

Sent to Com. 8/24/76
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Legislative Research Department

August 2, 1976

M I N U T E S

SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

July 20 and 21, 1976
Room 510 - State House

Members Present

Representative Lloyd Buzzi, Chairman
Senator Neil Arasmith, Vice-Chairman
Senator Arden Booth
Senator Jim Parrish
Representative Fred Harris
Representative Ken Marshall
Representative Joe Mikesic
Representative Jack Rodrock
Representative Tom Slattery
Representative Earl Ward

Senator Ed Reilly was excused due to illness.

Staff Present

J. Russell Mills, Jr., Legislative Research Department
Donald L. Jacka, Jr., Legislative Research Department
Mary Torrence, Revisor of Statutes Office

Others Present

Nick A. Tomasic, Wyandotte County District Attorney
Dan Watkins, Attorney General's Office
Tom Regan, Attorney General's Office
David Chartrand, Lawrence Journal-World
Robert Tilton, Kansas Sheriffs' Association
Gene M. Olander, Shawnee County District Attorney
James Reardon, Kansas County and District Attorneys' Association
Tom Green, Kansas Trial Lawyers' Association
Brett Robinson, Kansas Trial Lawyers' Association
Ruth Groves, A.A.U.W., Topeka
Dr. Robert C. Harder, Social and Rehabilitation Services
Rod Clelland, Larned State Hospital
James H. Hays, Division of the Budget
Gary L. Stotts, Division of the Budget
Ruth C. Dickinson, Planning and Research
Ann Heberger, League of Women Voters
Kathie Champlin, League of Women Voters
Bernard J. Dunn, Department of Corrections
Dr. Don Moran, Kansas Association of School Boards
M. Mangelsdorf, UPI
Karen Blank, Kansas Civil Liberties Union
Tom West, Boilermakers International Union
Carl Pickett, Hartford Steam Boiler Insurance and Inspection Company, Hartford,
Connecticut
Walter Parker, Uniform Boiler and Pressure Vessel Laws Society, Hartford,
Connecticut
Ernie Cannon, State Boiler Inspector, Division of Architectural Services
Raymond E. Cochrane, Capitol Complex Management
Mark L. Bennett, American Insurance Association
F. Dale Saylor, Department of Human Resources
J. E. White, Department of Human Resources
Louis Krueger, Division of Architectural Services

July 20, 1976
Morning Session

Vice-Chairman Arasmith called the meeting to order at 10:00 a.m.

Proposals No. 21 and 22

Miss Torrence gave a brief overview of Proposal No. 21 - Due Process Requirements for Defendants Found Not Guilty by Reason of Insanity, and Proposal No. 22 - Hearing Prior to Release of Certain Inmates. She provided the Committee with copies of the relevant statutes (Attachment No. I). Senate Bill No. 26, which was passed last session, may have created an administrative problem in this area as it provides numerous rights for civilly committed persons, but does not provide the same rights for criminally committed persons. Proposal No. 22 is a review of the hearing procedure followed prior to the release of certain inmates from the State Security Hospital authorized by the 1976 amendment to K.S.A. 1975 Supp. 22-3428.

Dr. Robert Harder, Secretary, Kansas Department of Social and Rehabilitation Services, testified before the Committee. He provided the Committee with copies of the forms which SRS uses for administrative transfers of patients (Attachment II). Dr. Harder introduced Mr. Rod Clelland, Superintendent of Larned State Hospital. Mr. Clelland briefly described the SRS transfer policy. In response to a question, he indicated that there are many reasons why a patient might be transferred, one being so the patient will be in a hospital with different treatment facilities. One of their problems is that they don't know what to do with some persons who have been found "not guilty by reason of insanity". Quite often this person is not mentally ill or in need of treatment, but is "anti-social". Mr. Clelland stated that the language in 22-3428, as amended by the 1976 Legislature, may require clarification in that it does not appear to allow the judge to transfer a patient. The 1976 amendment appears to allow the judge only two options: discharge the patient, or retain the patient at the State Security Hospital.

Mr. Nick A. Tomasic, Wyandotte County District Attorney, testified before the Committee. A copy of his testimony is attached (Attachment No. III). Mr. Tomasic stated that he agrees with the law as it was passed last session. He feels that the guidelines for release for a criminally committed patient should be more stringent than for a civilly committed patient. In response to a question, Mr. Tomasic indicated that he would not like to see a requirement in the law that there must be a hearing before a judge in order to transfer a patient. He feels it is only necessary if a patient is going to be released. Dr. Harder indicated that he would like to see a clarification made in the law to indicate that either they have the authority to transfer a patient or that a judge has that authority. Mr. Tomasic felt that some patients should be released on a "conditional release" subject to certain rules, such as continued medication.

Mr. Gene Olander, Shawnee County District Attorney, agreed with Mr. Tomasic that there should be some kind of judicial review before a criminally committed patient is released and felt that the 1976 amendment filled a void which existed in prior law.

Mr. Brett Robinson of the Shawnee County Public Defender's Office testified before the Committee. Mr. Robinson stated that, as a defense attorney, he has no objections to the changes made in the statutes requiring a hearing before a criminally committed patient can be released from the hospital. However, he stated he could see a few problems with it. It is his feeling that the patient, in addition to the county attorney, should have the right to request a hearing. Mr. Robinson also stated that it was somewhat unclear in Subsection 3, where the burden of proof is: is it on the patient or the state? He could also see problems with the independent evaluation -- will someone be paid to conduct this evaluation -- who would be appointed? He also expressed concern that a jury trial is not allowed.

A member asked Mr. Tomasic who he felt the burden of proof should be on. Mr. Tomasic responded that, in his opinion, if the patient is the one requesting the hearing, the patient should be prepared to show beyond a reasonable doubt that he is not

dangerous to others. Mr. Robinson said that it is his understanding that the county attorney is the only one that can request a hearing for release, so he felt that the burden of proof should be placed on the state. Senator Arasmith inquired if the patient is given the right to request a hearing, would it be logical to place the burden of proof on the patient. Mr. Robinson stated that he felt the burden of proof should lie on whomever initiates the release process.

Mr. Robert Tilton, Kansas Sheriffs' Association, stated that the association feels the new statute is excellent and supports it. It is something that has been very badly needed. He felt that the concerns which were expressed are really non-existent. He feels the burden of proof would be determined by past case law. Also, there are other cases in which a jury trial is not allowed, paternity suits for example. He also stated that anyone who is incarcerated has the right to appeal if he files a writ of habeas corpus.

Mr. James Reardon of the Kansas County and District Attorneys' Association stated that it has been basically their stand to support this legislation. He realizes that there are some problems and he commended the Committee for trying to iron out these problems. He supplied the Committee with letters from Keith Sanborn, Sedgwick County District Attorney (Attachment IV) and from Jim Fedders, Smith County Attorney (Attachment V).

In response to a question, Mr. Tomasic stated that he agrees completely with Mr. Sanborn's letter. Dr. Harder indicated in response to a question that there is no time element involved for release of those who have been found not guilty by reason of insanity as there is in cases of a person convicted of a crime and sent to prison.

Mr. Mills provided the Committee with copies of a letter from Ann Heberger, League of Women Voters of Kansas, which presents their views on Proposals No. 21 and 22 (Attachment VI). Dr. Harder felt that it is confusing to the Committee to throw in the mentally retarded with the criminally insane since they are two entirely different situations. Dr. Harder indicated that at present there is no good mechanism for working with the mentally retarded who are also involved in criminal activity. When a mentally retarded juvenile becomes 18, he can release himself from the hospital.

Mr. Mills also provided the Committee with copies of letters from William R. Arnold, Kansas Citizens for Justice (Attachment VII), and Ralph C. Arnold, Larned State Hospital (Attachment VIII). The letter from Mr. Ralph Arnold advises of the number of defendants that have been admitted to the State Security Hospital by district court action.

The Committee recessed until 1:30 p.m.

Afternoon Session

Proposal No. 18 - Open Public Meetings

Chairman Buzzi called the meeting to order and introduced Dr. Don Moran, Kansas Association of School Boards. Dr. Moran testified on Proposal No. 18. Dr. Moran provided the Committee with copies of the Legislative Policies of the Kansas Association of School Boards (Attachment IX). He referred specifically to page 5, No. 13, which pertains to executive sessions. He felt it is important that executive sessions be allowed when discussing the matters enumerated in that section. He felt that executive sessions do have a place, but shouldn't be abused. The KASB feels that the proposed amendments (Attachment VIII, June minutes) to the open public meetings law are overly restrictive. For example, Section 1(c) would pose a problem in rural areas, because elected officials often have chance meetings because there may be only one dining spot or one service station in a small town. KASB feels that it is an unreasonable requirement to advise all news media of an upcoming meeting, as provided in Section 2, subsection c. They also feel that subsection d is unreasonable. Dr. Moran felt that it would be almost impossible when drawing up an agenda to come up with all of the possible alternative actions. He also stated that it was unreasonable to restrict discussion to only those items that are listed on the agenda. Representative Harris stated that he interpreted Section 2, subsection c, as meaning that only

the news media which have specifically requested notification need be notified. In response to a question, Dr. Moran indicated that they would like to be allowed to hold executive sessions on matters concerning the acquisition of real property in order to keep the price within reason.

Miss Karen Blank, Executive Director, American Civil Liberties Union of Kansas, testified on the Kansas Open Meetings Law. A copy of her testimony is attached (Attachment X). In response to a question, Miss Blank indicated that she felt penalties should be very strict for violation of the open meetings law.

Mr. Mills briefly reviewed a model act requiring open meetings of public bodies submitted by Common Cause of Kansas. A copy is attached (Attachment XI).

Chairman Buzzi asked if there were any additions or corrections to the minutes of the June meeting. None appearing, Senator Arasmith moved that they be approved. Senator Booth seconded. Motion carried.

The Committee reviewed Proposal No. 22. Miss Torrence stated that she felt there was some confusion during the discussion about transferring a patient. She stated that the statute probably needs some clarification as to whether or not the judge may also order the transfer. It was the Committee's feeling that 22-3428 should be amended to clarify that the court has the authority to order the transfer. Representative Harris moved, seconded by Senator Parrish, that the staff draft an amendment with language to this effect for the Committee consideration. Motion carried.

Dr. Del Brinkman, Dean of School of Journalism, Kansas University, was introduced to the Committee by Chairman Buzzi. Dr. Brinkman testified on Proposal No. 18. He felt that Kansas has a good open meetings law. The major weakness is language pertaining to executive sessions. He felt that language should be inserted in the law requiring the body to state the reason they are going to executive session and allow such sessions only in certain instances. He urged that the law be strengthened in the area of executive sessions. Chairman Buzzi asked Dr. Brinkman how he felt about the KASB request that language concerning personnel matters, consultations between the board and its legal counsel and its negotiations team, and discussions pertaining to the acquisition of real property be amended into the bill. Dr. Brinkman stated that it would be acceptable to provide an exemption for personnel matters, as long as it does not permit all personnel matters to be discussed in closed meeting. He also felt that some discussions pertaining to the acquisition of real property should be in closed meetings. Overall, Dr. Brinkman felt that meetings should be as open as possible, with the exceptions of personnel matters and acquisition of real property. Dr. Brinkman stated it would be helpful if an outline of the minutes of an executive session were required, since the public really just wants to know what went on in a meeting, not the details.

The Committee resumed its discussion of Proposal No. 22. The Committee discussed where the burden of proof should lie. It was decided that the staff would prepare a proposed amendment which would insert language to place the burden of proof on the patient for the maximum sentence for the crime for which he was found not guilty by reason of insanity. The standard would be "beyond a reasonable doubt". After the maximum sentence has expired, the burden of proof will rest on the state. The Committee decided they would not address the subject of an inmate having the right to initiate a hearing for release or transfer, because technically he now has this right through habeas corpus.

The Committee discussed Proposal No. 21. Miss Torrence provided copies of a chart comparing civil commitment procedures and criminal commitment procedures (Attachment XII). Miss Torrence stated that the Committee may wish to consider whether or not a patient should be allowed a jury trial. There is also the problem with mentally retarded defendants noted by Dr. Harder. Representative Rodrock asked if the Committee can address that problem. Miss Torrence stated that Dr. Harder implied that something should be done in this area, but she did not know what his suggestions would be. Chairman Buzzi suggested that the Committee have Dr. Harder return to speak specifically to the commitment procedure for the mentally retarded defendant since this is an entirely different area. Chairman Buzzi requested that the staff draft a letter to Dr. Harder relating to this subject. It was decided that the staff would prepare alternate suggestions for possible changes in K.S.A. 22-3428.

The meeting was adjourned.

July 21, 1976

Proposal No. 60 - Steam Boiler Insurance
and Inspection

Chairman Buzzi called the meeting to order at 9:30 a.m. Mr. Mills provided the Committee with copies of a letter from Fletcher Bell, Insurance Commissioner (Attachment XIII):

Mr. Mark Bennett, representing the American Insurance Association, addressed the Committee. A copy of Mr. Bennett's testimony concerning Proposal No. 60 is attached (Attachment XIV). Mr. Bennett introduced Carl Pickett, Hartford Steam Boiler Inspection and Insurance Company of Hartford, Connecticut; Walter Parker, Chairman of the Uniform Boiler and Pressure Vessel Laws Society, Inc.; and Tom West of the Boiler-Makers International Union. Mr. Pickett, Mr. Parker, and Mr. West also testified on Proposal No. 60. Copies of their statements and corresponding material are attached (Attachments XV, XVI, XVII, XVIII and XIX). Mr. Bennett informed the Committee that he and Mr. Pickett, Mr. Parker, and Mr. West would be happy to assist the Committee in any way necessary in helping to draft proposed legislation for a steam boiler inspection law.

In response to a question, Mr. Pickett stated that under the present law the penalty is so minimal for not carrying insurance on a steam boiler that some persons would rather pay the penalty than buy the insurance. Mr. Pickett suggested that any new legislation make provisions for the state to certify qualified inspectors. Mr. Parker stated that the "Model Bill" (Attachment XVI) provides that all steam boilers be insured. At present only about half the boilers in Kansas are insured. The problem is that when a boiler is found to be in an unsafe condition, there is no one to whom it can be reported and no legal procedure exists for shutting down an unsafe boiler. He stated that the "Model Bill" is based on the best legislation for boiler insurance and inspection in the nation. Kansas may be able to simplify this model inspection law. Mr. Parker indicated that the only burden on the boiler owner under their proposed legislation would be a minimal fee for the certificate which shows that the steam boiler has been inspected and found in good condition. In response to another question, Mr. Parker stated that there are approximately 2,300 high pressure steam boilers and 5,000 - 6,000 low pressure steam boilers in Kansas. The previous law applied only to high pressure boilers. He strongly recommended that new legislation cover both low and high pressure boilers. Mr. Parker indicated that in Kansas there have been approximately 30 or 40 boiler failures. He feels the situation can only go from bad to worse since Kansas has been without an inspection law for one year. In response to another question, Mr. Parker felt that the Legislature should provide \$30,000 to \$40,000 for a two-year period to get the inspection office in operation. After that time, it should be self-supporting by fees.

Mr. Pickett informed the Committee that 25-30% of the premium dollar goes for inspection of the steam boilers. Most of the claims involved with this insurance are property damage claims. Mr. Parker suggested that the state inspector be placed under the Commissioner of Labor. He would inspect only those boilers which are not insured and charge a fee. It is their feeling that more people would insure because they would get protection plus the inspection. The law would provide that all boilers must be inspected, which would provide more safety for the citizens of the state. In response to a question, Mr. Parker indicated that he felt fees for the inspection of the steam boilers should range from \$10 for low pressure boilers up to \$50. Most of the state-inspected boilers would be in the low range.

Chairman Buzzi asked Mr. F. Dale Saylor of the Department of Human Resources, formerly the Labor Department, if he would like to make any comments. Mr. Saylor informed the Committee that the Labor Department administered the old law with one inspector. He felt that there is a problem because steam boilers in Kansas are not being inspected. He felt some thought should be given in passing a new law to possibly place administration with the Insurance Commissioner's office since the inspection is tied in with insurance. At the present time, the Department of Human Resources has no one qualified to serve as a boiler inspector.

Representative Ward moved that the staff prepare a draft to institute legislation for the inspection of steam boilers for the Committee's consideration. Senator Booth seconded the motion. Senator Parrish suggested that Fletcher Bell, Commissioner

of Insurance, may want to appear. Chairman Buzzi informed the Committee that the administration portion of the bill would be left open for the time being.

Mr. Lou Krueger, Director of Architectural Services, informed the Committee that their agency has a boiler inspector, Mr. Ernie Cannon. It was his opinion that it would take approximately 15 state inspectors to inspect all the steam boilers in the state. He feels that the state is saving many dollars by having Mr. Cannon on the staff to inspect state agency boilers. He would like the law to permit them to keep Mr. Cannon on their staff. Mr. Cannon also addressed the Committee. He stated that there is a definite need for a law in Kansas, so that only certified boilers and parts could be shipped into the state.

Chairman Buzzi asked for a vote on Representative Ward's motion that the staff, with the assistance of Mr. Bennett and his associates, prepare a draft for the Committee to consider at its next meeting. Motion carried.

Proposal No. 18 - Open Public Meetings

The Committee discussed possible changes in the open public meetings law. Chairman Buzzi stated that it was felt it would be desirable to require that the reason be specifically declared before going into executive session. Senator Arasmith suggested that the statutes be clarified by adding another sentence in 75-4319, to the effect, "The subject matter to be discussed must be announced prior to going into executive session and anything else that is discussed must be disclosed after the closed session." This would give the body more flexibility. It was suggested that it would be desirable to require that the body go into an open meeting following the executive session. Senator Parrish indicated that he disliked the idea of giving the body the right to bring up additional subjects after they have gone into executive session.

Senator Booth moved that K.S.A. 75-4319 be amended by striking the period after the word "stated" and insert the following: "and subject matter to be discussed must be stated in the motion or the resolution to recess, such motion to be a part of the permanent record. Subjects of discussion of such executive session shall be limited by the motion or resolution." Senator Arasmith seconded the motion. Motion carried. Senator Arasmith moved that 75-4319 be amended by inserting the words "and location" following the words "specified time". Senator Parrish seconded the motion. Motion carried. Representative Harris moved that 75-4318(d) be amended by inserting the words "photographic lights" following the word "cameras" and by inserting the word "reasonable" prior to the word "rules". Senator Parrish seconded. Motion carried.

Senator Parrish referred to the draft of a proposed House Bill which was not introduced during the 1976 Session. This draft is filed in the Committee notebooks. He felt that the subject of chance meetings should be addressed. He felt that it should be spelled out in the statutes that chance meetings are not to be used in circumvention of the spirit of this act. Senator Parrish felt that this change would strengthen the law. It was Senator Arasmith's opinion that the subject of chance meetings need not be included in the statutes. Senator Parrish moved that the sentence, "No chance meeting, social meeting or electronic or written communication shall be used in circumvention of the spirit or requirements of this act.", be inserted in the statutes wherever the staff deemed appropriate. Representative Rodrock seconded. Miss Torrence suggested that this sentence could possibly be inserted in K.S.A. 75-4317. Motion carried. Senator Arasmith and Representative Ward wished to be recorded as voting against the motion.

Chairman Buzzi reminded the Committee that the next meeting would be on August 24 and 25. Meeting adjourned.

Prepared by J. Russell Mills, Jr.

Approved by Committee on:

8/25/76
(Date)

COMMITMENT OF CRIMINAL DEFENDANTS FOR PSYCHIATRIC TREATMENT

Defendant Incompetent to Stand Trial

22-3301. Definitions. (1) For the purpose of this article, a person is "incompetent to stand trial" when he is charged with a crime and, because of mental illness or defect is unable:

(a) to understand the nature and purpose of the proceedings against him; or

(b) to make or assist in making his defense.

(2) Whenever the words "competent," "competency," "incompetent" and "incompetency" are used without qualification in this article, they shall refer to the defendant's competency or incompetency to stand trial, as defined in subsection (1) of this section. [L. 1970, ch. 129, § 22-3301; July 1.]

22-3302. (1) At any time after the defendant has been charged with a crime and before pronouncement of sentence, the defendant, his *said defendant's* counsel or the prosecuting attorney may request a determination of the defendant's competency to stand trial. If, upon the request of either party or upon his or her own knowledge and observation, the judge or magistrate before whom the case is pending finds that there is reason to believe that the defendant is incompetent to stand trial the proceedings shall be suspended and a hearing conducted to determine the competency of the defendant.

(2) If the issue of the competency of a defendant charged with a felony is raised prior to indictment or information, and the magistrate before whom the case is pending determines that there is reason to believe that the defendant is incompetent to stand trial, such magistrate shall certify the case to the *clerk of the* district court for proceedings to determine the defendant's competency.

(3) All proceedings under this section in felony cases shall be in the district court of the county in which the case is pending. The court shall determine the issue of competency and may impanel a jury of six (6) persons to assist in making such determination. The court may order a psychiatric examination of the defendant, and to facilitate such psychiatric examination the court may commit the defendant for not more than sixty (60) days or for good cause shown, the commitment may be extended for another sixty (60) days to any appropriate state, county or private institution for examination and report to the court; or the court may designate any appropriate psychiatric clinic, mental health center or other psychiatric facility to conduct such examination while the defendant is in jail or on pretrial release; or the court may appoint two (2) qualified physicians to examine the defendant and report to the court. No statement made by the defendant in the course of any examination provided for by this section, whether the examination shall be with or without the consent of the defendant, shall be admitted in evidence against ~~him~~ *said defendant* in any criminal proceeding.

(4) If the defendant is found to be competent the proceedings which have been suspended shall be resumed. If the proceedings were suspended before or during the preliminary examination, the *district judge who conducted the competency hearing* may conduct a preliminary examination or ~~remand the case to such~~

judge may order the preliminary examination to be heard by the magistrate for such examination before whom proceedings were pending prior to the competency hearing.

(5) If the defendant is found to be incompetent to stand trial he said defendant shall be committed for treatment and shall remain subject to the further order of the court in accordance with section K. S. A. 22-3303.

(6) If proceedings are suspended and a hearing to determine the defendant's competency is ordered after the defendant is in jeopardy, the court may either order a recess or declare a mistrial.

(7) Proceedings to determine competency in misdemeanor cases shall be conducted in the manner provided by this section but shall be in the court where the case was pending when the question was raised.

(8) The defendant shall be present personally at all proceedings under this section.

22-3303. Commitment of incompetent.

(1) A defendant who is found to be incompetent to stand trial shall be committed for treatment to any appropriate state, county or private institution during the continuance of that condition. Upon application of the defendant and in the discretion of the court, the defendant may be released to any appropriate private institution upon terms and conditions as the court may prescribe.

(2) When reasonable grounds exist to believe that a defendant who has been adjudged incompetent to stand trial is now competent the court in which the criminal case is pending shall conduct a hearing in accordance with section 22-3302 to determine the person's present mental condition. Reasonable notice of such hearings shall be given to the prosecuting attorney, the defendant and to his attorney of record, if any. If the court, following such hearing, finds the defendant to be competent the proceedings pending against him shall be resumed.

(3) A defendant committed to a public institution under the provisions of this section who is thereafter sentenced for the crime charged at the time of his commitment may be credited with all or any part of the time during which he was committed and confined in such public institution. [L. 1970, ch. 129. § 22-3303; July 1.]

22-3304. Parole of committed person.

If in the judgment of the chief medical officer of the institution to which any defendant is committed under this article, such defendant is not competent to stand trial but is in a condition to be paroled under supervision, the institution shall report to the committing court the reasons for such judgment and plans which

have been made for such parole. If the court does not file objection to the parole within thirty days from the date of the receipt of the report, the defendant may be paroled. [L. 1970, ch. 129, § 22-3304; July 1.]

Defendant Not Guilty by Reason of Insanity

22-3428. (1) When a person is acquitted on the ground that he or she was insane at the time of the commission of the alleged crime the verdict shall be "not guilty because of insanity," and the person so acquitted shall be committed to the state security hospital for safekeeping and treatment.

(2) Whenever it appears to the chief medical officer of the state security hospital that a person committed under this section is not dangerous to other patients, he or she may transfer such person to any state hospital. Any person committed under this section may be granted convalescent leave or discharge as an involuntary patient after thirty (30) days notice shall have been given to the district or county attorney, sheriff and district court of the county from which such person was committed.

(3) *Within fifteen (15) days after the receipt of the notice provided for in subsection (2), the county attorney may request that a hearing on the proposed leave or discharge be held. Upon receiving any such request the district court shall order that a hearing be held on the proposed leave or discharge, giving notice thereof to the state hospital where the patient was transferred, and the court shall order the involuntary patient to undergo a mental evaluation by a person designated by the court. A copy of all orders of the court shall be sent to the involuntary patient and such patient's attorney. The report of the court ordered mental evaluation shall be given to the county attorney, the involuntary patient and such patient's attorney at least five days prior to the hearing. The hearing shall be held within thirty (30) days after the receipt by the court of the county attorney's request. The involuntary patient shall remain in the state hospital until the hearing on the proposed leave or discharge is to be held. At such hearing the court shall determine whether the involuntary patient continues to be a danger to himself, herself or others. The patient shall have the right to present evidence at such hearing and to cross-examine any witnesses called by the county attorney. At the conclusion of the hearing, if the court finds that the patient continues to be a danger to himself, herself or others the court shall order the patient to remain in the state hospital, otherwise the court shall order the patient discharged. The costs of all proceedings and the mental evaluation authorized by this section shall be paid by the county from which such person was committed.*

(4) In any case where the defense of insanity is relied on the court shall instruct the jury on the substance of this section.

Convicted Defendant in Need of Treatment

22-3429. Deferring sentence pending mental examination. After conviction and prior to sentence and as part of the presentence investigation authorized by K. S. A. 1969 Supp. 21-4604, the trial judge may order the defendant committed to a state hospital or any suitable local mental health facility for mental examination, evaluation and report. If adequate private facilities are available and if the defendant is willing to assume the expense thereof such commitment may be to a private hospital. A report of the examination and evaluation shall be furnished to the judge and shall be made available to the prosecuting attorney and counsel for the defendant. A defendant may not be detained for more than 120 days under a commitment made under this section. [L. 1970, ch. 129, § 22-3429; July 1.]

22-3430. Commitment to certain state institutions, when; costs; order of commitment; appeal. If the report of the examination authorized by the preceding section shows that the defendant is in need of psychiatric care and treatment and that such treatment may materially aid in his rehabilitation and that the defendant and society is not likely to be endangered by permitting the defendant to receive such psychiatric care and treatment, in lieu of confinement or imprisonment, the trial judge shall have power to commit such defendant to any state or county institution provided for the reception, care, treatment and maintenance of mentally ill persons. The court may direct that the defendant be detained in such institution until further order of the court or until the defendant is discharged under 22-3431. No period of detention under this section shall exceed the maximum term provided by law for the crime of which the defendant has been convicted. The trial judge shall, at the time of such commitment, make an order imposing liability upon the defendant, or such person or persons responsible for the support of the defendant, or upon the county or the state, as may be proper in such case, for the cost of admission, care and discharge of such defendant.

The defendant may appeal from any order of commitment made pursuant to this section in the same manner and with like effect as if sentence to a jail, or to the custody of the director of penal institutions had been imposed in this case. [L. 1970, ch. 129, § 22-3430; July 1.]

22-3431. Disposition upon completion of treatment. Whenever it appears to the chief medical officer of the institution to which a person has been committed under section 22-3430, that such person is not dangerous to himself or others and that he will not be improved by further detention in such institution, such person shall be returned to the court where he was convicted and shall be sentenced, committed, granted probation or discharged as the court deems best under the circumstance. The time spent in a state or county institution pursuant to a commitment under section 22-3430 shall be credited against any sentence confinement or imprisonment imposed on the defendant. [L. 1970, ch. 129, § 22-3431; L. 1971, ch. 114, § 8; July 1.]

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

MEMORANDUM

FROM: Dale E. JirikTransfers Among Institutions
Under Mental Health and
RE: Retardation ServicesDATE: July 19, 1976

Attached is a transfer form MH & RS 3109 being revised which will be used for all inter-institutional transfer of patients under the Division of Mental Health and Retardation Services and may include those who may be transferred into the newly developed section of the Security Hospital.

On all transfer requests and especially those directed to the security unit, clinical information must be provided by the treatment team and rationale for the transfer must be given in detail to justify the request for transfer. The information must not only identify the problem, but give the reason why treatment cannot continue in the current program. Such request is made to the superintendent. If he concurs, the form and material is directed to Dr. R. A. Haines, State Director of Mental Health and Retardation Services. He reviews it, and if he concurs the request is then sent to the receiving hospital. The intake staff at the receiving hospital reviews to determine if the receiving facility has a program to meet the needs of the patient. If approved then a date and time for the transfer is given. Thus for all transfers there are check systems which are an assurance to the patients that transfers are made only after careful consideration. Transfers to the security hospital also must be reviewed and approved by the Secretary of Social and Rehabilitation Services.

DEJ:jb

State Department of Social and Rehabilitation Services
Division of Mental Health and Retardation Services

Application for Administrative Transfer

*(KSA 76-2460-Transfers to State Security Hospital)

Draft

To: State Director of Mental Health
and Retardation Services

Re: _____
(Last name) (First)
Age _____ Sex _____

SECTION I

A. Authorization is requested for the above-named patient, who was admitted
to _____ on _____ from _____
(institution) (date) (county)

to be: () temporarily transferred to: _____
() permanently (institution)

for the following reason: _____

Signature-Superintendent

SECTION II

A. Request for temporary, permanent transfer is () approved () disapproved.

Patient is to be transferred to _____ on _____
(institution) (date)

(date)

State Director of Mental Health
and Retardation Services

SECTION III Approved:

Secretary of SRS

A. The above-named patient who is on temporary transfer at _____
(institution)

is authorized to return to _____ on _____
(date)

is authorized to remain at _____ as permanent transfer.

(date)

State Director of Mental Health
and Retardation Services

Copy to: Receiving Institution
Relative/guardian
Court (if applicable)
Division of Mental Health and Retardation Services

* No minor or voluntary patient will be transferred under this statute.

State Department of Social and Rehabilitation Services
Division of Mental Health and Retardation Services

Application for Administrative Transfer
(K.S.A. 75-3328; K.S.A. 1969 Supp. 59-2924)

To: State Director of Institutions

Re: _____
(Last name) (First)
Age _____ Sex _____

SECTION I

A. Authorization is requested for the above-named patient, who was admitted

to _____ on _____ from _____
(institution) (date) (county)

to be: () temporarily transferred to: _____
() permanently (institution)

for the following reason: _____

Signature-Superintendent

SECTION II

A. Request for temporary, permanent transfer is () approved () disapproved.

Patient is to be transferred to _____ on _____
(institution) (date)

(date)

State Director of Institutions

SECTION III

A. The above-named patient who is on temporary transfer at _____
(institution)
is authorized to return to _____ on _____
is authorized to remain at _____ as permanent transfer.
(date)

(date)

State Director of Institutions

Copy to: Receiving Institution
Relative/guardian
Court (if applicable)
Division of Mental Health and Retardation Services

I. COMPARISON BETWEEN CRIMINAL AND CIVIL DISCHARGE PROCEDURES.

Kansas law provides for two types of commitment procedures. The civil procedure is set forth in K.S.A. 59-2901 et seq (1975). The criminal is contained in K.S.A. 22-3428 (1975).

CIVIL PROCEDURE

The Kansas civil code provides for two methods of discharge. The first is set forth in K.S.A. 59-2918. Upon request of the patient, at the end of each 90 days of treatment ordered by the Probate Court, a hearing is held to determine whether the patient continues to be, beyond a reasonable doubt, dangerous to himself and others. The other method of discharge is set forth in K.S.A. 59-2924. Under this statute, a patient can be discharged whenever the head of a treatment facility determines that the patient is no longer in need of treatment. Upon such a determination, K.S.A. 59-2925 requires that notice be given to the patient, his attorney and to the Probate Court.

CRIMINAL PROCEDURE

Under the present statute (K.S.A. 22-3428), when a person is found not guilty by reason of insanity, he is committed to a state mental hospital for treatment. When the head of the hospital determines that the acquittee is no longer in need of treatment, ^{or dangerous to other patients,} he is released following a 30-day notice of his release to the county or district attorney and the District Judge. Under the proposed K.S.A. 22-3428, the following guidelines would be added:

- (1) Hospital would give 30-day written notice prior to release as in present statute.
- (2) If the District Attorney objects to release, he or she can request a hearing within 15 days of written notice from the hospital.
- (3) The court will then notify the hospital of the hearing and the hospital will detain the acquittee until date of the hearing.

NICK A. TOMASIC
wy CO. D. A.
K. C. K.

- (4) The court will set a hearing date within 30 days of the District Attorney's request.
- (5) The acquittee must submit himself to a mental evaluation by a person designated by the court.
- (6) The person conducting the previously mentioned evaluation will file a report concerning such evaluation with the court. Copies of the report will be distributed to patient's attorney and to the District Attorney.

COMPARISON AND CONTRAST

The only similarity between the criminal and civil procedures is that the decision to discharge the patient is made initially by the head of a state security hospital or treatment facility. From this point, the contrasts begin: (1) Under the criminal statute, a person is committed to a state security hospital as opposed to any treatment facility. (2) Under the criminal statute before a patient is discharged, he must undergo a mental evaluation and be subject to a hearing to determine whether he can be released. (3) Under the criminal code, although the patient is entitled to an adversary hearing, there is no specific mention of a right to a jury trial, even though the civil code grants such a right. K.S.A. 59-2918. Also, there is no mention under the criminal code of what party has the burden of proof or what that burden is. (4) Under K.S.A. 22 3428(4), the provisions set forth in sections one through three of the proposed K.S.A. 22-3428 are made part of the jury instructions in criminal cases where insanity is a defense.

EQUAL PROTECTION

The use of different discharge proceedings for the acquittee and civil committee raises an equal protection question. It is not a violation of equal protection to distinguish between classes as long as those distinctions are based on some rational principle of public policy. American Sugar Refining Company v. Louisiana, 179 US 89 (1900). The equal

protection clause merely imposes a requirement of some rationality between the classification and the purpose the statute is designed to promote. Baxtrom v. Herold, 383 US 107 (1965). Moreover, if distinctions between acquittees and committees are rationally based and directed towards the furtherance of a statute, then different treatment of the two classes will not result in a violation of equal protection.

A civil committee has not engaged in any prohibited conduct. Thus, the committee has not been viewed as a threat to society. In contrast, the acquittee has committed prior harm to persons or property; therefore, his mental illness must be substantially cured before he can be released. Consequently, the constitutional rights of the acquittee are not violated by subjecting him to a more stringent court proceeding. Such a proceeding is necessary in order to protect society from further danger.

In U.S. v. Ecker, 479 F. 2d 1206 (D.C. Cir. 1973) (C.A.D.C. 1976), the court held that prior to the termination of his "maximum sentence", an acquittee may be subjected to different release provisions than those applied to committees. A rational basis for this distinction was found in the dangerousness demonstrated by prior criminal conduct on the part of the acquittee. Thus, the different proceedings involved in the discharge hearings can be justified by the threat that each class of person presents to society. Prevention of public harm is a major purpose of K.S.A. 22-3428, and this purpose is promoted by the more stringent discharge procedure used in the acquittee situation. It should be noted, however, that the acquittee and committee must be treated equally once the maximum sentence that the acquittee would have received has expired. U.S. v. Ecker, supra, Waite v. Jacobs, 475 F. 2d 392, (D.C. Cir. 1971).

II. HOSPITAL RELEASE PROCEDURE FOR THE ACQUITTEE

In Kansas, once a defendant is found not guilty by reason of insanity, he is sent to Larned State Hospital for treatment. The duration of ^{the}acquittee's committment is not definite but determined by the following procedure:

- (1) The acquittee upon commitment is assigned to a hospital employee or staff of employees who supervise and report on the patient's condition and progress.
- (2) When the hospital employee(s) feels to his own satisfaction that the patient has improved to a point that his sanity is substantially restored and that the patient is no longer dangerous to himself or others, he refers the patient to the Forensic Review Board.
- (3) The Forensic Review Board is composed of four people who are on the staff at Larned State Hospital. These four positions consist of:
 - A. Psychiatrist
 - B. Psychologist
 - C. Social Worker
 - D. Psychiatric NurseOther people are also allowed to sit on the Board for special reasons.
- (4) At the Forensic Board hearing those present:
 - A. Review the case history of the patient.
 - B. Confer with the staff employees who worked or are working with the patient, concerning their opinions.
 - C. Interview the patient.
 - D. Discuss the case and based on the material presented, make a recommendation to the clinical director or supervisor on whether the acquittee should be released.
- (5) Once the clinical director receives a recommendation from the Forensic Review Board, he has discretion whether or not to follow this proposal. Charles Bevert, Chairman of the Forensic Review Board at Larned, indicated that the supervisor almost always supports the proposal of the board.
- (6) If the proposal for release is denied, the patient is sent back for further treatment. If the proposal is accepted, the director may transfer the patient to another state hospital, grant the patient convalescent leave, or discharge him completely as an involuntary patient after 30 days notice has been given to the County Attorney and Sheriff of the county from which such person was committed. (K.S.A. 22-3428)

III. HEARING PROCEDURES FOR THE DISCHARGE OF THE ACQUITTEE

The recently proposed amendments to K.S.A. 22-3428 are fairly complete. There are, however, some procedural aspects not treated. The following discussion suggests recommendations for the amended K.S.A. 22-3428.

PRISON TERM LIMIT

There is some question about the relationship between a potential prison term and the discharge of an acquittee. In U.S. v. Ecker, 479 F2d 1206 (D.C. Cir. 1973), the court held that theoretical limits of the prison sentence for murder which the defendant could have received had he not been acquitted because of insanity were of no relevance in determining whether the patient should have been released from the hospital. Thus if a person's "prison term" had expired, and the acquittee remained insane, a court could still deny his release; alternatively, if the "prison term" had not yet expired, a court could approve a release based on a finding of sanity. It may be advisable to mention this aspect of U.S. v. Ecker, supra, in the notes following K.S.A. 22-3428.

RIGHT TO A JURY TRIAL

If the defendant so desires, the constitutional right to a jury trial is guaranteed in all criminal cases. This right, however, does not extend to special proceedings arising subsequent to the trial Taliaferro v. Hoogs, 46 Cal. Rptr. 147. Denial of a jury trial in a special proceeding is constitutional since all that is required is due process, which is satisfied by a judicial hearing. Williams v. Overholser, 162 F. Sup. 514. A proceeding to compel a patient's release from a state mental hospital is a special proceeding, and therefore the right to a jury cannot be demanded unless the right has been specially conferred by state statute. Smith v. Superior Court of San Luis Obispo County, 43 Cal. Rptr. 869.

Since the constitution does not require a jury trial in a special proceeding, the states have been allowed to enact statutes either

requiring or denying a jury trial in a proceedings for restoration of sanity conducted after the patient has spent time in a state mental hospital as a result of being acquitted of a particular offense by reason of insanity. The few cases decided in this area seem to be divided on the issue. Indiana and California construe the proceeding to be civil in nature and not triable by a jury. Boeldt v. Criminal Court of Marion County, 139 NE 2d 891; Smith v. Superior Court of San Luis Obispo County, 43 Cal Rptr. 869. On the other hand, Texas and our 10th circuit sister state of Colorado have held to the contrary. Swinford v. Logue, 313 S.W. 2d 547; Young v. Brofman, 338 P2d 286. Kansas, however, has not specifically ruled on the issue. In special proceedings of bastardy and dependency and neglect, the Kansas Court has followed the Indiana and California line of cases and denied the right to a jury trial. It should be noted that in these cases, a jury trial was denied because it was not specifically provided for by statute. Mayer v. Pinkerton, 340 P2d 393; Lennon v. State, 396 P2d 290.

Although Kansas has denied the right to a jury trial in some special proceedings, it is certainly not an absolute bar to granting the right to a jury in all of them. It would seem reasonable that Kansas might want to follow the 10th Circuit rule expressed by Colorado in Young v. Brofman which granted a jury trial to an inmate in a restoration of sanity proceeding, and enact a statute accordingly.

It should also be noted that in proposed statute K.S.A. 59-2918, S.B. 26, AM by H, p.28, a patient who has been civilly committed, would be entitled to a jury trial if he so desired in a later proceeding to determine his sanity. It would therefore seem reasonable that a person who was committed to the hospital because he or she was found not guilty by reason of insanity, should also be given the right to a jury trial in a

restoration of sanity proceeding. However, proposed statute K.S.A. 22-3428, H.B. 3186 AM by SCW, p.29, does not provide for this. Since the right to a trial by jury is historically granted in criminal proceedings and not civil, it would be most unreasonable to grant a jury trial to one civilly committed, and deny the right to one who was committed as a result of a criminal acquittal by reason of insanity. Thus, proposed K.S.A. 22-3428 should be amended to give the criminal acquittee substantially the same right as the civil committee.

STANDARD OF PROOF

The amended criminal code is silent on the standard of proof required in the discharge hearing. The code on civil commitments requires that the court find beyond a reasonable doubt that the patient is mentally ill in order to deny a discharge. Reasons for distinctions between the procedures governing the acquittee and committee have already been noted. Thus it would seem advisable to require the court to use a preponderance of the evidence standard in determining the dangerousness of an acquittee for the purpose of denying a discharge.

An acquittee may be committed based on a preponderance of the evidence standard. In State v. Krol, 68 NJ 236, 344 A2d 289 (1975), the court found that a showing by a preponderance of the evidence that the acquittee is mentally ill and likely to pose a danger to himself or others is sufficient to justify his commitment. The court also held that whenever the State seeks a modification or termination of a commitment order, the burden of proof may be by a preponderance of the evidence. There is a question of whether the standard of proof can continue to be by a preponderance of the evidence after the acquittee has completed his potential "maximum sentence." In Waite v. Jacobs, 475 F2d 392 (D.C. Cir. 1971), the court found that the continued detention of an acquittee who completed his "sentence" must be

governed by the same standard of proof as applied to civil committees. (See equal protection discussion, supra.) Thus, in Kansas, the acquittee who has been confined for the full duration of his "prison term" must be discharged if the court cannot find him dangerous beyond a reasonable doubt. If, however, the acquittee is seeking discharge prior to the termination of his "sentence," the standard of review could be by a preponderance of the evidence. In U.S. v. Ecker, supra, the court held that the standard of review should be the same whether the acquittee seeks a conditional or absolute release if he has not completed his "maximum sentence." The standard used in Ecker is that the existence of "a substantial problem of danger in the reasonable future" provides an adequate basis for the continued detention and confinement of an acquittee who has committed a violent criminal act unless the District Court can make an "affirmative finding that it is at least more probable than not that he will not be violently dangerous in the near future." Dixon v. Jacobs, 427 F2d 589, 602 (D.C. Cir. 1970). Furthermore, the burden of proving his sanity is placed upon the acquittee. The acquittee must prove by a preponderance of the evidence that he will not pose a threat or danger to society. State V. Lake, 7 Wash. App. 322, 499 P2d 219 (1972), also see Application of Miller, 342 N.Y.S. 2d 315, 73 Misc. 2d 69 0 (1972).

Thus a preponderance of the evidence standard may not violate the equal protection clause provided that the acquittee has not completed his potential prison term.

CONDITIONAL RELEASE

K.S.A. 22-3428 could provide for the conditional release of an acquittee. This would allow the acquittee to be released while the court could maintain some control over his actions. In Scheidt v. Meredith, 307 F. Supp. 63 (1970) the court found that the release of an acquittee may be conditioned upon acceptance of psychiatric out-patient care or

supervision. Such a conditional release can be based on defendant's continued use of prescribed medication. Receipt by the director of the security hospital of a postcard following each injection of medication was used successfully in Rowland v. Sheppard, 232 N.W. 2d 8 Minn. (1975).

When granting such a conditional release, the court must make inquiries in order to determine whether under the conditions proposed by the superintendent or the court the defendant will in the reasonable future be dangerous to himself or others. Friend v. U.S., 388 F2d 579 (D.C. Cir. 1967).

REVOCATION OF RELEASE

A provision for the revocation of the conditional release may also be added to K.S.A. 22-3428. In Darnell v. Cameron, 348 F2d 64 (D.C. Cir. 1965), the court held that only the court which had committed the defendant to a hospital and which subsequently conditionally released him had jurisdiction to revoke that release.

OTHER RECOMMENDATIONS

In addition to procedures for discharge, a provision should also be directed at the possible transfer of an acquittee from the security hospital to a lesser secured hospital.

Attachment IV

ASSISTANT ATTORNEYS

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Gary H. Jarchow	268-7436
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James E. Rumsey	268-7234
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Stephen M. Joseph	268-7635
Marvin R. Cook	268-7516
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James E. Puntch, Jr.	268-7281
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 Of The 18th Judicial District

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 Georgia A. Staton, Atty. 268-7405
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 Lt. Douglas R. Irvin, W.P.D. 268-7225
 Sgt. George L. Lux, W.P.D. 268-7503
 Tpr. Robert I. Bauer, K.H.P. 268-7480
 Lt. E. D. Miller, S.C.S.D. 268-7115
 Hugh H. Herring, Inv. 268-7281

April 6, 1976

Governor Robert F. Bennett
 State Capitol Building
 Topeka, Kansas 66612

9/8/76
 M. R. C.

Subject: Letter from Nick A. Tomasic concerning acquittal because of insanity

Dear Governor Bennett:

Based on the experience of this office, I should like to add my support to the sentiments expressed in a letter from District Attorney Nick A. Tomasic to you on April 5th, 1976. I suggest, Governor, that the matter is serious enough to require a rather fundamental inquiry going even farther than Mr. Tomasic's proposal.

I have heard Dr. Menninger say that the insanity defense should be eliminated. I feel that there is much merit to this idea which would result in a criminal code in which the first determination by the jury would be whether the defendant did, in fact, commit the offense. The second determination would be what should be done with the defendant in view of the finding that he did commit the offense. The determination would then take into account the need of society for protection, the best interests of the defendant, and the controlled environment into which he would be placed, whether hospital or other type of environment.

We would then be realistically back to the central purpose of our criminal law which is that all persons are responsible for their conduct with the narrow limited exception that if a person does not know what he is doing or does not know that it is wrong purely from a common sense legal standpoint and not from a mental illness standpoint, that that person is responsible. In that limited group of people who do not know what they are doing and do not know that it is wrong, that that person will be safely kept until he is no longer a danger to himself or others. I had a long talk with the staff people at the S.R.S. state level early this spring on this very topic of "not a danger to other patients"

Governor Robert F. Bennett

Page 2

April 6, 1976

which, of course, is no consideration at all. It is the citizens among whom the defendant is to be released who are entitled to the protection that unless there is a reasonable assurance based on the admittedly difficult determination that the defendant will not be a danger to the persons into whose midst he will be released, then he must be retained in the custody of the state.

We have a case arising from this jurisdiction called State of Kansas vs. Larry Kopf in which similar action occurred, and which has placed him in a condition of being simply a ticking time bomb waiting to go off when he is released. We have requested administrative review within the prison system; but, in truth and in fact, he should not have been placed into the prison system as being no longer a danger to himself or others because as soon as he was taken from the state hospital to the prison system, they evaluated him psychiatrically and sent him right back to the state hospital; thereby accomplishing the commencement of the running of time on an offense of escape by which he was convicted at the same time he was acquitted by reason of insanity in the slaughter of three people and the injury to another.

This is a topic that merits serious consideration, and is pointed up even more by the fact that we learned that some standard is now to be adopted in mental illness cases in which proof of mental illness must be established beyond any reasonable doubt rather than to a reasonable medical certainty. A further development in the law is being suggested that once some question of sanity is raised, it then becomes incumbent upon the state to prove sanity rather than the condition of sanity presuming to exist unless a reasonable doubt of it is raised in the minds of the jury.

I honestly believe that Mr. Tomasic's question deserves your attention to the extent of a review of the public policy of the State of Kansas in this area of the law to the end that truly insane people will be confined until they are no longer a danger to themselves or others; and persons who are "psychotic", or mentally ill, but do not fit the McNaughten legal definition of insanity, will not be discharged from the hospital by short administrative proceedings upon the grounds that they are not dangerous to other patients.

Thank you for taking the time to read this letter.

Yours truly,



KEITH SANBORN
District Attorney

cc: James Reardon, K.C.D.A.A., Topeka, Kansas
Gene Olander, District Attorney, Shawnee County, Kansas
Margaret Jordan, District Attorney, Johnson County, Kansas
Judge O. Q. Claflin, III

KS:sh

JAMES R. FETTERS
ATTORNEY AT LAW
BOX 248
SMITH CENTER, KANSAS 66907

Attachment V

June 24, 1976

John Cody M.D.
Medical Executive Director
High Plains Comprehensive
Community Mental Health Center
208 East 7th
Hays, Kansas 67601

Re: Senate Bill #26

Dear Dr. Cody,

In reference to the questionnaire that you sent me, I am of the opinion that I will pretty much continue to operate the way I have been. I only apply for Orders of Protective Custody when I feel that they are of critical importance to the safety of the community. I do not intend to prove "beyond a reasonable doubt" that an Order of Protective custody is needed due to the fact that the person is liable to harm himself or others. In order to fulfill the requirements of the letter of the law in this area, I foresee having to have expert psychiatric testimony at such a hearing and I can see that the proposed patient would have right to counsel and would therefore have the right to expert testimony also. It is absolutely impossible to comply with the letter of the law by having a hearing such as this within 48 hours. There is no way a County Attorney can prove that an Order of Protective custody needs to be issued under these circumstances.

I think that Senate Bill #26 is the most asinine, unworkable law that the Kansas Legislature has had the misfortune to pass in the eight years that I have been County Attorney.

I think that the fact that we have to prove "beyond a reasonable doubt" that an individual is mentally ill will be an absolute impossibility within 48 hours of the time that this man is taken into custody.

I note that sometimes it takes Larned two or three weeks to determine whether or not a person is in need of further care and treatment and I don't see how Jim Fetters in Smith Center, Kansas can gather the proof necessary to make such a determination within 48 hours.

Sincerely,

James R. Fetters
County Attorney,
Smith County, Kansas

JRF/hw

LEAGUE OF WOMEN VOTERS OF KANSAS



Affiliated with the
League of Women Voters of the United States

6703 Hadley
Shawnee Mission, Ks. 66204
July 16, 1976
913-722-4759

Representative Lloyd Buzzi, Chairman
Special Committee on Federal and State Affairs
State House
Topeka, Kansas 66612

Dear Representative Buzzi:

Thank you so much for providing the League the opportunity to present our views on Proposals No. 21 and 22. We do not wish to appear before the Committee, but would rather express our thoughts in letter form. I am basing the following remarks on the Kansas Criminal Code and Procedure, Articles 33 and 34, which became law July 1, 1970. I will be the first to admit, that if changes have occurred since that time, I am unaware of them!

It goes without saying, that the LWVK supports the principle that no person or group should suffer legal discrimination.

Both proposals appear to be closely related, and brings up a third issue which we hope will be included in your deliberations.

During our initial study of the penal system in 1971, we discovered that there were some men being held in the Dillon Section at Larned who were severely mentally retarded. We were told that they would never be able to stand trial.

This raises several questions in relation to a group of people who will not regain their mental faculties through "treatment", and become competent again.

1. Is there really a statutory difference between temporary insanity and mental incompetency? If so, what?
2. Are mental incompetents confined for a longer period than the sentence which could have been imposed for the crime they allegedly committed?
3. Are there statutory provisions for removing mental incompetents from the criminal justice system?
4. Are there statistics available from the Department of Corrections, or the courts, as to the number of mentally retarded (criminally insane) that are within the system at any given time?
5. Who determines release, the court, the secretary of corrections, the hospital authority, or the K.A.A.? (Is there a conflict between the Criminal Code and the Penal Code, S.B. 72)?
6. How does this entire issue speak to a speedy trial?

Attachment VI

The U.S. Supreme Court reviewed the procedures applicable to persons alleged to be incompetent, in JACKSON v. INDIANA, 406 U.S. 715 (1972). On the issue of EQUAL PROTECTION, the Court stated:

"...we hold that by subjecting Jackson to a more lenient commitment standard and to a more stringent standard of release than those generally applicable to all others not charged with offenses, and by thus condemning him in effect to permanent institutionalization without the showing required for commitment or the opportunity for release afforded by (civil commitment statutes), Indiana deprived petitioner of equal protection of the laws under the fourteenth amendment."

On the question of BUE PROCESS, the court announced: "We hold ... that a person charged by a State with a criminal offense who is committed solely on account of his incapacity to proceed in trial cannot be held more than the reasonable period of time necessary to determine whether there is a substantial probability that he will attain that capacity in the foreseeable future. If it is determined that this is not the case, then the State must either institute the customary civil commitment proceeding that would be required to commit indefinitely any other citizen, or release the defendant. Furthermore, even if it is determined that the defendant probably soon will be able to stand trial, his continued commitment must be justified by progress toward that goal".

The NATIONAL ADVISORY COMMISSION ON CRIMINAL JUSTICE STANDARDS AND GOALS, Task Force on Corrections, STANDARD 4.7, p. 129, seems to be based on JACKSON v. INDIANA, as well as other court cases. The Commission says that,

"The basic thrust (of the above standard), is to treat persons alleged to be incompetent to stand trial, or those already adjudged incompetent, the same as any other person who is accused of a crime but has not been tried. Only minor modifications of the rules of criminal procedure need be made to carry out the additional state interest of attempting to return an incompetent to a state of competency". Please see attachment of STANDARD 4.7 - PERSONS INCOMPETENT TO STAND TRIAL.

The League feels that periodic review, by the court, should be required for those serving "time", for whatever reason, at the State Security Hospital.

We agree that society must be protected, but we must also make sure that those who are incapable of defending their own constitutional rights, are guaranteed equal protection.

Sincerely,
Ann Hebbberger
Ann Hebbberger, Director LWVK
State Corrections Chairperson

STANDARD 4.7 - PERSONS INCOMPETENT TO STAND TRIAL

Each State should immediately develop procedures to seek enabling legislation, if needed, governing persons awaiting trial who are alleged to be or are adjudicated incompetent to stand trial as follows:

1. Persons awaiting trial for a criminal offense who are alleged to be incompetent to stand trial should be eligible for bail or other alternative forms of release to the same extent as other persons awaiting trial. Where the court orders an examination and diagnosis to determine competency, the court should impose the least restrictive measures required to assure presence for trial and for effective examination and diagnosis. Outpatient diagnosis should be given preference over inpatient diagnosis.
2. Persons awaiting trial for a criminal offense who have been adjudicated incompetent to stand trial should be eligible for bail or alternative forms of release to the same extent as others awaiting trial. Where the court orders treatment to return the person to competency, it should impose the least restrictive measures appropriate. Outpatient treatment should be given preference over inpatient treatment, and detention should be imposed only upon substantial evidence that:
 - a. There is a reasonable probability that the person will regain competency within the time limits recommended herein, and detention is required to assure his presence for trial; or
 - b. There is a substantial probability that treatment will return the person to competency and such treatment can be administered effectively only if the person is detained.
3. Legislation or court rule should provide that:
 - a. Periodic review be required of cases of persons adjudged incompetent to stand trial.
 - b. A maximum time limit be set for the treatment of incompetency. Such maximum limits should not exceed 2 years or the maximum prison sentence for the offense charged, whichever is shorter.
 - c. When the time limit expires, or when it is determined that restoration to competency is unlikely, the person should be released and the criminal charge dismissed, or
 - d. Where it is believed that the person adjudicated incompetent is dangerous to himself or herself, or others and should be detained, civil commitment procedures should be instituted.

2691 Missouri
Lawrence, Kansas 66044
July 13, 1976

J. Russell Mills, Jr., Research Analyst
Legislative Research Department
Room 601-N, Statehouse
Topeka, Kansas 66612

Dear Mr. Mills:

I appreciate Representative Buzzi's invitation to testify before the Special Committee on Federal State Affairs regarding Proposals 21 and 22 relating to processing persons in and out of the Larned Security Hospital. I fear that I know too little about current procedures to be of much help to the committee. Further, the organizations I am affiliated with (Kansas Council on Crime and Delinquency and its action arm, Kansas Citizens for Justice) have no positions on these matters. For whatever value they may have, however, the following views might be made a part of the committee's record without my appearing to visit with the committee.

My personal views regarding those found in the course of a criminal trial to be insane is that insanity should not be a defense against conviction. In the process of sentencing, however, every bit of evidence about the mental state of the offenders should be considered. A pre-sentence investigation report prepared by a probation officer and appended information based on psychiatric evaluation would be the minimal information needed. Psychiatric testimony, testimony by acquaintances of the offender, and the offender's own testimony would be helpful. If the conclusion of the hearing is that the judge feels the offender would benefit from psychiatric treatment, it should be ordered as a part of probation at a community mental health center or by a private practitioner or, if the offender is still deemed dangerous, at the Security Hospital. Sentences to this Hospital should be used sparingly if, as I understand, this facility is chronically overcrowded and understaffed. Such sentences should always be indeterminate with the release date to be set as suggested below.

Hearings for release of persons from the Security Hospital would, logically, vary by whether the proposed release was to the free community or to another unit of the Correctional System. The hearing for release into the community might be presided over by an administrator of the facility. The hearing should provide for testimony by persons such as attendants who know the offender well as well as by psychiatric staff. The offender should be provided with an attorney and psychiatric personnel to testify on his behalf if he desires them. As long as the facility is crowded, however, the needs of the institution are going to influence the decision as much as the needs of the offender. Release to another unit of the Corrections System would logically be less formal, but it would be ideal to get information from the same persons ~~present~~ at a release hearing, though the format might be more that of conference than of hearing.

Page 2--

Attachment VII

I hope these thoughts may be of some use. I'm sorry I cannot be of more help.

Sincerely,

William R. Arnold

William R. Arnold
Member of Executive Committee
Kansas Citizens for Justice



SOCIAL AND REHABILITATION SERVICES
STATE OFFICE BUILDING
TOPEKA, KANSAS 66612
ROBERT C. HARDER, SECRETARY

LARNED STATE HOSPITAL
LARNED, KANSAS 67550

ROD CLELLAND, SUPERINTENDENT

(316) 285-2131

June 29, 1976

DIVISION OF MENTAL HEALTH
AND RETARDATION SERVICES

JUL 1 1976

STATE DEPT. SOC. REHAB. SERV

MEMORANDUM
LARNED STATE HOSPITAL

LSH-506

Date June 21, 1976

To: Ralph Arnold, Medical Records Administrator
From: Rod Clelland, Superintendent
Subject: Security Hospital Data

Dr. Robert Haines has asked that we provide him with two specific data, which he will provide to The Legislative Research Department.

Accordingly, please present an original and two copies directly to Dr. Haines with copies to Dr. Getz and me.

The required data are:

1. The number of patients committed to State Security Hospital in one year by the courts (this does not refer to those sent for evaluation, only those actually committed by the court);
2. The number of the above committed patients who have subsequently been transferred from State Security Hospital to other psychiatric hospitals.

cc: Dr. Haines
Dr. Getz

R. A. Haines, M.D., Director
Division of Mental Health and Retardation Services
State Office Building
Topeka, Kansas

Dear Dr. Haines:

This is in response to your request for data regarding State Security Hospital as stated by Mr. Clelland in his memo of June 21, 1976.

During the twelve month period of May 1, 1975 through April 30, 1976 there were one hundred eleven (111) patients admitted to State Security Hospital by District Court action. Of these 111 admissions, thirty-nine (39) were committed for other than reasons of evaluation. Of this 39 and during this time frame, two were transferred to other psychiatric hospitals. One was administratively transferred to Topeka State Hospital and one was administratively transferred to Larned State Hospital (Alcoholism Unit).

For your information I am enclosing a work sheet which gives some further data regarding the 111 admissions.

If I may provide other data, please let me know.

Sincerely,

Ralph C. Arnold
Medical Records Administrator
Larned State Hospital

RCA:ivm

cc: Rod Clelland, Superintendent
G. W. Getz, M.D., Clinical Director

Attachment III

REPORT FROM STATE SECURITY HOSPITAL:

ADMISSIONS:

May 1975	7
June	8
July	17
August	10
September	7
October	7
November	7
December	4
January 1976	8
February	12
March	11
April	13
Total	111

39
1

Court orders other than those for evaluation

Patients on 3303	-	27
3430	-	5
3428	-	7
		<u>39</u>

DISCHARGES:

80	Patients returned to court committing them	
2	Patients returned to court other than committing court	
1	Administrative Transfer Osawatomie State Hospital	was on a 3302
1	Administrative Transfer Topeka State Hospital	was on a 3428 *
1	Administrative Transfer Larned State Hospital-Alcoholism Unit	was on a 3428 *
26	Patients now on Security	
111	Total	

Legislative Policies of the Kansas Association of School Boards

As Amended by the KASB Delegate Assembly

NOVEMBER 16, 1975



II. STATE LEGISLATION



13. Executive Sessions.

School board business is public business and all official action of the board of education should be taken in open, public session. Executive sessions may be needed, however, on certain occasions, to discuss matters prior to action by the board of education. The following subject matter areas are appropriate for discussion in executive session:

1. Personnel matters which, if discussed in public, would constitute an invasion of privacy.
2. Consultations between the board of education and its legal counsel, with regard to pending or proposed litigation.
3. Consultations between the board of education and its negotiations team.
4. Discussions pertaining to the acquisition of real property. (1-18-72)

American Civil Liberties Union of Kansas

TO: Federal and State Affairs Interim Committee
FROM: Karen Blank, executive director
SUBJECT: Kansas' Open Meetings Law

During the last interim committee hearing on Kansas' open meetings law, questions were raised by the committee concerning the effectiveness of our present law compared to the open meetings' laws in other states. To hopefully satisfy some of the questions raised, our organization did a comparison of Kansas' open meetings law with the open meetings' laws in our 49 other states. We found that while Kansas certainly does not have one of the weakest laws in the country, we can hardly count ourselves among the states that have strong and comprehensive open meetings laws. In our comparison we found three major weaknesses in Kansas' law:

- 1) Mere majority affirmation is required for any public proceeding to enter executive session for any reason;
- 2) No specific number of hours are required for prior notice of public meetings;
- 3) No provisions exist for appeal or oversight.

Unlike Kansas, most other states define the topics which may be discussed in executive session. Such topics usually include: judicial matters, parole or pardon boards, matters which are required by law to be confidential, security, and matters which involve a discussion about an individuals reputation or competence. The latter matter is usually open to the

629 Quincy, Suite 203, Topeka, Kansas 66603

public if the person's whose reputation is to be discussed requests the executive session to be open.

It should be noted that these exemptions are constitutional protections of the right of privacy of individuals, and of governing bodies to discuss proposed or pending litigation in a protected attorney-client relationship. There are, however, a small number of states that make exemptions for political party caucuses and for labor negotiations. We believe that such laws reflect the political climate of their states. Such states (ex. Ohio and Pennsylvania) tend to have strong labor and political machines. We do not believe that the secrecy of these bodies enhance the participatory concept of decision-making in our democracy.

Of the fifty states we examined, we found four states which had exceptional open meetings laws. The states are Hawaii, Massachusetts, Ohio and Oregon. At this time I will discuss the strengths and weaknesses of these laws.

The Hawaii Open Meetings Law was passed in 1975. Chapter 92, Part 1, of the Hawaii Revised Statutes states:

"Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest."

The act specifically states that provisions protecting the public's right to know are to be liberally construed, and exceptions to the open meetings requirements are to be strictly interpreted.

All meetings of the governing bodies of all executive and legislative agencies and committees are to be open to the public, except those specifically closed elsewhere in the statutes and except those meetings that are within the judicial branch or within

any body exercising judicial functions.

A two-thirds affirmative vote is required for entry into executive session for discussion of the following subjects only: personnel matters when open discussion would constitute an invasion of personal privacy (except when the person of interest requests an open session); labor or public-property acquisition negotiations; counsel from or with the body's attorney; and proceedings regarding criminal misconduct or sensitive matters of public safety. Chance meetings or electronic communication cannot be used to circumvent the letter or spirit of the above exceptions.

Advance notice of 72 hours, listing agenda, date, time, and place of all regular and special meetings, must be filed with the lieutenant governor and posted for public inspection in the governing bodies office and at the meeting site. Persons may request individual notice by mail. Emergency meetings may be held without notice, but full written minutes must be available within 30 days. Minutes of executive sessions need not include material that would defeat the purpose of the session.

Final action taken at a meeting held in violation of this act may be voided; circuit courts have power of injunction and other appropriate remedy. Violation is a misdemeanor and impeachment is allowed upon conviction.

We feel that this law shores up many of the weaknesses of our own open meetings law. As I continue to examine the next three state laws, I will discuss only those provisions which would enhance Kansas' open meetings law.

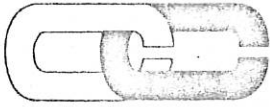
The Massachusetts' law contains strict requirements for governing bodies who decide to enter executive session. Executive sessions may be called, but only after the following conditions have been met: the body has first convened in a properly announced public session; a majority of the members have voted to enter executive session in a recorded rollcall vote; and the presiding officer has stated the purpose of the closed session and whether or not the body will reconvene after the closed session. Executive sessions may be called for reasons similiar to those in Hawaii's law. The provisions for oversight and appeal are also similiar to Hawaii's except that there are no provisions for removing an official in violation of the law from office.

The Ohio law follows the general philosophy of the Massachusetts and Hawaii laws concerning the provisions for going into executive session. Ohio does require, however, that the minutes of executive sessions reflect the general subject matter of discussion. Ohio also designates the powers of appeal and oversight to the court of appeals, and an official found in willful violation is subject to removal from office.

Now turning to the last open meetings law to be discussed, Oregon again follows the same philosophy as the other states already mentioned. However, Oregon goes further than these other states in the area of appeal and oversight. When executive sessions are called, representatives of the news media are allowed to attend under conditions agreed to by both parties. And further, when the courts determine that there has been a violation of the open meetings law, the court may order equitable relief and award reasonable attorney fees.

The American Civil Liberties Union of Kansas hopes that this committee will make use of the examples of other states' laws that we have presented today, and that you will move to make recommendations to the legislature to strengthen our present open meetings law.

We believe that "freedom of information" is one of the basic operating principles of self-government. If, as the Declaration of Independence states, governments "derive their just powers from the consent of the governed," the citizens of a democratic society must be informed: they must know what their government is doing and has done in the past, so that they may decide intelligently what their government shall do in the future. This is the "right to know." It is based on the First Amendment, which guarantees not only the right of citizens to express ideas and information, but also their right to receive ideas and information.



COMMON CAUSE

2030 M STREET, N.W., WASHINGTON, D. C. 20036

John W. Gardner, Chairman

(202) 833-1200

AN ACT REQUIRING OPEN MEETINGS OF PUBLIC BODIES

Section 1. PUBLIC POLICY. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, this act shall be construed liberally.

Section 2. DEFINITIONS. As used in this act:

(a) "Meeting" means the convening of a quorum of the constituent membership of a public body, whether corporal or by means of electronic equipment, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(b) "Public body" means any administrative, advisory, executive, or legislative body of the state or local political subdivision of the state, or any other entity created by law, that expends or disburses or is supported in whole or in part by tax revenue or that advises or makes recommendations to any entity that expends or disburses or is supported in whole or in part by tax revenue, including but not limited to any board, commission, committee, subcommittee, or other subsidiary thereof.

(c) "Quorum," unless otherwise defined by applicable law, means a simple majority of the constituent membership of a public body.

Section 3. OPEN MEETINGS. Every meeting of all public bodies shall be open to the public unless closed pursuant to sections 4 and 5 of this act.

Section 4. CLOSED MEETINGS. A public body may hold a meeting closed to the public upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to section 6 of this act, of two thirds of its constituent members. A meeting closed to the public shall be limited to matters allowed to be exempted from discussion at open meetings by section 5 of this act. The vote of each member on the question of holding a meeting closed to the public and the reason for holding such a meeting, by a citation to a subsection of section 5 of this act, shall be recorded and entered into the minutes of the meeting. Nothing in this section or section 5 of this act, shall be construed to require that any meeting be closed to the public.

Section 5. EXCEPTIONS. (a) A public body may hold a meeting closed to the public pursuant to section 4 of this act for one or more of the following purposes:

(1) discussion of the character, as opposed to the professional competence, or physical or mental health of a single individual provided that such individual may require that such discussion be held at an open meeting; and provided that nothing in this subsection shall permit a meeting closed to the public for discussion of the appointment of a person to a public body;

(2) strategy sessions with respect to collective bargaining or litigation, when an open meeting would have a detrimental effect

on the bargaining or litigating position of the public body;

(3) discussion regarding the deployment of security personnel or devices; and

(4) investigative proceedings regarding allegations of criminal misconduct.

(b) This act shall not apply to any chance meeting, or a social meeting at which matters relating to official business are not discussed. No chance meeting, social meeting, or electronic communication shall be used in circumvention of the spirit or requirements of this act to discuss or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(c) This act shall not apply to judicial proceedings, but shall apply to a court or other judicial body while exercising rule-making authority or while deliberating or deciding upon the issuance of administrative orders.

(d) This act shall not prohibit the removal of any person or persons who willfully disrupt a meeting to the extent that orderly conduct of the meeting is seriously compromised.

Section 6. NOTICE. (a) All public bodies shall give written public notice of their regular meetings at the beginning of each calendar year. The notice shall include the dates, times, and places of such meetings. (b) All public bodies shall give supplemental written public notice of any regular, special, or rescheduled meeting no later than 72 hours before the meeting. The notice shall include the agenda, date, time, and place of the meeting.

(c) Written public notice shall include, but need not be limited to:

(1) posting a copy of the notice at the principal office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held, and in at least three other prominent places within the governmental unit; and

(2) mailing a copy of the notice to any person who requests notice of such meetings; any such person shall be given notice of all special or rescheduled meetings in the same manner as is given to members of the public body.

Section 7. MINUTES. (a) All public bodies shall keep written minutes of all of their meetings. Such meetings shall include, but need not be limited to:

(1) the date, time and place of the meeting;

(2) the members of the public body recorded as either present or absent;

(3) the substance of all matters proposed, discussed, or decided, and, at the request of any member, a record, by individual member, of any votes taken; and

(4) any other information that any member of the public body requests be included or reflected in the minutes.

(b) The minutes shall be public records and shall be available within a reasonable time after the meeting except where such disclosure would be inconsistent with sections 4 and 5 of this act.

(c) All or any part of a meeting of a public body may be recorded by any person in attendance by means of a tape recorder or any

other means of sonic reproduction except when a meeting is closed pursuant to sections 4 and 5 of this act; provided that in so recording there is no active interference with the conduct of the meeting.

Section 8. VOIDABILITY. Any final action taken in violation of sections 3 and 6 of this act shall be voidable by a court of competent jurisdiction. A suit to void any final action must be commenced within 90 days of the action.

Section 9. ENFORCEMENT. (a) The Attorney General and the public prosecutors of competent jurisdiction shall enforce the provisions of this act.

(b) Any person denied the rights conferred by this act may commence a suit in a court of competent jurisdiction for the county or city in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of this act or to determine the applicability of this act to discussions or decisions of the public body. The court may order payment of reasonable attorney fees and court costs to a successful plaintiff in a suit brought under this section.

Section 10. PENALTIES. Any person knowingly violating any provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 or imprisoned not more than six months, or be both fined and imprisoned.

Section 11. CONFLICT OF LAW. If the provisions of this act conflict with any other statute, ordinance, regulation, or rule, the provisions of this act shall control.

Section 12. SEVERABILITY. If any provision of this act, or the application of this act to any particular meeting or type of meeting is held invalid or unconstitutional, such decision shall not affect the validity of the remaining provisions or the other applications of this act.

Section 13. EFFECTIVE DATE. This act shall take effect 30 days after enactment into law.

June 1, 1974

	Involuntary Patient (civil commitment)	Defendant Incompetent to Stand Trial	Defendant Not Guilty by Reason of Insanity	Convicted Defendant in Need of Treatment
Commitment Procedure	Hearing required on issue of commitment	Hearing required on issue of competency; no hearing required on issue of commit- ment; commitment automatic on finding of incompetency	Issue of insanity heard at trial; no hearing required on issue of commitment; commitment automatic on acquittal on ground of insanity	No hearing required
Mental Examination	Required	Not required	Not required	Required
Rights during Commitment Procedure	(1) Counsel (2) Jury required on request (3) Person required to be present; presence can't be waived (4) No medication or ther- apy allowed within 48 hours before hearing unless necessary to sustain life or to pro- tect the person or others; record of all medication or therapy within 48 hours before hearing required	(1) Counsel (2) Jury may be impaneled but not required (3) Defendant required to be present	(1) Counsel (2) Jury	(1) Counsel furnished copy of report of the examination and evaluation
Standard for Commitment	Person is beyond a reason- able doubt a mentally ill person; a mentally ill per- son is a person who	Person, because of mental ill- ness or defect, is unable to understand the nature and purpose of the proceedings	At the time of the crim- inal act, the person lacked capacity to under- stand the nature and	Person is in need of psychiatric care and treatment, such treat- ment may materially aid

Standard for Commitment (continued)	(1) is mentally impaired to the extent that he or she needs treatment and (2) is dangerous to self or others and (3) lacks the understanding or capacity to make decisions respecting his or her need for treatment and (4) refuses to seek treatment	against him or her or to make or assist in making his or her defense	quality of the act or, due to inability to distinguish between right and wrong, did not know the act was wrong	in rehabilitation and the person and society are not likely to be endangered by permitting such care and treatment in lieu of confinement or imprisonment
Alternatives to Commitment Considered	Yes; required	No	No	No
Appeal of Commitment Order Allowed	Yes	No	No	Yes
Length of Commitment	Indefinite	Indefinite	Indefinite	No longer than maximum term for crime of which person is convicted
Rights during Commitment	Absolute rights: (1) to refuse involuntary labor and to be paid for work performed other than housekeeping of own bedroom and bathroom (2) not to be subject to certain hazardous treatment procedures without written consent of patient and patient's parent, guardian or other person in loco parentis	None	None	None

Rights during
Commitment
(contd)

(3) to have explained, if requested, the nature of all medications and treatments prescribed, the reason for the prescription and the most common side effects

(4) to communicate by letter with the secretary of SRS, the head of the treatment facility and any court, physician or attorney, and any communications to and from such persons shall not be examined

(5) to be visited by his or her physician or attorney at all times

(6) to be informed orally and in writing of his or her rights upon admission to a treatment facility

Rights subject to restriction, for good cause only, by head of treatment facility:

(1) To wear own clothes, keep and use own personal possessions and keep and be allowed to spend own money

(2) to communicate by telephone and letter; if mail is restricted, it must be opened and examined in the patient's presence

(3) to conjugal visits if facilities are available

(4) to receive visitors each day

Rights during commitment (ad)	Additional rights: (1) Least amount of restraint necessary shall be used in transporting person to treatment facility (2) No restraint or seclusion unless required to prevent substantial bodily harm to self or others; restraint or seclusion limited to least amount necessary; use must be re-evaluated periodically (3) Confidentiality of records			
Standard of Treatment	Humane treatment consistent with accepted ethics and practices	None	None	None
Periodic Review of Commitment	Person entitled to review of medical records by court every 90 days; right to counsel	None	None	None
Release	(1) Head of treatment facility shall discharge patient when no longer in need of treatment (2) Patient may apply to court for discharge; hearing required; patient's discharged if there is reasonable doubt that patient continues to be mentally ill (3) Upon periodic review, patient is discharged if there is reasonable doubt that patient continues to be mentally ill	When reasonable grounds exist to believe that person is competent to stand trial, a hearing on competency is held; time during commitment may be credited against sentence	When it appears that the person isn't dangerous to other patients, person may be transferred from state security hospital to other state hospital; person may be discharged as an involuntary patient after 30-days notice to county or district attorney, sheriff and court; county or district attorney may request hearing on discharge	When it appears to the chief medical officer of the institution that the person is not dangerous to self or others and will not be improved by further detention in the institution, the person is returned to the court; time during commitment must be credited against sentence

Attachment XIII



FLETCHER BELL
COMMISSIONER OF INSURANCE

July 15, 1976

Mr. J. Russell Mills, Jr.
Research Analyst
The Legislative Research Department
Room 551-N, Statehouse
Topeka, Kansas 66612

Special Committee on Federal and
State Affairs - No. 60

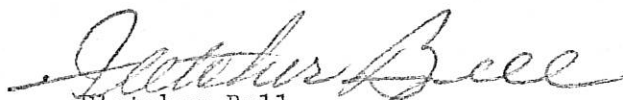
Dear Mr. Mills:

Thank you for your letter of June 25, 1976 inviting me to appear on Proposal No. 60, concerning steam boiler insurance and inspections on July 21, 1976.

I will be unable to appear before the committee because I will be attending the Zone V Insurance Commissioner's meeting on that date. In view of this, I am therefore enclosing a memo of comments which I would ask that you present to the committee regarding this matter.

I will be pleased to answer any questions that you or members of the committee might have concerning my comments.

Yours very truly,


Fletcher Bell
Commissioner of Insurance

FB:pli
Enclosure
cc: Representative Lloyd Buzzi

M E M O R A N D U M

TO: Representative Lloyd Buzzi, Chairman
Special Committee on Federal and State Affairs

FROM: Fletcher Bell
Commissioner of Insurance

SUBJECT: Proposal No. 60 - Steam Boiler Insurance and Inspection

DATE: July 15, 1976

The following comments are presented for your information and consideration regarding steam boiler insurance.

The enactment of Senate Bill 531 by the 1975 Legislature has caused increased concern on the part of many insurance companies and members of the general public.

Initially, we received a few letters from members of the public inquiring of the mandatory insurance requirements; however, I do not recall that any letters of complaint have been received in 1976. The law, of course, affected owners of small steam boilers, which include dry cleaning operators, and required them to obtain insurance in compliance with the new Kansas statutes. Previously, many of the owners of small steam boilers had apparently relied upon the state boiler inspector to obtain the inspection service needed to continue operation.

In 1975, Mr. Michael L. Johnston, Director of the Industrial Safety Division of the Department of Labor, informed this department that there were approximately 2,300 units registered by the state boiler inspector. We were informed that approximately 400 of those units were inspected by the Department of Labor.

Remaining units not inspected by the state (approximately 1,900) were apparently inspected by the insurance companies affording coverage. Previously, the Certificate of Inspection issued by an insurance company apparently satisfied the requirements of the state boiler inspector. Many of the small boiler owners incurred an increased cost of operation when they had to purchase an insurance policy to obtain the state certification. Previously, the required inspection certificate could be obtained from the state boiler inspector for a nominal amount.

We are enclosing for your information a copy of Article 9 of the Kansas Statutes, pertaining to boiler inspection which was repealed by the 1975 Kansas Legislature.

Memorandum
July 15, 1976
Page Two

The former article enumerated the powers and duties of the state boiler inspector and empowered the labor commission to prescribe rules and regulations for the purpose of carrying out the act. The regulations governing boiler inspection were found in K.A.R. Articles 3 and 4 and are attached for your information.

We have also had concern expressed by the insurance companies with regard to the fact that apparently the previous standards for a steam boiler imposed by the state boiler inspector were effectively removed when the position of the boiler inspector was abolished. The state boiler inspector had issued various rules and regulations outlining minimum standards of compliance for a steam boiler which were used as a guideline and followed by insurance companies affording coverage. These standards no longer exist as a state regulation and the insurance companies are faced with the problem of providing insurance coverage for units which are no longer governed by a state standard. This could eventually lead to the utilization and use of units which would have been declared inferior and unacceptable under previous standards.

Because Senate Bill 531 repealed the statutes authorizing these regulations, it is assumed that they are no longer in effect, or even if they are, there is no official or agency authorized to administer them.

The Kansas Insurance Department provided an explanation of Senate Bill 531 to all insurance companies authorized to write boiler and machinery insurance in Kansas. This bulletin is attached to further explain the effects of the new law. To the best of our knowledge, all insurance companies are complying with the provisions of the law.

We believe members of the public who complain about the compulsory insurance requirements are concerned principally with the fact that the cost of insurance exceeds the cost of the inspection previously performed by the state boiler inspector. The concerns of insurance companies can be summarized by stating that they feel there are no state statutes or regulations which prescribe acceptable standards for boilers.

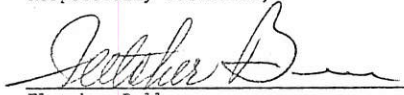
A unique problem that recently came to our attention last week concerns insurance for a steam operated threshing machine. There are apparently a limited number of these units around our state and they have been popular attractions during this bicentennial year. The provisions of our new law do not seem to impose the compulsory insurance requirements on this type of unit; however, we were not certain of any company that would write the risk. We finally located one agency who would offer to quote coverage on a "special event" basis, subject to certain underwriting restrictions. We have not heard, however, from the owner of the threshing machine

Memorandum
15, 1976
Three

to determine whether the coverage was available.

The above comments are submitted for your information and review and I will be pleased to answer any questions you might have.

Respectfully submitted,



Fletcher Bell
Commissioner of Insurance

FB:pli
Attachments

Insurance Department

FLETCHER BELL
Commissioner



State Office Building—First Floor
Topeka 66612 913-296-3071

STATE OF KANSAS

BULLETIN NO. 1975 - 17

TO: All Companies Authorized for Boiler and Machinery Insurance
FROM: Fletcher Bell, Commissioner of Insurance
SUBJECT: Application of Senate Bill No. 531
DATE: June 6, 1975

The 1975 session of the Kansas Legislature enacted Senate Bill No. 531, which provides that, effective July 1, 1975, it will be mandatory for every person, partnership, firm, corporation or other association of persons owning a steam boiler within this state to maintain boiler insurance which shall require inspection of such boiler at least annually.

The purpose of this bulletin is to advise you of the enactment of the aforementioned bill so that you may take the appropriate steps to notify your policyholders, who are presently afforded coverage for Boiler and Machinery insurance, that it will be mandatory for the owner of a boiler to maintain insurance continuously on said boiler as of the effective date of the bill. This bill also requires that such insurance must provide for the inspection of the particular boiler(s) being covered, at least annually.

Your company must, therefore, initiate the appropriate procedure to revise the Inspection Condition of all existing policies to comply with the provisions of Senate Bill No. 531. It will no longer be permissible for such condition to provide for the optional inspection of any boiler(s) being covered. It is anticipated that such procedure will necessitate the submission of a new filing, or a change in an existing filing. This policy revision must be accomplished as soon as possible, but no later than July 1, 1975.

Any Boiler and Machinery insurance policy currently approved and on file with this department or any such insurance policy submitted to this department in the future that has not been amended to incorporate therein the statutory requirements as provided for by the enactment of Senate Bill No. 531, will be subject to this department's disapproval as of July 1, 1975. Also, if the necessary filings have not been made with this department by July 1, 1975, your company's outstanding Boiler and Machinery insurance policies will be considered to be in direct violation of the statutory requirements as provided for by Senate Bill No. 531.

A photocopy of Senate Bill No. 531 is contained on the reverse side of this bulletin for your reference. You should note those classifications of boilers which are exempted from the provisions of Senate Bill No. 531.

Please acknowledge receipt of this bulletin by return mail and provide this department with the necessary filings prior to July 1, 1975.

Very truly yours,

Fletcher Bell
Commissioner of Insurance

SENATE BILL No. 531

AN Act concerning steam boilers; requiring boiler insurance for certain steam boilers; prohibiting certain acts and declaring any violation thereof to be a crime; repealing K. S. A. 44-901 to 44-911, inclusive.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Except as provided in subsection (b), every person, partnership, firm, corporation or other association of persons owning a steam boiler within this state shall be required to maintain boiler insurance therefor which shall require inspection of such boiler at least annually. It shall be unlawful to fail to maintain insurance as required herein. Any violation of this section shall be a class C misdemeanor.

(b) The provisions of this section shall not apply to: (1) Boilers of railway locomotives subject to federal inspections; (2) boilers operated and regularly inspected by railway companies operating in interstate commerce; (3) boilers under the jurisdiction and subject to inspection by the United States government; (4) boilers used exclusively for agricultural purposes; (5) heating or steaming boilers or apparatus in residences, buildings and apartment houses using a pressure of less than fifteen (15) pounds per square inch or having a safety valve set at not higher than fifteen (15) pounds pressure per square inch; (6) fire engine boilers brought into the state for temporary use in times of emergency; (7) any establishment in which petroleum products are refined or processed in which all boiler and pressure equipment is inspected and rated either by an inspection service regularly maintained within such establishment or provided by a manufacturer, designer or insurer of such equipment, in accordance with the applicable provisions of any published code or codes of rules or recommended practices nationally recognized in the industry of which such establishment is a part as providing suitable standards for the inspection, repair and rating of pressure equipment of the type used in such establishment; (8) antique, scale model or other steam boilers which are used exclusively for exhibition purposes; or (9) steam boilers which are regularly inspected by any state agency.

Sec. 2. K. S. A. 44-901 to 44-911, inclusive, are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Article 9.—BOILER INSPECTION

Cross References to Related Sections:

Boiler insurance by state agencies authorized, see 74-4705.

44-901. State boiler inspector; appointment; deputy; qualifications; compensation. The state labor commissioner shall, on or before the first day of July, 1953, and every two (2) years thereafter appoint a state boiler inspector, who shall work under the direct supervision of said labor commissioner and who shall devote his full time to the duties of his office.

The labor commissioner may appoint a deputy inspector possessing the same qualifications as the state boiler inspector, whenever the same may be necessary to carry out the provisions of this act, and such deputy inspector shall be subject to and governed by the same rules and regulations applicable to and governing the acts and conduct of the state boiler inspector. The persons so appointed shall be practical boilermakers and shall be qualified by not less than ten (10) years' experience in the construction, installation, repair and inspection of boilers, steam generators, superheaters, with knowledge of their operation and use for the generating of steam for power, heating or other purposes, and shall neither directly or indirectly be interested in the manufacture, ownership or agency of the same.

Said boiler inspector shall receive such compensation as the state labor commissioner shall prescribe, subject to the approval of the state finance council. Compensation of the deputy boiler inspector when appointed shall be prescribed by the state labor commissioner. Said deputy boiler inspector shall not be subject to the Kansas civil service act. [L. 1953, ch. 250, § 1; L. 1961, ch. 409, § 2; L. 1965, ch. 458, § 3; L. 1967, ch. 434, § 12; July 1.]

Research and Practice Aids:

Steam 4.

Hatcher's Digest, Inspections § 1.

C. J. S. Steam §§ 13, 14.

44-902. Powers and duties of inspectors; certificate of inspection; posting. (a) It shall be the duty of the state boiler inspector, to inspect or cause to be inspected internally and externally, at least once every twelve (12) months, in order to determine whether all such equipment is in a safe and satisfactory condition, and properly constructed and maintained for the purpose for which the same is used, all steam boilers, including steam boilers constructed for scale model equipment and used exclusively for exhibition and show purposes, tanks, jacket kettles, generators and other appurtenances used in this state for generating and transmitting steam for power, or for using steam under pressure for heating or steaming purposes, in order to determine whether said equipment is in a safe and satisfactory condition, and properly constructed and maintained for the purpose for which the same is used. The state labor commissioner shall prescribe and enforce regulations providing standards for steam boilers constructed for scale model equipment.

(b) The labor commissioner and the boiler inspectors shall have the right and power to enter any building or structure, public or private, for the purpose of inspecting any equipment covered by this act or gathering information with reference thereto.

(c) Upon making an inspection of any equipment covered by this act, the inspector shall give to the owner or user thereof a certificate of inspection, upon forms prescribed by the labor commissioner, which certificate shall be posted in a place near the location of said equipment.

(d) The owner or user of any equipment covered in this act, or persons in charge of same, shall not allow or permit a greater pressure in any unit than is stated in the certificate of inspection issued by the inspector. [L. 1953, ch. 250, § 2; L. 1967, ch. 283, § 1; July 1.]

Research and Practice Aids:

Hatcher's Digest, Inspections § 1.

44-903. Act inapplicable to certain boilers. The provisions of this act shall not apply to boilers of railway locomotives subject to federal inspection, boilers operated and regularly inspected by railway companies operating in interstate commerce, boilers under the jurisdiction and subject to inspection by the United States government, boilers used exclusively for agricultural purposes, heating or steaming boilers or apparatus in residences, buildings, and apartment houses using a pressure of less than fifteen (15) pounds per square inch or having a safety valve set at not higher than

fifteen (15) pounds pressure per square inch, and fire engine boilers brought into the state for temporary use in times of emergency, nor in any establishment in which petroleum products are refined or processed in which all boiler and pressure equipment is inspected and rated either by an inspection service regularly maintained within such establishment or provided by a manufacturer, designer, or insurer of such equipments, in accordance with the applicable provisions of any published code or codes of rules or recommended practices nationally recognized in the industry of which such establishment is a part as providing suitable standards for the inspection, repair and rating of pressure equipment of the type used in such establishment. [L. 1953, ch. 250, § 3; June 30.]

44-904. Rules and regulations by labor commissioner; investigations and reports of explosions; records of boilers and equipment. (a) The labor commissioner is hereby authorized and empowered to prescribe rules and regulations within the provisions of this act, for the purpose of carrying the same into effect including rules and regulations for the methods of testing equipment and construction and installation of new equipment covered by this act, and said rules and regulations shall, as nearly as possible, conform to the rules formulated by the boiler code committee of the American society of mechanical engineers and known as the American society of mechanical engineers boiler code of 1937 as amended.

(b) The state boiler inspector shall investigate and report to the labor commissioner the cause of any boiler explosion that may occur in the state, the loss of life, injuries sustained, and estimated loss of property, if any; and such other data as may be of benefit in preventing a reoccurrence of similar explosions.

(c) He shall keep in the office of the labor commissioner a complete and accurate record of the name of the owner or user of each steam boiler or other equipment subject to this act, giving a full description of said equipment, including the type, dimensions, age, condition, the amount of pressure allowed, and the date when last inspected. [L. 1953, ch. 250, § 4; June 30.]

44-905. Notice of intation to install equipment; contents. (a) Before any equipment included under the provisions of this act is installed by any owner, user or lessee thereof, a ten (10) days written notice of in-

tention to install same shall be given to the labor commissioner. The notice shall designate the proposed place of installation, the type and capacity of such equipment, the use to be made thereof, the name of company which manufactured same, and whether said equipment is new or used. [L. 1953, ch. 250, § 5; June 30.]

44-906. Report of equipment; contents; waiver of inspection, when; notice of defects, contents. (a) Within six (6) months after the taking effect of this act, upon forms prescribed by the labor commissioner, all owners, users and lessees of a steam boiler or boilers, or other equipment or appurtenances referred to in this act, shall report to the labor commissioner the location, type and indicated capacity of each unit of such equipment, together with all information and data respecting the age and date of installation and condition of same.

(b) The inspection required by this act shall not be made where any owner or user of any equipment under this act, obtains an inspection by a representative of a reputable insurance company, and obtains a policy of insurance from said company upon said equipment, and furthermore files with the labor commissioner a certificate of inspection by said insurance company, or a certificate of renewal of insurance, upon forms approved by the commissioner, and a statement that said equipment is insured. Upon such showing the labor commissioner shall issue a waiver of inspection for the period covered by said policy of insurance.

(c) The state boiler inspector shall notify the user of any equipment or appurtenance found to be unsafe or unfit for operation in writing, setting forth the nature and extent of such defects and condition. Said notice shall indicate whether or not said equipment shall be used without repair or replacement of defective parts, or whether or how said equipment may be used in a limited capacity before repairs or replacements are made, and the state boiler inspector may permit the user a reasonable time to make such repairs or replacements. [L. 1953, ch. 250, § 6; June 30.]

44-907. Annual inspection fees; special inspections, fees and expenses. (a) An annual inspection fee of each boiler made by the boiler inspector, according to the terms of the act of which this act is amendatory, shall be

paid by the owner or user to the boiler inspector on the following horsepower basis:

Less than 5 horsepower	\$9
5 horsepower but less than 10 horsepower	12
10 horsepower but less than 15 horsepower	15
15 horsepower but less than 30 horsepower	30
30 horsepower and over	75

(b) An annual inspection fee of thirty dollars (\$30) for each of the following units made by the boiler inspector, according to the terms of the act of which this act is amendatory, shall be paid to the boiler inspector by the owner or user thereof: Steam stills, tanks, jacket kettles and any other reservoirs, fired or unfired, having pressures in excess of one hundred fifty (150) pounds per square inch.

(c) An inspection fee of five dollars (\$5) shall be paid to the boiler inspector for an inspection of a traction engine type boiler if said boiler is not used commercially but is used for exhibition purposes only.

(d) If at any time the owner, user or agent of the owner of a steam boiler or equipment within the state shall desire a special inspection of any boiler or equipment, it shall be made by the state boiler inspector, or his deputy, after due request therefor, and the inspector making the inspection shall collect a fee in accordance with the rate prescribed in subsection (a), (b) or (c) of this section, as the case may be, plus an additional fee of ten dollars (\$10) for each boiler and his expenses in connection therewith. [L. 1953, ch. 250, § 7; L. 1957, ch. 298, § 1; L. 1959, ch. 224, § 1; L. 1962, ch. 35, § 1; July 1.]

Research and Practice Aids

Hatcher's Digest, Inspections § 2.

44-908. Moneys to state general fund. All moneys collected by the boiler inspector or his deputies under the provisions of this act shall be paid daily to the labor commissioner, who shall deposit the same, at least monthly, in the state treasury. Said fees shall be by the state treasurer placed in the general fund of the state. [L. 1953, ch. 250, § 8; L. 1958, ch. 51, § 1 (Budget Session); July 1.]

44-909. Penalty for violating act. Any person or persons, corporations and directors, managers and superintendents, and officers thereof, violating any of the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in a sum not more than one hundred dollars (\$100). [L. 1953, ch. 250, § 9; June 30.]

44-910. Enjoining unlawful use of equipment. In addition to any other remedy, when any owner, user or person in charge of any equipment covered by this act shall continue to use the equipment after receiving notice of a defect or defects in such equipment without first correcting said defects or making replacements required, the state labor commissioner shall be entitled in any proceeding brought in the district court of the county in which such use continues to have an order and judgment restraining or enjoining such unlawful use of equipment; and no bond shall be required for such restraining order or injunction. [L. 1953, ch. 250, § 10; June 30.]

44-911. Invalidity of part. If any part of this act be adjudged unconstitutional it shall not invalidate the remainder of this act. [L. 1953, ch. 250, § 11; June 30.]

type, a component or structural part of the machine being a power boiler.

(30) *Fusion welding.* The term, fusion welding, shall mean a process of welding metals in a molten, or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxyacetylene or oxyhydrogen flame or by the electric arc. Thermit welding is also classed as fusion welding.

(31) *Major repair.* The term, major repair, as used herein shall be considered as one upon which the strength of a boiler, tank, or jacketed kettle would depend.

(32) *Horsepower.* The term, horsepower, as used herein shall mean one or more units of 10 square feet of heat absorbing surface. (Authorized by K. S. A. 44-902, 44-904; effective Jan. 1, 1966; amended Jan. 1, 1968.)

Revisor's Note: Regulation 49-2-1 was amended by emergency regulation (E-67-20) effective Sept. 28, 1967.

Article 3.—ADMINISTRATION (BOILER INSPECTION)

49-3-1. Reports; registration. (1) *Manufacturers data reports to be filed.* Manufacturers data reports on boilers, tanks, and jacketed kettles which are to be operated at pressure in excess of fifteen (15) pounds per square inch gage, (unless otherwise exempted by these rules and regulations) shall be filed with the chief inspector before installation. If the boilers, tanks, and jacketed kettles are of special design, blueprints showing details of proposed construction shall be submitted to the chief inspector and his approval secured before construction is started.

(a) If new or used equipment is being installed by the owner or user of any plant, similar notice shall be furnished the chief inspector.

(2) *Registration of boilers, tanks, and jacketed kettles.* Within six months from June 30, 1953, all owners or users of boilers, tanks, and jacketed kettles now in use or installed ready for use in the state of Kansas, shall report to the chief inspector on forms prescribed by the department, giving the location, type, capacity, age, and date of installation.

(3) *Registration of scale model equipment.* Within six months from August 31, 1967, all owners or users of scale model equipment now in use or ready for use in the state of Kansas, shall report to the chief inspector on forms prescribed by the department, giving the

location, type, approximate scale, capacity, age, and date of installation and/or date shipped into this state. (Authorized by K. S. A. 44-902, 44-904; effective Jan. 1, 1966; amended Jan. 1, 1968.)

Revisor's Note: Regulation 49-3-1 was amended by emergency regulation (E-67-20) effective Sept. 28, 1967.

49-3-2. Inspection of boilers, tanks, and jacketed kettles. All power boilers, tanks, and jacketed kettles shall be inspected annually both internally and externally while not under pressure and shall also be inspected annually externally while under pressure if possible.

(a) Provided that a grace period of two (2) months longer than the twelve (12) months period may elapse between internal inspections of a boiler while not under pressure or between external inspections of a boiler while under pressure.

(b) Unfired pressure vessels not subject to internal corrosion shall be inspected externally at intervals set by the commissioner, but internal inspections shall not be required of unfired pressure vessels, the contents of which are known to be noncorrosive to the material of which the shell, head, or fittings are constructed, either from the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor: *Provided*, That such vessels are constructed in accordance with the rules and regulations of the commissioner or in accordance with standards substantially equivalent to the rules and regulations of the commissioner, in effect at the time of manufacture. (Authorized by K. S. A. 44-902; effective Jan. 1, 1966.)

49-3-3. Preparation for inspection. The owner or user shall prepare each boiler, tank, or jacketed kettle for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary, on the date specified by the chief inspector, deputy inspector, or special inspector, which date shall be not less than seven (7) days after the date of notification. (Authorized by K. S. A. 44-902; effective Jan. 1, 1966.)

49-3-4. Reciprocal commissions. Upon the request of a boiler insurance company, authorized to do business in this state, a commission as special inspector shall be issued by the commissioner, without charge, to an inspector in the employ of such insurance company: *Provided*, The inspector is at least twenty-five (25) years of age, and shall have had at least three years practical experience in the construction, maintenance, repair or operation of high pres-

sure boilers as a mechanical engineer, steam engineer, or boiler-maker, or shall have had at least three (3) years experience as an inspector of high pressure boilers (a credit of two [2] years of the required experience will be given to applicants holding a mechanical engineering degree from a recognized college of engineering), and holds a certificate of competency or commission issued by a state which has adopted the A. S. M. E. boiler construction code and which holds a written examination similar to that required by the state of Kansas. Application for a reciprocal commission shall be made on a form to be furnished by the commissioner, and shall be accompanied by a photostatic copy of the applicant's state commission or certificate of competency. (Authorized by K. S. A. 1965 Supp. 44-901; effective Jan. 1, 1966.)

49-3-5. Inspectors to have no other interests. Inspectors commissioned by the state of Kansas shall not be engaged in the sale of any article or device that is related to boilers and shall devote their full time to inspection work. (Authorized by K. S. A. 1965 Supp. 44-901; effective Jan. 1, 1966.)

49-3-6. Insurance companies. (1) *Insurance companies.* Each insurance company shall within one year from effective date of these rules submit to the chief inspector complete data of each nonstandard boiler, tank, and jacketed kettle insured by them in the state of Kansas on form No. P-5 of the A. S. M. E. code. All other internal inspections shall be reported to the department within thirty (30) days after inspection on form No. P-6 of the A. S. M. E. code. External inspections shall be reported on form P-6 only when hazardous conditions affecting the safety of the boiler, tank, and jacketed kettle are found to exist.

(2) *Insurance companies to notify the chief inspector of new, canceled or suspended risks.* All insurance companies shall notify the chief inspector within thirty (30) days of all boiler, tank, or jacketed kettle risks written, canceled, not renewed or suspended because of unsafe conditions.

(3) *Insurance companies to notify chief inspector of defective boilers, tanks, and jacketed kettles.* If a special inspector, upon the first inspection of a new risk finds that the boiler, tank, or jacketed kettle or any of the appurtenances are in such condition that his company refuses insurance, the company shall immediately notify the chief inspector and submit a report of the defects. (Authorized by K. S. A. 44-906; effective Jan. 1, 1966.)

49-3-7. Defective conditions disclosed at time of external inspections. If upon an external inspection there is evidence of a leak or crack, or of the covering of the boiler, tank, or jacketed kettle shall be removed to satisfy the inspector in order that he may determine as to the safety of the boiler, tank, or jacketed kettle, or if the covering cannot be removed at that time, he may order the operation of the boiler, tank, or jacketed kettle stopped until such time as the covering can be removed and proper examination made. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-8. Owner to notify chief inspector in case of accident. When an accident occurs which serves to render a boiler, tank, or jacketed kettle inoperative, the owner or user shall immediately notify the chief inspector, and submit a detailed report of the accident. In case of serious accident, such as explosion, notice shall be given immediately by telephone, telegraph, or messenger and neither the boiler, tank, or jacketed kettle, nor any of the parts thereof, shall be removed or disturbed before an inspection has been made by the chief inspector, deputy inspector, or special in-

spector, unless for the purpose of saving human life. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-9. Validity of inspection certificate. An inspection certificate, issued in accordance with the boiler act shall be valid until expiration (not more than 14 months) unless some defect or condition affecting the safety of the boiler, tank, or jacketed kettle is disclosed: *Provided, however,* That a certificate issued for a boiler, tank and jacketed kettle, inspected by a special inspector, shall be valid only if the boiler for which it was issued continues to be insured by a duly authorized insurance company.

(a) The owner or user who causes a boiler, tank, or jacketed kettle to be operated without possessing a valid certificate of inspection shall be subject to the penalty provided for in section 44-909 of the Kansas boiler inspection act. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-10. Restamping of boilers, tanks, and jacketed kettles. When the stamping on a boiler, tank, or jacketed kettle becomes indistinct the inspector shall instruct the owner or user to have it restamped. Request for permission to restamp the boiler, tank, or jacketed kettle shall be made to the chief inspector and proof of the original stamping shall accompany the request authorized by the chief inspector. Restamping authorized by the chief inspector shall be done only by an inspector, and shall be identical with the original stamping except that it will not be required to restamp the A. S. M. E. symbol. Notice of completion of such restamping shall be filed with the commissioner by the inspector who stamped the boiler together with a facsimile of the stamping applied. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-11. Unsafe and condemned boilers. (1) *Unsafe and condemned boilers.* If upon inspection a boiler, tank, or jacketed kettle is found to be in such condition that it is unsafe to operate, the inspection certificate shall be suspended by the chief inspector who shall be notified by a deputy inspector or special inspector. Any person, firm, partnership, or corporation causing such object to be operated shall be subject to the penalty as provided for in the boiler inspection act.

(2) *Condemned boilers, tanks, and jacketed kettles.* Any boiler, tank, or jacketed kettle having been inspected and declared unsafe by the chief or deputy inspector shall be stamped by the inspector with an arrowhead stamp having an overall length of $\frac{1}{2}$ inch and

width of $\frac{3}{8}$ inch on either side of the letter "X" and the letters "KAN," as shown by the following facsimile, which will designate a condemned boiler, tank, or jacketed kettle.

← X-KAN-X →

Any person, firm, partnership, or corporation using or offering for sale a condemned boiler, tank, or jacketed kettle for operation within this state shall be subject to the penalties provided in the boiler inspection act. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-12. Removal from state; nonstandard boilers. (1) *Removal of used boilers, tanks, and jacketed kettles from the state.* If a Kansas standard or A. S. M. E. boiler, tank or jacketed kettle located in this state is to be moved to another state for temporary use, or repairs, applications shall be made by the owner or user to the chief inspector for permission to reinstall the boiler, tank, or jacketed kettle.

(2) *Nonstandard boilers, tanks, and jacketed kettles.* A nonstandard boiler, tank, and jacketed kettle now in use in this state, if removed outside the boundaries of the state, cannot be brought in and reinstalled, without permission of the commissioner.

(3) Shipment of nonstandard boilers, tanks, and jacketed kettles into this state for use is prohibited. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-13. Reinstallation of boiler. (1) *Installing used or secondhand boilers, tanks, and jacketed kettles.* Before a used or secondhand boiler, tank, or jacketed kettle can be reinstalled or shipped into this state, an inspection must be made by a state inspector or by an inspector qualified by an examination of grade equal to that required by the state of Kansas, and data submitted by him shall be filed by the owner or user of the boiler with the chief inspector for his approval.

(2) *Reinstalled boilers, tanks, and jacketed kettles.* In any case where a stationary boiler, tank, or jacketed kettle is moved and reinstalled, the fittings and appliances must comply with the Kansas code for new installations. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-14. Factors of safety for existing installations. The commissioner authorizes an inspector to increase factors of safety if the condition of the boilers, tanks, and jacketed kettles warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the commissioner who may

request a joint inspection by the chief inspector and the deputy or special inspector. Each inspector shall render his report to the commissioner who shall render the final decision, based upon the data contained in all the inspectors' reports. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-15. Installation; repairs. (1) *Inspection of drum heads.* For new installations, provision shall be made to permit making inspections of the drum heads of all boilers. For existing installations, heads of lower drums shall be thoroughly examined at the annual inspection, and either a sufficient amount of brickwork shall be removed or inspection doors provided to enable this examination to be made.

(2) *Major repairs.* Where a major repair is necessary, an inspector shall be called for consultation and advice as to the best method of making such repair; after such repair is made it shall be subject to the approval of the inspector. Repairs to all boilers, tanks, and jacketed kettles and their appurtenances, shall conform as nearly as practicable to the requirements of the national board of boiler and pressure vessel inspectors.

(3) *Repairs by fusion welding.* When repairs are to be made wherein fusion welding is to be used, permission shall be obtained from the chief inspector, a deputy inspector or a special inspector and the welding shall be done in accordance with the rules recommended by the national board of boiler and pressure vessel inspectors.

(4) *Riveted patches.* In applying riveted patches the design of the patch and method of installation shall be in accordance with the rules for riveted patches recommended by the national board of boiler and pressure vessel inspectors. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-16. Removal of safety appliances. No person, except under the direction of an inspector, shall attempt to remove or shall do any work upon any safety appliance, prescribed by those rules while a boiler, tank, or jacketed kettle is in operation. Should any of these appliances be repaired during an outage of a boiler, tank, or jacketed kettle, they must be reinstalled and in proper working order before the object is again placed in service.

No person shall in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the certificates of inspection. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-3-17. Attendants of boilers. A boiler having a rating in excess of 5 hp (50 square feet of heat absorbing surface) should not be operated for periods longer than twenty minutes without being checked by an attendant who is familiar with its operation, regardless of whether or not the boiler is equipped with automatic feedwater regulator, fuel or damper regulator, high and low water alarm, or other form of automatic control. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

Article 4.—CONSTRUCTION, INSTALLATION, INSPECTION,
MAINTENANCE, USE

49-4-1. Power boilers; new installations. (1) *Requirements.* No boiler, except reinstalled boilers and those exempted by these rules and regulations, shall hereafter be installed in this state unless it has been constructed, inspected, and stamped in conformity with the A. S. M. E. boiler construction code and is approved, registered, and inspected in accordance with the requirements of these rules and regulations.

A boiler having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the state of Kansas may be accepted by the chief inspector: *Provided, however,* That the person desiring to install the boiler shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.

All new boiler installations, including reinstalled boilers, shall be installed in accordance with the requirements of the latest revision of the A. S. M. E. boiler construction code and these rules and regulations.

(2) *Inspections.* Upon completion of the installation, all boilers shall be inspected by the chief inspector, a deputy inspector, or a special inspector. At the time of this inspection, each boiler shall be stamped with a serial number of the state of Kansas followed by the letters "KAN," said letters and figures to be not less than $\frac{5}{16}$ of an inch in height. The stamping shall not be concealed by lagging or paint and shall be exposed at all times.

(3) *Ladders and runways.* A steel runway or platform at least 18 inches wide and provided with standard hand rails and toe boards on either side shall be installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access to the boilers. All runways shall have at least two

means of exit, each exit to be remotely located from the other, and connected to a permanent stairway or inclined ladder leading to the floor level.

(4) *Exits from boiler rooms.* All boiler rooms shall have at least two means of exit, as may be considered necessary by the chief inspector or the commissioner. Each exit shall be remotely located from the others. Each elevation shall have at least two means of egress, each remotely located from the others. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-4-2. Power boilers; existing installations. (1) *Maximum allowable working pressure.* The maximum allowable working pressure of standard boilers shall be determined by the applicable sections of the codes under which they were constructed and stamped.

The maximum allowable working pressure on the shell of a non-standard boiler or drum shall be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, or tube ligaments, the inside diameter of the outside course and the factor of safety allowed by these rules.

$$\frac{TS \times t \times E}{R \times FS} = \text{Maximum allowable working pressure in lb. per sq. in. gage.}$$

Where

TS—ultimate tensile strength of shell plates, lb. per sq. in.

t—minimum thickness of shell plate, in weakest course, in in.

E—efficiency of longitudinal joint.

For riveted construction, E shall be determined by rules given in paragraph P-181, of A. S. M. E. boiler construction code for power boilers.

For fusion welded construction, E shall be determined by rules in paragraph P-102, of A. S. M. E. boiler construction code for power boilers.

For tube ligaments, E shall be determined by rules in paragraphs P-192 and P-193, of A. S. M. E. boiler construction code for power boilers.

For seamless construction, E shall be considered 100%.

R—one-half the inside diameter of the weakest course of shell or drum in inches.

FS—factor of safety permitted.

(a) *Tensile strength.* When the tensile strength of steel of wrought iron shell plates is not known, it shall be taken as 55,000 pounds per square inch for steel and 45,000 pounds per square inch for wrought iron.

(b) *Crushing strength of mild steel.* The resistance to crushing of mild steel shall be taken at 95,000 pounds per square inch of cross sectional area.

(c) *Strength of rivets in shear.* When computing the ultimate strength of rivets in shear, the following values in pounds per square inch of the cross sectional area of the rivet shank shall be used:

Iron rivets in single shear	88,000
Iron rivets in double shear	76,000
Steel rivets in single shear	44,000
Steel rivets in double shear	88,000

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross sectional area of rivets, after driving, may be selected from table 1 or ascertained by cutting out one rivet in the body of the joint.

TABLE 1.—SIZES OF RIVETS BASED ON PLATE THICKNESS

Thickness of plate..	1/4"	5/32"	5/16"	11/32"	3/8"	17/32"
Diameter of rivet after driving	1 1/16"	1 1/16"	3/4"	3/4"	13/16"	13/16"
Thickness of plate..	7/16"	15/32"	1/2"	9/16"	5/8"
Diameter of rivet after driving	15/16"	15/16"	15/16"	1 1/16"	1 1/16"

(d) *Factors of safety.* The following factors of safety shall be increased by the inspector if the condition and safety of the boilers demand it.

The lowest factor of safety permissible on existing installations shall be 4.5 excepting for horizontal return tubular boilers having continuous lap seams more than twelve (12) feet in length where the factor of safety shall be 8, and when this latter type of boiler is removed from its existing setting, it shall not be reinstalled for pressures in excess of 15 pounds per square inch gage.

Reinstalled or secondhand boilers shall have a minimum factor of safety of 6 when the longitudinal seams are of lap riveted construction, and a minimum factor of safety of 5 when the longitudinal seams are of butt and double strap construction.

(d¹) *Age limit of fire tube boilers.* The age limit of a horizontal return tubular, flue or cylinder boiler having a longitudinal lap joint and operating at a pressure in excess of fifty (50) pounds per square inch gage shall be thirty (30) years. A reasonable time for replacement shall be given at the discretion of the commissioner not to exceed one (1) year.

(d²) *Welded boilers.* Boilers having either longitudinal or circumferential seams or fusion welded construction shall have been constructed and stamped in accordance with the rules and regulations of the A. S. M. E. boiler construction code or shall have the

standard stamping of another state that has adopted a standard of construction equivalent to the standards of the A. S. M. E. boiler construction code.

(d³) *Pressure on old boilers.* In no case shall the maximum working pressure of an old boiler be increased to a greater pressure than would be allowed for a new boiler of same construction.

(d⁴) *Cast iron headers and mud drums.* The maximum allowable working pressure on a water tube boiler, the tubes of which are secured to cast iron or malleable iron headers, or which have cast iron mud drums, shall not exceed 160 pounds per square inch gage.

(d⁵) *Pressure on cast iron boilers.* The maximum allowable working pressure for any cast iron boiler except hot water boilers, shall be fifteen (15) pounds per square inch gage.

(2) *Safety valves.* After June 30, 1953, the use of weighted-lever safety valves shall be prohibited and these valves shall be replaced by direct spring-loaded, pop-type valves that conform to the requirements of the A. S. M. E. boiler construction code for power boilers.

Safety valves having either the seat or disc of cast iron shall not be used.

Each boiler shall have at least one safety valve and if it has more than 500 square feet of water heating surface or the generating capacity exceeds 2,000 pounds per hour, it shall have two (2) or more safety valves.

The valve or valves shall be connected to the boiler, independent of any other steam connection, and attached as close as possible to the boiler, without unnecessary intervening pipe or fittings. Where alteration is required to conform to this rule and regulation, owners or users shall be allowed one (1) year in which to complete the work by permission of the commissioner.

No valve of any description shall be placed between the safety valve and the boiler nor on the escape pipe (if used) between the safety valve and the atmosphere. When an escape pipe is used, it shall be full size and fitted with an open drain to prevent water lodging in the upper part of the safety valve or escape pipe. When an elbow is placed on a safety valve escape pipe, it shall be located close to the safety valve outlet or the escape pipe shall be securely anchored and supported. All safety valve discharges shall be so located or piped as to be carried clear from walkways or platforms used to control the main stop valves of boilers or steam headers.

The safety valve capacity of each boiler shall be such that the safety valve or valves will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six percent above the highest pressure to which any valve is set, and in no case to more than six percent above the maximum allowable working pressure.

One or more safety valves on every boiler shall be set at or below the maximum allowable working pressure. The remaining valves may be set within a range of three percent above the maximum allowable working pressure, but the range of setting of all of the safety valves on a boiler shall not exceed 10 percent of the highest pressure to which any valve is set.

When two or more boilers operating at different pressures and safety valve settings are interconnected, the lower pressure boilers or interconnected piping, shall be equipped with safety valves of sufficient capacity to prevent over pressure considering the generating capacity of all boilers.

In those cases where the boiler is supplied with feed water directly from pressure mains without the use of feeding apparatus (not to include return traps) no safety valve shall be set at a pressure greater than 94 percent of the lowest pressure obtained in the supply main feeding the boiler.

The relieving capacity of the safety valves on any boiler shall be checked by one of the three following methods and if found to be insufficient, additional valves shall be provided.

(a) By making the accumulation test, which consists of shutting off all other steam-discharge outlets from the boiler and forcing the fires to the maximum. The safety valve capacity shall be sufficient to prevent a pressure in excess of six percent above the maximum allowable working pressure.

(b) By measuring the maximum amount of fuel that can be burned and computing the corresponding evaporative capacity (steam generating capacity) upon the basis of the heating value of this fuel. These computations shall be made as outlined in the appendix of the A. S. M. E. boiler construction code for power boilers.

(c) By determining the maximum evaporative capacity by measuring the feed water.

When either of the methods outlined in (b) or (c) is employed, the sum of the safety valve capacities shall be equal to or greater than the maximum evaporative capacity (maximum steam generating capacity) of the boiler.

(3) *Boiler feeding and feed piping.* All boilers shall have a feed supply which will permit the boilers being fed at any time while under pressure.

A boiler having more than 500 square feet of water heating surface shall have at least two means of feeding, one of which shall be an approved feed pump, injector or inspirator. Where a source of feed directly from pressure mains is available at sufficient pressure to feed the boiler against a pressure six (6) percent greater than the release pressure of the safety valve with the highest release setting, this may be considered one of the means.

The feed water shall be introduced into the boiler in such manner that it will not be discharged close to riveted joints of shell or furnace sheets or directly against surfaces exposed to gases at high temperature, or direct radiation from the fire.

The feed piping to the boiler shall be provided with a check valve near the boiler and a valve or cock between the check valve and the boiler. When two or more boilers are fed from a common source, there shall also be a valve on the branch to each boiler between the check valve and source of supply. Whenever a globe valve is used on feed piping, the inlet shall be under the disc of the valve.

In all cases where returns are fed back to the boiler by gravity, there shall be a check valve and stop valve on each return line, the stop valve to be placed between the boiler and the check valve and both shall be located as close to the boiler as is practicable.

Where deaerating heaters are not employed, it is recommended that the temperature of the feed water be not less than 120° F. to avoid the possibility of setting up localized stress. Where deaerating heaters are employed, it is recommended that the minimum feedwater temperature be not less than 215° F. so that dissolved gases may be thoroughly released.

(4) *Fusible plugs.* Fire-actuated fusible plugs if used conform to the requirements of the A. S. M. E. boiler construction code for power boilers.

(5) *Water columns, gage glasses and gage cocks.* No outlet connections (except for damper regulator, feedwater regulator, low water fuel cut-out, drains, steam gages, or such apparatus that does not permit the escape of an appreciable amount of steam or water therefrom), shall be placed on the piping that connects the water column to the boiler. The water column shall be provided with a valved drain of at least 3/8-inch pipe size, the drain to be piped to a safe location.

Each boiler shall have three or more gage cocks, located within the range of the visible length of the water glass, except when such boiler has two water glasses with independent connections to the boiler, located on the same horizontal line and not less than two feet apart unless two gage cocks are specifically permitted.

For all installations where the water gage glass or glasses are more than thirty (30) feet from the boiler operating floor, it is recommended that water level indicating or recording gages be installed at eye height from the operating floor.

(6) *Steam gages.* Each steam boiler shall have a steam gage, with dial range not less than one and one-half ($1\frac{1}{2}$) times the maximum allowable working pressure, connected to the steam space or to the steam connection to the water column. The steam gage shall be connected to a siphon or equivalent device of sufficient capacity to keep the gage tube filled with water and so arranged that the gage cannot be shut off from the boiler except by a cock placed near the gage and provided with a tee or level handle arranged to be parallel to the pipe in which it is located when the cock is open.

When a steam gage connection longer than eight feet becomes necessary, a shut-off valve may be used near the boiler provided the valve is of the outside screw and yoke type and is locked open. The line shall be ample size with provision for free blowing.

Each boiler shall be provided with a $\frac{1}{2}$ -inch nipple and globe valve connected to the steam space for the exclusive purpose of attaching a test gage when the boiler is in service so that the accuracy of the boiler steam gage may be ascertained.

(7) *Stop valves.* Each steam outlet from a boiler (except safety valve connections) shall be fitted with a stop valve located as close as practicable to the boiler.

When a stop valve is so located that water can accumulate, ample drains shall be provided. The drainage shall be piped to a safe location and shall not be discharged on the top of the boiler or its setting.

When boilers provided with manholes are connected to a common steam main, the steam connection from each boiler shall be fitted with two stop valves having an ample free blow drain between them. The discharge of this drain shall be visible to the operator while manipulating the valves and shall be piped clear of the boiler setting. The stop valves shall consist preferably of one automatic nonreturn valve (set next to the boiler) and a second valve of the outside screw and yoke type.

(8) *Blow-off piping.* The construction of the setting around each blow-off pipe shall permit free expansion and contraction. Careful attention shall be given to the problem of sealing these setting openings without restricting the movement of the blow-off piping.

All blow-off piping, when exposed to furnace heat, shall be protected by fire brick or other heat resisting material, so constructed that the piping may be readily inspected.

Each boiler shall have a blow-off pipe, fitted with a valve or cock, in direct connection with the lowest water space. Cocks shall be of the gland or guard type and suitable for the pressure allowed. The use of globe valves shall not be permitted. When the maximum allowable working pressure exceeds 100 lbs. per square inch gage, each blow-off pipe shall be provided with two valves or a valve and cock, such valves and cocks to be of the extra heavy type.

When the maximum allowable working pressure exceeds 100 lbs. per square inch gage, blow-off piping shall be extra heavy from the boiler to the valve or valves, and shall be run full size without use of reducers or bushings. The piping shall be extra heavy wrought iron or steel and shall not be galvanized.

All fittings between the boiler and blow-off valve shall be steel or extra heavy fittings of malleable iron. In case of renewal of blow-off pipe or fittings, they shall be installed in accordance with the rules and regulations for new installations.

(9) *Repairs and renewals of boiler fittings and appliances.* Whenever repairs are made to fittings or appliances or it becomes necessary to replace them, the work shall comply with the code for new installations.

(10) *Stamping of existing boilers.* Each existing boiler shall be identified by a serial number of the state of Kansas. The number will be assigned by the chief inspector and applied by an authorized inspector. The stamping shall be kept free of paint and lagging so that it will be plainly visible and easily read by the inspectors.

(11) *Suggestions for operation.* It is recommended that section VII of the A. S. M. E. boiler construction code, covering suggested rules for the care of power boilers, be used as a guide for proper and safe operating practices.

(12) *Ladders and runways.* Where necessary for safety, there shall be a steel runway or platform of standard construction installed across the tops of adjacent boilers or at some other convenient level for the purpose of affording safe access. The inspector

shall notify the chief inspector of the owners or users who must provide for these requirements and the chief inspector shall give written notice to the owner or user that the installation be made. The owner or user shall be allowed one year from the date of the chief inspector's notification in which to complete the work. All runways shall have at least two means of exit, each to be remotely located from the other.

(13) *Exits from boiler rooms.* To lessen the hazard of being trapped within the boiler room, ash pit aisles, or other locations, there shall be at least two means of exit as may be considered necessary by the chief inspector or the commissioner. Each elevation shall be provided with at least two means of egress, each to be remotely located from the other.

All authorized inspectors shall notify the chief inspector of the owners or users who must provide for these requirements. The chief inspector then shall give written notice to the owner or user that the necessary work must be completed within six (6) months from the date of notification.

(14) *Conditions not covered by rules and regulations.* All cases not specifically covered by these rules and regulations shall be treated as new installations or may be referred to the chief inspector for instructions concerning the requirements. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-4-3. Miniature boilers; new installation. (1) *Requirements.* No miniature boiler, except reinstalled boilers and those exempted by these rules and regulations, shall hereafter be installed in this state unless it has been constructed, inspected, and stamped in conformity with section 5 of the A. S. M. E. boiler construction code and is approved, registered, and inspected in accordance with these rules and regulations.

A miniature boiler having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of the state of Kansas may be accepted by the chief inspector: *Provided, however,* That the person desiring to install the same shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the boiler in question.

All new installation boilers, including reinstalled boilers, must be installed in accordance with the requirements of the latest revision

of the A. S. M. E. boiler construction code and the rules of the state of Kansas.

(2) *Inspections.* Upon completion of the installation, all boilers shall be inspected by the chief inspector, a deputy inspector, or a special inspector. At the time of this inspection, each boiler shall be stamped with a serial number of the state of Kansas followed by the letters "KAN," said letters and figures to be not less than $\frac{5}{16}$ inch in height. The stamping shall not be concealed by lagging or paint and shall be exposed at all times. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-4-3a. New boiler installations—scale model equipment.

(1) *Requirements.* (a) No scale model equipment with power boilers exceeding the dimensional limits defined for miniature boilers, except reinstalled boilers and those exempted from these rules and regulations, shall be installed or shipped into this state for exhibition and show purposes after August 31, 1967, unless all provisions of 49-4-1, new boiler installation are met.

(b) No scale model equipment with power boilers equal to or smaller than dimensional limits defined for miniature boilers, except reinstalled boilers and those exempted from these rules and regulations, shall be installed or shipped in to this state for exhibition and show purposes after August 31, 1967, unless all provisions of 49-4-3, new boiler installations—miniature boilers are met. (Authorized by K. S. A. 44-902, 44-904; effective Jan. 1, 1968.)

Revisor's Note: Regulation 49-4-3a was previously adopted by emergency regulation (E-67-20) effective Sept. 28, 1967.

49-4-4. Miniature boilers; existing installations. (1) *General rules.* Rules and regulations, as adopted for power boilers applying to strength of materials and calculations to determine maximum allowable working pressure, shall be used for miniature boilers unless a special rule is stated herein.

(2) *Maximum allowable working pressure.* The maximum allowable working pressure on the shell of a boiler or drum shall be determined by the rules in section 2, item 1.

(3) *Construction.* The construction of miniature boilers including factor of safety, except where otherwise specified, shall conform to that required for power boilers.

(4) *Safety valve.* Each miniature boiler shall be equipped with a sealed, spring-loaded, pop-type safety valve not less than one-half ($\frac{1}{2}$) inch pipe size, connected directly to the boiler.

The safety valve shall be plainly marked by the manufacturer

showing name or identifying trademark, nominal diameter, and pressure at which it is set to release.

The safety valve relieving capacity of each boiler shall be such that it will discharge all the steam that can be generated by the boiler without allowing the pressure to rise more than six (6) percent above the maximum allowable working pressure.

In those cases where the boiler is supplied with feed water directly from a pressure main or system without the use of a mechanical feeding device, the safety valve shall be set to release at a pressure not in excess of 94 percent of the lowest pressure obtained in the supply main or system feeding the boiler. Return traps shall not be considered mechanical feeding devices.

(5) *Gage glass and water level indicator.* Each miniature boiler shall be equipped with a water gage glass for determination of water level.

The lowest permissible water level shall be at a point one-third ($\frac{1}{3}$) of the height of the shell, except where the boiler is equipped with internal furnace, in which case it shall be not less than one-third ($\frac{1}{3}$) of the tube length above the top of the furnace.

For small boilers where there is insufficient space for the usual type of gage glass, water level indicators of the glass bull's eye type may be used.

(6) *Feeding and feedwater piping.* Every miniature boiler shall be provided with at least one feed pump or other mechanical feeding device except where the following conditions exist:

(a) Where the boiler is connected to a water main or system having sufficient pressure to feed the boiler at any time while under pressure.

(b) Where the fuel burned is such that all heat input can be discontinued instantaneously by the operation of a valve, cock, or switch, thereby permitting the boiler pressure to be quickly lowered to a point where water can be introduced from the connection to the water main.

(c) Where the boiler is operated without extraction of steam (closed system) in which case the boiler is filled, when cold, through the connection or opening provided in accordance with the following rule.

Each miniature boiler shall be fitted with a feedwater connection which shall not be less than one-half ($\frac{1}{2}$) inch iron pipe size. The feed piping shall be provided with a check valve near the boiler and a valve or check between the check valve and the boiler.

Feedwater may be introduced through the blow-off connection where the boiler is operated without extraction of steam (closed system).

Feedwater shall not be introduced through the water column or gage glass connections while the boiler is under pressure.

(7) *Blow-off piping.* Each miniature boiler shall be provided with a blow-off connection, not less than one-half ($\frac{1}{2}$) inch iron pipe size, directly connected with the lowest water space.

Blow-off piping shall not be galvanized and shall be provided with a valve or cock.

(8) *Steam gages.* Each miniature boiler shall be equipped with a steam gage having a dial range not less than one and one-half ($1\frac{1}{2}$) times the maximum allowable working pressure. The gage shall be connected to the steam space or to the steam connection to the gage glass by a brass or bronze composition siphon tube, or equivalent device that will keep the gage tube filled with water.

(9) *Stop valves.* The steam piping from a miniature boiler shall be provided with a stop valve located as close to the boiler shell or drum as is practicable, except in those cases where the boiler and steam receiver are operated as a closed system.

(10) *Gas burners.* For installations which are gas fired, the burners used shall conform to the requirements of the American gas association as stated in the appendix of the A. S. M. E. boiler construction code, section V.

(11) *Flue connection.* Each gas-fired boiler shall be equipped with a four-inch vent pipe or flue extended to an approved location outside the building or connected to a chimney flue. Where the horizontal run is more than ten feet the vent shall be increased to six inches. A draft hood of approved design shall be provided on each boiler. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-4-4a. Existing installations—scale model equipment. (1) *General.* Scale model equipment that does not conform to the provisions of these rules and regulations shall not be sold, transferred or otherwise converted to commercial or industrial use.

(2) *Requirements.* (a) Rules and regulations, as adopted for existing installations—power boilers shall be used for scale model equipment with power boilers exceeding the dimensional limits defining miniature boilers, unless a special rule is stated herein.

(b) Rules and regulations as adopted for existing installations—miniature boilers shall be used for scale model equipment with power boilers equal to or smaller than the dimensional limits de-

fined for miniature boilers, unless a special rule is stated herein.

(3) *Maximum allowable working pressure.* The maximum allowable working pressure on the shell of the boiler or drum shall be determined by the rules in section 2, item 1.

When material specifications are not within the range SA-53, SA-83, SA-135, SA-178, SA-192, SA-209, SA-210, SA-226, SA-250 or SA-423, recommended for construction of power boilers for scale model equipment, there will be a minimum reduction of thirty (30) percent in the maximum allowable working pressure.

(4) *Construction.* If welded, the power boiler or scale model equipment is not required to be X-rayed or stress relieved or to be code stamped.

Unless the owner of scale model equipment can furnish the chief inspector a certified report from a recognized testing laboratory that the welder of said boiler has passed an approved test for use in fabrication of boilers and pressure vessels, there will be a minimum reduction of thirty (30) percent in the maximum allowable working pressure. (Authorized by K. S. A. 44-902, 44-904; effective Jan. 1, 1968.)

Revisor's Note: Regulation 49-4-4a was previously adopted by emergency regulation (E-67-20) effective Sept. 28, 1967.

49-4-5. Tanks and jacketed kettles; new installations. (1) *Requirements.* No tank or jacketed kettle except those reinstalled and those exempt by these rules and regulations, shall hereafter be installed in this state unless it has been constructed, inspected, and stamped in conformity with section 8 of the A. S. M. E. boiler construction code and is approved, registered, and inspected in accordance with the requirements of these rules and regulations.

All new installation of tanks and jacketed kettles, including reinstalled tanks and jacketed kettles shall be installed in accordance with the requirements of the latest revision of the A. S. M. E. boiler construction code, section 8, and these rules and regulations.

A tank or jacketed kettle having the standard stamping of another state that has adopted a standard of construction equivalent to the standard of these rules may be accepted by the chief inspector: *Provided, however,* That the person desiring to install the same shall make application for the installation and shall file with this application the manufacturer's data report covering the construction of the tank or jacketed kettle in question.

(2) *Inspections.* Upon completion of the installation, all tanks and jacketed kettles shall be inspected by the chief inspector, a

deputy inspector or a special inspector. At the time of this inspection each tank or jacketed kettle shall be stamped with a serial number of the state of Kansas followed by the letters "KAN," said letters and figures to be not less than $\frac{5}{16}$ inch in height. The stamping shall not be concealed by lagging or paint and shall be exposed at all times.

(3) *Rupture discs.* Rupture discs or safety heads may be used for additional protection of tanks and jacketed kettles. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

~~49-4-6.~~ Tanks and jacketed kettles; existing installations. (1) *Maximum allowable working pressure.* (A) *For internal pressure—*

The maximum allowable working pressure on the shell of a tank or jacketed kettle shall be determined by the strength of the weakest course computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint, the inside radius of the course and the factor of safety by these rules.

$$\frac{TS \times t \times E}{R \times FS} = \text{Maximum allowable working pressure} \\ \text{pounds per square inch.}$$

TS—Ultimate tensile strength of shell plate pounds per square inch. When the tensile strength is not known it shall be taken as 55,000 pounds per square inch for temperatures not exceeding 700° F.

t—Minimum thickness of shell plate of weakest course, inches.

E—Efficiency of longitudinal joint depending upon construction.

Use values as follows:

For riveted joints—calculated riveted efficiency.

For fusion welded joints—

Single lap weld	40%
Double lap weld	60%
Single butt weld	50%
Double butt weld	70%
Forge weld	70%
Brazed steel	80%
Brazed copper	90%

R—Inside radius of weakest course of shell, inches, provided the thickness does not exceed ten (10) percent of the radius. If the thickness is over ten (10) percent of the radius, the outer radius shall be used.

FS—Factor of safety allowed by these rules.

(B) *For external pressure*—The maximum allowable working pressure for cylindrical vessels subjected to external or collapsing pressure shall be determined by the rules in paragraphs U-120 to U-138, inclusive, of the A. S. M. E. boiler construction code, section 8.

(2) *Factors of safety.* The minimum factor of safety shall in no case be less than four (4) for vessels up to and including twenty (20) years of age and shall be not less than 4½ where the age of the vessel is more than twenty years. These factors of safety may be increased when deemed necessary by the inspector to insure the operation of the vessel within safe limits. The condition of the vessel and the particular service it is being subject to will be the determining factor.

(3) *Inspection of inaccessible parts.* Where in the opinion of the inspector, as the result of conditions disclosed at an inspection, it is advisable to remove interior or exterior lining, covering or brick work to expose certain parts of the vessel not normally visible, the owner or user shall remove such material to permit proper inspection and the drilling of any part of the vessel where necessary to ascertain thickness.

(4) *Safety appliances.* Each tank or jacketed kettle shall be protected by such safety and relief valves and indicating and controlling devices as will insure its safe operation. These valves and devices shall be so constructed, located and installed that they cannot readily be rendered inoperative. The relieving capacity of safety valves shall be such as to prevent a rise of pressure in the vessel of more than ten percent above the maximum allowable working pressure taking into account the effect of static head. Safety valve discharges shall be carried to a safe place.

(5) *Rupture discs.* Rupture discs or safety heads may be used for additional protection of tanks and jacketed kettles.

(6) *Repairs and renewals of fittings and appliances.* Whenever repairs are made to fittings and appliances or it becomes necessary to replace them, the work must comply with the code for new installations. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

49-4-7. General requirements. (1) *Inspection of boilers, tanks, and jacketed kettles.* All boilers, tanks, and jacketed kettles, unless otherwise exempt by these rules and regulations, and which are subject to regular inspections as provided for in part II, section 8, shall be prepared for such inspections, or hydrostatic tests whenever necessary, by the owner or user when notified by the chief inspector, deputy inspector, or special inspector.

The owner or user shall prepare each boiler, tank, and jacketed kettle and pressure vessel for internal inspection, and shall prepare for and apply the hydrostatic test whenever necessary, on the date specified by the chief inspector, deputy inspector, or special inspector, which date shall be not less than seven (7) days after the date of notification.

(2) *Preparation for internal inspection.* The owner or user shall prepare a boiler for internal inspection in the following manner:

(a) Water shall be drawn off and the boiler thoroughly washed.

(b) All manhole and handhole plates and wash-out plugs and water column connections shall be removed, the furnace and combustion chambers thoroughly cooled and cleaned.

(c) All grates of internally fired boilers shall be removed.

(d) At each annual inspection, brickwork shall be removed as required by the inspector, in order to determine the condition of the boiler, headers, furnace, supports, or other parts.

(e) The steam gage shall be removed for testing.

(f) Any leakage of steam or hot water into the boiler shall be cut off by disconnecting the pipe or valve at the most convenient point.

Tanks and jacketed kettles shall be prepared for inspection to the extent deemed necessary by the inspector.

(3) *Boilers, tanks, or jacketed kettles improperly prepared for inspection.* If a boiler, tank, or jacketed kettle has not been properly prepared for an internal inspection or the owner or user fails to comply with the requirements for hydrostatic test as set forth in these rules, the inspector may decline to make the inspection or test and the certificate of inspection shall be withheld until the owner or user complies with the requirements.

(4) *Removal of covering to permit inspection.* If the boiler, tank, or jacketed kettle is jacketed so that the longitudinal seams of shells, drums, or domes cannot be seen, enough of the jacketing, setting wall, or other form of casing or housing shall be removed so that the size of the rivets, pitch of the rivets, and other data necessary to determine the safety of the boiler, tank, or jacketed kettle may be obtained, provided such information cannot be determined by other means.

(5) *Lap seam crack.* The shell or drum of a boiler or tank in which a lap seam crack is discovered along a longitudinal riveted joint shall be immediately discontinued from use. If the boiler or tank is not more than 15 years of age, a complete new course of the original thickness may be installed at the discretion of the inspector (and after approval by the chief inspector). Patching is prohibited. (By "lap seam crack" is meant the typical crack frequently found in lap seams, extending parallel to the longitudinal joint and located either between or adjacent to rivet holes.)

(6) *Hydrostatic pressure tests.* A hydrostatic pressure test, when applied to boilers, tanks, or jacketed kettles of riveted or welded construction, except locomotive boilers, shall not exceed one and one-half ($1\frac{1}{2}$) times the maximum allowable working pressure. Hydrostatic pressure applied to locomotive boilers shall not exceed one and one-quarter ($1\frac{1}{4}$) times the maximum allowable working pressure. Hydrostatic pressure applied to glass lined vessels shall not exceed the maximum allowable working pressure. During the hydrostatic pressure test, the safety valve or valves shall be removed or each valve disc shall be held down by means of a testing clamp and not by applying additional load to the spring with the compression screw. It is suggested that the minimum temperature of the water used to apply a hydrostatic test be not less than 70° F. but the maximum temperature shall not exceed 160° F.

Note: When hydrostatic test is to be applied to existing installations, the pressure shall be as follows:

(a) For all cases involving the question of tightness, the pressure shall be equal to the release pressure of the safety valve or valves having the highest release setting.

(b) For all cases involving the question of safety, the pressure shall be equal to one and one-half ($1\frac{1}{2}$) times the maximum allowable working pressure, except for locomotive boilers, in which case it shall be one and one-quarter ($1\frac{1}{4}$) times the maximum allowable working pressure.

(7) *Low water fuel cutoffs.* All automatically-fired steam or vapor boilers, excepting boilers having a constant attendant who has no other duties while the boiler is in operation, shall be equipped with an automatic low-water fuel cutoff and/or water-feeding device so constructed that the water inlet valve cannot feed water into the boiler through the float chamber, and so located as to automatically cut off the fuel supply and/or supply requisite feed water when the surface of the water falls to the lowest safe water line. This point should be not lower than the bottom of the water glass.

Such a fuel or feed water control device may be attached direct to a boiler or to the tapped openings provided for attaching a water glass direct to a boiler: *Provided*, That such connections from the boiler are nonferrous tees or Y's not less than one-half ($\frac{1}{2}$) inch pipe size between the boiler and the water glass so that the water glass is attached direct and as close as possible to the boiler; the straight-way tapping of the Y or tee to take the water glass fittings, the side outlet of the Y or the tee to take the fuel cutoff or water-feeding device. The ends of all nipples shall be reamed to full size diameter.

Designs embodying a float and float bowl shall have a vertical straight-a-way valve drain pipe at the lowest point in the water equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.

(8) *Safety appliances.* No person shall remove or tamper with any safety appliances prescribed by these rules except for the purpose of making repairs. The resetting of safety appliances shall be done in the presence of an authorized inspector.

(9) *Blow-off tanks.* Blow-off piping from a power boiler or a miniature boiler shall not discharge directly into a sewer. A blow-off tank shall be used where conditions do not provide an adequate and safe open discharge.

Blow-off tanks hereafter installed, if of metal, shall have a plate

thickness of not less than five sixteenths ($\frac{5}{16}$) inch and shall be designed for a minimum working pressure of 50 psi.

The outlet from the blow-off tank shall be twice the area of the inlet pipe and made to extend internally within eight (8) inches from the bottom of the tank.

A vent pipe at least four (4) times the area of the inlet pipe shall lead to the outer atmosphere.

Vents shall be as direct as possible to the outer air and discharge at a safe location. There shall be no valve or other possible obstructions such as water pockets, between the tank and the discharge end of the vent pipe.

All pipe connections between the tank and the boiler shall be as direct as possible and shall conform to paragraph P-299, A. S. M. E. boiler construction code.

For convenience in cleaning the tank a manhole or an access opening shall be provided.

Where a blow-off tank is not vented as specified above it shall be constructed for a pressure equal to that allowed on the boiler to which it is attached or shall be equipped with a safety valve or valves of sufficient capacity to prevent the pressure from exceeding the safe working pressure of the tank.

(10) *Location of blowoffs.* The discharge of safety valves, blow-off pipes and other outlets shall be located so as to prevent injury to personnel.

(11) *Underground installations.* Where necessary to install a vessel underground, it shall be enclosed in a concrete or brick pit with a removable cover so that inspection of the entire shell and heads of the vessel can be made.

(12) *Supports.* Each tank or jacketed kettle shall be supported by masonry or structural supports of sufficient strength and rigidity to safely support the vessel and its contents. There shall be no vibration in either the vessel or its connecting piping.

(13) *Pressure reducing valves.* Where pressure reducing valves are used, one or more relief or safety valves shall be provided on the low pressure side of the reducing valve in case the piping or equipment on the low pressure side does not meet the requirements for the full initial pressure. The relief or safety valves shall be located adjoining to or as close as possible to the reducing valve. Proper protection shall be provided to prevent injury or damage caused by the escaping steam from the discharge of relief or safety valves if vented to the atmosphere. The combined discharge ca-

capacity of the relief valves shall be such that the pressure rating of the lower pressure piping or equipment shall not be exceeded in case the reducing valve sticks open.

The use of hand-controlled bypasses around reducing valves is permissible. The bypass, if used around a reducing valve, shall not be greater in capacity than the reducing valve unless the piping or equipment is adequately protected by relief valves or meets the requirements of the high pressure system.

It is mandatory that a pressure gage be installed on the low pressure side of a reducing valve.

(14) *Electric steam generators.* All appliances required for electric steam generators shall be attached in accordance with the following rules:

A cable at least as large as one of the incoming power lines to the generator shall be provided for grounding the generator shell. This cable shall be permanently fastened on some part of the generator and shall be grounded in an approved manner.

A suitable screen or guard shall be provided around high tension bushings and a sign posted warning of high voltage. This screen or guard shall be so located that it will be impossible for anyone working around the generator to accidentally come in contact with the high tension circuits. When adjusting safety valves, the power circuit to the generator shall be open. The generator may be under steam pressure but the power line shall be open while the operator is making the necessary adjustments.

Each Kw of electrical energy consumed by an electric steam generator operating at maximum rating shall be considered the equivalent of one square foot of heating surface of a fire tube boiler when determining the required amount of safety valve capacity.

(15) *Major repairs.* Repairs to all boilers, tanks, or jacketed kettles and appurtenances thereof shall conform to the latest revision of the A. S. M. E. boiler construction code. Where a repair affecting the safety of the boiler, tank, or jacketed kettle is necessary, an authorized inspector shall be called for consultation and advice as to the best method of making the repair and the completed work shall be subject to his approval.

(16) *Repairs by fusion welding.* When repairs are to be made involving the use of welding, permission to proceed with the work must be obtained from the chief inspector, deputy inspector or special inspector. All repairs by welding shall be completed in

accordance with the recommended rules for repairs by fusion welding to power boilers and tanks and jacketed kettles issued by the national board of boiler and pressure vessel inspectors.

(17) *Riveted patches.* In applying riveted patches the design of the patch and method of installation must be in accordance with the rules for riveted patches recommended by the national board of boiler and pressure vessel inspectors.

(18) *Boiler door latches.* A water tube boiler shall have the firing doors of the inward opening type, unless such doors are provided with substantial and effective latching or fastening devices or otherwise so constructed as to prevent them, when closed, from being blown open by pressure on the furnace side.

These latches or fastenings shall be of the positive self-locking type. Friction contacts, latches or belts actuated by springs shall not be used. The foregoing requirements for latches or fastenings shall not apply to coal openings of down draft or similar furnaces.

All other doors, except explosion doors, not used in the firing of the boiler, may be provided with belts or fastenings in lieu of self-locking latching devices.

Explosion doors, if used and if located in the setting walls, within seven (7) feet of the firing floor or operating platform, shall be provided with substantial deflectors to divert the blast.

(19) *Clearances.* All boilers shall be so located that adequate space will be provided for the proper operation of the boiler and its appurtenances, for the inspection of all surfaces, tubes, water walls, economizers, piping, valves, and other equipment and for their necessary maintenance and repair.

(20) *Shop inspection.* Any new boiler, tank, or jacketed kettle being constructed for installation in the state of Kansas shall be shop inspected by an inspector holding a Kansas commission, a national board commission or a commission issued by a state that has adopted the A. S. M. E. boiler construction code. This shall not apply to low pressure heating boilers where shop inspection is not required by the A. S. M. E. boiler construction code.

(21) *Conditions not covered by these rules.* In any condition not covered by these rules, the A. S. M. E. code for new installations shall apply.

Should any section, subsection, sentence, clause, phrase, provision or exemption of these rules be declared invalid for any reason, such invalidity shall not affect the remaining portion or provisions hereof. (Authorized by K. S. A. 44-904; effective Jan. 1, 1966.)

JUL 21 1976

Mr. Chairman and Members of the
Special Committee on Federal and State Affairs:

My name is Mark Bennett and I represent the American Insurance Association. I have with me today Mr. C. M. Pickett, who is Assistant Secretary, Engineering and Claim Department of the Hartford Steam Boiler Inspection and Insurance Company of Hartford, Connecticut, and a member of the Advisory Committee to the Executive Committee of the National Board of Boiler and Pressure Vessel Inspectors representing the insurance industry. He also served as a member of an ad hoc committee reviewing and updating the model boiler bill of the Uniform Boiler and Pressure Vessel Laws Society, Inc.

Also appearing with me is Mr. Walter B. Parker, who is Chairman of the Uniform Boiler and Pressure Vessel Laws Society, Inc., and also Mr. Tom West, international representative of the Boiler Makers International Union.

The problem involved here results from the fact that the legislature in 1975 enacted Senate Bill 531, now K.S.A. 1975 Supp. 44-912, which act repealed K.S.A. 44-901 to 911 inclusive. Prior to that repeal K.S.A. 44-901 to 911 required the appointment by the State Labor Commissioner of a boiler inspector with the duty to inspect or cause to be inspected at least annually all steam boilers operating in the State of Kansas to determine whether such equipment was in a safe and satisfactory condition and whether it was properly constructed and maintained. Those statutes also authorized the State Labor Commissioner to prescribe and enforce standards for steam boilers. The statute expressly provided that the Commissioner should enact rules and regulations setting up standards to conform to the rules formulated by the Boiler Code Committee of the American Society of Mechanical Engineers and known as "American Society of Mechanical Engineers Boiler Code as Amended." for new construction only.

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Attachment XVI

MODEL UNIFORM BOILER AND
PRESSURE VESSEL
SAFETY BILL
for
S T A T E S

11/18/75 Draft

Recommended by

UNIFORM BOILER AND PRESSURE VESSEL

LAWS SOCIETY, INC.

57 PRATT ST.

HARTFORD, CONNECTICUT 06103

RECEIVED
ENGINEERING

APR 6 1976

E. L. KEMMLER
Vice President

PREFACE

The Model Uniform Boiler and Pressure Vessel Bill was revised by a committee representing the industry (manufacturers, insurers and users) and was approved by the Council of the Uniform Boiler and Pressure Vessel Laws Society, Inc. on

It is designed for the purpose of assisting those groups interested in promulgating a law to provide for the safety of personnel and property in the construction, installation, inspection, maintenance and repair of boilers and pressure vessels.

Further assistance in the presentation of proposed boiler or pressure vessel legislation, or proposed rules and regulations for the administration of existing boiler and pressure vessel laws, is available from the Society upon request.

The Uniform Boiler and Pressure Vessel Laws Society, Inc. is a nonpolitical, noncommercial, nonprofit, technical body supported by the voluntary contributions of its members who are individuals, firms and organizations engaged in the manufacture, sale, use, insurance or inspection of material or apparatus related to the boiler and pressure vessel industry. Its objective is to secure uniformity in the laws, rules or regulations, and administration which affect the boiler and pressure vessel industry, inspection agencies, and users. The Society believes that such laws and rules or regulations should follow nationally accepted codes and standards. It recommends the "ASME Boiler and Pressure Vessel Code" as the standard for construction and the "Inspection Code" of the National Board of Boiler and Pressure Vessel Inspectors or APIRP-510 of the American Petroleum Institute for inspection. The direction of the Society is vested in the Council elected in accordance with the bylaws of the Society.

BOILER AND PRESSURE VESSEL SAFETY BILL

An Act to Provide for the Safety of Life, Limb and Property, and to Create a Board of Boiler and Pressure Vessel Rules to Serve Without Salary and to Formulate and Promulgate Rules and Regulations for the Safe Construction, Installation, Inspection, Maintenance and Repair of Boilers and Pressure Vessels; To Provide for the Enforcement of the Rules and Regulations Promulgated by the Board of Boiler and Pressure Vessel Rules; To Provide for the Examination and Appointment of Boiler and Pressure Vessel Inspectors; To Provide for the Inspection of Boilers and Pressure Vessels, Fees to be Charged Therefor, and the Reports to be Made Thereof; To Provide for Inspection Certificates; To Provide for Appeals; To Provide an Appropriation to Carry out the Provisions of the Act; To Provide for Exclusive Jurisdiction by the State; and To Provide a Penalty for the Violation of the Provisions of this Act.

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SECTION 1. TITLE AND DEFINITIONS

This Act shall be known and may be cited as the Boiler and Pressure Vessel Safety Act, and, except as otherwise herein provided, shall apply to all boilers and pressure vessels. For the purpose of this Act, the following definitions apply:

a. Boiler - a closed vessel in which water or other liquid is heated, steam or vapor is generated, steam is superheated, or in which any combination of these functions is accomplished, under pressure or vacuum, for use externally to itself, by the direct application of energy from the combustion of fuels, or from electricity or nuclear energy. The term boiler shall include fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and are complete within themselves.

1. Power Boiler - a boiler in which steam or other vapor is generated at a pressure of more than fifteen (15) psig.

2. High Pressure, High Temperature Water Boiler - a water boiler operating at pressures exceeding 160 psig or temperatures exceeding 250°F.

3. Heating Boiler - a steam or vapor boiler operating at pressures not exceeding 15 psig, or a hot water boiler operating at pressures not exceeding 160 psig or temperatures not exceeding 250°F.

b. Pressure Vessel - a vessel in which the pressure is obtained from an external source or by the application of heat other than those vessels defined in paragraph a of this subsection.

c. Certificate Inspection - an inspection, the report of which is used by the Chief Inspector to determine whether or not a certificate as provided by subsection c of Section 14 may be issued.

SECTION 2 - BOARD OF BOILER AND PRESSURE VESSEL RULES

a. Board created. There is hereby created within the Department of Labor a Board of Boiler and Pressure Vessel Rules, which shall hereinafter be referred to as the Board, consisting of nine members, the majority of whom have experience in design, construction, inspection, repair or operation of boilers or pressure vessels; eight of these members shall be appointed by the Governor, two for a term of one year, two for a term of two years, two for a term of three years, and two for a term of four years. At the expiration of their respective terms of office, they, or their successors identifiable with the same interest respectively as hereinafter provided, shall be appointed for terms of four years each. The Governor may at any time remove any member of the Board for inefficiency or neglect of duty in office. Upon the death or incapacity of any member, the Governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these eight appointed members (the majority of whom shall be registered professional engineers when available), one shall be a representative of owners and users of power boilers having experience with such boilers, one shall be a representative of owners and users of heating boilers, one shall be a representative of owners and users of pressure vessels having experience with such vessels, one shall be a representative of boiler or pressure vessel manufacturers, one shall be a representative of the crafts involved in the construction, repair or operation of boilers or pressure vessels, one shall be a representative of the heating contractors, one shall be a representative of a company licensed to insure and insuring in this State boilers and pressure vessels, and one shall represent the public, such as a mechanical engineer on the faculty of a recognized engineering college within the State or a licensed professional engineer. The ninth member of the Board shall be the jurisdictional representative responsible for public and/or occupational safety. The Board shall elect one of its members to serve as chairman for a term not exceeding four years. The Board shall meet at least four times each year at the call of the chairman at the Capitol or other place designated by the Chairman. No approval, decision or ruling of the Board shall be effective unless supported by the vote of at least five members thereof.

b. Board to Serve Without Salary; Expenses Allowed. The members of the Board shall serve without salary and shall receive their actual traveling and hotel expenses, incurred while in the performance of their duties as members of the Board, to be paid in the same manner as in the case of other State officers.

SECTION 3 - RULES AND REGULATIONS

a. Formulation. The Board shall formulate definitions, rules and regulations for the safe construction, installation, inspection, maintenance and repair of boilers and pressure vessels in this State.

1. The definition, rules and regulations so formulated for new construction shall be based upon and, at all times, follow the generally accepted nationwide engineering standards, formulae and practices established and pertaining to boiler and pressure vessel construction and safety, and the Board may by resolution adopt an existing published codification thereof, known as the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers, with the amendments and interpretations thereto made and approved by the Council of the Society, and may likewise adopt the amendments and interpretations subsequently made and published by the same authority; and when so adopted the same shall be deemed incorporated into, and to constitute a part of the whole of the definitions, rules and regulations of the Board. Amendments and interpretations to the Code so adopted shall be effective immediately upon being promulgated, to the end that the definitions, rules and regulations shall at all times follow the generally accepted nationwide engineering standards.

2. The Board shall formulate rules and regulations for the inspection, maintenance and repair of boilers and pressure vessels, which were in use in this State prior to the date upon which the first rules and regulations under this Act pertaining to existing installations become effective, or during the twelve (12) month period immediately thereafter. The rules and regulations so formulated shall be based upon and at all times follow the generally accepted nationwide engineering standards and may be based upon an existing published codification of such rules and regulations known as the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors or APIRP 510 of the American Petroleum Institute.

b. Promulgation. The rules and regulations and any subsequent amendments thereto formulated by the Board shall, immediately following a hearing upon not less than twenty (20) days notice as hereinafter provided, be approved and published and when so promulgated shall have the force and effect of law, except that the rules applying to the construction of new boilers and pressure vessels shall not become mandatory until twelve (12) months after their promulgation by the Board. Notice of the hearing shall give the time and place of the hearing and shall state the matters to be considered thereat. Such notice shall be given to all persons directly affected by such hearing. In the event all persons directly affected are unknown, notice may be perfected by publication in a newspaper of general circulation in this State at least twenty (20) days prior to such hearing.

c. Amendments. Subsequent amendments to the rules and regulations adopted by the Board shall be permissive immediately and shall become mandatory twelve (12) months after their promulgation.

SECTION 4 - NEW BOILER AND PRESSURE VESSEL INSTALLATIONS

No boiler or pressure vessel which does not conform to the rules and regulations of the Board governing new construction and installation shall be installed and operated in this State after twelve (12) months from the date upon which the first rules and regulations under this Act pertaining to new construction and installation shall have become effective, unless the boiler or pressure vessel is of special design or construction, and is not inconsistent with the spirit and safety objectives of such rules and regulations, in which case a special installation and operating permit may at its discretion be granted by the Board.

SECTION 5 - EXISTING BOILER AND PRESSURE VESSEL INSTALLATIONS

a. The maximum allowable pressure of a boiler carrying the ASME Code symbol or of a pressure vessel carrying the ASME or API-ASME Code symbol shall be determined by the applicable sections of the code under which it was constructed and stamped. at the point of installation Subject to the concurrence of the enforcement authority such a boiler or pressure vessel may be re-rated in accordance with the rules of a later edition of the ASME Code and in accordance with the applicable rules of the National Board Inspection Code or APIRP 510.

b. The maximum allowable ^{working} pressure of a boiler or pressure vessel which does not carry the ASME or the API-ASME Code symbol shall be computed in accordance with the Inspection Code of the National Board of Boiler and Pressure Vessel Inspectors.

c. This Act shall not be construed as in any way preventing the use, sale or reinstallation of a boiler or pressure vessel referred to in this section, provided it has been made to conform to the rules and regulations of the Board governing existing installations and provided, further, it has not been found upon inspection to be in an unsafe condition.

SECTION 6 - EXEMPTIONS

a. This Act shall not apply to the following boilers and pressure vessels:

1. Boilers and pressure vessels under Federal control;
2. Pressure vessels used for transportation and storage of compressed or liquefied gases when constructed in compliance with specifications of the U. S. Department of Transportation and when charged with gas or liquid, marked, maintained, and periodically requalified for use, as required by appropriate regulations of the U. S. Department of Transportation;
3. Pressure vessels located on vehicles operating under the rule of other State or Federal authorities and used for carrying passengers or freight;
4. Air tanks installed on the right of way of railroads and used directly in the operation of trains;
5. Pressure vessels that do not exceed (a) 5 cubic feet in volume and 250 psig pressure, or (b) 1½ cubic feet in volume and 600 psig pressure, or (c) an inside diameter of 6 inches with no limitation on pressure;
6. Pressure vessels having an internal or external working pressure not exceeding 15 psig; with no limit on size;
7. Pressure vessels with a nominal water-containing capacity of 120 gallons or less for containing water under pressure, including those containing air, the compression of which serves only as a cushion;
8. Pressure vessels containing water heated by steam or any other indirect means when none of the following limitations are exceeded:
 - a. A heat input of 200,000 BTU per hour.
 - b. A water temperature of 200°F.
 - c. A nominal water containing capacity of 120 gal.
9. Hot water supply boilers which are directly fired with oil, gas or electricity when none of the following limitations is exceeded:
 - a. Heat input of 200,000 BTU per hour.
 - b. Water temperature of 200°F.
 - c. Nominal water capacity of 120 gals.

These exempt hot water supply boilers shall be equipped with ASME-National Board approved safety relief valves.

10. Pressure vessels in the care, custody, and control of research facilities and used solely for research purposes which require one or more details of non-Code construction or which involve destruction or reduced life expectancy of those vessels.

11. Pressure vessels which are under the regulation and control of
.....(here insert name of specific State authority) under
.....(here insert chapter or section reference to the existing statute).

12. Vessels or other structures or components that are not considered to be within the scope of ASME Code, Section VIII.

b. The following boilers and pressure vessels shall be exempt from the requirements of Sections 13 (b) (c) (d), 14, 15 and 16 of this Act:

1. Boilers or pressure vessels located on farms and used solely for agricultural or horticultural purposes;
2. Heating boilers or pressure vessels which are located in private residences or in apartment houses of less than six (6) family units;
3. Any pressure vessel used as an external part of an electrical circuit breaker or transformer;
4. Pressure vessels on remote oil or gas producing lease locations that have fewer than ten buildings intended for human occupancy per 0.25 square mile and where the closest building is at least 220 yards from any vessel;
5. Pressure vessels operated entirely full of water or other liquid which is not materially more hazardous than water, provided the temperature of the vessel contents does not exceed 150°F or a pressure of 200 psi.

SECTION 7 - CHIEF INSPECTOR

a. How Appointed. Within sixty (60) days after the passage of this Act and at any time thereafter that the office of the Chief Inspector may become vacant, the Commissioner shall appoint a citizen of this State, or, if not available, a citizen of another State, who shall have had at the time of such appointment not less than ten (10) years experience in the construction, installation, inspection, operation, maintenance or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, boilermaker, or boiler inspector, and who shall have passed the same kind of examination as that prescribed under Section 10 of this Act, to be Chief Inspector. Such Chief Inspector may be removed for cause after due investigation by the Board and their recommendation to the Commissioner.

b. Powers. The Chief Inspector, if authorized by the Commissioner is hereby charged, directed and empowered:

1. to take action necessary for the enforcement of the laws of the State governing the use of boilers and pressure vessels to which this Act applies and of the rules and regulations of the Board;

2. to keep a complete record of the name of each owner or user, and his location and, except for pressure vessels covered by an owner/user inspection service, the type, dimensions, maximum allowable working pressure, age, and the last recorded inspection of all boilers and pressure vessels to which the Act applies;

3. to publish and make available to anyone requesting them copies of the rules and regulations promulgated by the Board;

4. to issue, or to suspend or revoke for cause, inspection certificates as provided for in Section 14 of this Act;

5. to cause the prosecution of all violators of the provisions of this Act;

6. to draw upon the State Treasurer for funds necessary to meet the expense authorized by this Act, which shall include the necessary traveling expenses of the Chief Inspector and his Deputies and the expense incident to the maintenance of his office.

SECTION 8 - DEPUTY INSPECTORS

The Commissioner shall employ Deputy Inspectors who shall be responsible to the Chief Inspector and who shall have had at the time of appointment not less than five (5) years experience in the construction, installation, inspection, operation, maintenance or repair of high pressure boilers and pressure vessels as a mechanical engineer, steam operating engineer, boilermaker or boiler inspector, and who shall have passed the examination provided for in Section 10 of this Act.

SECTION 9 - SPECIAL INSPECTORS AND OWNER/USER INSPECTORS

a. In addition to the Deputy Inspectors authorized by Section 8 of this Act, the Commissioner shall, upon the request of any company licensed to insure and insuring in this State boilers and pressure vessels or, upon the request of any company operating pressure vessels in this State for which the owner or user maintains a regularly established inspection service which is under the supervision of one or more technically competent individuals whose qualifications are satisfactory to the Board and causes said pressure vessels to be regularly inspected and rated by such inspection service in accordance with applicable provisions of the rules and regulations adopted by the Board pursuant to Section 3 of this Act,

issue to any inspectors of said insurance company Certificates of Competency as Special Inspectors and to any inspectors of said company operating pressure vessels Certificates of Competency as owner/user inspectors, provided that each such inspector before receiving his Certificate of Competency shall satisfactorily pass the examination provided for by Section 10 of this Act, or, in lieu of such examination, shall hold a Commission or a Certificate of Competency as an inspector of boilers or pressure vessels for a State that has a standard of examination substantially equal to that of the State of or a Commission as an inspector of boilers and pressure vessels issued by the National Board of Boiler and Pressure Vessel Inspectors. A Certificate of Competency as a Owner/User Inspector shall be issued to an inspector of a company operating pressure vessels in this State only if, in addition to meeting the requirements stated herein, the inspector is employed full time by the company and is responsible for making inspections of pressure vessels used, or to be used, by such company, and which are not for resale.

b. Such Special Inspectors or Owner/User Inspectors shall receive no salary from, nor shall any of their expenses be paid by the State and the continuance of their Certificates of Competency shall be conditioned upon their continuing in the employ of the boiler insurance company duly authorized as aforesaid or the continuance of an Owner/User Inspector upon his continuing in the employ of the company so operating pressure vessels in this State and upon his maintenance of the standards imposed by this Act.

c. Such Special Inspectors or Owner/User Inspectors shall inspect all boilers and pressure vessels insured or all pressure vessels operated by their respective companies and, when so inspected, the owners and users of such boilers and pressure vessels shall be exempt from the payment to the State of the inspection fees provided for in Section 16 of this Act.

SECTION 10 - EXAMINATION

Examination for Chief, Deputy, Special or Owner/User Inspectors shall be in writing and shall be held by the Board, with at least two members of the Board present at all times during the examination. Such examination shall be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service, and may be those prepared by the National Board of Boiler and Pressure Vessel Inspectors. In case an applicant fails to pass the examination, he may appeal to the Board for another examination which shall be given by the Board after ninety (90) days. The record of an applicant's examination shall be accessible to said applicant and his employer.

SECTION 11 - SUSPENSION OR REVOCATION OF CERTIFICATE OF COMPETENCY

a. An inspector's Certificate of Competency may be suspended by the Commissioner after due investigation and recommendation by the Board, for the incompetence or untrustworthiness of the holder thereof or for wilful falsification of any matter or statement contained in his application or in a report of any inspection made by him. Written notice of any such suspension shall be given by the Commissioner within not more than ten (10) days thereof to the inspector and his employer. A person whose Certificate of Competency has been suspended shall be entitled to an appeal to the Board as provided in Section 18 of this Act and to be present in person and to be represented by counsel at the hearing of the appeal.

b. If the Board has reason to believe that an inspector is no longer qualified to hold his Certificate of Competency, the Board shall, upon not less than ten (10)

days written notice to the inspector and his employer, hold a hearing at which such inspector and his employer shall have an opportunity to be heard. If, as a result of such hearing, the Board shall find that such inspector is no longer qualified to hold his Certificate of Competency, the Board shall recommend to the Commissioner that such Certificate of Competency be revoked and the Commissioner shall thereupon revoke such Certificate of Competency forthwith.

c. A person whose Certificate of Competency has been suspended shall be entitled to apply, after ninety (90) days from the date of such suspension, for reinstatement of such Certificate of Competency.

SECTION 12 - REPLACEMENT OF CERTIFICATE OF COMPETENCY

If a Certificate of Competency is lost or destroyed, a new Certificate of Competency shall be issued in its place without another examination.

SECTION 13 - INSPECTION OF BOILERS AND PRESSURE VESSELS

a. The Commissioner, the Chief Inspector, or any Deputy Inspector shall have free access, during reasonable hours, to any premises in the State where a boiler or pressure vessel is being constructed for use in, or is being installed in this State for the purpose of ascertaining whether such boiler or pressure vessel is being constructed and installed in accordance with the provisions of this Act.

b. On and after each boiler and pressure vessel used or proposed to be used within this State, except for pressure vessels covered by an owner/user inspection service as described in Section 13(d) or except for boilers or pressure vessels exempt under Section 6 of this Act (Owners and users may request to waive this exemption), shall be thoroughly inspected as to their construction, installation and condition as follows;

1. Power boilers, high pressure high temperature water boilers shall receive a certificate inspection annually which shall be an internal inspection where construction permits, otherwise it shall be as complete an inspection as possible. Such boilers shall also be externally inspected while under pressure if possible.

2. Low pressure steam or vapor heating boilers shall receive a certificate inspection annually with an internal inspection every three years where construction permits.

3. Hot water heating and hot water supply boilers shall receive a certificate inspection annually with an internal inspection at the discretion of the Inspector.

4. Pressure vessels subject to internal corrosion shall receive a certificate inspection triennially with an internal inspection at the discretion of the Inspector. Pressure vessels not subject to internal corrosion shall receive a certificate inspection at intervals set by the Board.

5. Nuclear vessels within the scope of this Act shall be inspected and reported in such form and with such appropriate information as the Board shall designate.

6. A grace period of two months beyond the periods specified in subdivisions 1, 2, 3 and 4 of this subsection may elapse between certificate inspections.

7. The Board may provide for longer periods between certificate inspections, in its rules and regulations.

8. Under the provisions of this Act, the Board is responsible to provide for the safety of life, limb and property and therefore has jurisdiction over the interpretation and application of the inspection requirements as provided for in the rules and regulations which they have promulgated. Inspection during construction and installation shall certify as to the minimum requirements for safety as

defined in the ASME Code. Inspection requirements of operating equipment shall be in accordance with generally accepted practice and compatible with the actual service conditions, such as:

- (a) Previous experience, based on records of inspection, performance and maintenance.
- (b) Location, with respect to personnel hazard.
- (c) Quality of inspection and operating personnel.
- (d) Provision for related safe operation controls.
- (e) Interrelation with other operations outside the scope of this Act.

Based upon documentation of such actual service conditions by the owner or user of the operating equipment, the Board may, in its discretion, permit variations in the inspection requirements.

c. The inspections herein required shall be made by the Chief Inspector, by a Deputy Inspector, by a Special Inspector or by an Owner/User Inspector provided for in this Act.

d. Owner/User inspection of pressure vessels is permitted provided the owner/user inspection service is regularly established and is under the supervision of one or more individuals whose qualifications are satisfactory to the Board and said owner/user causes the pressure vessels to be inspected in conformance with the National Board Inspection Code or APIRP 510, as applicable.

e. If, at the discretion of the inspector, a hydrostatic test shall be deemed necessary, it shall be made by the owner or user of the boiler or pressure vessel.

f. All boilers, other than cast iron sectional boilers, and pressure vessels to be installed in this State after the twelve (12) months period from the date upon which the rules and regulations of the Board shall become effective shall be inspected during construction as required by the applicable rules and regulations of the Board by an inspector authorized to inspect boilers and pressure vessels in this State, or, if constructed outside of the State, by an inspector holding a Commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

SECTION 14 - INSPECTION REPORTS - INSPECTION CERTIFICATES

a. Each company employing Special Inspectors shall, within thirty (30) days following each certificate inspection made by such inspectors, file a report of such inspection with the Chief Inspector upon appropriate form as promulgated by the National Board of Boiler and Pressure Vessel Inspectors. The filing of reports of external inspections shall not be required except when such inspections disclose that the boiler or pressure vessel is in a dangerous condition.

b. Each company operating pressure vessels covered by owner/user inspection service meeting the requirements of subsection a of Section 9 of this Act shall maintain in its files an inspection record which shall list, by number and such abbreviated description as may be necessary for identification, each pressure vessel covered by this Act, the date of the last inspection of each pressure vessel and the approximate date for the next inspection. The inspection record shall be available for examination by the Chief Inspector or his authorized representative during business hours. Each such company shall, in addition, file annually with the Chief Inspector a statement, signed by the engineer having supervision over the inspections made during the period covered thereby, stating the number of pressure vessels covered by this Act inspected during the year and certifying that each such inspection was conducted pursuant to the inspection requirements provided for by this Act.

Each annual statement shall be accompanied by a filing fee in accordance with the following schedule:

- For statements covering not more than 25 vessels - \$ _____ per vessel;
- For statements covering more than 25 but less than 101 vessels - \$ _____;
- For statements covering more than 100 but less than 501 vessels - \$ _____;
- For statements covering more than 500 vessels - \$ _____.

c. If the report filed pursuant to subsection (a) of this Section shows that a boiler or pressure vessel is found to comply with the rules and regulations of the Board, the owner or user thereof shall pay directly to the Chief Inspector the sum of _____ (\$ _____) dollars and the Chief Inspector, or his duly authorized representative, shall issue to such owner or user an Inspection Certificate bearing the date of inspection and specifying the maximum pressure under which the boiler or pressure vessel may be operated. Such Inspection Certificate shall be valid for not more than fourteen (14) months from its date in the case of boilers and thirty-eight (38) months in the case of pressure vessels. In the case of those boilers and pressure vessels covered by subdivisions 1, 2, 3 and 4 of subsection (b) of Section 13 of this Act for which the Board has established or extended the operating period between required inspections, pursuant to the provisions of subdivision 7 or 8 of said subsection (b) of Section 13, the certificate shall be valid for a period of not more than two months beyond the period set by the Board. Certificates for boilers shall be posted under glass, or similarly protected, in the room containing the boiler. Pressure vessel certificates shall be posted in like manner, if convenient, or filed where they will be readily accessible for examination.

d. No Inspection Certificate issued for an insured boiler or pressure vessel based upon a report of a Special Inspector shall be valid after the boiler or pressure vessel for which it was issued shall cease to be insured by a company duly authorized by this State to provide such insurance.

e. The Commissioner or his authorized representative may at any time suspend an Inspection Certificate after showing cause that the boiler or pressure vessel for which it was issued, cannot be operated without menace to the public safety, or when the boiler or pressure vessel is found not to comply with the rules and regulations herein provided. Each suspension of an Inspection Certificate shall continue in effect until such boiler or pressure vessel shall have been made to conform to the rules and regulations of the Board, and until said Inspection Certificate shall have been reinstated.

SECTION 15 - INSPECTION CERTIFICATE REQUIRED: PENALTY

After twelve (12) months for boilers and thirty-six (36) months for pressure vessels following the date on which this Act becomes effective, it shall be unlawful for any person, firm, partnership or corporation to operate in this State a boiler or pressure vessel, except a pressure vessel covered by owner/user inspection service as provided for in Section 14, without a valid Inspection Certificate. The operation of a boiler or pressure vessel without such Inspection Certificate, or at a pressure exceeding that specified in such Inspection Certificate or in violation of this act or the rules and regulations promulgated under it, shall constitute a misdemeanor on the part of the owner, user or operator thereof and shall be punishable by a fine not exceeding _____ (\$ _____) dollars, or imprisonment not to exceed _____, or both, at the discretion of the court. Each day of such unlawful operation shall be deemed a separate offense.

SECTION 16 - INSPECTION FEES

a. Schedule of Fees. The owner or user of a boiler or pressure vessel required by this Act to be inspected by the Chief Inspector, or his Deputy Inspector, shall

pay directly to the Chief Inspector, upon completion of inspection, fees in accordance with the following schedule:

1. Power boilers and high pressure, high temperature water boilers:

Certificate Inspections

- Boilers of 50 sq. ft. of heating surface or less.....\$ _____
- Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface.....\$ _____
- Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft. of heating surface.....\$ _____
- Boilers of 10,000 sq. ft. of heating surface or more...\$ _____

External Inspections

- Boilers of 50 sq. ft. of heating surface or less.....\$ _____
 - Boilers over 50 sq. ft. of heating surface.....\$ _____
- Not more than the equivalent of the certificate and external inspection fees shall be charged or collected for any and all inspections as above of any boiler in any one year.

2. Heating boilers:

Certificate Inspections

- Heating boilers without a manhole.....\$ _____
 - Heating boilers with a manhole.....\$ _____
 - Hot water supply boilers.....\$ _____
- Not more than one fee shall be charged or collected for any and all inspections as above of any heating boiler in any required inspection period.

3. Pressure Vessels:

Certificate Inspections

- Fees to be based on the maximum length of the vessel times the maximum width or diameter thereof in feet.
- Each pressure vessel subject to inspection having a product as determined above of 50 sq. ft. or less.....\$ _____
- For each additional 100 sq. ft. of area in excess of 50 sq. ft.\$ _____
- Not more than \$ _____ shall be paid for each inspection on any one vessel.
- A group of pressure vessels, such as the rolls of a paper machine or dryer operating as a single machine or unit, shall be considered as one pressure vessel.
- Not more than one fee shall be charged or collected for any and all inspections as above of any pressure vessel in any required inspection period.

4. Hydrostatic tests:

When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees applicable to a certificate inspection of the boiler or pressure vessel shall be charged.

5. All other inspections, including shop inspections, special inspections, and inspections of secondhand or used boilers or pressure vessels made by the Chief or Deputy Inspector shall be charged for at the rate of not less than _____ dollars for one half day of four hours, and _____ dollars for one full day of eight hours, plus all expenses, including traveling and hotel.

"Secondhand" shall mean an object which has changed ownership and location after primary use.

b. Disposition of fees. The Chief Inspector shall transfer all fees so received to the Treasurer of the State

SECTION 17 - CHIEF AND DEPUTY INSPECTORS TO FURNISH BOND

The Chief Inspector shall furnish a bond in the sum of five thousand (\$5,000.00) dollars and each of the Deputy Inspectors, employed and paid by the State, shall furnish a bond in the sum of two thousand (\$2,000.00) dollars, conditioned upon the faithful performance of their duties and upon a true account of moneys handled by them respectively and the payment thereof to the proper recipient. The cost of said bonds shall be paid by the State Treasurer.

SECTION 18 - APPEALS

Any person aggrieved by an order or an act of the Commissioner or the Chief Inspector, under this Act may, within fifteen (15) days notice thereof, appeal from such order or act to the Board which shall, within thirty (30) days thereafter, issue an appropriate order either approving or disapproving said order or act. A copy of such order by the Board shall be given to all interested parties.

Within thirty (30) days after any order or act of the Board any person aggrieved thereby may file a petition in the _____ Court, of the County of _____ for a review thereof. The Court shall summarily hear the petition and may make any appropriate order or decree.

SECTION 19 - APPROPRIATION

The sum of _____, or as such thereof as may be necessary, is hereby appropriated for the preparation, printing and distribution of the rules and regulations promulgated by the Board and for the purpose of carrying out all the other provisions of this Act.

SECTION 20 - STATE TO HAVE EXCLUSIVE JURISDICTION

No city, town or other governmental subdivision shall have the power to make any laws, ordinances or resolutions providing for the construction, installation, inspection, maintenance and repair of boilers and pressure vessels within the limits of such city, town or governmental subdivision and any such laws, ordinances or resolutions heretofore made or passed shall be void and of no effect.

SECTION 21 - REPEAL CLAUSE

All acts and parts of acts inconsistent with any provisions of this Act are hereby repealed to the extent of such inconsistency.

SECTION 22 - CONSTITUTIONALITY OF ACT

The fact that any section, subsection, sentence, clause or phrase of this Act is declared unconstitutional or invalid for any reason shall not affect the remaining portions of this Act.

Attachment XVII

BEFORE THE SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

STATE OF KANSAS BOILER LAW (PROPOSAL 60)

These comments will supplement those made by Messrs. Bennett and Pickett.

The map on the data sheet attached shows that Kansas is surrounded by states that have boiler laws except for Missouri. While Missouri does not have a state-wide law, they do have several jurisdictions within the state that have regulations covering boilers and pressure vessels (indicated by dots). The fact that Kansas does not now have any boiler regulations will make the state a dumping ground for boilers that cannot be installed in surrounding states. This situation will become more critical the longer Kansas is without an effective law. It is, undoubtedly, only a matter of time until inadequately constructed, installed, inspected and repaired boilers will result in failures causing property damage and possible loss of life.

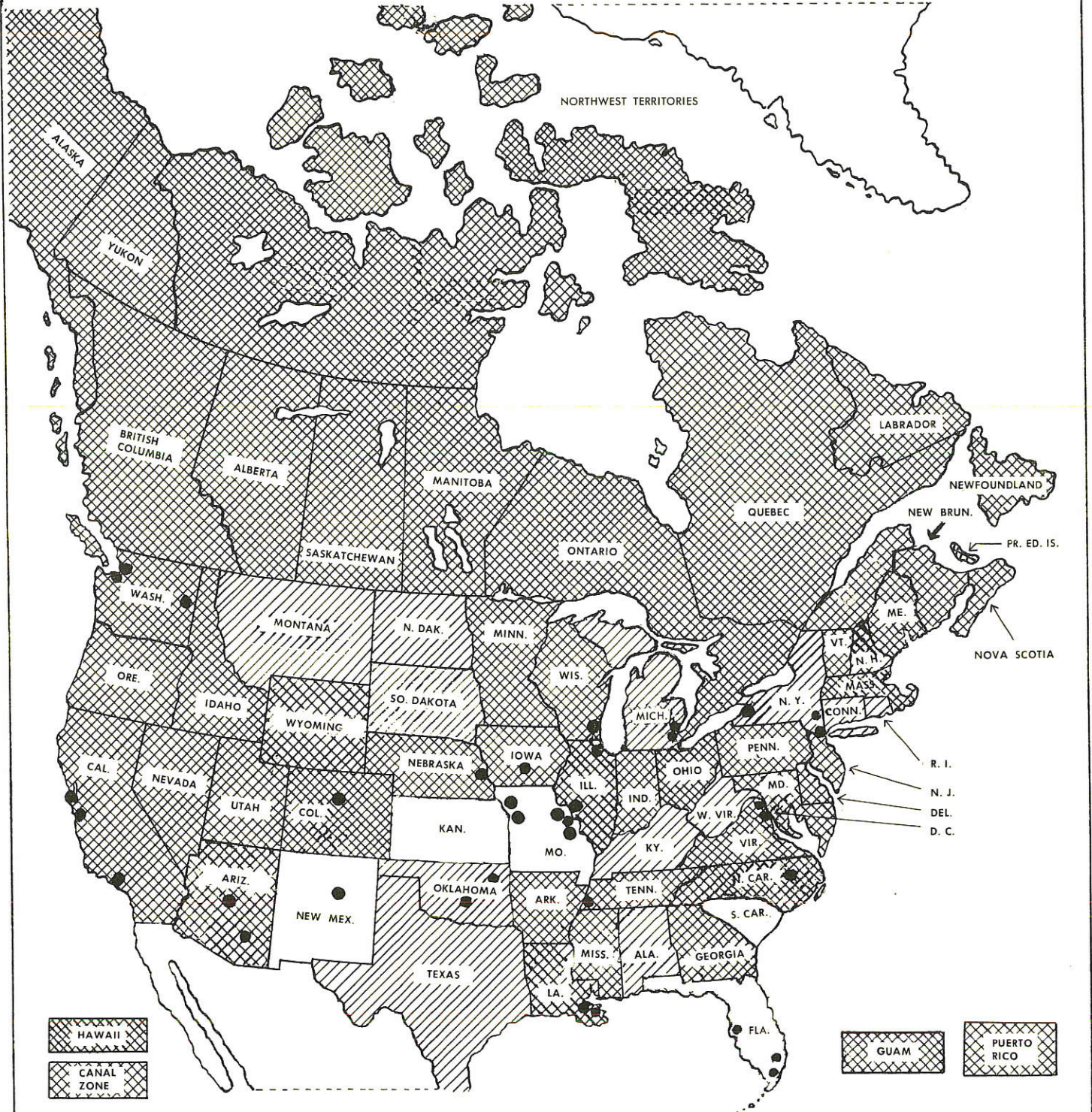
Any law considered should cover both high and low pressure boilers. Low pressure boilers have become the cause of many failures when not inspected adequately and regularly. The violence of such failures is well illustrated in the pictures and articles forming a part of this presentation. This type boiler is not dangerous when operated at the pressures for which they are designed (15 psi steam and 30 psi water). However, if operating controls and safety valves are not inspected and maintained, the boiler may be subjected to serious over pressure resulting in failure with catastrophic results. These are the boilers in our schools, churches and places of public assembly.

UNIFORM BOILER AND PRESSURE VESSEL LAWS SOCIETY

Incorporated

57 PRATT STREET
HARTFORD, CONN. 06103

Telephone 203-247-7100



HAWAII
CANAL ZONE

GUAM
PUERTO RICO

Boiler & Pressure Vessel Law Boiler Law Only Cities & Counties with Boiler & Pressure Vessel Ordinances

TABULATION OF THE BOILER AND PRESSURE VESSEL LAWS OF THE UNITED STATES AND CANADA

---- SEE "NOTES" ON LAST PAGE ----

Every effort has been made to check the reliability of this information but the Society can accept no responsibility for its accuracy.

Key: I - Power Boilers
 III - Nuclear Components
 IV - Heating Boilers
 VIII(1) - Pressure Vessels
 VIII(2) - Pressure Vessels - alternate rules

X - Fiber-glass Reinforced Plastic Pressure Vessels
 XI - In service inspection - Nuclear
 A - Law Requires ASME Construction
 O - Require Own Construction Code or ASME

N - Law Does Not Cover
 * - Operator's License Required
 ** - Limited to specific vessels
 *** - Pending Rules and Regulations

STATES & TERRITORIES	VIII						ENFORCEMENT OFFICIAL & HIS ADDRESS
	I	III	IV	(1)	(2)	X	
ALABAMA	A	N	A	N	N	N	James Stephenson, Administrator, OSHA, 600 Administrative Bldg., 64 No. Union St., Montgomery, Al. 36130
ALASKA	A*	A	A*	A	A	A	R. D. Molt, Chief, Pressure Vessel Section, Department of Labor, Box 1149, Juneau, Ak. 99801
ARIZONA	A	A	A	A	A	A	Chief Boiler Inspector, Division of OSHA, P.O. Box 19070, Phoenix, Az. 85007
ARKANSAS	A*	A	A*	A*	A	A	J. T. Crosby, Chief Boiler Inspector, Boiler Inspection Dept., Box 1797, Little Rock, Ar. 72203
CALIFORNIA	A	A	A	A	A	A	M. Perlee, Principal Safety Engineer, Pressure Vessel Section, Div. of Ind. Safety, Box 603, San Francisco, Ca. 94101
COLORADO	A	A	A	A	A	A	Bill E. Cimino, Chief Boiler Inspector, Safety Section, Rm. 201, 1177 Grant St., Denver, Co. 80203
CONNECTICUT	A	A	A	N	N	N	Leo F. Alix, Dpty. Comm. of Factory Inspection, Labor Dept., 200 Folly Brook Blvd., Wethersfield, Ct. 06115
DELAWARE	A	A	A	A	A	A	H. S. Mauk, Director, Division of Boiler Safety, 305 West 12th St., Wilmington, De. 19801
DISTRICT OF COLUMBIA	A*	A	A*	A*	A	N	Harry R. Williams, Acting Chief, Boiler Section, 614 H St. N.W., Rm. LL9, Washington, D.C. 20001
FLORIDA	N	N	N	N	N	N	C. E. Hooks, Jr., Adm. Dept. of Indus. Safety, Fla. Indus. Comm., 215 Market St., Rm. 380, Jacksonville, Fl. 32202
GEORGIA	A	N	A	A	N	N	Esters M. Shiver, Director of Inspection Division, 287 State Labor Building, Atlanta, Ga. 30334
GUAM	A	N	N	A	N	N	Vinay K. Sood, P.E., P.O. Box 2950, Agana, Guam 96910
HAWAII	A	A	A	A	A	A	Richard E. Peterson, Manager, Technical Inspection Branch, 677 Ala Moana Blvd., Rm. 912, Honolulu, Hi. 96813
IDAHO	A	A	A	A	A	N	Gerald Geddes, Chairman, Industrial Commission, 317 Main St., Boise, Id. 83702
ILLINOIS	A	A	A	A	A	A	Duane R. Gallup, Chief Boiler Inspector, 302 Armory Building, Springfield, Il. 62706
INDIANA	A	A	A	A	A	N	Robert R. Johnson, Chief Inspector, 909 State Office Bldg., 100 No. Senate Ave., Indianapolis, In. 46204
IOWA	A	A	A	A	A	A	Russell A. Hanson, Boiler Supervisor, Bureau of Labor, Boiler Inspection Div., Des Moines, Ia. 50319
KANSAS	N	N	N	N	N	N	Fletcher Bell, Commissioner, Insurance Dept., State Office Bldg., 1st Floor, Topeka, Ks. 66612
KENTUCKY	A	A	A	A**	N	N	C. R. Woods, Chief Blr. Inspector, Bureau of Blr. Inspection, 106 New State Office Bldg., Frankfort, Ky. 40601
LOUISIANA	A	A	A	A	A	N	Wayne Morvant, Chief Inspector, Div. of Boiler Inspection, Dept. of Labor, Baton Rouge, La. 70804
MAINE	A	A	A	A	A	A	J. W. Emerson, Chief Inspector, Div. of Blr. Insp., State Office Bldg. Annex, Western Ave., Augusta, Me. 04330
MARYLAND	A	A	A	A	A	A	Chief Inspector, Division of Labor & Industry, 1 So. Calvert Building, Baltimore, Md. 21202
MASSACHUSETTS	A*	A	A	A**	N	A	John K. Olsen, Chairman of Board of Boiler Rules, Div. of Inspection, McCormick Bldg., 13th Fl., Boston, Ma. 02108
MICHIGAN	A	A	A	A**	N	N	Kenneth J. Fields, Chief, Boiler Division, Dept. of Labor, 7150 Harris Dr., Lansing, Mi. 48926
MINNESOTA	A*	A	A*	A*	A	A	Henry Baron, Chief Inspector, Dept. of Labor & Ind., 444 Lafayette Rd., Rm. 567, St. Paul, Mn. 55101
MISSISSIPPI	A	N	A	A	A	A	Frank W. Manner, Chief Inspector, Dept. of Blr. & Pres. Vessel Insp., 2628 Southerland St., Jackson, Ms. 39216
MISSOURI	N	N	N	N	N	N	G. B. Craven, Director, Division of Industrial Inspection, P.O. Box 449, Jefferson City, Mo. 65101
MONTANA	A*	N	A*	N	N	N	Bernard J. Briggeman, Chief, Bureau of Safety and Health, 815 Front St., Helena, Mt. 59601
NEBRASKA	A	A	A**	A**	A**	A	John P. Mickels, Chief Boiler Inspector, Department of Labor, Lincoln, Nebraska 68509
NEVADA	A	A	A	A	A	N	Burd O. Rohde, Dept. of Industrial Safety, P.O. Box 2776, 2601 E. Sahara Ave., Las Vegas, Nv. 89104
NEW HAMPSHIRE	A	A	A	A	N	N	Robert M. Duvall, Commissioner, Department of Labor, 1 Pillsbury Street, Concord, N.H. 03301
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NEW MEXICO	N	N	N	N	N	N	Fred Gerber, Chief Adm., Mechanical Bd. of Constr. Industries Commission, P.O. Box 5155, Santa Fe, N.M. 87501
NEW YORK	O	A	A	N	N	N	Gordon E. Langford, Chief Boiler Inspector, Dept. of Labor, State Campus, Albany, N.Y. 12201
NORTH CAROLINA	A	A	A	A	A	N	B. L. Whitley, Director, Boiler Division, P.O. Box 27407, Raleigh, N.C. 27611
NORTH DAKOTA	A	A	A	N	N	N	Harold Gragg, Chief Boiler Inspector, Workmens Compensation Bureau, Bismarck, N.D. 58501
OHIO	A*	A	A*	A	O	A	Ralph Yost, Chief, Div. of Boiler Inspection, 2323 W. 5th Ave., P.O. Box 825, Columbus, Oh. 43216
OKLAHOMA	A	N	N	N	N	N	I. O. Wardlow, Chief, Bureau of Boiler Inspection, State Dept. of Labor, State Capitol, Oklahoma City, Ok. 73105
OREGON	A	A	A	A	A	A	D. R. Bartosch, Chief Inspector, 408 State Office Bldg., 1400 S.W. 5th Ave., Portland, Or. 97201
PANAMA CANAL ZONE	A*	A	A*	A	A	N	A. L. Gallin, Chief of Industrial Division, Panama Canal Company, Box 5046, Cristobal, Canal Zone
PENNSYLVANIA	A*	A	A*	A*	A	A	B. D. Altemus, Chief, Boiler Division, Labor & Industry Building, Harrisburg, Pa. 17120
PUERTO RICO	A	A	A	A	N	N	Antonio Franco Santos, Chief Boiler Engineer, Dept. of Labor, 414 Barbosa Ave., San Juan, P.R. 00917
RHODE ISLAND	A	N	A	N	N	N	F. W. Marcaccio, Administrator, Div. of Occ. Safety, 235 Promenade St., Providence, R.I. 02908
SOUTH CAROLINA	N	N	N	N	N	N	Robert C. Parks, Director, Dept. of OSHA, 3600 Forest Dr., P.O. Box 11329, Columbia, S.C. 29211
SOUTH DAKOTA	A	A	A	N	N	N	Douglas Hague, Chief Blr. Inspector, Div. of Blr. Inspection, Dept. of Public Safety, Pierre, S.D. 57501
TENNESSEE	A	A	A	A	A	A	C. W. Allison, Chief Inspector, Labor Department, First American Center, 11th Floor, Nashville, Tn. 37219
TEXAS	A	A	A	N	N	N	H. G. Parker, Chief Inspector, Boiler Inspection Division, Box 12157, Capitol Station, Austin, Tx. 78711
UTAH	A	A	A	A	A	A	Raymond K. Bloesch, Chf. Blr. Inspector, Industrial Comm., Safety Div., 350 E. 500 South, Salt Lake City, Ut. 84111

VERMONT	A	A	A	A	A	N	N	Albert A. Fraser, Deputy Commissioner, Dept. of Labor & Industry, State Office Bldg., Montpelier, Vt. 05602
VIRGINIA	A	A	A	A	A	A	N	William Dvorak, Chief Inspector, Boiler & Pressure Vessel Safety Div., 9th St. Office Bldg., Richmond, Va. 23214
WASHINGTON	A	A	A	A	A	A	N	Martin M. Forseth, Chief Boiler Inspector, Div. of Bldg. & Constr. Safety, 300 W. Harrison, Seattle, Wa. 98119
WEST VIRGINIA	A	N	N	N	N	N	N	Dale Morgan, Chief Boiler Inspector, Department of Labor, Charleston, W. Va. 25305
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WYOMING***	A	N	A	A	A	N	N	William W. Wilkins, Administrator, Department of OSHA, 200 East 8th Avenue, Cheyenne, WY. 82001

PROVINCES IN CANADA

ALBERTA	A*	A	A*	A	N	N	N	A. J. R. Rees, Chf. Inspector, Dept. of Labour, 3rd Flr., Princeton Place, 10339 124th St., Edmonton, Alberta T5N 3W1
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NEW BRUNSWICK	A*	A	A*	A*	A	N	A	W. F. DeWolfe, Director, Dept. of Labour, P.O. Box 6000, Fredericton, New Brunswick E3B 5H1
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CITIES AND COUNTIES

ALBUQUERQUE, N.M.	A	N	A	N	N	N	N	G.M. Scalia, Boiler Inspection, Div. of Bldgs. & Inspections, Box 1293, Albuquerque, N.M. 87103
BUFFALO, NEW YORK	O*	A	A	A	N	N	N	Thomas A. Hearn, Jr., Dept. of Public Works, 2501 City Hall, Buffalo, N.Y., 14240
CHICAGO, ILLINOIS	A*	A	A	A	A	A	N	E.R. Savickes, Acting Chf. Inspector, Insp. Services Div., 320 N. Clark St., Rm. 402, Chicago, Il. 60610
DEARBORN, MICHIGAN	A*	N	A*	A*	N	N	N	G.M. Powers, Chief Safety Engineer, Dept. of Public Works, 4500 Maple, Dearborn, Mi. 48126
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DES MOINES, IOWA	A*	N	A*	N	N	N	N	Glen L. Bowers, Building Inspection Services, City Hall, Des Moines, Ia. 50307
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EAST ST. LOUIS, IL.	A*	N	A*	A*	N	N	N	Joseph Iwasyszyn, Air Pollution Officer, City Hall, East St. Louis, Il. 62201
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PHOENIX, ARIZONA	A	N	A	A	A	N	N	H.B. Wilson, Chf. Mech. Inspector, Mech. Insp. Section, 251 W. Washington, Phoenix, Az. 85003
ST. JOSEPH, MO.	A*	A	A*	A*	A	N	N	T. Zebelean, Supt. Building Regulations, City Hall, St. Joseph, Mo. 64501
ST. LOUIS, MO.	A*	A	A*	A*	N	N	N	L.E. Stoppelman, Supv. Mechanical Equipment, Public Safety Dept., Rm.-425, City Hall, St. Louis, Mo. 63103
SAN FRANCISCO, CA.	A	N	A	A	N	N	N	Chief Boiler Inspector, Dept. of Public Works, 450 McAllister St.-Rm. 103, San Francisco, Ca. 94102
SAN JOSE, CA.	A*	N	A	A	N	N	N	R. G. Eldridge, Boiler Inspector, Bureau of Fire Prevention, 476 Park Ave., San Jose, Ca. 95110
SEATTLE, WA.	A	A	A	A	A	N	N	S. B. Voris, Chief Boiler Inspector, Dept. of Buildings, 600 4th Avenue, Rm-503, Seattle, Wa. 98104
SPOKANE, WA.	A*	N	A*	A	N	N	N	R. R. Reese, Director of Building, 451 City Hall, Spokane, Wa. 99201
TACOMA, WA.	A*	N	A*	A*	N	N	N	F. W. King, Chief Boiler Inspector, 438 County-City Bldg., 930 Tacoma Avenue, Tacoma, Wa. 98402
TAMPA, FLORIDA	A*	N	A*	A*	A	A	N	W. A. Cooper, Chief Inspector, Boiler Bureau, 301 N. Florida Avenue, Tampa, Fl. 33602
TUCSON, ARIZONA	A	N	A	A	A	N	N	F. H. Blackmore, Chief Mechanical Inspector, Box 5547, Tucson, Arizona 85703
TULSA, OKLAHOMA	A*	A	A*	A*	A	N	N	C. T. West, Jr., Chief Boiler Inspector, 200 Civic Center, 124 East 4th St., Rm-424, Tulsa, Ok. 74103
UNIVERSITY CITY, MO.	A*	N	A*	A*	N	N	N	W. G. Walters, General Inspector, City Hall, University City, Mo. 63130
WHITE PLAINS, N.Y.	O*	N	A	N	N	N	N	Saverio Innamorato, Commissioner of Building, 255 Main Street, White Plains, N.Y. 10601
ARLINGTON CO., VA.	A	A	A	A	A	N	N	Elmer Shroud, Chief Mechanical Inspector, Court House, Arlington, Va. 22201
DADE CO., FLORIDA	A	A	A	A	A	N	N	John R. Davidson, Boiler Inspector, Bldg. & Zoning Dept., 909 S.E. First Ave., Miami, Fl. 33131
FAIRFAX COUNTY, VA.	A	A	A	A	A	N	N	Larry Stahl, Chief Mechanical Inspector, 4100 Chain Bridge Road, Fairfax, Va. 22030
JEFFERSON PARISH, LA.	A*	A	A*	A*	A	N	N	H. Schouest, Jr., Director, Dept. of Regulatory Inspection, 3300 Metairie Road, Metairie, La. 70001
ST. LOUIS CO., MO.	A*	A	A*	A	A	N	N	Marvin P. Feuring, Chf. Mech. Inspector, St. Louis County Government Center, 7900 Forsyth Blvd., Clayton, Mo. 63105

* * NOTES * *

1. This condensed Data Sheet does not list all the exemptions and variances in the many laws and regulations. More detailed information is available in the Society's "Synopsis of Boiler and Pressure Vessel Laws, Rules and Regulations." Further information may be obtained from the jurisdictional authority or the Society.
2. Some states not having a boiler law do require the boiler or pressure vessel construction to be in accordance with the ASME Code under their laws for Workmen's Compensation, Liquefied Petroleum Gas, etc. The "Synopsis" gives more detail on special requirements.
3. A Pennsylvania commission is required for shop inspectors of boilers and pressure vessels to be shipped into that state.
4. An Ohio commission is required for shop inspectors of boilers and pressure vessels to be shipped into that state.
5. The New York State construction code is identical to the ASME Code.
6. Canadian provincial Boiler Inspection Departments accept the ASME Boiler and Pressure Vessel Code as their minimum standard. Manufacturers must register with the Department and submit designs and specifications for approval before fabricating boilers or pressure vessels for installation in Canada. Also see Canadian Standards Association B51 Code.

* * WHO'S WHO * *

The ASME BOILER AND PRESSURE VESSEL COMMITTEE --- composed of representatives of all facets of the boiler and pressure vessel industry formulates standard rules for construction of boilers and pressure vessels. To afford reasonably certain protection of life and property and to provide a margin for deterioration in service so as to give a reasonably long safe period of usefulness, the Committee establishes rules of safety governing the design, fabrication and inspection during construction of boilers and pressure vessels, and interprets these rules when questions arise regarding their intent. In formulating the rules, the Committee considers the needs of users, manufacturers and inspectors of boilers and pressure vessels.

W. B. HOYT, SECRETARY, 345 East 47th St., New York, N.Y. 10017

The NATIONAL BOARD OF BOILER AND PRESSURE VESSEL INSPECTORS --- composed of members from political subdivisions of the United States and Canada, each of whom is the Chief Inspector or other official charged with the enforcement of the boiler and pressure vessel laws of his jurisdiction. The National Board was organized for and is devoted to safety and uniformity in the inspection of boilers and pressure vessels. Its guiding principle is that uniformity of safety rules and regulations requires uniformity in the administration of such rules and regulations.

S. F. HARRISON, EXECUTIVE DIRECTOR, 1055 Crupper Avenue, Columbus, Ohio 43229

The UNIFORM BOILER AND PRESSURE VESSEL LAWS SOCIETY, INC. --- a nonpolitical, noncommercial, nonprofit, technical body supported by the voluntary contributions of its members. Its objective is to encourage uniformity in the laws, rules and regulations, and administration thereof, which affect the boiler and pressure vessel industry, inspection agencies and users. The Society believes that such laws, rules and regulations should follow nationally accepted codes and standards and recommends the "ASME Boiler and Pressure Vessel Code" as the standard for construction and the "Inspection Code" of the National Board of Boiler and Pressure Vessel Inspectors for administration and inspection.

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STATE OF KANSAS
BEFORE THE SPECIAL COMMITTEE ON FEDERAL AND STATE AFFAIRS

BOILER LEGISLATION (PROPOSAL 60)

At the present time the State of Kansas is without boiler legislation that should be enacted to protect the citizens and the public of the state against loss of life, property, etc.

The Boilermakers International Union, which makes its headquarters in Kansas City, Kansas and represents a lot of citizens in the state, is very interested in enacting proper legislation for the following reasons:

1. Safety.
2. Proper installation and erection.
3. Required maintenance to keep them operating properly.
4. To make sure that Kansas is not put into the position of being a dumping ground for foreign products that does not meet our standards (ASME Code).
5. To help employ citizens of Kansas for the erection, installation and maintenance.
6. Enact legislation so the state would have control as to the type of boiler and material, etc. that would be installed in Kansas.

We would like very much to see legislation passed that would help the above-mentioned topics.

This brief summary presented by:

Tom West
International Representative
Boilermakers International Union
New Brotherhood Building
Kansas City, Kansas

July 21, 1976