

MINUTES OF THE SENATE NATURAL RESOURCES COMMITTEE

The meeting was called to order by Chairman Carolyn McGinn at 8:30 a.m. on March 23, 2007, in Room 423-S of the Capitol.

All members were present.

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:

Tom Gross, Section Chief, Bureau of Air & Radiation, Kansas Department Health & Environment
Tom Thompson, Representing the Sierra Club
Representative Vaughn Flora
Bill Eastman, Director, Environmental Services, Westar

Others attending:

See attached list.

Chairman McGinn called the meeting to order and opened discussion on **HB 2526, Monitoring and analysis of mercury deposition samples in Kansas.**

Tom Gross, Section Chief, Bureau of Air & Radiation, Kansas Department Health & Environment, continued his testimony from the previous day on **HB 2526**. Mr. Gross told the Committee that there is an existing National Mercury Deposition Network and the information gathered through the sites would be used as part of the trends analysis. The data needs to be for long-term trends, rather than just a one-year period. The Department is in the process of implementing the Federal Clean Air Mercury rule which came out of SB 386 last year. The hearing scheduled in a couple of weeks will establish a nationwide cap and trade program, one cap for 2010 and one if 2018. Utilities can either install controls to meet the caps or buy allowances on the open market in order to meet their allocation levels under the programming. Fiscal impact of the program would be \$228,000 in year one and \$140,000 in year two. Financial impact would be minimized by siting at least three of these monitors at existing trend sites where other pollutants besides mercury are monitored. Mr. Gross told the Committee that funds are available in the fee fund for implementing this program, but he is hopeful that some money would be available from EPA for startup.

Mr. Gross answered questions from Committee members regarding the deposition of mercury into soil and water and the effect of this deposition on soil quality, fish, and human health. Mr. Gross discussed the conversion of the mercury into the more toxic methol mercury found concentrated in fish tissue and then consumed by humans. Mr. Gross testified that long-term trend data in the five-year range would be necessary in order to make a good analysis, and that the deposition is determined by the rainfall in any given area.

Tom Thompson, representing the Sierra Club, testified in support of **HB 2526 (Attachment 1)**. Mr. Thompson included a map of the United States showing areas that are monitored for mercury deposition, but pointed out the lack of monitoring in Kansas, Western Missouri, and Eastern Colorado. Monitoring in Northeast Oklahoma indicates a high level of mercury in Southeast Kansas. Mr. Thompson testified that mercury exposure in the female human impacts memory, attention, language and fine motor and visual spatial skills. This highlights the need to test for mercury on a regular basis. It was pointed out that the National Institute of Health is funding research into the causes of autism, and part of the research includes looking into environmental issues that could contribute to this condition.

There was discussion among Committee members that the United States should put pressure on other countries with regard to mercury levels in the atmosphere coming from overseas and being deposited in Kansas, and if the data collected by the monitoring could be used to bring about pressure. There was consensus that a lot of questions remain unanswered with regard to the monitoring.

CONTINUATION SHEET

MINUTES OF THE Senate Natural Resources Committee at 8:30 a.m. on March 23, 2007, in Room 423-S of the Capitol.

Representative Vaughn Flora commented on his written testimony (Attachment 2). He told the Committee that with new coal-fired plants being planned in Kansas, and mercury being such a toxic substance, that it is necessary to establish a baseline test and watch mercury levels in the future.

Bill Eastman, Director, Environmental Services, Westar, testified as neutral on **HB 2526** (Attachment 3). Mr. Eastman testified that even with mercury monitoring throughout the state, the data will not add substantive information to the current mercury database in Kansas. In addition, the existing data concludes that only about one percent of the global mercury emissions comes from coal-fired generation, with 80 percent coming from overseas. While Westar does not oppose mercury monitoring, it is uncertain how the data collected would be used.

Mr. Eastman was asked how best the resources could be used in determining mercury deposition. Mr. Eastman said he felt more measurement will not help the problem.

Chairman McGinn closed the hearing on **HB 2526**. She asked if there was any interest in working the bill. Several Committee members felt that this may be a way to get data but no clear direction in how the data would be used, and the amount of money allocated wouldn't address the problem.

Senator Taddiken made a motion to amend the bill: That after the word "reports" the wording "including data on long-term trends" be added to emphasize that the Legislature needs to take a long-term trend look. Senator Pyle seconded the motion. The motion carried.

Senator Bruce made a motion to strike the House amendment, lines 31-33, seconded by Senator Huelskamp. The motion carried. Senator Bruce offered a comment that if the bill passes the Committee and becomes law, he will introduce a bill next year to facilitate discussion to increase testing for fish.

Senator Lee made a motion to move the bill out favorably as amended, seconded by Senator Wysong. The motion carried.

The meeting adjourned.

Testimony before the Senate Natural Resources Committee
March 22, 2007
Proponent for H.B. 2526

Chairperson McGinn and Honorable Members of the Committee:

My name is Tom Thompson and I represent the Kansas Chapter of the Sierra Club. I have come today to speak in support of H.B. 2526.

H.B. 2526 provides for a mercury deposition monitoring network with no fewer than six sites to be developed. Two of these sites are to be on the up wind side Kansas.

Last year the Environmental Quality Institute at the University of North Carolina-Asheville reported results of a study involving 6,600 people from 50 states of all ages. They reported that one in five women of childbearing age (16 to 49) exceeded the EPA's recommended limit.

Women of childbearing age and small children are of particular concern for mercury contamination. Mercury exposure in the womb can cause neurological damage and other health problems. EPA reports that cognitive thinking, memory, attention, language, and fine motor and visual spatial skills have been impacted.

The Sierra Club reports that coal burning power plants release 42% of the nations industrial mercury pollution. Mercury put into the atmosphere falls into lakes, streams, and oceans. It becomes concentrated in fish and shellfish. The primary way people become exposed to mercury is when they eat these.

Included with this testimony is a map of mercury monitoring in the United States. It illustrates the lack of monitoring in the central part of the country including Kansas, Western Missouri and Eastern Colorado. There is monitoring being done in Northeast Oklahoma that indicates a high level of mercury in SE Kansas.

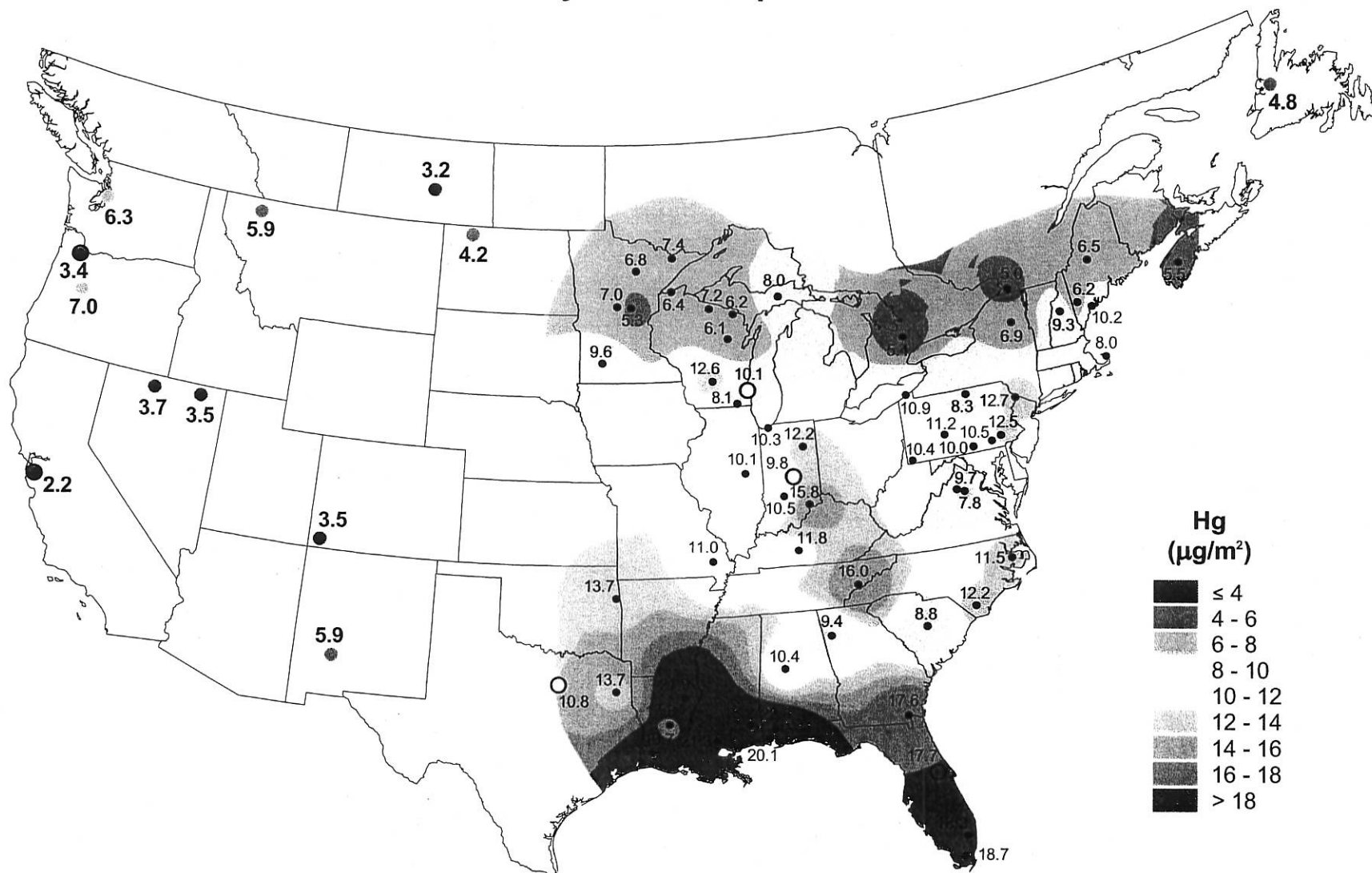
The Sierra Club believes that it is important to test for mercury on a regular basis. It is concerned about its effect on human health and on the state's flora and fauna. It is also important for Kansas to keep the levels of mercury in our environment low. Mercury monitoring will help to locate any problem locations there might be and to let citizens know whether the policies of this state are working to keep them healthy.

The Sierra Club supports H.B. 2526 and hopes it will pass out of committee favorably for passage.

Sincerely
Tom Thompson
Lobbyist

*Senate Natural Resources
March 23, 2007
Attachment 1*

Total Mercury Wet Deposition, 2004



National Atmospheric Deposition Program/Mercury Deposition Network

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TOPEKA
HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: UTILITIES
AGRICULTURE AND NATURAL
RESOURCES
AGRICULTURE AND NATURAL
RESOURCES BUDGET

Testimony HB 2526

Mr. Chairman, Mr. Vice Chair and Ms Ranking Democrat and Committee:

House Bill 2526 instructs KDHE to measure the deposition of mercury over the state so a baseline can be established and yearly comparisons made of the amount of mercury being deposited from the air over the state of Kansas.

Mercury exhibits varying toxicity, depending on its chemical form in the environment. Methylmercury (MMHg), for example, is a neurotoxin and teratogen, which bioaccumulates up the food chain by a factor of a million or more. Human and wildlife exposure to Hg is primarily due to the consumption of contaminated fish. The risk is greatest for infants and the fetuses of pregnant women who consume Hg-laden fish. Of the 189 compounds identified as hazardous air pollutants in the 1990 Clean Air Act, Hg was singled out for separate study to examine (human-caused) emissions and to define thresholds at which Hg affects human health and environment.

Currently, 45 states and seven Canadian provinces have issued advisories about the dangers of eating fish contaminated with Hg taken from waters within their boundaries. This problem is most severe in the Great Lakes region, Northeastern U.S., the Canadian Maritime Provinces, and in South Florida, where many lakes and streams contain fish with Hg levels above the state (0.5 to 1.0 ppm) and U.S. Food and Drug Administration (1.0ppm) action levels for human consumption.

Since new coal fired plants are being planned in Kansas and mercury is such a dangerous substance, I think it behooves us to establish a baseline test and then watch levels in the future.

Thank you

*Senate Natural Resources
March 23, 2007
Attachment 2*



**Testimony on HB 2526 before the
Senate Natural Resources Committee
By
Bill Eastman, Director Environmental Services
Westar Energy
March 22, 2007**

Madame Chair and members of the committee, I am Bill Eastman, director environmental services for Westar Energy. I appreciate the opportunity to address you this morning. Sunflower Electric also supports our testimony.

We have a neutral position on this bill. The intent appears to be to quantify the amount of mercury deposited in Kansas on a weekly basis with an annual report to the legislature beginning in 2009. Although having mercury monitors positioned throughout the state will yield additional deposition data, we are not convinced this data will add substantive information to the current mercury database in Kansas.

Currently, the Kansas Department of Health and Environment (KDHE) conducts sampling in the state to determine mercury levels in fish. Since mercury can bioaccumulate in fish, this data can then be used to determine if health advisories are needed for those specific streams or rivers. Since 2001, utilities have reported their mercury emissions through the EPA's Toxic Release Inventory (TRI) program and our industry is now implementing the federal Clean Air Mercury Rule by installing mercury monitors at all of our coal-fired power plants. This new federal mercury rule will require us to accurately measure our mercury emissions and builds upon the highly effective Acid Rain cap & trade program by using market-based drivers for reducing mercury emissions. With this in mind it is important to remember that experts have concluded, using existing scientific data, that U.S. coal-fired generation contributes about one percent to the global mercury emissions.

The monitoring program in this bill would not be able to determine if the mercury deposited in Kansas came from China, India or the United States. Likewise, the deposited mercury may or may not enter our food chain. To monitor deposition on a weekly basis may be too frequent depending on rainfall. We are not opposed to mercury monitoring by the state, but are uncertain how the data that is collected would be used.

Thank you for the opportunity to present these comments this morning. I will be glad to stand for questions at the appropriate time.