

Approved: 4-4-97  
Date

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES.

The meeting was called to order by Chairperson David Corbin at 8:00 a.m. on March 17, 1997 in Room 254-E of the Capitol.

All members were present.

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

Conferees appearing before the committee:

Rep. Don Myers

Rep. Tom Sloan

Edward R. Moses, The Kansas Aggregate Producers' Association

Charles Benjamin, Kansas Natural Resource Council and The Kansas Chapter of the Sierra Club

Others attending: See attached list

**Sub for HB 2140 - Energy efficiency new structures; standards for commercial and industrial structures; disclosure of certain information for residences.**

Chairperson Corbin said the hearing on **HB 2140** would be continued. He called on Rep. Don Myers.

Rep. Don Myers supported the bill and urged the committee to pass it without further amendments as the current bill informs the buyer and gives them a chance to do comparison shopping (Attachment 1). He responded to a question regarding manufactured homes.

Rep. Tom Sloan, spoke in favor of the bill. He said his compromise was not between the interests of the home builders and insulation industries, rather it was a compromise between legislative desires to avoid refereeing an inter-industry squabble and the desire to provide meaningful assistance to consumers (Attachment 2).

Edward R. Moses addressed the legislation with a neutral position. He said as a representative of the Kansas Aggregate Producers' Association he only wanted to call to the attention of the committee a paradox in the testimony that has been received on this bill. The very group that opposes dredging activity on the Kansas River are here today supporting the use of more fiberglass (thus sand) to reduce energy use (Attachment 3).

Charles Benjamin, Kansas Natural Resource Council and Kansas Chapter of Sierra Club opposed the bill. They believe the quasi-judicial administrative proceeding of the KCC are the best place to resolve this issue (Attachment 4). Mr. Benjamin responded to questions.

The hearing was closed.

On a motion from Senator Huelskamp, seconded by Senator Tyson, the minutes of March 12 were adopted.

Chairperson Corbin opened the discussion on: **HB 2303 - Persons with disabilities authorized to turkey and elk by use of a crossbow.**

Senator Biggs moved that **HB 2303** by passed. The motion was seconded by Senator Karr. Motion carried.

Chairperson Corbin called for discussion or action on: **HB 2305 - Deer permits for nonresident students and military personnel.**

Clint Riley, Kansas Department of Wildlife and Parks responded to questions about the fiscal note. He said there probably would be some additional revenue, but it was very difficult to say how many of the people

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, Room 254-E Statehouse, at 8:00 a.m. on March 17, 1997.

involved were getting permits under the current system.

Senator Karr moved that **HB 2305** be passed. Senator Biggs seconded the motion. The motion carried.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 18, 1997.



DON MYERS  
REPRESENTATIVE, 82ND DISTRICT  
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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
CHAIR: UTILITIES  
MEMBER: ENVIRONMENT

STATE CAPITOL BUILDING, ROOM 175-W  
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Testimony Before the Senate Energy and Natural Resources Committee  
Sub HB 2140  
March 17, 1997

Thank you, Mr. Chairman, for the opportunity to share the position of the House Utilities Committee on Sub HB 2140.

My Committee held three days of hearings on HB 2140, February 4, 11 and 19. We used a lot of time and had serious discussion as to the merits of this bill. The original bill removed the Kansas Corporation Commission from oversight of energy efficiency standards for any residential property.

The insulation manufacturers through their lobbyist David Schlosser opposed that bill. It does not take an economist to conclude that insulation manufacturers can sell more of their product if the Corporation Commission regulates the housing industry.

The House Utilities Committee on February 19 passed a substitute bill which does the same thing, but goes a step further and requires builders to provide a written disclosure to the buyer, of all the insulation values, the thermal properties of windows and doors, the thermal

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*attachment 1*

efficiency of heating and air conditioning as well as the water heater.

Still, the insulation manufacturers were not happy, David Schlosser, representing the insulation manufacturers is here at your Committee opposing this substitute bill because it still does not use the powers of the state to require home builders to use more insulation.

It is very sad that one industry who makes insulation can use the power of the state to help them make money. It is equally sad and reprehensible that one industry can hold the entire state hostage until they get what they want.

Perhaps when we legislators take up campaign finance reform we should also require the the dollar amount of commissions paid by individual companies to their contract lobbyist in order to influence individual pieces of legislation like this HB 2140 be made public. The public would like to know which companies are paying for these mandates that keep adding to their cost of living.

It is equally disgusting to me that the insulation manufacturers and those who sell insulating products have come to my Committee and used the argument that their sole interest is in energy efficiency. I think that clouds the real issue. The issue of whether we as legislators can exercise policy making decisions against state mandates which cost home buyers millions of dollars in increased home costs.

If we legislators want to save the people of Kansas a lot of money and bring about huge savings in energy cost, why don't we pass legislation requiring that the people of Kansas in the future can only buy and drive cars that can get 45 miles to the gallon of gas. The average car in Kansas now probably gets about 25 miles per gallon. With a 20 mile per gallon increase and with gasoline at \$1.29 per gallon, the average car owner

would save \$458 per year. With two cars per family that is approximately 1,000,000 cars in Kansas and a savings of \$458,000,000 per year in gasoline costs. We would also save 355,000,000 gallons of precious gasoline.

Would you, as a legislator, vote to force every driver in Kansas to only buy small energy efficient General Motors Metro GEO's that can get 45 MPG instead of larger comfortable family cars. If you would, do you think that your constituents would send you back next election? I doubt that most of you would even consider voting for that sort of legislation.

Car dealers are required to put the average expected MPG on the car information sticker. This bill requires the home builder to inform the home buyer of the insulation values and equipment efficiencies in the home that they are shopping for. This bill informs the buyer and gives them a chance to do comparison shopping. This bill, as written, without any more amendments to slow its process is designed to give an incentive to home builders to build more efficient homes and to give buyers their rightful choice in home buying. I urge that we stop this influence peddling by certain industries bent on increasing their overall sales of insulation and pass this sensible bill.

Are we so fearful that our constituents can't make decisions on their own that we must make them for them. I think not.

Thank you, Mr. Chairman, and I would stand for questions.

**TOM SLOAN**  
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TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 MEMBER: ENVIRONMENT  
 UTILITIES

March 17, 1997

Testimony on Sub. For HB 2140 Before the Senate Energy Committee

Thank you Mr. Chairman, Committee Members for the opportunity to discuss Sub. For HB 2140 with you. Unfortunately, though not unexpectedly, legislators seem to be caught in a struggle between the insulation and home builder industries. That conflict was apparent during hearings on the original bill in the House Utilities Committee and led to my effort to shift the legislative focus from industry conflict to consumer education and to remove the Kansas Corporation Commission and the state's electric utilities from attempting to regulate or referee the construction industry.

Discussion among committee members following testimony on HB 2140 focused on three considerations: 1) elimination of all contractor responsibilities for providing energy related information to prospective homeowners was not acceptable, 2) requiring contractors to utilize an expensive and technically confusing criteria which is not understood by committee members or the public does not make sense, and 3) including the KCC, electric and natural gas utilities (investor-owned, municipal, and cooperatives) in the collection of data from contractors which they could not verify or readily provide to the public was not acceptable. Those informal discussions led me to develop an alternative to the original bill to achieve legislative consensus.

Agreement existed that the KCC should not be attempting to regulate the home construction industry as the Commission does not have and is unlikely to be provided the manpower, expertise, or budget authorization to do so. Similarly, committee members agreed that the state's utilities should not be collecting data on behalf of the state on home construction. Committee members also agreed that while energy efficiency is important, neither committee members nor the general public understand the CABO Mech 93 standards.

Therefore, I endeavored to develop compromise language which focuses on consumer education/protection in terms that committee members and the public can understand. While by innuendo I have been portrayed as a front for the home builders and realtors, my contact with them (both within my legislative district and with registered lobbyists) was solely to request information on all items within a house for which energy efficiency or similar values are available and to ascertain customer questions about energy efficiency and insulation values. I had three objectives:

- 1) provide prospective home buyers information with which they are familiar and from which they can make meaningful comparisons between houses,
- 2) shift decisions related to energy savings from the KCC and utility companies to contractors and prospective buyers, and
- 3) simplify the communication process.

Sub. for HB 2140 accomplished those objectives. Under terms of the bill, contractors must provide prospective home buyers, either directly or indirectly through realtors, factual information about the R value of insulation in attic areas, exterior walls, garages, basements, and around duct work. They must

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*2-1*

provide U values for all doors and windows, including doors between the house and garage. They must also provide the SEER values for all heating, cooling, cooking, refrigeration, and water heating appliances.

Because the price of electricity and natural gas fluctuate; homes are different sizes with different numbers of windows, doors, and fireplaces; and mortgage loan interest rates vary, House Utilities Committee members could not determine if or how much money homeowners would save under the conflicting scenarios presented by conferees. Therefore, we opted for increasing the amount of useful information available to prospective home buyers so they can make intelligent comparisons between houses they are considering.

While the Senate and House may have different perspectives on any legislative matter, we both attempt to balance benefits to constituents, costs to constituents, and ease of implementation within a common sense framework. Sub. for HB 2140 reduces the cost of new homes for both buyers and builders, increases the amount of useful information available to realtors and prospective buyers, removes the KCC and utility companies from what is essentially a home buyer-seller relationship, and puts the Legislature on record as favoring a less bureaucratic and cumbersome regulatory role. House members rejected being referees between the insulation and home builders industries in favor of helping consumers make intelligent decisions.

Sub. for HB 2140 does not preclude a contractor from providing additional information to prospective buyers or meeting any construction standards they choose; nor does it prevent a contractor from installing any amount of insulation he/she deems appropriate; nor does it imply that the State of Kansas is not interested in saving homeowners money. House members believe that an informed buying public in the residential market place is a more effective inducement to improve energy efficiency in new homes than is state regulation.

I recognize that this is a confusing issue and encourage you to contact your House colleagues about their perspectives on the original bill, the desire to extricate ourselves from the inter-industry conflict, and their universal support for the consumer education provisions of the substitute bill.

Finally, in response to the accusations of a previous conferee who appeared before you, I also encourage you to ask your House colleagues why they had no substantive questions in the Utilities Committee about the substitute bill's language and why an amendment offered on the House floor was overwhelmingly defeated before the bill was passed with strong bi-partisan support. As I stated above, and in response to that previous conferee, the compromise was not between the interests of the home builders and insulation industries, the substitute bill was a compromise between legislative desires to avoid refereeing an inter-industry squabble and the desire to provide meaningful assistance to consumers. I think we succeeded.

Thank you for your attention. I will respond to your questions now or at any other time convenient to you.



Testimony  
by

The Kansas Aggregate Producers' Association

Before the  
Senate Energy & Natural Resources Committee

Regarding HB 2140 - Energy Efficiency Standards

March 17, 1997

Mr. Chairman and members of the committee, my name is Edward R. Moses representing the Kansas Aggregate Producers' Association. On behalf of the association and more particularly our members who produce Kansas River sand. I thank for this opportunity to appear before you today with our comments on House Bill No. 2140. While the Kansas Aggregate Producers' Association is neutral on HB 2140, we would like to use this time to point out a paradox in the testimony you have received on this bill.

It is not by accident that Kansas has a thriving fiberglass industry providing high wage employment to over 1000 Kansans. These businesses are in this state in order to be close to the basic raw material used in fiberglass production - sand. Sand that prized for its high silica content and purity, and in our region is only found in the Kansas River. Which brings us to the paradox.

The American Heritage Dictionary of the English Language defines paradox as "A person or situation having contradictory aspects". In the matter before you today, this paradox has been presented by the Kansas Natural Resource Council and the Kansas Chapter of the Sierra Club who support the use of more fiberglass (thus sand) to reduce energy use and Carbon Dioxide emissions. Yet these very groups currently oppose the mining of sand from the Kansas River and have called for a total cessation of all dredging activity on the river.

Thus you see our industry's dilemma: everyone wants our product, but they want it delivered overnight by Federal Express in small plastic bags. This of course is impossible. As mineable sand, just like precious metals or other natural resources, must be extracted where they are found and not where you or I would like them to be.

Now you, as Senators, must face this dilemma. Should groups such as Habitat for Humanity International and others have affordable insulation? Or should the 172 miles of the Kansas River be set aside solely for recreation. The Kansas Aggregate Producers do not present a paradox, we believe all can benefit by sharing the river. Surely those groups opposed to river dredging yet supportive of higher energy standards can be called upon to resolve their paradox.

Once again we thank you for the opportunity to discuss this matter with you today. I would be happy to respond to any questions you may have at this time.

*Sen Energy & Nat Res  
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Attachment 3*

Testimony of  
Charles Benjamin  
Legislative Coordinator  
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Kansas Chapter of Sierra Club  
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Before the Kansas Senate  
Committee on Energy and Natural Resources  
Re: Substitute for House Bill 2140  
Concerning Building Energy Efficiency Standards  
March 13, 1997

Thank you for the opportunity to express opposition to this proposed bill. We support the current arrangement whereby the KCC causes the ASHRAE/IES 90.1-89 thermal efficiency standard to be adopted for commercial buildings and the Code of American Building Officials 1993 Model Energy Code (CABO MEC 1993) to be adopted as the thermal efficiency standard for new residential construction. The former provision is incorporated in this bill but the latter provision is not and is the subject of my remarks this morning.

The KCC first adopted basic building thermal standards in 1977. Energy standards for buildings make good sense. Today's buildings will last well into the future and it is important to recognize that the cost and availability of energy in the future may be very different from what it is today. Energy efficiency is much more cost effective when placed in buildings at the time of construction rather than trying to retrofit buildings some years later. The KCC order thus represents a very conservative strategy. It is also a strategy that will provide greater security to home buyers by informing them that homes meet minimal standards. It is also important to point out that homeowners who certify to a utility that a home does not meet the standards may still obtain utility service. In other words, the KCC order allows a builder to persuade a willing home buyer that compliance with the energy efficiency codes is not necessary.

There are secondary benefits to the KCC order. These include a reduced need for power plants, reduced pollution, and reduced risk from future energy price spikes. It is estimated that compliance with the Model Energy Code in the first year will save nearly 70 billion Btu's of energy, and thus prevent 3,200 tons of carbon dioxide, sulfur dioxide, nitrogen dioxide and particulate matters from entering the atmosphere. The Commission's order is simply good public policy and makes good sense for the individual building owner.

Kansas ranked 26<sup>th</sup> in energy consumption in 1993, consuming 1.1 quadrillion Btu's of energy. 18% of that total went to residential buildings, and 16% went to commercial buildings.

21% of new home sales in Kansas in 1993 were financed with federally financed or guaranteed mortgages. Federal mortgages through the VA, FHA, or FmHa require compliance with the Model Energy Code

It is true that compliance with the Model Energy Code might increase the construction costs of a new 1,900 square foot home by about \$1,300. That translates into a monthly mortgage payment increase of about \$8 to \$10. But the estimated cost savings in energy for the first year alone are \$174. In the fourth year of payments, the average single-family home owner in Kansas would have saved more money than was expended, and the savings would continue to grow after that time.

Should this bill pass, housing affordability in Kansas would actually decrease because new construction would not automatically qualify for Federal loan guarantees. Buyers in Wichita and Topeka, for example, can get mortgage guarantee insurance from the FHA with \$2000 less annual income under the current KCC regulation than the annual income he or she would need if the bill passes. Federal mortgage requirements are "stretched" in the debt ratio allowed if the home meets the Model Energy Code. Separate analyses by Pacific Northwest Labs and The U.S. Energy Department show that the requirements of the Model Energy Code result in positive cash flow for the

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home buyer. The value of energy savings exceeds the increased principal and interest payments. Compliance with the Model Energy Code makes housing more affordable, not more expensive.

The existing regulations are far too complex and it is questionable whether they are always honored. The KCC order notes that the existing standard is actually somewhat stricter than the new Model Energy Code would be for buildings around 2,500 square feet. The big advantage of the Model Energy Code is that it can be much more quickly and easily understood by builders and buyers. Additionally, there are multiple ways to determine if a home meets the requirements.

The KCC order is very flexible. The builder does not even need to comply. The builder can exempt himself by signing a form that says the building does not meet the Model Energy Code and that the home buyer may have difficulty with certain federal mortgage programs. That disclosure simply states the truth. What are the home builders afraid of? Do they want the ability to say that their homes are energy efficient when in fact they are not?

.How does a home buyer know whether or not to believe the ads she sees that says a home is energy efficient? Unless there is a way to measure these basic levels of efficiency, there is no real way for consumers to make valid comparisons. Unless buyers have enough information to make informed choices then the free market system cannot work. The KCC order provides basic information to the buyer and sufficient flexibility for the builder. While the current rule could be stronger, to repeal even this modest effort at protecting consumers would be unconscionable.

The KCC is carrying out a series of educational workshops to inform builders of the order and how to achieve compliance. We fully support such educational endeavors.

Finally, it is necessary to point out that legislative reversal of this policy would be an unwise interference with the KCC. If this bill passes, it would be historically unprecedented. There is no previous legislation to my knowledge that reverses a KCC decision made following an evidentiary hearing. The Commission conducted both a technical hearing and a public hearing. All points of view were considered, including that of the main proponent of this legislation. KNRC intervened in the KCC hearing. Our witness was Russ Rudy who has conducted energy audits on more than 500 Kansas homes. He showed the Commission and the House Committee photos of leaky homes even in the upper price brackets.

There comes a time when an issue has been resolved by the body best able to consider and weigh the evidence. The quasi-judicial administrative proceedings of the KCC are the best place to resolve this issue. This bill, if passed, would represent a major insult to the deliberative processes of a major independent state agency.