

Approved: 2-5-97
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY & NATURAL RESOURCES.

The meeting was called to order by Chairperson Don Sallee at 8:07 a.m. on January 28, 1997 in Room 254-E of the Capitol.

All members were present except:

Committee staff present: Raney Gilliland, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes
Linda Bradley, Committee Secretary

Conferees appearing before the committee: Larry Holloway - State Corporation Commission
Carolyn Hall - Consumer Advocate - KC
Paula Schulman - Consumer Advocate - Lenexa
Brian Dreiling - Midwest Energy - Hays
Bob Dixon - Performance Material Supply - KC
Frank Purvis - Habitat for Humanity
Tom Young - AARP - Topeka

Chairperson Don Sallee called the meeting to order.

Proponents and opponents for **SB 74**, concerning building energy efficiency standards; amending K. S. A. 66-131a and repealing the existing section, provided testimony regarding this bill.

Larry Holloway's testimony was neutral on the bill. He notes the Corporation Commission does not support or oppose this bill, see (Attachment 1).

Carolyn Hall's testimony was as an opponent to the bill. See (Attachment 2).

Paula Schulman's testimony was as an opponent to the bill. See (Attachment 3).

Brian Dreiling's testimony was as an opponent to the bill. See (Attachment 4).

Bob Dixon's testimony was as opponent to the bill. See (Attachment 5).

Frank Purvis's testimony was as opponent to the bill. He described Habitat for Humanity homes as Christian housing for all people. They are energy efficiency, affordable housing in the price range of \$ 38,000 per house. He wants this state to take the responsibility in building energy efficiency standards.

Tom Young's testimony was as opponent to the bill. See (Attachment 6).

A continuation of the hearing on **SB 74** will be on Tuesday, February 4, 1997.

Senator Biggs, with a second from Senator Harrington moved to approve January 15, 1997 Committee minutes. The motion carried.

The meeting adjourned at 8:59 a. m.

The next meeting is scheduled for January 29, 1997.

SENATE ENERGY & NATURAL RESOURCES
COMMITTEE GUEST LIST

DATE: January 28, 1997

NAME	REPRESENTING
Brian Dreiling	Midwest Energy
Pat Skettling	Atoly
Bob Dixon	Performance Material Supply

Holloman

BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

**PRESENTATION OF THE
KANSAS CORPORATION COMMISSION ON
SB 74**

The Commission does not support or oppose this bill. Currently the State Corporation Commission implements building efficiency standards for new residential and commercial buildings through its jurisdictional electric and natural gas utilities. This proposal appears to affect the Commission's current jurisdictional authority to enforce these building standards as follows:

- 1) Rural Electric Cooperatives that have deregulated under the provisions of K.S.A. 66-104d would be returned to the KCC's jurisdictional authority for building standards.
- 2) The Commission could not require utilities to enforce building codes in a city or county that has adopted energy efficiency standards for commercial structures that meet the minimum standards for such structures under the federal energy policy act of 1992.
- 3) The Commission would no longer have authority to adopt energy efficiency standards for any residential structure.

This testimony will discuss the history of the Commission's orders affecting energy efficiency standards in new residential and commercial buildings, requirements under the energy policy act of 1992, recent Commission action, and changes in responsibilities if this legislation is enacted.

History of Thermal Treatment Standards¹

The following is a brief summary of the legislative and Kansas Corporation Commission actions taken since 1975 to address energy efficiency in building construction.

1975 Special Committee on Energy and Natural Resources adopts proposal No. 62.

This proposal established statewide minimum building codes affecting new construction and any remodeling or reconstruction in excess of 25% of the gross area of the existing building. An architect or an engineer had to certify the energy compliance of each design prior to receiving a building permit in any locale. It would have set a maximum annual BTU /gross square foot of floor area energy use for residences and schools, offices and commercial buildings, hospitals, and assembly and mercantile buildings (the actual number for each category would be determined by

¹ From a brief review of the minutes of the House and Senate and Special Committee on Energy and Natural Resources' minutes for the years 1975 through 1978, as well as the transcripts for the KCC docket 110,766-U.

ASHRAE Standard 90P). The director of state architectural services would be authorized and directed to promulgate and adopt rules and regulations to enforce and insure compliance with the provisions of the act. Provisions would be provided to allow exemptions of up to 20% over the maximum usage on a case by case basis.

HB 2669 (formerly Proposal #62) 1976 legislative session

The proposal was changed to adopt ASHRAE Standard 90-75, lower the exemption allowance to 10%, and to apply to any new addition or reconstruction of outside roof, walls and floor. In addition several exemptions were provided including any residential building outside city limits, any farm building, any remodeling or repair costing less than \$30,000, or buildings constructed by the owners or by builders for their own use. This bill was defeated in committee.

HB 2435 1977 legislative session

This bill was a weakened version of the previous session's HB 2669. It adopted insulation standards only in communities that already had building codes and building inspectors. In addition it was not mandatory, but instead allowed anyone who didn't wish to comply to pay a charge on excess energy used by not complying. After some consideration this bill was tabled by the sponsor based on the KCC opening a docket to consider heat loss standards.

Docket # 110,766-U - KCC hearings in April, 1977

This was a show cause order concerning all electric and natural gas utilities in reference to changes in tariffs to restrict connections in new residential dwellings and new commercial buildings to those meeting insulation requirements. The existing order was issued and placed in effect beginning November 1, 1977. At this time the KCC had no jurisdiction over municipal electric and gas utilities for the purposes of establishing these requirements.

HB 2698 1978 legislative session

This bill adopted KSA 66-131a. This statute gave the KCC jurisdiction over municipal owned and operated electric and gas utilities for the purposes of restricting connections to their systems with respect to heat loss standards.

SB 435 1992 legislative session

This bill adopted KSA 66-104d. This statute allowed certain electric cooperatives the option of becoming exempt from regulation of the state corporation commission except for matters of certified territory and the wire stringing rules. This in affect removes deregulated electric cooperatives from KCC jurisdiction in respect to heat loss standards.

The Energy Policy Act of 1992 (EPACT)

This legislation contains numerous energy efficiency requirements. From the standpoint of building codes, each state is required to:

- 1) Adopt a commercial energy efficient building code that meets or exceeds the ASHRAE/IES² Standard 90.1.
- 2) Consider, after public hearing, adoption of a residential energy efficient building code that meets or exceeds CABO MEC92³.
- 3) Administrators of agencies that control federally backed mortgages such as FHA, FmHA, VA and HUD are also required to adopt CABO MEC 92 or any subsequent energy efficient building code within 1 year of DOE's adoption.
- 4) Each state had 2 years to comply or could request an extension. EPACT provided no details of any federal action that would be taken against any state that did not comply.
- 5) The secretary of the Department of Energy is required to consider new revisions of either code and require the states to adopt (or in the case of residential codes, consider adopting) the new code revision if it is determined that the new revision will result in significant energy savings.
 - Each state then has 2 years to adopt the new code revision. As initially, the commercial building requirements are mandatory and the residential requirements must be considered following a public hearing. Federal mortgage requirements must adopt the new revision within 1 year.

Subsequent DOE action

In July, 1994 the secretary of DOE issued a finding that adopted the latest revision of the model energy code, CABO MEC 93 and the codified version of ASHRAE 90.1.

² American Society of Heating, Refrigeration and Air Conditioning Engineers (ASHRAE); Illuminating Engineering Society of North America (IES)

³ Council of American Building Officials (CABO); 1992 Model Energy Code (MEC92).

Docket 190,381-U KCC April 11, 1994

This docket opened a general investigation of the Residential and Commercial Building Code Energy efficiency standards as required by Title 1 of the EPACT. The following action has been taken to date:

- September 29, 1994 - KCC staff issued a draft memo for comment on the adoption of CABO MEC 93 and ASHRAE Standard 90.1 (and the codified version). This memo was sent to all Kansas electric and gas utilities, as well as representatives of the building industry and other parties that had expressed an interest, and requested comments on the staff's proposed position.
- October 24, 1994 - KCC staff requested a one year extension from DOE to comply with the building code requirements - DOE granted request.
- December 1994 - KCC staff received final comments from respondents. To address comments regarding increased costs of applying such a code discussions began to obtain funding to provide an independent third party investigation.
- March 1995 - KCC energy office applied for a DOE grant to fund investigation of increased building costs due to adoption of residential code.
- May 1995 - DOE denied KCC request. KCC consultant efforts refocused on providing expert evaluation of existing codes and methods of compliance.
- September 18, 1995 - KCC staff issues letter to DOE requesting another one year extension - DOE granted extension to October 24, 1996.
- December 12, 1995 - Technical and public hearing.
- January 23, 1996 - Commission issued order.

Elements of Commission order

- Adoption of ASHRAE/IES 90.1-89 Standard or Code for new commercial buildings
 - Natural gas or electric utility required to receive certification prior to providing permanent service.
- Adoption of CABO MEC 93 disclosure for new residential buildings
 - Natural gas or electric utility required to receive either 1) certification, or 2) signed

owner disclosure prior to providing permanent service.⁴

- Utilities in cities or counties that have adopted codes that equal or exceed energy efficiency standards adopted by the Commission are allowed to turn code enforcement obligations over to local code authorities.

Effects of Proposed Legislation

Several aspects of this legislation do not affect the current Commission order. The order already allows utilities to turn code enforcement over to local code authorities. In addition, the Commission order has already adopted the commercial building codes mandated by the Energy Policy Act of 1992 (EPACT). Furthermore, this legislation would expand the Commission's authority to adopt these required commercial building codes to include all electric and natural gas utilities, by returning jurisdiction over rural electric cooperatives that have deregulated under the provisions of K.S.A. 66-104d.

However, one point that needs to be addressed is that this legislation would remove the Commission's ability to adopt residential energy efficiency building codes. It is important to point out that under the Energy Policy Act the Secretary of DOE, in the future may adopt later revisions to the CABO Model Energy Code and require the State of Kansas to hold public hearings to consider adopting these revisions. With passage of this legislation, future code revisions would then need to be considered either by the legislature or another designated state agency. The Commission has procedures in place to conduct public hearings as a routine part of their decision making process, while this process may be more difficult to implement for some other agencies.

Issues to Consider

The Commission's order does not require new homes to meet CABO MEC93. What it does require is the builder to tell his customer whether or not the home meets the code. The Commission's order requires homeowners to be informed if they are purchasing a home that may not qualify for certain federal loans and that may experience high utility bills. A customer may still choose to purchase a new home that does not meet these energy efficiency requirements, however they will be informed of the possible consequences of that choice.

⁴ The order allows multiple avenues for the builder to certify code compliance, however the builder may also inform the owner that the home does not comply to CABO MEC93. In this case the owner reads and signs a disclosure statement informing the owner that the house does not qualify for certain mortgages and that it may use more energy than a house that met the code. In this case the owner provides the signed disclosure statement to the utility and receives permanent service.

The Commission's order allows 6 different ways to verify compliance. The intent is to make code verification as simple as possible for the builder. The new homeowner, the mortgage lender and everyone who will inhabit the home for the next 80 to 100 years, depend on the level of builder knowledge and expertise that was assumed in developing these verification options.

The Commission's order fulfilled the State's obligation under the federal Energy Policy Act. The Commission Staff spent hundreds of manhours researching the issues, soliciting opinions and preparing testimony. The Commission spent over \$26,000 in obtaining and utilizing the opinions and analysis of expert consultants.

The Commission's authority and responsibility in regulating electric and natural gas utilities clearly includes the environmental and economic benefits of efficient energy usage. The Commission's consideration of energy efficiency requirements for the construction of new residential and commercial buildings has been thoughtful, public, fair and unbiased. However, a primary responsibility of the Commission is the regulation of public utilities, not the building industry. Historically, the Commission has been asked, by the legislature, to adopt and enforce energy efficient building codes. You must decide if this responsibility and authority should be removed or transferred to another agency. However, we urge you not to eliminate these standards regardless of which agency oversees them.

Alternatives

The Commission would fully support either of the following alternatives:

- 1) Amending SB 74 to remove section 131a.(b)(2). With this revision the bill would restore the Commission's authority to adopt energy efficiency standards for deregulated electric cooperatives, an obvious oversight of the 1992 rural electric cooperative deregulation legislation.
- 2) Amending SB 74 to remove all Commission authority to adopt energy efficient building standards. [This may require additional legislation to assign the responsibility to establish the mandatory energy efficient building standards for commercial buildings to either another agency or to the legislature itself. The same responsible entity would review future residential building codes revisions, hold public hearings, adopt or not adopt the revised code, and then notify the Department of Energy.⁵]

⁵ If SB 74 is adopted in its present form, the Energy Policy Act of 1992 will still require Kansas to hold public hearings to consider each future residential building code revision adopted by the Department of Energy, and then notify DOE of their decision.

TITLE XXIX—ADDITIONAL NUCLEAR ENERGY PROVISIONS

- Sec. 2901. State authority to regulate radiation below level of NRC regulatory concern.*
- Sec. 2902. Employee protection for nuclear whistleblowers.*
- Sec. 2903. Exemption of certain research and educational licensees from annual charges.*
- Sec. 2904. Study and implementation plan on safety of shipments of plutonium by sea.*

TITLE XXX—MISCELLANEOUS**Subtitle A—General Provisions**

- Sec. 3001. Research, development, demonstration, and commercial application activities.*
- Sec. 3002. Cost sharing.*

Subtitle B—Other Miscellaneous Provisions

- Sec. 3011. Powerplant and Industrial Fuel Use Act of 1978 repeal.*
- Sec. 3012. Alaska Natural Gas Transportation Act of 1976 repeal.*
- Sec. 3013. Geothermal heat pumps.*
- Sec. 3014. Use of energy futures for fuel purchases.*
- Sec. 3015. Energy subsidy study.*
- Sec. 3016. Tar sands.*
- Sec. 3017. Amendments to title 11 of the United States Code.*
- Sec. 3018. Radiation exposure compensation.*
- Sec. 3019. Strategic diversification.*
- Sec. 3020. Consultative Commission on Western Hemisphere Energy and Environment.*
- Sec. 3021. Disadvantaged business enterprises.*

SEC. 2. DEFINITION.

For purposes of this Act, the term "Secretary" means the Secretary of Energy.

TITLE I—ENERGY EFFICIENCY**Subtitle A—Buildings****SEC. 101. BUILDING ENERGY EFFICIENCY STANDARDS.**

(a) IN GENERAL.—Title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.) is amended—

(1) in section 303—

(A) by striking paragraph (9);

(B) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (9), (10), (11), and (12), respectively; and

(C) by adding at the end the following new paragraphs—

"(13) The term 'Federal building energy standards' means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term 'voluntary building energy code' means a building energy code developed and updated through a consensus process among interested persons, such as that used by the Council of American Building Officials; the American Society

of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

"(15) The term 'CABO' means the Council of American Building Officials.

"(16) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers.";

(2) by striking sections 304, 306, 308, 309, 310, and 311 and inserting the following:

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES.

"(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

"(2) The determination referred to in paragraph (1) shall be—

"(A) made after public notice and hearing;

"(B) in writing;

"(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

"(D) available to the public.

"(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

"(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

"(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

"(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

"(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

"(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certification

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shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1-1989.

"(2)(A) Whenever the provisions of ASHRAE Standard 90.1-1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

"(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

"(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1-1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

"(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

"(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

"(a)(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Co-

ference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

"(2) The standards established under paragraph (1) shall—

"(A) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1-1989 (in the case of commercial buildings);

"(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

"(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

"(b) **REPORT ON COMPARATIVE STANDARDS.**—The Secretary shall identify and describe, in the report required under section 308, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.

"(c) **PERIODIC REVIEW.**—The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

"(d) **INTERIM STANDARDS.**—Interim energy performance standards for new Federal buildings issued by the Secretary under this title as it existed before the date of the enactment of the Energy Policy Act of 1992 shall remain in effect until the standards established under subsection (a) become effective.

"SEC. 306. FEDERAL COMPLIANCE.

"(a) **PROCEDURES.**—(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 305.

"(2) The Federal building energy standards established under section 305 shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

"(b) **CONSTRUCTION OF NEW BUILDINGS.**—The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the appropriate Federal building energy standards established under section 305.

"SEC. 307. SUPPORT FOR VOLUNTARY BUILDING ENERGY CODES.

"(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the

Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of voluntary building energy codes for new residential and commercial buildings. Such support shall include—

“(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

“(2) assistance in improving the technical basis for such standards and codes;

“(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

“(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

“(b) REVIEW.—The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

“(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

“(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

“(3) otherwise participate in any industry process for review and modification of such codes.

“SEC. 308. REPORTS.

“The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this title. Such report shall include—

“(1) recommendations made under section 307(b) regarding the prevailing voluntary building energy codes;

“(2) a State-by-State summary of actions taken under this title; and

“(3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this title.”

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by striking the items relating to sections 304, 306, 308, 309, 310 and 311, and inserting in lieu thereof the following—

“Sec. 304. Updating State building energy efficiency codes.

“Sec. 305. Federal building energy efficiency standards.

“Sec. 306. Federal compliance.

“Sec. 307. Support for voluntary building energy codes.

“Sec. 308. Reports.”

(c) FEDERAL MORTGAGE REQUIREMENTS.—

(1) AMENDMENT TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended to read as follows:

“SEC. 109. ENERGY EFFICIENCY STANDARDS.

“(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, jointly establish, by rule, energy efficiency standards for—

"(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act; and

"(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949.

"(2) CONTENTS.—Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code, 1992 (hereafter in this section referred to as 'CABO Model Energy Code, 1992'), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1-1989 (hereafter in this section referred to as 'ASHRAE Standard 90.1-1989'), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

"(b) MODEL ENERGY CODE.—If the Secretaries have not, within 1 year after the date of the enactment of the Energy Policy Act of 1992, established energy efficiency standards under subsection (a), all new construction of housing specified in such subsection shall meet the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1-1989.

"(c) REVISIONS OF MODEL ENERGY CODE.—If the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, ASHRAE Standard 90.1-1989, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified."

(2) AMENDMENT TO TITLE 38, UNITED STATES CODE.—Section 3704 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed

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through the assistance of this chapter unless the new residential property is constructed in compliance with such standards."

SEC. 102. RESIDENTIAL ENERGY EFFICIENCY RATINGS.

(a) **RATINGS.**—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) **IN GENERAL.**—Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, representatives of existing home energy rating programs, and other appropriate persons, shall, by rule, issue voluntary guidelines that may be used by State and local governments, utilities, builders, real estate agents, lenders, agencies in mortgage markets, and others, to enable and encourage the assignment of energy efficiency ratings to residential buildings.

"(b) **CONTENTS OF GUIDELINES.**—The voluntary guidelines issued under subsection (a) shall—

"(1) encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings;

"(2) establish protocols and procedures for—

"(A) certification of the technical accuracy of building energy analysis tools used to determine energy efficiency ratings;

"(B) training of personnel conducting energy efficiency ratings;

"(C) data collection and reporting;

"(D) quality control; and

"(E) monitoring and evaluation;

"(3) encourage consistency with, and support for, the uniform plan for Federal energy efficient mortgages, including that developed under section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) and pursuant to sections 105 and 106 of the Energy Policy Act of 1992;

"(4) provide that rating systems take into account local climate conditions and construction practices, solar energy collected on-site, and the benefits of peak load shifting construction practices, and not discriminate among fuel types; and

"(5) establish procedures to ensure that residential buildings can receive an energy efficiency rating at the time of sale and that such rating is communicated to potential buyers.

"SEC. 272. TECHNICAL ASSISTANCE.

"Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of and use of residential energy efficiency rating systems consistent with the voluntary guidelines issued under section 271.

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Susan M. Seltsam, Chair
F.S. Jack Alexander
Timothy E. McKee

In the Matter of the GENERAL)
INVESTIGATION OF ENERGY EFFICIENCY) Docket No. 190,381-U
BUILDING CODES as required by THE ENERGY)
POLICY ACT OF 1992.)

ORDER

COMES NOW, the above captioned matter for consideration and determination by the State Corporation Commission of the State of Kansas, (hereinafter referred to as "Commission"). Having examined its files and being fully advised in the premises, the Commission finds and concludes as follows:

BACKGROUND

1. On April 11, 1994, the Commission opened the docket in this matter to conduct a General Investigation into Thermal Efficiency Building Codes in response to the Energy Policy Act of 1992 (EPACT). EPACT Title I, Subtitle A, Section 304(a)(1) through (a)(3) requires each state to review residential building codes and hold a public hearing to consider adoption of the Council of American Building Officials 1992 Model Energy Code (CABO MEC 92). EPACT further requires each state to verify that each commercial building code meets or exceeds the energy efficiency standards adopted by the American Society of Heating and Air Conditioning Engineers/Illuminating Engineering Society of North America 1989 90-1 Standard (ASHRAE / IES 90.1-89). (EPACT 1992, Section 304, (b)(1).

2. The Commission Staff (Staff) issued a draft position paper on September 24, 1994, and solicited comments from 250 affected electric and natural gas utilities as well as trade associations and the building industry. On December 12, 1995, both technical and public hearings were held.

3. Testimony was filed by Staff, Western Resources Inc., and the Kansas Natural Resources Council in the technical hearing. The testimony filed by Staff recommended adoption of CABO MEC 93 for residential buildings and ASHRAE/IES 90.1-89 for commercial buildings. Incorporated in the proposal was several options for achieving compliance in residential construction, and provisions which would shift enforcement liability from the utility to local code officials if local codes satisfy the CABO MEC 93 standard.

Western Resources Inc. testimony generally supported the Staff position, while advocating a notice/disclaimer of non-compliance for commercial buildings similar to the residential proposal, enforcement for all jurisdictional utilities and flexibility in documentation and retention of records.

The Kansas Natural Resources Council concurred with the Staff position for the most part, while supporting use of the Home Energy Rating System as an alternative to CABO MEC 93.

4. Public hearing testimony and comments were submitted by Bob Fincham of the American Institute of Architects and Robert R. Hogue of the Kansas Building Industry Association.

The American Association of Architects, generally supported Staff's residential code proposals, and indicated favor for local code adoption and enforcement. Mr Fincham also noted the complexity of the ASHRAE/IES 90.1-89 code.

Mr Hogue's testimony primarily addressed concerns regarding residential construction and the impact that adoption of the CABO MEC 93 standard in terms of additional cost to new home buyers. Mr Hogue stated that the increased costs would be a particular hardship to first-time home buyers, and that the cost incurred would be greater than the benefit in terms of increased energy efficiency. Mr. Hogue also emphasized that adoption of state codes was not required by EPACT as in the case of commercial buildings.

FINDINGS AND CONCLUSIONS

The Commission finds and concludes the following:

5. The Energy Policy Act of 1992 requires that each state certify that its Energy Building Code for commercial buildings meets or exceeds ASHRAE/IES 90.1-89. EPACT further requires that consideration be given to adoption of the CABO MEC 92 Code for residential construction. As authorized by EPACT, the secretary of the Department of Energy, on July 14, 1994, determined that the ASHRAE/IES 90.1-89 Code was equivalent to the ASHRAE/IES 90.1-89 Standard and that adoption of the 93 version of CABO MEC provided a significant increase in energy efficiency and was technologically feasible and economically justified. This action allowed each state to certify the ASHRAE/IES 90.1-89 code for commercial buildings and

required each state to hold public hearings to consider adoption of CABO MEC 93 for residential construction.

6. The docket and general investigation created by the Commission for the purpose of complying with the State of Kansas' EPACT obligation was opened in 1994. The investigation, research and fact finding was culminated by hearings held on December 12, 1995. Throughout the investigation comment and participation was solicited from all interested parties who chose to respond.

IT IS THEREFORE, BY THE COMMISSION ORDERED THAT:

1. The American Society of Heating and Air Conditioning Engineers/Illuminating Society of North America 1989 90-1 Standard or Code, (ASHRAE/IES 90.1-89) shall be adopted as the applicable thermal efficiency standard for commercial buildings.

2. The Code of American Building Officials 1993 Model Energy Code (CABO MEC 93) shall be adopted as the applicable thermal efficiency standard for new residential construction.

3. Compliance with the respective codes shall be verified by the jurisdictional electric and natural gas utility prior to commencement of permanent service at the building site. The utility may provide permanent service to a non-complying residential building only if the residence owner provides the utility with written verification of non-compliance.

4. Verification of compliance or non-compliance shall be made on forms approved by the Commission.

5. The following shall also be acceptable alternatives to the CABO MEC 93 standard for residential buildings:

(A) Prescriptive requirements for each building component consisting of three (3) clearly stated and distinct sets for each of the five (5) Kansas climate zones. This alternative would allow extensive compliance options by way of trade-offs of thermal efficiency variations among various components. Further development of this option for all climate zones is required and is being compiled by the Commission.

(B) An extensive list of alternate compliance options for three (3) climate zones, allowing the builder to trade off different building components. Further development of this option is required and is being compiled by the Commission.

(C) Utilization of the MEC check computer software developed by Pacific Northwest Laboratory for the U.S. Department of Energy.

(D) A satisfactory rating by an approved Home Energy Rating System (HERS), equivalent to CABO MEC 93 compliance. The HERS method of evaluation is based upon the thermal efficiency performance of the completed structure, rather than efficiency through prescriptive code compliance and design.

(E) Detailed systems analysis for complex and or innovative building design, to allow innovative design methods development. This method is currently allowed by the CABO MEC 93 for buildings that utilize renewable energy resources. Residences utilizing conventional non-renewable energy sources could also achieve compliance by this means if the non-renewable consumption is

comparable to a conventional residence of the same size meeting the requirements of the code.

(6) Certification of both residential and commercial structures shall be made on forms approved by the Commission. The utility responsible for enforcement shall in each case retain certification and non-compliance forms with the accompanying documentation for three (3) years.

(7) Jurisdictional utilities may request that the Commission release them from their enforcement obligation in areas where local building code authorities have in effect energy codes that meet or exceed the thermal efficiency standards and enforcement provisions adopted by the Commission.

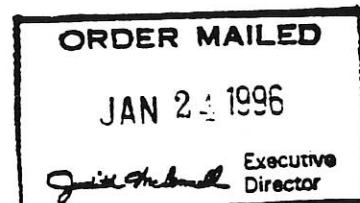
(8) Jurisdictional utilities shall begin implementation of these energy codes no sooner than 6 months, and no later than 12 months from the issuance of this order.

The parties have fifteen (15) days, plus three days if service of this Order and Certificate is by mail, from the date of this Order and Certificate in which to request rehearing on any matter decided herein.

BY THE COMMISSION IT IS SO ORDERED.

Seltsam, Chr.; Alexander, Com.; McKee, Com.

Dated: JAN 23 1996



Judith McConnell
Executive Director



State of Kansas
Commercial Building Energy Efficiency Compliance Certification Form

(To be completed by builder)

Builder: _____

Building Address: _____

City: _____

The above builder certifies that the new commercial building constructed at the above address either (check the appropriate block):

1) **Complies with the ASHRAE 90.1-89 Standard** _____

Attach supporting documentation from architect or engineer

- or -

2) **Complies with the ASHRAE 90.1-89 Code** _____

Attach supporting documentation from architect or engineer

Builder's Signature/Date _____ / _____

Return this form to your local utility

1-20



State of Kansas Residential Building Energy Efficiency Compliance Certification Form

(To be completed by builder)

Builder: _____

Building Address: _____

City: _____

The above builder certifies that the new residential building constructed at the above address either (check the appropriate block):

1) Does not meet the energy efficiency requirements of CABO MEC93 _____

Attach builders disclosure form with owners signature.

- or -

2) Does meet the energy efficiency requirements of CABO MEC93 _____

Verify compliance method below:

a) Building is designed and constructed to CABO MEC93 (attach documentation such as NAHB consolidated worksheet) _____

b) Building is designed and constructed using prescriptive requirements table for the applicable climate zone (attach table and circle selected building components) _____

c) Building is designed and constructed using one of the trade off compliance options (attach compliance option sheet and circle selected option) _____

d) Building is designed and constructed using MECcheck software (attach printout of MECcheck evaluation sheet) _____

e) Building energy performance is verified by a qualified HERS rating equivalent to CABO MEC93 (attach HERS documentation) _____

f) Building complies to energy efficiency of CABO MEC93 by detailed system analysis method, per CABO MEC93 chapter 4 regardless of the use of renewable energy sources (attach documentation) _____

Builder's Signature/Date _____

Return this form to your local utility

1-21



State of Kansas
Residential Building Energy Efficiency Compliance Certification Form

Declaration of Self-Exemption and Non-Compliance

Date: _____

_____, builder of record of the residential dwelling unit known as _____ hereby exercises his or her right to exempt said residential building from all requirements of the Kansas Corporation Commission's residential building energy efficiency standards, as set forth in the Commission's order in docket number 190,381-U.

Said builder hereby acknowledges that such home may not qualify for certain current and future federal mortgage programs, including those promoted by the Veterans Administration, Federal Housing Authority and Farmers Home Administration, and Housing and Urban Development agencies. Builder also acknowledges that such home may use more energy, and may therefore experience higher electric and/or natural gas utility bills, than a home constructed to meet the Commission's adopted energy efficiency standards.

Said builder also certifies that a signed copy of this form will be provided to the buyer or any agent offering said house for sale for first time occupancy, and that all such agents shall be instructed to provide a copy of this form to all prospective home buyers prior to acceptance of any offer to purchase said dwelling unit. Said builder further certifies that a copy of said form shall be attached to and made a part of the recorded Deed for said property at the time of sale.

Builder

Date

Owner

Date

Return this form to your local utility

1-22

January 28, 1997

Testimony regarding SB 74

Carolyn Hall, Consumer Representative to Kansas Task Force
on the Regulation of Residential Building Contractors
26260 W 67th Street
Shawnee, Ks 66226
(913) 441-4386

Were you happy with your energy bill this month? I sure wasn't. Most consumers don't like their utility bills and want the most energy efficient home they can buy.

How can a consumer determine what they're buying? After serving on the Kansas Task Force, suffering the tragedy of a house from hell, and now enduring a long expensive legal battle over our house from hell, I'm sure of one thing about building a home in Kansas: "BUYER BEWARE, you are buying a pig in a poke!"

There is no way to adequately check out a builder in this state; and there certainly is no accountability. A builder can advertise and promise energy efficiency in glowing terms, but when the homeowner tries to hold them to their ads or even contract promises, the consumer hears, "that was only innocent puffery!" or "there are no clear definitions, no performance standards", except for the Model Energy Codes. Isn't it a coincidence that those same builders now want those standards repealed? They can puff all they want in their ads, but they don't want to put their name on the dotted line and commit when it counts.

Overland Park, Kansas just had their own task force and have concluded that the homebuyers need to check out their builders and be familiar with code requirements. I also heard over and over again from the building industry representatives and technical expert on the Kansas Task Force that it was the homebuyers' own fault if they had problems for not being more careful and doing their homework. Yet here comes the building industry and works to repeal one of the few areas a consumer has standards they can check out.

Homeowners do not have the technical expertise and therefore rely on the builders to provide them with an energy efficient house. I would think that competent, honest builders would step up and endorse the energy standards. I am very suspect of an industry that shies away from accountability. This makes all their ads and hype for energy efficient homes merely puffery. I have never seen an industry work so hard at trying to lower their standards. Anyone in this state can be a builder--you just need a telephone; it takes no technical expertise to manage the

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single most important investment a consumer makes.

The energy efficiency of your home effects you everyday and you look at that total monthly. We all hear the ads for help for those who can't pay their utility bills and the need to help low income people make their homes more energy efficient. Are we going to be asked to help people who would be victims of this proposed legislation pay their utility bills or insulate their homes in the coming years? YUO BET WE WILL!

My Grandfather was a builder/carpenter and built the home I grew up in. He was a man of vision. He knew that if you lived in Kansas you needed to be protected from the elements. He built a hand-quarried limestone house in central Kansas with walls 3 foot thick to keep us warm in winter and cool in summer. I can't believe that almost 100 years later we're needing to have this discussion!

The building industry would have us believe that we should rely on their integrity and promises. Well, complaints against their industry are now in the top 3 consumer complaints nation wide and thanks to the shoddy construction this country has experienced, the ISO will be visiting Kansas soon and evaluating the effectiveness of our building codes and enforcement procedures. We may all get a little surprise from our insurance companies when they pass out the insurance ratings based on Kansas's track record.

So when the builders say "Trust me to build an energy efficient home", I say, if you say you can do it, put it in writing by signing the Model Energy Standards Form!

News from Insurance Services Office, Inc.**RELEASE:****CONTACT:**

IMMEDIATE

Christopher Guidette
(212) 898-6609**ISO'S NEW BUILDING CODE ENFORCEMENT GRADING SCHEDULE CAN BRING
MORE ACCURATE INSURANCE PRICING AND SAFER BUILDINGS**

NEW YORK -- Insurance Services Office, Inc. is developing a system that will grade the effectiveness of communities' building-code enforcement to make insurance pricing more accurate and encourage safer homes and commercial buildings.

The Building Code Effectiveness Grading Schedule is a response by the insurance industry to 1992's Hurricane Andrew, which caused a record \$15.5 billion in insured losses. Industry experts determined that at least one-fourth of those losses were because of construction that failed to meet Dade County, Florida's Code.

The basic premise of the code-grading system is that municipalities with effective codes that are well enforced should demonstrate better loss experience and should, therefore, receive favorable underwriting recognition.

The prospect of lessening catastrophe-related damage and ultimately lowering insurance costs will provide financial encouragement for citizens to press their local governments to enforce codes more rigorously.

Through its subsidiary, Commercial Risk Services, ISO already provides similar grading of municipal fire protection and flood-mitigation efforts. Many insurers reflect the grades in their insurance rates for individual properties.

ISO expects to phase in the grading program state-by-state beginning in 1995 and to grade every municipality in the country by decade's end. After that, each locality would be regraded every five years.

ISO initially will target states that have suffered catastrophes or that are prone to natural hazards.

This project demonstrates ISO's commitment to significantly reduce the economic consequences of natural disaster. The system may also help reduce human suffering and save lives by encouraging communities to adopt proper codes and to strictly enforce them.

The grading concept has received widespread support from code officials, government representatives, community officials and the insurance industry.

Adequate testing is essential to the successful development of this service. ISO has completed a 150 municipality pilot test in four states: Florida, North Carolina, South Carolina and Georgia.

The Building Code Grading Enforcement System will parallel the design of ISO's Fire Suppression Rating Schedule and the Flood Community Rating System, which use a relative rating scale of one to ten, with one representing the best protection and ten indicating no recognized protection.

In developing the new code grading system, ISO has worked closely with the Insurance Institute for Property Loss Reduction and a number of other interested groups, including insurers, local and state government officials, model building code officials and scholars.

The Building Code Effectiveness Grading Schedule measures resources and support available to building-code enforcement efforts. The grading program examines how well those resources are applied to mitigating common natural hazards -- particularly hurricanes and earthquakes.

The grading process includes interviews with municipal officials, examination of supporting documents, a careful look at training requirements and work schedules, staffing levels and certification of officials who enforce building codes.

The schedule assesses each municipality's support for code enforcement, plan-review functions and field inspection quality.

Running a Building Department Like a Business

By the year 2000, the insurance industry plans to complete evaluations of building department operations and code enforcement effectiveness in some 54,000 communities across the United States. The evaluations are being conducted by the industry's Insurance Services Office (ISO).

ISO is using a variety of measures to grade a given community's code enforcement effectiveness. Is a current model code adopted and being enforced? Is the building department adequately staffed, and are personnel adequately trained and certified? What is the quality of the department's plan review and field inspection processes?

ISO is grading a community's code enforcement effectiveness on a one-to-ten scale, with one being the best and ten representing virtually no codes or enforcement. The compiled ratings will be available as reference information for use by individual insurance companies in setting their property insurance rates for a given community.

The insurance industry's energetic interest in establishing the grading system, as well as taking other measures to promote effective code enforcement, came after it was stung by all-time-high record losses in Hurricane Andrew's 1992 destruction. The industry asserts that its losses due to Andrew were greatly increased by shoddy residential construction and lax code enforcement in the south Florida area.

For decades, ISO has maintained a rating system for individual communities' fire protection and fire service effectiveness, and individual insurance companies have referred to this information in establishing their fire insurance rates for localities. The natural disaster losses resulting from Hurricane Andrew prompted the industry to undertake rating building department effectiveness as well.

A Boost for Code Professionals

These developments are good news to the professional code practitioner, who now benefits from the support of a powerful and influential insurance industry ally. Local elected officials are much more likely to be motivated to come across with the resources necessary to provide effective code enforcement when they realize that their constituents' — i.e., the voters — property insurance rates could be favorably influenced. Voter realization and awareness of the building department rating system creates an opportunity to increase the political and resource support that a code professional needs to do the job.

But a rating system is a rating system. Obviously, some building departments will fare better in their evaluations than

others. Those that fare less well will feel pressure and have incentive to expand and improve their code enforcement operations — increased staff, staff training, pursuit of certification, etc.

Such measures will require resources, i.e., funding. And while less-than-highly-rated departments can likely expect some political support from the community for increasing code enforcement funding and effectiveness, there's an alternative approach to running and funding code enforcement agencies which merits attention.

Enterprise Funds

Beginning on Page 42 of this issue, there appears an article on building department enterprise funds authored by Vancouver, British Columbia, building official Gordon Murdoch, P.E., P.Eng., C.B.O. Under the enterprise fund approach, a building department's revenues are based on fees generated by code enforcement activity and not drawn from the local government's general (tax revenue) fund. The enterprise fund is based on the established premise that those using building department services — builders — should pay for those services. To do otherwise is asking all citizens to subsidize the for-profit activities of a particular group.

While Mr. Murdoch discusses in detail the pros and cons of establishing and maintaining an enterprise fund, his central point is that this approach entails running a building department like a business. Services provided by the department and their costs must be examined. Fees must be founded on the quality of service provided to the customer. With its independent funding base, the building department with an enterprise fund is spared the political burden of competing with fire, police, etc. for tax dollars from the jurisdiction's general fund.

Mr. Murdoch also provides detailed information from a survey recently conducted among 14 local government jurisdictions which operate building departments with enterprise funds. He reports that the building officials who have these funds say resources are easier to obtain and that they are much more "in control of their own destiny." He further reports that none of the building officials surveyed would, by choice, go back to a general fund system.

We urge our readers' attention to this article. For building departments needing to expand/upgrade in the wake of the ISO evaluations, an enterprise fund approach may provide a useful frame of organizational reference. Even well-evaluated departments presently supported from a local government general fund would benefit from examining the enterprise fund approach on its merits.


Introducing BOCA Analysis: Is Your Building Department Ready?

ATTENTION! ...Code officials in Arkansas, Connecticut, Delaware, Illinois, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Vermont and Virginia! By the year 2000, the code enforcement practices of more than 54,000 communities across the country will be evaluated by the Insurance Services Office (ISO). *Within the next 24 months, your department will be evaluated* and your commitment to active code enforcement will be put to the test. ISO's building code enforcement rating system will be used by insurance companies to establish their property insurance rates for individual localities. Will you be ready?


Due to the serious nature of this grad-

ing, BOCA has responded by offering a new service to its members called BOCA Analysis. BOCA Analysis is a process to help your building department prepare for the ISO evaluation. With a BOCA Analysis audit, we can tell you where your department meets the grade and where it doesn't, so you can get back on track *before* your ISO evaluation. BOCA Analysis will evaluate adoption of model codes, plan review, inspection and enforcement activities, training and certification practices, staffing levels and numerous other areas of building department activities. At a cost of \$395, BOCA Analysis is an affordable and reliable tool for a jurisdiction to identify where it does or does not meet the highest levels of performance in the delivery of

code enforcement services to the community. A BOCA Analysis brochure and reservation card is being mailed to BOCA's governmental members. Audits will be handled on a first-come, first-served basis. Once you have registered, you will be contacted to arrange an audit date at your office with your BOCA service representative. A preparation checklist and confirmation letter will be sent to you. It is important to collect the information requested on the checklist prior to the audit. The audit typically takes about two hours to complete and is followed up by a report within two weeks. Jurisdictions that react promptly will be in the best position to make the necessary changes prior to the ISO evaluation, so don't delay.



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BGI • P.O. BOX 2050 • RICHMOND, VT 05477

January 28, 1997

Regarding Senate Bill #74
House Energy and Natural Resource Committee

Contrary to everything that is written today about saving energy, it is hard for me to believe that I am here to see that the contractors do not get there way to repeal the energy codes.

The contractors do not want any regulation; every time something comes up about anything to do with the building industry the contractors fight it. Yet when they are put on the stand about their accountability they don't even show up. They have been working in an industry that has been under-regulated for so long they are not welcoming any changes. And do not follow current regulations because they are not policed.

As a consumer and resident in the State of Kansas I ask the committee to let the citizens of this state vote to see if they want lower energy standards. This should not be a vote that only the building industry gets to decide. Houses are not being built like they used to be, 90% are being mass produced and I would guess they have insulation but not in the amount that they are suppose to have. Cracks and water intrusion are the biggest complaints that are organization receives. This water intrusion soaks what insulation there is and of course then we have water soaked insulation between the walls and another problem arises as well as the insulation not working properly. Insulation should last the lifetime of the house.

Do you, the state, want to give more financial assistance down the road than what we already are spending to subsidize the lack of energy efficiency in the housing industry?

Thank you for your time.

Paula Schulman
Representing HADD
Homeowners Against Deficient Dwellings
7611 Park
Lenexa, Ks. 66216
(913) 268-0600

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TESTIMONY SUBMITTED REGARDING SENATE BILL #74

By Brian Dreiling
Midwest Energy Inc.

1/28/97

Energy costs are commonly the third largest monthly expenditure a household faces. Energy efficiency lowers utility expenses and raises disposable income. Home buyers want these features built into their new homes at a reasonable cost. Home builders, on the other hand, may only include upgrades that are visible and the cheapest. Most importantly, installing only certain energy upgrades can cause unsafe conditions.

Energy codes promote complete system efficiency and safety. Sometimes unsafe conditions occur if the codes are not followed completely. For example, the City of Hays has implemented a mandatory ventilation, combustion air, and energy check be performed on all new homes built in the city limits. Blower doors, combustion air measurements and an energy rating system are used to evaluate these homes. Personnel performing evaluations are trained and certified Energy Raters. Testing has found some unsafe conditions, which were fixed before harm could occur. Some of the problems found, deal with high levels of carbon monoxide, moisture problems and high energy costs. A home works as a system, therefore, needs to be treated as a system when upgrading efficiency. The way wall insulation is installed can effect the operation of the furnace in the basement. If ventilation fans are used, wood burning stoves may back draft. The home is a system and needs to work as a system. Before installing any energy efficient features consideration needs to be given to the effects on the entire system. The Model Energy Code can be used as a guide to safe and effective

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energy efficiency. Every new home buyer should be assured, the house they are about to buy, is energy efficient and safe.

The City of Hays' program is working well, and improvements in whole building construction have flourished. The Model Energy Code should remain enforced state wide, so all areas could be assured of efficient and safe housing.

If you have any questions be call Brian Dreiling at 1-800-222-3121.

Thank You



Brian Dreiling

Kansas Home Energy Rater

Level 1 Thermographer

C/I Energy Use Specialist

Mr. Chairman and honorable members of the Energy and Natural Resources Committee.

My name is Bob Dixon. I am a 17 year resident of Leawood, Kansas and the president of Performance Materials Supply, a Kansas corporation that distributes building materials. I have been associated with the sale or marketing of construction products that reduce energy costs for the past 25 years.

I wish to address you today as a knowledgeable consumer of energy efficient homes and commercial buildings.

Please let me share with you a number of very logical reasons why the Kansas Legislature should adopt the Model Energy Code (MEC) current version.

Already, 40 states have recognized the importance of adopting the MEC to this country, their states and future generations of citizens. These state legislatures that have gone before you have already given this code considerable scrutiny and come to the conclusion that is very good for the people of their states.

This bill has national security interests. Presently we import approximately 50% of our petroleum energy resources. We should not loose sight of the dependence we currently have on foreign governments for these resources. To the extent that we can minimize this dependence we should. Many of you can probably remember the long gas lines and high foreign energy costs and shortages of the 1970's when OPEC held us hostage. More recently we experienced the uneasiness of other governments interfering with a stable oil market when Saddam Hussein was trying to pirate his oil rich neighbors.

This bill has environmental considerations. We all appreciate and want clean air. Did you know that the second largest air polluter in this country is home gas furnaces? Having more energy efficient homes will contribute to improved air quality. Denver, Colorado, recognized this several years ago when they adopted higher energy efficient standards to reduce their smog levels.

This is an issue about our concern for future generations of Kansans. Presently we are enjoying relatively inexpensive energy costs. But we are consuming non-renewable resources. Does anybody believe they are going to go down in future years? Don't we have a moral obligation to pass on as much of these resources as we can? Don't they deserve the opportunity to have a high standard of living with moderate utility costs too?

Financially the MEC makes logical sense. To meet the MEC standards today for a typical 2000s.f. house costs less than \$1300.00. This has a financial payback of 5 years or less. If this \$1300.00 is added to the price of a house at a current mortgage rate of 8%, it costs the home owner \$9.54/month. That's less than a family of four can eat at McDonalds one

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time. In addition, there have been energy conservation mortgage programs sponsored by Fannie Mae and Freddie Mac as well as others that recognize that the lower utility costs associated with an energy home allows the home owner to qualify for a larger monthly mortgage payment. A typical program according to Mike Boles of Capital Federal Savings allows two additional percentage points of gross monthly income to count towards the monthly payment. For example, a family with a gross monthly income of \$3000.00/month would typically qualify for a monthly payment of \$700.00. With an energy efficient home that would increase to \$750.00/month. This pays 5 times over the additional \$9.54/month the improvements costs.

Most of you probably recognize that house construction is a major engine driver of the economy. With the more liberal energy efficient mortgage criteria, there are going to be more qualified home buyers at all income levels.

Because most consumers only purchase a few homes, we tend to generally be uneducated about the components of an energy efficient home. Today, home buyers are assuming that they are buying energy efficient homes. That simply isn't the case. For example in Johnson county today, you have to get into the \$200,000.00 and up house price range on a new home before you can typically get a double insulated wall home. This was a standard in virtually all price ranges in the '70's and the '80's. However, in recent years there has been a steady return to single wall construction because it is not seen in the finished product. The sad commentary on this is most home buyers don't even realize what has happened. The rude awakening occurs when they get their first \$300.00 utility bill and they realize that their beautiful home is not energy efficient but instead is sucking heating and cooling dollars like a camel filling up at the local oasis.

In summary, the passage of the MEC should be just the beginning of state efforts to put Kansas at the front of being a responsible energy efficient state. The most cost effective time to do this is when the home or commercial building is being built. Unless there is another energy crisis or responsible legislation to enforce energy efficiency, the marketing forces will drive the home and commercial building offering to the lowest initial costs which discounts the long term impact. I urge you to look at the long term favorable impact of the MEC and pass this legislation now.

Thank you for the opportunity to present by testimony. I would be glad to answer any of your questions at the appropriate time.

Wesley R. (Bob) Dixon
12016 Cherokee Lane
Leawood, Kansas 66209

Home Phone 913-491-3822
Business Phone 816-471-3111

TO KANSAS SENATE
ENERGY AND NATURAL RESOURCES COMMITTEE

JANUARY 28, 1997

TOM YOUNG AARP

AARP URGES ALL LEGISLATORS TO OPPOSE SB 74 WHICH, IF PASSED, WOULD ELIMINATE AN IMPORTANT CONSUMER PROTECTION FOR ALL KANSANS.

S B 74 WOULD OVERTURN A 1995 KCC ORDER ESTABLISHING MINIMUM ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL CONSTRUCTION. THE KCC HAS EXERCISED THAT AUTHORITY SINCE THE LEGISLATURE DELEGATED RESPONSIBILITY TO IT 1977. THE 1995 ORDER REQUIRES HOME BUILDERS CERTIFY THAT NEW HOMES EITHER MEET MINIMUM ENERGY EFFICIENCY STANDARDS, OR NOTIFY THE HOME BUYER THAT THE NEW HOME DOES NOT MEET THE STATE'S ENERGY EFFICIENCY BUILDING CODE.

WE BELIEVE THAT NOTIFICATION THAT MINIMUM ENERGY EFFICIENCY STANDARDS HAVE BEEN MET IS IMPORTANT CONSUMER PROTECTION INFORMATION THAT WILL BENEFIT ALL KANSANS AND PARTICULARLY OLDER KANSANS WHO ARE OFTEN ON A FIXED INCOME. FOR THESE KANSANS OFTEN ENERGY COST AND MEDICAL BILLS ARE THE LARGEST MONTHLY EXPENDITURE THEY HAVE. IT IS IMPORTANT THAT ALL KANSANS AS WELL AS THE ELDERLY BE ABLE TO ASSESS THE POTENTIAL COST OF UTILITIES BEFORE BUYING A NEW HOME. ALSO SINCE FUTURE SELLERS WOULD NOT HAVE TO NOTIFY BUYERS ABOUT ENERGY EFFICIENCY IT BECOMES IMPERATIVE THAT CERTIFICATION ON NEW CONSTRUCTION BE GIVEN. PASSAGE OF S B 74 WOULD LARGELY ELIMINATE THE NEED TO PUT FORTH THE INFORMATION NECESSARY TO MAKE A DECISION ON UTILITY COST.

AARP BELIEVES A STATEWIDE APPROACH IS NEEDED BECAUSE TOO MANY RURAL AREAS AND SMALL TOWNS IN KANSAS LACK THE RESOURCES TO ADOPT OR ADEQUATELY ENFORCE RESIDENTIAL CONSTRUCTION CODES. (FOR EXAMPLE OSAGE COUNTY THE COUNTY JUST SOUTH OF HERE DOES NOT HAVE A BUILDING CODE .) THE KCC ORDER DOES ALLOW LOCAL AREAS OR CITIES TO ASSUME CONTROL OF ENERGY EFFICIENCY BUILDING CODES IF THE LOCALITY HAS TOUGHER STANDARD THAN THE MINIMUM THE KCC HAS SET.

WHILE COMPLYING WITH THE KCC'S MINIMUM STANDARD WILL ADD ABOUT \$120 A YEAR TO THE COST OF THE TYPICAL MORTGAGE IN KANSAS, IT WILL SAVE ABOUT \$175 A YEAR IN UTILITY BILLS. (THIS IS A 1996 FIGURE WITH THE COST OF GAS AT IT'S HIGHEST LEVEL IN SEVERAL YEARS. IT WILL PROBABLY SAVE MORE THIS YEAR, JUST AN ESTIMATE OF ABOUT \$225.)

THERE IS ALSO THE POSSIBILITY THAT A NEW HOME BUILT IN KANSAS WHICH DOES NOT MEET THE ENERGY EFFICIENCY STANDARDS WOULD FAIL TO MEET THE REQUIREMENTS FOR FEDERALLY BACKED MORTGAGES SUCH AS FHA, VA, AND HUD. LAST YEAR 20% OF THE HOMES SOLD IN KANSAS WERE FINANCED IN THIS MANNER.

CONSUMER PROTECTION, LOWER UTILITY RATES, AND LESS EXPENSIVE FINANCING ARE CRITICAL ISSUES OF AFFORDABLE HOUSING IN KANSAS. WE ASK THAT YOU AND YOUR COLLEAGUES VOTE **NO** ON S.B 74

Energy & Natural Resources
January 28, 1997
Attachment 6



American Association
of Retired Persons

Kansas State Legislative Committee

1997 Position Paper

AFFORDABLE, SUITABLE HOUSING FOR LOW & MODERATE-INCOME KANSANS

POSITION

Kansas AARP supports legislation that will provide resources for well designed, suitably located, and affordable housing for low-income and elderly Kansans.

PROBLEM

Despite general improvements in housing quality for most older people, the housing situation of poor renters is deteriorating rapidly.

Sixty percent of the elderly Kansans 65 and above spend 40% or more of their income on rent. Nine percent of this category cannot afford telephones and many of them have incomplete plumbing. Twenty nine percent have mobility problems and twenty one percent have personal care limitations.

The declining private market for affordable housing has increased the importance of federal/state subsidized housing for elderly renters with low incomes. Excessive housing expenditures, coupled with older persons high out-of-pocket medical costs limit the resources for home maintenance repairs and modifications.

SOLUTION

The State should seek to develop state wide housing partnerships with non-profit organizations. These organizations could assist with the acquisition of repossessed properties under control of the Federal Housing Administration (FHA), the Federal Deposit Insurance Corporation (FDIC), and other entities and provide technical assistance on small, difficult to develop housing projects.

The State should establish the Kansas Development Authority (KDA) who would in turn issue tax exempt bonds for single and multi-family developments.