

Approved: April 3, 2007  
Date

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 22, 2007, in Room 423-S of the Capitol.

All members were present except:  
Terry Bruce- excused

Committee staff present:  
Raney Gilliland, Kansas Legislative Research Department  
Emalene Correll, Kansas Legislative Research Department  
Art Griggs, Revisor of Statutes Office  
Judy Holliday, Committee Assistant

Conferees appearing before the committee:  
Mike Hayden, Secretary, Kansas Department Wildlife & Parks  
Mike Miller, Special Assistant to the Assistant Secretary, Kansas Department Wildlife & Parks  
Brad Harrelson, State Policy Director, Kansas Farm Bureau  
Whitney Damron, Kansas Sport Hunting Association  
Keaton Kelso, Kansas Outfitters Association  
Mike Beam, Executive Vice President, Kansas Livestock Association  
Ron Klataske, Audubon of Kansas  
Representative Tom Hawk  
Tom Gross, Section Chief, Bureau of Air & Radiation, Kansas Department Health & Environment

Others attending:  
See attached list

Chairman McGinn asked the Committee to look over the minutes of the March 7 corrected minutes, and March 13 and March 15 minutes for approval at the end of the meeting.

Chairman McGinn opened the hearing on **HB 2046, Renaming state park no. 24**. She told the Committee that the bill is identical to the bill the Committee passed earlier this year and they are basically just running the House bill through.

Mike Hayden, Secretary, Kansas Department Wildlife and Parks, commented that the Department supported the Senate bill that passed unanimously and supports the House version of **HB 2046 (Attachment 1)**. He asked the Committee's support of **HB 2046**.

Senator Ostmeyer made a motion to move the bill out of Committee, seconded by Senator Francisco. Motion carried.

Chairman McGinn opened the hearing on **HB 2437, Nonresident deer permits, extending current sunset provision**. Raney Gilliland, Legislative Research Department, explained the bill, which amends a section of the statutes dealing with permits for big game under the Department of Wildlife and Parks. The change on page four deals with nonresident deer permits that are landowner or tenant permits that can be transferred under current law. The current provision in this subsection is set to expire on June 30, 2007. The expiration date in **HB 2437** would be June 30, 2008.

Mike Miller, Special Assistant to the Assistant Secretary, Kansas Department Wildlife and Parks, testified in opposition to the provisions in **HB 2437 (Attachment 2)**. He stated the Department has concerns regarding the extension of the sunset on the transferrable deer permits. The Department supports a substitute that implements the provisions of its recommendations, but will work with the Committee in hopes of getting those provisions through the legislation.

Brad Harrelson, State Policy Director, Kansas Farm Bureau, testified in support of **HB 2437 (Attachment 3)**. Mr. Harrelson told the Committee that Farm Bureau supports the extension of the sunset provision, and

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MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 22, 2007, in Room 423-S of the Capitol.

would be interested in participating in any discussions between interested persons and the agencies to address the broader proposal and have input regarding Farm Bureau's position on the issue.

Whitney Damron, representing the Kansas Sport Hunting Association (KSHA), testified in support of **HB 2437** (Attachment 4). Mr. Damron told the KSHA is concerned with the potential loss of transferrable deer tags and believes that state policy on that issue and other changes in deer management policy should be considered by the Kansas Legislature and not delegated to the Commission. The KSHA supports the recommendations of the Legislature to request the Department to bring specific statutory provisions to the Legislature to allow for review and hearings before adoption.

Keaton Kelso, President, Kansas Outfitters Association (KOA), testified in support of **HB 2437** (Attachment 5). Mr. Kelso stated that extending the sunset provision on the landowner transferable deer permits would help ensure that landowners and outfitters could provide quality hunting opportunities for non-resident hunters. Without these tags, under current conditions, the landowners of Kansas and outfitters would have limited outlets for helping provide non-resident hunting opportunities. Landowners who receive the tags can resell the tag to a non-resident, thus increasing the revenue entering the state by non-residents. The KOA supports many of the recommendations of the deer task force, but believes that further work is needed to ensure that all parties involved are updated on the effects of Wildlife and Parks' new proposal.

Mike Beam, Senior Vice President, Kansas Livestock Association (KLA), testified in support of **HB 2437** (Attachment 6). Mr. Beam told the Committee that many of KLA's members conduct fee hunting activities on their farms and ranches, which often has supplemented their income, or in some instances, created small businesses in rural Kansas. KLA has supported this bill through the House and supports the Wildlife and Parks' plan for developing a new deer hunting permit that is simpler and more accessible to nonresidents, while addressing concerns for most stakeholders.

Ron Klataske, Audubon of Kansas, testified on **HB 2437** (Attachment 7). Mr. Klataske expressed philosophical support for provisions in the bill that maintain the concept of landowner nonresident transferrable permits. He stated that the support is based on the hope that landowners who maintain habitat that supports deer and other forms of wildlife will be rewarded for wildlife habitat stewardship.

Senator Lee offered a proposed **Senate Substitute for HB 2437**, and provided copies to each Committee member for review (Attachment 8). Senator Lee had been working for some time with the Department on the proposed amendment. The amendment takes the proposed rules and regulations in **SB 266** brought before the Committee on February 9 by the Department of Wildlife and Parks, and puts those into statute in the proposed substitute bill currently before the Committee. Senator Lee explained the changes from current law which will reduce and simplify deer-related statutes to allow changes and necessary adjustments for permitting and resource management made through the regulatory process. In addition, language was added that would reduce fraudulent landowner/tenant purchases by requiring proof of tenancy; eliminates the landowner/transferrable nonresident permit; enables a resident hunter to purchase a whitetail either sex permit and a whitetail antlerless only permit over the counter or online, which would allow hunting anywhere in the state on public or private land during any open season with the equipment legal for that season. Senator Lee stated she felt the Department had put forth a good faith effort and that this substitute bill was a good compromise.

There was discussion regarding rewarding the landowner for maintaining habitat that supports wildlife; the current fee structure; leasing land for hunting allows farmers to recoup money for feeding the deer population.

Chairman McGinn closed the hearing on **HB 2437** and asked for a motion to accept the proposed **Senate Substitute for HB 2437**. Senator Lee made a motion to move Senate Substitute for HB 2437, seconded by Senator Francisco. Upon voice vote, a division was requested, followed by a show of hands. The motion carried.

Senator Huelskamp made a motion to reinsert subsection n (dealing with landowner and tenant transferrable nonresident deer permits) back into the current bill on page 4 and to change the language to 2009. Senator Taddiken seconded the motion.

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Secretary Mike Hayden told the Committee the Department opposes Senator Huelskamp's amendment to the bill because reinserting the subsection essentially guts the proposed substitute bill. Senator Huelskamp stated that he understood the opposition by the Department, but that the language is one way for farmers to recoup some of the cost for feeding the deer herd. He told the Committee there is more to the bill than elimination of non-transferable deer permits.

Chairman McGinn stated there was a motion and second of Senator Huelskamp's amendment and asked for a vote. After the voice vote, a division was requested. The motion failed.

Chairman McGinn asked for a motion to move the bill out of Committee. Senator Lee made a motion to move Senate Substitute for HB 2437 out of Committee, seconded by Senator Francisco. After the voice vote, a show of hands was requested. The motion carried.

Chairman McGinn opened the hearing on **HB 2526, Monitoring and analysis of mercury deposition samples in Kansas**. She asked Raney Gilliland, Legislative Research Department to explain the bill. Mr. Gilliland explained that the bill would require the Secretary of Health and Environment to establish a statewide network to measure mercury deposition in the state. There would be a requirement that at least six sites would take a sample with related data that would be collected on a weekly basis with the requirement that at least two of the sites would measure mercury entering the state from the direction of the prevailing winds. The Secretary would be required to contract with a laboratory to analyze the samples and the results of the analyses would be distributed to the public through a website and the data provided to the public. At the start of the 2009 Legislative Session and annually thereafter, there would be a report required to be sent to the Governor and the leadership of the House and Senate natural resources and utilities committees on the issue of mercury deposition in Kansas. In addition, this bill would become effective on the date of publication in the *Kansas Register*.

Representative Tom Hawk testified in favor of **HB 2526 (Attachment 9)**. Representative Hawk testified that **HB 2526** had been introduced in the House Energy and Utilities Committee amid concerns about emissions from the new power plants being built around Holcomb. It is a mercury testing bill designed to ensure that critical facts about mercury depositions in the state are being gathered.

Tom Gross, Section Chief, Bureau of Air & Radiation, Kansas Department Health & Environment, testified in favor of **HB 2526 (Attachment 10)**. Mr. Gross presented technical information on mercury and the health hazards to humans associated with the deposition of mercury in air, soil and water. Mr. Gross explained that mercury is emitted from natural and man-made sources, and that mercury emitted from sources in the state is mixed with mercury from other states and nations. To monitor for mercury, there would be six sites with three new sites being established. Samplings will be collected weekly and analyzed by a national contract laboratory to assure consistency in the trends data. The data is posted to a national database and provided to the public via a website. Mr. Gross provided maps showing total local mercury concentration and deposition values for 2005. Mr. Gross told the Committee the Department would propose the new activity be funded through the existing Air Quality Fee Fund.

Chairman McGinn told the Committee that the hearing on **HB 2526** would continue at the Natural Resources Committee meeting the following morning, March 23.

Chairman McGinn asked for a motion to approve the minutes of the March 7, 13 and 15 Committee meetings. Senator Ostmeyer made a motion to approve the minutes, seconded by Senator Francisco. The motion carried.

The meeting adjourned at 9:35 a.m.





# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2046 Relating to Park No. 24  
To  
The Senate Committee on Natural Resources**

**By J. Michael Hayden  
Secretary  
Kansas Department of Wildlife and Parks**

**22 March 2007**

HB 2046 seeks the designation of Kaw River State Park for Park No. 24, land that was once part of the Menninger Campus. The provision of the bill would be effective on publication in the statute book. **The Department supports the provisions contained in HB 2046.**

Park No. 24 adjoins the Cedar Crest property and provides an access point to the Kansas River, as well as picnic areas, hiking trails and biking trails. An existing pond is well suited to become a children's fishing pond. Because of security concerns given the close proximity to Cedar Crest, the park is limited to day-use only.

With assistance from the many partners that the Department relies upon such as Washburn University, the Kansas State Historical Society, and the City of Topeka, the Department is exploring opportunities to create a trail system that would ultimately join Cedar Crest with the History Center. In addition, the Department is exploring an opportunity that would assist the city in controlling storm runoff from areas south of the current park location and at the same time create an opportunity to promote wetland education.

Many of the benefits that would be gained from the naming and development of Park No. 24 would help meet the needs cited in the Statewide Comprehensive Outdoor Recreation Plan, which identifies a heavy demand for additional open space, children's fishing areas, river access, and hiking/biking trails near urban areas, particularly in the Topeka area. By helping meet these demands, the development and naming of the park would improve the quality of life for the citizens of the State of Kansas.

Office of the Secretary

1020 S Kansas Ave., Ste. 200, Topeka, KS 66612-1327

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*Senate Natural Resources  
March 22, 2007*

*Attachment 1*

# KANSAS

DEPARTMENT OF WILDLIFE & PARKS

KATHLEEN SEBELIUS, GOVERNOR

**Testimony on HB 2437 regarding Nonresident Transferable Permits  
To  
The Senate Committee on Natural Resources**

**By Mike Miller  
Special Assistant to the Assistant Secretary  
Kansas Department of Wildlife and Parks**

**22 March 2007**

HB 2437 seeks to amend K.S.A. 32-937 to extend the sunset provision on nonresident transferable permits. The provisions of the bill would be effective on publication in the statute book. **The Department opposes the provisions contained in HB 2437.**

Over the past 18 months, a 10 member Department task force was assembled and undertook the task of revising the deer management related statutes. The task force also proposed changes to the deer management system to simplify the system, increase opportunity, and develop a different methodology of establishing nonresident deer permit numbers that both satisfies resident landowner desires and protects resident hunting opportunities.

After formulating initial proposals, the task force took public comment at meetings around the state and at Department Commission meetings for a period of one year. Taking into account the public comment received, the task force then revised the proposals and was pursuing a bill that would allow the Department to implement those proposals. **Neither the initial task force proposal nor the revised proposal contains the nonresident transferable permit.** The Department has grave concerns that should the nonresident transferable permit continue to exist beyond the current legislative session, in spite of overwhelming dissatisfaction with the permit expressed by both hunters and landowners, there will be no impetus to change for the better.

In the alternative, the Department would offer a substitute that implements the provisions of the task force recommendations in statute.

In conclusion, the Department appreciates the opportunity to comment on the bill and the support of the committee in opposing passage of the bill.



***Kansas Farm Bureau***  
***POLICY STATEMENT***

**Senate Natural Resources Committee**

**HB 2437, an act concerning big game permits; relating to  
nonresident deer permits**

**March 22, 2007**  
**Topeka, Kansas**

**Testimony provided by:**  
**Brad Harrelson**  
**State Policy Director**  
**KFB Governmental Relations**

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Chairperson McGinn and members of the committee, thank you for this opportunity to provide testimony in support of House Bill 2437, extending the sunset date on nonresident transferable deer permits. I am Brad Harrelson, State Policy Director—Governmental Relations for Kansas Farm Bureau. KFB is the state's largest general farm organization representing more than 40,000 farm and ranch families through our 105 county Farm Bureau Associations.

As you heard from us on SB 266 early this session, deer permitting and control of the deer population is a topic our membership has more than a passing interest in. KFB policy has always focused on ensuring adequate deer herd management to prevent excessive crop and property damage; and adequate access to deer permits for residents and non-resident clients for those farmers and ranchers trying to generate some income from hunting enterprises.

HB 2437 is similar to Sub SB 266 in that it extends the sunset date for the landowner non-resident transferable permits. This bill is also an attempt to preserve that portion of the program while KDWP works to implement the proposal they presented earlier this session. As we stated during our testimony on SB 266 we support the Department's proposal and hope this overhaul of the deer permitting statutes will occur, however, until that time it is important the transferable permits remain in tact.

We understand the Department has been working to incorporate their proposal into statutory language and we have seen a draft of this language. If the committee is inclined to amend HB 2437 with the Department's language, we would support the amendment and the overall bill. KFB still believes the proposed changes presented by the Department are an improvement over the existing system. It is important to remember the proposal needs to remain intact for it to be an effective overhaul of the regulations and statutes.

In conclusion, we hope the committee understands our support for HB 2437 is not an effort to derail the process the Department has undertaken and we support any effort to implement that proposal. Thank you for this opportunity to provide testimony.

*Kansas Farm Bureau represents grassroots agriculture. Established in 1919, this non-profit advocacy organization supports farm families who earn their living in a changing industry.*





**TESTIMONY**

TO: The Honorable Carolyn McGinn, Chair  
And the members of the  
Senate Committee on Natural Resources

FROM: Whitney Damron  
On behalf of the  
Kansas Sport Hunting Association

RE: HB 2437 – Nonresident deer permits; extending current sunset provision.

DATE: March 22, 2007

Good morning Madam Chair McGinn and Members of the Senate Committee on Natural Resources. I am Whitney Damron and I appear before you this morning on behalf of the Kansas Sport Hunting Association in support of HB 2437, as written, which would extend the existing statute relating to transferable nonresident deer permits from June 30, 2007 to June 30, 2008.

The KSHA is an organization of game bird breeders, sport hunting licensees, guides, outfitters and other hunting-related professionals and businesses.

Earlier in the session, there were discussions before the Legislature in regard to changes in deer management proposed by the Kansas Department of Wildlife and Parks based upon the work of a deer management task force created by the Department in 2006.

The members of the Kansas Sport Hunting Association attended a number of the meetings held by the KDW&P task force on deer management and have been generally supportive of many of the recommendations of that committee. However, the KSHA is concerned with the potential loss of transferable deer tags and believes that state policy on that issue and perhaps other changes in deer management policy should be considered by the Kansas Legislature and not delegated to the Commission.

The KSHA supports the recommendations of the Legislature to request the Department bring specific statutory provisions to the Legislature to allow for review and hearings before adoption.

On behalf of the Kansas Sport Hunting Association, we thank you for your consideration of our comments.

## Testimony

**To: The Honorable Carolyn McGinn, Chair and the members  
of the Senate Committee on Natural Resources**

**From: Keaton Kelso  
President, Kansas Outfitters Association**

**Re: HB 2437 -- Nonresident deer permits; extending current  
sunset provision**

Madam Chair and Members:

As President of the Kansas Outfitters Association, owner and operator of K&K Outfitters of Mulberry, Kansas, and business partner with over 138 landowners in Kansas, I want to support extending the current sunset provision on the landowner transferable deer permits.

These permits have helped insure that landowners and outfitters could provide quality hunting opportunities for non-resident hunters. Without these tags, under current conditions, the landowners of Kansas and outfitters would have limited outlets for helping provide non-resident hunting opportunities.

These tags have no undesirable effect on the quality and quantity of our Kansas deer herd. Kansas Wildlife and Parks' biologists allocated the number tags that are distributed to landowners and receive value for each tag. Landowners who receive the tags can then resell the tag to a non-resident. In short, these tags increase the revenue of funds entering our state by non-residents. This is a win-win system for both Wildlife and Parks and Kansas landowners.

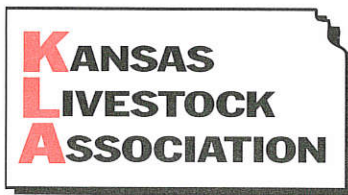
The Kansas Outfitters Association supports many of the recommendations of the deer task force. The deer task force held many community meetings and received hundreds of comments on their first proposal. The second proposal that was submitted to the legislature has had little to no public comment. The association feels that further work needs to be done to insure all interested parties are updated and knowledgeable about the effects of Wildlife and Parks' new proposal.

As an industry in Kansas that works side by side with thousands of Kansas farmers to build a strong economy in our rural areas, we need to have a deer proposal that will insure that we can maintain a viable business. The transferable deer tags have given us that over the past few years. Please make certain provisions are adopted that will not dismantle a growing and viable business in Kansas.

Sincerely,

Keaton Kelso  
President  
Kansas Outfitters Association

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Attachment 5*



*Since 1894*

## TESTIMONY

To: Senate Natural Resources Committee  
Sen. Carolyn McGinn, Chairperson

From: Mike Beam, Sr. Vice President  
Kansas Livestock Association

Date: March 21, 2007

Subject: HB 2437 - A bill modifying deer hunting permits laws.

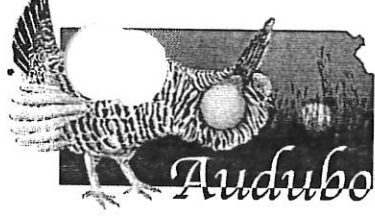
Many of our members have utilized their land and wildlife resources to conduct fee hunting activities on their farms and ranches. In some instances, this endeavor has supplemented their income. For others, this opportunity has created small businesses in rural Kansas.

The Kansas Livestock Association (KLA) supported this bill at hearings before the House of Representatives. While we support the Kansas Department of Wildlife and Parks changes to the deer permit distribution procedures, we felt it was important to keep a bill moving to address the potential uncertainty for the 2008 hunting season if the Department's plan was not authorized during this session. (The statute allowing the landowner-nonresident permits to be transferred expires on June 30, 2007.)

We applaud KDWP for developing a new deer hunting permit program that's simpler, more accessible to nonresidents, and addresses the concerns of most stakeholders. Furthermore, I am most grateful the agency repeatedly has sought our views and reactions as they've developed this proposal. KLA supports KDWP's plan and we support implementing it with amendments to HB 2437.

I've looked at the proposed draft language and encourage the committee to insert the changes into the pending bill. Thanks for your consideration. I'm happy to respond to any questions or comments.

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Attachment 6*



# Audubon of Kansas

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Lincoln, NE

March 22, 2007

## Kansas State Senate Senate Natural Resources Committee Statement in Support of H.B. 2437

My name is Ron Klataske, I live in Manhattan and serve as the Executive Director of Audubon of Kansas. Audubon of Kansas, is a statewide membership organization devoted to wildlife conservation. Many of the state's 5,000 Audubon members, and approximately half of our leadership on the Board of Trustees own farms, ranches and other rural lands throughout the state. All enjoy wildlife and many enjoy hunting, fishing and other outdoor ventures.

My primary reason for testifying is to express our philosophical support for provisions in the bill that maintain the concept of landowner nonresident transferable permits. Our support for transferable permits is based on the hope that it can help to reward landowners for wildlife habitat stewardship, specifically for landowners who maintain habitat that supports deer and many other forms of wildlife.

We believe that element of the transferable permit system could be further improved with a change. As it stands now the transferable permit system provides a landowner who has 80 acres or more of ground without a single shrub, tree, patch of native grass or other habitat the same cost and procedure as a rancher or farmer with hundreds or thousands of acres of excellent habitat.

We believe that wildlife programs should, whenever possible, reward good stewardship similar to the way in which some USDA farm conservation programs are designed. The Conservation Security Program, EQIP and WHIP are among the examples.

With this in mind, transferable permits would be most rewarding if they were for a person's own land. We suggested this in testimony seven or eight years ago. Recognizing institutional resistance to changes, I am not inclined to advocate a change in the existing system--but to offer another option to accomplish this objective. Specifically, it would be rewarding for landowners with excellent habitat if they could offer transferable permits that can only be used to hunt on their own land. These permits would be more applicable if the cost reflected this restriction. The logical fee would be the same as the cost of "nonresident landowner" permits.

This would allow resident ranch and farm families to host family members and friends who live in other states or countries. Although I have done this (at my personal expense) with the

CITIZENS COMMITTED TO CONSERVATION

Audubon of Kansas is a nonprofit membership organization devoted to wildlife and prairie conservation in Kansas and America  
Burroughs A.S. - Kansas City; Jayhawk A. S. - Lawrence; Kanza A. S. - Emporia; Leavenworth A. S.; North  
Smoky Hills A. S. - Salina; Sperry-Galligar A. S. - Pittsburg; Southeast Kansas A. S. - Parsons; Topek

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existing transferable permit system and hosted friends and family from Nebraska, Texas, Italy and a friend of a friend from India, the cost for nonresident permits has become exorbitant for many farm and ranch landowners and their family members or guests who can only pursue hunting opportunities for a couple of days.

This approach (the additional option) would be a way to make our state's deer permit system more family friendly for landowners and it would be a way to reward the wildlife habitat stewardship.

## PROPOSED SENATE Substitute for HOUSE BILL NO. 2437

By Committee on Natural Resources

AN ACT relating to wildlife; concerning big game permits; amending K.S.A. 32-947, 32-965 and 32-966 and K.S.A. 2006 Supp. 32-937, 32-938, 32-969 and 32-988 and repealing the existing sections.

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

Section 1. K.S.A. 2006 Supp. 32-937 is hereby amended to read as follows: 32-937. (a) When used in this section:

(1) "Landowner" means a resident owner of farm or ranch land of 80 acres or more located in the state of Kansas.

(2) "Tenant" means an individual who is actively engaged in the agricultural operation of 80 acres or more of Kansas farm or ranch land for the purpose of producing agricultural commodities or livestock and who: (A) Has a substantial financial investment in the production of agricultural commodities or livestock on such farm or ranch land and the potential to realize substantial financial benefit from such production; or (B) is a bona fide manager having an overall responsibility to direct, supervise and conduct such agricultural operation and has the potential to realize substantial benefit from such production in the form of salary, shares of such production or some other economic incentive based upon such production. Evidence of tenancy, if requested, shall be provided to the department and may include, but is not limited to, natural resource conservation services records, farm service agency records, or written agricultural contract or lease documentation.

(3) "Regular season" means a statewide big game hunting season authorized annually which may include one or more seasons restricted to specific types of equipment.

(4) "Special season" means a big game hunting season in addition to a regular season authorized on an irregular basis or at different times of the year other than the regular season.

(5) "General permit" means a big game hunting permit available to Kansas residents not applying for big game permits as a landowner or tenant.

(6) "Nonresident landowner" means a nonresident of the state

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of Kansas who owns farm or ranch land of 80 acres or more which is located in the state of Kansas.

(7) "Nonresident permit" means a big game hunting permit available to individuals who are not Kansas residents.

(b) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, ~~a valid big game permit-and-game-tags~~ permits are required to take any big game in this state.

(c) The fee for big game permits and game tags shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(d) ~~A-big-game-permit-and-game-tags~~ Big game permits are valid throughout the state or such portion thereof as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto.

(e) Unless otherwise provided by law or rules and regulations of the secretary, ~~a big game permit--and--game--tags~~ permits are valid from the date of issuance and shall expire at the end of the season for which issued.

(f) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for each regular or special big game hunting season and for each management unit regarding big game permits ~~and-game-tags~~. The secretary is hereby authorized to issue big game permits ~~and-game tags~~ pertaining to the taking of big game. Separate big game permits ~~and-game-tags~~ may be issued for each species of big game. No big game permits ~~or--game--tags~~ shall be issued until the secretary has established, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, a regular or special big game hunting season.

(g) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805, and amendments thereto, regular landowner or tenant hunt-on-your-own-land big game permits. Members of the landowner's or tenant's immediate family

who are domiciled with the landowner or tenant may apply for resident big game permits as landowners or tenants, but the total number of landowner or tenant regular hunt-on-your-own-land permits issued to a landowner or tenant and a landowner's or tenant's immediate family members for each big game species shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. Evidence of ownership or tenancy, if requested, shall be provided to the department. Such permits and applications may contain provisions and restrictions as prescribed by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

~~(h) The secretary may authorize, by rule and regulation adopted in accordance with K.S.A. 32-805 and amendments thereto, special landowner or tenant hunt-on-your-own-land deer permits. Such special permits shall not be issued to landowners or tenants in possession of a hunt-on-your-own-land deer permit as authorized in subsection (g). The special permits shall be transferable to any immediate family member of the landowner or tenant, whether or not a Kansas resident, or the permit may be retained for use by the landowner or tenant. The special permits shall be transferable through the secretary at the request of the landowner or tenant and by paying the required fee for a general deer permit. The special permits and applications may contain provisions and restrictions as prescribed by rule and regulation adopted by the secretary in accordance with K.S.A. 32-805 and amendments thereto. For the purposes of this subsection, "member of the immediate family" means lineal or collateral ascendants or descendants, and their spouses. Special hunt-on-your-own-land deer permits may be issued to a landowner's or tenant's siblings and lineal ascendants or descendants, and their spouses, whether or not a Kansas resident, by paying the required fee for a general deer permit. The total number of regular and special hunt-on-your-own-land deer permits issued to a landowner's or tenant's siblings and lineal ascendants or descendants, and their spouses, shall not exceed one deer permit for each 80 acres owned~~



by such landowner or operated by such tenant. Evidence of ownership or tenancy, and sibling or lineal ascending or descending relations, if requested, shall be provided to the department.

(i) Fifty percent of the big game permits authorized for a regular season in any management unit shall be issued to landowners or tenants, provided that a limited number of big game permits have been authorized and landowner or tenant hunt-on-your-own-land big game permits for that unit have not been authorized. A landowner or tenant is not eligible to apply for a big game permit as a landowner or as a tenant in a management unit other than the unit or units which includes such landowner's or tenant's land. Any big game permits not issued to landowners or tenants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation.

~~(j) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident big game permit as a landowner or as a tenant, but the total number of landowner or tenant hunt-on-your-own-land or special hunt-on-your-own-land permits issued to a landowner or tenant and a landowner's or tenant's immediate family for each big game species shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. The secretary may require proof of ownership or tenancy from individuals applying for a big game permit as a landowner or as a tenant.~~ The secretary may issue, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, resident deer hunting permits available on a limited basis and valid for a designated species and sex in designated units, and antlerless-only deer permits in designated units as necessary for management purposes, and, any of the following options:

(1) Either sex white-tailed deer permits valid statewide during any season with the equipment legal for that season;

(2) either species, either sex archery permits valid

statewide;

(3) either species, either sex muzzle loader permits valid in designated units; or

(4) either species, either sex firearm permits valid in designated units.

(k) The secretary may issue permits for deer to nonresident landowners, but any such permit shall be restricted to hunting only on lands owned by the nonresident landowner.

(1) The secretary may issue deer hunting permits to nonresidents, subject to the following limitations:

(1) The total number of nonresident deer firearm permits that may be issued for a deer season in a management unit and which may be used to take antlered deer shall be established with the goal of meeting demand for those permits, using a formula developed by the department that will consider adjustment factors, including deer population trends, deer-related vehicle accidents, age structure in the harvest, deer damage, landowner desire for nonresident deer permits, general public desires and health of habitat. The 2008 permit numbers shall be based on the adjustment factors and an average of nonresident demand for permits in each management unit from the previous six years, establishing at least a 10% increase but not more than 50% increase in permit numbers in each management unit, except in unit 16, where permit numbers shall not increase more than 100%. In subsequent years, the formula shall be used to determine permit allocations based on demand and the adjustment factors.

(2) Nonresident deer permits may be restricted to a particular deer species.

(3) Nonresident deer permits shall be restricted to two adjacent deer management units.

(4) Nonresident deer hunters shall select one season at the time of application.

(5) For an additional fee, nonresident deer hunters applying for a whitetail either sex archery or muzzle loader permit in a designated mule deer unit may also apply for one of the limited

number of mule deer stamps. If they are successful in both drawings, they would be issued a permit that will allow them to take either a whitetail deer or a mule deer in that unit. ~~of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 7% nor more than 14%; for the year 2005, not be less than 8% nor more than 16%; for the year 2006, not be less than 9% nor more than 18%; and for any year thereafter, not be less than 10% nor more than 20% of the total number of resident deer firearm permits of such type authorized for such season in such management unit; and~~

~~(2) the total number of nonresident deer archery permits of each type specified by rules and regulations that may be issued for a deer season in a management unit and which may be used to take antlered deer shall for the year 2004, not be less than 9.5% nor more than 19%; for the year 2005, not be less than 10.5% nor more than 21%; for the year 2006, not be less than 11.5% nor more than 23%; and for any year thereafter, not be less than 12.5% nor more than 25% of the total number of resident deer archery permits of such type authorized for such season in such management unit.~~

~~Nonresident deer permits may be restricted to a particular deer species without regard to resident deer permit species restrictions, or lack thereof.~~

~~If an unlimited number of resident deer permits that may be used to take antlered deer is authorized for a deer season or management unit, the percentage limitations of subsections (1)(1) and (1)(2) shall be based upon the total number of resident firearm permits that may be used to take antlered deer and the total number of archery permits that may be used to take antlered deer, respectively, issued in the management unit during the most recent preceding similar season. If in a management unit there are an unlimited number of resident permits that may be used to take only antlerless deer, the secretary, in the secretary's discretion and in accordance with rules and regulations, may~~

~~authorize the issuance of an unlimited number of nonresident permits that may be used to take only antlerless deer.~~

~~(m) Any nonresident deer hunting permits authorized under subsection (1) that remain unissued due to an insufficient number of nonresident applications as of a deadline determined by the secretary, shall be made available to residents.~~

~~(n) The secretary shall issue nonresident deer permits pursuant to subsection (1) to landowners and tenants applying for such permits, except that the total number of nonresident deer permits of each type specified by rules and regulations that may be issued to landowners and tenants for a deer season in a management unit shall not exceed 50% of the total number of nonresident deer permits of such a type authorized for such season in such management unit. A nonresident deer permit obtained by a landowner or tenant shall retain the permit's nonresident and species designation, except that such permit shall only be valid within a designated county and one additional county where the qualifying landowner's or tenant's lands are located. The permit shall be transferable, with or without consideration, to any resident or nonresident through the secretary at the request of the landowner or tenant. A landowner or tenant purchasing a nonresident deer permit pursuant to this subsection shall pay the established fee for a nonresident deer permit.~~

~~The provisions of this subsection shall expire on June 30, 2007.~~

~~(o) On or before January 31, 2005:~~

~~(1) The secretary, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, shall establish not less than nine archery management units for deer. To the extent possible, boundaries of firearm management units for deer shall be used in establishing the boundaries of such archery management units.~~

~~(2) The secretary shall submit to the house standing committee on tourism and parks and the senate standing committee~~



~~on-natural-resources-a-report-regarding--the--archery--management  
units-established-pursuant-to-subsection-(o)(1)-~~

~~(p)~~ (m) A big game permit shall state the species, number and sex of the big game which may be killed by the permittee. The secretary may ~~furnish-an-informational-card--with--any--big--game permit--and,--at-the-conclusion-of-the-open-season,--each-permittee receiving-such-card-shall-return--the--card--to--the--department, giving--such-information-as-is-called-for-on-the-card~~ require any big game permittee to provide survey information at the conclusion of the open season.

~~(q)~~ (n) The permittee shall permanently affix the game carcass tag to the carcass of any big game animal immediately after killing and thereafter, ~~--if--required---by---rules---and regulations,--the--permittee--shall--immediately~~ take such killed game to a check station as may be required in the rules and regulations, where a check station tag shall be affixed to the big game carcass if the kill is legal. The tags shall remain affixed to the carcass until the carcass is ~~consumed-or~~ processed for storage or consumption. The permittee shall retain the carcass tag until the carcass is consumed, given to another or otherwise disposed of.

~~(r)~~ (o) The provisions of this section do not apply to big game animals sold in surplus property disposal sales of department exhibit herds or big game animals legally taken outside this state.

Sec. 2. K.S.A. 2006 Supp. 32-938 is hereby amended to read as follows: 32-938. The department of wildlife and parks may reissue big game or wild turkey limited draw permits to military personnel forced to forfeit their limited draw permit due to deployment in the event of armed conflict or war upon application and payment of the prescribed fee to the department and sufficient proof of such deployment. The permit, if reissued, shall be the same type, season and species permit that was forfeited and shall be valid during the next available hunting season upon return from the armed conflict or war by the

applicant provided that the secretary may defer the reissuance of a permit to a future hunting season if the overall demand for reissued permits exceeds the anticipated annual sustainable harvest for that species. The reissuance of a permit shall be based on a first come, first served basis.

Sec. 3. K.S.A. 32-947 is hereby amended to read as follows: 32-947. (a) Notwithstanding the provisions of subsection (g) of K.S.A. 32-937, and amendments thereto, the secretary may issue to the licensee of a private membership licensed controlled shooting area special permits ~~and game tags~~ for the taking of deer for purchase by persons who are permitted by the licensee to hunt on such area. The fee for each such permit shall be as prescribed pursuant to K.S.A. 32-988, and amendments thereto. No permit ~~or game tag~~ issued to a licensee pursuant to this subsection shall be resold by such licensee at a price which exceeds the amount the licensee paid for such permit or game tag.

(b) The provisions of K.S.A. 32-937, and amendments thereto, and rules and regulations adopted thereunder, shall be applicable to any person to whom a special permit is issued pursuant to subsection (a). Nothing in this section shall be construed as changing the distribution formula for big game permits established by K.S.A. 32-937, and amendments thereto.

(c) The secretary shall adopt, in accordance with K.S.A. 32-805 and amendments thereto, such rules and regulations as necessary to implement this section.

Sec. 4. K.S.A. 32-965 is hereby amended to read as follows: 32-965. (a) As used in this section, terms have the meanings provided by K.S.A. 32-701 and amendments thereto.

(b) It shall be a goal of the department to manage big game populations in the state at levels consistent with existing habitat and landowner and community tolerance. For this purpose, the secretary is authorized to issue big game control permits, in addition to big game permits and game tags issued during regularly designated hunting seasons.

(c) For each big game control permit issued, the secretary

may designate the period of time, the location and the number and type of big game that may be harvested. Use of any big game control permit shall require the permission of the landowner or tenant of the property where it is to be used.

(d) The secretary shall consult with representatives of farming and ranching organizations, county and city government associations and hunting organizations in the development, modification and implementation of a big game control permit program.

(e) The secretary, in accordance with K.S.A. 32-805 and amendments thereto, may adopt such rules and regulations as necessary to implement to the provisions of this section. Such rules and regulations shall not require an applicant for a big game control permit to attempt to alleviate a problem with big game using any means other than hunting during the regular firearms season for the appropriate species of big game animal.

~~(f) The secretary shall establish a toll-free telephone number for landowners and tenants to report property damage caused by big game, request information regarding big game control permits and obtain information regarding any other programs that assist in reduction of high local big game populations, including, but not limited to, programs that refer landowners and tenants to hunters willing to hunt on a landowner's or tenant's land and programs that provide for departmental lease of lands for public hunting.~~

~~The provisions of this subsection shall expire on June 30, 2004.~~

~~(g) The secretary shall cause to be published quarterly, in newspapers having general circulation in areas experiencing high deer populations, information regarding big game control permits and programs that assist in reduction of high local deer populations, including, but not limited to, programs that refer landowners and tenants to hunters willing to hunt on a landowner's or tenant's land and programs that provide for departmental lease of lands for public hunting. Such information~~

~~shall be published in a manner calculated to give actual notice to the public and shall be placed in a section other than the classified advertising section of the newspaper.~~

~~The provisions of this subsection shall expire on June 30, 2004.~~

Sec. 5. K.S.A. 32-966 is hereby amended to read as follows: 32-966. The secretary of wildlife and parks and the secretary of transportation shall cooperate in developing a management plan to address reduction of motor vehicle accidents involving deer in those areas of the state experiencing high numbers of such accidents. The management plan shall include methods to identify those areas and methods to inform and communicate with landowners and tenants in those areas regarding measures to reduce local deer populations. ~~The management plan shall be completed on or before January 17, 2001, and the joint report of the secretary of wildlife and parks and the secretary of transportation shall be submitted to the senate standing committee on energy and natural resources, the house standing committee on environment and the governor on or before February 17, 2001.~~

Sec. 6. K.S.A. 2006 Supp. 32-969 is hereby amended to read as follows: 32-969. On and after January 1, 2005:

(a) Except as otherwise provided by law or rules and regulations of the secretary and in addition to any other license, permit or stamp required by law or rules and regulations of the secretary, a valid wild turkey permit and game tags are required to take any wild turkey in this state.

(b) The fee for wild turkey permits and game tags shall be the amount prescribed pursuant to K.S.A. 32-988, and amendments thereto.

(c) A wild turkey permit and game tags are valid throughout the state or such portion thereof as provided by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805, and amendments thereto.

(d) Unless otherwise provided by law or rules and regulations of the secretary, a wild turkey permit and game tags

are valid from the date of issuance and shall expire at the end of the season for which issued.

(e) The secretary may adopt, in accordance with K.S.A. 32-805, and amendments thereto, rules and regulations for each regular or special wild turkey hunting season and for each management unit regarding wild turkey permits and game tags. The secretary is hereby authorized to issue wild turkey permits and game tags pertaining to the taking of wild turkeys. No wild turkey permits or game tags shall be issued until the secretary has established, by rules and regulations adopted in accordance with K.S.A. 32-805, and amendments thereto, a regular or special wild turkey hunting season.

~~(f) The secretary may issue wild turkey hunting permits to nonresidents in wild turkey management units with unlimited wild turkey hunting permits available.~~

~~(g) Persons under 12 years of age may be issued a wild turkey permit. Such permits shall be valid only while the person is hunting under the immediate supervision of an adult 18 or more years of age.~~

(h) A wild turkey permit shall state the number and sex of wild turkeys which may be killed by the permittee. The secretary may furnish ~~an informational card with any wild turkey permit and, at the conclusion of the open season, each permittee receiving such card shall return the card to the department, giving such information as is called for on the card~~ require a wild turkey permittee to provide survey information at the conclusion of the open season.

(i) (g) The permittee shall permanently affix the game carcass tag to the carcass of any wild turkey immediately after killing and thereafter, ~~if required by rules and regulations, the permittee shall immediately~~ take such killed game wild turkey to a check station as may be required in the rules and regulations, where a check station tag shall be affixed to the game wild turkey carcass if the kill is legal. The tags shall remain affixed to the carcass until the carcass is consumed or processed



for storage or consumption. The permittee shall retain the carcass tag until the carcass is consumed, given to another or otherwise disposed of.

{j} (h) Fifty percent of the wild turkey permits authorized for a regular season in any management unit shall be issued to landowners or tenants, provided that a limited number of wild turkey permits have been authorized. A landowner or tenant is not eligible to apply for a wild turkey permit as a landowner or as a tenant in a management unit other than the unit or units which include such landowner's or tenant's land. Any wild turkey permits not issued to landowners or tenants within the time period prescribed by rule and regulation may be issued without regard to the 50% limitation.

{k} (i) Members of the immediate family who are domiciled with a landowner or tenant may apply for a resident wild turkey permit as a landowner or as a tenant, but the total number of landowner or tenant wild turkey permits issued to a landowner or tenant and a landowner's or tenant's immediate family shall not exceed one permit for each 80 acres owned by such landowner or operated by such tenant. ~~The--secretary--may--require--proof--of--ownership--or--tenancy--from--individuals--applying--for--a--wild--turkey--permit--as--a--landowner--or--as--a--tenant.~~ Evidence of ownership or tenancy, if requested, shall be provided to the department.

{l} (j) As used in this section:

(1) "Landowner" means a resident owner of farm or ranch land of 80 acres or more located in the state of Kansas.

(2) "Tenant" means an individual who is actively engaged in the agricultural operation of 80 acres or more of Kansas farm or ranch land for the purpose of producing agricultural commodities or livestock and who: (A) Has a substantial financial investment in the production of agricultural commodities or livestock on such farm or ranch land and the potential to realize substantial financial benefit from such production; or (B) is a bona fide manager having an overall responsibility to direct, supervise and conduct such agricultural operation and has the potential to

realize substantial benefit from such production in the form of salary, shares of such production or some other economic incentive based upon such production. Evidence of tenancy, if requested, shall be provided to the department and may include, but is not limited to, natural resource conservation services records, farm service agency records, or written agricultural contract or lease documentation.

(3) "Regular season" means a statewide wild turkey hunting season authorized annually which may include one or more seasons restricted to specific types of equipment.

(4) "Special season" means a wild turkey hunting season in addition to a regular season authorized on an irregular basis or at different times of the year other than the regular season.

(5) "General permit" means a wild turkey hunting permit available to Kansas residents not applying for wild turkey permits as a landowner or tenant.

(6) "Nonresident permit" means a wild turkey hunting permit available to individuals who are not Kansas residents.

Sec. 7. K.S.A. 2006 Supp. 32-988 is hereby amended to read as follows: 32-988. (a) The secretary is authorized to adopt, in accordance with K.S.A. 32-805 and amendments thereto, rules and regulations fixing the amount of fees for the following items, subject to the following limitations and subject to the requirement that no such rules and regulations shall be adopted as temporary rules and regulations:

Big game permits

Resident (other than elk permit): maximum \$100

Nonresident (other than elk permit): maximum \$400

Elk permit: maximum \$350

~~Resident-big-game-tag: maximum \$20~~

~~Nonresident-big-game-tag: maximum \$30~~

Nonresident mule deer stamp: maximum \$150

Nonresident applications: maximum \$25

Combination hunting and fishing licenses

Resident: maximum \$50

Lifetime: maximum \$1,000; or 8 quarterly payments, each maximum \$150

Nonresident: maximum \$200

Commercial dog training permits: maximum \$25

Commercial guide permit or associate guide permit

Resident: maximum \$250

Nonresident: maximum \$1,000

Commercial harvest or dealer permits: maximum \$200

Commercial prairie rattlesnake harvesting permits

Resident or nonresident with valid hunting license: maximum

\$5  
 Resident or nonresident nonfirearm without valid hunting license: maximum \$20  
 Controlled shooting area operator license: maximum \$400  
 Duplicate licenses, permits, stamps and other issues of the department: maximum \$10  
 Falconry  
 Permits: maximum \$300  
 Examinations: maximum \$100  
 Field trial permits: maximum \$25  
 Fishing licenses  
 Resident: maximum \$25  
 Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75  
 Nonresident: maximum \$75  
 Five-day nonresident: maximum \$25  
 Institutional group: maximum \$200  
 Special nonprofit group: maximum \$200  
 Twenty-four-hour: maximum \$10  
 Fur dealer licenses  
 Resident: maximum \$200  
 Nonresident: maximum \$400  
 Furharvester licenses  
 Resident: maximum \$25  
 Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75  
 Nonresident: maximum \$400  
 Game breeder permits: maximum \$15  
 Handicapped hunting and fishing permits: maximum \$5  
 Hound trainer-breeder running permits: maximum \$25  
 Hunting licenses  
 Resident: maximum \$25  
 Lifetime: maximum \$500; or 8 quarterly payments, each maximum \$75  
 Nonresident 16 or more years of age: maximum \$125  
 Nonresident under 16 years of age: maximum \$75  
 Controlled shooting area: maximum \$25  
 Forty-eight-hour waterfowl permits: maximum \$25  
 Migratory waterfowl habitat stamps: maximum \$8  
 Mussel fishing licenses  
 Resident: maximum \$200  
 Nonresident: maximum \$1,500  
 Rabbit permits  
 Live trapping: maximum \$200  
 Shipping: maximum \$400  
 Raptor propagation permits: maximum \$100  
 Rehabilitation permits: maximum \$50  
 Scientific, educational or exhibition permits: maximum \$10  
 Wildlife damage control permits: maximum \$10  
 Wildlife importation permits: maximum \$10  
 Wild turkey permits  
 Resident: maximum \$100  
 Nonresident: maximum \$400  
 Resident turkey tag: maximum \$20  
 Nonresident turkey tag: maximum \$30  
 Special permits under K.S.A. 32-961: maximum \$100  
 Miscellaneous fees  
 Special events on department land or water: maximum \$200  
 Special departmental services, materials or supplies: no maximum  
 Other issues of department: no maximum  
 Vendor bond: no maximum

(b) The fee for a landowner-tenant resident big game or wild turkey hunting permit shall be an amount equal to 1/2 the fee for a general resident big game or wild turkey hunting permit.

(c) The fee for a big game or wild turkey hunting permit for a resident under 16 years of age shall be an amount equal to 1/2 the fee for a general resident big game or wild turkey hunting permit.

(d) The fee for a furharvester license for a resident under 16 years of age shall be an amount equal to 1/2 the fee for a resident furharvester license.

~~(d)~~ (e) The secretary may establish, by rules and regulations adopted in accordance with K.S.A. 32-805 and amendments thereto, different fees for various classes and types of licenses, permits, stamps and other issuances of the department which may occur within each item as described under subsection (a).

Sec. 8. K.S.A. 32-947, 32-965 and 32-966 and K.S.A. 2006 Supp. 32-937, 32-938, 32-969 and 32-988 are hereby repealed.

Sec. 9. This act shall take effect and be in force on and after January 1, 2008, and its publication in the statute book.

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Testimony HB2526 - Senate Natural Resources Committee

Proponent

Madame Chairperson McGinn, Committee Members:

HB2526 is a mercury testing bill that is designed to insure that we are gathering the critical facts about mercury depositions in our state. Initiation of this bill was in response to the moratorium bill on the construction of the new coal fired plants in Holcomb and the discussion about the impact of mercury emissions on our environment and health.

Mercury is highly toxic and persistent and bioaccumulates in the food chain. It is transported through the atmosphere and deposits on land and water bodies. According to the EPA, serious human health risks, known and unknown, may result from human exposure to mercury in any amount.

There are two major sources of mercury that concern me and that I hope the collection points called for in this bill can help address factually once a base line is established and we have ongoing yearly reports starting in 2009:

1. Emissions from electric utility coal fired steam generating units and other industrial activities; and
2. Mercury emissions from other states and other nations. (Current EPA estimates that less than half of all mercury deposition within the U.S. comes from U.S. sources.)

This bill provides for a total of six sites for testing. Of particular interest is the location of some sites on our western border that should provide some indication of the mercury emissions entering our state from outside sources. While the mercury molecules are not specifically identified as to source, those sites should provide some indication (perhaps more speculation) to compare with other collection points regarding in and out of state sources. The bill does specify that the Secretary of KDHE shall make the data available to Kansas-based research institutes and scientists for analysis of the impact on our state's human, animal and plant populations.

*Senate Natural Resources  
 March 22, 2007  
 Attachment 9*





Kathleen Sebelius, Governor  
Roderick L. Bremby, Secretary

DEPARTMENT OF HEALTH  
AND ENVIRONMENT

[www.kdheks.gov](http://www.kdheks.gov)

Division of Environment

**Testimony on House Bill 2526**  
**Act Concerning Mercury Deposition Monitoring**  
**to**  
**Senate Natural Resources Committee**  
**Presented by Tom Gross**  
**Chief, Monitoring and Planning Section, Bureau of Air and Radiation**  
**March 22, 2007**

Madame Chair McGinn and members of the Senate Natural Resources Committee, I am pleased to appear before you today to present information concerning implementation of House Bill 2526. I will begin with a very brief discussion of mercury in the ambient air.

Mercury (Hg) is emitted into the environment from a variety of sources, both man-made and natural. These include coal fired electrical generating units, burning of hazardous, solid and medical wastes, mining of gold, breakage of products containing mercury, and the improper disposal of products or wastes containing mercury. Coal-fired power plants are the largest man-made source of mercury emitted directly into the atmosphere. Mercury can be emitted as a vapor or attached to a particle. It is transported through the atmosphere and deposited on land and into bodies of water. This deposition is both dry and wet with that associated with precipitation being larger. Mercury emitted from sources in Kansas is therefore mixed with mercury from other states and nations and deposited in Kansas and elsewhere. Deposition of mercury can lead to contamination of soil, water and sediments within lakes, streams and marshland. Mercury levels in two urban stream segments, the Little Arkansas River in Sedgwick County and the Blue River in Johnson County, have resulted in fish consumption advisories.

In regard to ambient air monitoring, there is a national network of monitoring sites which collect samples for the National Atmospheric Deposition Program. This program is a cooperative research program of the State Agricultural Experiment Stations, Federal and state agencies and non-governmental research organizations. The National Trends Network is a subset of the National Atmospheric Deposition Program network. Some of these sites monitor for mercury. There are three National Trends Network sites in operation in Kansas; two of these sites are operated by the Kansas Department of Wildlife and Parks, and one is operated by the Kansas State University Agricultural Experiment Station. The location of these sites is indicated on the attached Map. None of the Kansas sites currently monitor for mercury. Each of these potentially could be upgraded to include mercury sampling, adding them to the national Mercury Deposition Network. To accomplish this, the Kansas Department of Health and Environment would coordinate agreements with the agencies operating the sites. We have not yet contacted them. Participating in this National Mercury Deposition network would ensure comparability of results and access to the proper equipment and laboratory.

To monitor at six locations, the Department will also need to establish three new sites to monitor mercury only. The new sites will be operated by the Department or a contract operator. These will become part of the Mercury Deposition Network, but only if they are located in accordance with specified site selection criteria. Mercury deposition is measured in precipitation samples (rain, mist, snow, etc.). The samples are collected by an automatic sampling device in which a container is covered by a plate until precipitation is detected by the device. It stays open during precipitation, than closes to prevent evaporation and contamination of the sample. The attached diagram shows the sampling device. The samples are collected

*Senate Natural Resources*  
*March 22, 2007*  
*Attachment 10*

on a weekly basis, and both concentration (the amount of mercury present in the precipitation) and deposition (the amount of mercury deposited per square meter of the earth's surface) values are reported. Laboratory analysis will be performed by a national contract laboratory, where mercury analyses are performed for the national network. A single laboratory is utilized to assure consistency in the trends data. Turn-around time for results is about three months, and data are posted to a national database approximately six months following analysis. Data reports will also be provided to the public via a website. It is important to note that this data should be evaluated by evaluating geographic variation and trends over time.

The attached maps show total mercury concentration and deposition values for calendar year 2005. The total measured amounts in precipitation nationwide (Map 2) ranged from 3.5 to 17.5 nanograms per Liter. The nearest reporting site, at Newkirk, Oklahoma, measured 15.4 nanograms per Liter. Total mercury deposition nationwide (Map 3) ranged from 2.5 to 21.5 micrograms per square meter. The site at Newkirk, Oklahoma, measured 14.5 micrograms per square meter. Two new sites have been located just south of the Kansas and Oklahoma border but new maps have not yet been prepared from the data collected.

On a related note, the Department is currently in the process of implementing the federal Clean Air Mercury Rule, regarding mercury emissions from coal-fired electric generating units. Last year, the Kansas Legislature adopted changes to the Kansas Air Quality Act in SB 386. As a result, KDHE has developed administrative regulations and a state implementation plan that would implement CAMR in Kansas. A public hearing on the proposed regulation is scheduled for 1:30 p.m. on April 5<sup>th</sup>. The federal mercury rule establishes a "cap and trade" program, whereby mercury emissions are capped at a certain historical level (2000-2004), and ultimately reduced to less than 30% of that initial level by 2018. Under our proposed rule, Kansas sources would participate in this program. If a source's emissions are below the cap for that facility, emission credits have a cash value to a source whose emissions may exceed their cap.

The Department would propose to fund this new activity through the existing Air Quality Fee Fund. Funding required for this new activity for the first year would be \$228,205. This would include one new Environmental Technician III position. Funding for year two would decrease to \$140,375. The first year is higher as result of significant capital expenditures for equipment.

I appreciate the opportunity to testify on this bill and am happy to stand for questions. Thank you.

Map 1. National Atmospheric Deposition Program / National Trends Network Sites in Kansas

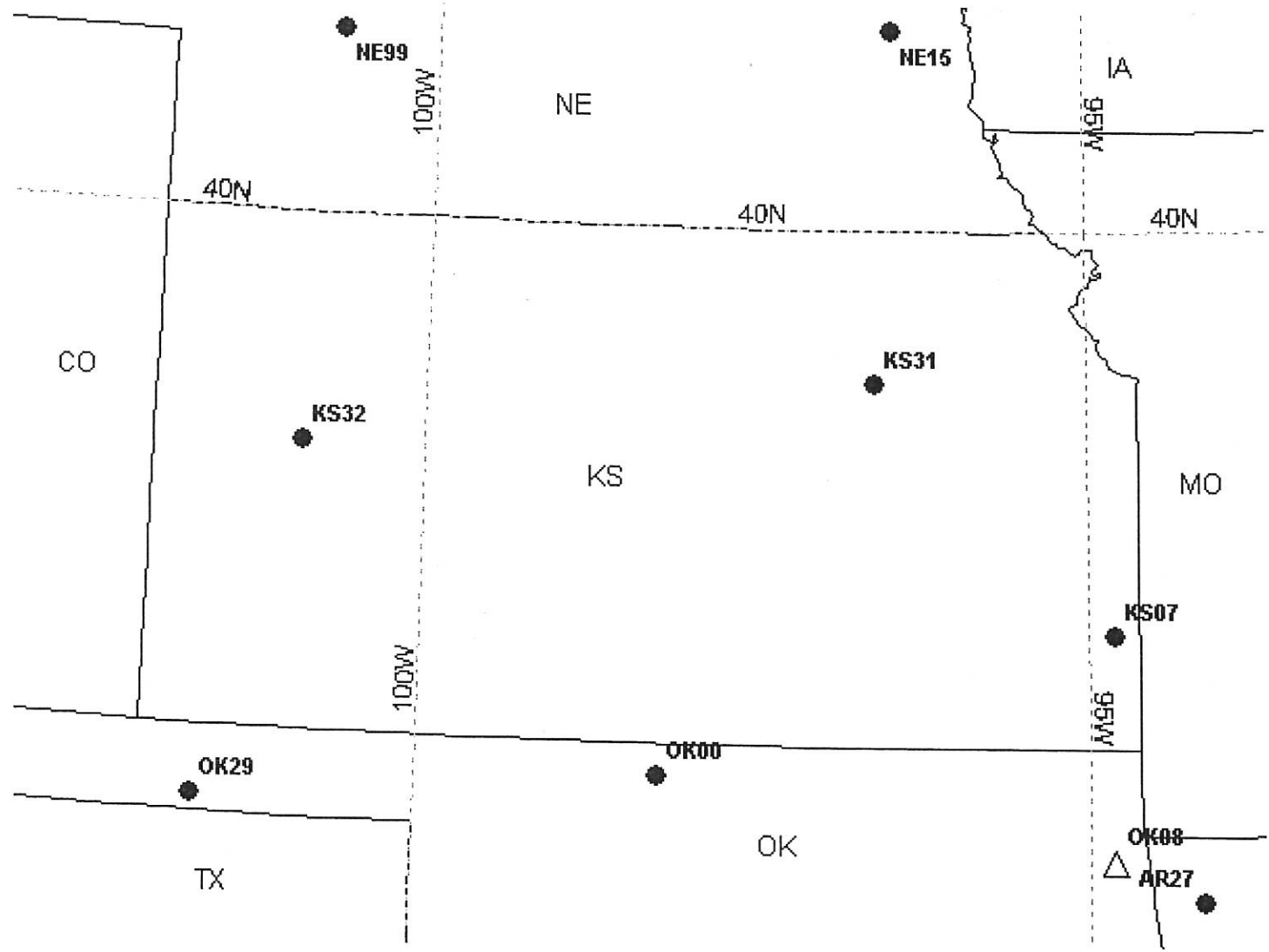
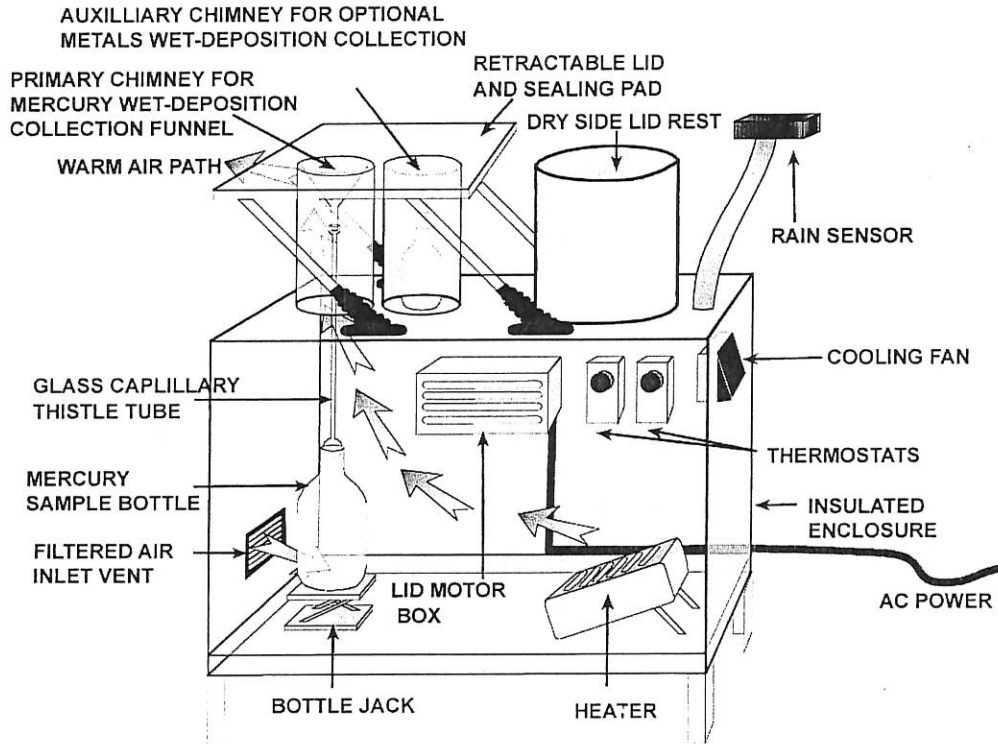
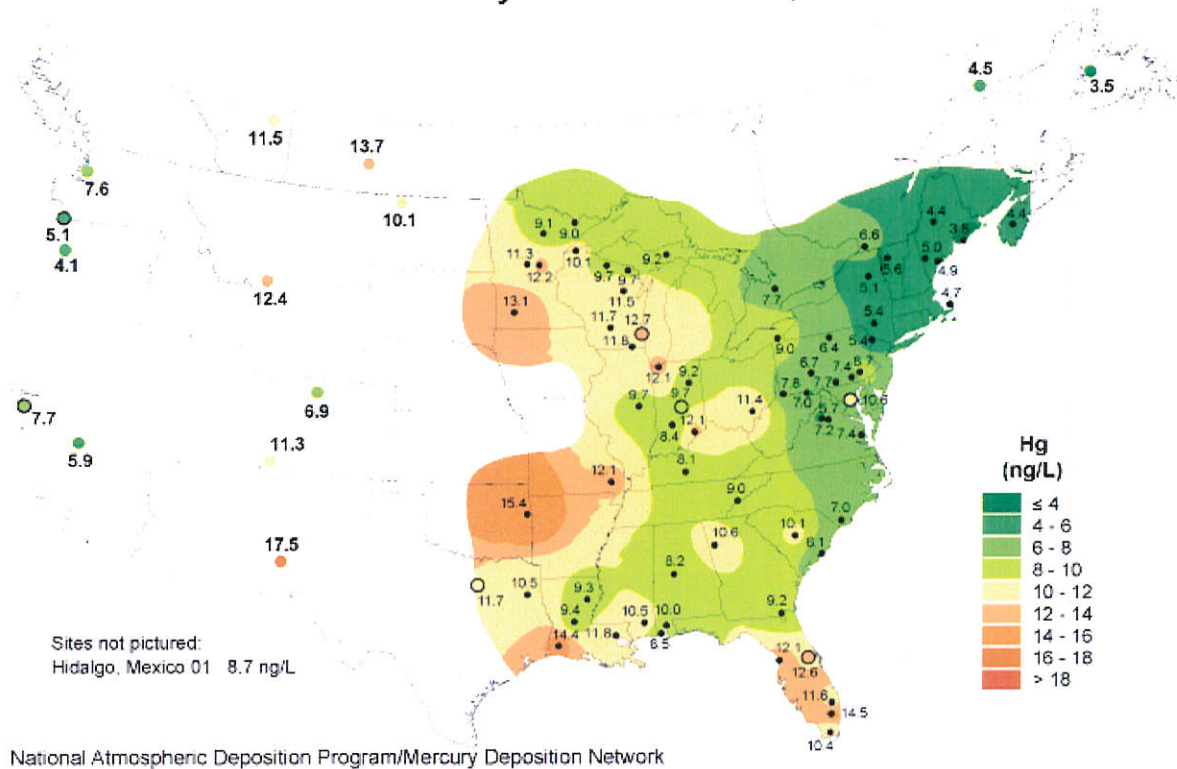


Figure 1. Mercury Deposition Network Sampler



Map 2.

### Total Mercury Concentration, 2005



Map 3.

### Total Mercury Wet Deposition, 2005

