Approved:_____

Date 3/7/97

MINUTES OF THE HOUSE COMMITTEE ON UTILITIES.

The meeting was called to order by Chairperson Don Myers at 9:00 a.m. on February 18, 1997 in Room 514-S of the Capitol.

All members were present.

Committee staff present: Lynne Holt, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Chairperson Myers mentioned to the Committee that when asking conferee questions during deliberation on a bill, he would like to confine it to just questions.

HB 2314 - use of Kansas Universal Service Fund

The Chair opened the meeting up to discussion on **HB 2314**. Representative McClure mentioned that Staff, Lynne Holt, had concern about the language in lines 25 through 28 on Page 2. Representatives McClure and Samuelson met with Mary Ann Torrence, Revisor of Statutes Office, and others, and drafted different language. Representative McClure said that a balloon was drafted that strikes that language. The intent was to put multiple business lines back under the Kansas Universal Service Fund.

Representative McClure made a motion that the Committee accept the balloon amendment to **HB 2314**. Representative Samuelson seconded the motion. (Attachment #1) Discussion followed on the balloon. The Chair asked the Kansas Corporation if they would explain why the Kansas Universal Service Fund is there. Karen Matson, Chief of the Telecommunications Section for the Kansas Corporation Commission, explained that the fund is there to help provide support and the money goes to the telephone companies. That is, the money they receive to help offset their cost if they are putting in long lines and facilities in areas where their customers are in very sparsely-populated areas and they may be far away from the serving office. She Said that on the federal side, the universal service fund steps in when the average cost exceeds $288. Then the Legislature last year set up the Kansas fund and it now will start to kick in at the same level to pick up the state portion that is left over. The serving telephone company in a high cost area would get the money. There being no further discussion, a vote was taken and the balloon amendment to **HB 2314** passed.

Representative McKinney made a motion to recommend **HB 2314** favorable for passage as amended. Representative McClure seconded the motion. Motion passed.

The Chair mentioned that there were several handouts for distribution regarding **HB 2140** - concerning building energy efficiency standards. The handouts were two letters from Ron Burton, Assistant Staff Vice President, National Association of Home Builders (Attachment #2), information from General Contractors, Inc., Wichita, Kansas (Attachment #3) and some data on a house in Topeka regarding the energy code from Robert Hogue Construction, Inc. (Attachment #4).

The Chair recognized Representative Alldritt who described some information that was distributed regarding a summary of a HB 1509 from the State of Pennsylvania which is a synopsis of a retail bill the State of Pennsylvania adopted recently (Attachment #5).

The meeting was adjourned at 9:35 a.m.

The next meeting is scheduled for February 19, 1997.

HOUSE UTILITIES COMMITTEE GUEST LIST

DATE: February 18, 1997

NAME	REPRESENTING
David Haltwick	Southwestern Bell
Brenda Parks	Jonathon Small
Jon K Miles	Kansas Electric Cooperatives
Jim Klein	Klein & Wier
Jeff Rosser	Sprint
Nelson Krueger	Kansas City Fiber Net
DAVID B. SCHNOSSER	PETE McGILL & ASSOC.
Risa Meyer	KS Gov. Consulting
Tom Gleason	Independent Telecom. Group
Doug Smith	SITA
Mark Cuplinger	SITA
John D. Finnegan	SITA
Shirley Allen	SWBT
STEVE KEARNEY	KINI L.C.
Steve Montgomery	MCI

PROPOSED AMENDMENT TO HOUSE BILL NO. 2314

Strike the new language on page 2, in lines 25 through 28 and insert:

> Classification of service as single or multiple line service or as residential or business service shall not be grounds for denial of an application for supplemental or additional funding under this subsection.

House Utilities
2-18-97
Attachment 1

NAHB
National Association of Home Builders

1201 15th Street, NW
Washington, DC 20005-2800
(202) 822-0475
(800) 368- 5242, ext. 475
Fax (202) 822-8873

Regulatory & Legal Affairs Division
Construction, Codes & Standards Department

Ron Burton
Asst. Staff Vice President

February 12, 1997

The Honorable Don Myers
House Utilities Committee
State Capitol, Room 175W
Topeka, KS 66604

Dear Representative Myers:

I am responding to the testimony of several persons representing the interests of the insulation industry before your Committee yesterday. Virtually all of this testimony was intended to rebut the testimony I gave to the Committee last week. While I do not wish to subject the Committee to a barrage of letters and position papers from both supporters and opponents of House Bill 2140, I feel it is imperative that gross misstatements of what I told the Committee should be clarified.

First, let me say it is clear that the insulation manufacturers constitute the major opposition to House Bill 2140. They have expended considerable funds to hire consultants and bring their allies to Kansas to convince you that if home builders will comply with the CABO Model Energy Code, all Kansans will benefit. They have also gone to great lengths to characterize home builders as a special interest group out to cheat their customers and perpetuate shoddy construction practices for their own monetary gain. Of course, neither is true. What is definitely true is that the insulation industry will sell more insulation to Kansas builders and home buyers with little improvement in the already energy efficient homes built in Kansas.

What is also true is that while a home builder will initially purchase this added insulation, the purchaser of that home will ultimately pay for it. Builders have nothing to gain from eliminating the Kansas Corporation Commission's ability to regulate residential energy efficiency other than preserving the affordability of entry-level homes and not disenfranchising thousands of potential home owners.

I would like to make it clear that complying with the Model Energy Code in Kansas primarily means insulating basement walls which is not the common practice today. All the rhetoric you have heard about how easy it is to comply with the code and that builders can do so at little or no cost cannot disguise this fact. Again, I point out to the Committee that the special interest with the most to gain in

House Utilities
2-18-97
Attachment 2

this debate is the insulation manufacturers, suppliers and contractors who will reap the benefit of selling and installing more insulation. That is their issue and that is why they so passionately urge you to reject House Bill 2140. The insulation interests have told you that it will cost about $1,300 per new home to comply with the Model Energy Code. Perhaps it would help to know that with that average cost increase and considering the approximately 8,500 new single family detached homes built in Kansas each year, the insulation industry stands to sell an additional $11 million dollars worth of products in Kansas each year. And that's just in that part of the residential market!

Please allow me to now clarify specific misstatements in the opposition testimony:

- Mr. Schlosser referred to a contradiction in my testimony that new homes in Kansas are energy efficient but that I said it would also cost too much to comply with the MEC. My statements highlighted a particular problem with the MEC - that compliance was expensive because it focuses heavily on increasing the insulation levels rather than less costly ways of increasing energy efficiency. In particular, a builder MUST insulate basement walls to comply with the MEC in Kansas which ignores more cost effective ways to achieve the same energy savings such as increasing the air tightness of the home. In other words, the MEC is good for the insulation industry because it insures they will sell more products but it does not encourage better air infiltration techniques.

- Mr. Schlosser and Mr. Rudy indicate that builders simply need to change their standard practice of construction at little or no cost to comply with the MEC. Unfortunately, the standard practices Mr. Rudy refers to include very expensive techniques such as substituting wet blown cellulose insulation or icynene foam insulation for fiberglas batts in the walls and other areas of the home. Both these practices add cost whether it is in the time waiting for cellulose to dry (typically 3-5 days) or approximately 20% added cost for the icynene spray process. Other alternative processes such as Optimum Value Engineering which reduces the number of framing members in the walls, thereby increasing the insulation value of the wall overall have not gained widespread acceptance by the buying public and are therefore not marketable.

- Perhaps the most agregious error in the testimony by Mr. Schlosser as well as the information supplied by the Alliance to Save Energy concerns the insurance issue. The Insurance Institute for Property Loss Reduction (IIPLR) letter attached to the Alliance's letter is grossly misleading, as is the assertions of both NAIMA and the Alliance. The Building Codes Effectiveness Grading Schedule is not now and never was intended to address anything other than a community's ability to adopt and enforce codes to mitigate against natural disasters. The insurance industry has legitimate concerns about the amount of claims they have paid as a result of natural disasters such as hurricane Andrew and their reaction to the large sums they paid to homeowners was to institute a grading system on all communities. Energy efficiency is not a target of that grading and to suggest that if Kansas does not have a state energy code, property insurance rates will be raised is a distortion of the truth at best. This issue is one where common sense can cut through the rhetoric very easily. Do insurance companies insure against excess energy use? The obvious answer is no and therefore this issue is not one an inusrer cares about when setting rates.

- The issue of NAHB's information about the cost of regulation on home building, distributed at our national convention last month in Houston has been raised. That information was part of a package of information to highlight the kinds of added costs builders have increasingly been

faced with. It was not intended as a comprehensive listing and therefore many items were not included specifically. In the Design Standards and Codes section of the brochure copy supplied to you by NAIMA, only 8 code/standard items were listed. We could have picked many more and this arbitrary list should in no way be seen as all inclusive. However, there is a specific reason why energy code costs were not included. As the insulation interests have already admitted to you, they believe an average of $1,300 will be added to the cost of new homes in Kansas by complying with the MEC. The cost to comply fluctuates depending on which area of the country one lives in. Some areas see large increases in construction costs and others experience no increase. For instance, the cost to comply in a very cold climate such as upper Michigan has been estimated to be $2,500 and more in some cases. Conversely the cost to comply with MEC in (coastal areas of Alabama and other southern states is zero since the builder's standard practice already exceeds MEC requirements due to market demand . It would have been improper to include a code compliance cost that fluctuates that much depending on where the home is built in a document intended for nationwide distribution.

- Much has been made about the voluntary nature of the Kansas statute. As I said in my testimony on February 4th, it is important to realize that the law requires a builder opting not to specifically meet the costly requirements of the MEC, he or she must sign an affadavit suggesting the home is of lower quality than one available from a builder that chooses to do so. That, in effect, makes that choice unavailable to any responsible builder. Also, if home buyers want information on the energy efficiency of the home, they are welcome to ask for it and the builder would be obliged to provide the information. That is the ultimate consumer choice option and it is available now as it will be if you pass House Bill 2140.

- The statement by Mr. Prindle of the Alliance to Save Energy that suggests ours is a "narrowly-based effort...to avoid its (builders) long-term responsibilities to consumers and the environment" is as unfortunate as it is wrong. For the employee of a Washington based environmental lobbying group to suggest that a local Kansas builder, selling homes to families that live in his own community, is attempting to avoid his long-term responsibilities to those families is absurd in the extreme. One thing is certain - that home buyer will not call Mr. Prindle when he has questions about his home or problems that need to be solved - he will call the person responsible for building his home.

- Mr. Prindle also suggests that NAHB is trying to "destroy 20 years of progress in consumer protection, building technology and code development". As I have stated before, home builders are responsible for the 100% improvement in the energy efficiency of homes since 1970. Builders have been the primary users of that new building technology he discusses and we continue to champion consumer protection by opposing barriers to home ownership. The marketplace has worked well to provide for energy savings in home construction and it will continue to do so.

When you peel away all the rhetoric, you will find that one indisputable fact remains - complying with the Model Energy Code will decrease affordability of new, entry-level homes in Kansas and further erode the ability of Kansans of limited means to buy their first home. As I previously testified on February 4th and as the economic analysis I provided shows, over 5600 Kansas residents will be priced out of the market for a new home. These families are your constituents too. No one argues that a more efficient home is more affordable for the owner because his or her heating and cooling bills will be less each month. No one, particularly home builders, argues that energy efficiency is a laudable goal. After

all, it is the home builders responding to the home buyers desire for a more energy conserving product that has cut the energy use of homes in half over the past 25 years. What we are saying is that the adoption and virtual mandate of the Model Energy Code in Kansas is not the way to achieve that goal in a way that is best for Kansans.

Thank you for the opportunity to respond to the misinformation provided by the insulation industry. I will be happy to address any questions or concerns you or your Committee may have.

Sincerely,

Ron Burton

1201 15th Street, NW
Washington, DC 20005-2800
(202) 822-0475
(800) 368- 5242, ext. 475
Fax (202) 822-8873

REGULATORY & LEGAL AFFAIRS DIVISION
CONSTRUCTION, CODES & STANDARDS DEPARTMENT

RON BURTON
Asst. Staff Vice President

February 1, 1997

The Honorable Don Myers
House Utilities Committee
State Capitol, Room 175W
Topeka, KS 66604

Dear Representative Myers:

I am in receipt of copies of letters sent to you by the North American Insulation Manufacturers Association (NAIMA) and Schuller International, Inc. opposing S.B. 74. These letters contain numerous errors about the CABO Model Energy Code (MEC) and its impact on Kansas homeowners. I would like to take this opportunity to provide more accurate information and refute the claims made in this correspondence to you.

As stated in both the NAIMA and Schuller letters, MEC is developed through a private, voluntary process by the Council of American Building Officials (CABO). CABO is made up of the three major model building code organizations in the U. S., BOCA (Building Officials and Code Administrators), ICBO (International Conference of Building Officials) and SBCCI (Southern Building Code Congress International). While this is a voluntary process, it is not a consensus process and therefore does not have the voting input of the industries or consumers that are most impacted by the codes as adopted by state and local jurisdictions. Yes, the home builders participate in the process, but this participation is simply being able to testify before a committee of building officials that decide on the content of the code. We are not always successful in keeping costly provisions out of the voluntary codes, such as those that exist in the MEC because we do not have a vote on the committees that decide these critical issues. That is why almost all adopting jurisdictions modify or amend the codes in their adoption processes. Many states and local governments either do not adopt MEC or modify its provisions to respond to the realities consumers must face in their areas. One only needs to look to Michigan and New Jersey to see states that have dealt with the problem of added costs for the MEC.

NAIMA's claim that federally financed mortgage program, like VA and FHA mortgages, would no longer be available is totally false. Regardless of what Kansas does regarding mandatory imposition of the MEC, new homes offered for sale using federal assistance programs such as FHA or VA must be

2-5

built to the MEC provisions by federal law. The 1992 Energy Policy Act preempted state law fo. nes built within the guidelines for these federal programs. These programs would still be available to any buyer purchasing a home from a builder who voluntarily chooses to participate in the FHA or VA programs, as is the case in the overwhelming majority of states that have not adopted the MEC.

The claim that compliance with the MEC adds approximately $1300 dollars to the cost of a home is not supported by any data. Using a $0.82 per square foot price for R-13 fiberglass batt insulation, $1300 would only cover the cost of insulating the basement of a 2450 square foot house, this does not even include the framing of the walls to accept the insulation. Additionally insulating the basement of a home, one of the typical requirements of the MEC, is not a cost effective use of one's energy improvement dollars because most basement walls are naturally insulated by the soil on the outside of the basement walls.

However, even assuming the $1,300 figure espoused by the insulation industry letters you received, this first-cost increase will dramatically and negatively impact potential buyers of new homes in Kansas. The Housing Economics Department at the National Association of Homebuilders (NAHB) has done extensive research in the area of home affordability and how increased home costs eliminate potential buyers from the housing market. Using average incomes and mortgage qualifying information for Kansas, they have determined a $1000 increase in the cost of a new home would keep 5641 potential households in your state from being able to purchase a home. While it is true that buying a home with added energy efficiency features can be a long-term benefit to homeowners, this benefit comes at a price - the disenfranchisement of a significant number of potential buyers. These potential homeowners cannot benefit if they cannot afford to buy the home in the first place.

The insulation industry has stated that 68 million BTU's of energy will be saved each year in Kansas, and the emission of over 3200 tons of pollution into the atmosphere will be eliminated if SB 74 is defeated. There is no basis for such a statement. Furthermore, one would have to know the level of energy efficiency being provided in new homes built in Kansas to quantify such figures. NAHB has surveyed home builders in Kansas and found that the vast majority of new homes currently meet or come very close to meeting the efficiency requirements in the MEC. Given that fact, the savings quoted by the insulation industry are suspect at best.

Furthermore, voluntary programs sponsored by the utility companies in Kansas are far more effective in raising the efficiency levels of newly constructed homes than mandatory regulations can ever be. NAHB has tracked the success of these programs over the past 2 years and found that nationwide, builder participation in these programs is strong and growing stronger. Homes built to the provisions of these programs are 10% - 30% more efficient than the MEC. These programs are stimulating the market and providing potential home buyers with the incentives needed to eliminate the first-cost problems inherent in regulatory solutions.

Finally, unlike what was stated in the letter Schuller International, Inc. sent to you, energy efficiency standards would not be eliminated if S.B. 74 is enacted. Regardless of federal, state or local regulatory statutes, Kansas builders, like all home builders in this country, already adhere to strict energy efficiency standards. Our customers demand certain standards and features when they buy new homes and one of those is a level of energy efficiency they can both afford and benefit from while they live in the home. If builders did not provide what their customers wanted, they would not be in the business of providing housing very long. Builders in Kansas have responded - since 1970, the efficiency of new homes has more than doubled. We're doing our part and with voluntary programs that provide market

incentives and buyer education, we will continue to increase the energy efficiency of our product

Thank you for the opportunity to respond to the misinformation provided by the insulation industry. I will be happy to address any questions or concerns you or your Committee may have.

Sincerely,

Ron Burton

Ron Burton

2-7

Affordability Methodology For A Change in House Price

If the price of a new home increases because of an added building code requirement, then fewer households can afford to purchase a new home. For large, expensive new homes, the mandated changes may not constitute a noticeable portion of the final price, may already be incorporated into the home, or may induce the buyer to reduce cost in some other way. However, for modest, first time homebuyer homes, these options are not available and increases in cost can mean fewer homebuyers are able to afford to purchase.

NAHB has developed a method for estimating how many households are priced out of the market when new home prices increase. The procedure involves calculating the number of households in each state that can afford to purchase the average priced new home insured by the Federal Housing Administration (FHA). The income required to afford a home is defined as the minimum income needed to financially qualify under FHA rules (labeled Income Needed in following tables).

Currently, the FHA rules require that the total of mortgage payments (principal and interest)[1], taxes, and insurance is no more than 29% of household income. The minimum income needed is defined as the amount needed to meet FHA qualification minimums. The benchmark house price for each state is the average price of a new FHA-insured home in 1995. FHA homes were chosen as representative of an entry level new homes.

Income distributions for the states are derived from the 1990 Census of Population and Housing and then adjusted to reflect current conditions. The first adjustment is to assume that the number of households in each category has grown at an annual rate of 1%. The Census median income, by state, is then adjusted to 1995 by multiplying the adjusted distribution of households by the ratio of the 1995 to 1989 median income.[2]

Once the above values are determined, it is simply a matter of looking at the income distribution and counting how many households in the state can afford the average new FHA house. Once this value is calculated, the median house price is increased by $1,000 and the procedure is repeated and the differences noted. Thus the number of households priced out of the market for a $1,000 increase in new home price can be estimated.

The accompanying summary table lists the average number of households in each state that are priced out of a modest home purchase as the result of a $1,000 increase. The longer table shows the number of households who income qualify to purchase a new FHA-insured home as a percentage of all households.

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[1]A mortgage rate of 7.8% is used here, which was the median contract interest rate for FHA insured mortgages on new homes in 1995. A 10% downpayment is assumed. Taxes and insurance values, by state, are calculated from the Public Use Microdata Sample of the Census of Population and Housing, 1990. For greater detail on tax rates and insurance, see Emrath and Dubin, "Variation in Residential Property Tax Rates," *Housing Economics* Nov. 1994; and Kochera, "Home Characteristics and Property Insurance," *Housing Economics* Dec. 1994.

[2]1995 incomes are taken from HUD Income Data, Notice PDR-95-03; while the 1989 incomes are taken from the Census of Population and Housing, 1990: Summary Tape File 3-C/ prepared by Bureau of the Census.

2-8

Number of Households Priced Out of the New Home Market By a $1,000 Increase in Price

State	Entry-level New Home Price (a)	Income Needed To Purchase Entry Level New Home (b)	# of Households Priced Out by $1,000 Increase (c)
Alabama	$77,656	$22,995	7,374
Alaska	$132,961	$41,844	- 740
Arizona	$97,220	$29,461	6,255
Arkansas	$73,060	$22,756	5,069
California	$117,890	$34,747	35,014
Colorado	$104,629	$33,383	6,539
Connecticut	$125,543	$39,138	3,774
Delaware	$99,048	$29,674	930
District of Columbia	$103,202	$30,489	876
Florida	$87,651	$27,058	29,825
Georgia	$91,580	$28,542	10,433
Hawaii	$158,249	$44,711	1,404
Idaho	$91,582	$28,968	2,114
Illinois	$138,405	$45,713	18,073
Indiana	$96,716	$30,684	10,952
Iowa	$78,385	$27,207	6,765
Kansas	$78,670	$26,436	5,641
Kentucky	$79,948	$24,477	7,738
Louisiana	$83,324	$24,434	7,625
Maine	$101,368	$32,209	2,280
Maryland	$124,528	$38,667	7,797
Massachusetts	$112,400	$34,697	9,870
Michigan	$84,408	$30,891	17,783
Minnesota	$100,779	$32,234	7,997
Mississippi	$74,742	$22,988	4,843
Missouri	$96,443	$30,250	8,750
Montana	$83,612	$27,765	1,950
Nebraska	$84,933	$30,435	3,316
Nevada	$109,899	$33,249	2,548
New Hampshire	$114,633	$38,459	1,783
New Jersey	$111,499	$37,065	12,484
New Mexico	$88,046	$26,485	2,970
New York	$110,560	$37,092	31,547
North Carolina	$89,158	$27,656	13,800
North Dakota	$86,861	$29,802	1,295
Ohio	$105,105	$33,755	17,234
Oklahoma	$80,472	$25,493	7,272
Oregon	$96,635	$34,651	5,965
Pennsylvania	$105,112	$34,471	21,439
Rhode Island	$107,491	$34,250	1,865
South Carolina	$77,220	$23,786	6,236
South Dakota	$83,081	$30,173	1,508
Tennessee	$83,457	$25,904	10,745
Texas	$88,146	$29,437	29,715
Utah	$94,943	$29,626	2,700
Vermont	$112,221	$36,910	966
Virginia	$104,162	$31,834	10,778
Washington	$105,451	$32,896	8,546
West Virginia	$84,236	$24,760	3,720
Wisconsin	$110,977	$40,804	8,675
Wyoming	$72,649	$22,376	812
Total United States	*$96,808*	*$30,577*	*436,330*

(a) Sales price of an entry level new home as measured by the average sales price of new homes purchased in 1995 with FHA insurance.

(b) Minimum household income necessary to purchase the entry level home in column (a). Income needed is based on financial qualifications rules that limit monthly payments of principle, interest, taxes and insurance to 29 percent of income. The calculations assume a 10 percent down payment, a 7.8 percent mortgage for 30 years, and monthly hazard insurance and real estate tax payments derived from 1990 Census data for each state.

(c) Income distributions for each state are estimated from the Census of Population and Housing and updated to 1995 by increasing the number of households by 1 percent per year and adjusting the state median income to the HUD estimates provided in Notice PDR-95-03.

GENERAL CONTRACTORS INC.
605 S. Kessler
Wichita, Kansas 67213
(316) 942-4788
Lic # 261

FAX: (316) 942-3115

DATE: 2-8-97

WE ARE TRANSMITTING 1 PAGES, INCLUDING THIS COVER LETTER. IF YOU DO NOT RECEIVE ALL PAGES SHOWN ABOVE, PLEASE CALL 316-942-4788 AS SOON AS POSSIBLE.

PLEASE DELIVER TO: ATTN.

NAME: DON MYERS

KANSAS HOUSE REPRESENTATIVE'S

FACSIMILE NUMBER: 913-368-6365

RE: SENATE BILL # 74

FROM: DON BROWN

REMARKS: I HOPE YOU HEARD OR WILL READ RON BURTON OF N.A.H.B. TESTIMONY ABOUT HOUSE BILL #2140. WE HOME BUILDERS ALREADY HAVE A SELF IMPOSED INCENTIVE TO BUILD ENERGY EFFICENT HOMES, ITS CALLED SURVIVAL IN THE MARKET PLACE & DOESN'T REQUIRE MORE GOVERNMENT IN OUR LIVES.
THANK YOU RESPECTFULLY

Don a. Brown
OPERATOR

RETURN FAX NUMBER: 316-942-3115:

PLEASE RESPOND:

____ AS SOON AS POSSIBLE.

____ BY EARLY AFTERNOON.

____ BY END OF BUSINESS DAY.

____ BEFORE ____.

✓ AT YOUR CONVENIENCE.

____ NO RESPONSE REQUIRED.

Commercial • Industrial
"Interior Specialists"

House Utilities
2-18-97
Attachment 3

ROBL

CONSTRUCTION, INC. • 7200 W. 13th, Suite 8
Wichita, Kansas 67212 • (316) 722-8322

February 4, 1997

Dear Representative or Senator:

I am aware that you will be hearing a presentation from Mr. Ron Burton of the National Association of Home Builders in regard to the CABO MEC93 which was adopted by the Kansas Corporation Commission last year as the residential thermal standard for newly constructed residential structures in Kansas. This is to advise you that we agree with Mr. Burton and urge your support of the measure that has been proposed to eliminate the authority of the KCC to impose this standard.

The CABO MEC93 is not a good code! It raises costs and no one to our knowledge has been able to provide proof that there are in fact energy savings as a result of steps taken to comply with the code. The fact is the building industry in Kansas has taken steps to continuously improve the energy efficiency of homes in the most cost effective manner possible.

When the CAB MEC93 was introduced in 1992 we had a discussion with code officials in our area to determine whether they were interested in adopting the code. Their response then is the same as the position they hold today which is they have no interest in adopting the code due to the fact that it is complex, complicated, subject to varied interpretations and does not insure a better product as an end result. Please support us in our efforts to make housing as affordable as possible in all price ranges in Kansas for the benefit of those who choose homeownership.

Sincerely,

Steven J. Robl

Ritchie Building Company

February 3, 1997

Dear Representative or Senator:

I am aware that you will be hearing a presentation from Mr. Ron Burton of the National Association of Home Builders in regard to the CABO MEC93 which was adopted by the Kansas Corporation Commission last year as the residential thermal standard for newly constructed residential structures in Kansas. This is to advise you that we agree with Mr. Burton and urge your support of the measure that has been proposed to eliminate the authority of the KCC to impose this standard.

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Sincerely,

Kevin M. Mullen

Kevin M. Mullen
President

KMM/kp

8100 E. 22nd St. North • Bldg. 1000 • Wichita, Kansas 67226 • 316-684-7300 • Fax: 316-684-0227

VERN
KLASSEN
CONSTRUCTION, INC.

Dear Representative Don Myers;

I am aware that you will be hearing a presentation from Mr. Ron Burton of the National Association of Home Builders in regard to the CABO MEC93 which was adopted by the Kansas Corporation Commission last year as the residential thermal standard for newly constructed residential structures in Kansas. **This is to advise you that we agree with Mr. Burton and urge your support of the measure that has been proposed to eliminate the authority of the KCC to impose this standard.**

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Sincerely,

Vern Klassen, President

LICENSE #343·
3351 WEST CENTRAL · WICHITA, KANSAS 67203 · 316/941/4122 TEL · 316/943/9718 FAX

There is a lot of bad data being thrown around relative to the energy code and I thought it might help you to have some real data on a real house in Topeka. I calculated the impact on a typical new home I built last year in Topeka. It is our RHCI-1117 with 2,347 square feet and it sells for $155,742 in Prairie Trace Subdivision without the changes required by the new energy code. I added the required energy code changes one-at-a-time to the parts list and noted the impact on cost and energy consumption. The results are listed in the Table below.

	Cost	Cost of Change	Annual BTU Saved X 1,000,000	Annual $ Saved
Pre-energy code cost	$155,742			
Change to R-38 ceilings	$155,833	$91	1.21	$7.75
Change to R-13 wall insulation	$156,131	$298	4.38	$28.09
Change from R-2 to R-6 sheathing	$156,477	$346	4.40	$28.22
Change to triple glazing	$157,422	$945	12.90	$82.73
Insulate full basement wall	$158,593	$1171	12.0	$76.96
Total Change	$2,851		34.89	$223.75

An annual savings of $223.75 sounds good, but the costs associated with that are as follows:

Increased property taxes	$4.50/mo	$54.00/yr
Increased insurance	$1.00/mo	$12.00/yr
Increased mortgage payments	$18.00/mo	$216.00/yr
Total Costs		$282.00/yr

This does not take into account the lost investment potential of the $70.00 additional closing costs or the additional monthly costs, nor does it take into account the long term escalation in the price of natural gas. But I did want you to know that the energy code is not the economic wonder that some people are making it out to be. Our real problem with residential energy consumption is the huge stock of older homes that were built prior to 1985 that do not incorporate the advances made by our industry in the last decade.

I hope these numbers will somehow help you. If there is anything I can do to help you, please call me at 266-8123 and good luck this session.

Sincerely,

Bob Hogue

Bob Hogue, President
Robert Hogue Construction Incorporated

House Utilities
2-18-97
Attachment 4

SUMMARY:
House Bill 1509, Printer's No. 4282
"The Electricity Generation Customer Choice and Competition Act"

Prepared by: Terry Fitzpatrick, Senator Brightbill's Office, November 18, 1996

1. Background and Summary

This legislation is the product of negotiations among a broad cross-section of parties that took place under the leadership of Governor Ridge and Chairman Quain of the Public Utility Commission. Among those participating in the negotiations were electric utilities, the Industrial Energy Consumers of Pennsylvania, the Consumer Advocate, the Pennsylvania Rural Electric Association, legislators, non-utility generators of electricity, and others.

The bill restructures the electric industry to separate the service of supplying electricity from the service of transmitting and distributing electricity. Customers would be empowered to choose their electricity generation supplier, but they would continue to purchase, at least, the service of transporting the electricity from their traditional electric utility (the utility could also be the supplier). In other words, generating and selling electricity would be open to competition, but transmitting and distributing electricity would continue to be a monopoly service provided by electric utilities.

Customer choice would be offered on a first come-first served basis to one-third of the peak load of each customer class (residential, commercial, and industrial) in successive years -- January 1999, January 2000, and January 2001. The PUC would be authorized to delay this schedule for two six month periods if such a delay became necessary to protect reliability of service, or for other reasons set out in the bill. The PUC would also be authorized to make adjustments to the phase in plan to prevent competitive disadvantages among customers within a customer class. Prior to the phase-in, the PUC would be authorized to order utilities to begin pilot programs in April of 1997.

The legislation contains balanced, creative solutions to the issues raised by creating a competitive market for electricity:

- ☐ It establishes procedures and standards for recovery of "stranded costs" of utilities -- costs related to supplying electricity that utilities can recover under regulation, but that they may not be able to recover in a free market. Utilities are not guaranteed recovery of one-hundred percent of their stranded costs. For the largest component of stranded costs, costs related to utility-owned generating plants, the PUC would determine the amount that it is "just and reasonable" for the utility to recover. The PUC would also evaluate the utility's efforts to mitigate stranded costs.

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☐ It contains a "rate cap" to assure that a customer's total charges for electric service do not increase above current rate levels during the transition to full competition, subject to limited, specific exceptions for situations in which the utility itself faces increased costs.
☐ It precludes cost shifting (rate rebalancing) among customer classes.
☐ It allows utilities to seek PUC approval to "securitize" (refinance) stranded costs provided the PUC determines that such costs may be recovered from customers. The bill also requires that the savings from the refinancing must be passed along to customers.
☐ It allows customers of rural electric cooperatives to choose their electric supplier, and it allows the cooperatives to supply electricity to customers outside their service territories.
☐ It assures that the reliability of service is preserved or enhanced, such as by requiring electric suppliers to obtain licenses and maintain adequate reserve margins and requiring the PUC to promulgate regulations regarding inspection and maintenance of the transmission and distribution system.
☐ It requires continuation of programs to assist low-income customers, and provides mechanisms for recovery of the costs of these programs.
☐ It modifies the traditional utility obligation to serve, but still assures that every customer will have access to a supply of electricity.
☐ It continues the utility gross receipts tax and supplements it with a revenue neutral reconciliation formula that is designed to maintain tax revenue at current levels.
☐ It authorizes the PUC to investigate anticompetitive and discriminatory conduct, and to cooperate with appropriate state and federal authorities on this issue.
☐ It requires utilities to evaluate impacts of restructuring on their employees and encourages utilities to provide retraining and other services, the costs of which the utility may seek to recover as stranded costs.
☐ It supports changes to federal clean air laws to protect the environment in Pennsylvania and to ensure that electric generators and other businesses in the Commonwealth are not disadvantaged due to the less stringent requirements imposed upon states to the west and south of Pennsylvania.

These solutions are described in greater detail below.

2. Reliability of Service and Customer Protections

(a) General language.

In general, the legislation requires the PUC to ensure the continuation of safe and reliable electric service, including maintenance of adequate reserve margins by electric suppliers in accordance with standards of the North American Electric Reliability Council (NERC). (Section 2804 (1)). In addition, the Commission shall ensure that transmission and distribution facilities are inspected and maintained in accordance with National Electric Safety Code standards.

The commission is required to work with other states, the federal government, Independent System Operators (entities that will manage the flow of electricity in the transmission system), and NERC to ensure adequate and reliable service. (Section 2805).

(b) Electric distribution companies.

The PUC is required to promulgate regulations establishing standards for the inspection, maintenance, and repair of the transmission and distribution system by electric distribution companies. (Section 2802 (b) (9)). Electric distribution companies are also required to continue providing customer service functions (meter reading, complaint resolution, etc.) in accord with the PUC's regulations. Prior to implementing customer choice, each electric distribution company shall implement a consumer education program, which is subject to PUC approval. (Section 2807 (d)).

Utilities will continue to have an obligation to provide all aspects of electric service until all customers are given the ability to choose their supplier and until the utility is no longer recovering stranded costs. At the end of this period, the electric distribution company shall have the obligation to transport electricity, and the distribution company or an alternate supplier shall have the duty to acquire at market prices and deliver electricity to those who do not choose an alternative supplier. (Section 2807 (e)).

(c) Electric generation suppliers.

One might argue that allowing competition among electricity suppliers will assure the reliability of the supply, because suppliers who do not provide reliable service will lose business. The legislation, however, provides additional protections because electric service is essential to the health and well-being of Pennsylvania's residents and to Pennsylvania's economy.

Electric generation suppliers must obtain licenses and file bonds before they provide service in the Commonwealth. The PUC will issue a license if the applicant proves that it is "fit, willing, and able" to provide the service and to comply with the law and the PUC's orders. The bond will be in an amount sufficient to ensure the supplier's responsibility under its contracts with customers. (Section 2809 (c)).

The legislation requires the PUC to impose any requirements upon electric suppliers that are necessary to ensure that the present quality of service does not deteriorate, including requiring suppliers to maintain adequate reserve margins to meet their obligations, and requiring suppliers to comply with the PUC's billing regulations. (Section 2809 (e)).

3. Stranded Costs

"Stranded costs" (also referred to as "transition costs") are electric utility costs related to supplying electricity that the utility could recover under the monopoly system of regulation, but that the utility may not be able to recover in a free market. In general, stranded costs are currently being recovered from customers through the utility's regulated rates. Stranded costs may include items such as a utility's investment in nuclear power plants, costs of contracts between utilities and non-utility generators, nuclear decommissioning costs, and others. (Section 2804, definition of "stranded costs").

The policy question regarding stranded costs is whether, and to what extent, these costs may be recovered by utilities through surcharges on the use of the utilities' transmission and distribution network. Some have argued that utilities should not be permitted to recover any portion of their stranded costs as described above, because in a free market businesses are forced to "eat" costs that cannot be recovered in the marketplace. At the other extreme, some utilities

have argued that they must be guaranteed recovery of 100% of their stranded costs because, otherwise, it would be unconstitutional to require utilities to allow competing energy suppliers to use the utilities' transmission and distribution network.

The approach the legislation takes to this issue reflects a compromise between these competing views. First, the bill distinguishes between different types of stranded costs based upon the amount of discretion the utility exercised in incurring the costs. For costs such as those related to contracts with non-utility generators, which utilities were required to enter into under federal law, the bill provides that such costs are recoverable. For stranded costs related to a utility's own generating plants, costs over which the utility exercised more discretion, the bill provides that the PUC shall determine a "just and reasonable" amount to be recovered from ratepayers. (Sections 2808(c)(3);2804(13), (14)). In addition, the PUC will evaluate the extent to which the utility has mitigated its stranded costs, including consideration of whether the utility's mitigation efforts have been commensurate with the magnitude of the utility's stranded costs. (Section 2808 (c) (4)).

Perhaps most importantly, while the legislation provides for recovery of some stranded costs, it expressly precludes cost-shifting (rate rebalancing) between different types of customers. (Section 2808 (a)).

The bill delegates ample discretion to the PUC regarding calculating stranded costs and determining the extent to which the utility may recover these costs from ratepayers. The commission is in the best position to evaluate all of the facts, such as the impact of a particular decision upon customers and the utility, and to enter a decision that fairly balances these diverse interests.

4. The Rate Cap

The legislation contains a cap on charges by utilities for a period of up to nine years; this cap is designed to assure that customers are not required to pay more than their current level of charges as a result of the move to competition. (Section 3204(4)).

For the period from January 1997 to mid-2001, and assuming that the utility is still collecting stranded costs via a competitive transition charge (CTC), the bill caps the customers' total charges at the level of charges that has been approved by the PUC as of the effective date of the Act. During the period from mid-2001 until the end of the nine year period for collecting stranded costs, and assuming that the customer continues to rely on the electric utility as its electric supplier, the cap applies only to the generation portion (not the transmission and distribution portion) of the customer's bill. (Section 2804 (4) (b)).

The PUC is authorized to grant exceptions to the rate cap in limited, specific circumstances where the utility can demonstrate that its costs have increased above current levels due to circumstances beyond the utility's control. (Section 2804 (4) (c)). The PUC may grant such exceptions in situations where:

- the utility meets the requirements of sections 1308 (e) of the Public Utility Code regarding "extraordinary rate relief";
- the utility is required to begin payment under above-market contracts with non-utility generators ("NUGs',) where the utility could not mitigate such costs, or where the utility prudently incurs costs to alter its contractual obligation to

purchase power from a NUG, assuming in both cases that the utility has not previously claimed and collected such costs as "stranded costs";
☐ the utility is subject to significant increases in state or federal taxes or other significant changes in laws or regulations that would not allow the utility to earn a fair return on its investment, or the utility is subject to tax liability under section 2810 that would cause it to exceed the rate cap.
☐ the utility's fuel costs or costs of power purchased from others increases significantly for reasons outside of the utility's control and such increases would not allow the utility to earn a fair rate of return.
☐ the utility is directed by the PUC or the independent system operator to make expenditures to repair or upgrade its transmission or distribution system, or
☐ the utility's nuclear decommissioning costs increase to such an extent that they would not allow the utility to earn a fair return on its investment.

These exceptions are warranted due to the fact that, without them, utilities would be subject to undue risk from extraneous events during the period of up to nine years in which they will be collecting stranded costs. Moreover, these exceptions are consistent with the intent of the rate cap, which is designed to assure customers that the move to competition will not cause their charges to increase, not to give customers an absolute guarantee that outside events will not cause charges to increase.

5. Securitization (Refinancing) of Stranded Costs

The legislation authorizes the PUC to issue "qualified rate orders" approving utility requests to "securitize" stranded costs. (Section 2812). As set forth below, securitization will benefit both the utility's customers and the utility itself.

Securitization is a form of refinancing. In its qualified rate order, the PUC would grant the utility an irrevocable right to collect the stranded costs identified in the order (the commission would first have to determine that the stranded costs may be recovered from customers). This assurance would allow the utility to issue bonds using the guaranteed revenue stream (collected via a surcharge called an "intangible transition charge") as collateral. Since these bonds would be safe investments, the bonds could be marketed at rates of interest significantly less than the rates of interest the utility currently pays on bonds, or the returns that the utility currently pays to its common stockholders. Thus, securitization reduces the amount of a utility's stranded costs. These savings to the utility must be passed on to customers; this will reduce rates even while the utility continues to collect stranded costs. (Section 2808 (e)).

A utility may file a request to securitize stranded costs before, at the same time, or after it files its general restructuring plan (these plans must be filed between April and October 1997). The utility's application must contain a complete accounting of its stranded costs and information regarding the utility's planned use of the proceeds from sale of the bonds. The PUC may allow expedited review of an application, which will result in a decision within one hundred and twenty days of the filing of the request. (Section 2812 (b)).

In the event a utility files an application before the Commission makes its overall determination regarding the utility's stranded costs, the commission's

decision on the application shall be binding only as to the portion of the overall stranded costs that the commission grants approval to securitize; all other amounts shall be deferred for consideration in the utility's restructuring plan. (Section 2812 (b)).

In its qualified rate order, the PUC shall require that the proceeds from sale of the transition bonds shall be used principally to reduce the utility's stranded costs and related capitalization, pursuant to a plan submitted by the utility and approved by the commission. (Section 2812 (b)).

The commission shall approve such periodic adjustments to the intangible transition charge as are necessary to provide for the payment of principal, interest, and other fees related to the bonds. However, the total of the intangible transition charge and the utility's other charges must comply with the rate cap described above. (Section 2804 (4))

6. Programs for Low Income Customers

The legislation provides that in moving toward generation competition, the Commonwealth must, at a minimum, continue programs that are now in place to help low income customers. (Section 2802). The PUC is also required to ensure that universal service and energy conservation programs are in place and appropriately funded in the service territory of each electric distribution company. (Section 2804(a)).

To recover the costs of these programs, the PUC is required to establish for each electric distribution company a non-bypassable, competitively neutral rate [illegible] mechanism (similar to the competitive transition charge and intangible transition charge) to fully recover these costs. (Sections 2802 (b), 2804)). The commission shall encourage the use of community-based organizations for such programs.

7. Rural Electric Cooperatives

The legislation adds a chapter entitled the "Electricity Generation Choice for Customers of Electric Cooperatives Act" to title 15 of the Pennsylvania Consolidated Statutes.

Customers of cooperatives would choose their electric suppliers on the same timetable as customers of investor-owned utilities. (Section 7405). Before a customer begins to receive service from an electric supplier other than the cooperative, the customer must make all payments for electric service and make full payment of a transition surcharge designed to recover the cooperative's stranded costs. (Section 7405 (a)). Cooperatives are not required to obtain PUC approval of their transition surcharge, but they may petition the PUC to determine whether the surcharge is "just and reasonable."

Cooperatives are authorized to compete as electric suppliers. (Section 7406). Where the cooperative intends to supply electricity to customers in the service area of public utilities, the cooperative shall obtain a license from the PUC and comply with the PUC's requirements. Small cooperatives may petition the PUC for relief from certain requirements that may be unduly burdensome and costly.

As a condition of granting a license to a supplier, the PUC will require that the cooperative allow competing electric suppliers to serve customers in the cooperative's service territory. Sales by cooperatives outside their service territories are subject to the gross receipts tax. (Section 7406).

Cooperatives shall ensure that existing universal service and energy conservation programs to help low income customers maintain service are appropriately funded and available. (Section 7409).

8. Market Power Remediation

The legislation empowers the commission to monitor the supply and distribution markets to prevent anticompetitive or discriminatory conduct, and to prevent the unlawful exercise of market power. (Section 2811)).

The PUC may conduct investigations of the competitive electric market, including the effects of mergers, consolidations, acquisitions, or disposition of assets or securities of electric suppliers. The commission may also investigate transmission congestion or any discriminatory conduct affecting distribution of electricity. (Section 2811 (b)). If the investigation reveals anticompetitive conduct, the commission shall refer its findings to the Attorney General of Pennsylvania, the U.S. Department of Justice, the Securities and Exchange Commission, or the Federal Energy Regulatory Commission. The commission shall intervene in any related proceeding arising from its investigation of the anticompetitive conduct. (Section 2811(d)).

In exercising any authority to approve mergers, consolidations, acquisitions of assets or securities, the commissions shall consider whether granting approval of the transaction is likely to result in anticompetitive or discriminatory conduct or the unlawful exercise of market power which would deprive customers of the benefits of a properly functioning market. The commission shall withhold approval if such a result is likely to occur. The commission may also impose conditions to prevent these results. (Section 2811 (e))

9. Tax Provisions

The legislation addresses the impact restructuring of the electric industry could have on the Commonwealth's tax receipts. If this issue were not addressed, these receipts could diminish as competition drives down the cost of electricity. In a nutshell, the tax provisions in the legislation continue the gross receipts tax (GRT) and supplement this with a "revenue neutral reconciliation" (RNR) formula designed to maintain tax revenue from electric utilities at the same level as in 1995-96.

The GRT is retained, and is modified to apply to the new entities in the electric industry -- electric distribution companies and electric generation suppliers. To ensure the Commonwealth's ability to collect taxes from electricity suppliers, some of which will be companies from out of state, the legislation: 1) requires suppliers to certify that they will pay (and have paid) the gross receipts tax, 2) allows the PUC to revoke a supplier's license for failure to pay state taxes, and 3) requires each supplier to provide the commission with the address of its registered agent in the Commonwealth. (Section 2809 (c)).

If a supplier fails to satisfy its tax obligation, despite the above provisions, the distribution company which delivered the electricity is obligated to remit payment in the form of a tax on the use electricity. (Sections 2806(h), 2809 (c)). The distribution company may seek reimbursement from the delinquent supplier or from any other appropriate party that used the electricity. If the distribution company is unsuccessful in collecting the tax in these ways, it may recover the amount through its state tax adjustment surcharge. (Section 2804 (16)).

The revenue neutral reconciliation formula prevents shortfalls, or windfalls, in the current level of revenue from five taxes paid by the electric industry -- the GRT, the capital stock-franchise tax, the sales and use tax, the public utility realty tax, and the corporate net income tax. These taxes yielded $984.1 million to the Commonwealth in 1995-96. The formula produces a millage rate that is applied to the same taxpayers and tax base as the GRT. (Section 2810).

The department of revenue must submit reports to the Governor and General Assembly every year regarding the dynamic effects of restructuring upon tax revenues. The purpose of this report is to insure that the formula is achieving its goal of revenue neutrality. (Section 2810 (d)).

The formula takes effect in 1999 (when competition begins) and ends after the period beginning January 2003 or 2004 (the latter date applies if the PUC delays competition for more than six months beyond the dates set out in the legislation).

10. Impact on Utility Employees

The legislation addresses the potential impact of restructuring on utility employees. In general, to ensure continuation of safe and reliable electric service, utilities are required to consider the experience and expertise of their workforces in moving to competition. (Section 2802 (11)).

Each utility's restructuring plan, which must be filed with the PUC, must discuss impacts on the utility's employees. (Section 2807)). Utilities are expected to discuss the transition to competition with their employees or their certified representatives, and the utility may provide severance, retraining, early retirement, and outplacement services. (Section 2802 (18)). The costs of these measures may be recovered as part of the utility's stranded costs. (Section 2803, definition of "stranded costs").

11. Environmental Impact

The legislation addresses the fact that electric generators located in states to the west and south of Pennsylvania are not subject to requirements as stringent as those that apply to generators and other businesses located in the Commonwealth. A concern has been expressed that the less stringent requirements in these other states combined with open competition among generators could lead to increased pollutant emissions from these out of state generators, which, in turn, could make it more difficult for areas in the Commonwealth to demonstrate attainment with federal air quality standards.

The legislation was written from the viewpoint that the interstate transport of pollutants is a national issue that is regulated under the federal Clean Air Act. In fact, the Environmental Protection Agency has convened the "Ozone Transport Assessment Group (OTAG)," which consists of environmental officials from thirty-seven states, to develop solutions to the interstate transport problem. As recently as November 8, 1996, EPA notified OTAG that it intends to initiate a rulemaking in March 1997 to require reductions in emissions of nitrogen oxides (one of the pollutants that contributes to formation of ground level ozone) in broad areas of the country.

These efforts at the federal level, in which the Pennsylvania Department of Environmental Protection has been an active participant, are the appropriate way to resolve the interstate transport problem. In contrast, any attempt by a state to regulate in this area would be ineffective and probably unconstitutional.

The legislation states that the General Assembly supports changes to federal clean air laws to ensure that the Commonwealth's environment is protected and that electric generators and other businesses in Pennsylvania are not disadvantaged. In plain language, the Commonwealth will continue to push the federal government to create a level playing field between Pennsylvania and other states. In addition, the PUC is required to consult with the Department of Environmental Protection during the transition to competition. (Section 2802 (21)).

- News Release