

Approved: 3-7-95  
Date

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE.

The meeting was called to order by Chairperson David Corbin at 10:11 a.m. on February 21, 1995 in Room 423-S of the Capitol.

All members were present except: all members were present.

Committee staff present: Raney Gilliland, Legislative Research Department  
Jill Wolters, Revisor of Statutes  
Lila McClafin, Committee Secretary

Conferees appearing before the committee:

Mike Beam, Kansas Livestock Association (KLA)  
Larry Woodson, Department of Agriculture  
Paul Branch, Superior Livestock Auction Co. Fort Worth, Tx.  
Karen DeQuasie, Pfizer Pharmaceutical

Others attending: See attached list

Chairperson Corbin opened the hearing on **SB 310 - relating to animal remedies; creating the animal fee fund; authorizing the livestock commissioner to issue certificates of health; video auctions.**

Mike Beam testified in support of **SB 310**. The bill was introduced at the request of KLA. He said the bill would increase the fee funds for the disease control function of the Kansas Animal Health Department. Included with his testimony is information on the Animal Health Department, existing fee chart, KLA fee schedule proposal, Ways and Means subcommittee report of their review of the animal health budget, signed by Senator Barbara Lawrence and Senator Dave Kerr, and a marked up copy of proposed amendments to SB 310 (Attachment 1). He responded to questions.

Larry Woodson testified in support of **SB 310**. The bill would raise revenue to support the Animal Health Department and its animal disease control objectives (Attachment 2). Mr. Woodson introduced John Falk, program manager for the Agricultural Commodities Assurance Program.

Paul Branch, business manager of a satellite video livestock marketing auction spoke in opposition to **SB 310**. He said they would not be opposed to becoming a collection agency for the fee described in section 12, paragraph 2, but only if it was collected on all country transactions, not just satellite video transactions. The bill as currently drafted does not include country transactions (Attachment 3). He passed around copies of their video cattle auction brochure. Responding to a question Mr. Branch said their auction company collect fees at the present time for the National Beef Check Off.

Karen DeQuasie testified in opposition to the bill, as her company see it as an added expense for doing business in Kansas, and they had no opportunity for input. She requested no further consideration of the bill (Attachment 4). Ms. DeQuasie responded to questions regarding the fee charged in other states. She was asked to make that information available to the committee.

Chairperson Corbin said the hearing would continue on February 22. The meeting adjourned at 11:02 a.m.

The next meeting is scheduled for February 22, 1995.

# SENATE AGRICULTURE COMMITTEE GUEST LIST

DATE: February 21, 1995

NAME	REPRESENTING
Jon Ferguson	KLA
Debra Duncan	Animal Health Dept.
George Teagarden	KAHD
Mike Beam	KLA
Karen DeQuasie	Pfizer
Nancy Zogleman	Pfizer
Paul Branch	Superior Livestock Auction
Valerie Dumm	Sedg Co. Farm Bureau
Brenda Lorenz	Sedg. Co. Farm Bureau
Marty Vanier	KS Ag Alliance
LARRY D. WOODSON	KS DEPT OF Ag.
JOHN L. FALK	KS DEPT OF AG
Xane Wilkins	KS Assoc. S Wheat Growers
Chris Wilson	KS Dairy Association
Mark MacBrye	KS MARKETING ASSN
Catherine A. Devoe	KS. Vet. Med. Assn.
Raymond Kennedy	Sedg Co Farm Bureau
Bruce H. Ott	Sedg. Co. Farm Bureau
Bred Smoot	Pfizer, Inc





*A Century of Service  
1894-1994*

**Testimony**

**by the**

**Kansas Livestock Association**

**in support of**

**SB 310, Relating to Animal Remedies,  
Health Certificates and Video Markets**

**to the**

**Senate Committee on Agriculture**

**Senator David Corbin, Chairman**

**presented by**

**Mike Beam, Executive Secretary, Cow-Calf/Stocker Division**

**February 21, 1995**

Thank you Mr. Chairman, and committee members, for introducing Senate Bill 310. You may recall this bill was introduced at KLA's request. The bill amends current law involving fee funds for the disease control function of the Kansas Animal Health Department. It expands the existing definition of a "livestock remedy" and increases this registration fee, creates a new fee for health certificates issued by veterinarians, and requires video auctions to pay and collect fees equivalent to auction markets in this state.

**Kansas Animal Health Department:**

The Kansas Animal Health Department (KAHD) is the state agency responsible for enforcement of laws and regulations addressing livestock health, brands, livestock theft, dog kennels/cat breeders, and certain "exotic" animals. Attached is an overview of the agency.

KAHD's 1995 budget is \$1.75 million. Approximately 70% of this budget is funded by fees collected from the livestock industry and dog/cat breeders in the form of inspections, registrations, permits, and licenses. (Refer to attachment page titled "Existing Fee Sources at Maximum Rates".) The other 30% of the agency's revenue is appropriated from the State General Fund.

*Senate Ag. Co.  
2-21-95  
Attachment 1*



### **Task Force Appointed:**

Last summer our association's leadership appointed a special task force to study KAHD's financial needs, its fee structure, and develop a "fairer and more equitable" fee funding mechanism for KAHD's disease control function. This legislative proposal represents some of the Task Force's recommendations that were ultimately approved by the KLA membership at our annual meeting.

### **Fees vs. General Funds:**

The Task Force reviewed a recent study of funding levels and sources of all state animal health agencies conducted by the Texas Animal Health Commission TAHC. (The Texas legislature has instructed TAHC to devise a fee funding plan for their budget.)

It was determined that Kansas was second to New Mexico in its reliance on fee funding. In fact, 10.74% was the average in fees as a percentage of all budgets. Only three states, (Arkansas, Kansas, and New Mexico), rely on more than 25% of their revenue from fees from the industry.

The TAHC study revealed most states with substantial livestock numbers appropriated considerable more monies for animal health activities. For example, our neighboring states of Nebraska, Missouri, and Oklahoma all spend in excess of \$3 million annually in their animal health agencies.

### **Disease Control Budget Concerns:**

The Animal Disease Control function is the largest segment of the KAHD's activities with expenditures of approximately \$1 million. The Task Force determined the other three functions, (administration, brand/theft, and companion animals) are on relatively sound financial footing. Therefore, the Task Force concentrated on the funding sources and needs of the agency's Animal Disease Control function.

We found several funding/expenditure matters that gave us concern if the agency is to remain viable and aggressively carry out its mission of eradicating infectious and contagious diseases.

First, KAHD depleted its fee fund balances of \$52,000 in FY 1994. The Task Force wanted the agency to be in a strong enough position that it could at least operate with ending balances of 25%.

KAHD's FY 1996 budget request, for animal disease control activities, is less than the expenditures in FY 1994. To meet this expenditure level, the agency will need to raise all existing fees to the maximum allowed by law, utilize over \$35,000 from brand fees, and shift Disease Control Administration expenses to other functions.

There are several factors that have created this financial squeeze. First, agency personnel in this function were recently reclassified to a level warranting higher salaries. Secondly, one of the primary fee sources for the disease control function continues to erode. Nearly 80% of the fee revenue is from the 12¢/head collected from livestock sold at Kansas auction markets. An overall reduction in livestock numbers and livestock

producers, changes in marketing practices, and other economic factors have caused a trend in lesser numbers of livestock marketed through our public auction markets.

**Task Force Recommendations:(partial list)**

1. The Kansas Legislature should be encouraged to increase State General Fund dollars to the agency for disease control functions. Most states, with a smaller livestock industry, appropriate more general fund dollars to their animal health agency.

2. In light of the numerous demands on the state general fund, and the trend to more fee funding for agency's, the Task Force wanted to develop an alternative fee funding schedule to yield approximately \$650,000 annually. (Compared to \$513,307 under existing law.)

3. Identify new fee sources to allow agency to rely less on per head fee collected by Kansas auction markets.

4. Amend statutes so video markets are treated similarly as auction markets.

**New Fee Sources:**

The Task Force concluded any new fee sources should be broad based and administratively feasible. After exhaustive deliberations and through the process of elimination, KLA is proposing two new fee sources. One is additional revenue from the registration of livestock remedies and the second is a new fee for health certificates issued by veterinarians.

**Registration of Animal Remedies:**

This fee revenue source is utilized in Oregon. After pressure by their state legislature, Oregon animal health officials designed a animal health product registration program. Currently, Oregon registers 3,200 products at a fee of \$65.00 annually. (Their statutory maximum fee is \$75.00)

In Kansas, the Department of Agricultural (SDA) is authorized by law to register and collect a fee for "livestock remedies" used in the state. SDA has approximately 1,700 products registered at a fee of \$12 annually.

The definition of "livestock remedy" in KSA 47-501 is narrower than Oregon's "animal remedy" definition. In other words, more products are required to be registered in Oregon than this state. The definitions in SB 310 are taken from Oregon statutes and regulations.

This bill is intended to require all "animal remedies", except feed additives, to be registered by DOA at a fee of \$100 annually. Twelve dollars would be retained by DOA while \$88 would be remitted to the Animal Disease Control Fund of KAHD. On the attached "KLA Fee Schedule Proposal" we've make a conservative estimate this proposal would generate \$195,800 in new revenue if 2,225 products are registered.

What is the logic for assessing the manufacturers of animal remedies for disease control programs? As I mentioned, the Task Force wanted to find a broad based approach to fund animal disease control functions. It's

our theory that most animal owners purchase one or more animal remedies in proportion to the number of animals they own.

The animal remedy fee is \$100 for the right to sell the product in Kansas. We expect pharmaceutical companies to pass this on to animal owners. From a livestock producers vantage, paying a fraction extra for an animal remedy is fairer than paying a new license or registration fee, that many people escape from, for a purpose that benefits all animal owners.

#### **Health Certificates:**

We are also supporting the provision of this bill creating a new fee on animal health certificates. This is one funding source identified in Texas. Currently, livestock owners are required to obtain a health certificate from a veterinarian before shipping livestock interstate. There also shows and sales that require such a certificate. Veterinarians acquire these certificate forms in books of 50 certificates from KAHD. They are currently charged \$10/book.

SB 310 would increase this fee to \$100 or \$2.50/certificate. Veterinarians would bear the initial \$100 and could charge the livestock owner the \$2.50. Last year, KAHD sold 750 books. With a new \$100 fee this should yield about \$75,000 per year.

#### **Video Markets:**

Our members also voted to support amendments to the public market statutes to regulate video auctions similarly as auction markets. SB 310 gives KAHD the authority to collect the annual license fee on video markets doing business in Kansas. Furthermore, the agency would also collect the per head disease control fee currently paid by auction markets.

#### **Conclusion:**

These recommendations are being made to this committee and the entire legislature after considerable effort and debate by our association. I'm sure there are provisions unpopular to some businesses and individuals. We feel however, it is a sound proposal that establishes a financial framework for the Kansas Animal Health Department. KAHD is intent on eradicating Brucellosis, swine pseudo rabies, and addressing other diseases that will likely surface in the future. We don't want KAHD's resources to be an obstacle in addressing their mission.

I'd be happy to respond to any questions or comments. Thank you!





## STATE OF KANSAS

### Animal Health Department

#### Kansas Animal Health Department Overview

The agency is divided into four functions: administration, disease control, brands and animal facilities inspection.

The administrative function provides direction to the agency. Payroll, personnel matters, accounting and secretarial duties are performed under this function.

The disease control function is the largest in the department. Fifteen employees work to eradicate the state of infectious and contagious livestock diseases. Nearly 80 percent of this function's activities are involved with brucellosis. Three state veterinarians are responsible for testing programs, epidemiology of disease outbreaks and technical support for the administration. Five livestock inspectors inspect feedlots, livestock markets, disposal plant, conduct disease tracebacks, and assist in testing programs. Seven office staff gather and maintain records on calfhood vaccinations, herd records, test results, and import and export requirements. They collect license fees and maintain records on all licensed facilities. The vets and inspectors provide health inspection services at the State Junior Dairy Show, the Kansas State Fair, the Kansas Junior Livestock Show and numerous county fairs.

The brand section consists of 3.5 employees. The 1.5 employees in the office maintain the state brand registry. They record five to six thousand brands each year and assist with the market brand inspection program which is done by contract. The two theft investigators assist local law enforcement with lost, stayed and stolen livestock. They coordinate investigations between agencies and victims.

The animal facilities inspection program consists of seven people. The director supervises one office employee who maintains licenses, health papers and correspondence dealing with the program. The director also supervises five facilities inspectors that make annual inspections of all licensed facilities and investigate all complaints reported to the department. The inspectors also provide information on kennel requirements to prospective license holders.

The entire agency is available to provide education on diseases, brands and companion animals through telecommunications, direct mail and public appearances.



# EXISTING FEE SOURCES AT MAXIMUM RATES

*(Used in Agencies 1996 Fiscal Year Budget)*

**Fee collected on all animals at Kansas Auction Markets**

2,715,416 animals at 15¢/head = \$407,312

**Feedlots (beef, swine, sheep and dairy)**

<u>Capacity</u>	<u>No.</u>	<u>Fee</u>	<u>Amount</u>	
<1,000 head	21	\$65	\$1,575	
1,000 to 2,999	55	150	8,250	
3,000 to 9,999	68	300	20,400	
10,000 to 17,999	31	450	13,950	
>18,000	45	750	<u>33,750</u>	77,925

**Auction Market Licence**

62 at \$40 = 2,480

**Garbage Feeder License**

1 at \$15 = 15

**Animal Rendering/Disposal Plants**

7 at \$525 = 3,675

**Disposal Trucks**

130 at \$75 = 9,750

**Dealer/Order Buyer Registration**

162 at \$75 = 12,150

**Total** \$513,307



# KLA FEE SCHEDULE PROPOSAL

## Animal Disease Function Kansas Animal Health Department

Livestock Remedy Reg. (\$88 x 2,225 products)	\$195,800
Health Certificates (750 books at \$100 - costs)	75,000
Market registration/licenses (62 at \$40)	2,480
Dealer registration fees (162 at \$75)	12,150
Feedlot license fees	77,925
Garbage Feeders	25
Disposal Plants (7 at \$525)	3,675
Disposal Trucks (130 at \$75)	9,750
Per head fee at Auction Markets (2,715,416 animals at \$.10)	271,542
Satellite markets registration (3 at \$40)	120
Satellite market per head fee (75,000 x .10)	<u>7,500</u>
	\$655,967

**SUBCOMMITTEE REPORT**

Agency: Animal Health Department

Bill No. 153

Bill Sec. 3

Analyst: Mills

Analysis Pg. No. 715

Budget Page No. 73

Expenditure Summary	Agency Request FY 96	Governor's Recommendation FY 96	Senate Subcommittee Adjustments
<b>State Operations:</b>			
State General Fund	\$ 631,162	\$ 478,898	\$ 6,479
Special Revenue Fund	1,175,404	1,262,662	(26,936)
<b>Other Assistance:</b>			
State General Fund	150,000	0	0
Special Revenue Fund	0	0	0
<b>TOTAL</b>	<u><u>\$ 1,956,566</u></u>	<u><u>\$ 1,741,560</u></u>	<u><u>\$ (20,457)</u></u>
<b>FTE Positions</b>	29.5	29.5	0.0
<b>Special Project Appointments</b>	0.0	0.0	0.0
<b>TOTAL</b>	<u><u>29.5</u></u>	<u><u>29.5</u></u>	<u><u>0.0</u></u>

**Agency Request/Governor's Recommendation**

The agency requests FY 1996 state operations of \$1,956,566 an increase of \$82,493 (4.4 percent) over the FY 1995 estimate. The majority of the increase, \$48,331, is for contractual services. The request would fund 29.5 FTE positions, the same number as the current year.

The Governor recommends \$1,741,560 for state operations in FY 1996, a reduction of \$65,006 from the agency request. The recommendation includes \$478,898 from the State General Fund and \$1,262,662 from special revenue funds. The recommendation is composed of \$1,022,442 for salaries for 29.5 FTE positions, \$697,002 for contractual services, and \$22,116 for commodities. The Governor does not recommend the requested \$150,000 for brucellosis eradication in FY 1996.

The Animal Health Department is financed from a variety of sources, including the State General Fund, fee funds, and federal funds. Historically, the agency has financed over 70 percent of its operations from fee funds. Fee funds financed 75.4 percent of the budget in FY 1990, 72.7 percent in FY 1991, 86.9 percent in FY 1992, 76.7 percent in FY 1993, and 78.0 percent in FY 1994. Based on the agency's request, fee funds would finance 73.0 percent of the budget in FY 1995, but would drop to 60.1 percent in FY 1996. Under the Governor's recommendation, fee funds would finance 67.8 percent and 72.5 percent of the budget in FY 1995 and FY 1996, respectively.



## Senate Subcommittee Recommendation


The Senate Subcommittee concurs with the Governor's recommendation, with the following adjustments:

1. Delete \$38,099, including \$11,163 from the State General Fund (SGF) based on the recommendation to delete funding for a 3.5 percent unclassified merit pool (\$2,302); classified step movement (\$15,940); a 1 percent base adjustment for classified employees (\$8,590); and the longevity bonus (\$11,267) from individual agency budgets.
2. Add \$10,717 (State General Fund) to reduce the recommended shrinkage rate from 3 percent to 2.0 percent. The Livestock Commissioner stated that the agency is holding 1.5 positions vacant in order to meet the 3.0 percent shrinkage rate in the current year. This lower shrinkage rate will allow the agency to more effectively meet its statutory responsibilities.
3. Add \$6,000 (SGF) for travel to allow for increased travel in the brucellosis eradication program. The Governor's recommendation for travel of \$76,898 is \$6,682 below actual FY 1994 expenditures. The Livestock Commissioner stated that, if current eradication efforts are continued, Kansas should have no infected herds by October of 1996. Also, according to the agency, federal funding for brucellosis eradication (\$250 per head) will cease in 1998.
4. Add \$300 from the State General Fund to allow the agency to purchase a snag pole and transport cages for the Animal Facilities Inspection Program. By statute, the agency is required to seize animals if the health or welfare of the animals are in question. Borrowing equipment can involve several hours or days of inspector's time; and cause delays in removing the animals.
5. Add \$625 from the State General Fund for capital outlay for the Animal Facilities Inspection Program. This one-time expenditure will allow the agency to purchase a CD ROM and tracking software to aid in the local of unlicensed facilities. The Governor's recommendation for travel for the Animal Facilities Inspection Program in FY 1996 is \$1,776 below actual FY 1994 expenditures. The agency expressed concern about its ability to locate unlicensed facilities (and thus increase its fee base) if travel expenditures are reduced. The recommended CD ROM and related software would allow the agency to capture some of these unlicensed facilities without requiring inspectors to pay a personal visit.
6. The Subcommittee notes the agency's concern regarding the reduction in travel for the Animal Facilities Inspection Program in FY 1996. To allow maximum flexibility to the agency, the Subcommittee recommends the introduction of legislation to amend K.S.A. 47-1709(c) which mandates that the Commissioner or the Commissioner's representative shall make inspections of the premises required to be licensed if there are reasonable grounds to believe that the person is violating the act. The agency has construed this provision of the act to mandate inspections of all complaints and to require a personal inspection of all unlicensed facilities which are located by the field inspectors. According to the agency, much of the original contacts to unlicensed facilities can be made by phone or letter without a



personal inspection. Furthermore, although some complaints are valid, a fair number are frivolous. Unfounded complaints are often spotted by the agency before an inspection is made. Despite misgivings or actual knowledge that a complaint is groundless, the agency assigns an inspector to reinspect the facility based on the complaint. The Subcommittee believes that the agency should be allowed to exercise discretion in responding to complaints and recommends that the statutory language be changed to make the inspection duties in this section permissive rather than mandatory.

7. The Subcommittee learned that the agency does not notify licensed facilities prior to their inspection. Kennel facilities in the state are frequently located in rural districts and are spread out over large areas. Consequently, when an inspector has driven hundreds of miles and arrives at an isolated facility and does not find anyone at home, the inspector often sits at the location for several hours before giving up. One inspector, whose area covers 33 counties in western Kansas, drove 2,918 miles in October, inspected 22 facilities and attempted to inspect another 21 facilities but was unable to locate the proprietor. The Subcommittee learned that the agency used to set appointments to inspect facilities but this practice was discontinued based on a 1990 post audit recommendation. The Subcommittee recommends that the agency develop an economical method of pre-notification, perhaps the morning of the inspection, which provides only short-term notice to the facilities but enables the inspector to go elsewhere if the licensee is not at home.
8. The Subcommittee learned that the agency has requested the introduction of a bill, from the Senate Committee on Agriculture, which would reconfigure the fee structure of the Animal Disease Control Fund. Despite the agency's intent to raise all large animal fees to the statutory maximum in FY 1996, recommended expenditures from the Animal Disease Control Fund exceed revenue by \$15,020 and leave the Fund with an ending balance of \$1,991. In addition, to maintain a positive balance in the fee fund, the Governor recommends transfers of \$35,088 in FY 1995 and \$39,532 in FY 1996 from various brand fee funds into the Animal Disease Control Fund. The Subcommittee strongly supports the new fee structure, which primarily funds the agency through animal remedy registrations. The revised fee structure would generate an additional \$200,000 in fees annually.
9. Lastly, the Subcommittee wishes to commend the staff of the Animal Health Department on their presentation before the Subcommittee: the agency presentation and the appeal documents were well prepared and concise.

  
\_\_\_\_\_  
Senator Barbara Lawrence, Chair

  
\_\_\_\_\_  
Senator Dave Kerr

SENATE BILL No. 310

By Committee on Agriculture

2-14

9 AN ACT concerning animals; relating to animal remedies; creating the  
10 animal remedies fee fund; authorizing the livestock commissioner to  
11 issue certificates of health; video auctions; amending K.S.A. 47-501,  
12 47-502, 47-503, 47-505, 47-507, 47-508, 47-510, 47-1001e, 47-1011,  
13 65-679, 65-1626 and 65-2701 and K.S.A. 1994 Supp. 47-504, 47-607  
14 and 47-1001 and repealing the existing sections; also repealing K.S.A.  
15 47-514 and 47-515.

16  
17 *Be it enacted by the Legislature of the State of Kansas:*  
18 Section 1. K.S.A. 47-501 is hereby amended to read as follows: 47-  
19 501. For the purpose of this act:

20 ~~(A)~~ "Livestock (a) "Animal remedy" means all drugs, combinations  
21 of drugs, and combinations of drugs and other ingredients, proprietary  
22 medicines and preparations which are prepared or compounded (1) for  
23 the treatment, mitigation, prevention or cure of any disease or ailment of  
24 any animal except man; (2) (other than feeds) to affect the structure or  
25 any function of the body of any animal except man. The term "livestock  
26 remedy" is not intended to include drugs or preparations compounded  
27 at the request of the purchaser by a licensed pharmacist or prescribed by  
28 registered veterinarians, after diagnosis of animals, and vaccines, serums  
29 and bacterins; any product used to prevent, inhibit, or cure or enhance  
30 or protect the health or well-being of animals. "Animal remedy" does not  
31 include: (1) Commercial feeding stuffs, as defined in subsection (b); (2)  
32 surgical instrument or accessories; (3) drugs compounded or preparations

delete 33 ~~compounded at the request of the purchaser by a licensed pharmacist or~~  
and 34 ~~compounded, prepared or prescribed by a licensed veterinarian after a~~

delete 35 ~~diagnosis of an animal; or~~ (4) products regulated under the federal insecticidal, rodenticidal and fungicidal act.

36  
37 (b) "Commercial feeding stuffs" means all feeding stuffs used for feed-  
38 ing livestock, poultry and pets, including the following: (1) Whole seeds  
39 or grains. (2) The unmixed meals made directly from and consisting of  
40 the entire grains of corn, wheat, rye, barley, oats, buckwheat and grain  
41 sorghum. (3) Whole hays, straws, silage, cobs, husks, hulls and stover,  
42 when unmixed with other materials. (4) All other materials consisting of  
43 60% or more of water. (5) Custom mixed feeds. (6) Customer formula

& (5) autogenous biologics



Substitute:

"Pharmaceutical" means drug products labeled for veterinary/animal use by the U.S. Food & Drug Administration pursuant to 21 CFR, 510-556.

Substitute:

"Veterinary biologics product", sometimes referred to as biologics biologicals or products, means all viruses, serums, toxins, and analogous products of natural or synthetic origin, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms intended for use in the diagnosis, treatment or prevention of diseases of animals.

Substitute:

"Autogenous biologic" means a biologic product prepared by a veterinary practitioner solely for administration to animals in the course of a state licensed professional practice of veterinary medicine by such veterinarian under a veterinarian client/patient relationship.

SB 310

2

1 feed. (7) Pet food. (8) Specialty pet food.

2 (c) "Customer formula feed" means a mixture of feeding stuffs, or a  
3 mixture of feeding stuffs and other materials, each lot of which is for-  
4 mulated subsequent to the request of an individual purchaser to contain  
5 a specific content of ingredients, protein, vitamin, drug or other guaran-  
6 tee.

7 (d) "Custom mixed feed" means a mixture of feed ingredients, or a  
8 mixture of feed ingredients and other materials, which are supplied to the  
9 owner of the mixing equipment, and are mixed for the owner of the in-  
10 gredients without any guarantee on the part of the owner of the mixing  
11 equipment as to the nutritional or chemical content of the resulting mix-  
12 ture.

13 (e) "Pet food" means any commercial feeding stuffs prepared and dis-  
14 tributed for consumption by pets.

15 (f) "Specialty pet food" means any commercial feeding stuffs prepared  
16 and distributed for consumption by specialty pets.

17 (g) "Pharmaceutical" means any product prescribed for the treatment  
18 or prevention of disease for veterinary purposes, including vaccines, syn-  
19 thetic and natural hormones, anesthetics, stimulants or depressants.

20 (h) "Veterinary biologic" means any biologic product used for vet-  
21 erinary purposes, including antibiotics, antiparasitics, growth prom-  
22 otants or bioculture products.

23 (i) "Autogenous biologic" means a product derived from a source  
24 within the individual animal or animals, or such animal's confines, upon  
25 which it is to be used.

26 (j) "Person" means all individuals, associations, partnerships,  
27 agents and corporations.

28 (k) "Secretary" means the secretary of the state board of agri-  
29 culture.

30 (l) "Animal" means any animate being endowed with the power  
31 of voluntary action other than ~~man~~ a human being.

32 (m) "Adulterated" means any animal remedy, or part thereof, under  
33 one or more of the following circumstances:

34 (1) If the animal remedy bears or contains any poisonous or dele-  
35 terious substance which may render it injurious to the animal's health,  
36 except that if the substance is not an added substance, the animal remedy  
37 shall not be considered adulterated if the quantity of such substance on  
38 or in the animal remedy does not render it injurious to the animal's health;

39 (2) (A) if the animal remedy bears or contains, by reason of admin-  
40 istration by feeding or by injection of any substance to the live animal or  
41 otherwise, any added poisonous or added deleterious substance, other  
42 than one which is: (i) A pesticide chemical in or on a raw agricultural  
43 commodity; (ii) a food additive; or (iii) a color additive, which, in the

1 is.

2 An animal remedy shall not be deemed to be adulterated if its quality,  
3 strength or purity differs from that set forth in such compendium, if the  
4 difference in strength, quality or purity from such standard is plainly  
5 stated on the label. The secretary is authorized and directed to make  
6 allowances for reasonable variations.

delete

7 (n) "Biologic products," sometimes referred to as biologics, biologicals  
8 or products, means all viruses, serums, toxins and analogous products of  
9 natural or synthetic origin, such diagnostics, antitoxins, vaccines, live mi-  
10 croorganisms, killed microorganisms and the antigenic or immunizing  
11 components of microorganisms intended for use in the diagnosis, treat-  
12 ment or prevention of diseases of animals.

13 (o) "Registrant" means any person who registers any animal remedy  
14 or would be required to register an animal remedy under the provisions  
15 of K.S.A. 47-502, and amendments thereto.

16 (p) "Misbranded" means an animal remedy: (1) Label that is false or  
17 misleading in any particular; (2) container that is so made, formed or  
18 filled as to be misleading or deceptive; and (3) that is dangerous to health  
19 of animals when used in the dosage, or with the frequency or duration  
20 prescribed, recommended or suggested in the labeling. An animal remedy  
21 shall not be deemed to be misbranded if its quality, strength or purity  
22 differs from that set forth in such compendium, if the difference in  
23 strength, quality or purity from such standard is plainly stated on the  
24 label. The secretary is authorized and directed to make allowances for  
25 reasonable variations.

26 Sec. 2. K.S.A. 47-502 is hereby amended to read as follows: 47-502.

or

27 (a) Any person desiring to sell, offer or expose for sale, or distribute, or  
28 take any orders or contract for the sale or distribution in Kansas of any

product

29 ~~livestock animal remedy, pharmaceutical, veterinary biologic~~ or autoge-  
30 ~~nous biologic~~ shall first file with the secretary an application for registra-

delete

delete

31 tion thereof truthfully stating:

32 (A) (1) The name and principal address of the person responsible for  
33 placing such ~~livestock animal~~ remedy on the market;

34 (B) (2) the name, brand, or trade-mark under which the remedy is  
35 to be sold;

36 (C) (3) the minimum net contents of the container, package or parcel  
37 of such ~~livestock animal~~ remedy expressed by weight or count and weight  
38 in the case of solids and by measure in the case of liquids, and by both  
39 count and weight or measure per unit in case of dosage forms; and

40 (D) (4) the english name of each ingredient used in the manufacture  
41 of such ~~livestock animal~~ remedy including the name, kind, and quantity  
42 per dose, tablet, capsule, or other specified unit of all anthelmintic drugs,  
43 strychnine, arsenic, mercury, chloroform, alcohol, all sulfonamides, or any

Senate Bill No. 310

Senate Agriculture Committee

February 21, 1995

Mr. Chairman, Members of the Senate Agriculture Committee, my name is Larry D. Woodson, Director of the Division of Inspections, Kansas Department of Agriculture and I appear this morning in support of Senate Bill No. 310.

From a historical point of view, livestock remedies have been regulated since 1913 with the original passage of the Livestock Remedy Act. It was amended in 1923, 1945, 1973, and 1982. It has assured that livestock remedy products offered for sale, exposed and sold in Kansas are registered, properly labeled, and allows the agency to sample products when deemed necessary to assure label guarantees.

Senate Bill No. 310 was proposed by the Kansas Animal Health Board and the Animal Health Department for the purpose of raising revenue to support the Animal Health Department and it's animal disease control objectives.

In order to accomplish this, this bill amends the Livestock Remedies Act and renames it the Animal Remedy Act and expands the products registered to include vaccines, serums, bacterins, and biologics. It is anticipated that this will double the number of products registered to 3,200 products.

Secondly, it will raise the annual registration fee from \$12 to \$100 per product. Of this amount, \$10 will go to the Inspections Division, \$2 to the Agricultural Laboratory, and the remaining \$88 will be deposited to the Animal Health Department. Assuming that 3,200 products are registered, this will raise \$281,600 for the Animal Health Department.

The Agency has met with the Animal Health Department and with Legislative Research in an attempt to update the Act as we were raising revenue. This explains the length of the bill.

I will attempt to briefly touch on some of the elements that have been addressed:

- Delete verbage mandating the sampling of every product registered in the state.
- Delete the mandate to publish analytical findings in reports or bulletins.
- Change the penalty section to a class "A" nonperson misdemeanor.
- Delete obsolete sections pertaining to inspection fee tags, stamps, and termination of rights.
- Expands the definition of adulteration.

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- Will provide authority for an audit of a manufacturer regarding registered products should the need arise.
- Does exempt products that may be registered under the Federal Insecticide Fungicide Rodenticide Act (FIFRA) to prevent double registration.
- Exempt all products labeled as an ingredient for feed use to prevent double registration. Medicated feed ingredients are registered under the Kansas Commercial Feeding Stuffs Law.
- The agency retains the ability to obtain a sample of the product for laboratory analysis in order to maintain the integrity of the labeled product or label guarantees. It is not the intent of this law to prove product efficacy. The product will be approved by the Food Drug and Cosmetic Act.

The remainder of the bill addresses animal health laws.

Mr. Chairman, I stand for questions. Mr. John Falk, program manager for the Agricultural Commodities Assurance Program is with me today to answer any technical questions that may arise.

THANK YOU MR. CHAIRMAN AND GOOD MORNING. I AM PAUL BRANCH, BUSINESS MANAGER OF SUPERIOR LIVESTOCK AUCTION, INC. SUPERIOR LIVESTOCK IS THE FOUNDER OF SATELLITE VIDEO LIVESTOCK MARKETING AND CONDUCTED ITS FIRST AUCTION IN JANUARY, 1987. LAST YEAR WE MARKETED CATTLE FOR PRODUCERS LOCATED IN 38 STATES, CANADA AND MEXICO.

SUPERIOR IS VERY PROUD OF THE REVOLUTIONARY MARKETING ALTERNATIVE WE HAVE PROVIDED THE CATTLEMEN IN KANSAS AND THROUGHOUT THE UNITED STATES. SATELLITE VIDEO MARKETING PROVIDES THE PRODUCER THE PROVEN PRICE DISCOVERY METHOD OF COMPETITIVE BIDDING WHILE RETAINING THE ADVANTAGES OF DIRECT COUNTRY DELIVERY. THIS COUNTRY DELIVERY GREATLY REDUCES THE STRESS ON THE CATTLE AND THE EXPOSURE TO DISEASE.

WE ARE IN OPPOSITION TO SENATE BILL 310, SPECIFICALLY SECTION 12, PARAGRAPH 2. SUPERIOR LIVESTOCK HAS ALWAYS AND WILL CONTINUE TO WORK WITH ALL STATE REGULATORY AGENCIES THROUGHOUT THE UNITED STATES WHEN THOSE

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REGULATIONS DO NOT DISCRIMINATE AGAINST SATELLITE VIDEO MARKETING. WE FEEL THAT SECTION 12, PARAGRAPH 2 DOES DISCRIMINATE AGAINST THOSE PRODUCERS WHO CHOOSE TO MARKET THEIR CATTLE VIA SATELLITE VIDEO AUCTIONS COMPARED TO THOSE PRODUCERS WHO SELL VIA A PRIVATE TREATY TRANSACTION.

IT IS MY UNDERSTANDING THAT THE KANSAS ANIMAL HEALTH DEPARTMENT DERIVES APPROXIMATELY 70% OF ITS ANNUAL REVENUE FROM FEES AND OPERATES ON AN ANNUAL BUDGET OF APPROXIMATELY \$1.8 MILLION DOLLARS. IT IS ALSO MY UNDERSTANDING THAT "FEE INCOME" HAS BEEN DECREASING IN RECENT YEARS BECAUSE OF FEWER CATTLE BEING SOLD THROUGH TRADITIONAL LIVESTOCK AUCTIONS IN KANSAS. WE CERTAINLY UNDERSTAND THE DILEMMA IN WHICH THE ANIMAL HEALTH DEPARTMENT FINDS ITSELF.

WHEN WE WERE INFORMED OF THE STUDY COMMITTEE CREATED BY THE KANSAS LIVESTOCK ASSOCIATION TO STUDY THIS PROBLEM, WE STATED AT THAT TIME THAT WE WOULD NOT BE OPPOSED TO BECOMING A COLLECTION AGENCY FOR THE FEE DESCRIBED IN SECTION 12, PARAGRAPH 2, BUT ONLY IF

IT WAS COLLECTED ON ALL COUNTRY TRANSACTIONS, NOT JUST SATELLITE VIDEO TRANSACTIONS. IT IS ONCE AGAIN MY UNDERSTANDING THAT THE ORIGINAL KLA COMMITTEE REPORT INCLUDED THOSE COUNTRY TRANSACTIONS CONDUCTED BY LICENSED LIVESTOCK DEALERS, BUT THAT PORTION WAS REMOVED AT SOME POINT IN TIME.

IT IS OBVIOUS THAT THE PURPOSE OF SECTION 12, PARAGRAPH 2 IS TO INCREASE REVENUE FOR THE ANIMAL HEALTH DEPARTMENT, HOWEVER I FEAR THE AUTHORS OF THE BILL VASTLY OVER ESTIMATED THE NUMBER OF HEAD OF KANSAS CATTLE SOLD BY VIDEO AUCTIONS AND THEREFORE THE REVENUE THAT WOULD BE GENERATED. I WENT BACK TO OUR RECORDS FOR 1994 AND IF THIS FEE HAD BEEN IN PLACE IN 1994, WE WOULD HAVE COLLECTED A MERE \$6,323.52 ON THE 52,696 HEAD DELIVERED AT THE CURRENT RATE OF \$.12/HEAD. THIS REPRESENTS THREE ONE HUNDREDTHS OF 1% OF THE \$1.8 MILLION BUDGET FOR THE ANIMAL HEALTH DEPARTMENT. I DARE SAY THAT IT WOULD COST YOUR STATE AGENCY AND MY COMPANY ALMOST THE SAME AMOUNT OF MONEY IN A YEAR'S



TIME JUST TO IMPLEMENT AND CARRY OUT THE FEE COLLECTION PROCESS AND RECORD KEEPING.

WE ARE NOT OPPOSED TO COLLECTING THE FEE, BUT ARE OPPOSED TO BEING THE ONLY FORM OF DIRECT COUNTRY DELIVERY MARKETING REQUIRED TO DO SO. IN ESSENCE, IT IS A TAX AGAINST ANY CATTLEMAN WHO MARKETS HIS CATTLE VIA SATELLITE VIDEO AUCTION. A PRODUCER WHO SELLS HIS CATTLE VIA PRIVATE TREATY IS NOT ASSESSED THIS TAX.

IF THIS COMMITTEE WANTS TO SIGNIFICANTLY INCREASE FEE INCOME FOR THE ANIMAL HEALTH DEPARTMENT, IT MUST INCLUDE ALL COUNTRY LIVESTOCK TRANSACTIONS, NOT JUST THOSE OF SATELLITE VIDEO AUCTIONS.

THERE HAS APPARENTLY BEEN SOME DISCUSSION REGARDING THE INABILITY OF THE STATE TO COLLECT THE FEE FOR THE LICENSED DEALER TRANSACTION. I DO NOT SEE HOW THIS COULD BE MUCH OF A PROBLEM BECAUSE THOUSANDS OF DOLLARS ARE COLLECTED AND REPORTED BY THESE SAME DEALERS EACH YEAR IN THE NATIONAL BEEF CHECKOFF. CERTAINLY A SIMILAR COLLECTION PROGRAM CAN BE DEVELOPED FOR THE FEE BEING DISCUSSED TODAY.

IN SUMMATION, IF SENATE BILL 310, SECTION 12, PARAGRAPH 2 WOULD BE AMENDED TO INCLUDE ALL LIVESTOCK TRANSACTIONS CONDUCTED BY SATELLITE VIDEO AUCTIONS AND LICENSED LIVESTOCK DEALERS, WE WOULD BE IN SUPPORT OF THE BILL. WE ARE AND WILL CONTINUE TO BE OPPOSED TO THE BILL AS IT IS CURRENTLY WRITTEN BECAUSE IT DISCRIMINATES AGAINST THOSE PRODUCERS WHO CHOOSE TO MARKET THEIR CATTLE VIA SATELLITE VIDEO AUCTION.

THANK YOU FOR THE OPPORTUNITY TO ADDRESS THIS COMMITTEE AND I WILL NOW BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE.

Testimony before the Senate Agriculture Committee  
Topeka, Kansas  
February 21, 1995

By: Karen DeQuasie  
Director of Public Affairs  
North America Region  
Pfizer Animal Health Group

RE: SB310

Chairman Corbin and members of the committee: My name is Karen DeQuasie. I am the Director of Public Affairs for the North America Region of Pfizer Animal Health. Pfizer Inc is a research based pharmaceutical company with global operations. The Animal Health Group within Pfizer represents 16% of the Company's business and is second only to the human pharmaceutical group. Nearly 50% of the animal health business is done here in the United States. We manufacture feed additives for livestock, and biologicals or vaccines used to prevent disease, and pharmaceutical products for both livestock and companion animals. My comments today will address our involvement in and commitment to the development and manufacture of products for the livestock industry.

Kansas is very important to Pfizer. Not only the significant cattle numbers but the progressive, forward-thinking livestock producers in Kansas have provided Pfizer with an unequalled opportunity to grow our business here, while at the same time growing our partnership with and support of programs critical to the industry's future. In 1994, Pfizer

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invested over \$10,000 in programs for the Kansas Livestock Association, including a Cattlemen's College program for the second year; and the State's Environmental Stewardship Award Program.

Kansas State University was the recipient of approximately \$80,000 from Pfizer in 1994 through scholarship awards, research grants and free products. And, we are Kansas employers, with 45 marketing and sales staff located in Overland Park and 16 sales representatives and veterinarians working across the state.

We believe we are more than just a good corporate citizen of Kansas. We provide substantial support for the livestock industry here, and have made a long-term commitment to the future of the Kansas families who choose animal agriculture as a way of life. And Pfizer has demonstrated this commitment by "putting our money where our mouth is" so-to-speak, not only here in Kansas but for the future of the animal health industry. While other major pharmaceutical companies have divested themselves of their animal health businesses to focus on the more profitable human health area, Pfizer stepped forward and acquired SmithKline Beecham Animal Health for \$1.45 billion dollars. It not only made us the largest animal health company in the world, but afforded us the opportunity to expand our discovery research work on new animal drugs. We estimate

that investment in research for 1995 will be over \$130 million. Our ability to bring new products to the market helps increase the profitability of the producer, maintain the animal's health and wellbeing, and protects our food supply. We take this commitment very seriously.

The fees being suggested in SB310 bear no reasonable relationship to our products, their use or function. We see no regulatory purpose; rather, this appears to be an attempt to simply shift the source of revenue needed to maintain the animal health inspection service away from those currently paying inspection fees, and onto the industry that is providing the products to keep these animals healthy. This seems very much like asking the oil companies to pay for auto safety testing. It doesn't make any sense.

There is no analogy for this fee increase. Only six other states in the country have any type of annual product certification fee and they range from \$6 to \$25. SB310 is calling for a 1000% increase. This notion is completely illogical, unfair, and I'm not an attorney, but it may not be legal.

Finally, the Governor's recommended budget does not call for any increases for this department. And, he has said there should be no new fees. Both Houses are

recommending cuts. What is proposed here is not cutting - it's simply shifting the revenue source.

I think it is interesting that last week, this bill did not have a number. There has been no time provided for public scrutiny, and there has been no opportunity for input from the companies that would bear this added expense to doing business in Kansas. We feel we've been bush-whacked. We request this bill receive no further consideration.

Ladies and gentlemen, thank you for the opportunity to speak with you today, and for your attention. I would be glad to discuss this issue further or answer any questions you may have.