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To: 2013 Special Committee on Agriculture and Natural Resources
From: Heather O'Hara, Principal Analyst
Re: Background Information on the Division of Animal Health and the Kansas Pet Animal Act

Division of Animal Health

In 1969, the Kansas Animal Health Department (KAHD or Department) was established as a state agency in statute. The Department was a consolidation of the activities of the Livestock Sanitary Commission and the State Brand Commission, two institutions that existed for many years prior to 1969. The Livestock Commissioner, established by statute in 1905, was named head of the Department, and the Commissioner was appointed by and served at the pleasure of the Kansas Animal Health Board, an advisory and policy-making board established by statute.

In December 2008, the Legislative Division of Post Audit released an audit entitled "Agricultural-Related Agencies: A K-GOAL Audit Determining Whether Cost Savings Could Be Achieved by Making the Animal Health Department and the Conservation Commission Part of the Department of Agriculture." The audit found that Kansas was only one of six states that had a separate state agency for animal health outside of a department of agriculture. In addition, the audit found that Kansas could save approximately \$710,000 per year by merging the two agencies into the Kansas Department of Agriculture (KDA).

Beginning with the 2008 Legislature, bills were introduced each biennium to abolish the KAHD and transfer the agency's functions to the KDA. While some bills received committee hearings, the Legislature did not send any approved legislation to the Governor's desk for signing.

In 2011, the Governor issued Executive Reorganization Order (ERO) No. 40, which, among other things, transferred the powers, duties, and functions of the KAHD, the Office of the Livestock Commissioner, and the Kansas Animal Health Board to the KDA. The newly-created Division of Animal Health (DAH or Division) was placed under the administration of the renamed Animal Health Commissioner. In addition, the Kansas Animal Health Board was renamed the Division of Animal Health Board. Neither the Senate or the House of Representatives took action on ERO No. 40 by the deadline, at which time the ERO became law.

In 2012, the Legislature passed HB 2503, which made numerous technical changes to the existing animal health and agriculture statutes to reflect the transfer of duties from KAHD to the KDA.

Currently, the DAH resides within the KDA, under the direction of the Animal Health Commissioner. The Animal Health Commissioner is appointed by the Secretary of Agriculture, but serves at the pleasure of the Secretary and the Division of Animal Health Board. The Animal Health Commissioner is required by statute to have been actively engaged in one of the major phases of the livestock industry for a period of not less than five years immediately preceding the appointment.

Kansas Pet Animal Act

In 1973, the Kansas Legislature passed legislation that provided for licensing and inspection of all pet shops and required the pounds and shelters of first class cities to be registered and inspected by the KAHD.

Four years later, in 1977, the Humane Society of the United States (HSUS) brought national attention to two puppy mills – one in Rosebloom, New York, and the other in Columbus, Kansas. The Kansas kennel was then featured on an ABC-TV newscast (reported by Roger Caras). As a result of the newscast, the operator voluntarily turned in her license, but kept her dogs. According to the HSUS, the U.S. Department of Agriculture (USDA) had inspected and approved the kennel approximately six months before the HSUS alerted the media. According to a report at the time, the HSUS stated *“Most of the seized animals had advanced cases of mange [skin disease caused by parasitic mites]. Many animals had open festering sores. They lived in dark, airless, filthy shacks and rusty cages filled with excrement.”*

In 1985, a nationally-syndicated columnist reported on the inhumane conditions at some animal breeding facilities and the HSUS filmed a documentary of dog breeding in Kansas. In the documentary, “a farm wife nonchalantly stated that she hadn’t ‘checked out’ her dogs or cleaned the facility for a week.” Another individual was quoted as saying *“it don’t [sic] pay to take that sick pup to a vet – cheaper to let them die and take the loss.”* [Staff note: the two quotes come from background information reported in the KAHD budget submission of December 2009.]

Legislation on regulating and inspecting dog and cat breeders within the state was introduced in 1986 by Representative Ginger Barr, R-Auburn (1982-1990). House Bill 2956 was passed by the Legislature, but on April 25, 1986, Governor John Carlin vetoed the bill, stating that while he was supportive of efforts to stop cruel and inhumane treatment to animals, he was opposed to *“the establishment of a new level of government bureaucracy that could become bogged down with extensive rules and regulations.”*

In 1987, Representative Barr again introduced an inspection bill and toured the state with members of the press showing examples of inhumane conditions occurring at some USDA-licensed breeder facilities. Representative Barr continued her arguments in favor of the bill during the 1988 Legislative Session, stating *“It is not my intent to stop the commercial breeding industry in Kansas,”* but that *“part of the problem in Kansas is that the USDA has not been able to do a sufficient job and thus gives Kansas a bad reputation.”* House Bill 2219 was signed into law in 1988 and established the basic structure of licensing and inspection that exists today – expanding the earlier regulatory authority to include inspecting and licensing the facilities of

animal dealers, pet shop operators, pounds, and shelters of first class cities, hobby kennel operators, and private research facilities.

The animal licensing and inspecting laws have not been without controversy. During the 1990 Legislative Session, the Legislature passed the Kansas Farm Animals and Research Facility Protection Act, which made it illegal to control or damage a research animal facility without the owner's consent, to enter or remain concealed in a facility with the intent to damage the enterprise, or to enter a facility with the intent to take pictures.

Kansas received negative press in the national news (including a mention during *Face to Face*, a program hosted by Connie Chung), as this law was interpreted to mean that humane societies and the media could not uncover or document puppy mills in Kansas. A group of citizens in California rallied the public to boycott Kansas dogs and shipped 15,000 pounds of dog bones to then-Attorney General Bob Stephen, who issued his opinion that the Act only applied to animals used in food, fur, or fiber productions and agriculture, testing, or education at an animal facility. Meanwhile, national organizations boycotted pet stores selling puppies that were bred in seven states, including Kansas.

In 1990, the Legislative Division of Post Audit issued an audit on Kansas' inspection and licensing program. The audit stated the program had not been administered, managed, funded, or staffed to the extent needed to effectively carry out its responsibilities. In response to the audit, the 1991 Legislature increased the amount of fees and broadened the inspection and licensing authority to include all animal pound and shelters in the state and required registration of all non-veterinarian boarding kennels.

The 1996 Legislature officially renamed the animal inspecting and licensing laws the Kansas Pet Animal Act (the laws were previously called the Animal Dealer Act). In addition, the Legislature created a new license category for out-of-state distributors and broadened the inspection law to allow inspections of all licensees (previously, boarding, training, and hobby breeders could only be inspected upon complaint).

The Legislative Division of Post Audit issued another audit in 2002 on the KAHD's Animal Facilities Inspection program and found that compared to the 1990 audit results, KAHD had made significant improvements in the program.

Today, the Animal Facilities Inspection program within the Division of Animal Health, KDA, regulates companion animal facilities required to be licensed under the provisions of the Kansas Pet Animal Act. The Act requires licensing and inspection of all dog and cat breeders who produce, offer, or sell three or more litters during the state fiscal year, pounds and shelters, pet shops, research facilities, distributors, out-of-state distributors, boarding facilities, animal rescues, and foster homes. Office staff maintain licenses, health papers, and correspondence pertaining to the program. Field inspectors inspect licensed facilities and investigate complaints.

Funding

The Animal Facilities Inspection program is funded as part of the Division of Animal Health, which also includes livestock identification, animal health planning and preparedness, disease prevention, control and eradication of infectious and contagious livestock and domestic

animal disease in the state, brand registration and inspection, and providing updates to the public on the status of the health of livestock in the state.

For FY 2013, the Division of Animal Health spent \$717,079 from the State General Fund and \$1,853,127 from all other funds, including revenue collected from fees and any federal dollars. The Division operated in FY 2013 with 26.9 employees, spending \$1,492,871 on salaries and wages; \$953,607 on contractual services; \$73,293 on commodities; \$33,208 on capital outlay; and \$17,227 on other assistance.

Further Information

Should you require any further information, please contact me at Heather.OHara@klrd.ks.gov or 785-296-7792.

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