

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:30 a.m. on March 8, 2004 in Room 123-S of the Capitol.

All members were present except:

Senator Pete Brungardt- excused

Committee staff present:

Kathie Sparks, Legislative Research
Susan Kanarr, Legislative Research
Helen Pedigo, Revisor of Statutes
Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

Ken Keller, Controller, Western Extralite
Bill Miller, Board of Directors, American Subcontractors Assn.
Dan Haake, Owner, Haake Foundations
Rick Dodds, Boeing Company
Wayne Hardy, Weststar Energy
Cory Peterson, Association of General Contractors
Phil Sewell, Central Mechanical-Wichita

Others attending:

See Attached List.

Chairperson Brownlee opened the public hearing on:

SB 445–Fairness in private construction contracts

Ms. Pedigo provided the committee with an explanation of the bill. (Attachment 1)

Mr. Keller testified in favor of the bill, and presented testimony for others who were also in favor of the bill. (Attachment 2) Mr. Miller testified in favor of the bill with the same testimony.

Mr. Haake testified in favor of the bill. (Attachment 3)

Don Dawson, National Electrical Contractors Association, Jerry Root, Owner, Broadway Electric, and Kathy Toll, NACM provided written testimony in favor of the bill with the testimony provided by Mr. Keller. Written testimony in support of the bill was provided by Kathy Damron, Kansas City, Kansas Area Chamber of Commerce. (Attachment 4)

Mr. Dodds testified in opposition to the bill. (Attachment 5)

Mr. Hardy testified in opposition to the bill. (Attachment 6)

Mr. Peterson testified in opposition to the bill. (Attachment 7)

Mr. Sewell testified in opposition to the bill. (Attachment 8)

Michael R. Murray, Sprint, provided written testimony in opposition to the bill. (Attachment 9)

Marlee Carpenter, Kansas Chamber, provided written testimony in opposition to the bill. (Attachment 10)

The Chair adjourned the meeting at 9:30 a.m. The next meeting will be at 8:30 a.m. on March 9, 2004 in Room 123-S of the Capitol.

Senate Commerce Committee Guest List

Date: March 8, 2004

Kathy Jann	KCK Chamber
Judy Nelson	Am Inst of Architects
Tom Dutton	AGC / KS
PHIL SEWELL	CENTRAL MECHANICAL CONTRACTORS
Corey Peterson	AGC of Kansas
Ken Keller	Western Extralite Co
Bill Miller	AMERICAN SUBCONTRACTORS ASSO.
Denny Burgess	American Subcontractors Assn -
Mike Moran	Sprint
John C. Bottenberg	Westar Energy
BOB SWEED	Ko Speedway
AL [unclear]	How Low Can You Go
JOHN KELBLE	DAP
Don Lawson	KANSAS CITY CHAPTER, N.E.P.A.
DAN M HASKE	HASKE FOUNDATIONS INC
Woody Mace	KAPA-KRMCA
Bob Totten	Ko Contractors Association
Ron Appletoft	Water Dist. No 1 of JhCo
Jim Gregory	Kansas Chamber of Commerce
Erik Sartorius	City of Overland Park
Kathy Tolle	Natl Assn Credit Mgt

NORMAN J. FURSE, ATTORNEY
REVISOR OF STATUTES
JAMES A. WILSON III, ATTORNEY
FIRST ASSISTANT REVISOR
SENIOR ASSISTANT REVISORS
MARY ANN TORRENCE, ATTORNEY
BRUCE W. FIDEL, ATTORNEY
ASSISTANT REVISORS
THERESA M. KIERNAN, ATTORNEY
GORDON L. SELF, ATTORNEY
JILL A. WOLTERS, ATTORNEY
MICHAEL R. CORRIGAN, ATTORNEY
RENAE JEFFERIES, ATTORNEY
KENNETH B. WILKE, ATTORNEY
LISA D. MONTGOMERY, ATTORNEY
MITCHELL W. RICE, ATTORNEY



OFFICE OF
REVISOR OF STATUTES
300 SW 10TH AVE
STE 322, STATEHOUSE
TOPEKA, KANSAS 66612-1592
(785) 296-2321
FAX (785) 296-6668

LEGAL CONSULTATION—LEGISLATIVE
COMMITTEES AND LEGISLATORS
LEGISLATIVE BILL DRAFTING
SECRETARY—LEGISLATIVE
COORDINATING COUNCIL
SECRETARY—KANSAS COMMISSION
ON INTERSTATE COOPERATION
KANSAS STATUTES ANNOTATED
EDITING AND PUBLICATION
LEGISLATIVE INFORMATION SYSTEM

EDITOR OF STATUTES
WILLIAM L. EDDS, ATTORNEY

COMPUTER INFORMATION STAFF
RICHARD M. CHAMPNEY, B.S.
VALERIE F. CARTER, B.A.

To: Senate Commerce Committee

From: Helen Pedigo, Assistant Revisor

Date: March 8, 2004

Re: SB 445 Kansas Fairness in Private Construction Contract Act

This act pertains to private construction contracts, but does not apply to the improvement of single-family residential housing and multi-family residential housing of four units or less (p. 7, l. 13 – 15). Contractual waivers or variations of the provisions of this bill are not allowed (p. 1, l. 16 – 18).

Section 3 sets out payment deadlines and penalties. All contracts for private construction shall provide that payment due to a contractor from an owner, except retainage, shall be made within 30 business days after receipt of a timely properly completed, undisputed request for payment. Interest after the 30 days accrues at 1.5% of the undisputed amount per month. Notification of an improperly completed or disputed request for payment must be made within 5 business days of receipt, or the request for payment is considered complete and undisputed (p. 2, l. 24 – 43). Contractors must pay their subcontractors within 7 days of receipt of payment from the owner, if timely, properly completed, and undisputed request of payment has been made to the contractor. Interest accrues at 1.5% of the undisputed amount per month. Notification of an improperly completed or disputed request for payment must be made within 5 business days of receipt, or the request for payment is considered complete and undisputed. These rules also apply to subcontractors in their payments to sub-subcontractors and suppliers (p. 3, l. 1 – 22).

Section 4 requires that retainage, which shall be no more than 5% of the amount due to a contractor, must be in an escrow arrangement no later than the time the payment from which the retainage is withheld is due. A contractor shall not withhold from a subcontractor and a subcontractor shall not withhold from a sub-subcontractor or supplier more than the owner withholds from the contractor. Retainage may be withheld until substantial completion of each separate division of the contract for which a price is stated separately in the contract, or for which a separate price can be ascertained from the retainage. Retainage under these two conditions shall be paid by the owner to the contractor in the manner and within the time frame specified for other amounts due in Section 3. Conditions are set for escrow agreements between escrow agent, owner and contractor (p. 3, l. 41 – p. 4, l. 43). If an owner fails to deposit retainage that is being withheld or fails to make payments due, the owner pays another 1.5% of the amount not deposited or paid per month as in Section 3.

Senate Commerce
03/08/04
Attach # 1

A contractor may tender to the owner, and the subcontractor may tender to the contractor, acceptable substitute security in lieu of payment and for which retainage paid can be refunded within 5 business days. Acceptable substitute security is described (p. 5, l. 1- 39). Upon substantial completion of work, substitute security is returned to the party who tendered it (p. 5, l. 43 – p. 6, l. 2). Upon final completion of the project, amounts remaining are to be paid according to Section 4. Failure to make proper payment within the time limits required results in a penalty of 1.5% per month of the amount not paid (p. 6, l. 3 – 15). Retainage may not be withheld when the contractor or sub provides a payment or performance bond (p. 6, l. 20 – 21).

Section 5 provides that if payments due are not paid or if retainage is not deposited the contractor, or subcontractor are entitled to suspend further performance under the contract. The party to whom payment is due is entitled to costs incurred as a result of the suspension (p. 6, l. 23 – 30). Section 7 indicates that in actions to enforce sections 4 and 5, costs and fees shall be awarded to the prevailing party. Venue is the court in which the real property is located (p. 7, l 8 – 12).

Section 6 indicates that contract provisions that waive, release or extinguish contractor or subcontractor damage or recovery costs or equitable adjustments for delay in performing the contract or subcontract is against public policy and is void and unenforceable. Provisions that preclude the contractor or subcontractor from recovering delay costs or damages from acts and omissions that are within the control of the contractor or subcontractor, and those that require the contractor or subcontractor to give notice of delay are allowed. Provisions requiring a contractor or subcontractor or that person's surety or insurer to indemnify any party for death or injury to persons or damage to property not caused by the contractor, subcontractor or its employees, agents, subcontractors or suppliers shall be void as against public policy (p. 6, l. 31 – p. 7, l. 7).

Ken Keller

and others

The Kansas Fairness in Private Construction Contract Act

March 2004

Senate Commerce

03/08/04

Attach # 2

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2. LIST OF SUPPORTERS KS AGC MEMBERS & DETAIL

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MISSOURI PROMPT PAYMENT ACT

ASA MEMBERS NEEDS SURVEY

**The Kansas Fairness in
Private Construction
Contract Act**

**Cindy Cash, President/CEO
KCK Chamber
Kansas City, Ks.**

March 2004



TO: THE WYANDOTTE COUNTY DELEGATION
FROM: CINDY CASH, PRESIDENT/CEO
RE: SUPPORT FOR SENATE BILLS 445 & 518
DATE: February 26, 2004

The Kansas City Kansas Area Chamber of Commerce voted at its February 25th board meeting to support Senate Bill 445 and 518, which would ensure prompt payment of sub-contractors on both public and private projects. We believe these two bills will assist the business operation and financial viability of sub-contractors who in many cases are small businesses.

In order to be fair to the owners who may in good faith, pay the general contractor expecting sub-contractors to also be promptly paid, we have asked that an addition be made to both bills. We have asked that a sub-contractor give a notice to the owner of the project prior to any work stoppage. The supporters of the bill have agreed to insert two seven-day notices for the owners into the bill.

We would appreciate your support of this bill as it comes to the floor.

If you have any questions, please feel free to contact me by calling 913-371-3070 or emailing me at cindy@kckchamber.com

Thank you.

KCK CHAMBER BOARD 2004 CALL LIST (1/04)

5-2 FEB-24-2004 15:27

KCK CHAMBER

913 371 3732

P. 07

Meeting date _____

Meeting location _____

Meeting time _____

Other _____

First	Last	Company	phone	Attendance
Russ	Archuleta	Great Wolf Lodge	913-299-7001	
Jan	Baulista	El Centro Inc	913-677-0100 ext 167	
Rosana	Privitera Bionda	Mark One Electric	816-842-7023	
Murrel	Bland	Wyandotte West	913-788-5565	
Jeff	Boerger	Kansas Speedway	913-328-3300	
Pat	Brune	Women's Chamber	816-512-5020	
Lisa	Cantwell	KCK JayCees	913-321-0629	
Cindy	Cash	KCK Chamber	913-371-3070	
Bill	Crandall	Zimmer Real Estate Services	816-474-2000	
Irene	Cumming	KU Med Center	913-588-1293	
Ray	Daniels	KCK Public Schools	913-551-3200	
Bill	Dunn, Jr.	JE Dunn	816-391-2604	
Bill	Epperheimer	Wyandotte Health Foundation	913-371-4033	
Wayne	Franklin	SBC	913-676-0300	
Jim	Gartland	The Woodlands	913-299-9797 ext 213	
Pat	Gaunce	KCK Community College Endowment Association	913-596-5800	
Gary D.	Grable	Security Bank of KC	913-831-2052	
FIRST	LAST	COMPANY	PHONE	ATTENDANCE

2

Mike	Guarasci	Procter & Gamble	913-573-0254	
Bob	Gutierrez	Art's Mexican Products	913-371-2163	
Mae	Harbor	Target Communication	913-488-0872	
Ed	Honesty	Best Harvest Bakeries	913-287-6300	
Evelyn	Hudson	Leadership 2000	913-371-5200	
Les	Johnson	Douglass National Bank	913-321-7200	
Kevin	Jones	ATMOS Energy	913-764-0531x241	
John J.	Jurcyk, Jr.	McAnany, Van Cleave & Phillips	913-371-3838	
Garry	Kemp	GKC Building & Construction Trades Council	816-836-8485	
Chris	Lopez	Mid-America Sign Company	816-753-1144	
Wendall	Maddox	United Way of Wyandotte County	913-371-3674	
Carol	Marinovich	Unified Government of WyCo/KCK	913-573-5010	
Mark	Myer	UMB Bank	913-573-1036	
Joab	Ortiz	Able Employment	913-281-1600	
Jim	Paquette	Providence Health	913-596-4951	
Rob	Pearcy	Pearcy Tice Krizman Communications	913-321-8989	
Ray	Reuter	KAIZEN	913-851-2420	
Terry	Robinson	Robinson's Delivery Service	913-281-4952	
Pat	Sedlock	Pat Sedlock Commercial Real Estate	913-334-3333	
Erv	Sims	Mt. Carmel Redevelopment Corp.	913-621-4111	
Steve	Terbovich	Northwestern Mutual Financial Network	913-676-8017	
George	Turner	General Motors	913-573-7206	
Roy	Vinyard	Story Construction Co.	913-254-7617	
Al	Walker	Kansas Gas Service	913-319-8702	
Kaye	Walter	KCK Community College	913-288-7269	

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**The Kansas Fairness in
Private Construction
Contract Act**

**William R. Miller, President
Building Erection Services Co., Inc.
Olathe, Ks.**

March 2004

BUILDING ERECTION SERVICES COMPANY

15586 S. KEELER • P.O. BOX 970 • OLATHE, KANSAS 66051-0970
(913) 764-5560 • FAX (913) 764-2317

February 24, 2004

The Honorable Senator Susan Wagle
Kansas State Capitol Building, Room 128-S
300 SW 10th
Topeka, KS 66612

RE: Senate Bill S445

Dear Senator Wagle:

Building Erection Services Company, Inc. is a 27-year-old company with offices in Olathe and Topeka, KS and in St. Joseph, MO. We employ from 120 to 250 people and work in both Kansas and Missouri. This bill is very important to us, our employees, and our customers and suppliers. We depend on timely payment from our clients to pay labor, fringe benefits, and for materials used in construction projects in Kansas.

This bill will require timely payment from the owner to the general contractor, from the general contractor to the subcontractor and from the subcontractor to its sub-subcontractors or suppliers. If any tier does not make payments, interest will accrue and in the event litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

Included in S445 is a provision for an alternative security to be posted in lieu of retainage being withheld. This greatly improves cash flow while still providing the owner with the protection that retainage was intended to provide. The bill also requires release of retainage for early finishing subcontractors, such as dirt work, foundation, or steel erection that are substantially complete in the initial stage of construction. Substantial completion is defined as when that portion of the work can be used for its intended purpose.

The anti-immunity provision makes each party to the contract responsible for their own actions and not for the actions of others. It prohibits circumvention of comparative negligence law by additional insured requirements.



The venue provision requires dispute resolution to take place in the county where the project is located and under Kansas law. It prohibits contract provisions that require mediation, arbitration, or litigation to take place in another state under different laws. This legislation has no cost to the state. It should benefit the state by increasing profits to general contractors, subcontractors, and suppliers by reducing interest costs and legal costs and by reducing bankruptcies.

We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,

William R. Miller
President

WRM/bcm

**The Kansas Fairness in
Private Construction
Contract Act**

**Kenneth Keller, Controller
Western Extralite Company
Kansas City, Mo.**

March 2004

WESTERN EXTRALITE COMPANY

DISTRIBUTORS OF QUALITY ELECTRICAL & VOICE DATA PRODUCTS

1470 Liberty Street • Kansas City, MO 64102-1018
www.westernextralite.com

March 1, 2004

Kansas City, MO
1470 Liberty Street
Kansas City, MO 64102
816-421-8404

St. Louis, MO
2444 Northline Industrial Dr.
Maryland Heights, MO 63043
314-432-4560

Lee's Summit, MO
105 N.W. Victoria Drive
Lee's Summit, MO 64086
816-246-8300

N. Kansas City, MO
1124 Howell Street
N.K.C., MO 64116
816-421-5888

St. Joseph, MO
1302 Frederick Ave.
St. Joseph, MO 64501
816-450-4500

Sedalia, MO
1501 Thompson Blvd.
Sedalia, MO 65301
660-827-3880

Warrensburg, MO
608 N. Ridgeview Drive
Warrensburg, MO 64093
660-429-6900

Lawrence, KS
1811 West 31st Street
Lawrence, KS 66046
785-843-4174

Leavenworth, KS
4601 Brewer Place
Leavenworth, KS 66048
913-727-2941

Lenexa, KS
14903 W. 99th Street
Lenexa, KS 66215
913-438-1777

Manhattan, KS
221 Colorado Street
Manhattan, KS 66502
785-539-5665

Topeka, KS
407 S. Topeka Blvd.
Topeka, KS 66609
785-354-3541

The Honorable Karin Brownlee
Chairperson, Senate Commerce Committee
Kansas State Capitol Building
Room 136 North
300 SW 10th
Topeka, KS 66612

RE: THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION
CONTRACT ACT

Dear Senator Brownlee:

I appreciate the time you were kind enough to give Bill Miller and myself recently to discuss Senate Bill #445, the Kansas Fairness In Private Construction Contract Act. The purpose of this letter is to revisit the subject and encourage your continued support of this important piece of legislation.

As discussed, the purpose of the proposed legislation is to ensure that the general contractor, the subcontractor, the subcontractor to the subcontractor, and material suppliers on construction projects are treated fairly and paid timely when work is properly performed. This legislation also requires accountability for each party to the contract.

Some of the elements of the proposed legislation are:

- Prompt pay – The owner must pay the general contractor in 30 days. The general in turn must pay the subcontractor in 7 days, and the subcontractor must pay his subcontractor or the supplier within 7 days. Both the owner and the general contractor have 5 days to dispute payments requests. If they do not, then they are deemed to be appropriate and need to be paid according to this schedule.
- In the event that payment is not made, then interest would accrue at 1-1/2% per month until paid. If payment still is not received, the general contractor, subcontractor, and suppliers have the right to stop work or, in the case of the supplier, stop supplying material and not be in default of the contract.

March 1, 2004

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The Honorable Karin Brownlee

- If legal action is required, the venue will be in the county where the project is located and will be under Kansas law. The loser of the legal action will be required to pay reasonable legal costs and attorney fees of the winner.
- The Broad Form Hold Harmless or Indemnity Agreement and the requirement to add additional insurers will be void in the State of Kansas. This ensures that you are only responsible for your actions or in-actions and not that of others.
- Retainage will be limited to 5%. The general contractor cannot retain a higher percentage of retainage than is retained by the owner. The proposed legislation provides for alternative securities, which may be used in lieu of retainage. These securities are set forth in the proposal and would free up working capital for those that have retainage withheld. An important element of the retainage factor is the requirement that subcontractors are paid their retainage after substantial completion of work. Substantial completion is defined within the bill as sufficient completion, so that an owner can occupy or utilize the improvement or a portion of the improvements for its intended use. This will allow the subcontractors that perform work early in the project, such as earth movement, steel erection, and concrete work to be paid their retainage once they are completed. As it now stands, the retainage is often times tied up for 18 months or better, even though their work is entirely performed.
- Our proposed legislation does not apply to single family dwellings or multi-family dwellings of four or less.
- The fiscal note on our proposed legislation is zero.

Our list of supporters is substantial and growing daily. Some of these are: National Association of Credit Managers, Electric League of Missouri and Kansas, NECA Kansas City Chapter, The Sheet Metal & Air Conditioning Contractors, National Association of Kansas City, Fire Sprinklers Association of Kansas City, American Subcontractors Association of Kansas City, plus countless individual business owners involved in the construction industry.

This proposed legislation is extremely important to the construction industry and is long overdue. All within the industry will benefit. We ask for your support in passing this bill on to the floor of the Senate with a "do pass" recommendation. Thank you in advance for your consideration and support.

March 1, 2004

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The Honorable Karin Brownlee

We appreciate your support and, hopefully, we can be successful. As always, please contact me should you have any questions or comments regarding our proposed legislation.

Sincerely,

A handwritten signature in cursive script that reads "Kenneth R. Keller".

Kenneth R. Keller
Controller

Construction Organizational Chart

Owner

Tier I General Contractor

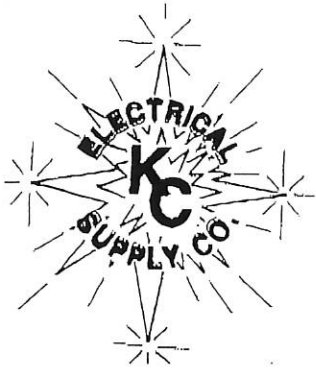
Tier II Subcontractor or supplier to
general contractor

Tier III Subcontractor to a subcontractor
or a supplier to a subcontractor

**The Kansas Fairness in
Private Construction
Contract Act**

**John M. Owens, Treasurer
Kansas City Electrical Supply Co.
Kansas City, Mo.**

March 2004



KANSAS CITY ELECTRICAL SUPPLY CO.

4451 Troost Avenue
Kansas City, MO 64110-1791
Phone (816) **924-7000**
Fax (816) 931-2918

10900 Mid America Avenue
Lenexa, KS 66219-1235
Phone (913) **541-1717**
Fax (913) 541-1112

March 4, 2004

The Honorable Susan Wagle
Kansas State Capitol Building, Room 128-S
300 S.W. 10th
Topeka, KS 66612

Re: Senate Bill 445

Dear Senator Wagle,

I am writing to ask for your support on Senate Bill 445, which would require prompt payments on private projects to contractors and suppliers in the construction field. As an electrical distributor, most times our payments are dependent upon payments being made to our customer, the electrical subcontractor, from the owner or general contractor. In tough economic times, such as these, slow payments can put small contractors out of business, which in turn, costs suppliers more money to try and recover what they can through liens and litigation, not to mention the additional financing costs involved. Senate Bill 445 can improve this process, which would allow subcontractors and suppliers to become more profitable. Thank you for your support on this issue.

Sincerely,

John M. Owens
Treasurer

**The Kansas Fairness in
Private Construction
Contract Act**

**Mike Jensen, President
Faith Technologies, Inc.
Lenexa, Ks.**

March 2004



Faith Technologies, Inc.
14335 W. 97th Terracc
Lenexa, KS 66215
913-541-4700

March 4, 2004

The Honorable Karin Brownlee
Kansas State Capitol Building, Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill 445

Dear The Honorable Karin Brownlee:

Faith Technologies, Inc. would like to ask for your support of Senate Bill 445. As an electrical subcontractor in the state of Kansas we would significantly benefit from the provisions included in Senate Bill 445.


This bill requires prompt payment by all parties involved in construction contracts starting with the owner paying the contractor within 30 days and continuing on down to the vendor receiving payment from the contractor or subcontractor within 7 days. This prevents any party from holding payment for extended periods of time. As a subcontractor we have to wait for the owner to pay the contractor and then the contractor to pay us. Generally this takes 60 days before we receive payment however our terms with material vendors is between 30 – 45 days leaving us financing a project for 15 – 30 days each payment cycle.

The provisions applied to retention in terms of requiring an escrow arrangement, limiting the amount of retention withheld and requiring retention payment upon substantial completion will provide equal responsibility and risk to all parties involved in a construction contract. We do not have any contractors to date that have allowed us the security of an escrow arrangement for retention and on top of that the majority of our contracts require 10% retention withheld with payment released whenever the contractor receives payment from the owner. This results in the owner unfairly holding payments to all parties because of delays by one party.

Furthermore this bill allows any party who is not being paid to suspend work until payment has been made. This provision will provide added leverage that would normally be considered a breach of contract.

Please consider the importance of Senate Bill 445 in restoring financial responsibility and fairness between all parties involved in construction contracts. Thank you for your support.

Sincerely,



Mike Jansen
President

**The Kansas Fairness in
Private Construction
Contract Act**

**Harold Mitts Jr., Vice President
Midwest Mechanical Corp.
Leawood, Ks.**

March 2004



MMC Corp
 Construction Services Nationwide

March 5, 2004

Kansas Commerce Committee
 Kansas Senate Labor and Commerce Committee
 Kansas House Federal and State Affairs
 State Capital Building
 300 SW 10th Street
 Topeka, Kansas 66612

RE: Private Act HB 2853 and S445

To all Honorable Members:

I am General Counsel and a Vice President of MMC Corp, a Kansas Corporation, located in Leawood, Kansas. I have held this position for nearly four years. Prior to my present employment, I grew up in the construction industry in the Kansas City area and had a private law practice for 17 years in which I represented clients of all segments of the construction industry.

MMC Corp is the parent company to eight subsidiaries with hundreds of employees, both inside and out of Kansas. We have performed numerous construction projects in the State of Kansas, and while doing so, have encountered instances of non-payment, disputes and other disruptive events for which we did not anticipate, nor provide a line item in our bid to cover those costs.

As many of you know, the construction industry as a whole has become much more competitive in the last decade or so. As such, the profit margins and contingency moneys in contracts and subcontracts are not what they used to be. The result is that a contractor or laborer today can no longer afford to wait months, or for that matter, years for their money or resolve disputes. Nor can they afford other related costs and attorneys fees.



HB 2853 and S445, in my opinion, represent an excellent opportunity for the State of Kansas to mandate fairness and promptness for the construction industry within Kansas. These bills level the playing field as it relates to non-payment, disputes, promptness of payment and apportionment of costs related thereto. It also brings Kansas to the forefront of States that have enacted laws to protect laborers, contractors, subcontractors and suppliers. It will make it abundantly clear to people who engaged in the construction industry in Kansas that they will be fair, prompt and just in their practices within this great State.

The above referenced Bills are long overdue. They will be an asset to not only the construction industry as a whole, but provide positive benefits and a minimum level of expectations to the families and workers of this State.

I am sorry that I could not personally attend the upcoming event in Topeka but would like to be kept abreast of any future meetings or matters related to this most important issue. I believe these Bills are very Important legislation, which we will all be proud of for years to come after its enactment.

Thank you for your careful consideration of these Bills.

I remain,

Very truly yours,

A handwritten signature in black ink, which appears to read "Harold W. Miltts, Jr.", is written over the typed name.

Harold W. Miltts, Jr.
General Counsel/Vice President
MMC Corp

HM

**The Kansas Fairness in
Private Construction
Contract Act**

**Sandie Ghilino
Zarah Development LLC
Shawnee, Ks.**

March 2004

ZARAH DEVELOPMENT LLC

February 25, 2004

The Honorable Karin Brownlee
Kansas State Capital Building Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill S445

Dear Chairperson Brownlee:

Zarah Development LLC is a 4-year-old Kansas firm. We employ up to 10 people and work in both Kansas and Missouri.

This bill will require timely payment from the owner to the general contractor, from the general contract to the subcontractor and from the subcontractor to its sub-contactors or suppliers. If any tier does not make payments, interest will accrue and in the event of litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

Included in S445 is a provision for an alternative security to be posted in lieu of retainage being withheld. This greatly improves cash flow while still providing the owner with the protection that retainage was intended to provide. The bill also requires release of retainage for early finishing subcontractors, such as dirt work, foundation, or steel erection that are substantially complete in the initial stage of construction. Substantial completion is defined as when that portion of the work can be used for its intended purpose.

The anti-immunity provision makes each part to the contract responsible for their own actions and not for the actions of others. It prohibits circumvention of comparative negligence law by additional insured requirements.

We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,
Sandie Ghilino

6909 MARTINDALE • SHAWNEE, KS • 66218

**The Kansas Fairness in
Private Construction
Contract Act**

**Sandie Ghilino
Alpha Masonry, Inc.
Shawnee, Ks.**

March 2004



6909 Martindale, Shawnee, Kansas 66218
Phone: 913-422-0900 Fax: 913-422-1103

February 25, 2004

The Honorable Karen Brownlee
Kansas State Capital Building Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill S445

Dear Chairperson Brownlee:

Alpha Masonry Inc. is a 43-year-old firm located in Shawnee, Kansas. We employ up to 100 people and work in both Kansas and Missouri. This bill is very important to us, our employees, customers and suppliers. We depend on timely payment from our clients to pay labor, fringe benefits, and for materials used in construction projects in Kansas.

This bill will require timely payment from the owner to the general contractor, from the general contractor to the subcontractor and from the subcontractor to its sub-contractors or suppliers. If any tier does not make payments, interest will accrue and in the event of litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

Included in S445 is a provision for an alternative security to be posted in lieu of retainage being withheld. This greatly improves cash flow while still providing the owner with the protection that retainage was intended to provide. The bill also requires release of retainage for early finishing subcontractors, such as dirt work, foundation, or steel erection that are substantially complete in the initial stage of construction. Substantial completion is defined as when that portion of the work can be used for its intended purpose.

The anti-immunity provision makes each part to the contract responsible for their own actions and not for the actions of others. It prohibits circumvention of comparative negligence law by additional insured requirements.

We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,
Sandie Ghilino

**The Kansas Fairness in
Private Construction
Contract Act**

**Sandie Ghilino
Greater Kansas City Mason
Contractor's Association
Shawnee, Ks.**

March 2004

**GREATER KANSAS CITY MASON
CONTRACTOR'S ASSOCIATION**

February 25, 2004

The Honorable Karin Browlee
Kansas State Capital Building Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill S445

Dear Chairperson:

The Greater Kansas City Mason Contractors Association is a 7-year-old organization located in Shawnee, Kansas. We include 20 contractors and 40 suppliers in the Metro Kansas City and Topeka area.

This bill will require timely payment from the owner to the general contractor, from the general contract to the subcontractor and from the subcontractor to its sub-contractors or suppliers. If any tier does not make payments, interest will accrue and in the event of litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

Included in S445 is a provision for an alternative security to be posted in lieu of retainage being withheld. This greatly improves cash flow while still providing the owner with the protection that retainage was intended to provide. The bill also requires release of retainage for early finishing subcontractors, such as dirt work, foundation, or steel erection that are substantially complete in the initial stage of construction. Substantial completion is defined as when that portion of the work can be used for its intended purpose.

The anti-immunity provision makes each part to the contract responsible for their own actions and not for the actions of others. It prohibits circumvention of comparative negligence law by additional insured requirements.

We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,
Sandie Ghilino

6909 Martindale Shawnee, KS 66218

**The Kansas Fairness in
Private Construction
Contract Act**

**Sandie Ghilino
Alpha Stone Industries
Shawnee, Ks.**

March 2004



Alpha Stone Industries

6909 Martindale, Shawnee, Kansas 66218
Phone: 913-422-0500 Fax: 913-422-1103

February 25, 2004

The Honorable Karen Brownlee
Kansas State Capital Building Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill S445

Dear Chairperson:

Alpha Stone Inc. is a 12-year-old firm located in Shawnee, Kansas. We employ up to 25 people and work in both Kansas and Missouri. This bill is very important to us, our employees, customers and suppliers.

This bill will require timely payment from the owner to the general contractor, from the general contract to the subcontractor and from the subcontractor to its sub-contactors or suppliers. If any tier does not make payments, interest will accrue and in the event of litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

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We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,
Sandie Ghilino

**The Kansas Fairness in
Private Construction
Contract Act**

**Sandie Ghilino
Alpha of Kansas, L.L.C.
Shawnee, Ks.**

March 2004



Alpha of Kansas, L.L.C.

6909 Martindale

Shawnee, KS 66218

Phone: 913-422-0500 Fax: 913-422-1103

February 26, 2004

The Honorable Karen Brownlee
Kansas State Capital Building Room 136-N
300 SW 10th St.
Topeka, KS 66612

RE: Senate Bill S445

Dear Chairperson Brownlee:

Alpha of Kansas is a 1-year-old firm located in Shawnee, Kansas. We employ up to 20 people and work in both Kansas and Missouri. This bill is very important to us, our employees, customers and suppliers.

This bill will require timely payment from the owner to the general contractor, from the general contractor to the subcontractor and from the subcontractor to its sub-contractors or suppliers. If any tier does not make payments, interest will accrue and in the event of litigation is necessary, the prevailing party shall be awarded its reasonable attorney fees and costs. Any tier also has the right to stop work until payment is made without being in default of the contract. This will allow general contractors, subcontractors, and suppliers to collect amounts due without the concern that the cost of collection would exceed the amount due. It will also deter frivolous litigation if the loser pays the winners costs.

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The anti-immunity provision makes each part to the contract responsible for their own actions and not for the actions of others. It prohibits circumvention of comparative negligence law by additional insured requirements.

We strongly encourage your support of this important legislation and we thank you in advance for your support.

Sincerely,
Sandie Ghilino

**The Kansas Fairness in
Private Construction
Contract Act**

**S. Brad Miller, Vice President
Midwest Crane and Rigging, Inc.
Olathe, Ks.**

March 2004

MIDWEST CRANE AND RIGGING, INC.

15585 S. KEELER • P.O. BOX 970 • OLATHE, KANSAS 66051-0970
(913) 747-5100 • FAX (913) 764-0102

2/23/2004

The Honorable Senator James Barone
Kansas State Capitol Building, Room #: 504-N
300 SW 10th
Topeka, KS 66612

Dear Senator Barone:

We are writing in support of Senate Bill 5445: *The Kansas Fairness in Construction Contracts Act*.

Passage of this bill is very important to us and our customers. Prompt payment is essential for us to stay in business. We employ approximately 30 people in our Olathe and Topeka locations. Most of our costs, as a crane rental company, are: direct labor, fuel, equipment repairs, and insurance. We cannot wait for long periods of time to pay our direct costs and yet, our customers cannot pay us because they have not been paid. This problem is getting worse, instead of better.

Also, we lose jobs because we cannot assume liability for the actions of others. We cannot list contractors or owners as additional insureds or waive our insurance companies right to subrogate for losses caused by others.

Please support Senate Bill 5445: *The Kansas Fairness in Construction Contracts Act*. Thank you in advance for your help in this matter.

Sincerely,



S. Brad Miller
Vice President
Midwest Crane and Rigging

Topeka Branch
711 1/2 24 Hwy
785-233-0400



St. Joseph Branch
1804 S. 8th St.
816-279-7878

**The Kansas Fairness in
Private Construction
Contract Act**

**Gary Deloney, CEO
Mid-Continental Restoration Co., Inc.
Fort Scott, Ks.**

March 2004



March 2, 2004

American Subcontractors Association
Greater Kansas City Chapter
PO Box 6400
Kansas City KS 66106

Dear Bill Miller:

Please accept this letter as evidence of our support of Senate Bills 445 and 518, as well as House Bills 2857 and 2853. We are in the business of masonry restoration and repair and often deal with contractors and subcontractors. For us to remain in business, we pay our subcontractors on time and expect no less from those general contractors we do business with. Please vote in favor of the Fairness in Construction Contract Act.

Sincerely,

Gary Delaney
CEO

GED/nlb

**The Kansas Fairness in
Private Construction
Contract Act**

**Gary L. Foderberg, CEO
Omega Concrete
Kansas City, Ks.**

March 2004



March 4, 2004

To Whom It May Concern:

With regard to the pending legislation in Kansas known as The Kansas Fairness in Construction Contracts Act (FICCA), I have the following comments.

I completely support FICCA. It is crucial to the construction industry to have a vehicle for prompt payment and fairness for everyone involved. I can't imagine anyone in our industry that would oppose this act.

Regards,

A handwritten signature in black ink, appearing to read "Gary L. Foderberg", is written over the typed name and title.

Gary L. Foderberg, C.E.O
Omega Concrete Systems, Inc.

5525 Kaw Drive, P.O. Box 2443, Kansas City, Kansas 66102
(913) 287-4343 • Fax (913) 287-8452

www.omegaconcrete.net



2-37

**The Kansas Fairness in
Private Construction
Contract Act**

**Jess McCullough, President
McCullough Excavation Inc.
Wichita, Ks.**

March 2004



Jess McCullough

From: Jess McCullough [jess@mcculloughexcavation.com]
Sent: Tuesday, March 02, 2004 4:49 PM
To: wagla@senate.state.ks.us
Subject: Kansas Fairness in Construction Contracts Act

Dear Madam:

I am writing to solicit your support for the Fairness In Construction Contracts Act. McCullough Excavation Inc. has been serving the Wichita area as an underground utility subcontractor for the past 18 years. We enjoy a close working relationship with many of the general contractors in this area and often do work for general contractors from outside of Kansas.

Three of the provisions of the act are of special interest to McCullough Excavation:

- Prompt pay provision. This ensures timely payment of employees, suppliers, and sub-subcontractors.
- Voiding the broad form hold harmless or indemnity agreements and additional insured requirements. Many contracts require us to assume responsibility for the actions of others through no fault or omission of our own.
- Retainage limited to 5%. This is adequate incentive to get subcontractors to care for call backs and punch list items, and would free up many thousands of dollars in accounts receivables that we can put back to work in the Kansas economy.

Thank you for your consideration and effort to make this legislation a reality.

Sincerely, Jess McCullough
President
McCullough Excavation Inc.

This Email was sent to:

- Masson
- Brunk
- Gilbert
- Huy
- Johnson E.
- Loganbill
- Novascone
- Wagle

**The Kansas Fairness in
Private Construction
Contract Act**

**Sharon Doris
Bernie Electric Wholesale Inc.
Kansas City, Ks.**

March 2004

Subject: FWD: House Bill 2853

Date: Thu, 4 Mar 2004 16:23:37 -0600

From: "Sharon Doris" <sdoris@bernieelectric.com>

To: <kkeller@westernextralite.com>

----- Original Message -----

From: "Sharon Doris" <sdoris@bernieelectric.com>

Reply-To: <sdoris@bernieelectric.com>

Date: Thu, 4 Mar 2004 16:22:25 -0600

To: The Honorable William Mason

Dear Representative Mason,

I am contacting you today to ask for your support of the House Bill 2853.

It is my hope that with the help of this legislation I will be able to greatly reduce my companies DSO. This bill will help by setting clear parameters for timely payment within the construction industry. It is also important to be clear on time lines for dispute resolution. These issues are of great concern to those of us in the business of suppling materials as we are on the bottom of the list to be paid.

Your careful consideration is greatly appreciated.

Respectfully,

Sharon Doris
Bernie Electric Wholesale. Inc.
2316 S. 5th Street
Kansas City, Kansas 66103
913.236.6911

**The Kansas Fairness in
Private Construction
Contract Act**

**Jim & Terri McCourt
Tri-County Concrete
Shawnee, Ks.**

March 2004

Jim & Terri McCourt
5526 Rene
Shawnee Mission KS 66216
(M) 816.769.6318

March 3, 2004

The Honorable Senator Nick Jordan
Kansas State Capitol Building
Room 143-N
300 SW 10th Street
Topeka KS 66612

Re: Senate Bills 445 and 518

Dear Senator Jordan:

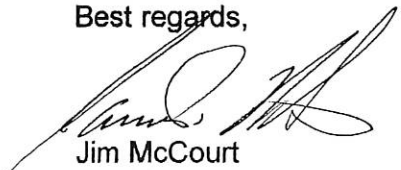
We are writing to you to ask you to support passage of Senate Bills 445 and 518.

We own a small, family-owned business, Tri-County Concrete, that supplies concrete for residential, retail and public construction, and employ roughly 20 people on our plant and in the office. Passage of these bills is very important to us; prompt payment, whether in private or in public construction is crucial for us to be able to stay in business. Most of our costs are direct: raw materials, labor, fuel, equipment repair, and insurance. It is obvious that, if we are not paid by our customers in a timely fashion, we will not be able to pay our suppliers or our employees in a timely fashion either. Frequently, our customers are subcontractors or suppliers as well who are in the same situation and cannot pay us because the general contractor for whom they work has not paid them.

Additionally, each party in a contract must assume liability for its own actions. It is not fair for us, the small family-owned businesses, to be forced to assume the liability for the negligent actions of our customers, either directly through contract or indirectly, through having to add these general contractors as additional insureds to our insurance policies and by having to waive subrogation. The fact that our customers generally have the greater bargaining power and can force us to do so if we want to continue in business is not conscionable.

Your support of both of these bills will be greatly appreciated by all small business in the State of Kansas – a part of the Kansas economy that needs to continue to be vital and be able to employ Kansasans in the future.

Best regards,


Jim McCourt
President

**The Kansas Fairness in
Private Construction
Contract Act**

**Nina Bosley
Mid-Continental Restoration
Fort Scott, Ks.**

March 2004

brad miller

From: Nina Bosley [nina_bosley@midcontinental.com]
Sent: Wednesday, March 03, 2004 10:05 AM
To: b.miller@builderec.com
Subject: FICCA

Hi Bill - I thought you'd like to see this!

----- Original Message -----

From: Jim Barone
To: nina_bosley@midcontinental.com
Sent: Wednesday, March 03, 2004 8:35 AM
Subject: FICCA

Dear Gary, Thanks for your e-mail of March 2nd re: SB 445 and SB 518. I certainly appreciate your point of view and am aware of your firm and the great work that you do. Based upon what I know now, I fully intend to support these bills. Thank you for taking the time to write. I appreciate your concerns. Stay in touch, and please let me know if I can ever be of service. Sincerely, Senator Jim Barone, District No. 13

**The Kansas Fairness in
Private Construction
Contract Act**

**Jess McCullough, President
McCullough Excavation Inc.
Wichita, Ks.**

March 2004

SUPPORTERS TO THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION CONTRACT ACT

Western Extralite Company	1470 Liberty Street	Kansas City, MO 64102-1018
Carter-Waters Corporation	P O Box 412676	Kansas City, MO 64141
Shaw Electric Supply	1066 E. 16th Street	Kansas City, MO 64108
Kansas City Electrical Supply	10900 Mid America Avenue	Lenexa, KS 66219
Teague Electric Construction	11325 Strangline Road	Lenexa, KS 66215
Stanion Wholesale Electric	P O Drawer P	Pratt, Kansas 67124
Bernie Electric	2316 S. 5th Street	Kansas City, KS 66103
Kansas City, KS Chamber of Commerce	727 Minnesota Avenue	Kansas City, KS 66101
South Western Association	638 West 39th Street PO Box 419264	Kansas City, MO 64141-6264
Electric League of MO & KS	638 West 39th Street	Kansas City, MO 64111
IBEW & NECA Labor Management Corporation Trust	402 E. Bannister Road, Suite E	Kansas City, MO
NECA - Kansas City Chapter	P O Box 32255	Kansas City, MO 64171

SMACNA Kansas City Chapter	777 Admiral Blvd.	Kansas City, MO 64106
Builders Association	632 W. 39th Street	Kansas City, MO 64111
National Association of Credit Management	10670 Barkley	Overland Park, KS 66212
Mechanical Contractors Assoc.	9229 Ward Parkway, Suite 270	Kansas City, MO 64114
Fire Sprinklers Association of KC		
Thomas M. Moore, Attorney Moore, Hennessy & Freeman, P.C.	4435 Main Street, Suite 900	Kansas City, MO 64111
Jim Lacy, President (Mr. Lacy is the former president of the Electric League of MO & KS)	Electrical Corporation of America	Raytown, MO
Robert Doran, President	Capital Electric Construction Company	Leavenworth, KS
Jerry Root, President	Broadway Electric Construction Co	Kansas City, KS
W.R. Miller, President	Building Erection Services	Olathe, KS
Dan Haake, Owner	Haake Foundations	Raytown, MO

SUPPORTERS TO THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION CONTRACT ACT

Dan Fuhrman, Board Chairman	Schutte Lumber Company	Kansas City, MO
Rosana Privitera Biondo, President	Mark One Electric Company, Inc.	Kansas City, MO
Don Dawson - Chapter Mgmt. of the KC Chapter of Nat'l Electrical Contractors Assoc.		
Broken Arrow Electric Supply, Inc.	2350 W. Vancouver	Broken Arrow, OK 74012
The Greater Kansas City Chapter American Subcontractors Assoc.		Kansas City, KS
Mid Continent Safety, LLC	P O Box 16689	Wichita, KS 67216-0689
French Gerleman	2446 Schuetz Road	Maryland Heights, MO 63043
Carpet Cushions & Supplies, Inc.	1520 Pratt Blvd.	Elk Grove Village, IL 60007
Southland Carpet Supplies of Kansas, Inc.	3020 S. 44th Street	Kansas City, KS 66106
MASCO Contractor Services Central Division	2339 Belville Road	Daytona Beach, FL 32119

SUPPORTERS TO THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION CONTRACT ACT

Electrical Materials Company	3007 E. 85th Street	Kansas City, MO 64132
Mid-Am Building Supply, Inc.	P O Box 645	Moberly, MO 65270
American Pipe & Supply Co.	P O Box 320489	Kansas City, MO 64132-2699
Interstate Flooring dba Case Supply	507 N. Montgall	Kansas City, MO 64120
Greater KC Mason Contractors Assoc.	P O Box 240036	Kansas City, MO 64124
Story Contracting Company	1337 South Winterbrook	Olathe, KS 66062
Davin Electric, Inc.	2131 NE Grantville Road	Topeka, KS 66608
Midwest Mechanical Corp.	11100 Ash, Suite 100	Leawood, KS 66211-1764
John Kelble, President Associated Air Products & President Electric Leage of MO & KS		Shawnee Mission, KS 66215

SUPPORTERS OF THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION ACT
 KANSAS AGC SPECIALTY CONTRACTORS, KANSAS READY MIX CONCRETE ASSOCIATION AND
 KANSAS AGGREGATE PRODUCERS ASSOC.

Ludeman Insulation & Supply, Inc.	Wichita, KS
L.G. Pike Construction Company	Arkansas City
Central Steel	Wichita, KS
Precision Enviromental	Wichita, KS
Prestressed Concrete	Newton, KS
Kansas Building Products	Wichita, KS
Carter Waters	Kansas City, MO
Joe Conroy Contractor, Inc.	Topeka, KS
Waldinger Corporation	Wichita, KS
Central Mechanical Const. Co.	Wichita, KS
Leiser Construction	Madison, KS
Mechanical Systems, Inc.	Wichita, KS
Aztel Stucco Inc.	Valley Center, KS
Asbestos Removal & Maintenance	Wichita, KS
Frisbie Construction Company	Gypsum, KS
Mid-Continental Restoration Co., Inc.	Ft. Scott, KS
Drywall Construction, Inc.	Topeka, KS
Leavcon II, Inc.	Lansing, KS
Midwest Iron & Metal Co., Inc.	Hutchinson, KS
SKC Electric	Lenexa, KS
Overhead Door Company	Wichita, KS
Carl Harris Company	Wichita, KS

SUPPORTERS OF THE KANSAS FAIRNESS IN PRIVATE CONSTRUCTION ACT
 KANSAS AGC SPECIALTY CONTRACTORS, KANSAS READY MIX CONCRETE ASSOCIATION AND
 KANSAS AGGREGATE PRODUCERS ASSOC.

Interior Contractors, Inc.	Topeka, KS
Southwestern Electrical Co., Inc.	Wichita, KS
Permanent Paving, Inc.	Overland Park, KS
Jack Foster Company	Wichita, KS
Carter Waters Corporation	Olathe, KS - Wichita, KS
Stress-Cast, Inc.	Assaria, KS
Kilian Electrical Service, Inc.	Wichita, KS
Fahnestock Heating & A/C & Electric	Wichita, KS
Plumbing by Carlson, Inc.	Topeka, KS
Mies Construction Company	Topeka, KS
S.R. Coffman Construction, Inc.	Emporia, KS
B & B & Great-Plains Diesel Repair	Phillipsburg, KS
McCullough Excavation, Inc.	Wichita, KS
KVK, Inc. Building Systems Management	Woodbine, KS
Lower Heating & Air Cond. Inc.	Topeka, KS
Weathercraft Company	Garden City, KS
WB Construction, LLC	Wichita, KS
Omega Concrete	Kansas City, KS



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 0400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.ks.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

The American Subcontractors Association, along with the Electrical League of Missouri and Kansas, The Sheet Metal and Air Conditioning Contractors National Association, The Kansas City Masonry Association, National Electrical Contractors Association, The Kansas Prestress Concrete Association, The National Association of Credit Managers, Fire Sprinklers Association of Kansas City, and others believe that since this legislation is critically important to subcontractors, material suppliers, and their customers that this legislation be passed this year

We need your help and support to accomplish the goal of being paid for our work or materials and to be liable and responsible only for our own actions and not the actions of others.

If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or email back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

LUDEMAN Insulation & Supply, Inc.

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@bulldercs.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66103
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: *L.G. Pike Construction Co. Inc. We have had to wait ~~has~~ long as 10 months on a job at Towanda, KS. Turnpike Service Center. And Now we Received all our pay from an out of State Contractor on a Highway job. Carlla Pike*

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 26, 2004

TO: **Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members**

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or e-mail back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

We did work for the Towanda Juniper Service Center for P.B. Haisler and we were 10 to 11 months getting our money. Sincerely, Yes - this would encourage us to do more state work.
L.G. PINE CONST. BOX 912 ARKANSAS CITY, KS 67005

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.





AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

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RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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We need your help and support to accomplish the goal of being paid for our work or materials and to be liable and responsible only for our own actions and not the actions of others.

If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or email back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: CENTRAL STEEL
ADDRESS: 240 W 10TH
WICHITA, KS

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderse.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



2-54



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 26, 2004

TO: **Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members**

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

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"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"

Newton

AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com



February 26, 2004

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

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Wichita



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GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcaasa@kc.rr.com

February 26, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builddccc.com

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"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"

Kansas City Mo



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 26, 2004

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

MARION NICKEL V.P. MARKETING CARTER WATERS


Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

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(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 26, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: *The Kansas Fairness in Construction Contracts Act (FKCCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FKCCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.
YES NO I will support the legislation.*

COMMENTS:

Sincerely, 

Bill Miller
Government Affairs

JOE CONROY
P.O. BOX 19220
TOPEKA, KANSAS 66619

Fax Numbers: (913)-764-2317
(913)-384-1255
E-Mail: b.miller@buildercce.com

Mailing Address: Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

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February 26, 2004

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

David J. Hughes WALDINGER CORP
1630 S. BAHR WICHITA, KS 67209
DAVID J. HUGHES
CONSTRUCTION DEPT. MANAGER
Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

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(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasfa@kc.rr.com

February 26, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: The Kansas Fairness in Construction Contracts Act (FICCA)

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

Sincerely, *MONT FAIR V.P.,
CENTRAL MECHANICAL CONST. CO, Wichita*

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

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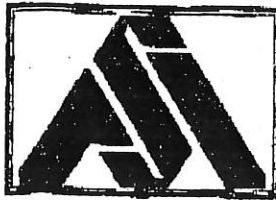
"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"

2-63



Madison

TO: 16204372783



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.tr.com

February 26, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: *The Kansas Fairness in Construction Contracts Act (KICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (KICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.
YES NO I will support the legislation.*

COMMENTS:

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255
E-Mail: b.miller@burlderec.com

Mailing Address: Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

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(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

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YES _____ NO _____ This will be beneficial to my customer and me.

YES _____ NO _____ I will support the legislation.*

COMMENTS:

I HAVE TO REVIEW THE LEGISLATION BEFORE I CAN SUPPORT IT, BUT I DO AGREE W/THE PRINCIPLES BESPONSORING ABOUT.
Sincerely,

FROM: MARK JOHNSON
MS I
FAX 316-262-2386
VOICE 316-262-2021

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

E-Mail: b.miller@buildtrec.com

Mailing Address: Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: AZTEL STULLO INC 316-755-0791
415 W. CLAY
VALLEY CENTER, KS. 67147

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Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: Asbestos Removal and Maintenance
1630 S St. Clair, Unit 20
Wichita, KS 67213

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255

E-Mail b.millor@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

FRISBIE CONSTRUCTION COMPANY
6793 EAST HIGHWAY #4
GYPSON KS

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@buildercc.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
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(913) 384-1255 FAX (913) 384-1255
E-Mail: koasa@kc.ks.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

Mid-Continental Restoration Company, Inc. Ft Scott

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@midkrec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: *Drywell Construction Inc
Topeka*

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255

E-Mail b.miller@buiderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051

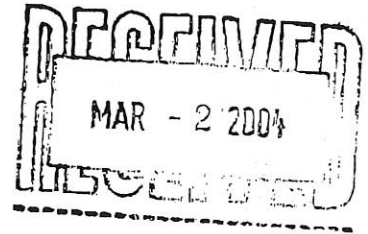


Lanning



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com



February 27, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

The American Subcontractors Association, along with the National Electrical Contractors Association, The Sheet Metal and Air Conditioning Contractors National Association, The Kansas City Masonry Association, The Electric League, The Kansas Prestress Concrete Association, and others believe that since this legislation is critically important to subcontractors, material suppliers, and the customers that this legislation be passed this year.

We need your help and support to accomplish the goal of being paid for our work or materials and to be liable and responsible only for our own actions and not the actions of others.

If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or e-mail back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

LEAVCON II INC

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@buildcrcc.com

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.





Hatchinson Ks

MAR. 2.2004 4:18PM BLDG ERECTION SRVCS NO.513 P.2/6



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kcrr.com

Return to:

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or email back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: *Mowbray Iron & Metal Co., Inc.*

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255

E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66106
(913) 884-1265 FAX (913) 884-1266
E-Mail: kcasa@kcasa.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: SKC Electric

ADDRESS: 9875 Widmer Rd Lenexa, KS 66215

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

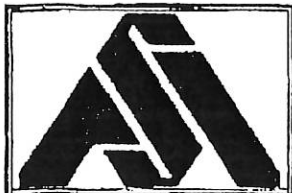
Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 884-1255
E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
 P.O. BOX 6400 KANSAS CITY, KS 66106
 (913) 384-1255 FAX (913) 384-1255
 E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
 RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: OVERHEAD DOOR CO.

Wichita

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
 Government Affairs

Fax Numbers: (913) 764-2317
 (913) 384-1255

E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
 Government Affairs
 P.O. Box 970
 Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION

2-74

Wichita



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@buildercc.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.ca.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: Interior Contractors Inc.
2350 NW Water Works Dr.
Topeka, KS. 66606

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.ir.com

February 23, 2004

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RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: SOUTHWESTERN ELECTRICAL Co. Inc
ADDRESS: 1638 E. 1ST WICHITA, KS 67214

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317 ←
(913) 384-1255

E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



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AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: Permanent Dairying Inc.

ADDRESS: 14011 Cody Overland Park, KS 66210

This legislation is just due and will be beneficial to our company & our industry.

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 27, 2004

TO: **Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members**

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS: *JACK FOSTER CO.
WICHITA*

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@builderec.com

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.





FROM

ASA
03/2004 15:50 FAX 9162219562

FAX NO. : 913+384+1255
CARTER-WATERS

Mar. 03 2004 04:15PM
NO. 585 P.2/6

MAR. 3.2004 4:37PM BLDG ERECTION SRVCS



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.it.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: The Kansas Fairness in Construction Contracts Act (FYCCA)

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FYCCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: Carter Waters Corp
ADDRESS: 2440 West Pennsylvania
K.C., MO. 64108

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Branch offices Olathe & Wichita
Bill Miller VP & GM

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@bludgkcc.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



*A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcaasa@ko.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: STRESS-CAST, INC
ADDRESS: P.O. BOX 126 ASSARIA, KS. 67416

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Cloche, KS 66051



"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: **KILIAN ELECTRICAL SERVICE, INC.**
4121 W. WALKER
WICHITA, KS 67209

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderrec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





Mar. 3. 2004 2:17PM

FARNESTOCK



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasakc@kc.it.com

February 27, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMMENTS:

*George Farnestock
Farnestock Heating, A/C, & Electric
Wichita, KS*

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913)-764-2317
(913)-384-1255
E-Mail: b.miller@builderac.com

Mailing Address: Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

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A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



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P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

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RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

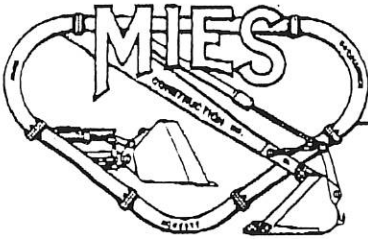
Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Plumbing by Carlson Inc
R Reid Carlson pres
Topeka

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





1919 S.W. BLVD. • WICHITA, KS 67213 • (316) 945-7227 • Fax (316) 945-7789

FAX COVER SHEET

DATE 3/2/04
TO Bill Miller
COMPANY American Sub. Assoc
FAX NUMBER 1-913-764-2317
FROM Earl Mies
TOTAL NUMBER OF PAGES (Including Cover Sheet) 2

MESSAGE: _____



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
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February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

The American Subcontractors Association, along with the Electrical League of Missouri and Kansas, The Sheet Metal and Air Conditioning Contractors National Association, The Kansas City Masonry Association, National Electrical Contractors Association, The Kansas Prestress Concrete Association, The National Association of Credit Managers, Fire Sprinklers Association of Kansas City, and others believe that since this legislation is critically important to subcontractors, material suppliers, and their customers that this legislation be passed this year

We need your help and support to accomplish the goal of being paid for our work or materials and to be liable and responsible only for our own actions and not the actions of others.

If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or email back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"

2-86



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

The American Subcontractors Association, along with the Electrical League of Missouri and Kansas, The Sheet Metal and Air Conditioning Contractors National Association, The Kansas City Masonry Association, National Electrical Contractors Association, The Kansas Prestress Concrete Association, The National Association of Credit Managers, Fire Sprinklers Association of Kansas City, and others believe that since this legislation is critically important to subcontractors, material suppliers, and their customers that this legislation be passed this year

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If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or email back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: S.R. Coffman Construction, Inc.
311 Peyton
Emporia, KS 66801

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051





FROM : B&B GREAT-PLAINS DIESEL REPAIR

FAX NO. : 913+384+1255

Mar. 03 2004 06:28AM

PHONE NO. : 913+543+2079

Mar. 02 2004 01:47PM P1

FEB-27 2004 08:27:47 FROM:



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: ksasa@kc.ksa.com

February 26, 2004

TO: Kansas AGC Specialty Contractors, Kansas Ready Mixed Concrete Association, and Kansas Aggregate Producers Association Members

RE: The Kansas Fairness in Construction Contracts Act (FKCCA)

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FKCCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as other important provisions to ensure fairness and accountability between parties to construction contracts.

The American Subcontractors Association, along with the National Electrical Contractors Association, The Sheet Metal and Air Conditioning Contractors National Association, The Kansas City Masonry Association, The Electric League, The Kansas Producers Concrete Association, and others believe that since this legislation is critically important to subcontractors, material suppliers, and the customers that this legislation be passed this year.

We need your help and support to accomplish the goal of being paid for our work or materials and to be liable and responsible only for our own actions and not the actions of others.

If you think this will help you and your customers, please check the box that indicates your position and fax, mail, or e-mail back to us. Thank you in advance for your help.

YES NO This will be beneficial to my customer and me.
YES NO I will support the legislation.*

COMMENTS:

From

Hi
Go

*Phillipsburg
KS*

Fa

Mailing Address:

Bill Miller
Government Affairs
PO Box 970
Olathe, KS 66051

E-Mail: b.miller@billmiller.com

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



Wichita
AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1253 FAX (913) 384-1255
E-Mail: kcasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments: *McCullough Excavation Inc.*

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builderec.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION

MAR. 4. 2004 2:19PM
4. 2004 12:46PM
K. 4. 2004 3:31PM

BLDG ERECTION SRVCS
KVK INC
BLDG ERECTION SRVCS

No NO. 622 P. P. 2/9
No. 576 P. 2/6



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(813) 384-1255 FAX (813) 384-1255
E-Mail: kcasm@kcit.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: The Kansas Fairness in Construction Contracts Act (FRCCA)

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FRCCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: KVK Inc. Building Systems Management
ADDRESS: 1377 Sage Rd; Woodbine, KS 67492

*Your indication of support means that we are allowed to notify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@bldginc.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION

2-90

MAR. 2.2004 2:41PM BLDG ERECTION SRVCS

NO.495 P.2/6



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 6400 KANSAS CITY, KS 66106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kgasa@kc.rr.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

Comments:

*CHUCK LOWER
LOWER HEATING & AIR COND INC.
TOPEKA, KS 7853575123*

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@buildarea.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



3.2004 2:45PM BLDG ERECTION SRVCS



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 66108
(913) 384-1255 FAX (913) 384-1253
E-Mail: kansas@ks.asa.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: The Kansas Fairness in Construction Contracts Act (FICCA)

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: Weathercraft Co. Garden City
ADDRESS: 907 E. Fulton Garden City, KS 67821

*Your indication of support means that you are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail: billmiller@ks.asa.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION



AMERICAN SUBCONTRACTORS ASSOCIATION

GREATER KANSAS CITY CHAPTER
P.O. BOX 8400 KANSAS CITY, KS 64106
(913) 384-1255 FAX (913) 384-1255
E-Mail: kcaba@kc.kc.com

February 23, 2004

TO: Kansas AGC Specialty Contractors
RE: *The Kansas Fairness in Construction Contracts Act (FICCA)*

The American Subcontractors Association (Greater Kansas City Chapter) has introduced legislation in Kansas known as *The Kansas Fairness in Construction Contracts Act (FICCA)*. This legislation requires timely payment for work performed or materials supplied on both public and private construction work in Kansas, as well as, other important provisions to restore fairness and accountability between parties to construction contracts.

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YES NO This will be beneficial to my customer and me.

YES NO I will support the legislation.*

COMPANY NAME: WB Construction LLC
ADDRESS: 1050 S. M^cComes Wichita KS 67213

*Your indication of support means that we are allowed to testify before House and Senate Committee hearings that you are in favor of this legislation.

Sincerely,

Bill Miller
Government Affairs

Fax Numbers: (913) 764-2317
(913) 384-1255
E-Mail b.miller@builders.com

Mailing Address: Bill Miller
Government Affairs
P.O. Box 970
Olathe, KS 66051



"A CHARTERED CHAPTER OF THE AMERICAN SUBCONTRACTORS ASSOCIATION"



March 4, 2004

To Whom It May Concern:

With regard to the pending legislation in Kansas known as The Kansas Fairness in Construction Contracts Act (FICCA), I have the following comments.

I completely support FICCA. It is crucial to the construction industry to have a vehicle for prompt payment and fairness for everyone involved. I can't imagine anyone in our industry that would oppose this act.

Regards,

A handwritten signature in black ink, appearing to read "Gary L. Foderberg", is written over the typed name and title. The signature is fluid and cursive, extending to the right and slightly upwards.

Gary L. Foderberg, C.E.O.
Omega Concrete Systems, Inc.

5525 Kaw Drive, P.O. Box 2443, Kansas City, Kansas 66102
(913) 287-4343 • Fax (913) 287-8452

www.omegaconcrete.net



2-94

1 of 4

49 + AC

40 + UC

19 April Mo

25

State	Public-Contractor	Public Sub	Private-Contractor	Private Sub
Alabama	Ala. Code § 41-16-3 (West, WESTLAW through end of 2001 Reg. Sess.)	Ala. Code § 41-16-3 (West, WESTLAW through end of 2001 Reg. Sess.)	Ala. Code §§ 8-29-1 to 8-29-4 (West, WESTLAW through end of 2001 Reg. Sess.)	Ala. Code §§ 8-29-1 to 8-29-4 (West, WESTLAW through end of 2001 Reg. Sess.)
Alaska	Alaska Stat. §§ 36.90.210 to 36.90.290 (West, WESTLAW through 2001 1 st Special Sess.)	Alaska Stat. §§ 36.90.210 to 36.90.290 (West, WESTLAW through 2001 1 st Special Sess.)	None	None
Arizona	Ariz. Rev. Stat. Ann. § 34-221 (West, WESTLAW through end of the Forty-Fifth Legislature, 2001 1 st Reg. Sess. And 1 st Special Sess.)	Ariz. Rev. Stat. Ann. § 34-221 (West, WESTLAW through end of the Forty-Fifth Legislature, 2001 1 st Reg. Sess. And 1 st Special Sess.)	Ariz. Rev. Stat. Ann. §§ 32-1129 to 32-1129.06 (West, WESTLAW through end of the Forty-Fifth Legislature, 2001 1 st Reg. Sess. And 1 st Special Sess.)	Ariz. Rev. Stat. Ann. §§ 32-1129 to 32-1129.06 (West, WESTLAW through end of the Forty-Fifth Legislature, 2001 1 st Reg. Sess. And 1 st Special Sess.)
Arkansas	Ark. Code Ann. §§ 19-4-1411, 22-9-205 (West, WESTLAW through 2001 Reg. Sess.)	None	None	None
California	West's Annotated California Codes, Pub. Cont. Code § 10261.5 (West, WESTLAW through Ch. 21 of 2002 Reg. Sess. Urgency Legis. And Ch. 2 of 3d Ex. Sess. And Mar. 5, 2002, election)	West's Annotated California Codes, Pub. Cont. Code § 10261.5 (West, WESTLAW through Ch. 21 of 2002 Reg. Sess. Urgency Legis. And Ch. 2 of 3d Ex. Sess. And Mar. 5, 2002, election)	Cal. Civ. Code §§ 3260 to 3260.1 (West, WESTLAW through CH. 21 of 2002 Reg. Sess. Urgency Legis. And Ch. 2 of 3d Ex. Sess. And Mar. 5 2002, election)	Cal. Bus. & -Prof. Code 7108.5 (1994) (West, WESTLAW through CH. 21 of 2002 Reg. Sess. Urgency Legis. And Ch. 2 of 3d Ex. Sess. And Mar. 5, 2002, election)
Colorado	Colo. Rev. Stat. § 24-91-103 (1) (West, WESTLAW through 2002 2d Reg. Sess.)	Colo. Rev. Stat. § 24-91-103 (2) (West, WESTLAW through 2002 2d Reg. Sess.)	None	None
Connecticut	Conn. Gen. Stat. §§ 4a-71 to 4a-75 (West, WESTLAW through Jan. 1, 2002)	Conn. Gen. Stat. § 49-41c (West, WESTLAW through Jan. 1, 2002)	Conn. Gen. Stat. §§ 42-158i to 42-158o (West, WESTLAW through Jan. 1 2002)	Conn. Gen. Stat. §§ 42-158i to 42-158o (West, WESTLAW through Jan. 1 2002)
Delaware	Del. Code Ann. tit. 29, § 6516 (LEXIS through 2001 Reg. Sess.)	Del. Code Ann. tit. 6, §§ 3501 to 3506; tit. 17, §§ 802 to 803 (LEXIS through 2001 Reg. Sess.)	None	Del. Code Ann. tit. 6, §§ 3501 to 3506 (LEXIS through 2001 Reg. Sess.)
District of Columbia	D.C. Code Ann. §§ 2-221.01 to 221.06 (Lexis through Dec. 28, 2001, issue of the D.C. Register)	D.C. Code Ann. §§ 2-221.01 to 221.06 (Lexis through Dec. 28, 2001, issue of the D.C. Register)	None	None
Florida	Fla. Stat. Ch. 218.70 to 218.79, 337.14 (LEXIS through 2001 Legis. Sess.)	Fla. Stat. Ch. 255.071, 287.0585 (LEXIS through 2001 Legis. Sess.)	Fla. Stat. Ch. 715.12 (LEXIS through 2001 Legis. Sess.)	Fla. Stat. Ch. 715.12 (LEXIS through 2001 Legis. Sess.)
Georgia	Ga. Code Ann. §§ 13-11-1 to 13-11-11 (LEXIS through 2001 Legis. Sess.)	Ga. Code Ann. §§ 13-11-1 to 13-11-11 (LEXIS through 2001 Legis. Sess.)	Ga. Code Ann. §§ 13-11-1 to 13-11-11 (LEXIS through 2001 Legis. Sess.)	Ga. Code Ann. §§ 13-11-1 to 13-11-11 (LEXIS through 2001 Legis. Sess.)
Hawaii	Haw. Rev. Stat. §§ 103-10 to 103-10.5 (LEXIS through 2001 3d Special Sess.)	Haw. Rev. Stat. §§ 103-10 to 103-10.5 (LEXIS through 2001 3d Special Sess.)	None	None
Idaho	Idaho Code § 67-2302 (LEXS through 1 st Reg. Sess. Of the 56 th Legislature)	None	None	None

State	Public-Contractor	Public Sub	Private-Contractor	Private Sub
Illinois	Ill. Ann. Stat. Ch. 30, para. 540/0.01 to 540/7; Ch. 50, para. 505/1 (LEXIS through 2001-2002 Reg. Sess.)	Ill. Ann. Stat. Ch. 30, para. 540/7; Ch. 50, para. 505/1 (LEXIS through 2001-2002 Reg. Sess.)	None	None
Indiana	Ind. Code Ann. §§ 5-17-5-1 to 5-17-5-5 (LEXIS through 2001 Reg. Sess.)	Ind. Code Ann. § 5-17-5-4 (LEXIS through 2001 Reg. Sess.)	None	None
Iowa	Iowa Code §§ 573.12 to 573.14 (LEXIS through 2001 legislation)	Iowa Code §§ 573.12 to 573.14 (LEXIS through 2001 legislation)	None	None
Kansas	Kan. Stat. Ann. §§ 75-6401 to 75-6407 (LEXIS through 2001 Supplement)	None	None	None
Kentucky	Ky. Rev. Stat. Ann. §§ 45.453 to 45.458 (LEXIS through 2001 Reg. Sess.)	None	None	None
Louisiana	La. Rev. Stat. Ann. §§ 38:2191, 48:251.5 (LEXIS through 2001 Sess.)	La. Rev. Stat. Ann. §§ 9:2784 (LEXIS through 2001 Sess.)	None	La. Rev. Stat. Ann. §§ 9:2784 (LEXIS through 2001 Sess.)
Maine	Me. Rev. Stat. Ann. tit. 10, §§ 1111 to 1120 (LEXIS to 2001 Supplement)	Me. Rev. Stat. Ann. tit. 10, §§ 1111 to 1120 (LEXIS to 2001 Supplement)	Me. Rev. Stat. Ann. tit. 10, §§ 1111 to 1120 (LEXIS to 2001 Supplement)	Me. Rev. Stat. Ann. tit. 10, §§ 1111 to 1120 (LEXIS to 2001 Supplement)
Maryland	Md. Code Ann. State Fin. & Proc. §§ 15-101 to 15-108 (LEXIS through 2001 Reg. Sess.)	Md. Code Ann. Real Prop. §§ 9-301 to 9-304 (LEXIS through 2001 Reg. Sess.)	Md. Code Ann. Real Prop. §§ 9-301 to 9-304 (LEXIS through 2001 Reg. Sess.)	Md. Code Ann. Real Prop. §§ 9-301 to 9-304 (LEXIS through 2001 Reg. Sess.)
Massachusetts	Mass. Ann. Laws Ch. 30, § 39K (LEXIS through 2002 Ch. 97, Apr. 17, 2002)	Mass. Ann. Laws Ch. 30, § 39K (LEXIS through 2002 Ch. 97, Apr. 17, 2002)	None	None
Michigan	Mich. Comp. Laws §§ 125.1561 to 125.1565 (LEXIS through 2001 legislation)	None	None	None
Minnesota	Minn. Stat. §§ 16A.124 to 16A.1245, 429.041, 471.425 (LEXIS through 2001 legislation)	Minn. Stat. §§ 16A.1245, 137.36, 471.425 (LEXIS through 2001 legislation)	None	Minn. Stat. §§ 337.10 (LEXIS through 2001 legislation)
Mississippi	Miss. Code Ann. §§ 31-5-25, 31-5-27 (LEXIS through 2001 Reg. Sess.)	Miss. Code Ann. § 31-5-25, 31-5-27 (LEXIS through 2001 Reg. Sess.)	Miss. Code Ann. § 87-7-3 (LEXIS through 2001 Reg. Sess.)	Miss. Code Ann. § 87-7-5 (LEXIS through 2001 Reg. Sess.)
Missouri	Mo. Ann. Stat. § 34.057 (LEXIS through 1 st Extraordinary Sess. of 91 st General Assembly)	Mo. Ann. Stat. § 34.057 (LEXIS through 1 st Extraordinary Sess. of 91 st General Assembly)	None	None
Montana	Mont. Code Ann. §§ 17-8-241 to 17-8-244, 28-2-2101 to 28-2-2110 (LEXIS through 2001 legislation)	Mont. Code Ann. §§ 28-2-2101 to 28-2-2110 (LEXIS through 2001 legislation)	Mont. Code Ann. §§ 28-2-2101 to 28-2-2110 (LEXIS through 2001 legislation)	Mont. Code Ann. §§ 28-2-2101 to 28-2-2110 (LEXIS through 2001 legislation)

State	Public Contractor	Public Sub	Private Contractor	Private - Sub
Nebraska	Neb. Rev. Stat. §§ 81-2401 to 81-2408 (LEXIS through 2001 legislation)	None	None	None
Nevada	Nev. Rev. Stat. Ann. §§ 338.160 to 338.170 (LEXIS through 2001 Reg. and Special Sess.)	Nev. Rev. Stat. Ann. §§ 338.160 to 338.170 (LEXIS through 2001 Reg. and Special Sess.)	Nev. Rev. Stat. Ann. §§ 624.620 (LEXIS through 2001 Reg. and Special Sess.)	Nev. Rev. Stat. Ann. §§ 624.630 (LEXIS through 2001 Reg. and Special Sess.)
New Hampshire	None	None	None	None
New Jersey	N.J. Rev. Stat. §§ 52:32-32 to 52:32-34 (Lexis through 2001 2d Annual Sess.)	N.J. Rev. Stat. § 52:32-41 (Lexis through 2001 2d Annual Sess.)	None	N.J. Rev. Stat. §§ 2A:30A-1 to 2A:30A-2 (Lexis through 2001 2d Annual Sess.)
New Mexico	N.M. Stat. Ann. §§ 57-28-1 to 57-28-11 (LEXIS through 2d Special Sess. of 45 th Legislature)	N.M. Stat. Ann. §§ 57-28-1 to 57-28-11 (LEXIS through 2d Special Sess. of 45 th Legislature)	N.M. Stat. Ann. §§ 57-28-1 to 57-28-11 (LEXIS through 2d Special Sess. of 45 th Legislature)	N.M. Stat. Ann. §§ 57-28-1 to 57-28-11 (LEXIS through 2d Special Sess. of 45 th Legislature)
New York	New York Consolidated Law Service, N.Y. Pub. Auth. Law §2880; N.Y. State Fin. Law §§ 139-f, 179-d to 179p (LEXIS through CH. 10, March 11, 2002, with the exception of CHS. 2-4)	N.Y. State Fin. § 139-f (LEXIS through CH. 10, March 11, 2002, with the exception of CHS. 2-4)	None	None
North Carolina	N.C. Gen. Stat. §§ 143-134.1 to 143-135 (LEXIS through 2001 Reg. Sess.)	N.C. Gen. Stat. §§ 143-134.1 (LEXIS through 2001 Reg. Sess.)	None	N.C. Gen. Stat. §§ 22C-1 to 22C-6 (LEXIS through 2001 Reg. Sess.)
North Dakota	N.D. Cent. Code §§ 13-01.1-01 to 13-01.1.06 (LEXIS through 2001 Reg. Sess.)	N.D. Cent. Code §§ 13-01.1-01 to 13-01.1.06 (LEXIS through 2001 Reg. Sess.)	None	None
Ohio	Ohio Rev. Code Ann. § 153.14 (West, WESTLAW through 2001-2002 General Assembly)	Ohio Rev. Code Ann. § 4113.61 (West, WESTLAW through 2001-2002 General Assembly)	None	Ohio Rev. Code Ann. § 4113.61 (West, WESTLAW through 2001-2002 General Assembly)
Oklahoma	Okl. Stat. tit. 61 §§ 113.1 to 113.3; tit. 62, §§ 41.4a to 41.4d (LEXIS through 2001 1 st Reg. Sess.)	None	None	None
Oregon	Or. Rev. Stat. § 279.435 (LEXIS through 2001 Reg. Sess.)	Or. Rev. Stat. § 279.435 (LEXIS through 2001 Reg. Sess.)	Or. Rev. Stat. § 701.420 (LEXIS through 2001 Reg. Sess.)	Or. Rev. Stat. § 701.420 (LEXIS through 2001 Reg. Sess.)
Pennsylvania	Pa. Stat. Ann. tit. 73, §§ 501 to 506 (LEXIS through 2001 Legis. Sess.)	Pa. Stat. Ann. tit. 73, §§ 501 to 506 (LEXIS through 2001 Legis. Sess.)	Pa. Stat. Ann. tit. 73, §§ 501 to 506 (LEXIS through 2001 Legis. Sess.)	Pa. Stat. Ann. tit. 73, §§ 501 to 506 (LEXIS through 2001 Legis. Sess.)
Rhode Island	R.I. Gen. Laws §§ 42-11.1-1 to 42-11.1-16 (LEXIS through Jan. 2001 sess.)	R.I. Gen. Laws §§ 42-11.1-3 (LEXIS through Jan. 2001 sess.)	None	None

State	Public-Contractor	Public Sub	Private-Contractor	Private Sub
South Carolina	S.C. Code Ann. §§ 29-6-10 to 29-6-60 (LEXIS through 2001 Sess.)	S.C. Code Ann. §§ 29-6-10 to 29-6-60 (LEXIS through 2001 Sess.)	S.C. Code Ann. §§ 29-6-10 to 29-6-60 (LEXIS through 2001 Sess.)	S.C. Code Ann. §§ 29-6-10 to 29-6-60 (LEXIS through 2001 Sess.)
South Dakota	S.D. Codified Laws Ann. §§ 5-26-1 to 5-26-8 (LEXIS through 2001 Sess.)	S.D. Codified Laws Ann. § 5-26-6 (LEXIS through 2001 Sess.)	None	None
Tennessee	Tenn. Code Ann. §§ 12-4-701 to 12-4-707 (LEXIS through 2001 Sess.)	Tenn. Code Ann. §§ 12-4-701 to 12-4-707 (LEXIS through 2001 Sess.)	Tenn. Code Ann. §§ 66-34-101 to 66-34-602 (LEXIS through 2001 Sess.)	Tenn. Code Ann. §§ 66-34-101 to 66-34-602 (LEXIS through 2001 Sess.)
Texas	Tex. Govt. Code Ann. §§ 2251.001 to 2251.043 (LEXIS through 2001 Sess.)	Tex. Govt. Code Ann. §§ 2251.001 to 2251.043 (LEXIS through 2001 Sess.)	Tex. Govt. Code Ann. §§ 28.001 to 28.008 (LEXIS through 2001 Sess.)	Tex. Govt. Code Ann. §§ 28.001 to 28.008 (LEXIS through 2001 Sess.)
Utah	Utah Code Ann. §§ 15-6-1 to 15-6-6 (LEXIS through 2001 2 nd Special Sess.)	Utah Code Ann. § 15-6-5 (LEXIS through 2001 2d Special Sess.)	None	Utah Code Ann. § 58-55-603 (LEXIS through 2001 2d Special Sess.)
Vermont	Vt. Stat. Ann. tit. 9, §§ 4001-4009 (LEXIS through Sept. 2001)	Vt. Stat. Ann. tit. 9, §§ 4001-4009 (LEXIS through Sept. 2001)	Vt. Stat. Ann. tit. 9, §§ 4001-4009 (LEXIS through Sept. 2001)	Vt. Stat. Ann. tit. 9, §§ 4001-4009 (LEXIS through Sept. 2001)
Virginia	Va. Code Ann. §§ 2.2-4347 to 2.2-4356 (LEXIS through 2001 Reg. and Special Sess.)	Va. Code Ann. § 2.2-4354 (LEXIS through 2001 Reg. and Special Sess.)	None	None
Washington	Wash. Rev. Code §§ 39.76.010 to 39.76.040 (LEXIS through CH. 3 of 2002 Reg. Sess.)	Wash. Rev. Code § 39.04.250 (LEXIS through CH. 3 of 2002 Reg. Sess.)	None	None
West Virginia	W.Va. Code §§ 7-5-7, 8-13-22d, 14-3-1 (LEXIS through 2001 Reg. and through 6 th Extraordinary Legis. Sess.)	None	None	None
Wisconsin	Wis. Stat. §§ 16.528, 16.53(2), 66.0135(2) (LEXIS through 2000-2001 legislation)	Wis. Stat. §§ 16.528, 66.0135(3) (LEXIS through 2000-2001 legislation)	None	None
Wyoming	Wyo. Stat. §§ 16-6-601 to 16-6-602 (LEXIS through 2001 Reg. Sess.)	None	None	None

“Prompt Payment Acts: Recent Developments and Trends” by John W. Hays, published in The Construction Lawyer, Volume 22, No. 3, Summer 2002. © 2002 by the American Bar Association. Reprinted with permission.

MISSOURI PROMPT PAY ACTS

	MISSOURI – PUBLIC	MISSOURI - PRIVATE
	RSMo. §§ 34.057 et seq.	RSMo. § 431.180 and RSMo. § 436.300 et seq.
SCOPE	All public works construction contracts	All contracts for <u>private design or construction</u>
REGULATES	<p>Payments from Gov't to General Contractor: Progress payments within 30 days of proper invoice Final payment within 30 days of project completion</p> <p>Payments from General Contractor to Subs Payment due to Subs within 15 days of receiving payment from Gov't NOTE: Payment is deemed "received" at the time the Gov't mails payment to the General Contractor</p>	<p>Payments from Owner to General Contractor Payments must be made in accordance with contract</p> <p>Payments from General Contractor to Subs Payments must be made in accordance with contract</p> <p>Payments from Subs to Sub-subs/suppliers Payments must be made in accordance with contract</p>
PENALTIES	<p>INTEREST: 1.5% per month from due date until payment</p> <p>ATTORNEYS FEES: Court may, in its discretion, award attorney's fees</p>	<p>INTEREST: The Court may award interest up to 1.5% per month on unpaid amounts in accordance with contract terms</p> <p>ATTORNEYS FEES: Court may, in its discretion, award attorney's fees</p>
DUTY TO REPORT DEFECTIVE WORK	General Contractor must report defective work to the Gov't that has been the subject of prior progress payments and deduct any such amounts from its next payment application	No duty set forth in the statutes <i>SHOULD DO ANYWAY</i>
RETAINAGE LIMITS	<p>Retainage shall not be more than 5% unless owner and architect/engineer determine that a higher rate is required to ensure performance</p> <p>In no case shall retainage exceed 10%</p> <p>Owner may withhold no more than 200% of the value of incomplete work after substantial completion</p>	<p>Retainage shall not exceed 10%</p> <p>General Contractors may not retain funds from subs in an amount greater than the amount retained by the Owner</p> <p>Retainage must be released within <u>30 days</u> of substantial completion</p> <p>Provides for the release of retainage to early finishing subs.</p> <p>Owner may withhold no more than 150% of the value of incomplete work after substantial completion</p> <p>General Contractor must pay retainage to subcontractors within <u>7 days</u> after receiving retainage from Owner</p>
SUBSTITUTE SECURITY OR RETAINAGE	None permitted	<p>Requires that an Owner or General Contractor release retainage within five days of receipt of "acceptable substitute security" including a letter of credit, cash or retainage bond = to retained amount.</p> <p>The Contractor is entitled to receive all interest earned on security substituted for the retainage</p>

Compliments of
Husch & Eppenberger, LLC

Attorneys and Counselors at Law
1200 Main Street, Ste. 1700
Kansas City, MO 64105
(816) 421-4800
www.husch.com

**American Subcontractors Association – Greater Kansas City
2003 Member Needs Assessment**

Advocacy for Subcontractors

1. Please indicate how serious of an impact each of the following construction or business issues has on your company's success. (Success may include profitability, productivity, manageability, business continuation, and/or other factors.)
(Give answer for each)

	<u>Very serious</u>	<u>Somewhat serious</u>	<u>Not very serious</u>	<u>Not at all serious</u>
Identifying new customers/jobs	35%	35%	30%	0
Slow progress payments	71%	24%	5%	0
Retainage	59%	35%	6%	0
Slow final payment	64%	30%	6%	0
Change orders	47%	35%	18%	0
Pay-if-paid clauses	76%	24%	0	0
Inability to stop work for nonpayment	53%	29%	18%	0
Onerous subcontracts – general	56%	22%	22%	0
Workers' compensation	24%	41%	29%	6%
Indemnification/hold harmless	47%	47%	6%	0
Additional insured requirements	47%	47%	6%	0
Other serious issues (specify)				

2. What is the most serious problem your business will face within the next three years?

- New work (2)
- Marketing issues
- Growth
- Retirements
- Shrinking markets
- Back charges
- Cash flow
- Slow payment with general contractors
- Collecting retainage
- Finding new work
- Slow final payment

Communication and Education

3. ASA-Greater Kansas City Newsletter is mailed monthly. How many of the last four issues of the ASA-GKC Newsletter did you read or look at?

- 65% 4 out of 4
- 17% 3 out of 4
- 17% 2 out of 4
- 0 1 out of 4
- 0 None

4. How many others in your company, *in addition to yourself*, read or look at the ASA-GKC Newsletter?

- 29% None
- 24% 1
- 24% 2
- 17% 3
- 6% 4
- 0 5
- 0 More than 5

5. Which of the following topics would you like to see covered in the ASA-GKC Newsletter?

- 76% ASA-GKC News
- 65% News from the state capital
- 76% Industry news

CONTRACTOR:

PROJECT:

APPLICATION NO:

Distribution to:

OWNER
 ARCHITECT
 CONTRACTOR

2-101

FROM SUB-CONTRACTOR:

VIA ARCHITECT:

PERIOD TO:

PROJECT NOS:

CONTRACT FOR:

CONTRACT DATE:

CONTRACTOR'S APPLICATION FOR PAYMENT

This application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

ORIGINAL CONTRACT SUM	\$	_____
Net change by Change Orders	\$	_____
CONTRACT SUM TO DATE (Line 1 ± 2)	\$	0.00
TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	_____
RETAINAGE:		
a. _____ % of Completed Work (Column D + E on G703)	\$	\$0.00
b. _____ % of Stored Material (Column F on G703)	\$	_____
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	0.00
TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	0.00
LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	0
CURRENT PAYMENT DUE	\$	0.00
BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

State of: _____ County of: _____
Subscribed and sworn to before me this _____
Notary Public:
My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)
ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order	\$0.00	

101



DAN HAAKE

TESTIMONY ON SENATE BILL 445
KANSAS FAIRNESS IN PUBLIC CONSTRUCTION CONTRACT ACT
AND
SENATE BILL 518
KANSAS FAIRNESS IN PRIVATE CONSTRUCTION CONTRACT ACT

NAME: DAN M. HAAKE
HOME ADDRESS: 18955 QUIVIRA ROAD
SPRING HILL, KANSAS 66083
VOICE # 913-592-2631

EMPLOYER: HAAKE FOUNDATIONS, INC.
10029 EAST 63RD TERRACE
RAYTOWN, MISSOURI 64133
VOICE # 816-737-2954
FAX # 816-737-3289

KANSAS STATE REGISTRATION NUMBER 736-661-0

I AM THE OWNER OF A MODEST CONSTRUCTION COMPANY
SPECIALIZING IN CONCRETE FOUNDATIONS FOR COMMERCIAL AND
INDUSTRIAL FACILITIES. OUR ANNUAL VOLUME OF WORK IS ABOUT
\$1.25 MILLION DOLLARS. OF THOSE DOLLARS A LITTLE MORE THAN 1/2
IS FROM KANSAS PROJECTS. OF OUR 14 OFFICE AND FIELD EMPLOYEES,
6 ARE RESIDENTS OF KANSAS.

I AM HERE TODAY TO TESTIFY IN FAVOR OF THE KANSAS FAIRNESS IN
CONSTRUCTION CONTRACT ACT. SPECIFICALLY THE PORTION OF THE
ACT THAT WILL SET MINIMUM STANDARDS FOR THE PAYMENTS OF

1 0 0 2 9 E. 6 3 R D T E R R A C E

R A Y T O W N, M I S S O U R I 6 4 1 3 3

8 1 6 • 7 3 7 • 2 9 5 4

Senati Commerce
03/08/04
Attach # 3

INVOICES ON CONSTRUCTION PROJECTS. IT IS NORMAL PRACTICE TODAY FOR BIDDING DOCUMENTS AND CONTRACT DOCUMENTS NOT TO INCLUDE PAYMENT TERMS FOR EITHER PROGRESS PAYMENTS OR PAYMENTS ON RETENTION. OUR BEST EFFORTS TO GET COMMITMENTS FROM OWNERS OR GENERAL CONTRACTORS MORE OFTEN THAN NOT IS UNSUCCESSFUL. IT IS A REAL STRUGGLE TO MEET THE DEMANDS OF CASH WHEN WE HAVE NO COMMITMENT AS TO WHEN PAYMENTS OF MONEY START TO FLOW FROM OWNERS TO THE CONTRACTORS AND SUPPLIERS ON A PROJECT. THE PROVISION OF THIS LEGISLATION TO SET MINIMUM STANDARDS FOR PAYMENT OF MONEY FOR PROPERLY COMPLETED WORK WILL BE A BIG HELP IN MANAGING CASH FLOW.

WITH RESPECT TO RETENTION, I AM NOT SURE WHY IT IS EVEN NECESSARY. I GUESS OWNERS WANT TO HAVE LEVERAGE OVER GENERAL CONTRACTORS AND GENERAL CONTRACTORS WANT TO HAVE LEVERAGE OVER THEIR SUB-CONTRACTORS AND IN FACT RETENTION PUTS A REAL STRAIN ON EVERYONE'S BUSINESS RELATIONSHIP FROM THE ONSET OF THE PROJECT. BUT SINCE RETAINAGE IS HERE TO REFORM THE CONCEPT TO ALLOW CONTRACTORS AND SUB-CONTRACTORS TO OFFER SUBSTITUTE SECURITIES IN LUE OF RETENTION THAT WILL GUARANTEE CONTRACT COMPLIANCE SEEMS REASONABLE. IT ALSO SEEM REASONABLE TO PAY OFF SUB-CONTRACTORS THAT HAVE COMPLETED THEIR WORK AND NOT MAKE THEM WAIT TIL A JOB IS COMPLETED TO RECEIVE RETENTION PAYMENT.

THE AMOUNT OF EARNED REVENUES HELD AS RETENTION VARY FROM MONTH TO MONTH BUT IS GENERALY BETWEEN \$75,000 TO \$85,000. TO ALLOW US THE USE OF THIS MONEY AS IT IS EARNED SEEMS REASONABLE.

Kathy Damron

(785) 235-2525
(785) 354-8092 FAX
E-MAIL: MKDTopeka@aol.com

800 SW JACKSON STREET, SUITE 1100

Topeka, Kansas 66612-2205

March 8, 2004

The Honorable Karin Brownlee
Chairman, Senate Commerce Committee
Kansas Legislature

Dear Chairman Brownlee and members of the Committee:

On behalf of the Kansas City, Kansas Area Chamber of Commerce, please know that the organization has endorsed the legislation you're considering this morning, Senate Bill 445. The Chamber, an organization representing the interests of businesses in the Wyandotte County area, sees this legislation as an important tool for the many independent subcontractors who live and work in the community.

In addition, the proponents of the legislation have made, we believe, a compelling case that with the bill's passage, economic benefits will be felt throughout the community. Thank you for your consideration of this matter.

Senate Commerce
03/08/04
Attach #4

Rick Dodds

Senate Commerce Committee

Senate Bill 445

Madame Chair and members of the Senate Commerce Committee, The Boeing Company would like to offer its perspective on Senate Bill 445 and explain why it cannot support it.

Kansas law has historically embraced the concept of freedom of parties to contract on mutually agreeable terms and conditions. As is well known, contracts are comprised of various provisions that reflect the parties' allocation of risks and liabilities. Examples include provisions relating to warranty, liquidated damages, indemnity for mechanics liens, and indemnity for patent infringement and trade secret information, all of which are commonly found in construction contracts, as are indemnity provisions for personal injury, property damage, economic loss, clauses pertaining to retainage, and limitation of remedies for delay which are included in the subjects covered by SB 445. In Boeing's experience, all of these provisions are subject to substantial negotiation by the parties to produce an agreement that reflects the parties' allocation of risk and liability in exchange for an agreed upon purchase price for the building project. Under current Kansas law, the bargain ultimately reached by the parties on all of these points has been enforceable in the courts of Kansas by each party in situations where disputes arise.

For example, historically, Kansas courts have found the indemnification provisions of the kind prohibited in SB 445 to be enforceable and not void as against public policy. Under Kansas law, such provisions are strictly

Senate Commerce
03/08/04
Attach #5

construed by the court and are enforceable so long as the provision expresses in clear and unequivocal terms the intent of the parties. Additionally, contractual indemnification provisions of the type prohibited by SB 445 are insurable under currently available insurance policies.

Boeing believes the freedom to contract on legally permissible terms should continue to prevail. The provisions in SB 445 relating to legislatively-mandated payment terms, retainage limits, non-waiver of damages for delay, and indemnification constitute a dramatic shift in the public policy of the State of Kansas. Section 3 of the Bill contains about 41 lines of text devoted to an owner's and contractor's payment responsibilities to a contractor or subcontractor, respectively, including specification of the number of days allowed for payment to be made, the interest rate for late payments, specification of the parties' rights over a disputed request for payment, or a submission of an improper invoice. Again, in Boeing's experience, each of these matters are negotiated in construction contracts as a part of reaching an overall bargain between the parties, and Boeing submits that the parties to a contract should remain free to allocate risk and liability as mutually agreed by the parties.

Section 4 of the Bill goes into lengthy detail in about 127 lines of text specifying the contractual requirements for retainage by owners and contractors. In the same manner as this Bill contravenes the current Kansas law of indemnification, this section contravenes the traditional practices in construction contracting regarding retainage and, in fact, effectively eliminates the parties' ability to agree on retainage as a method to protect the property owner. If property owners and contractors are unable to bargain for

retainage as a tool to attempt to ensure the timely and correct completion of the building contract by the contractor, property owners will be forced to insist upon performance bonds issued by sureties to substitute for such protection. In Boeing's experience, only the largest, long-established contractors are able to obtain surety bond coverage in today's business climate and, as a result, if SB 445 would become law, many small and medium sized contractors, who otherwise would have been willing to agree to an appropriate retainage in lieu of surety bond coverage in order to have an opportunity to build a project, will instead be passed over for consideration on many projects. For these reasons, Boeing is concerned that the ultimate effect of the proposed retainage and other provisions of the Bill will be to increase the risk and cost of improving property in Kansas, thereby putting Kansas in a competitive disadvantage relative to states which continue to allow property owners and contractors to bargain on the matters covered by the Bill.

In closing, Boeing submits that SB 445 results in a significant restriction on the legal rights of the citizens of Kansas. Boeing would prefer to resolve the negotiation of private construction contract issues outside of the legislative process.

**Testimony on SB 445 before the
Senate Commerce Committee
By
Wayne Hardy, Westar Energy
March 8, 2004**

Good morning Chair Brownlee and members of the committee.

I am Wayne Hardy, manager contract administration for Westar Energy. We oppose SB 445 because it disrupts normal negotiations between contractors and us. In our experience, both sides negotiate their differences and agree to terms of a contract. SB 445 tips the balance in favor of contractors and imposes many disadvantages on firms that hire them.

Westar processes on average about 250 contracts for services a year. Our contract administration staff is comprised of four employees. Field management is responsible for contracted project tracking. SB 445 would likely cause us to add personnel.

Once both sides agree to contract terms, it is not necessary to set money aside in an escrow account for retention. If the firm contracting has credit problems, the contractors can and do negotiate escrows to assure payment. If the firm is credit worthy, requiring escrows imposes an unnecessary financial expense and ties up funds that could otherwise be invested to grow the business.

We also believe that retention requirements should be negotiated. In our industry, the norm is 10 percent, but it varies depending on the type of contracted work. It varies from industry to industry, depending on the size of projects and the amount of money and risk involved.

The provision on invoice disputes is unreasonable. SB 445 would require billing disputes to be initiated within five days of receipt of the invoice. If not, the invoice would be deemed correct. Westar contracts multi-million dollar projects, invoicing for which can be complicated and detailed. It simply is not reasonable to expect a contract administrator to catch errors and initiate disputes in such a short time. The provision encourages confusing invoicing and increased disputes, neither of which is a desirable business practice.

In summary, SB 445 disrupts normal contract negotiation. Matters addressed by SB 445 are better dealt with in contract negotiation. If either a firm or its contractor breaches a contract, both have adequate recourse. We encourage the committee to oppose SB 445.

Thank you for the opportunity to address the committee this morning. I would be glad to answer your questions at the appropriate time.

Senate Commerce
03/08/04
Attach #6



Building a Better Kansas Since 1934
200 SW 33rd St. Topeka, KS 66611 785-266-4015

**TESTIMONY OF
ASSOCIATED GENERAL CONTRACTORS OF KANSAS
BEFORE SENATE COMMITTEE ON COMMERCE**

SB 445

March 8, 2004

By Corey D Peterson, Associated General Contractors of Kansas, Inc.

Madam Chairman and members of the committee, my name is Corey D Peterson, Executive Vice President of the Associated General Contractors of Kansas, Inc. The AGC of Kansas is a trade association representing the commercial building construction industry, including general contractors, subcontractors and suppliers throughout Kansas (with the exception of Johnson and Wyandotte counties).

The AGC of Kansas opposes Senate Bill 445 and respectfully asks that you vote unfavorably on its passage.

SB 445 would legislate payment terms of contracts between private entities. The AGC of Kansas feels these contract terms should be governed by contract law, not state statute.

Also, SB 445 includes stipulations for the establishment of escrow accounts for each subcontractor on a project. A prime contractor often has many subcontractors on a particular job. Setting up escrow accounts for each subcontractor would be burdensome, if not impossible to administer. This requirement would unnecessarily drive up the cost of doing business in Kansas.

It is AGC of Kansas' position that payment terms between general contractors and subcontractors should be worked out contractually between the individual parties and the issue addressed in the confines of the industry, not before the State of Kansas. AGC of Kansas has established a Specialty Contractors Council that is designed to address in a constructive manner issues such as this that may arise within the construction industry. This group has met and will continue to meet on this subject if warranted. Following healthy discussion at the AGC Annual Convention in February, it was agreed that while there are issues with timely payment in the public sector that need to be addressed, the AGC and its Specialty Contractors Council would oppose such legislation in the private sector.

The AGC of Kansas **respectfully requests that you vote unfavorably on SB 445.** Thank you for your consideration.

Senate Commerce
03/08/04
Attach #7



Central Mechanical Wichita, Inc.

Plumbing #2395 • Mechanical #1787

P.O. Box 47343 • Wichita, KS 67201-7343 • 316-267-7676 • FAX 316-267-7684

**TESTIMONY
BY PHIL SEWELL
BEFORE SENATE COMMITTEE ON COMMERCE
SB 445**

March 8, 2004

Phil Sewell, Central Mechanical Wichita, Inc., Wichita, KS

Madam Chairman and members of the committee, my name is Phil Sewell and I am president of Central Mechanical Wichita, Inc. I also serve as chairman of the Specialty Contractors Council of the Associated General Contractors of Kansas. My company is a mechanical contractor, where I do work as both a subcontractor and prime contractor. The Specialty Contractors Council represents the **112 subcontractor members** of the AGC of Kansas.

I am speaking in opposition to **Senate Bill 445 and ask that you vote against its passage.**

As a business owner in Kansas, I do not feel it is appropriate that the state government become involved with how business is conducted between private owners and companies. Years have been spent perfecting contract documents and while still not perfect, these contracts offer contractors and owners many safeguards in which business can be done in a fair and equitable manner.

In the private sector, in addition to contracts, we have the benefit of the mechanics lien law to assist with payment. Additional laws telling private parties how to do business are not needed.

Included in this bill (SB 445) are requirements for the establishment of escrow accounts for the subcontractors on job. When working as a prime contractor, I cannot imagine having to set up escrow accounts for all the subs that may be on one of my jobs.

The Specialty Contractors Council of the AGC of Kansas met at its annual convention to discuss this issue. It is their position that the state should not set laws dictating payment terms between private entities.

I am sure all companies from all industries would like to be paid in a timely manner. If contractors and owners have issues regarding payment, there are remedies in place, i.e. contracts and lien laws. The same can be applied to general contractors and subcontractors. Problems should be addressed between the entities or the industry involved. This is not the place for state government.

Again, I **respectfully request that you vote unfavorably on SB 445.** Thank you for your time and I would be glad to answer any questions that you may have.

Phil A Sewell
President CMW Inc.

Senate Commerce
03/08/04
Attach # 8



Michael R. Murray
Director
Governmental and Public Affairs

Midwest Operations
800 Southwest Jackson, Suite 1108
Topeka, KS 66612-1242
Voice 785 232 3826
Fax 785 234 6420

March 8, 2004

The Honorable Karin Brownlee
Chair, Senate Commerce Committee
Statehouse
Topeka, Kansas 66612

Dear Senator Brownlee and Members of the Committee:

Sprint appreciates the opportunity to comment in writing on SB 445 being heard today by the Senate Commerce Committee. Sprint opposes the bill. Sprint believes SB 445 is an unnecessary infringement on a company's ability to manage its operations. In addition, SB 445 will increase a company's cost of doing business, and certain provisions appear to be contrary to industry standards.

Specifically, SB 445 is contrary to the notion of contract negotiations. The bill would require an owner of property to pay a contractor within 30 days of receiving a bona fide request for payment. Terms for payment of work performed should be part of the give and take of contract negotiations, not a requirement of law. For example, a negotiated contract may call for payment to be made in a much shorter period than 30 days in return for a price discount. Conversely, a contractor could negotiate a higher price if payment is to be made over a longer period of time. These are cash management decisions made by the parties based on their particular business needs.

Regarding industry standards, the retainage provision appears to be at odds with what we generally find in contracts that include these provisions. The bill calls for retainage of 5%, while our experience indicates that most contracts call for 10%. Again, however, such provisions should be agreed to by the parties negotiating a contract, not required by law.

Requiring a third-party escrow agent is also an unnecessary and costly provision. Securing an escrow agent represents still another party and a contract to be negotiated, an exercise which is not without its costs. In addition, a fee is charged each time payment is made from an escrow account, costs which are ultimately passed on to the consumer.

The provisions of SB 445 should be part of the give and take of contract negotiations, based on the business needs of the parties. These provisions should not be requirements of law. Respectfully, Sprint urges the Committee not to approve SB 445.

Sincerely,

Michael R. Murray

Senate Commerce
03/08/04
Attach #9



**THE KANSAS
CHAMBER**

The Force for Business

835 SW Topeka Blvd.
Topeka, KS 66612-1671
785-357-6321
Fax: 785-357-4732
E-mail: info@kansaschamber.org
www.kansaschamber.org

Legislative Testimony

SB 445

Monday, March 8, 2004

**Testimony before the Kansas Senate Commerce Committee
By Marlee Carpenter, Vice President Government Relations**

Senator Brownlee and members of the committee;

The Kansas Chamber has concerns with SB 445. This bill would legislate contract rights in Kansas. We believe that negotiations should take place between parties and should not be mandated by the legislature.

The Kansas Chamber believes that the provisions in SB 445 would affect the legal climate in the state and our competitive position. The bill would also increase the cost of doing business in the state by legislating additional burdens for businesses of all sizes.

We urge careful consideration of this matter.

The Kansas Chamber is the statewide business advocacy group, with headquarters in Topeka. It is working to make Kansas more attractive to employers by reducing the costs of doing business in Kansas. The Kansas Chamber and its affiliate organization, The Kansas Chamber Federation, have nearly 7,500 member businesses, including local and regional chambers of commerce and trade organizations. The Chamber represents small, large and medium sized employers all across Kansas.

Senate Commerce
03/08/04
Attach # 10