

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairperson Nancey Harrington at 10:45 a.m. on February 4, 2003 in Room 245-N of the Capitol.

All members were present.

Committee staff present: Russell Mills, Legislative Research Department
Dennis Hodgins, Legislative Research Department
Theresa Kiernan, Office of the Revisor
Nikki Kraus, Committee Secretary

Conferees appearing before the committee: Randy Hearrell, Kansas Judicial Council
Barb Hinton, Legislative Post Audit
Deborah Duncan, KS Animal Health Department

Others attending: Please see attached.

Chairperson Harrington asked the committee for bill introductions.

Senator Gilstrap asked for the introduction of a bill on behalf of Senator Hensley concerning school districts and community college's and the jurisdiction of persons employed as police officers.

Senator Teichman made a motion to introduce the bill. Senator Gilstrap seconded the motion to introduce. The bill was introduced.

Chairperson Harrington opened the public hearing on:

SB 46—Kansas pet animal act; procedures for seizure and impoundment of animals

Mr. Hearrell presented testimony in favor and explanation of the bill. (Attachment 1)

Ms. Hinton recommended presented testimony in favor of the bill and a suggested amendment. (Attachment 2)

Ms. Hinton stated that the suggested amendment from Legislative Post Audit concerned a change in the language in lines 27-29 to say if there was such an order from the judge, he/she would also order a cash bond to cover the cost for caring for the animal(s).

Senator Brungardt stated that if people don't have money to feed the animals, then how will they post bond, and Ms. Hinton stated that she did not know. With the help of another Post Audit staff member, LeAnn Schmidt, she later explained that if the individual does not have the money to support the animal(s) and it/they are dying, then they did not want to require that those animals be kept alive at the state's expense, and many of those animals are very ill and have to be euthanized anyway. She stated that if they cannot afford to feed the animal, and cannot afford the cash bond, then the state is not going to have to be in the position to maintain those animals.

In response to a question from Mr. Hodgins, Ms. Kiernan stated that at the end of the time for which the expenses are covered, the owner would post another bond or renew it instead of specifying a specific time period; the time period runs for that much expense.

Following further discussion of the bill's language, Ms. Duncan presented testimony in favor of the bill. (Attachment 3)

The committee was also presented with a copy of the fiscal note for **SB 46**. (Attachment 4)

CONTINUATION SHEET

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE at 10:45 a.m. on February 4, 2003 in Room 245-N of the Capitol.

Chairperson Harrington asked the committee for questions of the conferees.

Senator Brungardt stated that some mention was made that some critters are covered under one act and some under another-does this take care of everybody?

Ms. Duncan replied that her organization only has jurisdiction under the Pet Animal Act; her agency has no jurisdiction over animal cruelty. However, she stated, in the animal cruelty provision, which includes livestock, there already is the bond posted.

In response to further bond explanation from Ms. Hinton, Ms. Duncan stated that the statute does state that if the state seizes animals and the owners win, then the state has to pay all costs of care.

Chairperson Harrington stated that she would close the public hearing, and would leave it up to the committee's pleasure whether or not the bill needed should be worked.

Ms. Kiernan stated that they would need to add the word "cash" before bond and delete line 29 to get to the same point.

Senator O'Connor made a motion to amend SB 46 as above. Senator Teichman seconded the motion to amend. The bill was amended.

Senator O'Connor made a motion to recommend SB 46 as amended favorable for passage. Senator Teichman seconded the motion. The bill was recommended favorable for passage.

Chairperson Harrington asked Senator Brungardt to carry the bill on the floor. Senator Brungardt accepted, although he said the bill was a "little bit of a dog."

Russell Mills announced to the committee that they were set up to visit the Czars' 400 Years of Imperial Grandeur exhibition on Thursday, and that they should enter the South entrance of the West Ridge Mall to attend.

Senator Teichman stated that she was interested in seeing this one as compared to the last.

The meeting was adjourned at 11:15 a.m. The next meeting will be at 10:45 a.m. on February 5, 2003 in Room 245-N.



KANSAS JUDICIAL COUNCIL

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MEMORANDUM

TO: Senate Federal and State Affairs Committee
FROM: Kansas Judicial Council
DATE: February 4, 2003
RE: 2003 SB 46 - Kansas Pet Animal Act

In March of 2002, Senator Steve Morris requested that the Judicial Council review the 2001 incident that resulted in significant financial liability to the Kansas Animal Health Department to determine if some form of relief would be available to the state in such situations or if potential law changes could prevent of such occurrences.

The Judicial Council agreed to undertake the study and concluded that a statutory amendment that requires a bond sufficient for the seized animals care and keeping was the approach it would take in addressing the problem. The Council was pleased the performance audit report from the Legislative Division of Post Audit proposed such an approach as one of the ways the Animal Health Department could recover the costs of caring for seized animals.

The Judicial Council reviewed the Colorado and Missouri statutes and utilized both to draft the proposed legislation. After the draft was completed the Council asked Debra Duncan who is Director of the Animal Facilities Inspection Division of the Animal Health Department to review the proposed bill. Her comments were helpful and the completed draft is before you in the form of 2003 SB 46.

Senate Fed + State
Attach #1
02/04/03



LEGISLATURE OF KANSAS
LEGISLATIVE DIVISION OF POST AUDIT

800 SOUTHWEST JACKSON STREET, SUITE 1200
TOPEKA, KANSAS 66612-2212
TELEPHONE (785) 296-3792
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E-MAIL: lpa@lpa.state.ks.us

Testimony for the Senate Federal and State Affairs Committee on SB 46

Barb Hinton, Legislative Post Auditor

February 4, 2003

Madam Chairman and members of the Committee, thank you for allowing me to appear before you to provide background information in support of SB 46. This bill would implement a recommendation from our recent performance audit looking at animal breeders and sellers in Kansas.

One of the concerns addressed in the audit related to boarding costs for animals that had been seized from their owners because of animal health, safety, or welfare reasons. Those concerns surfaced in 2000 after the costs of caring for animals seized in a single case exceeded \$65,000. I'm going to briefly summarize our findings from reviewing the records of that case, but I'd be happy to provide more detailed information.

In the 2000 case, Animal Health Department staff seized more than 130 dogs from a facility in Marion County. The County Sheriff's Office also seized more than 90 horses and cattle from that facility. Many of the animals were starved or diseased, and the dogs were cannibalizing one another.

The district court ordered the owners to post a \$15,000 bond (\$5,000 cash and \$10,000 property) to cover the cost of caring for the animals during the appeal process. Legal proceedings continued for 10 months as the owners filed a number of motions and delays. In January 2002, the judge issued the final order granting disposition of the dogs to the Department, and assigned all costs to the owners. The Department was able to collect \$5,000 from the cash bond, but only a small portion of the property bond because much of the property was worth less than the value assigned to it.

Under current law, Animal Health Department staff have 3 ways to try to recover the costs of caring for and boarding seized animals: filing a lien against real property if it's located in the county where the judgment occurs; using the State's Debt Set-Off Program, and garnish the animal owner's wages. However, Department staff told us these methods often aren't effective because the violators frequently don't have a lot of property or jobs.

Sen Fed + State
Attach # 2
02/04/03

We identified 2 other approaches the Department could use to try to recover the costs of caring for seized animals. The first approach: like Colorado and Missouri, Kansas could require the owners of seized animals to post a cash bond for 30 days to cover the costs of care, and to renew those bonds after 30 days or the animals would be turned over to the State for final disposition. The second approach: create a special fund financed by licensed pet facilities that would be used to pay for any unrecoverable costs of caring for seized animals.

SB 46 addresses the first approach, and the one that we preferred: requiring a bond. However, it does not require a cash bond, as our audit recommended.

The Legislative Post Audit Committee had earlier voted to introduce legislation in this same area, but it withdrew its motion after SB 46 was introduced, since both bills would do virtually the same thing.

The one change the Committee and my staff recommended to make sure this bill accomplishes its intended purpose: inserting the word “cash” in front of bond in line 17, and any other place it needs to be inserted to make that intent clear.

I would be happy to answer any questions you may have about our audit findings and recommendations.

STATE OF KANSAS
KANSAS ANIMAL HEALTH DEPARTMENT
George Teagarden, Livestock Commissioner
708 SW Jackson Topeka, Kansas 66603-3714
Phone (785) 296-2326 Fax (785) 296-1765
www.ink.org/public/kahd

February 4, 2003

Chairman Harrington and Members of the Committee:

The Kansas Animal Health Department supports SB 46.

This bill amends the Kansas Pet Animal Act, 47-1701 *et. seq.*. This act regulates dog and cat breeders, pet shops, pounds and shelters, rescues, individuals maintaining 20 or more dogs and or cats, or both, animal distributors, research facilities and boarding and training facilities.

K.S.A. 47-1707 and K.S.A. 47-1709 require the Animal Health Department to seize and impound animals on a licensee's premise, or the premise of someone required to be licensed under the Pet Animal Act, if the commissioner has reasonable grounds to assume the health, safety or welfare of animals in such person's possession, custody or care is endangered.

SB 46 was generated in response to a 2002 performance audit conducted by the Legislative Division of Post Audit. One of the recommendations by Post Audit was for legislation to be introduced requiring owners to post a bond for the cost of care of the animals. Legislative Post Audit referred the matter to the Judicial Council who in turn proposed the bill.

During the past two fiscal years, the Department incurred a total of \$75,562.63 in boarding costs and \$7,572.55 in veterinary costs for the care and keeping of animals seized pursuant to the statute. All of the monies were expended from the Animal Dealer Fee Fund. Due to the financial constraints of the individuals or facilities whose animals are seized this money is generally not recoverable. Nevertheless, the Department routinely files an administrative petition for violations of the Kansas Pet Animal Act. Any fines recovered go directly to the State General Fund.

During a normal year, we spend between \$5,000 and \$10,000 per year to care for seized animals. Two years ago, the Department seized 138 dogs from an unlicensed kennel in Marion. Because of extended litigation the Department spent over \$60,000 for boarding and veterinary care on this one case. The District Court had ordered that the respondents post a bond – of \$15,000. The Judge allowed them to put up a \$5,000 cash bond and \$10,000 personal property bond. We did recover the \$5,000 and we now possess some of the property. Whether the property has any value is questionable.

Because of this, we do request that SB 46 be amended to require a cash bond.

Thank you for the opportunity to testify on this bill. We request that you pass the bill favorably with the single amendment.

Debra Duncan, Director
Animal Facilities Inspection Program
Kansas Animal Health Department

Sen Fedst
Attach # 3
02/04/03



KANSAS

DIVISION OF THE BUDGET
DUANE A. GOOSSEN, DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

January 30, 2003

The Honorable Nancey Harrington, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 143-N
Topeka, Kansas 66612

Dear Senator Harrington:

SUBJECT: Fiscal Note for SB 46 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 46 is respectfully submitted to your committee.

SB 46 would require that the owner or custodian of animals seized by the Animal Health Department post a bond to prevent the sale, placement, or euthanasia of the animals. The bond would have to be sufficient to pay for the animals' care for a period of at least 30 days.

Estimated State Fiscal Effect				
	FY 2003 SGF	FY 2003 All Funds	FY 2004 SGF	FY 2004 All Funds
Revenue	--	--	--	\$9,000
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

The Department of Animal Health estimates that the average annual cost of care for all animals seized is \$9,000. This estimate is based on a three-year average after the costs associated with one exceptional case were removed. Expenditures were \$8,536 in FY 2001,

The Honorable Nancey Harrington, Chairperson

January 30, 2003

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\$5,500 in FY 2002, and \$12,960 estimated for FY 2003. That's \$26,996 divided by 3 years for \$8,999 a year. SB 46 would require that the owner or custodian pay for this expense rather than the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Duane A. Goossen". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Duane A. Goossen
Director of the Budget

cc: Debra Duncan, Animal Health Department