute and seize the animals from these horrible places instead of covering for them, perhaps progress could have been made. Instead the Livestock Commissioner chose to pass facilities with deficiencies that his inspectors would not pass. The Livestock Commissioner is a licensed veterinarian, his description of the cats in Charlotte Brown's house read "mild dermatitis". The reports and court evidence of the extent of ringworm and mange on these 70 plus cats could not have been mistaken for "mild dermatitis" even by a layperson much less by a veterinarian.

The Companion Animal Advisory Board is yet another faction to be dealt with. There are nine members on this board, there are approximately the same number of members on the Animal Health Advisory Board, and one Livestock Commissioner. There are three kennel inspectors for the entire state. Does it really seem intelligent to have 18 or 20 people trying to run what shouldn't be any of their concern? There is something wrong with this picture.

(con't)

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There have been some recent personnel additions to the Companion Animal Program since the embarrassing news coverage. The firing of an experienced and aggressive Assistant Attorney General (Susan Stanley) and the most recent hiring of a new director (Capt. Jack Jones) from Kansas City has been promising. The hiring of Capt. Jones is a positive move. We are all pleased to have a person with this caliber of experience and integrity. If the program has to remain within the Animal Health Department, how long will it be before they do not have the support from the Livestock Commissioner? I suspect it will last until the "heat" has cooled and there is no danger of having the program moved.

All this program needs is one good director (like Capt. Jones), one good attorney (like Ms. Stanley), and three or four good inspectors (like the ones now trying to do their jobs) and it could be a success.

The best people in the world cannot do their jobs if we do not get this conflict of interest cleaned up.

The foxes need out of the chicken house or the chickens need moved.

Sincerely,

p.s. please keep my name confidential.

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February 18, 1992

I am a registered Hobby Breeder in Kansas (Registration #002-HK-92). I am a Show Breeder. As a Show Breeder, I have established the type of reputation in my breeding program that is expected of a good Show Breeder. A good Show Breeder should breed a dog that has good temperament, good genetic health and good conformation to the breed standard. A dog has to have good temperament to be shown because it is brought into a show building with 2500 other strange dogs. There is a lot of equipment being moved around at the show, and there are a lot of nervous owners trying to get their dogs ready for the show ring. In this setting, the dog must enter the ring in a happy frame of mind and allow a stranger to examine its mouth probe all over its body. The dog has to be of good genetic health, or an expensive breeding program will come to a dismal end. The dog has to be of good conformation to the standard, or it will be unable to compete in the show ring. These same qualities are what most people seek in their pets, and is what they think they are buying when they purchase a purebred dog. I literally spend thousands of dollars each year to breed my dogs. I attend specialty shows which draw the breeders of my breed from all over the country in one place. We discuss genetic problems which crop up and which we try to pinpoint so that we can eliminate them. There is a great deal of peer pressure in our national breed club to breed properly. Breeders that do not measure up do not last. We have a fund to which we donate that pays to rescue unwanted dogs of our breed nationwide. Each of us spends time rescuing those dogs in our own area. When someone calls me for a dog of my breed, I spend a great deal of time describing the traits of our breed and searching for what that person is looking for in their pet. Usually, nine out of ten callers find that this is not the breed for them. It is obvious that people are attracted by the looks of a cute little dog but do little to check to see if its traits and personality are something that they would appreciate. Since we do not breed for material gain, we do not try to sell a puppy to someone for which it is not suited.

I have gone through this long preface in order to give you some idea of what has gone into developing a good reputation as a good breeder. Unfortunately, California exposed, for the whole nation to see, the unfortunate conditions in a large number of commercial breeding kennels in Kansas. Our national breed club has a breeders' list that we supply to persons interested in purchasing one of our breed. The club secretary has indicated to me that, since this national coverage, a number of people have asked if there is another breeder in this part of the Midwest other than myself, because they do not want to purchase a puppy from Kansas. I do not breed for profit, so I am not materially affected; but my reputation has been nationally tarnished, not for something that I have done wrong, but for my residence.

Worse than my reputation being adversely affected, breeders in my

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Attachment #4

breed club will not sell to someone in Kansas until I, as the only member in Kansas, have "checked them out". This is extremely unfair to the good citizens of Kansas who want a well-bred genetically-healthy pet and who, also, are publicly suspect because of residence. I understand that some national breed clubs will not sell into Kansas even with a local member's assistance.

I would ask that you consider your options carefully. Please remember that there are a lot of good breeders in Kansas who can be destroyed by expensive permits and restrictive legislation while leaving bad breeders, who have profits from their breeding, intact.

Sincerely,

Linda B. Sutton

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4-2

February 21, 1992

The Honorable Kathleen Sebelius
3rd Floor Statehouse
Topeka, Kansas 66612



The Honorable Kathleen Sebelius:

As a veterinarian engaged in mixed animal practice for the past 15 years and involved with commercial and show kennels in northeast Kansas, I am dismayed by even the consideration of removing the regulation of kennels from the supervision of the Animal Health Department through House Bill #2739.

I have watched the commercial kennel industry progress from mostly unregulated, under-inspected backyard operations to the current full-time commercial ventures, licensed by both federal and state agencies, that represent entire livelihoods with many thousands of dollars invested in facilities that were approved by federal and recently state inspectors using the guidelines current at the time of inspection.

I have watched the current Livestock Commissioner, Dr. Dan Walker, mold a workable state program, acceptable to most kennels and most reasonable humane organizations, from legislation that was not exactly well received from either side of the issue. I feel that Dr. Walker realizes that the program is meant to improve conditions in substandard operations, not to drive the entire industry out of existence.

I have watched federal and state inspectors try to close down one specific kennel unsuccessfully for non-compliance with existing regulations, unsanitary conditions and numerous complaints only to have the kennel driven out of existence by record keeping errors. The owners instead began producing food products for human consumption because the inspection process was much easier and consisted of a single inspection prior to the start of production.

There is now legislation being considered to move the responsibility of commercial kennel inspection to the Department of Health and Environment. I am told that Dr. Walker's office is not regulating this industry and there are still unlicensed kennels in existence. A very few individuals are not obeying current regulations and, unfortunately, Dr. Walker must still give these people due process as guaranteed under the Constitution. Animal rights (not animal welfare) activists are currently pressuring Dr. Walker to seize without due process which I feel is a grave mistake. From all the reports that have been available to me, the state inspection program is beginning to work quite smoothly - granted, not as rapidly as some would have it, but it is working, none the less.

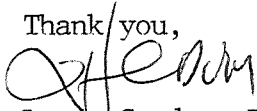
Critics of the current regulation authority to cite the failure of the program to bring any kennels in the state to "acceptable" levels. I have yet to hear any clear definition of what would constitute an "acceptable" kennel that would allow the operators to make a living in today's market.

HOUSE FEDERAL & STATE AFFAIRS
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Attachment #5

Perhaps if an "acceptable" kennel could be defined by the complaining groups, all kennels could be gradually modified. Simply stating that all kennels are currently unacceptable does nothing to improve the overall problem.

I urge these legislators to leave this program where it is at the present time. A move to a new department guarantees nothing except the need for more time to institute a totally new program and an increased burden on commercial kennel operators that are trying to abide with existing laws and to do a good job.

Thank/you,



Larry Snyder, DVM

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2/10/92
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2805 MENLO

Wichita, Kansas 67211

February 17, 1992

The Honorable Kathleen Sebelius, Chairman
The House Federal and State Affairs Committee

Testimony in support of HB-2739 and ~~in favor of repeal of SB-776~~

I am Marguerite Rowe, President of Animal Welfare Alliance of Wichita. I speak for many citizens of Wichita and Sedgwick County who are terribly dissatisfied with the way The Companion Animal Program is being enforced, or not being enforced.

The cats and dogs used by the commercial breeders are still suffering and living in unspeakable conditions. No one apparently is doing anything to better their condition.

It is clearly in the interest of the State of Kansas to clean up the situation.

We are wholeheartedly in favor of HB-2739, ^{or} moving the companion animal program away from the Livestock Commission to the Kansas Department of Health and Environment.

Our Animal Welfare members know at first hand how the Puppy and Kitten Mill animals are treated. We have taken and furnished Veterinary care for many of these animals purchased from commercial breeders. They not suffered for lack of medical care and nutrition, they had a great need for love. *only*

Thank You

*House Federal & State Affairs
February 18, 1992
Attachment #6*

LABETTE HUMANE

ANIMAL RESCUE AND SAFE HAVEN

Feburary 18, 1992

HB2739

Ms. Chairman and members of the Committee:

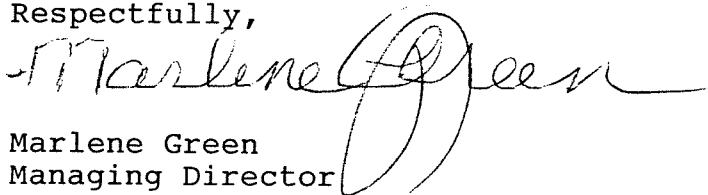
My name is Marlene Green. I have been Managing Director of the Labette County Humane Society shelter for four years. During that time I started a rescue program for puppy mill dogs and have cared for over two hundred of them from various "commercial kennels" in Kansas. The condition of ninety-five percent of these animals is appalling. The neglect is inexcusable; yet it continues.

I could write volumes about the needless suffering I have seen. I could give you documentation from several veterinarians, including K-State, citing neglected injuries and genetic problems. Would it really make a difference?

Most of us in this room have been here before. We said the same thing last year and the year before that. The media continues to shock the public with the atrocities we call puppy mills. I have included, in my testimony, one of the latest exposes that appeared in the February 10, 1992 issue of PEOPLE. Although this article happens to feature a puppy mill in Missouri, it could just as easily been one in Kansas, as they saw several in our state.

It is apparent to most people that the Animal Health Department is not going to solve the problem. The currant program isn't working and needs to be moved now. Those of us who work with the misery, day after day, urge you to pass HB1739.

Respectfully,



Marlene Green
Managing Director

LABETTE COUNTY HUMANE SOCIETY

MARLENE GREEN, MANAGING DIRECTOR • GIL MICHAELS, EXECUTIVE DIRECTOR • COLE MCFARLAND, PROJECT DIRECTOR

RT. 3, Box 325J • PARSONS, KS 67357 • SHELTER (316) 421-0668 • COMMUNITY PROJECTS (316) 421-1888 • FAX (316) 421-8661

A LIFE THAT NO DOG DESERVES

These pups start life in squalor—and wind up in your local pet store

TROUBLE



▲ "I got in it for the money," says puppy-mill owner Letha Hamilton. She insists, though, that "my dogs have a good life, a good home."

EVER SO GENTLY, MARLENE GREEN lifts the two puppies, Australian terriers about 6 months old, onto a table. Quivering, the dogs huddle together, their eyes vacant. Something brown oozes from their ears. "That's ear mites eating their way toward the dogs' brains," says Green, executive director of the Humane Society chapter in Labette County, Kans. "We might be able to save them. They're young."

The puppies have just been brought in by Bob Baker, chief investigator for the Humane Society of the United States, who is based in Washington, D.C. The terriers are among an estimated 500,000 dogs that are born every year in

"puppy mills"—commercial breeding operations that mass-produce puppies (and kittens too) for pet shops. Amid neglect, abuse and disease, 90 percent of the puppies sold in America's pet shops are produced in mills. According to Baker, nearly half have serious health problems.

Dr. Kim Hammond, a Baltimore veterinarian, estimates that 60 percent of the sick dogs he treats come from puppy mills. "Animals bought in upscale shopping malls come to me with congenital heart diseases, skin problems, bladder problems, brain damage, genetic deficiencies," he says. "It's much better to adopt from a shelter or buy from a responsible breeder."

The dogs on Marlene Green's table came from breeder Letha Hamilton, who had allowed Baker to remove them from her puppy mill, which has stood for 30 years outside Goodman, Mo., about 30 miles south of Joplin. There, nearly 50 purebred dogs from an assortment of breeds spend their entire lives in elevated chicken coops, wire cages about two feet wide. Excrement drops to the ground below, forming fly-infested pyramids whose rank odor, on warm days, carries to State Highway 71. Sometimes the dogs have drinking water, sometimes not. Some have open sores or hairless spots from lying on the wire. The puppies, which remain with the breeder six

Photographs by Taro Yamasaki

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TROUBLE

weeks before being shipped to pet stores, are ridden with fleas, parasites and viruses, just as their mothers are.

Like 4,268 dog dealers and breeders around the country, Hamilton, 84, is licensed by the U.S. Department of Agriculture. The department, though, seems unequal to the task of enforcement. Hamilton, for one, has ignored several official attempts to improve life for her dogs. In 1982, a USDA internal memo called Hamilton's place "substandard" and cited 12 "major deficiencies." The memo said that a warning letter from its Missouri area office "apparently has had little effect on Mrs. Hamilton."

The memo was right; Letha Hamilton says she just tosses such warnings in the trash. "I don't pay attention to the government," she says with a laugh. The latest attempt to shut Hamilton down came last April after she broke her back in a fall. A USDA inspector visited her in the hospital, where she signed a consent decree promising she would retire from the dog-breeding business. "I

only signed because I was on that dope," says Hamilton, referring to a sedative she had been given in the hospital. And almost a year later Letha Hamilton is still very much in business.

Dr. Joan Arnoldy, deputy administrator for the USDA's Regulatory Enforcement and Animal Care Division, which enforces the Animal Welfare Act, concedes that there are far too many substandard puppy mills but insists her agency's 83 inspectors are becoming more effective. "It's a large, profitable business, and many people in it are not very experienced in raising dogs and don't do a good job," she says. "There are dealers who do not meet the standards. We have to continue working with these people."

According to the Humane Society, the USDA could be doing far more than it does. Having visited more than 600 puppy mills during the last 10 years — he has been shot at twice — Bob Baker estimates that 80 percent of the nation's commercial breeding operations are substandard. "Believe it or not," he says, "a

lot of them are worse than Letha's."

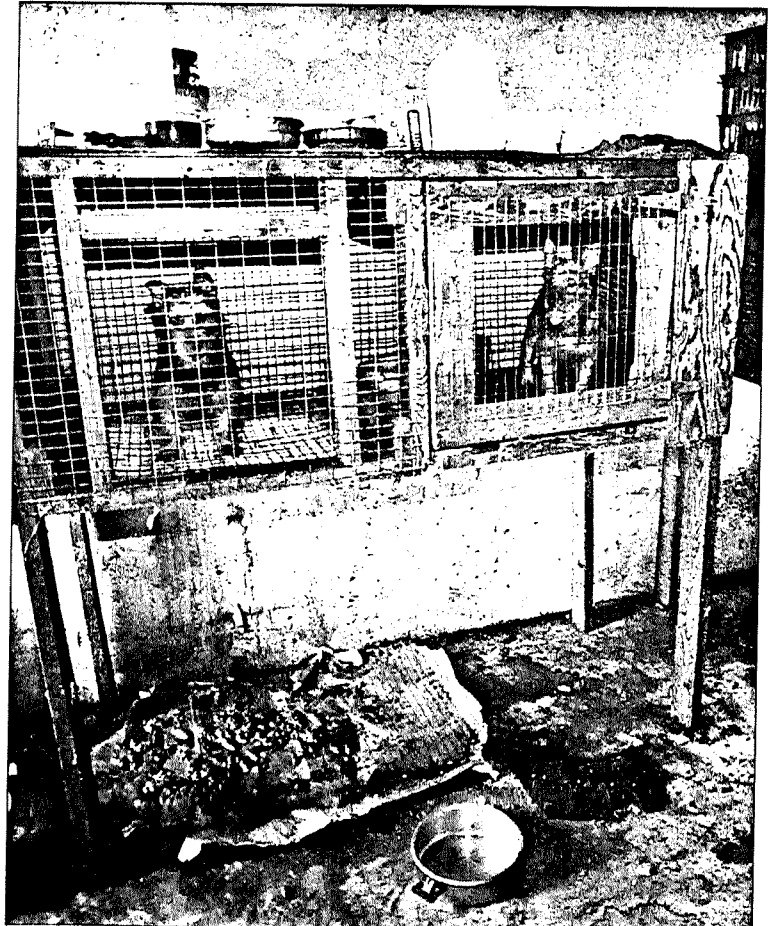
For someone like Donna Wynkoop of Crofton, Md., learning the grim truth about puppy mills often begins with a pair of big, sad-looking eyes staring out of a pet-store window. Last July, Wynkoop, 21, a diet center worker, spotted a 3-month-old Shih Tzu at a Docktor Pet store in an Annapolis mall. "He was so tiny and cute," she says. After several visits she paid \$350, took the puppy home, decked him out in purple ribbons and named him Petie. Two weeks later, Petie started having violent seizures, foaming at the mouth, running in circles and throwing up. A veterinarian diagnosed water on the brain and prescribed a \$700 spinal tap to confirm the diagnosis and relieve the pressure. He also diagnosed genetic deficiencies caused by inbreeding.

When Wynkoop brought Petie back to the pet shop, she says, Docktor Pet cheerfully offered to replace him. "They treated the dog like he was a piece of merchandise, a sweater or something," she says. "Well, you don't fall in love with a sweater. I wanted to keep the dog and be



▲ The Humane Society's Bob Baker (in Washington last November) supported a puppy-mill bill introduced by Rep. Ben Cardin (right).

► "Letha's place is better than many," says Baker. Yet the puppies there, like these Australian terriers, are confined to two-foot cages.



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A "There's a lot of sleazy people in this business," says Joplin (Mo.) breeder Ken Josserand, "and it hurts people like us."

reimbursed for his medical bills."

Sarason D. Liebler, president and CEO of the 200-store Docktor Pet chain, which is based in Wilmington, Mass., accepts little responsibility for Petie's ailments or those of other dogs like him that they have for sale. "Birth defects," he says, "are nature's accidents." He deplors the conditions under which so many puppies are bred, but adds: "I don't believe a dog has any more particular rights than a cow. You can't expect [breeders] to provide a couch and a TV. It's an economic thing."

Rep. Benjamin Cardin (D-Md.) is convinced the industry can do better. Citing a California state study that found that "48 percent of the puppies in pet stores were ill or incubating an illness at the time of purchase," he has introduced a bill that would make retailers responsible for the health of the animals they sell. "Fluffy puppies in the pet-store window raised under these conditions make terrible pets," says Cardin.

Without legislative action, operations like Letha Hamilton's are unlikely to clean up on their own, as the Humane Society's Bob Baker can attest. Making a follow-up visit to Hamilton's puppy mill, he had hoped



VICKIE LEWIS

A Donna Wynkoop's Shih Tzu needs an additional \$700 in medical care.

to rescue a sick bloodhound that Hamilton had said she might relinquish. Instead, he found Hamilton more defiant than ever. "You're not getting any more dogs from me," Hamilton told Baker. "I can keep all my dogs." Since Baker's previous visit, she had received a letter from her Congressman, Mel Hancock (R-Mo.), to whom she had complained about the USDA's visit to the hospital. In his letter, Hancock said he had taken up her case with the USDA — and that the agency was backing off on the consent decree. "I'm for better government, not bigger government," Hancock wrote.

Driving away on Highway 71, leaving Letha Hamilton and her dogs behind, Baker is obviously frustrated — and enraged at the USDA. "They just don't place a priority on [improving conditions in] puppy mills," he says. "You can expose it, but they don't give a damn."

■ MICHAEL NEILL
■ BILL SHAW in *Goodman*

TO: Federal and State Affairs Committee, Kansas House
of Representatives

FROM: Margaret McInroy, Proponent - HB 2739

SUBJECT: Transfer of Inspection of Puppy Mills from the Live-
stock Commissioner to the Department of Health and
Environment

Madam Chairman and Committee Members:

Some years ago, two friends of mine bought a puppy at a kennel here. They took it home to their daughter, unaware that it was infested with worms. The mother and little girl became infected. The treatment of this problem was hard on the mother and terrible for the three-year-old child.

People don't take puppies and kittens home and put them in the barn. They are in the beds, on the sofa, and playing with the children on the floor. They are sometimes constant companions. If they have a disease that is communicable from animal to man, people will be infected.

I think we must realize that the environment of small animals is vastly different from that of large animals.

I ask you to consider favorably HB 2739 and recommend its passage through the Kansas House of Representatives.

Thank you for your time and patience.

House Federal & State Affairs
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February 18, 1992

TO: Representative Sebelius and committee members

RE: HB 2739

My name is Marcia Gitelman. For nearly three years I have been active in trying to solve the problem of substandard puppy mills in the state of Kansas. After many unsuccessful attempts on my part and those of others, I am here today to ask you to support HB2739 and remove the Companion Animal Inspection Program out of the Animal Health Department so that it may finally receive the attention that it deserves.

If this program continues to remain in the Animal Health Department then it will continue to be run by a management system which has for almost four years bent over backwards trying to protect the very people it should be regulating. Although I applaud the appointment of Susan Stanley as an assistant Attorney General and Jack Jones as the program director, these people will only be as effective as the system will allow. I fear that their hands will be tied so long as they are forced to work in this present environment.

I do not speak about this program without first hand experience. As past President of the Kansas Federation of Humane Societies I served as the humane society representative on the Kansas Companion Animal Advisory Board until my resignation earlier this year.

I resigned from this position when it became apparent to me and other animal welfare advocates that this board was not serving any vital purpose. Of the duties assigned to the advisory board by statute, none were adequately addressed.

Although we were to revise the status of, make recommendations on changes to, and make recommendations concerning the rules and regulations for the Kansas animal dealer act these areas were never addressed in our meetings. Rather, the time not wasted on factional disagreements was spent to find funding for this program, and the solution finally agreed upon was to introduce legislation which was already discussed last year.

HOUSE FEDERAL & STATE AFFAIRS
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In addition, since this is merely an advisory board with no disciplinary powers or control over the Companion Animal Program the commissioner and program director may choose to ignore whatever advice comes from this board. The trend in government today is to get rid of useless advisory boards. The members of this board and other parties interested in the Companion Animal Program can just as easily voice their concerns without the existence of this board without losing any effective means of being heard.

Finally, perpetuating this advisory board perpetuates the conflict between breeders and humane societies. In the best interest of this program it would be best to eliminate the advisory board to reduce this tension so that we can move on to the real job at hand.

Marcia Gitelman

Marcia Gitelman
2625 NW Rochester Road
Topeka, KS 66617
(913)233-2054

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2-18-92
9-2



JOHNSON COUNTY HUMANE SOCIETY
P. O. Box 23508 • Overland Park, Kansas 66223
(913) 829-2505



TESTIMONY IN SUPPORT OF HB-2739

FEBRUARY 18, 1992

My name is Kathy McKee, and I'm President of the Johnson County Humane Society.

In 1988, the Kansas Legislature established State regulation over the commercial pet industry, after rightfully concluding that USDA had failed for 20 years to adequately address the puppy mill problem. Here we are, 4 years later, and our puppy mill problem is no better than it was then.

In August 1990, this Legislative Post-Audit Report was released. There's a copy attached to my testimony. The Audit Report concluded that the Department:

1. has not adequately implemented the Companion Animal Program.
2. has not done an adequate job of identifying the people it should be regulating (indeed, there are fewer facilities licensed now than when Dr. Kimmel left).
3. has not taken appropriate enforcement actions when problems were identified.

Now here we are, 18 months and one Livestock Commissioner later, and things are not one scintilla better than when this report was issued. During the past 2 years, deplorable conditions in Kansas puppy mills have been on "20/20" twice, "Inside Edition", "Current Affair", "CBS Evening News", ABC News, Connie Chung, Geraldo Rivera, "The Today Show", USA TODAY, The Los Angeles Times, The Philadelphia Inquirer, Detroit News-Free Press, and every major newspaper and TV station in Kansas and California. This verification of our claims of no progress is beyond our-word-versus-their word. Indeed, just 2 months ago, the Attorney General toured commercial kennels so he could see first-hand how serious our state's puppy mill problem still is. He recently stated on Channel 49's "Kansas Illustrated," "We have a problem, and it's obvious." I have to tell you that, after only a week of studying state records and physically checking places out, we had a hard time deciding which 3 kennels to limit the tour to. It was finally determined to visit facilities we could prove the Animal Health Department knew about and had had ample time to close. Animal Health Department records indicate that the state inspector advised closing down the first kennel on the tour as far back as 1989, and numerous times since. Taking 2-1/2 years to

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close what the inspector termed "the pits" is not doing an adequate job. Don't you wonder just how long Dr. Walker would have allowed that woman to operate had the media not exposed the terrible conditions there?

Nowhere does the Audit Report state that the number of facilities subject to licensing was exaggerated, only that the Department overestimated the number it would identify and license. Hundreds and hundreds, and possibly thousands, of facilities are still operating in this state, not identified or licensed by the Livestock Commissioner.

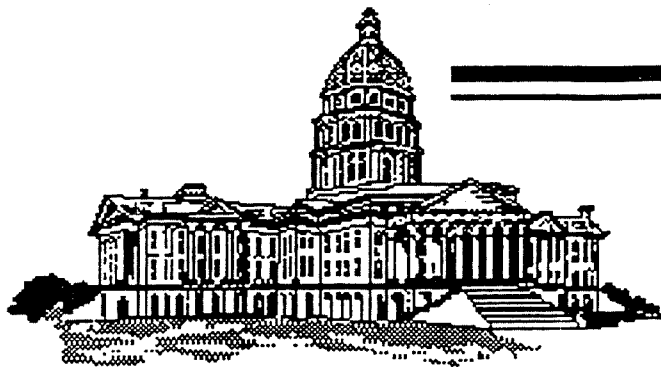
Dr. Walker recently commented on TV that the Legislative Post-Audit Committee's Follow-up Report contained "glowing remarks" about his handling of the program. I've included a copy of this report to see if you can find anything "glowing" about it. Goodness knows there's nothing "glowing" about the reality of the first 4 years of mismanagement of this program.

No, unfortunately, progress exists only in the minds of the breeders, brokers, and the Livestock Commissioner. We feel there will never be any real progress until this program is moved to an agency more experienced in regulation and more concerned with suffering. The Animal Health Board could change Livestock Commissioners every year, and the Livestock Commissioner could hire 10 Jack Jones, but the painful truth is that there is either a lack of commitment or a lack of ability on the part of past and present Livestock Commissioners to clean up this industry.

We will NEVER give up the effort to end the indescribable suffering in countless Kansas puppy mills. However, we are really weary of having to constantly ask the media to substantiate our statements of obvious truths. We are equally as weary of begging the Legislature every year to bring this suffering to an end. This puppy mill issue has consumed dozens of volunteer hours every week for nearly 6 years of my life. I personally would like to devote some of my volunteer efforts to battered women and abused children.

We, and the Post-Audit Report, complained of inadequate standards, and last year the Legislature weakened standards further by mandating the adoption of USDA rules and regulations. We protested reliance upon industry propaganda and misinformation, and last year an advisory board was created stacked with people who are part of this problem.

This year, this Committee, and this Legislature, can bring credibility to our battered state program, establish an image of decency for this once profitable industry, and stop all this misery once and for all. We implore you to do so, by passing HB-2739.



PERFORMANCE AUDIT REPORT

Reviewing State Regulation Over Animal Breeders and Sellers In Kansas

A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
August 1990

90-50

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Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$5 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

We conduct our audit work in accordance with applicable government auditing standards set forth by the U.S. General Accounting Office. These standards pertain to the auditor's professional qualifications, the quality of the audit work, and the characteristics of professional and meaningful reports. The standards also have been endorsed by the American Institute of Certified Public Accountants and adopted by the Legislative Post Audit Committee.

The Legislative Post Audit Committee is a bipartisan committee comprising five senators and five representatives. Of the Senate members, three are appointed by the President of the Senate and two are appointed by the Senate Minority Leader. Of the Representatives, three are appointed by the Speaker of the House and two are appointed by the Minority Leader.

Audits are performed at the direction of the Legislative Post Audit Committee. Legislators or

committees should make their requests for performance audits through the Chairman or any other member of the Committee. Copies of all completed performance audits are available from the Division's office.

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LEGISLATIVE DIVISION OF POST AUDIT

Suite 301, Mills Building
Topeka, Kansas 66612-1285
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PERFORMANCE AUDIT REPORT

REVIEWING STATE REGULATION OVER ANIMAL BREEDERS AND SELLERS IN KANSAS

OBTAINING AUDIT INFORMATION

This audit was conducted by Cindy Lash, Senior Auditor, and Jim Davis, Murlene Priest, and Tom Vittitow, Auditors, of the Division's staff. If you need any additional information about the audit's findings, please contact Ms. Lash at the Division's offices.

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REVIEWING STATE REGULATION OVER ANIMAL BREEDERS AND SELLERS IN KANSAS

Summary of Legislative Post Audit's Findings

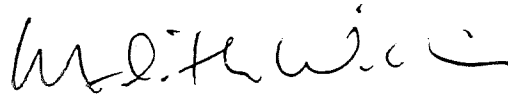
Has the Animal Health Department adequately implemented the program regulating the animal breeding and selling industry in Kansas? The Department has not adequately implemented the Companion Animal Program. It has not developed and adopted procedures for operating the Program, and has provided no oversight of the staff responsible for implementing the Program. The Department only recently adopted standards relating to the care and treatment of animals and the conditions of facilities. The Department has not done an adequate job of identifying the people it should be regulating, and has not inspected all regulated animal breeders and dealers as required by law and its own policy. In addition, Department inspectors may not be checking for compliance with all applicable standards. The Department has not taken appropriate enforcement actions when problems were identified, and its response to complaints has frequently been inadequate. The Department has not compiled any data showing how well the animal breeding and selling industry has complied with program regulations. In spite of these findings, more than three-quarters of the out-of-State purchasers we surveyed reported that most or all of the animals they purchased from Kansas were healthy.

Does the regulatory program appear to be funded and staffed to efficiently and effectively carry out its responsibilities? The Companion Animal Program has not been administered, managed, funded or staffed to the extent needed to efficiently and effectively carry out its responsibilities. Fees were not sufficient to support the Program in fiscal years 1989 and 1990 because the Department significantly overestimated the number of facilities it would license or register. Fee revenues are not likely to be sufficient to operate the Program in fiscal year 1991, even at very reduced staffing levels. With reduced staffing levels in 1990, the Department did not conduct the required number of inspections. Federal and state regulation of the animal breeding and selling industry overlap somewhat, and many animal breeders and dealers we surveyed thought it unnecessary to have dual regulation.

The report makes numerous recommendations to the Animal Health Department and to the Animal Health Board in the areas of overall Program planning and management, standards for the health and humane treatment of animals, licensing and

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fee payment, facility inspections, complaint handling, and Program enforcement. We would be happy to discuss the recommendations or any other items in the report with any legislative committee, individual legislators, or other State officials.



Meredith Williams
Legislative Post Auditor

HPA
2/8/92
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REVIEWING STATE REGULATION OVER ANIMAL BREEDERS AND SELLERS IN KANSAS

The 1988 Legislature amended the Kansas Animal Dealers Act to allow the Animal Health Department to license or register kennels and catteries that breed, raise, or sell companion animals, or pets. The Act had previously required licensure and inspection only of pet shops, animal pounds in first class cities, and research facilities. The licensure program, known as the Companion Animal Program, operates under the general responsibility of the Livestock Commissioner, who is appointed by the Animal Health Board. The Program does not regulate livestock animals such as cattle, swine, horses, or domestic fowl, nor does it regulate the breeding and selling of greyhounds. It should also be noted that the Program is not a part of the State's anti-cruelty laws; those statutes were not changed by the Animal Dealers Act.

Recently, legislative questions have been raised about the Department's implementation of the Program, the effectiveness of its regulatory efforts, and the workload of the people who are responsible for carrying out the Program. To address these concerns, the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a performance audit answering two questions:

1. **Has the Animal Health Department adequately implemented the program regulating the animal breeding and selling industry in Kansas?**
2. **Does the regulatory program appear to be funded and staffed to efficiently and effectively carry out its responsibilities?**

To answer these questions, we compared the Department's operations to generally accepted activities for operation of an effective regulatory program. We contacted other states with similar programs, as well as federal officials in the U. S. Department of Agriculture. We interviewed staff to determine what procedures the Department had in place to carry out its activities, and we reviewed licensing and registration files to determine how the Department handled complaints and how frequently facilities were inspected. We also accompanied Department inspectors on nine days of inspections. We reviewed revenues and expenditures for the Program for fiscal year 1989 to the present, and analyzed the Department's initial revenue and expenditure projections for the Program. In conducting this audit, we followed all applicable government auditing standards set forth by the U.S. General Accounting Office.

We found that the Department has not adequately carried out its responsibilities in operating a regulatory program. In general, no formal or written policies and procedures have been developed, and management and oversight of the Program and the staff hired to implement it have been virtually nonexistent. In part because of these shortcomings, the Department has not effectively regulated the animal breeding and selling industry. It has not adequately identified the people it should be regulating, nor has it done an adequate job of inspecting facilities for compliance with State

laws and established standards or of handling complaints about substandard or unlicensed facilities. In addition, the Department has not taken appropriate enforcement action when problems were identified.

The Companion Animal Program does not appear to be funded and staffed at a level sufficient to carry out its responsibilities. Fee receipts were insufficient to support the Program in fiscal years 1989 and 1990, and are unlikely to be sufficient in 1991. The Program was started with four inspectors and a director, but is now down to only two inspectors, who were unable to inspect facilities as often as required by law in fiscal year 1990. Several factors have had an impact on the number of inspections Department inspectors could conduct, including a Department policy that resulted in a significant waste of inspectors' time. These and other findings are discussed in more detail following a background section that describes the activities and history of the Program.

Overview of the Companion Animal Program

Following several earlier attempts to regulate companion animal breeders and dealers in Kansas, the Legislature passed and the Governor signed a bill amending the Animal Dealers Act in 1988. The Animal Health Department created the Companion Animal Program to implement that Act. Although the law became effective July 1988, the Program was not fully staffed until January 1989. Initially, the Program had six authorized positions: a director, four inspectors, and a full-time office assistant. (The Department subsequently reduced the staff size to two inspectors and a half-time assistant; question two will cover staffing and funding issues in detail.)

The Companion Animal Program was intended to improve the conditions under which companion animals were raised and sold, and in doing so, to rid the State of its image as one of the nation's leading "puppy mill" states. State regulation in Kansas was started, at least in part, because federal inspection and enforcement practices were thought to be inadequate. The Program has been funded through license and registration fees, the State General Fund, and transfers from other fee funds within the Animal Health Department.

According to provisions of the law, the Department is required to license animal dealers who sell at least six litters or 30 animals per year, whichever is less. Animal dealers who sell three to five litters—so-called "hobby breeders"—are registered by the Department. Those who sell fewer than three litters per year do not meet the minimum threshold for regulation under the Program.

The Act requires the Department to conduct regular inspections of regulated facilities. By law, a facility must be inspected before receiving its original license and on a regular basis thereafter. In addition, the Department is authorized to inspect any facility if it has reasonable grounds to believe that the Act is being violated. Hobby breeders are not required to be inspected unless there are concerns about their operations.

The following table lists the types of facilities regulated, the annual license or registration fee, and the number of inspections required annually.

**Facilities Regulated, Annual Fees, and Inspection Requirements
Under the Companion Animal Program**

<u>Type of Facility</u>	<u>Annual Fee</u>	<u>Inspections Required</u>
Federal and State Licensees	\$ 75	one per year
State-Only Licensees (a)	150	two per year
Pet Shops	150	two per year
Pounds and Shelters	150	two per year
Research Facilities	150	two per year
Hobby Breeders	25	none (b)

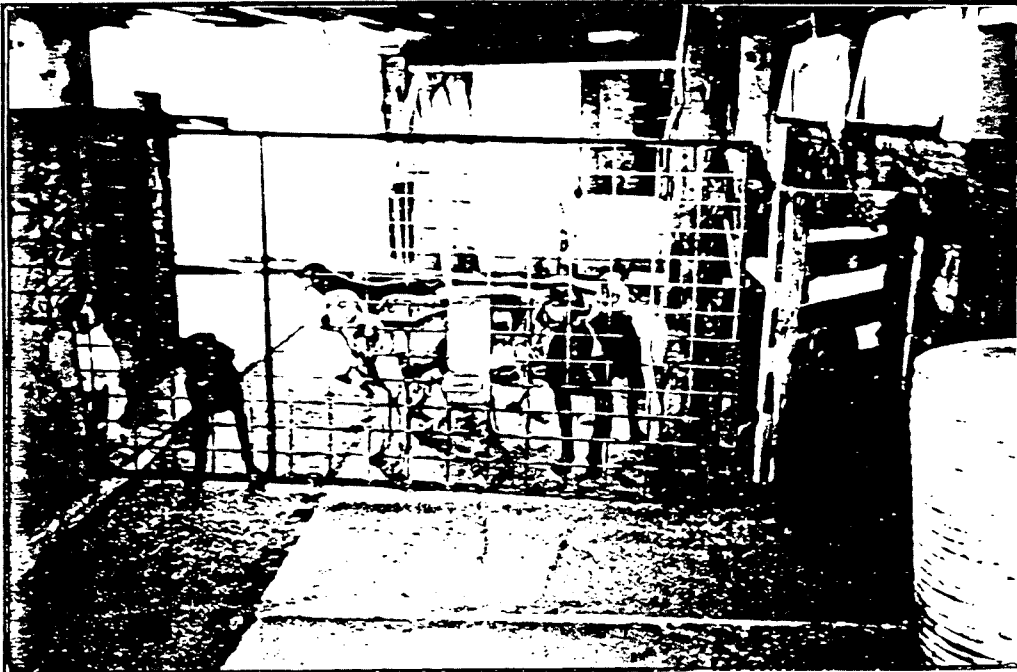
(a) Dealers licensed by the State, but not by the U.S. Department of Agriculture.

(b) Hobby breeders are not subject to regular inspections under the law, but like any other animal dealer, they may be inspected if the Department has reason to believe they are not complying with the Act.

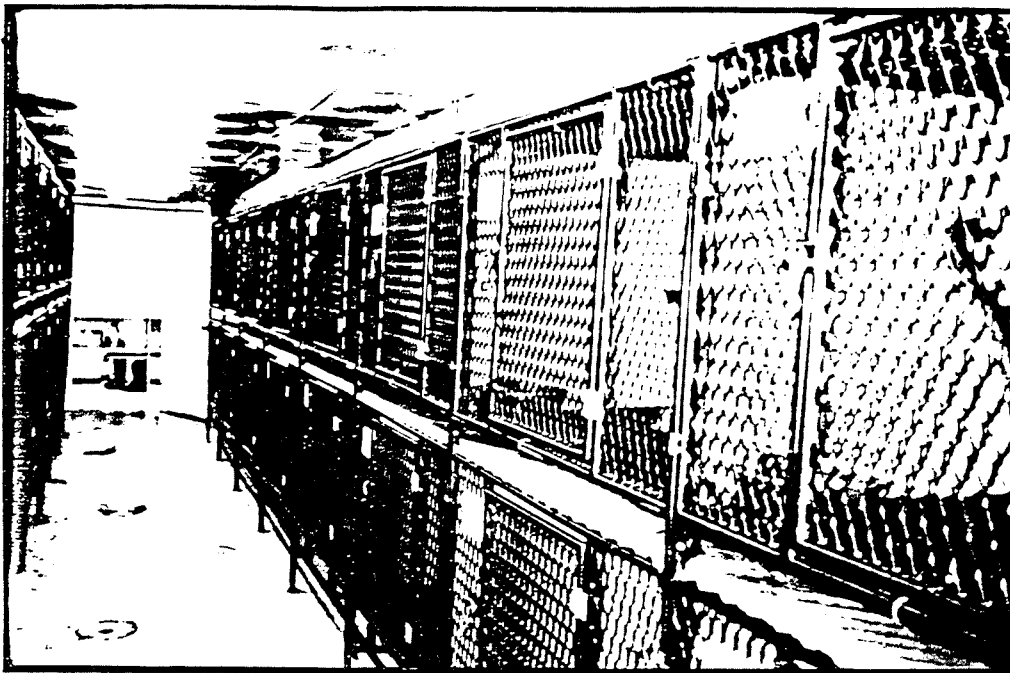
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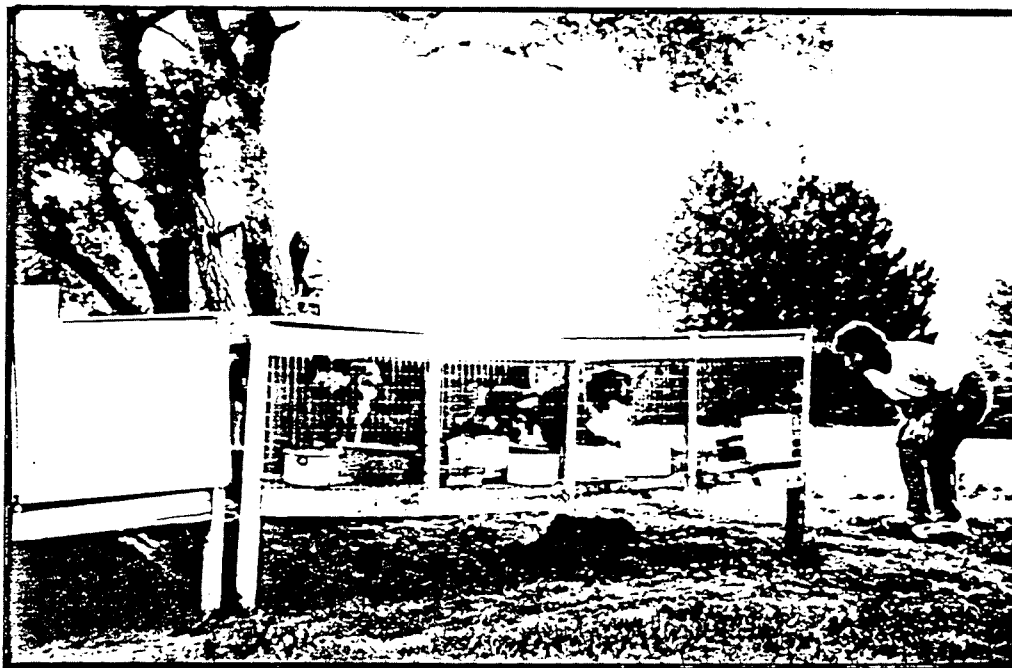
We saw a variety of different types of facilities during our time spent with Department inspectors. Regardless of the conditions in which they were kept, most of the animals we saw appeared to be clean and well-cared for. The photographs on this page and the next show examples of what we saw. The facility above used several different types of makeshift cages of various sizes to house its breed stock. Many of the cages were raised above the ground on concrete blocks. The hunting dogs at the facility below were housed in a shed, but had access to a large outdoor exercise yard.



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This photograph was taken at a research facility. The stacked cages shown were large and clean and the building was air conditioned and did not have a bad odor. While the facility had both cats and dogs, these cages housed cats. The wire mesh of these cages had a vinyl-type coating to help protect the animals' feet.



The cages at this facility were showing wear and needed paint, but were relatively clean. One of the Program's inspectors is shown observing the condition of the animals.

In addition to issuing licenses and registrations and conducting inspections, the Department is authorized to conduct administrative hearings, and it may impose civil penalties of up to \$1,000 for each violation of the Act. If as a result of such a hearing the Department finds that the safety or welfare of animals is endangered, it is required to confiscate those animals.

Has the Animal Health Department Adequately Implemented the Program Regulating the Animal Breeding and Selling Industry in Kansas?

The Department has not adequately implemented this Program. In general, no formal or written policies and procedures have been developed, and management and oversight of the Program and staff hired to implement it have been virtually nonexistent. Partly because of these shortcomings and partly because of insufficient funding and staffing, which will be discussed under question two, the Department has not effectively regulated the animal breeding and selling industry. Effective regulation would include establishing or adopting adequate standards, identifying the facilities that should be regulated, inspecting these facilities and handling complaints, and taking appropriate actions when problems are identified. The Department also must meet specific statutory requirements in several of these areas. We found that the Department has performed poorly in almost all of these areas.

Despite such problems, most individuals and pet store owners who responded to our surveys rated all or most of the animals they bought from Kansas breeders or dealers as generally healthy. These and other findings are presented in the sections that follow.

The Department Has Not Developed and Adopted Procedures For Operating the Program, and Has Provided No Oversight Of the Staff Responsible for Implementing the Program

Virtually no written procedures for operating the Program have ever been developed. Department officials told us that minimal resources and a lack of time have prevented them from doing so. According to those officials, the companion animal veterinarian hired to direct the Program in mid-October 1988 spent most of his time in the field working with inspectors and licensees. When he left the Program in mid-January 1990, his position was not filled.

The Livestock Commissioner, as head of the Department, was left in charge of the Program. A "food animal" veterinarian, the Commissioner acknowledged he had little experience with small animals. He indicated that he considered the primary focus of his job to be in dealing with the livestock programs administered by the Department. (In response to concerns about the operation of the Program, the Animal Health Board recently relieved the Commissioner of his position, and an Acting Commissioner was named.)

The absence of procedures for operating the Program can result in wasted time, inconsistent handling of facilities, and ineffective regulation. For example, when predictable situations arise out of such activities as inspecting and licensing facilities, handling complaints, and seizing animals from substandard facilities, Department inspectors must decide how to handle each situation on a case-by-case basis. In addition, inspectors are located in different parts of the State; without written procedures,

the Department has no formal way of communicating the regulatory activities they are responsible for carrying out.

A lack of procedures makes strong and effective oversight even more necessary to ensure that all regulatory activities are carried out in a way that will accomplish the purposes of the Program. However, the Department exercised almost no management oversight of the Program's activities. Each inspector was made responsible for regulating the facilities in his or her area, including keeping track of licensed and unlicensed facilities, determining when facilities needed to be inspected, scheduling and conducting inspections or reinspections, handling complaints, and initiating or recommending enforcement action. No one within the Department checked to see that these activities were carried out as they should have been, or that they were carried out at all.

We also found that inspectors were allowed to set their own priorities in conducting inspections. For example, one inspector emphasized reinspections and problem facilities, while another emphasized initial inspections and locating unlicensed facilities. Good management practices would call for such priorities to be set by Program management, not by individual inspectors.

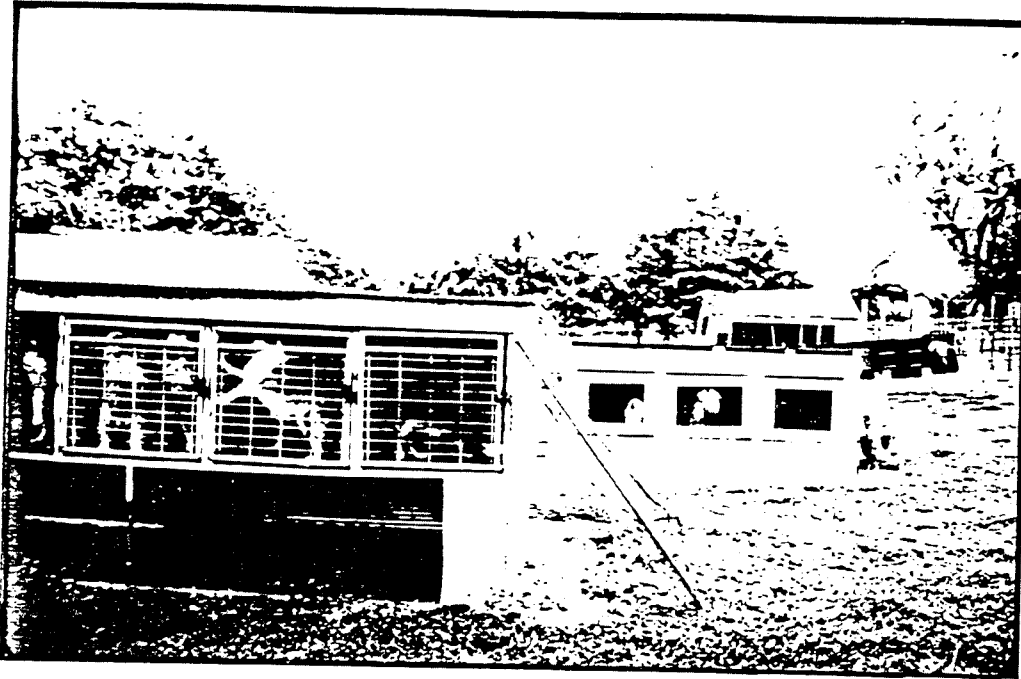
The Department Only Recently Adopted Standards That the Companion Animal Industry In Kansas Had To Meet

The Animal Health Department has inspected pet stores, pounds, and animal shelters since 1972. Regulations adopted in 1974 broadly defined standards for those facilities, including the type of housing allowed, animal health and husbandry practices, and recordkeeping.

The Animal Dealers Act authorized the Department to adopt regulations necessary for the administration of the Act, and listed 16 specific areas the regulations should cover, including the care and treatment of animals, the condition of facilities, inspections of facilities, investigation of complaints, and seizing of animals. The law further stated that the Department could adopt, in whole or in part, the rules and regulations of the federal Animal Welfare Act.

Department officials told us they relied on the standards set out in federal regulations for the first year of the program, but did not formally adopt those regulations at the time because they wanted to determine whether any different regulations may be needed.

In the fall of 1989, the Department proposed standards that were less comprehensive than the federal regulations in some aspects, but were more stringent in others. For example, the proposed standards would have gone further than federal standards in the following areas: requiring licensees to have a veterinarian examine their premises at least annually, disallowing dirt floors in buildings housing animals, requiring that licensees surface animal runs with concrete in new or remodeled facili-



This photograph shows dogs housed in cages that appear to be relatively small compared to the size of the dogs. Breed stock are commonly kept in these types of cages for their entire lives without opportunity to get out on the ground for exercise.



This kennel has many things in common with other facilities we saw. The photograph shows a variety of cage constructions, including a converted mobile home. The facility had a general appearance of being somewhat run down.

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ties, increasing health requirements for animals being sold, and increasing the public's right to receive information and guarantees concerning purchased animals.

Animal breeders and dealers voiced strong opposition to the proposed standards during public hearings, and the Department withdrew its proposal. In April 1990, the Department announced its intention to adopt the Animal Welfare Act and its rules and regulations. They were formally adopted on June 11, 1990.

According to officials in the Department and in the Attorney General's Office, the Department intended to adopt only the portion of the federal regulations covering standards for the care and treatment of animals and the condition of facilities. They indicated that the Department did not need to or, in some cases, did not have the authority to adopt all the federal rules and regulations. For example, the federal rules and regulations set out different licensing categories and fees than State law, and they cover such things as zoos and other animal exhibitors.

The Attorney General's Office has authorized the Department to have the federal rules and regulations repealed, but the Department has not yet done so. As a result, the Department has a set of rules and regulations that are not fully enforceable. Once the federal rules and regulations are repealed, the Department will need to develop or adopt appropriate standards, rules, and regulations for the Program.

The federal standards the Department adopted generally appear to be adequate for the humane treatment of animals, but there are some exceptions. We reviewed the standards outlined in the federal regulations relating to the care and treatment of animals and the condition of facilities, and concluded that most appeared to be adequate. For instance, the standards address such issues as temperature limits and ventilation requirements, shade, soundness of housing structures, flooring requirements, feeding, and food storage. Appendix A presents the federal guidelines for inspection of kennels and catteries, which discusses these requirements in detail.

A few of the standards we reviewed did not appear to provide for the humane treatment of animals, especially animals used as breed stock. Other standards relating to the health and quality of animals sold to the public and the requirements for licenses did not appear to go far enough. These standards and the problems we identified with them are summarized below:

- The standard relating to cage size states that animal pens only need to provide "adequate space to turn about freely and easily stand, sit, and lie in a comfortable position." Under this standard, breed stock can be confined for their entire lives in a space only big enough to turn around in.
- The standard relating to the availability of water requires that it must be available a minimum of twice a day for at least an hour each time. This standard would appear to be inadequate during warm weather. In addition, the standard is virtually impossible for inspectors to enforce.

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fall under State regulation. The Department accepted this information at face value. Department staff said that they attempted to verify the information in a few cases, but that they were busy inspecting the people who had applied for a license and did not have time to follow up.

We compared the August 1989 U.S. Department of Agriculture list of licensees with the Department's records of licensees and registrants to determine whether that list contained a significant number of federally licensed animal breeders and dealers who were not regulated by the State. In all, 599 Kansans were listed in the federal directory, 131 of whom were not currently licensed or registered by the State. Of the 131:

- 56 had been sent applications during the Department's initial mailing in the fall of 1988. In all, 50 people had responded that they were either out of business or did not have enough animals to require licensing. The other six never responded, and the Department took no action to determine whether they should have been licensed or registered by the State. All 56 had current federal licenses as of August 1989.
- 47 reported that they were closed. Many notified the Department after the date of the federal list, so it is possible that they were, in fact, closed. However, the Department does not routinely verify that facilities have actually closed.
- 28 were not listed in any of the Department's records.

Some of these 131 businesses may be defunct, but many may still be operating. It appears likely that the Department could have identified additional licensees if it had followed up on its initial mailing to federal licensees, and that it could continue to identify additional licensees if it compared its records to federal lists on an annual basis.

Our comparison of State and federal records also showed that 112 State-licensed breeders and brokers who told the Department they were also licensed by the U.S. Department of Agriculture were not listed in the federal directory. Licensees would benefit from claiming to be federally licensed because their State license fee would be \$75, rather than \$150. Some of these people may have applied for and received federal licenses after the directory was published. But because the inspectors do not ask to see a current copy of licensees' federal license, the Department has no way of knowing whether these people are properly classified and are paying the correct fee.

In a somewhat related matter, during our review of Department files we noted that the Department had refunded licensing fees at the request of a breeder who indicated she was going out of business. K.S.A. 47-1712 strictly prohibits the refund of fees.

- The standards require removal of feces from animal pens on a daily basis, but it appears that removal of feces from below raised pens would have to be done only twice a month. In a facility with a lot of animals, the amount of feces that could accumulate in several weeks' time would create a significant odor, serve as a breeding ground for parasites, and attract flies.
- The standards address general health requirements for animals maintained in facilities inspected by the State, but they do not address the specific health of the animals at the time of sale. Health certificates are required for animals sold to out-of-State purchasers, but veterinarians are only required to certify that the animals appear to be free from infectious disease; the regulations do not require that animals be free of such common problems as ear mites or worms. The standards do not require health certificates for animals sold within the State. In addition, they do not prohibit breeders from breeding and selling animals known to have such genetic defects as hip dysplasia.
- The only reference to qualifications of licensees in the standards is that they have the knowledge to provide proper care for their animals. We think it would be beneficial to the State if licensees were required to be familiar with the Companion Animal Act and the regulations that govern the program. We also think it would be beneficial to require operators to be familiar with animal health problems.

The Department Has Not Done An Adequate Job Of Identifying the People It Should Be Regulating

A major responsibility in any regulatory program is identifying the people who should be regulated. Recently, a great deal of public concern has been expressed about unlicensed Kansas facilities raising animals in poor conditions. We reviewed the Department's efforts to identify potential animal breeders and dealers, and investigated some alternative methods for identifying these people.

The Department used two approaches to identify potential licensees. First, shortly after the Program began, Department officials obtained two lists from the U.S. Department of Agriculture, one with approximately 550 names of current licensees, and one with approximately 1,800 names of persons whose federal license had expired or who were known to have operated without a license. The Department sent applications for State licensure or registration to people on both lists.

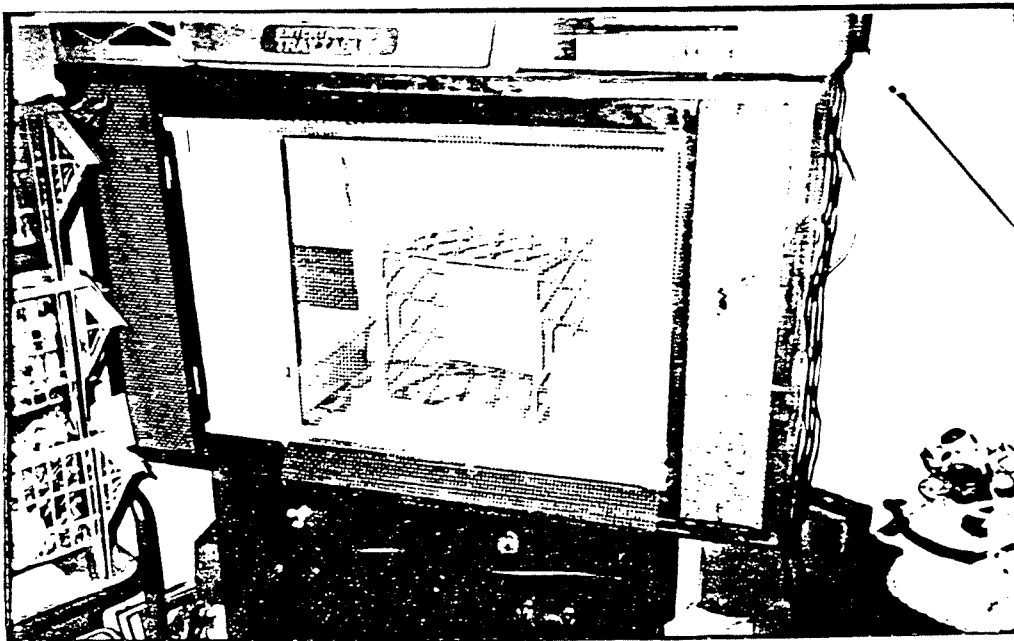
Second, once inspections got under way, Department inspectors started reviewing records from pet stores, animal brokers, and individual dealers showing who they purchased animals from. Applications were sent to any unlicensed people they identified.

The Department did not follow up when people who were on the federal lists reported that they were not in business or did not have enough animals to

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The photograph at left shows stacked cages housing kittens waiting to be shipped from a dealer's facility. The photograph below shows an old television set that was converted into a cat cage at a hobby breeder operation. While such a conversion seems unorthodox, the cat housed in it had adequate room and appeared clean and well-cared for.



Although the Department initially expected to identify a lot of people who were not federally licensed, most of its efforts to date have been directed toward people who had a federal license. We identified other sources that appeared to be likely sources of breeders or dealers who might come under State regulation but not federal regulation.

By checking the sale ads in one issue of a national dog magazine, we identified 23 Kansas breeders advertising dogs for sale. Only six of these breeders were licensed by the Animal Health Department. It seems likely that breeders who sell enough dogs to purchase advertising in a national magazine will sell enough animals to qualify for State licensing or registration.

By reviewing the program from a recent dog show in Kansas, we identified 66 Kansans who were listed as both the owner and breeder of their dogs. Only 7 of these people were licensed or registered by the Department. People in this group may not raise enough animals to qualify for the Program; however, the Department could identify potential licensees from this group.

We also think the Department could identify additional breeders by surveying veterinarians and State extension agents. Both groups are likely to be aware of people who raise companion animals in Kansas. The Department could provide them with lists of licensees and registrants in their county, and request that they list anyone else they know who might qualify for the State program. The Department could then verify whether these people should be licensed or registered.

The most comprehensive approach would involve obtaining records from the American Kennel Club and other purebred registries showing litters of animals registered by Kansas breeders. However, the Department may not have access to this information unless the registries provide it voluntarily. The Department of Revenue recently attempted to subpoena American Kennel Club records to use in sales tax collections. The requested records also would have been extremely useful to the Animal Health Department in identifying breeders. The American Kennel Club stated that it could not readily supply the information requested, and that it did not think the State had jurisdiction to require it to provide that information. The Department of Revenue is not pursuing the matter.

The Department does not require all licensees who operate more than one premises to obtain a separate license for each location. K.S.A. 47-1702 requires animal dealers to obtain a separate license for each animal dealer premises they operate. We found two instances in which the Department had knowingly allowed a licensee to operate multiple kennels with only one license. In the first instance, we encountered a licensee during our field visits with the inspectors who operated two separate premises covered by one license. This licensee had not listed both premises on the license application form, but the State inspector had learned through outside sources that the licensee was operating two kennels. Even though the inspector was aware of this violation, the Department did not require this licensee to obtain another license.

We learned of the second instance through a complaint we received. Our review of this case showed that the individual in question listed six locations in different cities and counties on the fiscal year 1991 license application, but was issued a single license to cover all sites. (In previous years, the individual listed only one location.)

This second case is of particular concern because the individual involved recently served as both Chairman and Vice-Chairman of the Animal Health Board. The Livestock Commissioner indicated that the individual had discussed the situation with him some time ago, but that, because the individual had suggested these were "satellite kennels," the Commissioner had not realized they should have individual licenses. The Commissioner told us he would seek the Attorney General's advice on whether multiple licenses were required for this individual. However, the statute did not appear to be ambiguous.

Finally, we noted that the Department's practices have not been consistent in this area. During our review of licensing records, we identified several people with kennels in multiple locations who had purchased a separate license for each facility, as required.

The Department Has Not Adequately Inspected the Animal Breeders and Dealers It Regulates

The Animal Dealers Act requires the Department to inspect the premises of each breeder or dealer who applies for a license for the first time. Under State law, the Department must license all animal breeders and dealers operating in Kansas by January 1, 1991. After the initial license is issued, the Department is required to inspect licensees who also have a federal license at least once a year, and all other licensees at least twice a year.

Hobby breeders, who are registered rather than licensed, are not required by law to be inspected unless a problem is suspected. In October 1989, however, the Department decided to inspect all registered hobby breeders at least once before the end of fiscal year 1990. It initiated this policy because of evidence that many breeders were inappropriately registering as hobby breeders, allowing them to pay a \$25 registration fee rather than a \$75 or \$150 license fee, and to avoid routine inspection. Beginning in fiscal year 1991, only hobby breeders applying for an original registration would be inspected, unless a complaint was received.

The law also requires the Department to inspect the premises of anyone required to be licensed or registered if there is reason to think that person is violating the Act or its regulations, or if there are grounds to suspend or revoke a license or registration.

We reviewed the Department's records to determine whether it had met these statutory inspection requirements. We also developed a list of criteria that appeared

to be essential elements for an adequate inspection process, and measured the Department's inspection process against them. Those criteria included the following:

- inspections should meet the statutory requirements for frequency
- inspections should be unannounced
- inspections conducted in response to complaints should be timely
- inspections should be conducted using checklists or guidelines to ensure that all requirements are being checked
- inspection reports should be reviewed by supervisory staff

The Department has not inspected all regulated animal breeders and dealers as required by law and its own policy. Because the Department does not maintain summary information on the number of inspections completed, we searched every facility's file to determine how many inspections were actually completed in fiscal year 1990. Our review showed that the Department completed only 584 of the 1,060 inspections required by law and its own policy on hobby breeders. (Inspectors also completed 50 reinspections, which are done to determine whether a facility that failed an inspection has corrected the specific violations noted during that previous inspection.) During most of that year, the Program operated with only two full-time inspectors.

The accompanying table shows how the 584 inspections were divided among the various groups of licensees and registrants.

**Inspections Conducted in Fiscal Year 1990
By Companion Animal Program Inspectors**

<u>Type of Facility</u>	<u>Number of Facilities Licensed</u>	<u>Number of Facilities Inspected</u>	<u>Number of Inspections Required</u>	<u>Number of Inspections Completed</u>
State and Federal Licensees				
Kennels/Catteries	479	292	479	314
Research Labs (a)	10	3	20	3
State-Only Licensees				
Kennels/Catteries	21	19	42	20
Pet Shops/Pounds/Shelters	136	113	272	125
State-Only Registrants				
Hobby Breeders	<u>290</u>	<u>120</u>	<u>247</u>	<u>122</u>
Totals	936	547	1,060	584

(a) Research labs are registered under the federal program.

As the table shows, 936 facilities were licensed or registered in fiscal year 1990. Department inspectors conducted inspections at 547 of those facilities, and completed only about half as many inspections as were required. The table also shows that a few facilities received multiple inspections.

Department inspectors may not be checking for compliance with all applicable standards, and they did not write up some of the violations they saw when

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we accompanied them. As discussed earlier, animal breeders and dealers are required to conform to a number of standards relating to the care and treatment of animals and the condition of their facilities. Inspections are the Department's primary means of determining facilities' level of compliance.

Department inspectors are required to have training in the handling of small animals and their diseases, and to have one year of experience working with small animals and recordkeeping. As part of our audit, we examined records to determine whether inspectors had the minimum qualifications required for the job. Both current inspectors' qualifications far exceeded the minimums. However, one inspector who is no longer with the program did not appear to have met the minimum qualifications, and another former inspector was hired in apparent violation of the statutory prohibition against having a beneficial interest in a licensed facility.

We also accompanied the Department's two inspectors on nine days of inspections to assess how strictly they applied the standards, how thorough they were, and how efficiently they appeared to conduct their inspections. During these nine days, we witnessed inspections of 20 breeders, two dealers, one research facility, two pet stores, and one pound.

On average, the inspectors spent about 45 minutes on each inspection, although the time ranged from 20 minutes at the pound to nearly two hours at a kennel. About half that time was spent looking at animals, with an apparent emphasis on their health and cleanliness. Inspectors spent the rest of their time reviewing records to try to identify unlicensed facilities.

Generally, the inspectors appeared to be knowledgeable and conscientious in carrying out their jobs. However, we were unable to tell during these inspections whether the inspectors checked for compliance with all applicable standards. One reason may have been that the inspectors were so familiar with some standards that they could check for compliance merely by looking at something rather than having to "do" anything. In addition, standards relating to such things as minimum temperatures may not be applicable during certain times of the year.

From a management oversight standpoint, however, the problem is that the Department does not require inspectors to record the specific items checked during an inspection. The Department's inspection form does not provide a checklist of all the standards inspectors are required to check against. As a result, the Department has no assurance that inspections are complete and consistent.

We also noted several instances in which inspectors did not write up what appeared to us to be violations. These apparent violations included such things as unpainted surfaces in facilities that were otherwise acceptable, and failure to thoroughly sanitize (wash with soap and water and disinfect) the cages, rooms, and runs every two weeks. We also observed occasions in which the inspectors told the licensee to do something, such as paint or improve ventilation in a building, which was not written up as a violation. Without written documentation, it is unlikely that the inspectors

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will remember to check for these improvements during subsequent inspections or re-inspections. In addition, the licensee may be less likely to correct problems that have not been officially documented.

Both inspectors told us they do not necessarily try to document every problem they find at a facility. If a facility has numerous problems, they said, they write up only the major violations. The inspectors indicated that they would document the less serious violations during subsequent inspections.

By following this practice, inspectors allow licensees to operate out of compliance with some of the regulations, and licensees may get the impression that the way they are operating is allowable. In light of the infrequency of inspections, it may be a long time before a facility is inspected again. An additional problem is that inspectors may be inconsistently applying the standards for different licensees.

Finally, during our review of inspectors' activity reports we found that their timesheets did not reflect actual hours worked. Department officials instructed inspectors to report no more than 40 hours of work per week and to make up overtime by taking time off in other weeks. This compensatory time is reported on timesheets as "in office" time, and cannot be distinguished from actual time spent doing paperwork and preparing schedules. Without accurate time reporting, Department management has no quantifiable way to determine how inspectors actually spend their time.

The Department did not investigate 11 of the 27 complaints we reviewed, and its investigations for most the other complaints were not timely. There was no information in the files to indicate why the Department did not investigate these 11 complaints, seven of which complained about unsanitary conditions, cruelty to animals, or sick animals.

For the remaining complaints, inspections were conducted in response to four complaints within two weeks, three more were acted on within one month, and one was not acted on for four months. In eight cases, the Department's documentation was inadequate to determine when the complaint investigations were completed.

Department officials told us that a copy of each complaint is sent to the inspector who covers that geographic area to investigate as quickly as possible. However, the Department has not established timeframes within which complaints should be investigated. Timeliness is especially critical if a complaint alleges that an animal's health, safety or welfare is endangered.

The Department Has Not Taken Appropriate Enforcement Actions When Problems Were Identified

The effectiveness of a regulatory program can depend on how well the regulatory agency enforces the standards and requirements governing the regulated industry.

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The Department has several levels of enforcement action at its disposal. The Animal Dealers Act requires it to conduct administrative hearings if it plans to refuse to issue or renew a license or to revoke a license. The Department also has the statutory authority to impose fines of up to \$1,000 per violation, and is required to seize animals whose health, safety, or welfare is endangered. Thus, if a facility does not sufficiently correct violations noted during an inspection, or if a facility fails to renew a license or refuses to be licensed or registered as required by law, the inspectors can refer the facility to the Department for an administrative hearing to begin the process of fining the facility or revoking its license or registration.

A facility also can be referred to the local county or district attorney or to the Attorney General's Office if the situation merits criminal prosecution, or if the inspector determines that animals should be seized because their health, safety, or welfare is endangered.

We reviewed the Department's records to determine what actions it had taken in response to problems identified within the companion animal breeding and selling industry. We also developed a list of criteria that appeared to be essential elements for an adequate enforcement process, and measured the Department's actions against them. Those criteria included the following:

- when problems are identified during a regular inspection or as a result of a complaint, inspectors should return for a reinspection on or near the date the inspector set for the operator to correct the problem
- the Department should seize animals endangered by substandard conditions or treatment
- the Department should impose fines and restrictions for noncompliance with Program requirements
- in serious cases of noncompliance, the Department should seek assistance from sheriffs and county or district attorneys

Reinspections often were not done or were not conducted on a timely basis. We reviewed the records for a sample of 103 facilities in-depth. In all, 12 facilities were cited for violations between January 1, 1989, and June 30, 1990. The types and number of violations identified during inspections were as follows:

Need to paint	6
Redo flooring in dog runs	5
Need overall clean-up or sanitation	5
Remove feces	3
Need repairs or general fix-up of buildings	3
Finish constructing buildings or cages	3
Other (includes ventilation, grooming, sick animals)	6
Total violations identified	31

Department inspectors gave these 12 facilities from three days to six months to correct all the violations noted. In some instances, the times inspectors allowed for



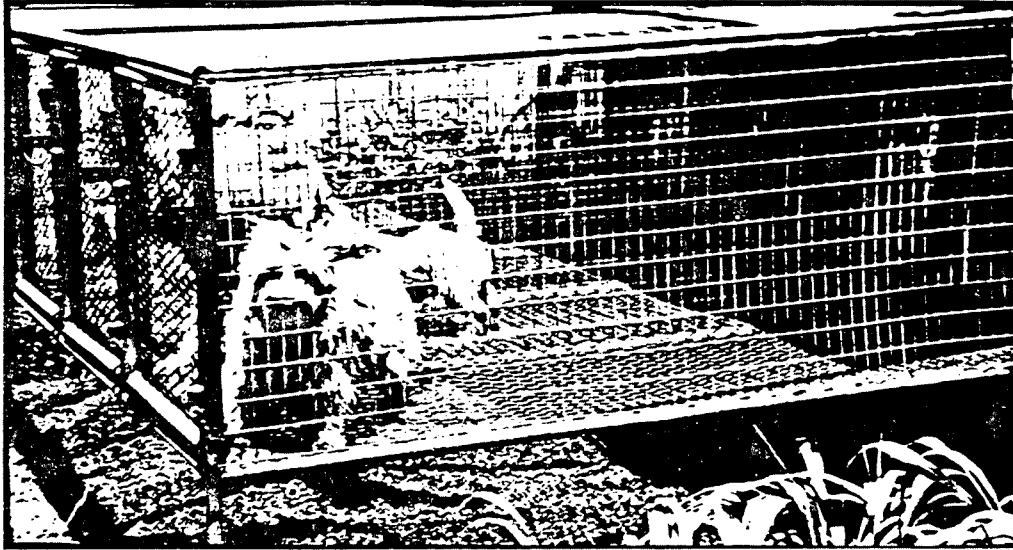
The photographs on this page and the next show conditions at an unlicensed facility. The two pictures on this page show a considerable amount of feces beneath dilapidated cages. One cage in the lower picture was missing a door, but was still used to house dogs.



The cages shown at the top of the next page appeared to be of good quality, but no food or water was visible and the area under the cages had not been cleaned out in some time. The middle picture shows what appeared to be a long-dead animal in a wheelbarrow. Finally, the bottom picture shows dogs that appeared to be dirty and in need of grooming. It also shows feces in the cage.

After our visit, Department officials initiated enforcement actions to close the facility. The actions were stayed by the Department upon notice from the operators that they agreed to apply for a license and clean up the facility. Department officials informed us that they have visited the facility and found it to be much improved since these photographs were taken. Improvements noted by the Department included installation of better cages, removal of feces, and improvements in overall sanitation. However, the operators had not yet applied for a license.

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The Department's Response To Complaints Is Frequently Inadequate

The Department's response appeared to be inadequate in 20 of the 27 complaints we reviewed. The following examples illustrate the problems we identified.

In one instance, the Department received a complaint from a private citizen about a suspected unlicensed kennel. An inspector visited the facility in August 1989. Documentation in the file indicates the inspector told the operators they needed to obtain a State license to continue operating. The operators subsequently sent in only part of the license fee. The inspector visited them again in October 1989; no inspection was done, but the inspector prepared a memo to the file stating that the smell from the facility was extremely bad. The file contains no documentation of further visits. However, the inspector indicated that she had attempted to inspect the facility on numerous occasions between October 1989 and June 1990. It appeared that the Department would have pursued this course of action indefinitely. Finally in June 1990, upon receipt of information from the Humane Society of the United States, the Attorney General's Office

conducted a raid on the facility. The Department's inspector accompanied officials from the Attorney General's Office and the Humane Society on the raid. No information about the many attempted inspections or about the raid appears in the Department's file on this facility.

In another example, the Department received a letter of complaint in October 1989 concerning a cattery that was described as filthy and disease-ridden. A Department inspector inspected the facility in November. The inspection revealed problems with poor sanitation, walls and flooring in need of repair, and sick cats. The inspector directed the operator to obtain veterinary care for the sick animals, have the veterinarian write to the inspector to describe the treatment provided, and remedy the unacceptable conditions by January 1990. The Department's file includes a letter written in December by the attending veterinarian listing the problems he diagnosed and outlining the treatments he had prescribed. The file contains no evidence of a follow-up inspection to-date by the inspector to verify that conditions were fixed.

conditions to be fixed appeared to be inconsistent. For example, one facility was given about four and one-half months to do needed painting, while another was given only about one month. Besides looking bad, unpainted surfaces can be a problem because they are not impervious to moisture, as required by the standards. We were unable to tell the extent of the problems in these two cases from the inspection forms.

We found that the Department reinspected six of these 12 facilities on or very near the deadline established by the inspectors for correcting the deficiencies. Of the six remaining facilities, one was not yet due for reinspection, and one had not been assigned a reinspection date because the operator was completing new construction to remedy the substandard condition when the inspection was conducted. Another facility was inspected about four months after the reinspection was due, but Department records do not specifically show whether the violations identified in the initial inspection were corrected. Finally, inspections had not been done for the other three facilities. Those inspections were from one month to 10 months overdue.

Action taken in response to complaints was inadequate in nearly three-fourths of the cases we reviewed. In 20 of the 27 complaints we reviewed, the action the Department took was inadequate to fully address the problem. As noted earlier in this report, the Department did not investigate 11 of these 27 complaints. In nine other cases, we concluded that the Department's actions were insufficient to fully resolve the problem. These nine complaints alleged the following types of problems:

<u>Alleged Problem</u>	<u>Number Of Complaints</u>
Poor conditions, sick animals, or mistreatment of animals	4
Dirty or noisy kennels	2
Lack of food and water	1
Unlicensed kennel	1
Nature of complaint not documented	1

Inspectors investigated seven of the nine complaints. In another instance, they attempted to investigate but were never able to find the operator at home. The remaining complaint alleged excessive noise from dogs, and the Department's only action was to have a letter sent from the Attorney General's Office stating that the individual needed to apply for a license.

When problems were found, the inspectors directed the facility owner to correct them. However, often no follow-up action was taken to ensure that the changes were made and the problems corrected. In addition, because the Department did not keep a complaint file or log, it had no way of knowing the status of any complaint it received.

In reviewing complaints, we noted that the Department did not appear to be in compliance with K.S.A. 47-1709, which requires that complaints filed with the Livestock Commissioner be kept confidential. The Department placed complaints in the breeders' individual files, which are open to the public.

Inspectors' recommendations to the Department to take action against problem breeders were simply filed away, and no action was taken. As we reviewed individual breeders' files, we noticed instances in which an inspector recommended that the Department take legal action against a breeder for repeated or severe problems and failure to comply with Program requirements. The Department has not established any procedures for inspectors to report when they think such action is merited. The inspectors generally wrote their recommendations on the inspection forms, which were simply filed in the breeders' files.

No one within the Department reviews these forms, and no listing exists of the facilities for which inspectors have recommended that legal action be taken. Department staff told us that the program director apparently reviewed inspection forms as they came in, and would have been aware of problem facilities. However, the program director's position has been vacant since January 1990.

The Department has seldom used its statutory authority to seize animals, revoke licenses, and issue fines. The Department has not adopted administrative regulations or developed internal procedures relating to holding administrative hearings, imposing fines, or seizing endangered animals. Regulations or procedures in these areas would allow the Department to take swift, consistent action. Regulations would also put the industry on notice as to the actions the Department would take in certain situations, and they would carry the force of law.

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**Purchasers of Kansas Animals
Expressed Mixed Views About
The Quality of Animals**

We sent surveys to 112 people and pet stores who purchased animals from Kansas breeders and brokers between January 1990 and May 1990 to see how they viewed the quality of the animals. We received 68 completed surveys for a response rate of 61 percent. In addition to answering specific questions, 46 respondents added written comments. The comments relating to the quality of animals purchased from Kansas were mixed. Some of those comments are presented below. Results of the full survey are contained in Appendix B.

- 17 of the comments indicated that the respondents had received sick animals from Kansas:

- *The puppy was having convulsions in the shipping crate at the airport, ... and died three days later.*

- *The animals purchased had severe cases of kennel cough.*

- *All dogs had worms, ear mites, and kennel cough.*

- *We have been disappointed enough ... to discontinue ordering from (a Kansas broker), in favor of a California broker.*

- *... the worst animals I have ever run across in 28 years in business.*

- On the other hand, 15 of the respondents said they were happy with the quality and health of the animals purchased from Kansas:

- *My purchases from Kansas breeders and brokers have in most cases been very satisfactory.*

- *The quality of their puppies is beyond reproach. If the quality of all Kansas puppies were as good as the ones that I receive, 20/20 would have nothing to write about.*

- *We have purchased puppies and kittens from Kansas brokers for over 20 years. The quality has improved greatly over the years.*

- *I have been very satisfied with the puppies I have received from my Kansas breeders and brokers, and so have my customers.*

- *We have purchased 400 puppies from our broker, ... and only lost one, which was replaced.*

ment staff maintain a file folder on each individual licensee or registrant, but do not compile any summary information from the data contained in those files. To determine the number of inspections completed in fiscal year 1990, we had to go through more than 1,000 individual files. The Department keeps no data on the number or

The Department's enforcement actions were very limited before the recent involvement of the Attorney General's Office. The Department held one administrative hearing in June 1989, in which it ordered a breeder to sell or surrender dogs within 48 hours. (Department files do not indicate whether the breeder complied with the order.) In February 1990, the Department referred a facility to a county attorney for prosecution, and in May 1990 it seized animals from a facility whose owner was prosecuted by another county attorney on cruelty charges. The Department has never used its authority to issue fines.

**The Department Has Not Compiled Any
Data Showing How Well the Industry Is
Complying With Regulations**

Data that show how well the industry is complying with regulations serves multiple purposes. Management should use it to determine whether staffing for the Program is adequate, whether resources need to be concentrated in particular areas, what types of problems are occurring in the industry, how widespread they are, and the like. In short, such information is essential to effectively manage a program. Such data are also necessary for the Governor and the Legislature to consider in recommending and appropriating funding for the program. Finally, such information should be available to the public so they can determine what level of confidence to have in the industry.

The only data the Department keeps is the number of current licensees and registrants. It does not collect any information on the Program or its results. Department

types of complaints received, or the number of facilities against which some type of enforcement action was taken.

More Than Three-Fourths of the People Who Responded To Our Survey Rated All or Most Animals They Bought From Kansas Breeders or Dealers As Generally Healthy

To learn how purchasers viewed the quality of companion animals sold by Kansas breeders and dealers, we surveyed a sample of 112 individuals and pet stores who purchased animals from Kansas operators. We received 68 responses, for a response rate of about 61 percent.

Despite the problems we identified with the Department's operation of the Program during this audit, the survey responses were generally positive.

- About 78 percent of the respondents rated all or most of the animals they bought from Kansas breeders or dealers as generally healthy.
- Two-thirds of the respondents indicated the animals they had purchased since January 1, 1990, generally had about the same number of health problems as animals purchased before that date. About one-fourth of the respondents said that animals they bought from Kansas were generally more healthy since that date. This question was designed to indicate whether the health of animals sold has improved since the Program started. Using January 1, 1990, as the comparison date provided one year of inspections to affect the industry. This may not be enough time to effect a significant change.
- Almost half the respondents said that the animals animals they bought from Kansas had about the same number of health problems as animals from other states. The remaining responses were mixed. Nearly 30 percent said these animals had more health problems than animals from other states and about 25 percent said these animals had fewer health problems than animals from other states.

A copy of the survey document, along with complete responses, is presented in Appendix B of this report.

Conclusion

The Animal Health Department has not adequately implemented the Companion Animal Program and has not effectively regulated the companion animal industry. Nearly 1,000 animal breeders were licensed or registered in fiscal year 1990, but the Department's procedures for identifying breeders are so weak that there is no reason to think it has located everyone who should be regulated. The limited number of inspections conducted and

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the possibility of incomplete or inconsistent inspections increase the likelihood that some licensed breeders are operating in violation of the Department's standards for humane treatment of animals. The Department's failure to routinely take enforcement actions when appropriate has created a situation in which both licensed and unlicensed breeders can violate the law with impunity. And because the Department keeps no statistics on the activities of the Program, its ability to take corrective action is impaired because it does not know the full extent of its problems.

Does the Regulatory Program Appear To Be Funded and Staffed To Efficiently and Effectively Carry Out Its Responsibilities?

The Companion Animal Program does not appear to be funded and staffed at a level sufficient to carry out its responsibilities. License and registration fees were only about one-fourth as much as anticipated in fiscal years 1989 and 1990 because the Department initially estimated it would license or register about four times as many facilities as it has. Transfers from other Department funds and supplemental General Fund appropriations have been made to keep the Program in operation. The Department also cut staffing for the Program by more than half, but current license and registration fees cannot support even these very reduced staffing levels.

At reduced staffing levels in fiscal year 1990, the Department fell far short of meeting all inspection requirements. Several factors have had an impact on the number of inspections Department inspectors could conduct, including a Department policy that resulted in a significant waste of inspectors' time, inspectors' handling of administrative tasks that normally would be handled by Program management, and travel requirements. These and other findings are discussed in the sections that follow.

Fees Were Not Sufficient to Support the Program In Fiscal Years 1989 and 1990 Because the Department Significantly Overestimated the Number of Facilities It Would License or Register

Before the Program began operating, the Department estimated that it would license or register nearly 4,000 facilities, and that inspectors would be able to conduct an average of about 800 inspections per year, or four per day. Thus, officials originally estimated that five companion animal inspectors would be needed, plus a Program director and secretary. The 1988 Legislature authorized four inspector positions, a companion animal veterinarian position to head the Program, and a full-time office assistant to handle secretarial duties.

License and registration fee amounts were established with the intention that the Program would be self-supporting. They were established on the basis of the Department's assumptions about the potential number of facilities to be licensed or registered and the number of staff needed to operate the Program. The fee structures were incorporated into the law.

The following table shows the estimated and actual Program revenues and expenditures for fiscal years 1989 and 1990. The table also shows estimated revenues and budgeted expenditures for fiscal year 1991.

**Estimated and Actual Revenues and Expenditures
For the Companion Animal Program
Fiscal Years 1989, 1990, and 1991**

	1989		1990			1991
	<u>Estimated</u>	<u>Actual (a)</u>	<u>Estimated</u>	<u>Revised</u>	<u>Actual</u>	<u>Budgeted</u>
REVENUES						
Fees from Licenses and Registrations	\$307,175	\$ 93,350	\$307,175	\$ 68,350	\$ 74,305	\$70,350
Transfers	33,800	45,800	0	0	105	0
General Fund	0	30,000	0	120,000	20,000	0
TOTAL REVENUES	\$340,975	\$169,150	\$307,175	\$188,350	\$94,410	\$70,350
EXPENDITURES	\$113,733	\$102,620	\$200,071	\$163,680	\$110,676	\$67,150

(a) Actual expenditures shown for fiscal year 1989 were for less than a full year. The Program was not fully staffed until January 1989.

As the table shows, license and registration fees actually collected in fiscal years 1989 and 1990 were only about one-fourth the amount anticipated. As a result, the Department was unable to staff the Program as it had intended, and has needed additional operating revenues in the form of supplemental General Fund appropriations and transfers from other Department funds.

Fee revenues were so much lower than expected because of faulty assumptions about the number of facilities that would be licensed and registered. The Department estimated it would find many more non-federally licensed facilities and hobby breeders than it has to date. The table on the facing page breaks out the numbers of each type of facility the Department anticipated it could license or register and shows, based on the fee structure, how much revenue would have been generated by each. The table also shows the number of each type of facility that actually was licensed or registered in fiscal year 1990, and the dollar difference between estimated and actual revenues.

As the table shows, the Department licensed or registered 936 facilities in fiscal year 1990, or only about one-fourth as many as it anticipated. Two types of facilities accounted for most of the difference in estimated revenues. First, the Department estimated it would license 1,270 non-federally licensed facilities; it licensed only 21 such facilities in fiscal year 1990. Second, the Department estimated it would register a total of 1,925 hobby breeders; it registered only 290 in fiscal year 1990.

Department officials said they based their estimates on U.S. Department of Agriculture figures, which indicated that 150,000-170,000 puppies were being sent out of Kansas every year. According to Department officials, such large numbers of puppies suggested to them that Kansas had a large number of breeders. However, once mm

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**Revenue Calculations Based On Fiscal Year 1990 Figures
By Number and Type of Facility**

Type of Facility	Fee	Initial Program Estimates		Fiscal Year 1990		Dollar Difference
		Projected Number	Projected Revenues	Actual Number	Calculated Revenues (a)	
State and Federal Licensees						
Kennels/Catteries	\$ 75	550	\$ 41,250	479	\$ 35,925	(\$ 5,325)
Research Facilities	150	12	1,800	10	1,500	(300)
State-Only Licensees						
Kennels/Catteries	150	1,270	190,500	21	3,150	(187,350)
Pet Shops, Pounds, and Shelters	150	170	25,500	136	20,400	(5,100)
State-Only Registrants						
Hobby Breeders	25	1,925	48,125	290	7,250	(40,875)
TOTALS		3,927	\$307,175	936	\$68,225	(\$238,950)

(a) Total fiscal year 1990 fee revenues shown in this table are less than actual fiscal year 1990 fee revenue shown in the previous table by about \$6,000. The Department does not record fee revenues by different categories of facilities. For this table, we calculated revenues from each category based on our count of the number of facilities licensed or registered in fiscal year 1990. Thus, the dollar differences shown in the last column are slightly overstated.

the Program began operating, Department officials said they learned that the U.S. Department of Agriculture's numbers of Kansas puppies apparently included puppies that were raised in out-of-State kennels, sold to several large Kansas brokerage operations (or licensed dealers), then shipped out-of-State to pet shops and other facilities.

**Fee Revenues Are Not Likely To Be Sufficient
To Operate the Program In Fiscal Year 1991,
Even At Very Reduced Staffing Levels**

As the table on page 28 showed, the Department's estimated fee receipts for the Companion Animal Program for fiscal year 1991 were \$70,350. That figure is in line with actual fee receipts from the two previous years. The Department's estimated expenditures for the year were \$67,150, a figure that is nearly \$44,000 less than the Program's actual fiscal year 1990 costs.

The Department expected to reduce Program costs for 1991 by keeping its staff size down. During fiscal year 1990, the Department reduced its inspection staff from four inspectors to two inspectors. In addition, the program director left about halfway during the year and was not replaced, and the office assistant was assigned to the Program on only a half-time basis.

Using salary information from the State's payroll system, we estimated that the Department's fiscal year 1991 expenditures for its two current inspectors and one half-time office assistant would actually be \$10,000 more than the Department has

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Other Companion Animal Inspection Programs Are Not Self-Supporting

We talked with officials responsible for operating three other companion animal inspection programs (the U.S. Department of Agriculture and the states of Illinois and Iowa). None of these programs is completely funded by fees collected from regulated facilities. Estimates of the amount of expenses paid by fees varied from 5 percent (federal) to 50 percent (Illinois). The basis for their fees, and the amounts, are as follows:

USDA: Annual fees are based on total sales, and range from \$30 to \$750. In addition, the regulated facility must pay a \$10 application fee for the license and each renewal.

Illinois: Each regulated facility must pay \$25 for a license and for annual renewals. An additional \$15 is charged if the fee is paid after July 1.

Iowa: Fees vary by type of facility, such as pounds, pet shops, kennels, and dealers. Fees are also different for facilities that are licensed with the federal government. Fees range from \$15 to \$100.

Kansas: Fees are based on the type of facility, and are less if the facility is licensed by the federal government. Fees range from \$25 to \$150.

budgeted. In other words, its budgeted expenditures for fiscal year 1991 appear to be \$10,000 too low. Even at very reduced staffing levels, then, the Department's estimated fee receipts will be too low to support the Program.

As noted earlier, license and registration fees for animal breeders and dealers were set with the intention of making the Program self-supporting, and were based on early assumptions about the number of facilities to be regulated. The Department has not sought to change the fee levels set in law, even though fee receipts were so much less than anticipated in fiscal years 1989 and 1990, and apparently will not cover fiscal year 1991 costs.

We talked with officials from the U.S. Department of Agriculture, Illinois, and Iowa about their companion animal inspection programs, and found that none of these programs is completely funded by fees collected from regulated facilities. Estimates of the amount of expenses paid

by fees were five percent for the federal program, 25 percent for Iowa, and 50 percent for Illinois. The accompanying profile shows the types of fees charged for these three programs.

The Department Did Not Conduct the Required Number of Inspections in Fiscal Year 1990 at Reduced Staffing Levels

The Department does not compile information on such things as the number of inspections conducted. For fiscal year 1989, we reviewed a sample of 62 licensee files and found that the Department had conducted at least one inspection at every federally licensed facility, and had come fairly close to inspecting each State-only licensed facility at least twice, as required by law.

For fiscal year 1990, we reviewed all facility files for fiscal year 1990 and found that the Department had conducted only 584 of the 1,060 inspections required by law and its own policy on hobby breeders that year, or 55 percent. The Department initially estimated that each Program inspector could do 800 inspections per year, although in its fiscal year 1991 budget request (submitted in the fall of 1989) the Department revised that estimate downward to about 350 per year. In fiscal year 1990, the two inspectors currently with the Program conducted 552 of the 584 inspec-

tions done, or an average of 276 inspections each per year. They also conducted an average of 24 reinspections each per year.

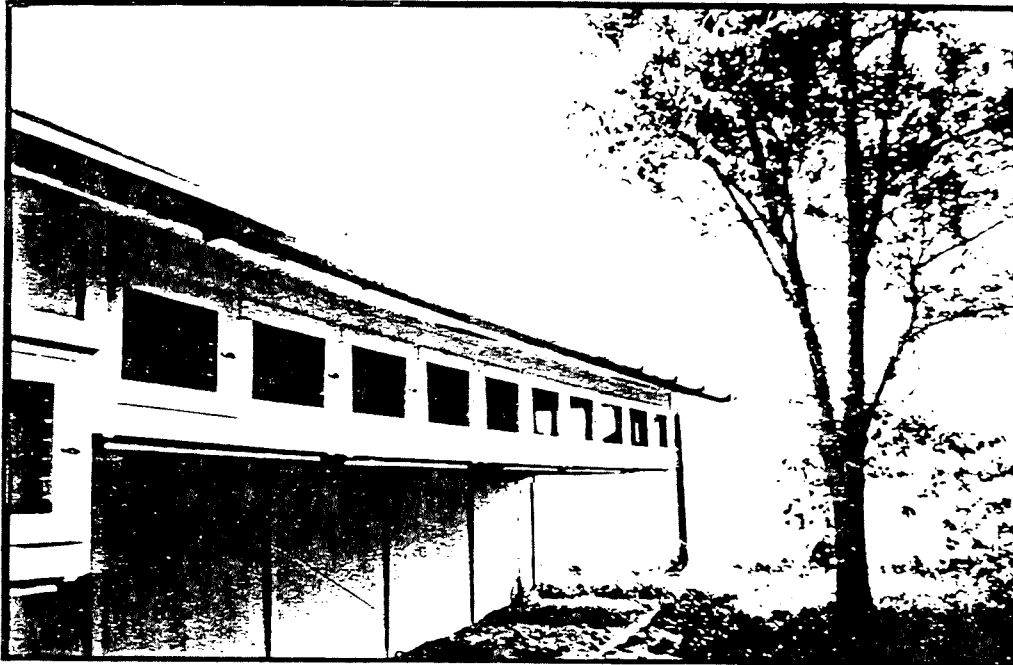
We looked at several factors that could influence the number of inspections conducted by Department inspectors. Again as described in question one, the absence of standardized written policies, procedures, or appropriate regulations can result in an inefficient use of inspectors' time. Other factors we identified that likely had an impact included the following:

- **A Department policy that inspectors could not inspect facilities if the owner was not home or was "just leaving."** The number of inspections conducted can depend on how efficiently inspection visits are scheduled. Our review of two months of inspector activity reports showed that initial schedules appeared to be efficient; that is, inspectors appeared to be planning their visits in the most direct routes. However, inspectors lost a significant amount of time because of this Department policy.

Because inspections are unannounced, some operators may be away from their facilities when the inspectors arrive. Of the 261 visits the inspectors made during the two-month period, 152—about 58 percent—resulted in no inspection being conducted because the facility operator was not home, was "just leaving," or perhaps simply did not answer the door. We noticed during the nine days we spent accompanying inspectors that about one-fourth of their time was spent driving to and from facilities where no inspection was conducted.

Recently the Attorney General's Office indicated that facility operators do not have to be present for an inspection to be conducted. Adopting such a policy would lead to more productive use of inspectors' time.

- **Inspectors are handling administrative tasks that normally would be handled by Program management.** We found that inspectors spent considerable time coordinating enforcement activities with law enforcement officials, developing inspection forms, appearing before legislative committees, and working on proposed changes to regulations. When we accompanied inspectors, we noted that 20 percent of their time was spent conferring with Department officials and others—or driving to and from such conferences—about problems they had found at facilities during previous inspections and about potential enforcement actions. Apparently, much of this work used to be done by the program director. We also found that inspectors performed such tasks as routine correspondence and photocopying that could be performed by clerical staff. Although inspectors may need to spend some time on such activities, such heavy involvement significantly reduced the time available to conduct inspections.
- **Travel requirements.** The two inspectors have to cover a very broad territory. When we accompanied them on inspections, we found that they spent a total of 58 percent of their time driving.



These cages show the outside portions of runs that also were partially inside the building. They appeared to be well-constructed and the area beneath them was free of debris and feces. There were similar runs built into the other half of the building.



The kennel photographed here also had runs that were built with inside and outside sections. However, unlike the well-constructed building shown above, this facility was in need of paint and general repair.

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Without significant changes in the way the Companion Animal Program is being operated, it appears unlikely that the Department will be able to efficiently and effectively inspect animal breeders and dealers as often as is currently required by law.

**Federal and State Regulation of This Industry
Overlap Somewhat, and Many Animal Breeders and
Dealers We Surveyed Thought It Unnecessary
To Have Dual Regulation**

In fiscal year 1990, 479 of the 936 facilities the Department licensed also were licensed by the federal government. Under the federal program, facilities are generally inspected at least once per year. Although State regulation of federally licensed facilities was started, in part, because of concerns about the adequacy of federal inspections and enforcement efforts, it is nonetheless true that these two programs overlap.

We surveyed a sample of 144 breeders and dealers regulated by the State. We received 85 responses, for a response rate of 59 percent. Nearly three-fourths of the respondents thought it was unnecessary to have dual regulation of the industry. At the same time, it should be noted that 85 percent thought the current number of federal and State inspections was about right or should be increased.

Some respondents also commented about inconsistencies between federal and State inspectors as to how regulations should be interpreted. In addition, slightly more than two-thirds of the respondents indicated the quality of State inspections was adequate to protect companion animals. Thirteen percent thought the quality was inadequate, and 20 percent reported that they did not know. A copy of the survey document, together with complete responses, is presented in Appendix C.

In some programs operated at both the State and federal levels, the two governments coordinate their activities to minimize duplication of effort. For instance, State grain inspectors act as the federal government's agents when conducting inspections, and the cost of inspections is shared by both governments. The Banking Department accepts federal examinations in lieu of its own examinations.

In light of its limited resources, the Department may want to consider options for operating the Companion Animal Program in a more cost-effective manner. One option would be to accept a federal license and inspection in lieu of a State license and inspection. Another option would be for the Department to continue licensing facilities but to target its regulatory efforts toward facilities that are unlicensed or that federal or State inspectors have identified as having problems. Under this option, the Department could inspect other facilities on a periodic or spot-check basis.

Although these or other options for coordinating the Companion Animal Program with the federal program may help eliminate duplication and may allow the Department to better address problem facilities operating in Kansas, they could not be

made without a change in the Animal Dealers Act. In addition, the Department would need to satisfy itself that the inspections performed by federal inspectors met the needs and concerns of Kansas' Program.

Conclusion

The Companion Animal Program has not been administered, managed, funded or staffed to the extent needed to efficiently and effectively carry out the Legislature's intent in creating the Program. During this audit there has been considerable public discussion of moving the Program to another agency. Any agency that houses this Program—whether the Animal Health Department or another agency—will need to address the serious problems identified in this audit. Regulation of the animal breeding and selling industry can be made more effective and efficient, but that will take strong leadership and commitment.

Recommendations

Overall Management Recommendation for the Animal Health Department and Board

1. To ensure that the Companion Animal Program meets the Legislature's intent in establishing the Program and is adequately funded, staffed, and managed, the Animal Health Department and the Animal Health Board should develop a comprehensive plan for effectively and efficiently operating the Program. Such a plan should be submitted to the 1991 Legislature for its review and approval. In preparing the plan, the Department and the Board should consider the problems identified throughout this report, and should at a minimum address the following:

- a. *Rules, regulations, policies, procedures, and standards that are needed to effectively operate the Program and oversee its activities.* The Department should move forward to repeal the federal regulations it adopted in error, and should either adopt the federal standards it intended to adopt or develop and adopt other applicable standards. In developing or adopting new rules, regulations, policies, and procedures, the Department and the Board should ensure that the following areas are adequately addressed:
 - the assignment of complaints for investigation and the timeframes developed for investigating them
 - the assignment of consistent deadlines for correcting similar violations noted during inspections

- inspectors' access to facilities to conduct inspections
 - situations that lead to an administrative hearing, and the actions preceding and following such a hearing
 - penalties that will be imposed for violating provisions of the Animal Dealers Act, and the actions leading up to the imposition of such penalties
 - situations that lead to seizing animals endangered by substandard conditions, and the actions leading up to such seizures
 - management and oversight of the Program to ensure that facilities receive the minimum number of inspections required by law; that inspection priorities are established by Program management; that inspections are complete, consistent, and efficiently scheduled; that complaints are investigated on a timely basis and appropriate actions are taken to correct any problems identified; that reinspections are performed on a timely basis; that appropriate Department personnel are informed of recommended actions against problem or unlicensed dealers; and that appropriate enforcement actions are initiated, are taken when necessary, and are adequate to address the problems identified.
 - animals sold both in-State and out-of-State are free from health and genetic problems. Federal health certificates are currently required only for out-of-State sales and do not address genetic problems.
- b. *The number and type of staff needed to effectively operate the Program and oversee its activities.* In determining how many inspectors are needed to meet the Program's inspection requirements, the Department and the Board should review and revise any policies that result in a significant waste of inspectors' time, and should strongly consider the need for a full-time director to manage day-to-day operations and oversee Program staff and results. The Department and the Board also should ensure that all future Program employees meet the minimum qualifications outlined for their jobs, and do not have conflicting interests with the industry they will be regulating.
- c. *Short-term and long-range funding needs.* The Department and the Board should develop realistic estimates for adequately funding the Program. The need to raise or revise current licensing and registration fees to help meet any additional Program costs should also be considered and addressed. In developing these estimates, the Department and the Board should consider the effects of such options as coordinating more closely with the federal program and targeting inspection and enforcement activities toward known problem facilities or unlicensed facilities. If the Department and the Board think these or other options for operating the Program

may be cost-effective and in the State's best interest, they should develop alternative funding needs for such options and should propose appropriate changes to the Animal Dealers Act.

- d. *The information needs of the Department and the Legislature.* The Department and the Board should collect and report summary information that shows how well the industry is complying with the Animal Dealers Act. Such information should include the numbers of licensees and registrants, inspections completed, violations found, enforcement actions taken, and other information that officials deem necessary to evaluate how well the Program is working to improve the conditions under which companion animals are raised and sold.

Specific Recommendation Relating to Standards for the Health and Humane Treatment of Animals

2. To help ensure that animal breeders and dealers treat companion animals in a humane fashion, the Department should consider making the following changes to the standards that animal breeders and dealers must adhere to:

- increasing space requirements for cages and runs or exploring other alternatives for ensuring that animals' housing conditions are humane
- increasing requirements for providing water during warm weather
- improving sanitation of areas under raised cages and runs

Specific Recommendations Relating to Proper Licensing, Registration, and Payment of Fees

3. To ensure that all animals breeders and dealers operating in Kansas are properly licensed and registered, the Department should take the following actions:

- a. Review U.S. Department of Agriculture listings annually to identify persons who should be licensed or registered by the State.
- b. Review other sources such as national dog and cat magazines and animal show programs to identify Kansas breeders and dealers.
- c. Survey Kansas veterinarians and extension agents for information about potential licensees or registrants.

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- d. Attempt to obtain breeder listings from the American Kennel Club and other purebred registries. This action may require the assistance of other agencies such as the Attorney General's Office.
- e. Verify whether the following potential licensees or registrants identified by the Department are required to be regulated:
 - those who do not respond to Department inquiries
 - those who claim to sell too few animals to require regulation
 - those who claim to be out of business
- f. Verify whether people who fail to renew their licenses or registrations are no longer in business or are operating in violation of the law.
- g. Require animal breeders and dealers to have a license for each separate operating premise, in accordance with K.S.A. 47-1702.

4. To ensure that breeders and dealers who claim to be federally licensed pay the appropriate fees to the State, the Department should require them to show proof of federal licensure when they apply for a license or during State inspections.

5. To ensure that licensees and registrants are familiar with the Animal Dealers Act, the regulations that govern the program, and basic health care for animals, the Department should consider providing information outlining such information to all licensees and registrants.

6. The Department should comply with K.S.A. 47-1712(d), which prohibits the refund of fees.

Specific Recommendations Relating to Inspections

7. To help ensure that inspections are conducted when called for, the Department should develop a log or other type of tracking system that will show such things as when facilities were last inspected, which facilities are due for an inspection and when they are due, whether and when reinspections are called for, and whether they have been conducted.

8. To help ensure that inspectors consider all standards and report all instances of noncompliance with the standards, and to provide a record of inspection activities, the Department should develop an inspection checklist or detailed inspection form for inspectors to use in conducting inspections.

9. To ensure that violations found during inspections are appropriately documented and followed up on, the Department should require inspectors to record all violations identified during inspections.

Specific Recommendation Relating to Handling Complaints

10. To help ensure that complaints against animal breeders and dealers are treated appropriately and consistently, the Department should do the following:

- a. Establish a separate complaint file and determine what information should be kept in that file.
- b. Develop a log or other type of tracking system that shows when complaints were received, the nature of the complaint, any action taken, and the status of that complaint.
- c. Maintain the confidentiality of complaints, as required by K.S.A. 47-1709.

Specific Recommendation Relating to Enforcement Actions

11. To help ensure that it is adequately enforcing the Animal Dealers Act, the Animal Health Department should develop a log or other type of tracking system that shows what enforcement actions are pending, any action taken, and any subsequent actions needed.

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Appendix A

Guidelines For U.S. Department of Agriculture Licensed Kennels And Catteries

Facilities General

1. Whether the facility is a 3 story building or a dog house, it shall be well maintained, keep the animals confined, keep the animals safe and keep other animals out.
2. Ramshackle buildings which are falling apart cannot be used to house dogs or cats. Buildings must be structurally sound to assure that wind or the weight of snow will not cause them to collapse and injure the animals.
3. Electric power must be available for heat, cooling, sanitation equipment, etc., as needed.
4. Water which is suitable for drinking must be supplied.
5. Food and food storage areas must be free of flies, rodents, birds, and other pests. Unopened sacks of feed should be stored off the floor on shelves or pallets. Feed storage in opened sacks is not allowed. The remaining feed in the sack must be stored in metal or plastic cans with lids. Insecticides, disinfectants and other chemicals should not be stored in the same room with feed and bedding.
6. Perishable food must be fed the day it is received or refrigerated.
7. Accumulations of trash, garbage, dead animals and manure piles are not allowed. Untidy outside premises (waste disposal areas, garbage cans, areas around buildings) are not acceptable. Piles of rocks, wood, fencing, etc. should be kept at least 15-20 feet from animal housing. Animal wastes removed from runs or under runs should be removed from the area at that time.
8. Washrooms may be in the owner's, manager's or animal caretaker's home at small facilities.

Indoor Housing Facilities

1. Room temperature shall be kept at 50 degrees F. or above unless the dogs or cats are accustomed to lower temperature.
2. Rooms shall be ventilated so as to minimize drafts, odors, and moisture condensation. Ammonia, odors and high humidity are harmful to dogs and cats. If the room is uncomfortable--hot, cold, or humid--it is uncomfortable for dogs and cats. Fans or air conditioning shall be provided when the temperature is 85 degrees F. or higher. Ten to fifteen air changes per hour are recommended.
3. Rooms shall have natural or artificial light sufficient to permit routine inspection and cleaning during at least 8 hours each day. Protect animals from excessive illumination. If heat lamps are used, use red rather than clear.
4. The walls, floors, cages, pens and runs shall be durable and have sealed, washable surfaces that are easy to keep clean and sanitary. Cracks must be filled. A suitable

General Guidelines

Indoor Housing Facilities (continued)

surface can be wiped dry. Absorbent surfaces will remain damp after wiping and cannot be properly sanitized.

5. Acceptable surfaces in animal rooms include:
 - (a) steel or metal--not rusted or torn.
 - (b) hard, smooth plastics, formica or acrylics--if well maintained and not torn.
 - (c) concrete, concrete blocks, cinder blocks, or bricks must have a smooth, nonporous, non-flaking surface and be coated with a sealer.
 - (d) asphalt--if smooth and uncracked and coated with a sealer.
 - (e) Wood--if of good quality and well maintained, smooth--not cracked or splintered--and treated or sealed with a material such as shellac, varnish, plastic urethane, non-toxic paints, or water seal, etc. These materials must be waterproof, washable, non-toxic and contain no lead. A properly treated surface can be wiped dry.

6. Unacceptable surfaces in animal rooms include:
 - (a) raw or unfinished wood or other porous surfaces such as coarse asphalt, concrete, etc., which do not have a smooth finish.
 - (b) wood painted or treated with whitewash, creosote or linseed oil.
 - (c) plastic sheeting--wood or plasterboard walls, etc., covered with plastic sheeting. Plastic sheeting is not considered to be a "building surface," is not "substantial" and does not comply with the structural strength requirements.
 - (d) wood paneling as found in old trailer homes where the outer layer is starting to crack and separate.
 - (e) inlaid tile floors where the edges of the tiles are starting to curl and separate from the floor.
 - (f) unsealed cracks such as where the sidewalls contact the floor or bottom of the cage.

7. Floor drains are desirable, but are not required in animal rooms. Floors may be mopped or wet vacuumed.

Facilities - Outdoor

1. Shade must be provided for the animals comfort. Many dog houses do not provide sufficient shade. Additional shade sources are often needed.

General Guidelines

Facilities - Outdoor (continued)

2. The shelter must be constructed to keep out rain and snow and to provide a dry bed at all times.
3. When outdoor air temperatures fall below 50 degrees F., dogs and cats must have a "dog house type" structure for shelter. Clean bedding is needed in cold weather.
4. The pen must be constructed so that water drains off and puddles are not allowed.
5. Car bodies, refrigerators, other appliances, steel drums, etc. are not acceptable housing.

Primary Enclosures - Rooms, Cages, Pens, Runs

1. Must be safe--no sharp wires or protruding nails, etc.
2. Must safely confine dog or cat with no places to accidentally strangle or break bones.
3. Must prevent entry of predators, such as coyotes or stray dogs. Dogs on chains are at a disadvantage and shall be protected by a fence.
4. Must enable dogs and cats to remain clean and dry.
5. Must provide sufficient accessible water and food containers.
6. Floors must not injure feet. Wire mesh floors must be appropriate for the size of the animals feet. Mesh that is too large tends to cause sore feet or can even allow the feet to slip through.
7. Cat pans must be provided in all cages that have a solid floor, The cat pans must be changed often to provide sufficient clean litter and to prevent odor. Cats on grill or slatted floors do not require a cat pan.
8. Cat cages must have a solid resting surface. The solid resting surface must be elevated above the floor in cages housing more than one cat. We recommend that dogs on wire have a solid resting surface also.
9. Dog and cat cages, pens, or rooms must provide sufficient space for them to stand, sit, turn, and lie down in a normal comfortable fashion.
10. Minimum floor space for a dog is calculated by measuring the length of the dog from the tip of its nose to the base of its tail as it stands in a normal position. You add 6 inches and square that amount to calculate the floor space needed. For example, if the dog measures 28 inches:

$$28'' + 6'' = 1156 \text{ square inches.}$$

This dog requires a minimum of 1156 square inches of floor space. If the cage houses two (2) dogs of this size the floor space must be doubled and so on for each additional

General Guidelines

Primary Enclosures - Rooms, Cages, Pens, Runs (continued)

10. (Continued)

dog of this size. The space occupied by feeders and waterers is subtracted when calculating floor space. We recommend exceeding this minimum floor space by 50% or more if possible.

11. We allow the outdoor runs to be included as part of the minimum required floor space, but care must be taken to provide sufficient room inside so that all animals in each enclosure can be comfortable at night and on cold or wet days. We recommend that at least 50% of the minimum required floor space be inside.

12. Do not house more than 12 dogs or cats in the same enclosure. Less would be better in most cases.

13. Each adult cat must be allowed 360 square inches of floor space. Space occupied by cat pans, feeders and waters is deducted from available floor space when floor space is calculated.

Feeding

1. Dogs and cats shall be fed at least once daily unless food is withheld on advice of your veterinarian in specific cases. Food must meet the nutritional needs of the individual animal (clean, wholesome, nutritive--correct for puppies, kittens, nursing females, etc.). Commercial dry dog and cat food should be used within 6 months after the milling date on the sack.

2. All food containers must be accessible; properly located to keep food clean (must be elevated if male dogs are urinating on them); must be durable, kept clean and sanitary; must not be rusty, torn, or chewed up. Paper plates must be discarded after each feeding.

3. Self feeders are acceptable for dry food and must be durable, kept clean and sanitary. It is usually best if they are easily removable for cleaning. Moldy, deteriorating, caked feed is not allowed.

Watering

1. Water must be suitable for drinking and shall be available at all times or at least twice daily for at least one hour each time unless otherwise required for veterinary care.

2. Water receptacles must be kept clean every day and thoroughly sanitized at least every 2 weeks. Certain PVC pipe waterers cannot be readily sanitized and are not acceptable. Water containers must not be rusty, torn or chewed up. Algae accumulation in water and on containers is not acceptable.

3. If automatic waterers are used, be sure they work, they do not drip on animals or bedding

General Guidelines

Watering (continued)

3. (continued).
and they are accessible.

Sanitation

1. Cages, rooms and runs will have excreta removed as often as necessary to prevent soiling of the animals and to reduce disease hazards and odors. For individually caged animals, this may mean cleaning several times a day.
2. Cages, rooms and runs will be thoroughly sanitized at least once every 2 weeks. This is in addition to routine cleaning. Surfaces that are washable (all indoor surfaces shall be washable) shall be washed with soap or detergent and disinfected as advised by your veterinarian. Dog houses must be sealed inside and out to be sanitizable. Pens or runs with a gravel, sand or dirt surface are sanitized by removing soiled material and replacing as necessary to provide a clean, smooth surface. Outdoor runs are easier to keep sanitary if the sun can shine on them, so avoid building runs on the north side.
3. Buildings and grounds shall be kept clean and in good repair. Accumulations of trash are not allowed in or near the building. Storage areas for feed, equipment, garbage and trash will be kept clean, neat and well maintained.

Pest Control. Use fly bait or spray as needed. Dip or spray animals and premise as needed to control fleas, mange and lice. Keep birds out of houses. Use sufficient mouse and rat traps or bait to control and eradicate rodents populations. Eliminate possible pest breeding areas such as trash and manure. Provide tight fitting screens and doors and keep building sealed and in good repair.

Employees. You must be able to provide the required animal care and maintenance yourself or hire sufficient employees to assist your. You must have the knowledge to provide proper care for your animals.

Classification and Separation

1. Animals in the same cage, pen, or run must be housed as follows:
 - (a) in compatible groups.
 - (b) females in season will not be housed with males except for breeding purposes.
 - (c) vicious dogs or cats will be housed alone.
 - (d) puppies and kittens will be housed only with their dams (no other adults) unless in a breeding colony.
 - (e) no dogs and cats will be allowed in the same enclosure, and they must not be housed with other animals either.

General Guidelines

Classification and Separation (continued)

- (f) weaned puppies and kittens should be kept housed with puppies and kittens of similar age and size.
2. Dogs and cats under quarantine or under treatment for communicable diseases should be kept in a separate room or building.
3. "B" dealers must have a separate holding area for the dogs and cats they purchase for resale.
4. We recommend that dogs and cats be housed at least 50 feet away from horses, cattle, hogs and chickens. This is based on possible incompatibility and potential problems with livestock manure and fly problems affecting the cats and dogs.

Veterinary Care

1. Your inspector will ask you:
 - (a) who is the veterinarian who supervises and assists with your veterinary care program?
 - (b) what internal and external parasite control program has your veterinarian established?
 - (c) what procedures for euthanasia have been established by your veterinarian?
 - (d) what vaccination programs have been established by your veterinarian?
2. Your veterinarian is responsible for setting up a professionally acceptable program and must call on the kennel often enough to supervise and assist with the veterinary care.
3. You shall check all of your animals each day and provide veterinary care if any indications of illness are observed. Sick, injured, lame or blind dogs or cats shall be provided with veterinary care or humanely disposed of.
4. Give proper care such as brushing and clipping hair, bathing, dipping and nail clipping to prevent diseases of the eyes, skin and feet that could occur if neglected. Soiled matted hair may irritate the skin and lead to sores and maggots if neglected.
5. Heat lamps should not be placed so close to puppies and their mothers so they are burned or overheated. Use red heat lamps or heating pads so as not to over illuminate them. Shield the bulbs and wiring to prevent breakage, chewing and electric shock.

Records and Identification

1. Each dog or cat must be individually identified and recorded in your records so that all purchases, sales, births and deaths can be traced.
2. Breeding stock shall carry an official tag on their collar or carry an approved legible tattoo.

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General Guidelines

Records and Identification (continued)

2. (continued)

(Not always required in small "A" dealer kennels).
3. Puppies. "A" dealers must apply approved identification when sold. "B" dealers must apply approved identification on acquisition. Plastic identification collars are acceptable for puppies or kittens less than 16 weeks of age. (Note: "A" dealers raise all the animals they sell. "B" dealers purchase and resell puppies and kittens and may also have a breeding colony.)
4. Refer to Part 2-Regulations for further details on identification and records in sections 2.50-2.55 and 2.75 on pages 10-12 of the regulation booklet (Subchapter A-Animal Welfare).
5. Official tags and collars are available from several sources. A list is available from USDA. Free forms are available from USDA to help you keep the required records; however, use of USDA forms is not required as long as your system or records provides all of the information required by the regulations and the information is readily available to the USDA inspector.

Appendix B

Survey of Purchasers of Animals

Surveys were sent to 112 out-of-State persons and pet stores who purchased animals from Kansas breeders and dealers. In all, 68 surveys were completed and returned for a response rate of nearly 61 percent. The appendix shows the number of responses to each question, and the percentage for each answer. All completed surveys are available for review at the Kansas Legislative Division of Post Audit.

KANSAS LEGISLATIVE DIVISION OF POST AUDIT

Survey of Purchasers of Animals from Kansas

This survey is being conducted as part of a performance audit of the Kansas Animal Health Department's Companion Animal Program. The purpose of this survey is to learn how buyers of animals sold by Kansas breeders or brokers view the quality of the animals they have purchased. Please complete the survey and return it in the enclosed postage-paid envelope by Friday, June 8, 1990. Your assistance with this audit is very much appreciated. If you have any questions about the survey, please contact Cindy Lash at (913) 296-3792.

1. Approximately how many animals have you purchased from Kansas breeders and brokers during the last 12 months? (check one)	<u>Number of Responses</u>	<u>Percent of Respondents</u>
a. <input type="checkbox"/> Less than five	4	5.9%
b. <input type="checkbox"/> Five to 24	4	5.9
c. <input type="checkbox"/> 25 to 99	16	23.5
d. <input type="checkbox"/> 100 or more	44	64.7
2. In general, how would you rate the health conditions of animals you have purchased from Kansas animal breeders and brokers? (check one)		
a. <input type="checkbox"/> All animals purchased were healthy	10	14.9
b. <input type="checkbox"/> Most animals purchased were healthy	42	62.7
c. <input type="checkbox"/> About half of the animals purchased were healthy	5	7.5
d. <input type="checkbox"/> Most of the animals purchased had health problems	9	13.4
e. <input type="checkbox"/> All of the animals purchased had health problems	1	1.5
3. How would you compare the health conditions of animals you have purchased <u>since January 1, 1990</u> with animals purchased previously from Kansas breeders and brokers? (check one)		
a. <input type="checkbox"/> No Kansas animals were purchased before January 1, 1990	6	*
b. <input type="checkbox"/> Kansas animals purchased recently were generally more healthy	15	26.8
c. <input type="checkbox"/> Kansas animals purchased recently and in the past had about the same amount of health problems	37	66.1
d. <input type="checkbox"/> Kansas animals purchased recently were generally less healthy	4	7.1
e. <input type="checkbox"/> No Kansas animals were purchased after January 1, 1990	4	*

* Not included in percentage calculations.

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	<u>Number of Responses</u>	<u>Percent of Respondents</u>
4. How would you compare the health conditions of animals you have purchased from Kansas animal breeders and brokers with the health conditions of animals you have purchased from breeders and brokers in other states? (check one)		
a. <input type="checkbox"/> Kansas animals had significantly more health problems	11	19.3%
b. <input type="checkbox"/> Kansas animals had slightly more health problems	6	10.5
c. <input type="checkbox"/> Kansas animals had about the same amount of health problems	26	45.6
d. <input type="checkbox"/> Kansas animals had slightly fewer health problems	9	15.8
e. <input type="checkbox"/> Kansas animals had significantly fewer health problems	5	8.8
f. <input type="checkbox"/> Did not purchase any animals from other states	10	*
* Not included in percentage calculations.		

Are there any comments you would like to make about animals purchased from Kansas breeders and brokers?

Of the 68 persons who completed and returned the survey, 46 provided additional comments about animals purchased from Kansas breeders or brokers. The comments were about equally divided between those who were satisfied, and those who were not satisfied with the animals purchased.

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Appendix C

Survey of Animal Breeders and Dealers

Surveys were sent to 144 Kansas animal breeders and dealers to see how they viewed the State's companion animal program. In all, 85 persons returned completed surveys, for a response rate of 59 percent. The Appendix shows the number of breeders and dealers who responded to each question. In some cases, respondents gave more than one response to a question. The percentages for those questions will total slightly more than 100 percent. All completed surveys are available for review at the Kansas Legislative Division of Post Audit.

LEGISLATIVE DIVISION OF POST AUDIT

Survey of Animal Breeders and Sellers

This survey is being conducted as part of a performance audit of the Animal Health Department's Companion Animal Program. The purpose of this survey is to learn how animal breeders and dealers regulated under the law view the quality and effectiveness of the State's inspection program, and how the State's program compares with the U.S. Department of Agriculture's enforcement of the federal Animal Welfare Act. Please complete the survey and return it in the enclosed postage-paid envelope by Friday, June 1, 1990. If necessary, use additional sheets for your comments. Your assistance with this audit is very much appreciated. If you have any questions about the survey, please contact Cindy Lash at (913) 296-3792.

1. What is your operational classification?	<u>Number of Responses</u>	<u>Percent of Respondents</u>
a. <input type="checkbox"/> animal dealer with a "Class A" U.S. Department of Agriculture license	33	40.2%
b. <input type="checkbox"/> animal dealer with a "Class B" U.S. Department of Agriculture license	9	11.0
c. <input type="checkbox"/> animal dealer without a U.S. Department of Agriculture license	6	7.3
d. <input type="checkbox"/> pet shop, pound, or shelter	16	19.5
e. <input type="checkbox"/> research facility	5	6.1
f. <input type="checkbox"/> hobby breeder	17	20.7
2. Many of the operators covered by the State program are also covered by the federal Animal Welfare Act and are licensed by the U.S. Department of Agriculture. In your opinion, is it necessary to have both State and federal agencies regulating the animal breeding and selling industry?		
a. <input type="checkbox"/> yes	23	27.7
b. <input type="checkbox"/> no	60	72.3
3. The primary purpose of both the State and federal programs is the protection of companion animals. In your opinion, is the overall <u>quality</u> of inspections adequate to meet this purpose? (choose two answers--one from each group)		
<u>State Inspections</u>		
a. <input type="checkbox"/> no, inspection quality is not adequate	11	13.4
b. <input type="checkbox"/> yes, inspection quality is adequate	55	67.1
c. <input type="checkbox"/> don't know	16	19.5
<u>U.S.D.A. Inspections</u>		
d. <input type="checkbox"/> no, inspection quality is not adequate	2	4.5
e. <input type="checkbox"/> yes, inspection quality is adequate	41	93.2
f. <input type="checkbox"/> don't know	1	2.3

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4. How would you rate the qualifications of the State and U.S. Department of Agriculture inspectors?
(choose two answers--one from each group)

State Inspectors

	<u>Number of Responses</u>	<u>Percent of Respondents</u>
a. [] poor	9	11.1%
b. [] fair	3	3.7
c. [] good	26	32.1
d. [] excellent	20	24.7
e. [] don't know	23	28.4

U.S.D.A. Inspectors

f. [] poor	0	0.0
g. [] fair	1	2.4
h. [] good	22	52.4
i. [] excellent	17	40.5
j. [] don't know	2	4.8

5. In your opinion, is the number of inspections (both State and federal) adequate to meet the programs' purpose of protecting companion animals?

a. [] no, too few inspections	22	26.5
b. [] yes, about the right number of inspections	48	57.8
c. [] too many inspections (please explain)	1	1.2
d. [] don't know	12	14.5

6. If State or U.S. Department of Agriculture inspectors find deficiencies during their inspections, do they take adequate and timely steps to see that such deficiencies are corrected?
(choose two answers--one from each group)

State Inspectors

a. [] always	20	25.6
b. [] usually	16	20.5
c. [] sometimes	1	1.3
d. [] seldom	1	1.3
e. [] never	3	3.8
f. [] don't know	37	47.4

U.S.D.A. Inspectors

g. [] always	24	58.6
h. [] usually	13	31.7
i. [] sometimes	0	0.0
j. [] seldom	1	2.4
k. [] never	0	0.0
l. [] don't know	3	7.3

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	<u>Number of Responses</u>	<u>Percent of Respondents</u>
7. Overall, have the State and federal programs resulted in better care and treatment of companion animals handled by regulated operators? (<i>choose two answers--one from each group</i>)		
<u>State Program</u>		
a. <input type="checkbox"/> yes	30	37.0%
b. <input type="checkbox"/> no	14	17.3
c. <input type="checkbox"/> don't know	37	45.7
<u>Federal Program</u>		
d. <input type="checkbox"/> yes	28	66.7
e. <input type="checkbox"/> no	4	9.5
f. <input type="checkbox"/> don't know	10	23.8
8. If you had concerns or complaints about another operator, with whom would you file a complaint? (<i>check all that apply</i>)		
a. <input type="checkbox"/> law enforcement agency	13	16.9
b. <input type="checkbox"/> local health agency	3	3.9
c. <input type="checkbox"/> humane society	16	20.8
d. <input type="checkbox"/> State Animal Health Department	58	75.3
e. <input type="checkbox"/> other, please specify	11	14.3
9. If you have filed a complaint with the State Animal Health Department, how would you rate the complaint-reporting system?		
a. <input type="checkbox"/> easy--encourages proper reporting of valid concerns	9	81.8
b. <input type="checkbox"/> difficult--discourages proper reporting of valid concerns	2	18.2
10. In your opinion, do inspectors take adequate steps to resolve complaints lodged against problem operators? (<i>choose two answers--one from each group</i>)		
<u>State Inspectors</u>		
a. <input type="checkbox"/> always	9	11.3
b. <input type="checkbox"/> usually	9	11.3
c. <input type="checkbox"/> sometimes	1	1.3
d. <input type="checkbox"/> seldom	2	2.5
e. <input type="checkbox"/> never	3	3.8
f. <input type="checkbox"/> don't know	56	70.0

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U.S.D.A. Inspectors

g. []	always	7	16.7%
h. []	usually	7	16.7
i. []	sometimes	1	2.4
j. []	seldom	1	2.4
k. []	never	1	2.4
l. []	don't know	25	59.5

Are there any additional comments you would like to make about the State or federal programs?

Of the 85 persons who completed and returned the survey, 55 provided additional comments about several areas. The five most common comments are shown below.

Respondents expressed dissatisfaction with double inspections by both the federal and State agencies which they considered a waste of money and unnecessary.
16 (29.1%)

Respondents stated that the State needs to enforce its program and get rid of bad breeders.
11 (20.0%)

Respondents indicated that the State's inspection program is important, and that they support activities leading to improved care for animals.
11 (20.0%)

Respondents expressed concern about bad publicity.
10 (18.2%)

Respondents expressed concern that the State has too few inspections, insufficient follow-up, and needs better trained inspectors.
6 (10.9%)

APPENDIX D

Agency Response

On August 14, 1990, we provided a copy of the draft audit report to the Animal Health Department. Its response is included in this Appendix. We have the following additional comments.

In response to the overall management recommendation, the Department reported it has plans to implement the activities suggested in this recommendation. In addition, we strongly encourage the Department to develop written policies and procedures for carrying out these activities, to ensure that they are done consistently.

Within this recommendation, we recommended that the Department develop a policy related to inspectors' access to facilities to conduct inspections. The Department's proposal for dealing with situations where the owner is not home--which would allow two "no contact" visits before the inspector proceeded with the inspection--may not be sufficient to ensure that inspectors are not wasting significant amounts of time trying to inspect these facilities. Under this proposal, some facilities could operate for a long time without an inspection, depending on how frequently the inspector was in the area.

In the specific recommendations related to proper licensing, registration, and payment of fees, we recommended that the Department enforce the law which requires animal breeders and dealers to have a license for each separate operating premises. The Department indicated this recommendation would be addressed as time permits. Because this involves a violation of State law, we would encourage the Department to take immediate action on facilities it is currently aware of.

In the specific recommendations related to inspections, handling complaints, and enforcement actions, we recommended that the Department develop tracking systems in these areas. Department officials indicated that they thought their current scheduling system for inspections was adequate, that they have instituted responses to people filing complaints, and they they will establish a tracking system for enforcement actions when time and funding are available. We think that it is important for the Department to develop tracking systems in these areas so that officials will have broader summary information needed to manage the Program, such as the number of inspections completed annually. In addition, a log or tracking system will also allow the Department to know such things as when facilities were last inspected and when their next inspection is due.

ANSWER TO THE PERFORMANCE AUDIT REPORT

REVIEWING STATE REGULATION OVER ANIMAL BREEDERS
AND SELLERS IN KANSAS

BY THE COMPANION ANIMAL DIVISION
OF THE
ANIMAL HEALTH DEPARTMENT

BY

WILBUR D. JAY, D.V.M.
ACTING LIVESTOCK COMMISSIONER

W.F. #5A
W.D. #10
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OVERALL MANAGEMENT RECOMMENDATIONS FOR THE
ANIMAL HEALTH DEPARTMENT AND BOARD

1. Establishment of a comprehensive plan to effectively operate the Companion Animal Program.
 - a. The agency will repeal the federal regulation adopted in error. We will initiate and establish a 12 to 15 member advisory board to help formulate policy, recommend regulation changes, recommend funding options and help make recommendations to the Legislature. This board would consist of members from all facets of the industry including but not limited to Mork Morris Foundation, Hills Pet Foods, Dean of Kansas State University Vet School, Representatives from Brokers, A & B kennels and Hobby Breeders, Humane Societies, legal services, practicing veterinarians and the U.S.D.A..
 - 1a. Have began requiring all complaints received be written. I acknowledge complaint in writing and send a copy of that letter to the proper inspector with follow-up letter to complaintant after investigation is made.
 - 2a. Inspectors have been instructed to perform follow-up inspection.

- 3a. Inspectors have been instructed to contact breeders by telephone after second no contact visit to establish where and when the individual can be located. If no one is present on third visit, inspection will be made.
- 4a. Have requested hearing on 4 cases this week.
- 5a. Will access penalties as deemed necessary as specified by regulations.
- 6a. Have plans to enlist assistance from Humane Shelters, when seizing animals.
- 7a. Management and oversight of the program can best be accomplished by hiring a Companion Animal Veterinarian, as a coordinator. This can only be accomplished with additional funding by Legislation. Our funding will be sufficient until approximately February, 1991 with present staff.
- 8a. Will formulate regulations and address genetic problems.
- 8b. Will be addressed by advisory board - we have added one new inspector, as of August 13, 1990.
- 8c. Will address this problem in FY 92 budget. Some hobby kennels have complained about not getting an inspection for their registration fee.

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- 8d. Have began a weekly reporting system completed by inspectors, which include total number of kennels to inspect, A & B and Hobby, number of these that are good, marginal or bad, etc., and also recommendations for disposition - see attached form number.
2. SPECIFIC RECOMMENDATIONS RELATING TO STANDARDS FOR THE HEALTH AND HUMANE TREATMENT OF ANIMALS
- 2a. Will address with new regulations, as recommended by advisory board, inspectors and the Animal Health Board.
 - 2b. Will address with new regulations.
 - 2c. Will address with new regulations to ensure more frequent cleaning.
3. SPECIFIC RECOMMENDATIONS RELATING TO PROPER LICENSING, REGISTRATION, AND PAYMENT OF FEES
- 3a. Will in future review U.S.D.A. listings as time permits. Presently need to be caught up on current inspection list.
 - 3b. Same as above.
 - 3c. Will begin surveying veterinarians - I believe this is the most important and practical way to find new and existing kennels and will have knowledge about breeders out of business.

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- 3d. Kennel club listing may not yield breeders that have enough animals to comply. In the past, American Kennel Club has denied requests for assistance.
 - 3e. Will make effort to check nonrespondents to those who claim too few or no dogs, when surveying veterinarians and when in the area.
 - 3f. See 3c. above.
 - 3g. Will be addressed as time permits.
4. Will address this on license application.
5. Will provide copy of regulations and outline information with license application.
6. Have denied one refund request. Will deny all requests in future according to K.S.A. 1712(d).

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SPECIFIC RECOMMENDATIONS RELATING TO INSPECTIONS

7. Each inspector has such a system and I believe they should have the latitude to formulate their schedule to best utilize their time - this will be reported on their weekly report form.
8. Formulate a new inspection form to help alleviate the problem.
9. Have discussed this with inspectors at August 20, 1990 meeting and they have agreed.

10. SPECIFIC RECOMMENDATIONS RELATING TO HANDLING COMPLAINTS

- 10a. Separate file was established on August 9, 1990.
- 10b. Started reply letter to complaining party on August 15, 1990 - with a copy to inspectors. Inspectors will reply in writing when complaint is investigated and follow-up letter will be sent to complainant.
- 10c. Same as 10a.

SPECIFIC RECOMMENDATION RELATING TO ENFORCEMENT ACTIONS

11. Will establish a tracking system when time and funding are available.

ANIMAL HEALTH DEPARTMENT
 FY' 91 Companion Animal Inspections
 Progress Report ___ Week of August 6-10, 1990

	<u>Inspects Made</u>	<u>Satisfactory</u>	<u>Follow-up</u>	<u>License</u>	<u>No</u>
	<u>week</u> <u>YTD</u>		<u>Required</u>	<u>Suspended</u>	<u>Conta</u>
<u>Dirty 30</u>					
SK -					
GB -					
DM -					
Sub total -					
<u>First Visit</u>					
* A&B					
SK -					
GB -					
DM -					
Sub total -					
* Hobby					
SK -					
GB -					
DM -					
Sub total -					
* Other					
SK -					
GB -					
DM -					
Sub total -					
1st Visit					
Sub total -					
<u>Marginal</u>					
* A&B					
SK -					
GB -					
DM -					
Sub total -					
* Hobby					
SK -					
GB -					
DM -					
Sub total -					

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Animal Health Dept.
Inspection Progress Report
August 6-10, 1990

* Other

SK -

GB -

DM -

Sub total -

Marginal

Sub total -

Back Log

SK -

GB -

DM -

Sub total -

TOTAL -

Additional Comments -

STATE OF KANSAS

ANIMAL HEALTH DEPARTMENT

(913) 296-2326

August 22, 1990

R

R:

This letter is to inform you that we received your written complaint on R on R.

We have sent a copy of your complaint to the State Companion Animal Inspector in that area, R. We will notify you of the result of R inspection, as soon as the establishment has been inspected.

Thank you for your concern in this matter.

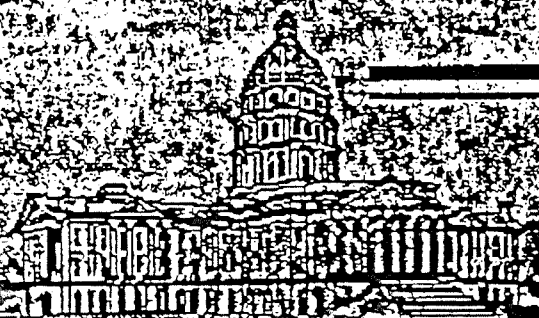
Sincerely,

Wilbur D. Jay, D.V.M.
Acting Livestock Commissioner

WDJ:cal

xc: Shon Koenig

W.F.S.C.F.
2/18/90
10-69



ANNUAL REPORT
FISCAL YEAR 1991

POLICY AND PROCEDURE
AUDIT RECOMMENDATIONS

LEGISLATIVE POST-AUDIT COMMITTEE AND
LEGISLATIVE DIVISION OF POST-AUDIT
 State of Kansas

92-33

families so that funeral homes and cemeteries can be told what assets were used to reduce Department payments.

Reviewing State Regulation Over Animal Breeders and Sellers in Kansas (90-50) (August 1990)

Main Findings: The Companion Animal Program has not been administered, managed, funded or staffed to the extent needed to efficiently and effectively carry out its responsibilities to regulate the Companion Animal industry. The Animal Health Department has neither established procedures for operating the Program nor provided oversight of the staff responsible for implementing it. The Department has not adequately identified the people it should be regulating, inspected regulated animal breeders and dealers, taken appropriate enforcement actions, or responded to complaints. Fees were not sufficient to support the Program in fiscal years 1989 and 1990, and are not likely to be sufficient to operate the Program in fiscal year 1991, even at very reduced staffing levels.

Audit Recommendations: We made numerous recommendations to improve the operation and management of this program. Specific recommendations were made in the areas of overall program management; standards for the health and humane treatment of animals; proper licensing, registration, and payment of fees; inspections; complaint handling; and enforcement actions.

Legislative Action: This audit was presented to the Legislative Post Audit Committee and the House Agriculture Committee. A number of bills were introduced during the 1991 legislative session that related to animal breeders and sellers. S443 was the major piece of legislation passed during the session. It does a number of things:

- doubles license and registration fees
- creates the Kansas Companion Animal Advisory Board
- allows the Commissioner to bring action in a court to prevent a person from continuing to operate in violation of the animal dealer act
- requires all class of cities to obtain licenses to operate pounds
- states that the application for a license gives consent by the applicant to the right of entry and inspection with the owner present and notes that refusal of such entry shall be grounds for refusal of a license
- and mandates the adoption of U.S. Department of Agriculture rules and regulations relating to companion animals as well as a requirement that animal dealers file with the Commissioner evidence that animals leaving or entering the State are free from visible symptoms of communicable disease.

Several other bills were introduced during the 1991 session and will be carried over to the 1992 legislative session. S78 would transfer the companion animal program to the Department of Health and Environment, while H2514 would create the Kansas Animal Dealers Commission. S431 would statutorily create the companion animal advisory board. S434 would authorize the Livestock Commissioner to register original veterinary certificates of inspection. H2281 would remove some of the exceptions for licensing. Finally, H2522 would change some definitions,

such as removing the definition of hobby kennel and adding definitions for animal retailers and wholesalers, and would clarify requirements for hearings.

Agency Action: According to the new Livestock Commissioner, the agency has taken a number of steps to implement the audit recommendations. A third inspector was added to the program's staff and the agency is in the process of hiring a person to administer the program. A tracking system for complaints and for inspection activities is under development. In addition, inspectors can only allow licensees one 30-day extension to correct identified deficiencies without the approval of the Livestock Commissioner. Steps also have been taken to improve the efficiency of the inspection process: inspectors contact licensees the night before they conduct an inspection to set up an appointment, inspectors are on the road at least two nights a week, and monthly training sessions are held for inspectors.

Another step that has been taken to improve the management of the program is a redesign of all the application forms so that they are specific to the type of license being issued. As noted above, fees have been increased for the program—in most cases, they have been doubled. In addition, the Kansas Companion Animal Advisory Board has reviewed the U.S. Department of Agriculture standards for animal care. These standards were adopted by the agency. Finally, the agency is working closely with a national animal broker group and is obtaining access to broker records so that they can better identify persons who should be licensed.

Highway Patrol's Oversight of Vehicle Identification Number Inspections (90-51) (July 1990)

Main Findings: The Highway Patrol has not established adequate procedures for selecting private contractors to do vehicle inspections, and the eligibility criteria it uses to appoint or replace private contractors are not well defined. The Patrol also has not established formal procedures to be followed in conducting an inspection, or adequately monitored the performance of private contractors doing the inspections. Most private contractors we visited did not perform all the steps Patrol officials told us were necessary to complete a vehicle inspection. Despite the lack of controls, we did not find that private designees were overcharging the public or requiring unnecessary inspections. Finally, we found that the Patrol has not implemented recommendations made during the last audit of the inspection program.

Audit Recommendations: Most of the recommendations made were to improve the operation of the private designee program. We also recommended that the Highway Patrol review and investigate any original copies of inspection forms that come in without the corresponding fee being remitted, and notify county treasurers and officials at the Department of Revenue that vehicle inspection forms that are altered or are missing certain information should not be accepted for titling a vehicle. Finally, we recommended that the Highway Patrol explore the option of operating the program without private designees.

Legislative Action: This audit was presented to the Legislative Post Audit Committee. The 1991 Legislature authorized 24 new positions to allow the Highway Patrol to operate the program without using private designees. Several bills also were introduced to statutorily change the operation of the program. Three of these bills, H2178, H2317, and H2591, would increase the fee remitted to

HF 35A
2/18/92
10-72

ANN J. STACER
4405 S.E. Maryland Avenue
Topeka, Ks. 66609

Phone: Home : (913)-267-7814
Work : (913)-296-4728 (7:a.m. - 3:30 p.m.)

Membership in:

Lawrence Jayhawk Kennel Club
NorthEast Kansas Dog Association
Topeka German Shepherd Dog Club
NorthEast Kansas Schutzhund Association
United Schutzhund Clubs of America
Mo-Kan Schutzhund Club

Judge at Shawnee County 4-H Fair dog show last year.

Volunteer obedience trainer for the LJKC-sponsored community dog-obedience classes.

Judge at local "Puppy matches", Topeka and Lawrence.

Volunteer tracking-dog trainer for Northeast Kansas Dog Training Club and for any persons interested in teaching their dog to track.

*House Deeds (State Affairs)
February 18, 1992
Attachment # 11*

COMMITTEE ON FEDERAL & STATE AFFAIRS

HOUSE BILL No. 2739

February 18, 1992

Ladies & Gentlemen:

Last year I testified before the House & Senate Agricultural committees urging that the regulation of Kansas animal dealer act be placed in the care of the Dept. of Health & Environment, as the present system had not shown that it was effective. It still has not proven effective, and so I come before you today to speak for HB 2739. I originally intended to speak only as a concerned individual, but last night the Lawrence Jayhawk Kennel Club asked me to represent them as also being in favor of this bill.

I have over 40 years experience in raising, training and showing German Shepherd Dogs, although I now prefer just to have a couple of dogs to train for fun and competition. The reason I no longer raise dogs myself is that, like many small (or Show) breeders, I am particularly concerned about the types of homes my puppies are placed in, as I want them to be in a home where they will be loved and cared for, & not end up abandoned or taken to a Humane Society. It became increasingly difficult to do this. The majority of show breeders that I have met feel the same way and so limit breeding. Also, many breeds have genetic problems that we are careful to screen out by test or x-rays and if the results show we have a dog with those problems we neuter the dog and find it a good home, rather than breeding it and passing these defects on for generations.

Although I am a member of several dog clubs (see reverse), I am speaking today as an individual who is concerned not only for the welfare of dogs and cats, but as a person who is concerned for the reputation of my adopted state. Our state has a TERRIBLE reputation for "Puppy Mills", even though we have many commercial breeders who are as good and conscientious as could be wished, and they are the ones who will be hurt, as well as show breeders, by possibly incurring loss of sales to states who boycott Kansas-bred puppies.

If you will move the management and enforcement of the Kansas Animal Dealers Act from an agency which did not seem to act until its hand was forced to the Department of Health & Environment, I see a new, positive beginning to put the shame behind us and work together for a brighter future for the animals and for all breeders.

Thank you.

HF 2739
2/18/92
11-2



KANSAS COMPANION ANIMAL ASSOCIATION
P. O. Box 3197 • Olathe, Kansas 66062
913-829-0102

February 18, 1992

TO: Representative Sebelius and committee members

RE: HB 2739

My name is Jan Price. I am president of the Kansas Companion Animal Association. I am neither an animal rights activist nor a terrorist. I am an animal welfare advocate who has followed the puppy mill situation for over seven years.

I am submitting this testimony in the hope that you will support HB 2739. I feel that as long as the Companion Animal Inspection Program remains in the Animal Health Department it will never succeed. The self regulating system presently in place allows breeders to control the enforcement, rules, and regulations of this program. These are the very same people who this program was intended to regulate. To the breeders who claim that they want control of their industry so that they may clean it up, I would ask where they have been for the past twenty years!

Only after a national boycott against Kansas puppies was begun did breeders begin to try to convince the public that they were interested in cleaning up their industry. \$100,000 was given to a Minneapolis based public relations company by breeders who needed professional help to combat the terrible stories we saw and continue to see in the media. However, these same breeders would have you believe that they cannot come up with \$0.40/puppy for health certificates.

As it stands now, a Kansas puppy's health certificate means so little that California passed legislation last year which requires another examination by a CALIFORNIA veterinarian before a puppy may be offered for sale in that state.

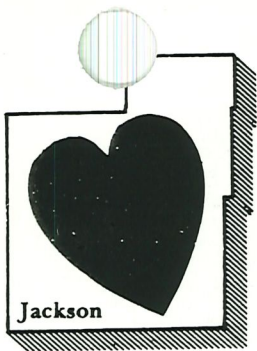
The arguments before you today will continue to go on and on so long as this program remains in the Animal Health Department. As a citizen of Kansas I am sickened by the stories that I see about how this department allows these people to get away with raising their animals in substandard and illegal conditions. Please vote to pass HB 2739 so that this issue may be resolved and settled once and for all.

Sincerely,

Jan Price

Jan Price
1610 High
Topeka, KS 66604
(913)232-6016

*House Federal & State Affairs
February 18, 1992
Attachment # 12*



Heart of Jackson Humane Society Inc.

BOX 106 - HOYT, KANSAS 66440 PHONE (913) 935-2353

Nonprofit organization - Your contribution is tax deductible

February 18, 1992

Representative Kathleen Sebelius, Chairperson
Federal State and Affairs Committee Rm 526-S
State Capitol - Topeka, KS 66612

Re: HB 2739 (Wagon) Concerning companion animals and the transferring of powers and duties of the Livestock Commissioner to the Department of Health and Environment.

Dear Ms Sebelius and Committee Members:

I am writing on behalf of our humane society. We are asking that you support the above bill. It has been four years since the Companion Animal Program was created to be implemented by the Livestock Commissioner. The program was intended to improve the conditions under which companion animals are raised and sold. However, little improvement has occurred.

The Livestock Commissioner's primary concern is with farm production animals and his allegiance is with the Kansas Livestock Association, to whom he is accountable.

Companion animals are not livestock and should not be treated as such. Puppies and kittens go into homes to become family members and it is absolutely necessary that they be raised in clean and healthful conditions. We feel the appropriate Kansas agency to administer the inspection program would be KDHE.

Transferring the Companion Animal Program to KDHE, along with some fine tuning included in the bill, would go a long way in improving the puppy mill problem in Kansas and benefit the animals as well as the consumers.

Sincerely,

Frances Tutt

Frances Tutt
Executive Director

Date: February 18, 1992

To: Kathleen Sebelius, Chairperson, and All Committee Members of the House
Federal and State Affairs Committee

Re: H.B. 2739 Sponsored by Representative Wagnon

I have not asked for time to testify before your Committee, but I do ask that you read my written testimony very carefully and give what I say careful consideration.

As most of you know, I have been the Executive Director of the Helping Hands Humane Society since December 15, 1968. I am still the Executive Director, but I am not here in that capacity today. I think I could safely say, however, that most of our Membership would agree with me concerning H.B. 2739 and what I am proposing to correct the present situation. I am proposing the following changes as a concerned PRIVATE CITIZEN!

The present "Puppy Mill" bill has been in effect since 1988. We are now starting our fourth year with this statute being enforced by the Livestock Commissioner, which continues to be a problem. The original Livestock Commissioner was terminated because he did not enforce the Law and now the present Livestock Commissioner does not respond only when pressured. He has been in this position for one year as of January, 1991 and has made one raid this past January, even though he told me himself that there were not more than 400 bad kennels out there and in the next breath, he told me he could make a raid once a week! This tells me, as it should you, there are lots of stinking sub-standard kennels out there that need to be closed down, as has been proven time after time.

I feel that H.B. 2739 which is sponsored by Representative Joan Wagnon should be passed whereby the Animal Health Department would be under Health and Environment instead of the Livestock Commissioner. After all, dogs and cats are companion animals, not livestock! Also, the biggest problem as I see it, is the fact

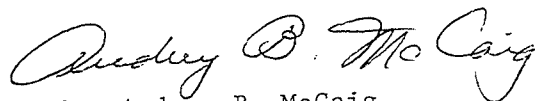
*House Federal, State Affairs
February 18, 1992
Attachment # 14-1*

Kathleen Sebelius, Chairperson, and all Committee Members of the House
Federal and State Affairs Committee.

that this is a **HEALTH PROBLEM**, at least that is what the general public that
purchase these puppies are telling us, because they are sick when they arrive
on either coast!

Therefore, I urge you to place the Animal Health Department with Susan Stanley
from the A.G.'s office and Jack Jones the new Investigator for Animal Health
to run this department under Health and Environment.

Respectfully submitted,



Miss Audrey B. McCaig,
5430 S.W. Sena Drive
Topeka, Kansas 66604

HF 35A
2-18-92

attachment #14-2

AFTER SPENDING TWENTY FIVE YEARS AS A VOLUNTEER IN PROMOTING ANIMAL WELFARE IN KANSAS I BELIEVE I HAVE THE BACKGROUND TO EXPRESS MY VIEWS ON OUR PUPPY MILL PROBLEM WITH SOME AUTHORITY.

I THOUGHT THAT THE ANIMAL DEALER'S ACT OR THE PUPPY MILL LEGISLATION THAT WAS PASSED IN 1988 WAS GOING TO BE THE ANSWER TO SOME OF OUR PROBLEMS ARISING FROM BREEDERS OF PUPPIES AND KITTENS IN OUR STATE. IT IS OBVIOUS BY NOW, AFTER WATCHING FOUR YEARS OF A DO NOTHING APPROACH, THE ANIMAL HEALTH DEPT. IS NOT COMMITTED TO ENFORCING THIS VERY IMPORTANT LEGISLATION. THE ENDLESS PARADE OF NEWS ARTICLES AND TELEVISION PROGRAMS, BOTH LOCALLY AND NATIONALLY, WOULD CERTAINLY INDICATE BEYOND A SHADOW OF A DOUBT THAT WE HAVE A VERY SERIOUS PROBLEM AND I BELIEVE WE ARE JUST BEGINNING TO SEE THE TIP OF THE ICEBERG.

FOR THIS REASON I HOPE HOUSE BILL 2739 CAN BE PASSED QUICKLY SO WE CAN PUT THIS TRAGIC ERA BEHIND US AND ENSURE FROM NOW ON THE PROPER TREATMENT OF OUR COMPANION ANIMALS BY SEEING TO IT THE KANSAS ANIMAL DEALER' ACT IS ENFORCED TO THE LETTER AS IT SHOULD HAVE BEEN BACK IN 1988.

MARY ANN EARP
1333 COLLINS
TOPEKA, KANSAS 66604

*House Federal, State affairs
February 18, 1992
attachment #15*

Paul Decelles
2737 Maverick Lane
Lawrence, KS 66046
February 15, 1992

To: Representative Kathleen Sebelius
Chair, House Federal and State Affairs Committee.

Dear Representative Sebelius:

The purpose of this letter is to urge your support for House Bill 2739 designed to transfer responsibility for kennel regulation from the Livestock Commissioner to the Department of Health and Environment.

From my way of thinking as a former breeder, and as an obedience instructor, Health and Environment is a more natural place for kennel regulation because dogs and other companion animals are not livestock in the same way that cows are. We breed them to be companions, and at least should pay careful attention to their temperaments as well as physical soundness. To do this right is labor intensive and in conflict with the production models used to raise livestock such as cattle. Health and Environment with its experience regulating such facilities as day care centers, would seem to me more sympathetic to the special regulatory needs for companion animals.

One problem that my wife and I ran into over and over again when breeding dogs as dog fanciers interested in one specific breed, is

*House Federal & State Affairs
February 18, 1992
Attachment # 16*

that people from out of state, particularly from the coasts were reluctant to buy dogs from us or sell dogs to us because we were from Kansas. Given the problems with many Kansas Kennels (not all of them large kennels!), who can blame these people.

Large kennel operators have complained about proposals such as section 23 of this bill, designed to raise money for enforcement. They complain that they can "lose" hundreds of thousands of dollars if say the health certificate fee is .40 per dog. True, they are business people and need to make a profit, but on a per dog basis is, say .40 per dog really out of line? The Veterinarians may complain because the health certificate requirement puts them in the role of money collector for the state. Well, any business that charges sales tax collects money for the state.

I trust your committee will look at the aim of this bill: to insure that responsible Kansas companion animal breeders have an environment that encourages them to produce the best animals they can for the public, and encourages breeders to provide the best environment for their animals.

Thank you,



Paul Decelles.

HP/SA
2/18/92
16-2

*From the Office of
DON M. REZAC
Kansas House of Representatives
61st District
Emmett, Kansas 66422*

KANSAS LEGISLATIVE RESEARCH DEPARTMENT

Room 545-N -- Statehouse

Phone 296-3181

February 18, 1992

TO: Representative Don Rezac

Office No. 278-W

RE: 1991 Companion Animal Statutes Amendments

You asked for information regarding the changes to the companion animal statutes made by the 1991 Legislature. Among those changes was to give the statutes, sometimes called the companion animal law or the animal dealer law a formal name. As a result of the Legislature's action, these statutes are now known as the Kansas Animal Dealer Act. The legislation enacted was S.B. 443.

In addition, the legislation modified the fee schedule for those entities that are required to be licensed or registered with the Livestock Commissioner under the Kansas Animal Dealer Act. Those premises having a federal license and required to have a state license will pay an amount not to exceed \$150 annually and the fee for premises required to have a state license, but which do not have a federal license, will be in an amount not to exceed \$300. For those entities required to be registered under the Kansas Animal Dealer Act, the fee will not exceed \$75. The fee money raised by licensure and registration under the Kansas Animal Dealer Act are credited to the Animal Dealers Fee Fund, which was created by the legislation. The legislation required that moneys in the Animal Dealers Fee Fund could only be expended to administer and enforce the Kansas Animal Dealer Act. Under the legislation, animal dealers, pet shop operators, research facilities, and shelters and pounds are required to be licensed; kennel operators and hobby kennels are required to be registered.

Further, a new provision required the registration of "kennel operators." "Kennel operator" is defined as any person who operates an establishment where animals are maintained for boarding or similar purposes for a fee or compensation. Licensed veterinarians are excluded from the requirement to obtain a certificate of registration as a kennel operator. The registration fee for kennel operators is the same as those established for other entities required to be registered under the Kansas Animal Dealer Act (a maximum of \$75 per year).

A new provision made it unlawful for any person to knowingly purchase a dog or cat for the purpose of resale to another from a person required to be either licensed or registered under either state or federal law.

*House Federal & State Affairs
February 18, 1992
Attachment # 17*

The legislation established a nine-member Kansas Companion Animal Advisory Board and has the following members selected by the Governor:

1. one member representative of the Kansas Federation of Humane Societies;
2. one member employed by a state-licensed research facility;
3. one member actively engaged as a companion animal breeder and licensed under the Kansas Animal Dealer Act (this person will be selected from a list of three names presented to the Governor by the American Professional Pet Distributors, Inc.);
4. one member actively engaged as a companion animal broker and licensed under the Kansas Animal Dealer Act (this person also will be selected from a list of three names presented to the Governor by the American Professional Pet Distributors, Inc.);
5. one member who is a pet shop owner (this person will be selected from a list of three names presented to the Governor by the Pet Industry Joint Advisory Council);
6. one member who is a licensed veterinarian (this person would be selected by the Governor from a list of three names presented by the Kansas Veterinary Medical Association);
7. one private citizen with no link to the companion animal industry;
8. one member who is a companion animal breeder or a companion animal broker who is actively engaged in the business and licensed under the Kansas Animal Dealer Act and not affiliated with an organized companion animal association; and
9. one member who is a hobby kennel operator registered under the Act.

The Kansas Companion Animal Advisory Board has the following duties and authorities:

1. advise the Kansas Livestock Commissioner on hiring a director to implement the Kansas Animal Dealer Act;
2. review the status of the Kansas Animal Dealer Act;
3. make recommendations on changes to the Kansas Animal Dealer Act; and
4. make recommendations concerning the rules and regulations for the Kansas Animal Dealer Act.

HF 5 SA
2/18/92
17-2

The legislation also permits the Livestock Commissioner to bring an action in a court of competent jurisdiction to enjoin, restrain, or prevent a person from continuing operation in violation of the Kansas Animal Dealer Act.

Further, the legislation modified the requirement that pounds and animal shelters operated by cities of the first class or corporate entities obtain a license from the Livestock Commissioner. Under the legislation, all cities and corporate entities that operate a pound or shelter are required to obtain a license, with the exception of those operated by a licensed veterinarian.

Also, the legislation eliminated the responsibility of owners of animals seized and impounded from paying for the associated cost of the impoundment and seizure if the owner is found not guilty of violating any of the provisions of the Kansas Animal Dealer Act.

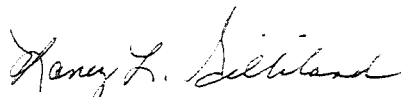
In addition, the legislation provided that the application for or acceptance of a license will be deemed to be consent of the applicant or licensee for an authorized representative of the Commissioner to enter and inspect the premises sought to be licensed or licensed by the Livestock Commissioner at reasonable times and as long as the owner or owner's representative is present.

Under the newly enacted legislation, records of a deficiency or violation will not be maintained for longer than three years after the deficiency or violation is remedied.

Another provision of the legislation amended K.S.A. 1990 Supp. 47-1712 to require that the Livestock Commissioner only adopt federal rules and regulations for animal dealers and animal dealer premises, except that the Livestock Commissioner is to adopt rules and regulations that will require animal dealers licensed by the state to file with the Livestock Commissioner evidence that animals entering or leaving the state are free from any visible symptoms of communicable disease. The provision also limits the general rule and regulation authority established in this statute to hobby kennels, kennel operators, pounds, animal shelters, pet shops, and research facilities. The legislation eliminated the category of seizure and impoundment from the list of topics for which the Commissioner is to promulgate rules and regulations.

Finally, an additional provision clarified that maintaining animals for sale is presumed whenever 20 or more dogs or cats, or both, are maintained by any person.

I hope this information is helpful to you. If you have any questions, please feel free to call.


Raney L. Gilliland
Principal Analyst

92-0202/RLG/pb

HF3SA
2/18/92
17-3

Good afternoon, I am Doug Lambert, Vice-President of Lambriar Inc. located in Mahaska, KS. My family and I have been actively involved in the Pet Industry since 1968, both as a breeder and as a pet distributor.

Lambriar is currently a major distributor of puppies, kittens and birds, with an in-house veterinarian and employing 35 to 40 individuals. Our plans for the future include expanding our line to include small animals such as mice, rats, hamsters, guinea pigs and rabbits.

During 1991, we sold over 26,000 puppies and kittens and approximately 9300 birds. All of these animals were checked by our in-house veterinarian at our facilities and are shipped with our health certificate stating that they are free from any visible symptoms of communicable diseases or health defects. House Bill #2739, Section 23 states "Any person required to be licensed or registered under this act shall have a health certificate issued by the secretary for each animal sold by such person. The health certificate shall state that animals entering or leaving the state are free from any visible symptoms of communicable disease. The definition for animal:

"Animal means any live dog, cat, rabbit, rodent, non-human primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate."

.....Under this bill the cost for health certificates on roughly 19,000 puppies and kittens which we bring into the state to our facility would be approximately \$76,000.00 and the cost of health certificates to ship these same animals plus those purchased in-state would be \$104,000.00 for a total of \$180,000. Because all of our birds are brought into Kansas before being distributed, we are looking at a cost of approximately \$74,000 for health certificates on them

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February 18, 1992
Attachment #18

Under this bill, if we distribute the same number of animals as in 1991 our total cost for health certificates would be \$254,000.00.

Since no business can continue to exist at status quo, when we expand into the distribution of mice, we will be paying the wholesale price on mice would be 30 cents each per 10,000.00. Under this bill that means we will be paying \$3,000.00 for the mice and \$80,000.00 for the health certificates.

This means our total tax for doing business in Kansas under this program could be well over a quarter of a million dollars a year, so should we abandon the idea of expanding our operation into the small animals because of the cost of this program?

Unfortunately, this program would only penalize those brokers and breeders who are trying to stay within our laws. Those substandard breeders we are trying to eliminate from our State would simply sell to our bordering states without health certificates since this would be an almost impossible situation to track down.

To move this program from a Veterinary animal care expert to those only qualified in the health of people is equally absurd. The Breeders, on occasion, need advice which they could never receive from the Department of Health. I'm sure that Dr. Walker's office has given a tremendous amount of free advice within the last eighteen months. I would hope that we're not so short sighted that we would use a Kansas Law to totally destroy an industry rather than eliminate the bad apples at it was established to do.

Summing it up I would like to say that I'm proud of being a

HF 35A
2-18-92
12-2

Kansan and I'm proud of the puppies that the majority of Kansas breeders produce. I thank you for your time and I will be happy to take your questions.

HF 3SA
2/18/92
18-3

February 18, 1992

Statement of Roger McCartney, D.V.M., before the House Federal and State Affairs Committee Concerning House Bill #2739.

My name is Dr. Roger McCartney. I'm a veterinarian from Belleville, Kansas, and have come to make some comments in opposition to House Bill #2739.

My feelings are that the department responsible for the welfare of animals should be headed by someone educated for and experienced with the proper handling of animals. One should have that background and training to make the correct decisions for both the benefit of the animals as well as their caretakers.

I also believe that the separation - by State Department - of some species of animals creates a situation which could easily produce discriminatory practices as one group is compared to another.

Therefore, I believe it would be a better situation for pet animals to remain supervised by the Kansas Animal Health Department rather than the Kansas Department of Health and Environment.

House Federal & State Affairs
February 18, 1992
Attachment #19 page 1

KANSAS ANIMAL HEALTH DEPARTMENT Phone 913/296-2326 TOPEKA, KANSAS CERTIFICATE OF VETERINARY INSPECTION COMPANION ANIMAL	STATE OF DESTINATION PERMIT REQUIRED Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Permit No. _____	TYPE OF ANIMAL SHIPPED <input checked="" type="checkbox"/> Dog <input checked="" type="checkbox"/> Cat <input type="checkbox"/> Other	CERTIFICATE NUMBER 48-L 12159 DATE 02/17/1992
TOTAL NUMBER OF ANIMALS 12			

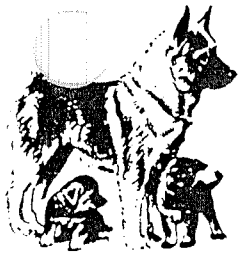
3. NAME, ADDRESS AND TELEPHONE NUMBER OF OWNER/CONSIGNOR Lambriar Kennels, Inc. Phone: (913) 245-3231 100 Pine Street Mahaska, Kansas 66955 Kansas License/Registration No. if applicable _____ USDA # 48-B-043 State # 040B	4. NAME, ADDRESS AND TELEPHONE NUMBER OF CONSIGNEE ASTORIA ANIMAL CENTER 25-64 STEINWAY ST ASTORIA, NY 11103 Kansas License/Registration No. if applicable _____
---	---

5. ANIMAL IDENTIFICATION (To be completed by owner/consignor)					6. VACCINATION HISTORY (To be completed by veterinarian)				attach original signature rabies certificate here →			
COMPLETE ID TAG, COLLAR AND/OR TATTOO NUMBER	BREED, COMMON OR SCIENTIFIC NAME	AGE (WEEKS)	SEX	COLOR OR DISTINCTIVE MARKS	RABIES		D-H-L		OTHER VACCINATIONS, TESTS OR TREATMENT		DEFECTS	
					<input type="checkbox"/> Killed Virus	<input type="checkbox"/> Live Virus	Date	Product	Date	Product		Date
(1) NM492	P2080079	POODLE	10.6	F	BLACK & WHITE							
(2) B961	P2080073	COCKER SPA	9.7	F	BLACK & WHITE							
(3) B963	P2080073	COCKER SPA	9.6	M	BUFF							
(4) 1565	P2070153	BEAGLE	10.6	M	BROWN W/WHITE							
(5) DL52	P2080009	MINI SCHNA	9.1	M	SALT & PEPPER							
(6) 06	P2080290	AKITA	10.0	F	SILVER GRAY &							
(7) DK323	P2070274	CHIHUAHUA	12.1	M	SABLE							
(8) 1103	P2080280	CHOW CHOW	9.0	F	RED							
(9) HG1	P208003	SIBERIAN H	9.0	F	BLACK & WHITE							
(10) UK136	P2080273	DALMATIAN	9.1	M	WHITE & BLACK							
(11) DAG	P2080430	PERSIAN	13.0	M	BLACK							6, 8, 10, 12 wk FURCP
(12) DB1	P2080430	PERSIAN	11.7	M	CHOCOLATE							6, 8, 10, 12 wk FURCP
(13)												
(14)												
(15)												
(16)												
(17)												
(18)												
(19)												
(20)												

OWNER/CONSIGNOR CERTIFICATION: I certify that the information concerning the animals described above in Item 5 is true and correct, and that I am the owner/consignor of such described animals and that I have physical and legal custody of such animals. SIGNATURE <i>Jean Stafford</i> DATE <i>2-17-92</i>	I hereby certify that the animals in this shipment are, to the best of my knowledge, acclimated to air temperatures lower than 7.2°C (45°F). Approved by _____	PURPOSE OF MOVEMENT Interstate <input checked="" type="checkbox"/> Intrastate <input type="checkbox"/> Exhibition <input type="checkbox"/> Sale <input checked="" type="checkbox"/> Other <input type="checkbox"/>
VETERINARY CERTIFICATION: I certify that the animals described in Item 5 have been examined by me this date, that the information provided in Item 6 is true and accurate to the best of my knowledge; and that the following findings have been made. "X" applicable statements. <input checked="" type="checkbox"/> I certify that the animals described above, and on continuation sheet(s) if applicable, have been inspected by me this date and appear to be free of any infectious or contagious diseases and to the best of my knowledge, exposure thereto, which would endanger the animal or others animals or would endanger public health. <input checked="" type="checkbox"/> I certify that the animals described above, and on continuation sheet(s) if applicable, have been inspected by me this date and appear to be free of physical abnormalities which would endanger the animal. <input checked="" type="checkbox"/> To my knowledge, the animals described above, and on continuation sheet(s) if applicable, originated from an area not quarantined for rabies and have not been exposed to rabies.	NAME, ADDRESS AND TELEPHONE NUMBER (Please print) Roger P. McCartney, DVM 2510 Sunset Drive Belleville, Kansas 66935 Telephone 913-527-5298	LICENSE NO. 3591 Accredited <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No LICENSING STATE Kansas
SIGNATURE <i>Roger P. McCartney, DVM</i> DATE <i>2-17-92</i>	SIGNATURE OF APPROVAL _____ DATE _____	

ACCOMPANY SHIPMENT

Home Fed's State of Kansas 2/18/92 2-61-2018-19-2



WACONDA KENNELS

BOX 158
GLEN ELDER, KANSAS 67446



ALL BREEDS
AKC PUPPIES

February 18, 1992

JoAnne Kieffer
Phone (913) 545-3437
FAX (913) 545-3422

TO: House Federal & State Affairs Committee

FROM: JoAnne Kieffer, Waconda Kennels - Glen Elder, KS USDA # 48B054 KS 010-A-92

RE: House Bill # 2739 - OPPOSED

I own and operate WACONDA KENNELS in North Central Kansas. I have been in this great pet industry for over 27 years. I am on the Pet Animal Advisory Board for the Kansas Animal Health Department and on the Board of Directors of APPDI, American Professional Pet Distributors, Inc., the only national organization of pet breeders and distributors with chapters in Kansas consisting of several hundred Kansas members. I have also helped with meetings of the Concerned Breeders of Kansas which represent many more breeders who want this inspection program to work for our great state. In fact, it must work or the state of Kansas will lose an industry that brings over 43 million dollars of fresh, new money to our state each year.

House Bill # 2739 would move the program to Health & Environment. Last year when there was talk about moving the program to Health & Environment, that department informed us that it would cost \$350,000.00 for them to take the program. I can not imagine that the cost has lowered. The program should be left where it belongs, in the Animal Health Dept. We have a new Director hired who just went to work yesterday, Feb. 17. His name is Jack Jones and he has much experience in making a program like this work. We have a new full time attorney, Susan Stanley. To move would be cost prohibitive. It should be left in the Animal department with veterinarians and people who are qualified in animal care.

This bill would also repeal K.S.A. 1991 Supp. 47-1725 which formed a nine member Pet Animal Advisory Board which has been appointed by the Governor to work with the Animal Health commissioner and the director to help implement the program with rules and regulations, etc. I feel that this Advisory Board is very important because it consists of many industry people who want this program to work.

There is nothing in this bill to allow the health of the animals to be checked by the inspectors. By only using the USDA rules and regulations 9 C.F.R. 3.1 through 3.12 for the animal dealers, the inspectors are only allowed to check the paperwork - not the animals.

In New Sec. 23 of this bill, the program would be funded quite well. The fees would be derived from a health certificate for each animal at \$4.00 per health certificate. A small kennel of just 30 female dogs with an average of 6 puppies per year per female would be paying a yearly license fee of \$720.00. The largest distributor in the state would be paying a yearly license fee of \$112,000.00 because they ship approximately 28,000 puppies each year. This fee would also include all animals, not just dogs and cats because the definition of 'Animal' in 47-1701 (d) (1) means any live dog, cat, rabbit, rodent, non-human primate, bird or other warm-blooded vertebrate or any fish, snake or other cold-blooded vertebrate. Imagine requiring a \$4.00 health certificate for each fish.

The program is working where it is! The latest Performance Audit Report clearly states that fact. We can not afford this bill. We can not move the program. We will make it work where it is - in the Animal Health Department. The state and the kennel owners of our great State of Kansas need the money used in other places, much more wisely.

HOUSE FEDERAL State Affairs
February 18, 1992
Attachment # 20

TESTIMONY OF OPAL FEATHERSTON
NATIONAL BOARD MEMBER
OF
AMERICAN PROFESSIONAL PET DISTRIBUTORS, INC.
ON HB2739
KANSAS HOUSE FEDERAL & STATE AFFAIRS COMMITTEE
FEBRUARY 18, 1992

Madam Chair and members of the Committee:

I am Opal Featherston, National Board Member of APPDI (a national industry humane care organization), member of the Kansas Advisory Committee to the Companion Animal Act, co-owner and operator of Royale Kennel, a professional kennel located in Whiting, Kansas. We appreciate this opportunity to make remarks concerning HB 2739.

There are three major points of concern:

First--last year the Department of Health & Environment estimated the cost of implementing this program would be \$350,000. Under the Department of Agriculture the cost is \$200,000--this would constitute an insurmountable increase of fee cost to the professional kennel owners.

Second--\$4 fee for each puppy with an individual health certificate would also be very costly, not to mention the astronomical amount of paper for the state staff to process.

Third--it seems only logical and appropriate for a veterinarian to be involved in a program which regulates the health and welfare of animals. There is no veterinarian involved with the Department of Health and Environment which deals with human issues primarily.

We urge the legislators to oppose HB 2739. Leave the Companion Animal Act in the Department of Agriculture under the new direction of Jack Jones, an individual who has had experience in the legal process of our law and has dealt with humane care of animals. According to the recently published State Audit Committee report--strides have been made to close down the substandard kennels and under the direction of one who has expertise in this whole process and has proven his capabilities--we feel the Companion Animal Act can best be administered and cost effective by leaving it where it is currently.

The faction which prompted this bill has the goal of NO professional kennels anywhere and more especially in Kansas. So if Kansas Legislators want a good viable industry which contributes millions to Kansas economy you must vote NO to HB 2739.

Thank you for the opportunity to make these comments. I would respond to questions if there are any.

*House Federal & State Affairs
February 18, 1992
Attachment #21*

State Audit Committee Report

such as removing the definition of hobby kennel and adding definitions for animal retailers and wholesalers, and would clarify requirements for hearings.

Agency Action: According to the new Livestock Commissioner, the agency has taken a number of steps to implement the audit recommendations. A third inspector was added to the program's staff and the agency is in the process of hiring a person to administer the program. A tracking system for complaints and for inspection activities is under development. In addition, inspectors can only allow licensees one 30-day extension to correct identified deficiencies without the approval of the Livestock Commissioner. Steps also have been taken to improve the efficiency of the inspection process: inspectors contact licensees the night before they conduct an inspection to set up an appointment, inspectors are on the road at least two nights a week, and monthly training sessions are held for inspectors.

Another step that has been taken to improve the management of the program is a redesign of all the application forms so that they are specific to the type of license being issued. As noted above, fees have been increased for the program—in most cases, they have been doubled. In addition, the Kansas Companion Animal Advisory Board has reviewed the U.S. Department of Agriculture standards for animal care. These standards were adopted by the agency. Finally, the agency is working closely with a national animal broker group and is obtaining access to broker records so that they can better identify persons who should be licensed.

Highway Patrol's Oversight of Vehicle Identification Number Inspections (90-51) (July 1990)

Main Findings: The Highway Patrol has not established adequate procedures for selecting private contractors to do vehicle inspections, and the eligibility criteria it uses to appoint or replace private contractors are not well defined. The Patrol also has not established formal procedures to be followed in conducting an inspection, or adequately monitored the performance of private contractors doing the inspections. Most private contractors we visited did not perform all the steps Patrol officials told us were necessary to complete a vehicle inspection. Despite the lack of controls, we did not find that private designees were overcharging the public or requiring unnecessary inspections. Finally, we found that the Patrol has not implemented recommendations made during the last audit of the inspection program.

Audit Recommendations: Most of the recommendations made were to improve the operation of the private designee program. We also recommended that the Highway Patrol review and investigate any original copies of inspection forms that come in without the corresponding fee being remitted, and notify county treasurers and officials at the Department of Revenue that vehicle inspection forms that are altered or are missing certain information should not be accepted for titling a vehicle. Finally, we recommended that the Highway Patrol explore the option of operating the program without private designees.

Legislative Action: This audit was presented to the Legislative Post Audit Committee. The 1991 Legislature authorized 24 new positions to allow the Highway Patrol to operate the program without using private designees. Several bills also were introduced to statutorily change the operation of the program. Three of these bills, H2178, H2317, and H2591, would increase the fee remitted to

FROG, HOLLOW KENNEL
BILL AND RUTH MOFFITT
RT. 2, BOX 240
WASHINGTON, KANSAS 66968

To: Kansas State House of Representatives,
Federal and State Affairs Committee

Subject: HB 2739, opposition to:

In regards to moving the Companion Animal Program from the Livestock Commission to the Kansas Department of Health and Environment, we feel that the Livestock Commission is better qualified to understand the needs of animals rather than the human oriented Department of Health and Environment.

For further consideration, whereas the news media thrives on the sensational, not having to have any background knowledge nor need to check the facts, just taking whatever looks like a good headline, the well financed animal rights activists have a ball catering to these people. Thus giving the activists fuel to beg from a sympathetic public large amounts of additional funds. HSUS admits to excess of \$15,000,000 dollars and ASPCA \$16,500,000. These activists refuse to admit that there is even one decent kennel.

And whereas a good number of the kennels are operated by those that have found a way to engender additional income to supplement low income. This such as retired people on Social Security, or Farm familys hoping to make ends meet. These will probably handle less than \$30,000 dollars per year, and expenses on a well run kennel are well above the 50% mark. What chance does the little man have to fight the big money listed above?

In our own kennel, first recorded sales November 1963, we have watched inflation bring the price of top grade dog food from \$141.00 per ton to where it now hovers near \$800.00 per ton. All other services have climbed apace. Too, just two years ago our Federal license was \$25.00 and now it is \$120.00 with an added \$10.00 filing fee. The State of Kansas, having been grossly misinformed started at \$75.00 and doubled that the second year. At the same time the price we receive from the broker has ~~only~~ doubled. Like any farm related enterprise we take what the market pays and pay what the supplier demands.

As this legislation proposes a health certificate for each animal sold and an additional tax on each animal we have, I feel it fair to ask are we to be legislated out of business?

There are many more points to bring out to show that this legislation is not necessary from the producer's standpoint of view, but I feel there are others who will have most of these covered.

I do appeal to your sense of fairness to defeat this legislation.

Thank you.

*House Federal, State Affairs
February 18, 1992
Attachment #22*

Beverly Haskage

Pet Hotline Ranch
16520 Pauling Run Rd Box 102A
Westmoreland, KS 66541
913-456-2592 or 494-8415

February 18, 1992

HOUSE BILL: 2739

A. Who I am.

1. Private citizen
 - a. economic, education and present
 - b. Kansas citizen
2. Taxpayer
 - a. The rank of Kansas, the income average
 - b. Needs of citizens
3. Founder / Director -Pet Hotline
 - a. How ?
 - b. why?
 - c. what?

B. Issues of the Animal Dealer Act and the 2739 Bill (proposed)

1. Statue 21:4310
 - a. attitudes of law enforcement
 - b. attitudes of vets., volunteer organizations
2. Current Animal Dealer Act as contained in Bill proposed
 - a. no regulation and enforcement to over-regulation and illegal enforcement
 - b. Unfair regulation of fees and procedures not tailored to the type of facility
 - c. poorly trained personnel
 - d. Institutions are only as good as the people who run them
Example: Animal Shelters--Riley County
 - d. State should practice and set example, not cause hardship and harrasment.
3. Suggested amendment proposal changes to Bill 2739
 - a, Animal Dealer Act and all animal welfare of any type should stay in the Animal Health Department and the name should change to Animal Welfare Department with all administration by the Animal Welfare Commissioner, amending from livestock commissioner to Animal Welfare Commissioner.
 - b. Only for profit persons or organizations should have to pay licence fees-- non profit, at loss businesses should be registered.
 - c. Small kennels with individualized care should be encouraged to retain better puppies and pets or

House Federal & State Affairs

February 18, 1992

attachment # 23

Feb. 18, 1992

Pet Hotline Ranch
16520 Pauling Run Rd. Box 1A
Westmoreland, KS 66549
913-456-2592 or 494-8415

any type of animals raised for commercial profits.

- d. The animal companion board should be retained and have more members of different backgrounds to help in across the state observation of local shelters, breeding, and brokers---their sole function to report, make suggestions, and help the Commissioner in his duties.
- e. New attitudes have to be developed by State, County, and City Gov. concerning Animals, if we are going to ask the public to do things and be responsible we have to lead the way in five areas-- example, education, empathy, enforcement, effort!

HF §5A
2/18/92
23-2



The Humane Society of the United States
2100 L Street, N.W.
Washington, D.C. 20037
(202) 452-1100
FAX (202) 778-6132

February 19, 1992

Madame Chairperson
Kathleen Sebelius
Statehouse Room 280 W
Topeka KS 66612

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Dear Ms. Sebelius:

As the staff veterinarian for The Humane Society of the United States, I wish to inform you of an experience I had regarding Kansas Livestock Commissioner Dr. R. Dan Walker.

In July, 1991, I attended the annual American Veterinary Medical Association (AVMA) conference in Seattle, Washington. Dr. Walker was also present at that conference. Dr. Walker proceeded to disrupt one of the seminars by stating that there are "no puppy mills in Kansas" and that he personally did not consider it to be a legitimate issue. When I pointed out to him that there are indeed many sub-standard mass breeding establishments in Kansas, Dr. Walker accused The HSUS of "making up" statistics and implied that our puppy mill investigations are fraudulent.

The HSUS has investigated literally hundreds of puppy mills over the past decade, and I personally have seen the horror of such operations in Kansas. I am appalled that a member of my profession, such as Dr. Walker, would state publicly that the puppy mill issue is of no concern and further, to turn the other way and deny that this problem exists in his own state.

In conclusion, it is my opinion that companion animals and issues pertaining to them, especially puppies and puppy mills should not be under the scope and pervue of a Livestock Commissioner. If I may be of any further assistance, please do not hesitate to contact me, as I am most concerned about the welfare of these animals and the misery caused by human greed and indifference.

Sincerely,
Stephen Kritsick, DVM
Stephen Kritsick, DVM
The Humane Society of the United States

*House Federal & State Affairs
February 18, 1992
Attachment # 24*