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aggravated in the line of duty as a member of a reserve component of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard if

(A) the duty was other than full-time duty and was prescribed for the reserve component of which the person was a member by the appropriate United States Secretary under 37 U.S.C. § 206 or another law; or

(B) the duty was part of special additional duties authorized for the reserve component of which the person was a member by an authority designated by the appropriate United States Secretary and was performed by the person on a voluntary basis in connection with the prescribed training or maintenance activities of the reserve component to which the person was assigned.

(b) In addition to the requirements of (a) of this section, a person is a qualified veteran for purposes of the state guaranteed veterans' home mortgage program if the person

(1) has retired or been discharged or released from the duty described in (a) of this section under conditions other than dishonorable; or

(2) has not retired or been discharged or released from the duty described in (a) of this section but

(A) has completed his or her initial period of duty; and

(B) would have been entitled to a discharge or release under conditions other than dishonorable at the end of his or her initial period of duty.

(c) A person is not a qualified veteran under (a)(2) of this section if the duty served by the person was as a temporary member of the Coast Guard Reserve.

(d) A person is not a qualified veteran under (a)(3) of this section if the duty served by the person consisted of

(1) work or study performed in connection with correspondence courses;

(2) attendance at an educational institution in an inactive status; or

(3) duty performed as a temporary member of the Coast Guard Reserve. (Eff. 1/26/83, Reg. 85)

Authority: § 7, Ch. 35, SLA 1982
AS 18.56.050
AS 18.56.088
AS 18.56.090

15 AAC 118.520. DUTY IN PUBLIC HEALTH SERVICE. (a) A person is a qualified veteran for purposes of the state guaranteed veterans' home mortgage program if the person satisfies the requirements of 15 AAC 118.510(b) with regard to the duty described in this section and if

(1) the person has served on full-time duty, other than for training purposes, as a commissioned officer of the Public Health Service, or of the Reserve Corps of the Public Health Service, after July 28, 1945, or, if the duty occurred before July 29, 1945, under circumstances affording entitlement to full military benefits;

(2) the person has served on full-time duty for training purposes as a commissioned officer of the Reserve Corps of the Public Health Service at the times and under the circumstances required by (1) of this subsection and the person was disabled from a disease or injury incurred or aggravated in the line of that duty; or

(3) subject to the limitations in 15 AAC 118.510(d), the person was disabled from a disease or injury incurred or aggravated in the line of duty as a commissioned officer of the Reserve Corps of the Public Health Service under the circumstances described in 15 AAC 118.510 (a)(3)(A) and (B).

(b) For the purposes of (a) of this section, the Corporation will, in its discretion, seek the assistance of the Veterans' Administration in determining whether an individual's service before July 29, 1945, in the Public Health Service was under circumstances affording entitlement to off) on the residence securing the mortgage note at any time prior to the execution of the mortgage. For purposes of this section, the replacement of

(1) construction period loans;

(2) bridge loans or similar temporary initial financing; and

(3) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage. Generally, temporary initial financing is any financing which has a term of 24 months or less.

(b) Second lien mortgage loans may be purchased under 15 AAC 118.490 – 15 AAC 118.580 to the extent such loans are allowable under applicable federal law and comply with the provisions of 15 AAC 118.420 and 15 AAC 118.425. (Eff. 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.494. PURCHASE OF QUALIFIED VETERANS' MORTGAGE LOANS FROM SELLER/SERVICERS. In addition to the terms and conditions fixed by 15 AAC 118.260 for the purchase of mortgage loans from the originating mortgage lender ("seller/servicer"), the sales and servicing agreement between seller/servicer and the Corporation and the seller/servicer guide will provide for reasonable periodic inspection by, and other reasonable procedures, including reasonable investigations by, the seller/servicer to assure that the mortgage loans purchased comply with the Temporary Regulations. The sales and servicing agreement shall contain covenants by the seller/servicer designed to assure compliance with the Temporary Regulations. (Eff. 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.500. VETERANS. As provided in sec. 7, ch. 35 SLA 1982, "qualifying veteran," for the purposes of the State Guaranteed Veterans' Home Mortgage Program, has the meaning provided for the term "qualified veteran" under the Mortgage Subsidy Bond Tax Act of 1980 (94 Stat. 2660 – 2680). Temporary regulations of the Internal Revenue Service (Sec. 6a.103A-3(c), as published in the Federal Register, Vol. 46, no. 126, Wednesday, July 1, 1981, page 34324) have implemented the Mortgage Subsidy Bond Tax Act by defining "veteran" to have the meaning provided in 38 U.S.C. 101(2). There is no definition of "qualified veteran" under the Mortgage Subsidy Bond Tax Act or the regulations adopted under that Act. The Corporation will accept as a "qualified veteran" a person who meets the definition of "veteran" as established in the temporary regulation of the Internal Revenue Service described above. The provisions of 15 AAC 118.500 – 15 AAC 118.580 are intended to interpret and clarify the temporary regulation. However, sec. 7, ch. 35, SLA 1982, incorporates by reference future amendments to the definition of "qualified veteran" under the Mortgage Subsidy Bond Tax Act. Therefore, to the extent that the temporary regulation of the Internal Revenue Service referred to above is amended or replaced by another regulation, the provisions of the later amendment or replacement prevail over contrary provisions in 15 AAC 118.510 – 15 AAC 118.580. (Eff. 1/26/83, Reg. 85)

Authority: § 7, Ch. 35, SLA 1982
AS 18.56.050
AS 18.56.088
AS 18.56.090

15 AAC 118.510. DUTY IN ARMED FORCES. (a) A person is a qualified veteran for purposes of the state guaranteed veterans' home mortgage program if the person satisfies the requirements of (b) of this section and if

(1) the person has served on full-time duty, other than for training, in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard or in a reserve component of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard;

(2) subject to (c) of this section, the person has served on full-time duty for training purposes in a reserve component of the United States Army, Navy, Marine Corps, Air Force, or Coast Guard and was disabled from a disease or injury incurred or aggravated in the line of that duty; or

(3) subject to (d) of this section, the person was disabled from a disease or injury incurred or

rehabilitation of the residence with the acquisition cost of the residence to the mortgagor. The total expenditures made by the seller for rehabilitation do not include the cost of acquiring the building or land but do include all amounts directly expended by the seller in rehabilitating the building (excluding overhead and other indirect charges). (Eff. 9/17/81, Reg. 80)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.430. QUALIFIED MORTGAGE LOANS. (a) First lien mortgage loans may be purchased under 15 AAC 118.400 – 15 AAC 118.450 only if made to persons who did not have a mortgage (whether or not paid off) on the residence securing the mortgage note at any time prior to the execution of the mortgage. For purposes of this section, the replacement of

(1) construction period loans;

(2) bridge loans or similar temporary initial financing; and

(3) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage. Generally, temporary initial financing is any financing which has a term of 24 months or less.

(b) Second lien mortgage loans may be purchased under 15 AAC 118.400 – 15 AAC 118.450 to the extent such loans are allowable under applicable Federal law and comply with the provisions of 15 AAC 118.420 and 15 AAC 118.425. (Eff. 9/17/81, Reg. 80; am 2/17/82, Reg. 82)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.440. LOAN TERMS. Repealed 2/17/82.

15 AAC 118.450. PURCHASE OF QUALIFIED MORTGAGE LOANS FROM SELLER/SERVICERS. In addition to the terms and conditions fixed by 15 AAC 118.260 for the purchase of mortgage loans from the originating mortgage lender ("seller/servicer"), the sales and servicing agreement between seller/servicer and the Corporation and the seller/servicer guide will provide for reasonable periodic inspection by, and other reasonable procedures, including reasonable investigations by the seller/servicer to assure that the mortgage loans purchased comply with the requirements of the Temporary Regulations. The sales and servicing agreement shall contain covenants by the seller/servicer designed to assure compliance with the Temporary Regulations. (Eff. 9/17/81, Reg. 80; am 2/17/82, Reg. 82)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.490. QUALIFIED VETERANS' MORTGAGE BOND PROGRAM (SPECIAL MORTGAGE LOAN PURCHASE PROGRAM). (a) 15 AAC 118.490 – 15 AAC 118.580 are adopted to permit the Corporation to issue qualified mortgage bonds as described under Section 103A(c)(3) of the Internal Revenue Code and the Temporary Regulations published in the Federal Register with respect thereto (herein called the "Temporary Regulations") and to define and describe mortgages eligible to be financed with the proceeds of qualified veterans' mortgage bonds as part of the special mortgage loan purchase program of the Corporation (herein called the "program"). These sections are intended to establish procedures to ensure compliance with the mortgage eligibility provisions referred to in the Temporary Regulations.

(b) A person is eligible under the program for a residential mortgage loan which is eligible for purchase by the Corporation under the act if

(1) the person is a qualified veteran as described in 15 AAC 118.500 – 15 AAC 118.580;

(2) the residential mortgage loan will finance a single-family, owner-occupied residence as the term "single-family, owner-occupied residence" is used and described in 15 AAC 118.405. (Eff. 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.492. QUALIFIED VETERANS' MORTGAGE LOANS. (a) First lien mortgage loans may be purchased under 15 AAC 118.490 – 15 AAC 118.580 only if made to persons who did not have a mortgage (whether or not paid

previously have been provided, whether or not by the same lender provided that

(A) the prior loan or loans have been repaid; and

(B) if any person who had a present ownership interest in such residence at the time the previous qualified home improvement loan or loans were made has a present ownership interest in the residence at the time the subsequent qualified home improvement loan is made, then the allowable amount of the subsequent qualified home improvement loan shall be reduced by the amount, at origination, of any previous qualified home improvement loan, so that the sum of such loans does not exceed $15,000. (Eff. 9/17/81, Reg. 80; am 2/17/82, Reg. 82)

Authority: AS 18.56.088
18.56.098

15 AAC 118.425. QUALIFIED REHABILITATION LOAN. A person is eligible under the program for a qualified rehabilitation loan as provided in this section

(1) The term "qualified rehabilitation loan" means any owner financing provided in connection with

(A) A qualified rehabilitation; or

(B) The acquisition of a residence with respect to which there has been a qualified rehabilitation;

but only if the mortgagor to whom such financing is provided is the first resident of the residence after completion of the rehabilitation. Where there are two or more mortgagors of a rehabilitation loan, the first residency requirement is met if any of the mortgagors meets the first residency requirement.

(2) The term "qualified rehabilitation" means any rehabilitation of a residence if

(A) there is a period of at least 20 years between the date on which the building was first used and the date on which physical work on such rehabilitation begins;

(B) 75 percent or more of the existing external walls of such building are retained in place as external walls in the rehabilitation process; and

(C) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence (including the land on which the residence is located).

(3) For purposes of (1)(A) and (B), the rules applicable to the investment tax credit for qualified rehabilitated buildings under section 48(g)(1)(A)(iii) and (B) of the Internal Revenue Code shall apply. However, unlike section 48(g)(1)(B), once a building meets the 20-year test, more than one rehabilitation of that building within a 20-year period may qualify as a qualified rehabilitation.

(4) The adjusted basis to the mortgagor is the mortgagor's adjusted basis for purposes of determining gain or loss on the sale or exchange of a capital asset (as defined in section 1221 of the Internal Revenue Code). The mortgagor's adjusted basis shall be determined as of the date of completion of the rehabilitation, or, if later, the date the mortgagor acquires the residence, i.e., the date on which the mortgagor includes in basis any amounts expended for rehabilitation that are expended for capital assets.

(5) The amounts expended by the mortgagor for rehabilitation include all amounts expended for rehabilitation regardless of whether the amounts expended were financed from the proceeds of the loan or from other sources, and regardless of whether the expenditure is capital expenditure, so long as the expenditure is made during the rehabilitation of the residence and is reasonably related to the rehabilitation of the residence. The value of services performed by the mortgagor or members of the mortgagor's family (as used in 15 AAC 118.415) in rehabilitating the residence will not be included in determining the rehabilitation expenditures for purposes of the 25-percent test.

(6) Where a mortgagor purchases a residence that has been substantially rehabilitated, the 25-percent test is determined by comparing the total expenditures made by the seller for the

the mortgagor for at least two years prior to the date on which construction of the residence begins.

(c) The term "specified percent" as used in this section is the percentage fixed by Section 103A of the Internal Revenue Code, as amended, and applied to the average area purchase price calculations as a requirement for the use of proceeds of qualified mortgage bonds, and that percentage is 90 percent for qualified mortgage bonds issued prior to September 3, 1982 and 110 percent for qualified mortgage bonds issued thereafter. (Eff. 9/17/82, Reg. 80; am 10/27/82, Reg. 84)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.417. ALLOCATION OF PROCEEDS AFTER SEPTEMBER 3, 1982. (a) Proceeds available to mortgagors who do not meet the qualifications described in 15 AAC 18.410 (a) will be allocated as follows and in the following sequence depending upon availability of proceeds:

(1) to mortgagors eligible for receipt of funds under the Corporation's home ownership assistance program or such other programs as the Corporation may from time to time establish for handicapped persons and which programs are designated as eligible hereunder by the executive director;

(2) if the executive director determines that mortgagors under the home ownership assistance program or other programs described in (1) of this subsection are not utilizing proceeds in a timely fashion, to mortgagors with a lower or moderate income not otherwise eligible under the qualified mortgage loan program, the home ownership assistance program, or the other programs described in (1) of this subsection;

(3) if the executive director determines that proceeds are not being utilized in a timely fashion for mortgagors eligible under (1) and (2) of this subsection, to any other mortgagor.

(b) Mortgagors who are eligible for funds under the home ownership assistance program and who would meet the qualifications for the qualified mortgage bond program described in 15 AAC 118.410(a) must apply for financing under qualified mortgage bond program procedures prescribed by the Corporation and may not apply through the home ownership assistance program for proceeds made available under (a)(1) of this section.

(c) Subject to the priorities set forth in (a) of this section, the executive director may prescribe rules for the availability and allocation of proceeds available for mortgagors who become eligible for financing under the qualified mortgage bond program by operation of 15 AAC 118.410(d) and this section.

(d) The executive director may prescribe rules for the allocation of proceeds from qualified mortgage bonds subject to different computations for the "specified percent" of the average area purchase price as set forth in 15 AAC 118.415(c). (Eff. 10/27/82, Reg. 84)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.420. QUALIFIED HOME IMPROVEMENT LOANS. A person is eligible under the program for a qualified home improvement loan as provided in this section.

(1) The term "qualified home improvement loan" means a mortgage loan, in an amount which does not exceed $15,000 with respect to any residence, which finances alterations, repairs, and improvements on, or in connection with, an existing single-family, owner-occupied residence by the owner thereof, but only if such items substantially protect or improve the basic livability or energy efficiency of the residence.

(2) Alterations, repairs, or improvements that satisfy the requirement of subdivision (1) include the renovation of plumbing or electric systems, the installation of improved heating or air conditioning systems, the addition of living space, or the renovation of a kitchen area. Items that will not be considered to substantially protect or improve the basic livability of the residence include swimming pools, tennis courts, saunas, or other recreational or entertainment facilities.

(3) A qualified home improvement loan may be made to a borrower for a residence for which one or more qualified home improvement loans

(3) pursuant to the provisions of 15 AAC 118.417. (Eff. 9/17/82, Reg. 80; am 10/27/82, Reg. 84)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.415. PURCHASE PRICE REQUIREMENTS. (a) The acquisition cost, as herein defined, of each single-family residence may not exceed the "specified percent" of the average area purchase price of the statistical area in which one residence being financed is located as determined by the executive director in accordance with the Temporary Regulations. The executive director shall determine the average area purchase price separately with respect to (1) residences which have not been previously occupied, (2) residences which have been previously occupied, (3) one-family residences, and (4) two-family residences. The executive director may adopt the average area purchase-price limitations published by the Treasury Department for the statistical area in which a residence is located which are referred to in the Temporary Regulations as the "Safe Harbor Regulations." The term "acquisition cost" means the cost of acquiring a residence from the seller as a completed residential unit. The determination whether a particular residence meets the purchase-price requirements shall be made as of the date on which the commitment to provide the financing is made, or if earlier, the date of purchase of the residence. The term "acquisition cost" includes the following:

(A) all amounts paid, either in cash or in any kind, by the purchaser (or related party or for the benefit of the purchaser) to the seller (or related party or for the benefit of the seller) as consideration for the residence;

(B) If a residence is incomplete, the reasonable cost of completing the residence whether or not the cost of completing construction is to be financed with bond proceeds. For example, where a mortgagor purchases a building which is so incomplete that occupancy of the building is not permitted under local law, the acquisition cost includes the costs of completing the building so that occupancy of the building is permitted;

(C) Where a residence is purchased subject to a ground rent, the capitalized value of the ground rent. Such value shall be calculated using a discount rate equal to the yield on the issue of bonds as defined in the Temporary Regulations.

(b) The term "acquisition cost" does not include the following:

(1) The usual and reasonable settlement or financing costs. Settlement costs include titling and transfer costs, title insurance, survey fees, or other similar costs. Financing costs include credit reference fees, legal fees, appraisal expenses, "points" which are paid by the buyer (but not the seller, even though borne by the mortgagor through a higher purchase price) or other costs of financing the residence. However, such amounts will be excluded in determining acquisition cost only to the extent that the amounts do not exceed the usual and reasonable costs which would be paid by the buyer where financing is not provided through a qualified mortgage bond issue. For example, if the purchaser agrees to pay to the seller more than a pro rata share of property taxes, such excess shall be treated as part of the acquisition cost of a residence;

(2) The value of services performed by the mortgagor or members of the mortgagor's family in completing the residence. For purposes of the preceding sentence, the family of an individual shall include only the individual's brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants. For example, where the mortgagor builds a home alone or with the help of family members, the acquisition cost includes the cost of materials provided and work performed by subcontractors (whether or not related to the mortgagor) but does not include the imputed cost of any labor actually performed by the mortgagor or a member of the mortgagor's family in constructing the residence. Similarly, where the mortgagor purchases an incomplete residence, the acquisition cost includes the cost of material and labor paid by the mortgagor to complete the residence but does not include the imputed value of the mortgagor's labor or the labor of the mortgagor's family in completing the residence.

(3) The cost of land which has been owned by

considered a principal residence. The term "residence" does not include property such as an appliance, a piece of furniture, a radio, etc., which under Alaska law is not a fixture. Land appurtenant to a residence shall be considered as part of the residence only if such land reasonably maintains the basic livability of the residence and does not provide, other than incidentally, a source of income to the mortgagor. Land appurtenant to a residence is not included in the definition of "residence" if the land may be further subdivided under zoning or platting regulations in effect at the time of the making of the mortgage loan. (Eff. 9/17/81, Reg. 80)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.410. OWNERSHIP REQUIREMENTS. (a) Except as provided in (d) of this section, each of the mortgagors to whom owner financing (i.e., financing to acquire a residence under 15 AAC 118.405) is provided must meet the requirements of this paragraph. A mortgagor meets the requirements of this paragraph only if the mortgagor had no present ownership interest in a principal residence located anywhere at any time during the three-year period prior to the date on which the mortgage is executed. For purposes of the preceding sentence, the mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account. In the event there is more than one mortgagor with respect to a particular residence, each of the mortgagors must meet the three-year requirement. A person who is liable under a note secured by a mortgage, but who does not have a present ownership interest in a residence subject to the mortgage, need not meet the three-year requirement. For example, where a parent of a home purchaser co-signs the note for a child, but the parent takes no interest in the residence, it is not necessary that the parent meet the three-year requirement since the parent is not a mortgagor of the residence. Examples of interest which constitute present ownership interest are the following:

(1) a fee simple interest;

(2) a joint tenancy, a tenancy in common, or a tenancy by the entirety;

(3) a life estate;

(4) a land contract (i.e., a contract pursuant to which possession and the benefits and burdens of ownership are transferred although legal title is not transferred until some time later; and

(5) an interest held in trust for the mortgagor (whether or not created by the mortgagor) that would constitute a present ownership interest if held directly by the mortgagor.

(b) Examples of interests which do not constitute present ownership interests are the following:

(1) a remainder interest;

(2) a lease with or without an option to purchase;

(3) a mere expectancy to inherit an interest in a principal interest;

(4) the interest that a purchaser of a residence acquires on execution of a purchase contract; and

(5) an interest in other than a principal residence during the previous three years.

(c) The Corporation will require proof by affidavit of mortgagors of eligibility and compliance with the above requirements and will establish other procedures to ascertain eligibility and compliance with the requirements.

(d) Mortgagors who do not meet the qualifications described in (a) of this section are eligible under the qualified mortgage bond program

(1) to the extent permitted under Section 103A of the Internal Revenue Code, as amended, and any Temporary Regulations with respect thereto;

(2) to the extent of availability of

(A) 10 percent of the lendable proceeds of qualified mortgage bonds issued prior to September 3, 1982 which are uncommitted on that date; and

(B) 10 percent of the lendable proceeds of qualified mortgage bonds issued after September 3, 1982; and

15 AAC 118.344. FAIRBANKS NORTH STAR BOROUGH PROGRAM. A portion of the special mortgage loan purchase program may be implemented in the Fairbanks North Star Borough by the Corporation with the proceeds of $35,000,000 bonds of the Borough which are tax-exempt under Section 1104(b)(4) of the Mortgage Subsidy Bond Tax Act of 1980, and with amounts appropriated to the Corporation for the special mortgage loan purchase program. The provisions of this chapter which implement the special mortgage loan purchase program shall govern the portion of the program to be implemented in the Fairbanks North Star Borough, except that the mortgage loans purchased with the proceeds of bonds shall be secured by real property and owner-occupied residences located only in the Fairbanks North Star Borough, and shall be originated and serviced by seller/servicers with originating and servicing capacity in the Borough. The details of the portion of the special mortgage loan purchase program to be implemented in the Borough including, without limitation, the amount of the appropriation to be used by the Corporation in connection therewith, shall be fixed by agreement between the Corporation and the Borough. The agreement may be part of a trust indenture securing the bonds between the Borough, the Corporation and the Trustee. (Eff. 6/30/80, Reg. 78; am 4/29/82, Reg. 82)

Authority: AS 18.56.088
AS 18.56.090
AS 18.56.098

15 AAC 118.345. DEFINITIONS. Repealed 2/17/82.

15 AAC 118.400. QUALIFIED MORTGAGE BOND PROGRAM (SPECIAL MORTGAGE LOAN PURCHASE PROGRAM). 15 AAC 118.400 – 15 AAC 118.450, are adopted to permit the Corporation to issue qualified mortgage bonds as described under Section 103A(c)(1) and (c)(2) of the Internal Revenue Code and the Temporary Regulations published in the Federal Register with respect thereto (herein called the "Temporary Regulations") and to define and describe mortgages eligible to be financed with the proceeds of qualified mortgage bonds as part of the special mortgage loan purchase program of the Corporation (herein called the "program"). These sections are intended to establish procedures to ensure compliance with the mortgage eligibility provisions referred to in the Temporary Regulations. (Eff. 9/17/81, Reg. 80; am 2/17/82, Reg. 82; am 10/27/82, Reg. 84; am 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.405. SINGLE-FAMILY RESIDENCES. A person is eligible under the program for a residential mortgage loan which is eligible for purchase by the Corporation under the act to finance the purchase of a single-family, owner-occupied residence, including a condominium, PUD project unit or a duplex (in 15 AAC 118.405 – 15 AAC 118.450 called "residence"). As used in 15 AAC 118.405 – 15 AAC 118.450, "single-family, owner-occupied residence" includes a duplex if one unit of the duplex is occupied by the owner of the duplex and the duplex was first occupied as a residence at least five years before the mortgage is executed. The residence must be a single-family residence which, at the time the mortgage is executed by the mortgagor, can reasonably be expected by the Corporation to become the principal residence of the mortgagor within a reasonable time after the financing is provided. The residence must be located within the State of Alaska. The Corporation will prescribe the form of an affidavit to be signed by each mortgagor of his intent to use the residence as his principal residence within a reasonable time not exceeding 60 days, after the financing is provided and will establish other procedures to ensure that the requirement is met. Whether a residence is used as a principal residence will depend on all the facts and circumstances of each case, including the good faith of the mortgagor. Except for duplexes, a residence which can reasonably be expected to be used in a trade or business, as an investment property, or as a recreational home, will not be

(ii) the sum necessary to reduce the monthly payments of principal and interest on the mortgage loan, together with taxes, hazard insurance, mortgage insurance and any homeowner association fees (less any utility expenses included in those fees) with respect to the property, to 28 percent of gross income per household;

(C) the sum necessary to reduce the monthly payments of principal and interest on the mortgage loan to 20 percent of gross income per household;

(2) the term for a mortgage loan with respect to which there is a home ownership assistance agreement must be the maximum term allowed under the Corporation's program providing financing for the home or the remaining economic life of the property, whichever is less;

(3) the remaining economic life of the property must be at least 20 years;

(4) the sales price or appraised value on a home to be financed with a mortgage loan with respect to which there is a home ownership assistance agreement shall not exceed the following:

(A) $80,000 for a one or two member family;

(B) $85,000 for a three-member family;

(C) $90,000 for a four-member family;

(D) $100,000 for a five or more member family;

(5) the loan-to-value ratio for a mortgage loan with respect to which there is a home ownership assistance agreement shall not exceed 95 percent.

(6) the borrower shall be required to enter into a home ownership assistance agreement with the Corporation which shall contain periodic income-review requirements in the form required by the Corporation including, without limitation, provisions reducing or eliminating assistance depending on

(A) application of the assistance formula of paragraph (c)(1) of this section;

(B) a formula or other method based on the amount available for assistance from income or revenues of the home ownership fund;

(7) when the term of a home ownership assistance agreement, which is originally executed by a borrower on or after February 1, 1983, expires as provided in (c)(6) of this section, a new home-ownership assistance agreement may be entered pursuant to the terms of (c) of this section, but the assistance amount under a new agreement may not exceed the assistance amount allowed under the previous agreement;

(8) after February 1, 1983, the Corporation will not enter into a home ownership assistance agreement with a borrower who has not previously obtained a loan prior to that date under the home ownership assistance program if the amount of assistance is determined to be less than $50 per month.

(d) A home ownership assistance agreement is personal to the borrower and may not be assigned.

(e) No secondary financing of a mortgage loan with respect to which there is a home ownership assistance agreement is permitted.

(f) As used in this section

(1) "family" means those individuals executing the mortgage note and deed of trust, and their dependents who occupy the residence on a permanent basis;

(2) "household" means all persons who may or may not be members of the family and who occupy the residence on a permanent basis as full or part-time residents. (Eff. 12/15/80, Reg. 78; am 9/17/81, Reg. 81; am 1/26/83, Reg. 85)
Authority: AS 18.56.091

15 AAC 118.325. MINIMUM CONSTRUCTION STANDARDS AND STANDARD DEVIATIONS. Repealed 2/17/82.

15 AAC 118.330. IMPROVEMENT OR REHABILITATION. Repealed 2/17/82.

15 AAC 118.335. APPEALS PROCEDURE. Repealed 2/17/82.

15 AAC 118.340. SERVICING FEE. Repealed 2/17/82.

15 AAC 118.342. HOME OWNERSHIP ASSISTANCE PROGRAM. (a) The home ownership assistance program exists solely to assist persons of lower and moderate income to purchase homes financed with a mortgage loan purchased by the Corporation under 15 AAC 118.300 – 15 AAC 118.345. Except as provided in this section, the same limitations and conditions otherwise applicable under 15 AAC 118.300 – 15 AAC 118.345 apply to mortgage loans where the borrower is eligible for home ownership assistance under this section.

(b) A person is eligible for home ownership assistance for the purchase of a single-family residence, including a condominium or PUD unit, after having met general borrower loan qualifications of the Corporation and those of this section. To be eligible

(1) the borrower must be a person of lower or moderate income, which is defined to be persons with gross income per household not exceeding the income limits per household size when calculated as follows:

(A) There shall be a Base Income Limit of $26,000 per household.

(B) The income limit shall be the Base Income Limit of $26,000 per year plus the following amounts for members of the household:

(i) nothing for one adult;

(ii) $1,000 for each additional adult beyond one adult;

(iii) $5,000 for one child;

(iv) $7,500 for two children; and

(v) $1,000 for each additional child beyond two children.

(2) the household must not own assets of value exceeding two times the applicable income limit for the household size set forth in (b)(1) of this section; if a member of the household is 65 years old or over the household must not own assets of value exceeding three times the applicable income limit for the household size set forth in (b)(1) of this section.

(c) The terms for home ownership assistance are as follows:

(1) mortgage payments may be partially subsidized by the home ownership fund in an amount not to exceed the lesser of the following amounts:

(A) for borrowers who first executed a home ownership assistance agreement prior to February 1, 1983

(i) the sum necessary to reduce the borrower's monthly payments of principal and interest on the mortgage loan to the amounts payable as if the mortgage loan were a level debt-service loan bearing interest at the rate of six percent a year, or

(ii) the sum necessary to reduce the borrower's monthly payments of principal and interest on the mortgage, together with taxes, hazard insurance, mortgage insurance and homeowner association fees if any with respect to the property to 25 percent of gross income per family;

(B) for borrowers who first executed a home ownership assistance agreement on or after February 1, 1983

(i) the sum necessary to reduce the monthly payments of principal and interest on the mortgage loan to the amounts payable as if the mortgage loan were a level debt-service loan bearing interest at the rate of six percent a year; or planned unit development (herein called a "single-family residence") or a duplex shall be as set forth in this paragraph:

(A) The loan-to-value ratio on a mortgage loan for a single-family residence and a duplex shall not exceed 95 percent.

(B) The loan amount on a mortgage loan for a single-family residence shall not exceed $160,500.

(C) The loan amount on a mortgage loan for a duplex shall not exceed $205,200.

(D) The loan amount on a mortgage loan guaranteed by the Veterans Administration for a single-family residence and a duplex shall not exceed $135,000.

(E) The amount of the guarantee plus the downpayment on a mortgage loan guaranteed by the Veterans Administration for a single-family residence and a duplex must equal 25 percent of the value of the single-family residence or the duplex.

(F) The loan amount on a mortgage loan insured by the FHA for a single-family residence shall not exceed $101,250.

(G) The loan amount on a mortgage loan insured by the FHA for a duplex shall not exceed $114,000.

(H) The downpayment and loan-to-value ratios of mortgage loans insured by the FHA shall be as required by FHA.

(2) The limitations provided in (b)(1) of this section are applicable to a first lien mortgage loan. The limitations as to amount of loan shall also limit the amount of a second lien mortgage loan, provided that in computing the amount of a second lien mortgage loan any first lien mortgage loan shall be deducted. The loan-to-value ratio of a second lien mortgage loan shall be as fixed in the Act. All loan-to-value ratios and maximum lien amounts shall be reduced if Federal National Mortgage Association, Veterans Administration or FHA limits are reduced for Alaska.

(c) One unit of a duplex, triplex, or four-plex must be owner-occupied for a residential mortgage loan to finance the purchase of that duplex, triplex or four-plex to be eligible for purchase [illegible] Corporation.

[illegible] or triplexes and four-plexes, loans pur- [illegible] as part of the special mortgage loan [illegible]se program

(1) must constitute a first lien on real estate in fee simple or on a leasehold estate and be subject only to permitted encumbrances;

(2) must be only for the purchase of a completed owner-occupied residential housing, the mortgage of which shall be eligible for purchase by the Corporation under the Act;

(3) must have a loan-to-value ratio no more than 90 percent for a triplex or four-plex;

(4) will not exceed a loan amount of $247,650 for a triplex and $307,950 for a four-plex.

(e) A residential mortgage loan hereafter purchased by the Corporation in order to finance a unit in a condominium project or in a planned unit development project ("condominium" or "PUD project") shall be subject to the following terms and conditions:

(1) the living units of the condominium or PUD project must be within the same structure or a reasonably contiguous structure. Common elements of the project must have been completed prior to the purchase of the loan; and

(2) prior approval procedures, warranties and provisions relating to the sale and occupancy of units which are reasonable and customary in mortgage lending, shall apply as prescribed in the seller/servicer guide. (Eff. 6/30/80, Reg. 78; am 6/18/81, Reg. 79; am 9/17/81, Reg. 80; am 2/17/82, Reg. 82; am 10/27/82, Reg. 84; am 1/4/83, Reg. 85)

Authority: AS 18.56.09[illegible]
AS 18.56.0[illegible]8(a) and (e)

15 AAC 118.315. PURCHASES OF LOANS FROM SELLER/SERVICERS. Repealed 2/17/82.

15 AAC 118.320. ASSUMPTIONS OF MORTGAGE LOANS. Repealed 2/17/82.

15 AAC 118.300. SPECIAL MORTGAGE LOAN PURCHASE PROGRAM SCOPE. (a) 15 AAC 118.300 – 15 AAC 118.580 implement the special mortgage loan purchase program established by AS 18.56.098.

(b) 15 AAC 118.400 – 15 AAC 118.450 implement the portion of the special mortgage loan purchase program to be financed with the proceeds of qualified mortgage bonds.

(c) 15 AAC 118.490 – 15 AAC 118.580 implement the portion of the special mortgage loan purchase program to be financed with the proceeds of qualified veterans' mortgage bonds. (Eff. 6/30/80, Reg. 78; am 9/17/81, Reg. 80; am 2/17/82, Reg. 82; am 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.305. BORROWER ELIGIBILITY. A person is eligible under the program for a residential mortgage loan to finance the purchase of a dwelling, including a duplex, triplex, fourplex, condominium, or an individual unit within a PUD project, subject to any restrictions under 15 AAC 118.400 – 15 AAC 118.580 for mortgages financed by bonds issued thereunder. Eligibility is without regard to location of the dwelling within the State of Alaska. The dwelling must be designed for residential use and intended for use and used as the principal residence of the borrower pursuant to AS 18.56. A person is not eligible for a loan if the person is an owner of a dwelling financed by an outstanding loan purchased by the Corporation. As used in this section, "owner" includes a person who is liable on a mortgage or note with respect to a loan but does not include a person not occupying a dwelling but remaining as a co-owner after legal termination of a marriage. A loan to finance the purchase of a dwelling includes a loan to an owner/builder constituting the first permanent financing of a dwelling which has been newly constructed by the owner/builder. The determination of whether a dwelling has been "newly constructed" shall be made by the Corporation having regard to the facts and circumstances relating to the construction of the dwelling. (Eff. 10/2/80, Reg. 78; am 1/27/81, Reg. 78; am 2/17/82, Reg. 82; am 10/27/82, Reg. 84; am 1/26/83, Reg. 85)

Authority: AS 18.56.088
AS 18.56.098

15 AAC 118.310. LOAN TERMS. (a) Each residential mortgage loan purchased by the Corporation as part of the special mortgage loan purchase program, except as otherwise provided in (d) of this section for triplexes and fourplexes, must

(1) be serviced by a seller/servicer approved by the Corporation;

(2) constitute a first or second lien on real estate in fee simple or on a leasehold estate and, if a first lien, be subject only to permitted encumbrances, and, if a second lien, be subject only to permitted encumbrances and a first lien mortgage loan serviced by a seller/servicer approved by the Corporation;

(3) if a first lien, be the subject of private mortgage insurance, federal insurance, or federal guarantee, the benefits of which are payable to the Corporation, in the event that the ratio of the loan to the value of the property ("loan-to-value ratio") exceeds 80 percent;

(4) if a second lien, be the subject of private mortgage insurance, federal insurance or federal guarantee, the benefits of which are payable to the Corporation, in the event that the ratio of the first and second lien mortgage loans combined to the value of the property exceed 80 percent to the extent necessary to cause the ratio to go down to 75 percent;

(5) be for purchase of completed, owner-occupied residential housing or for the improvement or rehabilitation of owner-occupied residential housing, the mortgage of which shall be eligible for purchase by the Corporation under the Act;

(6) be insured by a mortgagee's policy of title insurance issued by a title insurance company qualified to do business in the state and acceptable to the Corporation, insuring the enforceable mortgage, subject only to permitted encumbrances or in the case of a second lien mortgage, subject only to permitted encumbrances and the first lien mortgage.

(b)(1) The loan-to-value ratio and the loan amounts on first lien mortgage loans of the Corporation to finance a single-family residence, including a unit in a condominium project or a

(4) The maximum loan amount on multi-family residences with five or more units shall be computed at 80 percent of value.

(e) All loans purchased or made from the housing development fund must be subject to a written agreement which must include, but need not be limited to, the following terms and conditions:

(1) the proceeds of the loan shall be used only for the purpose for which the loan is made, as provided in the agreement;

(2) the loan shall be repaid as provided in the agreement;

(3) all repayments in connection with a loan to defray development costs shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage loan, or at such other times as the Corporation considers reasonably necessary or practicable; and

(4) security for repayment will be specified and be upon terms and conditions which the Corporation, in its discretion, considers reasonably necessary or practicable to insure all repayments.

10 years ?!?

(f) Loans purchased or made from the housing development fund may be for construction of new residential, single- or multi-family housing, for repair or rehabilitation of existing residential housing or for mobile homes. (Eff. 11/29/78, Reg. 68; am 3/10/80, Reg. 74; am 10/2/80, Reg. 78; am 2/17/82, Reg. 82; am 4/29/82, Reg. 82)

Authority: AS 18.56.088
AS 18.56.090
AS 18.56.098

15 AAC 118.282. MOBILE HOME LOAN PROGRAM. (a) Each loan for the purpose of financing the purchase of a mobile home shall contain or be subject to the following terms and conditions:

(1) the loan must not exceed $72,500;

(2) the loan-to-value ratio excluding the furniture and appliance package referred to in (a)(7) of this section must be no greater than 95 percent except that the loan-to-value ratio on loans insured by FHA or guaranteed by the VA shall be the percentages permitted by the regulations of those agencies;

(3) the maximum term of the loan shall be 20 years and may not exceed the remaining economic life of the property;

(4) the mobile home must be occupied by the owner as his year-round principal residence and the owner-occupant must not own any other residence in the State of Alaska;

(5) the product of the length and width of the mobile home shall total at least 600 square feet;

(6) the loan may include the acquisition of real property for the site of the mobile home and the permanent foundation of the mobile home on the site, provided that the value of a mobile home and foundation located on the owner's real property shall not be less than 50 percent of the total appraised value of the real property;

(7) the loan may finance related personal property (the "furniture and appliance package") up to a purchase price of $1,500;

(8) the loan must be secured by a security agreement on the mobile home and all other personal property on the premises, including but not limited to lean-tos, wanigans and storage buildings and a first deed of trust on any real property being financed by the loan. The deed of trust must be insured by a mortgagee's ALTA policy of title insurance conforming to the provisions set forth in 15 AAC 118.310(a)(5);

(9) no other financing, including but not limited to secondary financing, will be permitted on the mobile home; and

(10) as used in this section the term "owned" with respect to real property includes leasehold interests extending 10 years beyond the term of a loan as well as fee-simple ownership. (Eff. 2/17/82, Reg. 82)

Authority: AS 18.56.090(5)
AS 18.56.100

15 AAC 118.290. DEFINITIONS. Repealed 2/17/82.

(f) The appeals committee may adopt bylaws governing its internal operations, including, without limitation, provisions as to time and place of meetings.

(g) The Corporation will consider no further appeal from a decision of the appeals committee. (Eff. 2/17/82, Reg. 82)

Authority: AS 18.56.088
AS 18.56.090
AS 18.56.098

15 AAC 118.280. GENERAL HOUSING PROGRAMS. (a) Loans may be purchased by, or made from, the housing development fund created by AS 18.56.100 or pursuant to the Corporation's general powers in AS 18.56.090 (1) – (3) for housing located in remote, underdeveloped or blighted areas of the state.

(b) Loans purchased by the Corporation from amounts appropriated to the rural mortgage purchase program shall contain the same terms and conditions as loans purchased pursuant to the special mortgage loan purchase program (15 AAC 118.310) except that title insurance and hazard insurance may be provided from the rural housing title insurance fund and rural housing hazard insurance fund and that loans shall bear interest at a rate determined by the executive director.

(c) Loans purchased by the Corporation from amounts appropriated to the rural non-owner occupied mortgage purchase program shall not exceed $750,000 in principal amount to any one person, partnership or corporation, as determined by the Corporation, and shall bear interest at the rate of nine and one-half percent a year, except that the Corporation may purchase a loan in excess of $750,000 if the circumstances of the loan warrant and sufficient funding is available to accommodate total anticipated loan demand and if approved by a committee, comprised of a board member appointed by the chairman or his or her designee, the executive director or his or her designee and the mortgage operations director of the Corporation. The AHFC board of directors must be notified of the Corporation's approval of a non-owner occupied loan in excess of $750,000. Each mortgage loan purchased by the Corporation as part of the rural non-owner occupied mortgage purchase program must

(1) be serviced by a seller/servicer approved by the Corporation;

(2) be the subject of (A) insurance described in (5) of this subsection to the extent determined necessary by the Corporation, (B) federal insurance or (C) federal guarantee. The benefit of the insurance or guarantee shall be payable to the Corporation;

(3) constitute a first or, for purposes of substantial rehabilitation (50 percent or more), a second lien on real estate in fee simple, on a leasehold estate, or on lands subject to conveyance under ANSCA subject to permitted encumbrances;

(4) be for completed, non-owner occupied residential housing, the mortgage of which shall be eligible for purchase by the Corporation under the act;

(5) be insured by title insurance and hazard insurance which may be provided in whole or in part from the rural housing title insurance fund and rural housing hazard insurance fund, to the extent determined necessary by the Corporation.

(d) The loan amounts and loan terms on mortgages purchased as part of the rural non-owner occupied mortgage program shall be as set forth in this subsection

(1) The loan-to-value ratio on loans purchased under the rural non-owner occupied mortgage purchase program shall not exceed 80 percent.

(2) In the event the loan purchased by the Corporation is a second deed of trust for the substantial rehabilitation (50 percent or more) of a non-owner occupied property the sum of the principal balance of the first and second deeds of trust shall not exceed 80 percent of value.

(3) The maximum loan amount on non-owner occupied single-family residences through four-plexes shall be the following:

Number of Units	Maximum Loan
1	$160,500
2	205,200
3	247,650
4	307,950

Standard deviations from the minimum construction standards which will permit water holding tanks, on-site water and sewer systems, foundations, and other deviations as specific circumstances warrant, are hereby established if and to the extent an inspecting engineer has certified that the characteristics of such physical construction will not impair the health or safety of the occupants of the residence and will not reduce the useful life of the residence below the term of the mortgage loan. The Corporation will require as a condition to its purchasing a mortgage loan, a waiver and release from each borrower to the effect that the Corporation is not responsible for any failure of the residence to meet minimum construction standards or be within standard deviations and for every other matter and thing relating to the construction or suitability of the residences whether or not caused by action or inaction of the inspecting engineer or any other person. The inspecting engineer will not be hired by or have any relationship to the Corporation whatsoever. The Corporation will cause to have printed in plain English an appropriate form of release to the above effect to be executed by each borrower prior to purchasing the mortgage loan and shall incorporate such release in such loan documents as it determines. (Eff. 2/17/82, Reg. 82)

Authority: AS 18.56.098(b) and (e)

15 AAC 118.270. SERVICING FEE. Repealed 2/17/82.

15 AAC 118.272. APPEALS PROCEDURE. (a) A decision by the Corporation not to purchase a mortgage loan, including without limitation an action denying or effectively denying the purchase of a mortgage loan, may be appealed to the appeals committee by the seller/servicer of the mortgage loan or, in the case of the denial of approval for a housing project, any seller/servicer sponsoring that project.

(b) The appeals committee shall consist of

(1) the executive director of the Corporation;

(2) a member of the board of directors of the Corporation designated by the chairperson; and

(3) a member of the private lending community selected by the other two members of the appeals committee;

If the executive director or a commissioner appointed by the chairperson from the board of directors, becomes unavailable to sit on the appeals committee, each may designate a replacement to assume his or her duties on the committee until such time as he or she becomes available. The executive director and the appointed board member or their designees may select different members of the private lending community for particular appeals as the circumstances warrant.

(c) A decision by the Corporation declining the approval of a mortgage loan submitted by a seller/servicer must

(1) be in writing;

(2) specifically set forth the reason(s) relied upon to decline the purchase;

(3) be dated and signed on behalf of the Corporation; and

(4) be mailed or delivered to the seller/servicer.

(d) A seller/servicer may appeal a decision of the Corporation declining the approval of a mortgage loan by submitting a written notice of appeal. The notice of appeal must

(1) set forth the reason(s) supporting the appeal;

(2) rely solely upon the information and documentation originally before the loan officer who declined the loan; and

(3) be received by the Corporation within 10 working days from the date of the decision of the Corporation declining purchase.

(e) The appeals committee shall review the appeal and issue a written appeal decision within 15 days after the Corporation's receipt of the notice of appeal. Such a decision shall

(1) be signed by the executive director of the Corporation or his designee; and

(2) specifically set forth the reasons of the appeals committee for accepting or rejecting the appeal.

ARTICLE 2.
ALASKA HOUSING FINANCE CORPORATION

Editor's Note: The Alaska Housing Finance Corporation regulations, exempt from the Administrative Procedure Act filing requirements by AS 18.56.088(a), have been voluntarily filed under AS 44.62.120. They have not been reviewed and approved by the Department of Law under AS 44.62.060, and do not fully conform to the Drafting Manual for Administrative Regulations (AS 44.62.050).

Editor's Note: As of Register 78, the Alaska Housing Finance Corporation regulations which were formerly located in 3 AAC 92, have been transferred to 15 AAC 118 in recognition of the relocation made by ch. 106 SLA 1980.

15 AAC 118.210. AUTHORITY FOR AND SCOPE OF REGULATIONS. Repealed 9/17/81.

15 AAC 118.220. BORROWER ELIGIBILITY. Repealed 9/17/81.

15 AAC 118.230. LOAN TERMS. Repealed 9/17/81.

15 AAC 118.235. GENERAL PROVISIONS. Except as otherwise provided, the provisions of 15 AAC 118.235 -- 15 AAC 118.275 apply to all programs of the Corporation. (Eff. 2/17/82, Reg. 82)

Authority: AS 18.56.088

15 AAC 118.240. PUBLIC NOTICE OF MEETING. (a) Except in the case of a meeting of the board at which the issuance of Corporation bonds is authorized, not more than two weeks and not less than five days before each meeting, the Corporation shall give public notice of the time, place and subject of the meeting. In the case of a meeting of the board at which the issuance of Corporation bonds is authorized, the Corporation shall give public notice of the time, place, and subject of the meeting at least 24 hours before the meeting. Notice will be given by advertisement in a newspaper of statewide circulation.

(b) The Corporation will, in its discretion, establish additional procedures to insure that the public has a reasonable opportunity to be heard and that business at meetings will be conducted in an orderly process. (Eff. 11/29/78, Reg. 68; am 8/17/82, Reg. 83)

Authority: AS 18.56.040(d)

15 AAC 118.250. DETERMINATION OF INTEREST RATES. (a) The Corporation shall establish and will, in its discretion, from time to time revise rates of interest on mortgage loans. The rates of interest so established and revised shall

(1) not exceed the legal rate of interest on such loans in the State of Alaska;

(2) be adequate to insure the financial viability of the Corporation's bond and note financing programs and in accord with contracts entered into with bondholders and noteholders;

(3) comply with all provisions of law, including United States Treasury regulations, applicable to the Corporation and its mortgage loans; and

(4) be designed to promote the use of the programs by qualifying residents of the state.

(b) The board may delegate the power to revise interest rates on mortgage loans to its executive director. (Eff. 11/29/78, Reg. 68)

Authority: AS 18.56.050
AS 18.56.090(3)

15 AAC 118.260. PURCHASES OF LOANS FROM SELLER/SERVICERS. (a) Subject to the availability of funds, the Corporation will, in its discretion, purchase mortgage loans from originating mortgage lenders ("seller/servicers") under the following terms and conditions:

(1) The seller/servicer must

(A) be approved by FHA or FNMA or constitute a regional housing authority under AS 18.55; and

(B) be approved by the Corporation as meeting such tests as to financial viability, in-state servicing capabilities and general capacity to act as a seller/servicer, as the Corporation may determine.

(2) As a condition to purchase of mortgage loans, a sales and servicing agreement will be entered into between the seller/servicer and the Corporation which must

(A) provide the methods whereby delinquent collections and foreclosures will be undertaken by the seller/servicer;

(B) provide for periodic reports to be provided to the Corporation by the seller/servicer; and

(C) require the seller/servicer to service mortgages in accordance with acceptable mortgage practices of prudent lending, including, but not limited to, the exercising of diligence in collecting amounts due under mortgages.

(3) The seller/servicer must provide a bond deemed sufficient by the Corporation to protect the Corporation against errors, omissions and fraud.

(4) A mortgage loan may be purchased from a seller/servicer only after the seller/servicer has completed an application as described in a seller/servicer guide. A seller/servicer guide shall

(A) be prepared and revised as deemed necessary by the executive director;

(B) establish for the timeliness of reports and remittance of funds, appraisal procedures, documents necessary for credit determination and other procedures customarily required by prudent mortgage lenders;

(C) provide for the form of all applications for mortgage loans;

(D) provide a list of completed documents and materials required to accompany the application forms including proof of borrower eligibility and financial capacity and other documentation customarily required by prudent mortgage lenders;

(E) provide a form of a contract of commitment or approval form; and

(F) require submission of other documents and materials as deemed necessary or desirable by the executive director.

(5) Prior to submitting a mortgage loan for purchase by the Corporation, the seller/servicer must submit for approval a complete loan application with supporting documents as described in paragraph 4;

(6) The Corporation hereby designates the Judicial Districts of the State of Alaska established and described pursuant to AS 22.10.010 for the purpose of allocating money for the purchase of mortgage loans. The Corporation will allocate amounts on the basis of recent and future anticipated lending activities of the financial institutions (seller/servicers) as well as upon the potential need for mortgage loans in each Judicial District of the state as it determines is required based on the most current research and information reasonably available to it. From time to time the Corporation will reallocate amounts among the Judicial Districts as it determines appropriate to reflect the changes in lending activity or need in the Judicial Districts;

(7) The Corporation shall provide for a procedure of commitment by seller/servicers to deliver qualifying mortgages for purchase by the Corporation at an interest rate fixed in the commitment. The commitment procedure shall provide for commitments to purchase mortgages by the Corporation for an initial period of 120 days from the date the commitment is signed by the Corporation and shall provide for payment of a commitment fee of one-half of one percent of the principal amount of the mortgage with extensions of 30-day periods up to 90 days upon payment of an extension fee to the Corporation of one-half of one percent of the mortgage for each 30-day extension. The procedures shall further provide

(A) for prior approval of property and credit on a mortgage without a commitment to a specific interest rate at a fee equal to one-half of one percent of the mortgage;

(B) for application of the prior approval of property and credit fee against any subsequent commitment fee for such period of time as may be set forth in the commitment procedure;

(C) that upon cancellation or expiration of a commitment, a request for a future commitment for a mortgage at a rate lower than that previously committed to will not be accepted for a period of 90 days after the date of cancellation or expiration of the prior commitment; provided, however, if a rate reduction becomes available because the application has been made under a different program of the Corporation the rate for the refiled application shall be the rate established for that program at the time the original commitment was made by the Corporation; and

(D) for other details necessary for the operation of the commitment procedure.

(b) The executive director shall establish and may from time to time revise the forms of seller/servicer guide and seller/servicer agreements consistent with the provisions of these Regulations.

(c) The authority to make or purchase mortgage loans and enter into seller/servicer agreements and to administer all the terms and provisions thereof and of the seller/servicer guide is delegated to the executive director.

(d) The Corporation will, in its discretion, allow the seller/servicer to collect a servicing fee in an amount, which may be expressed as a percentage. (Eff. 11/29/78, Reg. 68; am 5/9/80, Reg. 78; am 2/17/82, Reg. 82; am 8/17/82, Reg. 83; am 1/4/83, Reg. 85)

Authority: AS 18.56.090(3),(6) and (17)
AS 18.56.096(3)
AS 18.56.098(e)
AS 18.56.105

15 AAC 118.263. CONTRACTOR PREREQUISITES FOR LOANS. (a) The Corporation will not make, participate in the making of, purchase, or participate in the purchase of a mortgage loan to finance the purchase of new housing or for the improvement or rehabilitation of existing housing, unless the construction, improvement, or rehabilitation work has been performed by a contractor who is registered to work as a contractor under AS 08.18 on the date the work on the housing commences and throughout the period of such work.

(b) This section does not apply if the construction, improvement, or rehabilitation work

(1) has been totally or substantially performed by the borrower;

(2) has been performed by a borrower who acts as the contractor for the construction, improvement, or rehabilitation work; or

(3) has been performed in an area designated by the Corporation as exempt from the requirements of this section because of the unavailability of registered contractors in that area. (Eff. 10/27/82, Reg. 84)

Authority: AS 18.56.096

15 AAC 118.267. ASSUMPTIONS OF MORTGAGE LOANS. (a) A clause in substantially the following form may be inserted in the Corporation's standard Deed of Trust for a mortgage loan which is not the subject of federal insurance or guarantee:

> Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable if either (1) the property ceases to be the principal residence of the Borrower, or (2) if all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or (d) the grant of any leasehold interest of three years or less not containing an option to purchase.
>
> If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

(b) At the option of the executive director, if in his opinion a clause in the Corporation's Deed of Trust in the form of that set forth in (a) of this section would jeopardize or nullify mortgage insurance coverage, the clause may be modified as the executive director deems necessary to preserve mortgage insurance coverage.

(c) The executive director may also formulate a clause for the Corporation's Deed of Trust for mortgage loans to be financed with the proceeds of Qualified Mortgage Bonds pursuant to Section 103A of the Internal Revenue Code providing for acceleration of or increase in loan rate on such mortgages and otherwise as may be necessary in his view to cause such mortgage loan to comply with the provision of said Section 103A.

(d) At such time as regulations or procedures of the FHA and VA permit, a clause or clauses in substantially the form or forms set forth in this section, with such variations as required under said regulations or procedures, may be set forth in the standard Deed of Trust for mortgage loans guaranteed or insured by FHA or VA. (Eff. 2/17/82, Reg. 82)

Authority: AS 18.56.088

15 AAC 118.269. MINIMUM CONSTRUCTION STANDARDS AND STANDARD DEVIATION. The minimum construction standards for residences securing mortgage loans of the Corporation are established as the construction standards which, in the opinion of the Corporation, are acceptable within the community within which the residence is located.

ALASKA HOUSING FINANCE CORPORATION

LOAN SUMMARY - MORTGAGES PURCHASED
RECEIVING HOME OWNERSHIP SUBSIDY

	FY '81	%	FY '82	%	JULY - FEB FY' 83	%
Sales Price	67,142		68,684		73,991	
Appraised Value	68,318		69,568		74,903	
Note Amount	63,183		64,381		69,410	
Monthly Income	1,905		1,932		1,987	
Age of Borrower	29.6		30.0		29.5	
Size of Household	1.8		1.9		1.9	
Loan to Sales Price Ratio	94.10		93.74		93.81	
Weighted Average Int. Rate	9.98		11.12		10.55	
Monthly P & I Payment			620.18		637.88	
Dwelling Type						
SFR	227	59.58	398	44.08	267	42.52
Condo	141	37.01	487	53.93	356	56.68
PUD	13	3.41	18	1.99	5	.80
	381	100.00	903	100.00	628	100.00
New/Existing						
New	57	14.96	272	30.12	426	67.83
Existing	324	85.04	631	69.88	202	32.17
	381	100.00	903	100.00	628	100.00
First Time Homeowner						
Yes	289	75.85	639	70.76	480	76.43
No	92	24.15	264	29.24	148	23.57
	381	100.00	903	100.00	628	100.00
Insurance Type						
FHA	-	-	-	-	-	-
VA	-	-	-	-	-	-
CONV	381	100.00	903	100.00	628	100.00
	381	100.00	903	100.00	628	100.00
Eligible State Veteran	7	1.84	11	1.22	45	7.17
Non-Eligible State Veteran	374	98.16	892	98.78	583	92.83
	381	100.00	903	100.00	628	100.00
Original Balance	24,072,600.00		58,136,000.00		45,589,200.00	

cf16

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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PHONE: (907) 465-4700

☐ 225 CORDOVA STREET - BLDG B
ANCHORAGE, ALASKA 99501
PHONE: (907) 264-2294

April 15, 1983

POSITION PAPER

RE: CS For HB 302 (C&RA)

SPONSOR: Community and Regional Affairs Committee

Program Effects of Bill

Section 1 eliminates the one year residency requirements affecting veterans. The new provision allows a greater number of veterans to qualify for a 1% reduction in interest rates on mortgages for urban nonconforming mortgage loans. The division concurs with this section.

Section 3 creates a revolving loan fund in the division. The creation of a revolving loan fund will permit the division to retain principal payments received from borrowers. The revolving loan fund, in time, will reduce future capital budget requests. The division is in concurrence with this Section.

Section 4 creates within the division a Home ownership Assistance Fund. The creation of this fund, and the subsidy it provides will assist low and moderate income persons in purchasing single family homes. The impact, both fiscal and in activity will be tremendous. The subsidy fund will allow persons who ordinarily would not qualify for a housing loan to do so. The division expects to expend a large portion of its loan fund allocation in this area. The division is in favor of the creation of this fund.

Section 5 repeals the law mandating an 80%/20% split in loan fund allocations for nonconforming housing loans. Currently rural Alaska receives 80% of the funding. Section 5 will also allow the division to allocate nonconforming funds in a more productive manner. In addition to eliminating the 80%/20% split in nonconforming loans, Section 5 will eliminate a second rural definition. The division concurs with this Section.

Section 6 provides for an immediate effective date for all Sections. The division feels the effective date of Section 4 of this bill should be January 1, 1984. This date will allow the division time to properly implement the program. The division concurs with this Section.

Mark Lewis, Commissioner

21-P1LH

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST
Bill/Resolution No.: CS for HB 302
Title: State Housing Loans
Sponsor: House CR&A committee
Requestor: HCRAC

II. FISCAL DETAIL
Agency Affected: Comm & Reg Affairs
Program Category Affected: Development
BRU, Program of Subprogram(s) Affected: Housing Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		141	193	205	217	230
200 TRAVEL		41	44	46.1	48.9	51.8
300 CONTRACTUAL		12	13	13.5	14.3	15.2
400 COMMODITIES		29	31	32	33	34
500 EQUIPMENT		3	3.1	3.3	3.5	3.7
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		226	284.1	299.9	316.7	334.7
ANNUAL SUBSIDY		650	1,000	1,200	1,350	1,700
CAPITAL		15,650	31,650	37,850	44,200	50,700
SUBSIDY (Cumulative)		650	1,650	2,850	4,200	5,700
REVENUE		350	2,150	4,250	6,650	9,350
REVENUE (Annual)		350	1,800	2,100	2,400	2,700

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		15,650	31,650	37,850	44,200	50,700
FEDERAL FUNDS						
OTHER (Specify Source)						
Program Receipts		226	284.1	299.9	316.7	334.7

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME		5	5	5	5	5
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Unused AIDA Certificates of Deposit. SLA 1982, Ch 114 CCSSB 322 (See 9. Assumptions for Fiscal Note).

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: B. Morse-Quinn/R. Price Phone: 272-4585
Division: Housing Assistance Division Date: 4/15/83

Approved by Commissioner: [signature] Date: 4/15/83
Department: Community and Regional Affairs

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

Home Ownership Assistance Fund (HOAF) Assumptions for Fiscal Note

1. AHFC made 381 HOF loans in FY'81 for $24.7 million with an average loan amount of $64,829.00. AHFC made 903 HOF loans in FY'82 for $58.1 million with an average loan amount of $64,341.00. HAD's average loan amount is $87,500.00 HAD projects a FY'84 HOAF program of 176 loans at $85,000.00 each for a total of $15 million in loans made.

2. HAD projects a HOAF Program based on rural Alaskan needs as follows:

   a. Dwelling Price Maximums

1 or 2 member family	$100,000
3 member family	105,000
4 member family	110,000
5 or more member family	120,000

   b. Income Maximums

Adult family members	30,000
1st child	5,000
Each additional child	1,500
to program maximum of	39,000

   c. Asset Maximums
   3 times income for all borrowers

3. Subsidies are calculated for payments of 1 adult and 2 children in rural Alaska to be subsidized from ratchet rate of 10% to HOAF rate of 6%. Average salary is computed at $2,835 per month with subsidy of $236.30 per month.

4. Capital projections assume accumulated subsidy projections. Annual subsidy rates are noted.

5. Revenue projections assume accumulated interest of 6% returning to the General Fund. Annual interest earnings are noted. Principal repayment is assumed to revolve back to the fund and is not calculated as revenue.

6. Position requests assume a specialization of duties and can absorb the year round program levels projected with no increased staff.

7. Travel is assumed to reflect both direct and indirect lending services of the division. FY'84 travel reflects the following specific assumptions:

2,500	Loan Examiner I to hearings in six field locations
3,600	Accountant, 6 trips to Juneau
5,000	Central office to bring field staff for training on new program
30,000	6 field offices @ 5,000 each for increased direct services and program outreach

8. Contractual assumptions were as follows:
    8,500 New regulations - HOAF
    3,500 Computer programming

9. Commodities assumptions were based on present cost of equipment for desks, chairs, files, WANG stations and data processing equipment.

10. Equipment is assumed at $500 per new position plus $500 for extra supplies to field.

11. Annual projections carry a 6% inflation calculation.

Notes for Form 13 Calculations

1. All salaries are based on GGU Salary Schedule for A ranges effective 1/1/83 for number of months requested.

2. Benefits were calculated at .0613 of gross salaries.

3. Supplemental benefits were calculated at DCRA FY'84 variable rate of .1537.

4. Fixed benefits were calculated at gross salary x 240.

Notes for Personal Services Category Projections

1. FY'84 impacts for new positions varied between 12 and 6 months. FY'85 projections assume all positions at 12 month plus 6% salary inflation costs. Subsequent years assume only annual inflation rate of 6%.

Notes for Revenue Projections

1. Monthly distribution of capital funds and, therefore, monthly interest calculations due on payments of first year operations cannot be accurately projected until program becomes operational. These figures are division's best estimates.

April 6, 1983
Proposed House Bill 302

REMARKS BY REPRESENTATIVE RICK UEHLING

The bill before you today is House Bill 302, "An Act relating to the Alaska Housing Finance Corporation; relating to rural and nonconforming housing loans; and providing for an effective date." It makes a number of substantive changes in the present AHFC program.

First, it establishes a new limit of $250,000 for first mortgages purchased by AHFC -- thereby deleting the provision that loan limits be tied to the Federal National Mortgage Association limits. For example, the total amount loaned for a single family residence is $160,000 under FNMA limits. The legislation before you raises that limit to $250,000.

Secondly, it eliminates the "Roger's Ratchet" and sets a flat four percent subsidy on all loans up to $90,000. Over that, the cost of funds are the determining factor. Essentially, this bill eliminates unnecessary language in present statute and allows the subsidy to be at a constant level. This gives AHFC and the Legislature a consistent level of appropriation for future fiscal years. In essence, this streamlines and simplifies present law.

Thirdly, this legislation cleans up existing statute in the section defined as "eligible veteran" by deleting questionable residency requirements and changing the National Guard and Reserve service requirement. This change has been suggested by the Governor in HB 305.

Fourthly, this bill makes the retention of a financial advisor by the AHFC for the negotiation of private sales of bonds optional instead of mandatory.

The fifth, and final, point I would like to make is that this legislation repeals the allocation formula for nonconforming housing, which is based on population.

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

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April 28, 1983

The Honorable Rick Uehling
Representative
Alaska State Legislature
Pouch V
Juneau, AK 99811

FILE COPY

Dear Representative Uehling:

Per your request, the following information provides for a general overview of the proposed Home Ownership Assistance Fund to be created in the Department of Community and Regional Affairs.

Purpose

"The Home Ownership Assistance Fund (HOAF) will consist of money appropriated to it by the legislature. Money in the fund shall be used solely to assist persons of lower and moderate income to purchase single-family homes financed under AS 44.47.360-44.47.560 by providing a subsidy to those persons in the amount that is necessary to reduce the annual interest rate paid on the mortgage loan to six percent"...

Funding Request

The following is a breakdown of the total amount requested to fund the HOAF:

1) The amount requested to create the subsidy fund is $650,000. This amount will subsidize approximately 176 loans.

2) The amount requested to fund the principle loan amount of 176 loan is $15,000,000.

3) The amount requested as operating capital is $226,000.

The amount requested to totally fund the HOAF is $15,876,000. This request is based on an effective date of January 1, 1984.

Lower to Moderate Income Data

Income and housing cost data were obtained from data published by the U.S. Bureau of the Census; Alaska Statewide Housing Needs Study prepared by CH2M Hill; and loan file data or the Housing Assistance Division (HAD) of the Department of Community and Regional Affairs.

For specific data on median income levels and average housing cost for rural Alaska, see Tables 1 and 2 below.

TABLE 1

Rural Income	% of Population
- $5,000	9.9
$ 5,000 - 9,999	12.3
10,000 - 14,999	14.1
15,000 - 19,999	10.3
*20,000 - 24,999	9.6
**25,000 - 29,999	8.8
30,000 - 49,999	22.8
- 50,000	12.2

*Lower Income $21,770 (9.6% of total population)
**Median Household income $28,800 (8.8% of total population)
HOAF target income group $20,000 to 39,000 [(five or more family members) (approximately 11.4% of population].
Percentage of population reached by HOAF - 29.8%.
Percentage of population reached by other HAD programs - 35%.

TABLE 2

RURAL NEW CONSTRUCTION COST 1981-82

Regional Cntrs.	Median Sq Ft Space	Median Land Value	Median Sq Ft Cost	Median Cost
Nome	$ 1,300	$15,000	$73	$110,000
Kotzebue	1,500	19,000	65	116,000
Bethel	1,300	17,000	85	128,000
Dillingham	1,200	15,000	88	120,000
More Remote Areas	1,600	20,000	66	125,000
Overall Medians	$1,350	$17,000	$75	$118,250

Conclusions

The Home Ownership Assistance Fund will benefit approximately 29.8% of the rural population or lower to moderate income groups earning $20,000 to $30,000 with an extra allowance for five or more member families which will bring the maximum income limit to $39,000.

Existing HAD programs are providing mortgage loans to approximately 43.8% of the rural population. This is based on the Division's average loan amount of $87,500, and the income required to receive this amount. It is estimated that the criterion of the HOAF program will allow the Division to reach approximately 64% of the rural population. Based on this information, the Division will establish income limitations as follows:

Income Maximums

Adult Family Members	$30,000
First Child	5,000
Each Addition Child	1,500
To Program Maximum of	39,000

In light of the median cost for newly constructed homes in rural Alaska ($118,250), the Division will establish dwelling price maximums as follows:

Dwelling Price Maximum

One or Two Member Family	$100,000
Three Member Family	105,000
Four Member Family	110,000
Five or More Member Family	120,000

It should be noted that not all housing will cost $100,000 - $120,000, and that only moderate income will qualify for the maximum dwelling maximums. Lower income borrowers will qualify for less expensive housing of approximately $75,000 - $85,000. At this price level, lower income borrowers can qualify when the proposed subsidy schedule is applied.

Attached (Attachment A) is recommended language for Section 7 of CS HB302 (HSCSL) to facilitate the HOAF as outlined in this correspondence.

If we can be of any further assistance, please give me a call.

Sincerely,

Mark Lewis
Commissioner

Attachment

ATTACHMENT A

* Sec. 7. AS 44.47 is amended by adding a new section to read:

Sec. 44.46.382. HOME OWNERSHIP ASSISTANCE FUND. (a) There is created in the Department of Community and Regional Affairs, the home ownership assistance fund consisting of money appropriated to it by the legislature. Money in the fund shall be used solely to assist persons of lower and moderate income to purchase single-family homes financed under AS 44.47.360 -- 44.47.560 by providing a subsidy to those persons in an amount not greater than the difference between

(1) the amount annually required to pay the prevailing interest on and principal of that person's loan and real property taxes and insurance for the home purchased with the loan; and

(2) the amount annually required to pay an effective interest of 6% per annum on and principal of that person's loan and real property taxes and insurance for the home purchased with the loan.

(3) the maximum subsidy is established at the amount required to reduce a borrower's annual payment to the amount set in (2) of this section.

(4) the division shall establish maximum income to total payment ratios as related to the maximum percentage and gross income allowable to pay total payment including principle, interest taxes and insurances, as well as maximum income and dwelling prices.

(b) In this section, "persons of lower and moderate income" means individuals considered by the division to require assistance under this section because of inadequate income or other limited personal financial resources, taking into consideration

(1) the amount of total income available for housing needs;

(2) the size of the family;

(3) the cost and condition of available housing;

(4) standards established in various federal programs for determining eligibility based on income;

(5) the ability to enter the private housing market and to pay market amounts for decent, safe, and sanitary housing; and

(6) other factors considered relevant by the division.

STATE OF ALASKA
THE LEGISLATURE

POUCH V · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M April 18, 1983

SUBJECT: Comparison of HB 302, CSHB 302 (C&RA) and HB 305

TO: Representative Rick Uehling
Chairman, House Special Committee on Loans

FROM: CHA Linn H. Asper
Legislative Counsel

FILE COPY

You have requested a comparison of HB 302, CSHB 302 (C&RA) and HB 305, concerning state housing loan programs.

Provisions that are the same in all three bills:

Section 6 of HB 302, concerning eligibility for veterans interest rates on AHFC loans (AS 18.56.101), is the same as Sec. 4 of HB 305 and Sec. 1 of CSHB 302 (C&RA).

Section 7 of HB 302, concerning retention of a financial advisor for AHFC bond sales, is the same as Sec. 5 of HB 305 and Sec. 2 of CSHB 302 (C&RA).

Section 9 of HB 302, repealing AS 44.47.385, is essentially the same as Sec. 12 in HB 305 and Sec. 5 of CSHB 302 (C&RA).

Section 10 of HB 302 (immediate effective date) is essentially the same as Sec. 14 of HB 305 and Sec. 6 of CSHB 302 (C&RA).

Provisions that are the same or similar in HB 302 and HB 305:

Sections 4 and 5 of HB 302, concerning interest rates for AHFC loans, are similar to Secs. 1 through 3 of HB 305. Each changes the method of calculating AHFC interest rates in a similar manner. HB 305 would increase the subsidized portion of AHFC loans from the present $90,000 amount to $100,000. HB 302 makes no change in the subsidized portion of AHFC loans. HB 305 would put a 12.5 percent ceiling on AHFC interest rates. HB 302 places no ceiling on interest rates.

Section 8 of HB 302, concerning application of certain provisions of the Act, is essentially the same as Sec. 11 of HB 305.

Provisions that are the same in HB 305 and CSHB 302 (C&RA):

Section 6 of HB 305 and Sec. 3 of CHSB 302 (C&RA) would make it clear that the housing assistance loan fund (AS 44.47.380) is a revolving fund.

Section 7 of HB 305 and Sec. 4 of CSHB 302 (C&RA) would establish a home ownership assistance fund in the Department of Community and Regional Affairs for housing loan assistance to low and moderate income families, similar to the AHFC home ownership fund (AS 18.56.091).

Provisions that are found only in HB 302:

Sections 1 through 3 of HB 302 would have the effect of increasing the amount of money that could be loaned for a single-family residence from $160,000 to $250,000.

Provisions that are found only in HB 305:

Section 8 of HB 305 would allow a borrower to have both a nonconforming or rural housing loan and a loan for nonowner occupied housing, amending AS 44.47.390.

Section 9 of HB 305 would amend the method of computing interest rates for nonconforming and rural housing loans under AS 44.47.410.

Section 10 of HB 305 would redefine the term "rural" as that term is used in connection with nonconforming and rural housing loans made or purchased by the Department of Community and Regional Affairs.

Section 13 would make Secs. 7, 8, 10, and 12 of HB 305 effective January 1, 1984.

LHA:ljb

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 27, 1983

Honorable Rick Uehling
Chairman, Special Committee
on State Loans
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: HB 302 and HB 315

Dear Representative Uehling:

This letter responds to the two inquiries in your letter of April 21 which broadly relate to the ambit of the dedicated fund prohibition. Alaska Const. art. IX, sec. 7.

As we orally advised a member of your staff, the provisions in HB 302 and HB 315 do not raise questions under the dedicated fund prohibition.

Your first inquiry related to the conversion of the Housing Assistance Loan Fund (AS 44.47.380) to a revolving loan fund. As you know, the revolving loan fund prepared in the bill retains only principal repayments; interest repayments revert to the general fund. The Department of Law has previously stated that we will defend revolving loan funds expressly established by statute as a permissible exception to the dedicated fund prohibition. See 1982 Att'y Gen. Op. # 13, (Nov. 30).

Your second inquiry asked whether it is "necessary or advisable" to appropriate program receipts to individual loan funds. Again, it is our view that it is not necessary to appropriate program receipts on an annual basis to a revolving loan established by statute. A question may exist if the statutory provision establishing the revolving loan fund does not expressly identify whether repayments of both principal and interest revert to the funds. 1/ As a general proposition, a long-standing contemporaneous construction is entitled to substantial weight in

---

1/ Several of the funds in sections 3 and 4 of HB 315 are established as revolving loan funds, but the statutory provisions do not specify which program receipts revolve.

3-CSLH

assaying legislative intent. Thus, if program receipts, including interest repayments, have been retained in a revolving fund which does not specifically authorize the retention of interest repayments, an annual appropriation of the program receipts is not necessary.

In sum, we do not see any need to amend HB 302 or HB 315 to accomplish the apparent policy objectives. Please feel free to call if we can provide any further assistance on this matter.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Jonathan B. Rubini
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

DIVISION OF LOANS AND VETERANS AFFAIRS

POUCH D
JUNEAU, ALASKA 99811
PHONE: (907) 465-2555
(907) 465-2510

April 26, 1983

APR 27 1983

Honorable Rick Uehling
Representative
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Uehling:

I have reviewed the proposed amendment to the Alternative Energy Loan program. This amendment would essentially allow loans to be made for multifuel furnaces.

Our estimate of loans to be made under this amendment is 150 in the Fairbanks area, 150 in the Anchorage area and an additional 50 in Southeast Alaska. The costs of purchase and installation of each unit would average $10,000 to $15,000. Using a low figure of $10,000, the total dollars needed would amount to $3,500,000.

If we can be of further assistance, please do not hesitate to contact us.

Sincerely,

D. A. Hostak

D. A. Hostak
Director

DAH/kkkC37

Representative John Ringstad
District 20-B
P.O. Box 1848
Fairbanks, Alaska 99707
(907) 456-8336

While in Juneau
Pouch V
Juneau, Alaska 99811
(907) 465-4998

TO: Rep. Rick Uehling, Chairman
House Special Committee on State Loans

FROM: Rep. John Ringstad

RE: Multifuel Furnaces

DATE: April 19, 1983

In 1982, section 45.88.500 of the Alaska Statutes was amended in Conference Committee to exclude furnaces and wood stoves from qualifying for loans. The exclusionary wording was not clear and the Attorney General's interpretation included any multifuel, wood or coal furnace. This was not the intent of the legislature.

Attached is an amendment which will allow loans for such furnaces, and still exclude fireplaces and fireplace inserts and decorative wood stoves.

Also attached are brochures explaining two companies' multifuel furnaces which would be eligible under this amendment.

In FY 83, the Alternative Technology and Energy Revolving Loan Fund had a \$4 million appropriation. \$2.8 million had been lent or committed by March 31, 1983 and Mr. Don Hostak expects to use the full appropriation by June 30, 1983.

If you have any questions, please contact my aide, Drue Pearce.

Thank you.

13-1189
Asper
4/13/83 ✓

IN THE HOUSE BY RINGSTAD

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to alternative technology and energy loans."

BE IT ENACTED BY THE LEGISLATURE OF THE STATF OF ALASKA:

* Section 1. AS 45.88.500(2) is amended by adding a new subparagraph to read:

(E) a steam, hot water, or ducted hot air central heating system that uses solid fuel.

{WOOD
COAL}

MEMORANDUM State of Alaska

TO: Don A. Hostak, Director
Div. of Business Loans
and Veterans' Affairs
Department of Commerce
and Economic Development

DATE: July 29, 1982

FILE NO: 366-006-83

TELEPHONE NO: 465-3600 ex. 62

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By: Peter B. Froehlich
Assistant Attorney General

SUBJECT: Alternative Energy Systems (AS 45.88.500)

You have asked this office whether furnaces and boilers are included within the meaning of "heating stoves" in AS 45.88. 500(3). That paragraph, which was added by § 60, ch. 113, SLA 1982, specifically excludes "wood, coal, or multifuel heating stoves" from the definition of "alternative energy system" and therefore from eligibility for financing under AS 45.88.

The answer to your question is YES. This means that loans under AS 45.88 may not be used to finance any heating device, whether it is called a stove, furnace, or boiler, unless it is a wood stove (or wood furnace) with a catalytic converter because only those stoves are specifically included by AS 45.88. 500(2)(D) which was added by § 59, ch. 113, SLA 1982. Of course loans may also be used for catalytic converters for wood stoves as also specifically provided by AS 45.88.500(2)(D). However, loans may not be used for coal heating stoves, multifuel heating stoves, fireplaces, or fireplace inserts regardless of whether they have catalytic converters. (AS 45.88.500(3)(B).

Although the definition of "alternative energy system" in AS 45.88.500 may seem a bit confusing at first glance, because of its many separate ingredients, it is not vague or ambiguous. Rather, it is clear and specific. After the 1982 amendments it provides as follows:

Sec. 45.88.500. DEFINITION. In this chapter, "alternative energy system"

> (1) means a source of thermal, mechanical or electrical energy which is not dependent on oil or gas or a nuclear fuel for the supply of energy for space heating and cooling, refrigeration and cold storage, electrical power, mechanical power, or the heating of water;
>
> (2) includes
> (A) an alternative energy property as defined by sec. 48(1)(3)(A) of the Internal

Peter 8/30/82
Cnsmr could override

02-001A(Rev.10/7-)

Revenue Code (26 U.S.C. sec. 48(1)(3)(A)); [a copy of which is enclosed]
(B) a method of architectural design and construction which provides for the collection, storage and use of direct radiation from the sun; and
(C) any other device approved by the commissioner of commerce and economic development under AS 44.33.040(12). § 34 ch. 83, SLA 1980.
(D) a wood stove with a catalytic converter or a catalytic converter for a wood stove.

(3) does not include
(A) a wood, coal, or multifuel heating stove; or
(B) a fireplace or fireplace insert.

Several rules of construction are applicable to the dissection and analysis of this definition. First is the sliding scale plain meaning rule, as recently enunciated in State v. Alex, ______ P.2d ______, (Ak. 1982, Opinion #2488, April 23, 1982) at footnote #4, page 15. Under this rule, the plainer the language of a statute, the more convincing contrary legislative history must be in order to justify an interpretation different than the plain meaning of the statutory language.

The plain meanings of "stove" and "furnace" are virtually identical. According to Merriam-Webster, Webster's Third New International Dictionary (1976), a stove is an "apparatus that burns fuel or uses electricity to produce heat" (Id. at p 2253) and a furnace is "an apparatus for the production or application of heat". (Id. at p 923) On the other hand, a boiler is a "vessel used for boiling" or "a tank in which water is heated or hot water is stored". (Id. at p 247) According to the boiler inspector of the division of labor standards and safety in the Department of Labor, the distinctive characteristic of a "boiler" is that it contains pressure. Boilers can be used in conjunction with stoves or furnaces which produce heat but boilers do not produce heat themselves.

In the case of AS 45.88.500, we can find no legislative history contrary to its plain meaning. We have reviewed the House and Senate Journals and have talked to several members of your staff and legislative staff who attended and listened to tape recordings of hearings on SB 666 (ch. 113, SLA 1982) and its predecessors. In fact, there are indications that the general legislative intent was to limit the use of AS 45.88 loans for wood, coal, and multifuel stoves, furnaces and boilers as much as possible because

> (1) they are common and relatively low cost items which sap funds that could be used for less common, more innovative, and more costly energy systems; and
>
> (2) they are less desirable than most alternative energy systems because they contribute more to air pollution

This latter air pollution consideration is apparently one of the reasons for limiting use of AS 45.88 loans to only wood stoves with catalytic converters or the converters themselves. That is the net result of adding the narrow inclusion of wood stoves with catalytic heaters within the definition of "alternative energy system" (new AS 45.88.500(2)(D) to the broader exclusion of heating stoves and fireplaces (new AS 45.88.500(3).

Other rules of statutory construction provide that in the case of conflict, specific language controls over general, Sands, Sutherland Statutory Construction, § 51.05 (4th Ed. 1973) and later enactments control over earlier (Id. at § 51.01) and all parts of statute should be construed together to give meaning to each if possible (Id.).

All of these rules of construction provide support for the plain meaning of AS 45.88.500 as amended by ch. 113, SLA 1982, and the meager legislative history of the 1982 amendment.

If you feel the need or desire to add to or clarify the permissible uses of AS 45.88 loans you may propose that the commissioner exercise his power under AS 45.88.020(a)(2), 45.88.500(2)(D), and 44.30.040(12).

Enclosure
WLC/PBF/pkh

come of a United States person other than an electing small business corporation or partnership.

(II) Amounts for equipment and supplies shall be allocated to the country in which, with respect to the production of the film, the predominant use occurs.

(III) All other items shall be allocated under regulations prescribed by the Secretary which are consistent with the allocation principle set forth in clause (II).

(6) United States.—For purposes of this subsection, the term "United States" includes the possessions of the United States.

(*l*) Energy property.—For purposes of this subpart—

(1) Treatment as section 38 property.—For any period for which the energy percentage determined under section 46(a)(2)(C) for any energy property is greater than zero—

(A) such energy property shall be treated as meeting the requirements of paragraph (1) of subsection (a), and

(B) paragraph (3) of subsection (a) shall not apply to such property.

(2) Energy property defined.—The term "energy property" means property—

(A) which is—

(i) alternative energy property,

(ii) solar wind energy property,

(iii) specially defined energy property,

(iv) recycling equipment,

(v) shale oil equipment,

(vi) equipment for producing natural gas from geopressured brine,

(vii) qualified hydroelectric generating property,

(viii) cogeneration equipment, or

(ix) qualified intercity buses,

(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer after September 30, 1978, or

(ii) which is acquired after September 30, 1978, if the original use of such property commences with the taxpayer and commences after such date, and

(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and which has a useful life (determined as of the time such property is placed in service) of 3 years or more or which is recovery property (within the meaning of section 168).

(3) Alternative energy property.—

(A) In general.—The term "alternative energy property" means—

(i) a boiler the primary fuel for which will be an alternate substance,

(ii) a burner (including necessary on-site equipment to bring the alternate substance to the burner) for a combustor other than a boiler if the primary fuel for such burner will be an alternate substance,

(iii) equipment for converting an alternate substance into a synthetic liquid, gaseous, or solid fuel,

(iv) equipment designed to modify existing equipment which uses oil or natural gas as a fuel or as feedstock so that such equipment will use either a substance other than oil and natural gas, or oil mixed with a substance other than oil and natural gas (where such other substance will provide not less than 25 percent of the fuel or feedstock),

(v) equipment to convert—

(I) coal (including lignite), or any nonmarketable substance derived therefrom, into a substitute for a petroleum or natural gas derived feedstock for the manufacture of chemicals or other products, or

(II) coal (including lignite), or any substance derived therefrom, into methanol, ammonia, or a hydroprocessed coal liquid or solid,

(vi) pollution control equipment required (by Federal, State, or local regulations) to be installed on or in connection with equipment described in clause (i), (ii), (iii), (iv), or (v),

(vii) equipment used for the unloading, transfer, storage, reclaiming from storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use of an alternate substance for use in equipment described in clause (i), (ii), (iii), (iv), (v), or (vi),

(viii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(3)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage, and

(ix) equipment, placed in service at either of 2 locations designated by the Secretary after consultation with the Secretary of Energy, which converts ocean thermal energy to usable energy.

The equipment described in clause (vii) includes equipment used for the storage of fuel derived from garbage at the site at which such fuel was produced from garbage.

(B) Alternate substance.—The term "alternate substance" means any substance other than—

(i) oil and natural gas, and

(ii) any product of oil and natural gas.

(C) Special rule for certain pollution control equipment.—The term "pollution control equipment" does not include any equipment which—

(i) is installed on or in connection with property which, as of October 1, 1978, was using coal (including lignite), and

(ii) was required to be installed by Federal, State, or local regulations in effect on such date.

For purposes of the preceding sentence, in the case of property which is alternative energy property solely by reason of the amendments made by section 222(b) of the Crude Oil Windfall Profit Tax Act of 1980, "January 1, 1980" shall be substituted for "October 1, 1978".

(4) Solar or wind energy property.—The term "solar or wind energy property" means any equipment which uses solar or wind energy—

(A) to generate electricity,

(B) to heat or cool (or provide hot water for use in) a structure, or

(C) to provide solar process heat.

(5) Specially defined energy property.—The term "specially defined energy property" means—

(A) a recuperator,

(B) a heat wheel,

(C) a regenerator,

(D) a heat exchanger

ALASKA CONSTRUCTION & MINING EQUIPMENT, Inc.
DBA THE COAL BUNKERS

PHONE: (907) 456-5005 or 456-5971
P.O. BOX 72869 • 270 ILLINOIS ST.
FAIRBANKS, ALASKA 99707

August 18, 1982

Mr. Bob Bettisworth
Box 80288
Fairbanks, Alaska 99708

Dear Mr. Bettisworth:

I have some questions about a recent attorney general opinion. The subject is alternative energy systems (AS 45.88.500). The issue affected by this decision is whether or not loans for coal and multifuel central heating systems will be allowed. The systems of major concern to my firm are stoker fed coal boilers and forced air furnaces.

First I should give you some background to the problem. When SB 666 was passed the Fairbanks vendors were assured by the Legislature that the only thing being excluded by an amendment to AS 45.88.500 was stoves, fireplaces and fireplace inserts. The reason for this was that stoves are a common and relatively low cost item and that stoves of the air-tight design contribute more to air pollution that other energy systems. The Legislature also assured us that the amendment did not exclude coal and multifuel boiler heating systems because 1) coal and multifuel boilers are new innovative but costly energy systems; 2) most boiler systems are designed with forced combustion fans and do not contrubute more to air pollution than other conventional energy systems; 3) alternative fuel boilers are specifically included in Sec. 45.88.500(2)(A) which is Sec. 48(1)(3)(A) OF the Internal Revenue Code.

The first part of Internal Revenue Code 48(1)(3)(A) says "the term 'alternative energy property' means a boiler the primary fuel for which will be an alternative substance. The definition of alternative substance used in this statute is "any substance other than oil or natural gas and any product of oil or natural gas." Coal boilers are in this category since they are boilers using an alternative substance for their primary fuel. Coal boilers should be included in the loan program because Sec. 48(1)(3)(A) of the Internal Revenue Code is an integral part of AS 45.88.500 and all property defined by this section is specifically included by AS 45.88.500(2)(A).

AS 45.88.500(3)(A)&(B) does not specifically exclude boilers, however, it does specifically exclude stoves, fireplaces and fireplace inserts. The legislators involved in writing this bill have told me that the bill was worded this way because they intended to stop loans on stoves unless they had catalitic converters. They also said they wanted to continue to allow loans for alternative energy property specifically included in AS 45.88.500(2)(A). The equipment specifically included in that part of the statute is not only boiler systems but also alternative fuel burners ie. coal stokers; equipment to convert coal into other usable fuels and chemicals; pollution control equipment; and material handling equipment for alternative substances.

The administration has taken a pathway that is against the will of the people who have exercised their voice through their elected officials. The people want the administration to obey the law and start loaning money for coal and wood boilers and coal stokers. These items are specifically included and the Department of Commerce is in violation of the law by refusing to allow loans on such property.

The Fairbanks vendors were assured by the legislators that the program would continue relatively unchanged. Many vendors took orders and ordered stock based on the continuation of this loan program. The Department of Commerce has caused economic hardship and has left many people who were planning on buying a coal or wood boiler without a means of financing. Winter is closing in and these people have to face another winter using high priced oil and electricity for heat.

The Department of Commerce should be directed to allow loans on coal and wood boilers and other alternative energy property that is specifically allowed in AS 45.88.500(2)(A).

Please contact me as soon as possible regarding this attorney general's opinion about alternative energy systems.

Sincerely,

Bruce D Cain

Bruce D. Cain
General Manager
The Coal Bunkers

cc: Barbara Herman, Dept. of Law, Juneau
All Fairbanks Legislators

TARM 400 SERIES

Central Heat from Wood or Coal

HS TARM brings wood and coal heat into the twentieth century with the TARM 400 Series boilers.

Wood and coal are cheap fuels. But wood or coal stoves don't heat your house evenly. Or conveniently.

Your present central heating system heats your house evenly, leaves no ashes or bark on the living room rug, and lets you come and go as you please. But how much longer can you afford the fuel it burns? And how much longer will that fuel be available—at any price?

Now HS TARM gives you the best of both worlds. TARM 400 add-on systems provide the economy and security of wood or coal plus the freedom, comfort and convenience of central heat.

Connected to your present hot water boiler and fired with wood or coal, your TARM 400 will heat your whole house and all the tap water you need. When you're away or if you forget to add fuel to the fire, your present boiler will take over automatically to keep your house warm.

Sixty years of design and production know-how go into every TARM 400 boiler. They're built to last. And built so they're easy for you to operate and maintain. With features like a large firebox with no obstructions to get in your way. Durable cast-iron doors and grates. A heavily insulated jacket, finished in a brilliant orange-red enamel.

There's also an optional tankless coil for heating tap water. And if you live in an area where electricity is inexpensive or little back-up heat is required, you can turn your TARM 400 into a completely independent multi-fuel system with the optional electrical elements package.

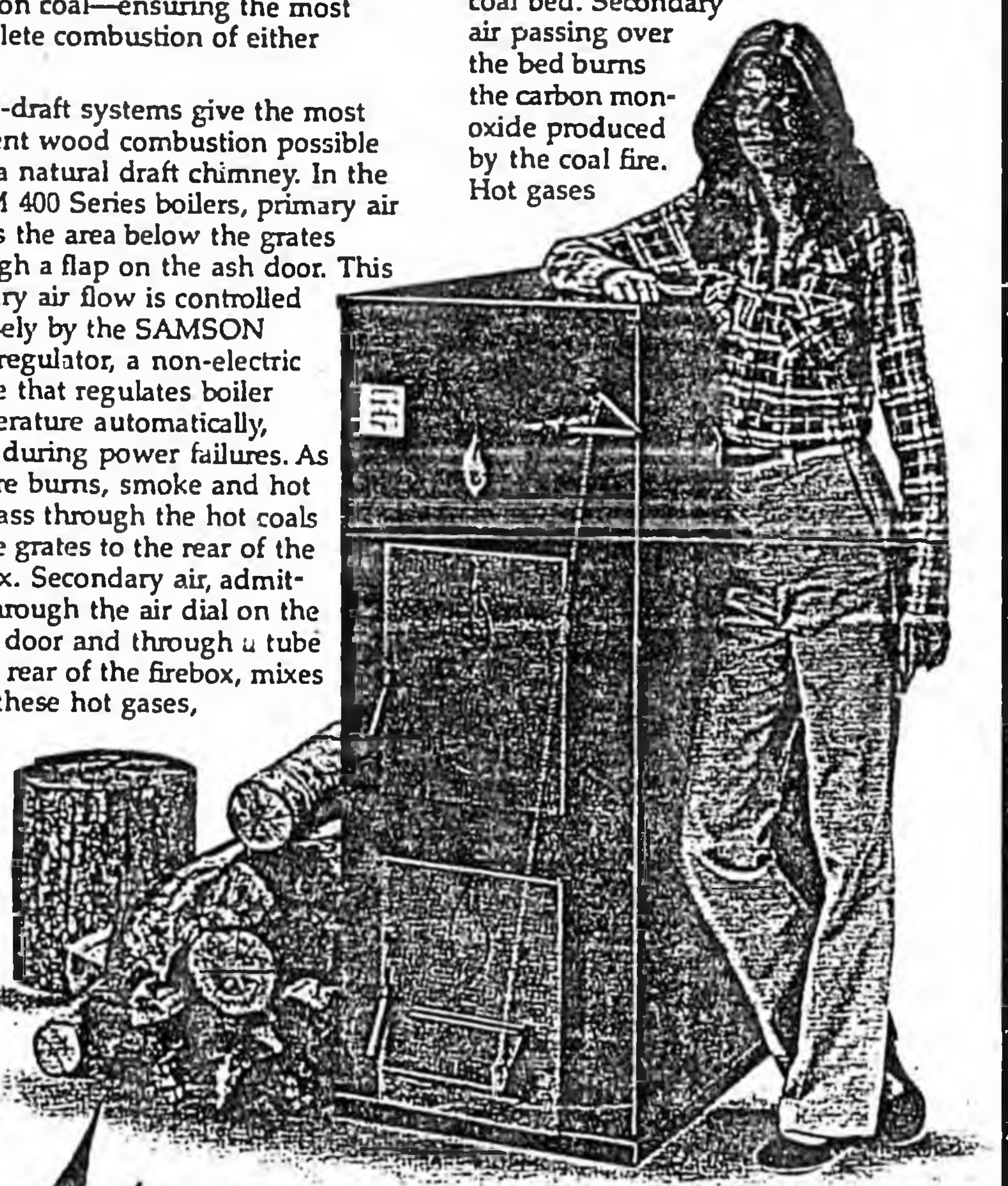
These features—in a boiler made by the best-known, most respected company in the business—make the TARM 400 your only choice if you insist on quality and long-term economy.

combustion

TARM 400 Series boilers operate as cross-draft burners when fired on wood and as updraft burners when fired on coal—ensuring the most complete combustion of either fuel.

Cross-draft systems give the most efficient wood combustion possible with a natural draft chimney. In the TARM 400 Series boilers, primary air enters the area below the grates through a flap on the ash door. This primary air flow is controlled precisely by the SAMSON draft regulator, a non-electric device that regulates boiler temperature automatically, even during power failures. As the fire burns, smoke and hot gas pass through the hot coals on the grates to the rear of the firebox. Secondary air, admitted through the air dial on the firing door and through a tube in the rear of the firebox, mixes with these hot gases, encouraging further burning and minimizing creosote formation.

TARM 400 Series boilers are converted easily to updraft operation by the addition of a vertical cast-iron baffle in the firebox. The baffle forces all primary air to pass up through the coal bed. Secondary air passing over the bed burns the carbon monoxide produced by the coal fire. Hot gases



HS·TARM

then pass down behind the baffle and up through the heat exchanger at the rear of the firebox.

Efficient burning is but the first step to an efficient boiler. Heat must be removed from the flue gases before the gases leave the boiler. In the TARM 400 Series, the vertical firetube heat exchanger extracts the maximum amount of heat from these gases before they are vented up the chimney. Less heat up the chimney means more heat in your house—where you want it.

construction

For durability, all TARM 400 Series boilers are constructed of ¼" steel plate. The doors and grates are cast and machined from the finest gray iron.

For maximum flexibility of installation, the flue outlet may be mounted either on the right side of the boiler or at the rear.

For ease of maintenance, the firetube heat exchanger, accessible when the cleanout cover is removed, may be cleaned quickly and easily with the round flue brush supplied with the boiler.

The optional tankless copper coil is ⅞" in diameter—larger than average to ensure good heat output even at lower boiler temperatures.

Note: TARM 400 Series boilers are available constructed in accordance with the ASME Boiler and Pressure Vessel Code and National Board-registered.

controls and accessories

Each TARM 400 Series boiler is shipped with the following:

- cast-iron doors and shaker grates
- SAMSON Automatic Draft Regulator
- High Limit Aquastat (overheat control)
- ASME Boiler Pressure Relief Valve
- cleaning tools

The following accessories may be ordered with the boiler or ordered separately for installation at a later date:

- cast-iron baffle plate for burning anthracite coal
- copper tankless coil and ASME Coil Pressure Relief Valve for heating domestic water
- electrical elements package for converting the TARM 400 boiler to an independent multi-fuel system

20-year limited warranty

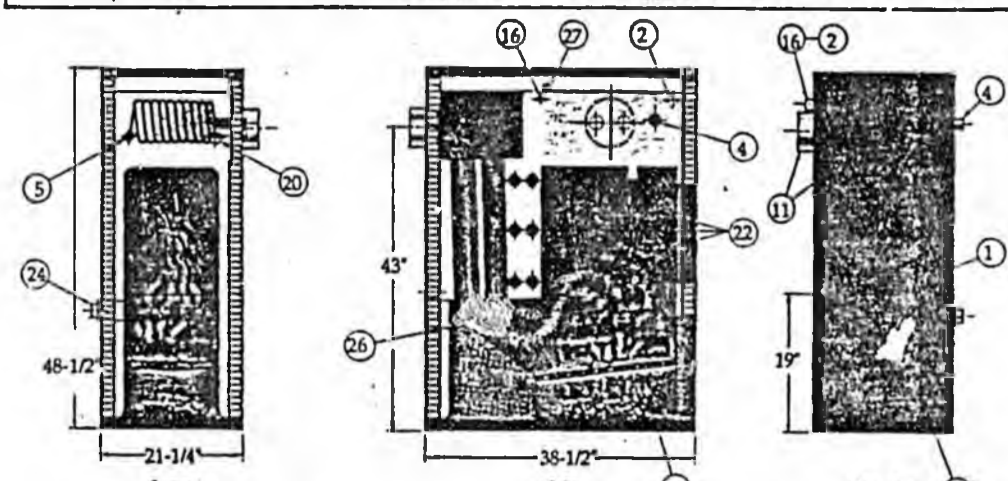
All HS TARM boilers sold after Nov. 15, 1981 carry a 20-year limited warranty, a copy of which is provided with the boiler and is available from your HS TARM Dealer or from Tekton Corporation.

ALL TARM 400 Series boilers are ETLM-approved.
All specifications are subject to change without notice.
The responsibility for determining compliance with local and state codes is the obligation of the dealer.
Note: Adequate chimney draft is required for proper operation of all wood-fired boilers. Please observe minimum chimney requirements in the table above.

specifications

		TARM 402	TARM 404
Maximum Gross Output-Wood	Btu/hr	110,000	150,000
Burn Time	hr	5	6
Minimum Gross Output-Wood	Btu/hr	25,000	37,000
Burn Time	hr	14	16
Maximum Gross Output-Coal*	Btu/hr	120,000	168,000
Burn Time	hr	12	12
Minimum Gross Output-Coal*	Btu/hr	30,000	42,000
Burn Time	hr	24+	24+
Maximum Output with 6	Btu/hr	102,000	102,000
Electrical Elements	KW	36	36
Domestic Hot Water Output — Wood	GPM	2.2	3.0
Boiler Body			
Width	in	21¼	24¼
Depth	in	38½	49¼
Height	in	48½	48¼
Firebox			
Length	in	18¾	27½
Width	in	13¼	16¼
Height	in	27½	27½
Volume	cu ft	4	7
Height to Center of Flue	in	43	43
Tapping(s) for:			
1 Return	in	1½	1½
2 Supply	in	1½	1½
3 Fusible Plug	in	¾	¾
4 Aquastats	in	¾	¾
5 Tridicator	in	½	½
10 Drain & Fill	in	1	1½
11 Flue Outlet	in	6	8
14 Tankless Coil	in	¾	¾
15 Tankless Coil	in	¾	¾
16 Pressure Relief Valve	in	¾	¾
20 Draft Regulator	in	¾	¾
22 Electrical Elements	in	1	1
24 Preheated Secondary Air Control			
26 Preheated Secondary Air Manifold			
27 Air Vent	in	¾	¾
Water Volume	gal	41	62
Weight of Boiler Body	lbs	968	1,430
Weight of Jacket	lbs	88	99
Pressure Test	psi	60	60
Minimum Flue Size	in	8 x 8	8 x 12
Minimum Chimney Height	ft	20	20
Minimum Draft Required	in/WG	.05	.05

* with optional coal baffle installed



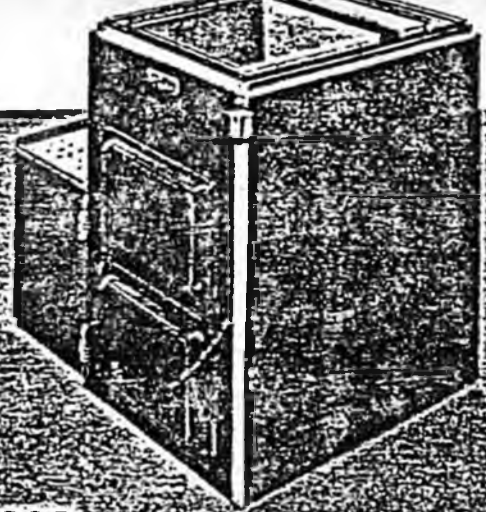
front side back

HS TARM ROUTE 116, CONWAY, MA 01341

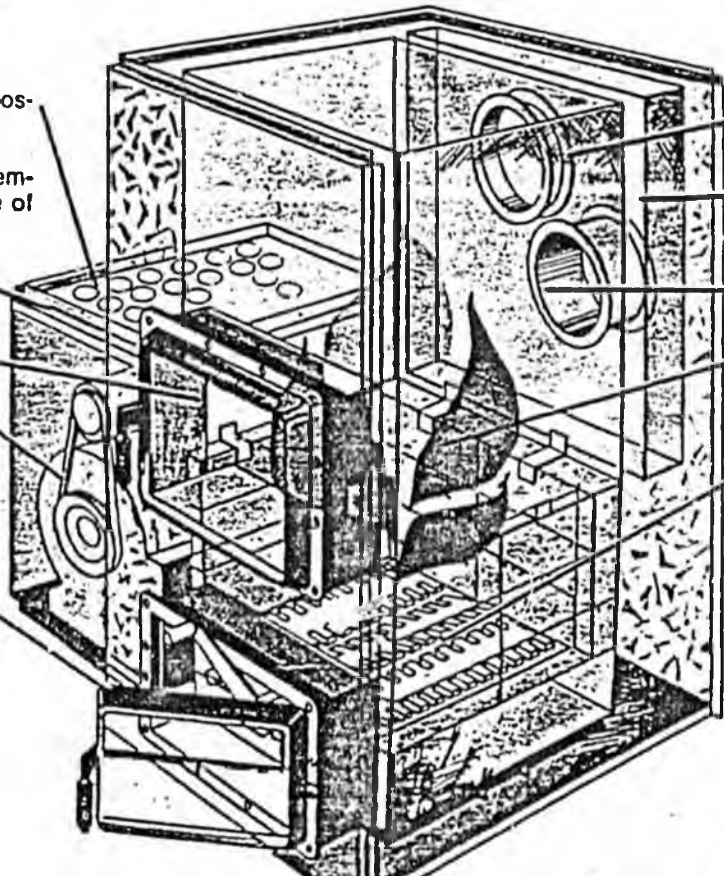
DUO-MATIC

CWF
Dual-Fuel Furnace

Stops worrying about shortages and spiralling prices . . . install a Duo-Matic coal and wood burning furnace



Burns either wood or coal, for convenience and economy.



Quality built to last
Certified by C.S.A

CWF —Add on to your present warm air furnace, or install as a free-standing solid fuel furnace.

DUO-MATIC

MULTI-FUEL FURNACES

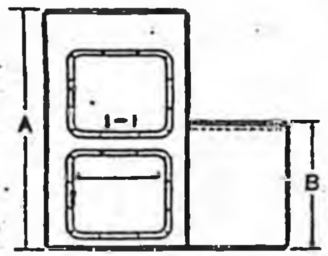
Even heat distribution • Automatic thermostat controls •

The Largest Selling Multi-Fuel Furnace in North America.

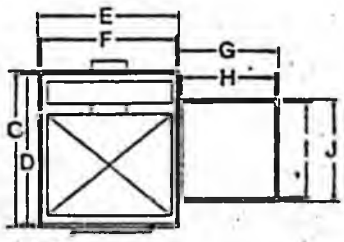
DUO-MATIC CWF SERIES

Burns wood or coal.

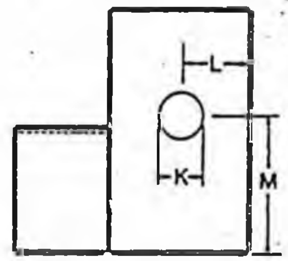
Specifications and Dimensions for CWF Furnace



FRONT VIEW



TOP VIEW



REAR VIEW

Dimensions:

A=Furnace section height 52⅝".
B=Blower section height 30¾".
C=Furnace section depth 33¾".
D x F=Hot air plenum 24⅛"w x 31⅝"l.
E=Furnace section width 27⅝".
G=Blower section width 21⅛".
H x I=Cold air plenum 19¼"w x 18⅛"l.
J=Blower section depth 20"
K=Flue pipe dia. 7".
L=Flue pipe to center furnace section 13¾".
M=Flue pipe to center from floor 34½".

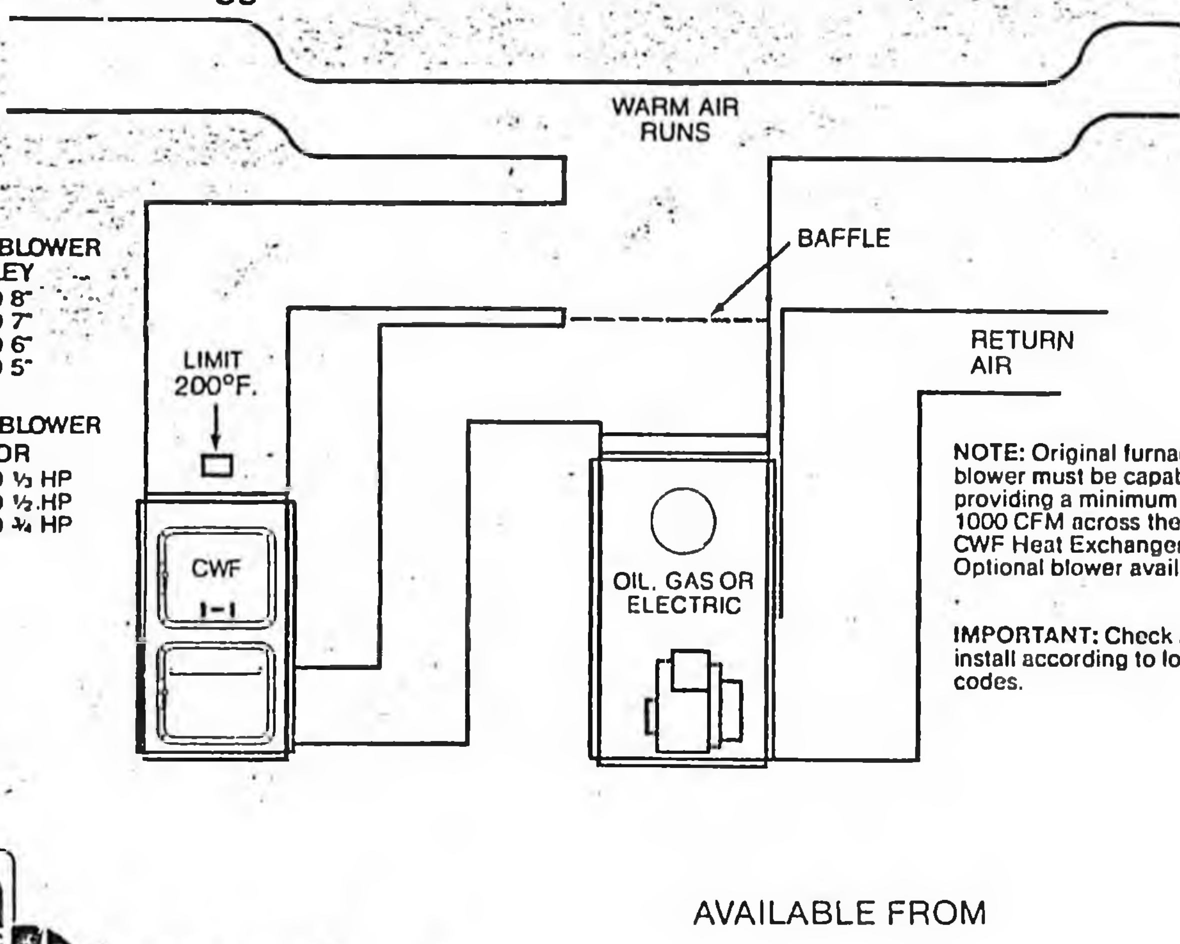
Specifications:

- Solid fuel combustion chamber: Fire brick lined with cast iron grates. Size: 18"×17"×14"
- Firing Door: 16¾"×13½".
- Insulated Cabinet: Foil faced mineral fibers.
- Flue outlet: 7" • Blower motor: ¼ HP.
- Blower: CFM-1000 • Blower: 9" wheel type.
- Ex. Static: 20 • Air filter: 1 20" x 20".
- B.T.U.: Estimated max. 120,000.
- Shipping weight: Complete 625 lbs.

Suggested Wood ADD-ON Duct Installation

CONVERT BLOWER PULLEY
9" TO 8"
8" TO 7"
7" TO 6"
6" TO 5"

CONVERT BLOWER MOTOR
¼ HP TO ⅓ HP
⅓ HP TO ½ HP
½ HP TO ¾ HP



NOTE: Original furnace blower must be capable of providing a minimum of 1000 CFM across the CWF Heat Exchanger. Optional blower available.

IMPORTANT: Check and install according to local codes.

DUO-MATIC

AVAILABLE FROM

Olsen Inc.

Duo-Matic/Olsen, Inc.
2510 Bond Street
Park Forest South, IL 60466

HB

311

Bill No. HB 311

Date April 13, 1983

Title "An Act relating to Workers' Compensation; and providing for an effective date."

Contact: J. L. McClintock 465-2790

The Department of Labor and the Alaska Workers' Compensation Board support the provisions of HB 311. This bill is the result of an agreement reached by a committee representing labor and employers in the state and reflects over three years of hearings in which testimony was provided by workers, labor groups, employers, insurers, rehabilitation and medical providers, attorneys and state agency personnel. The Workers' Compensation Board and Division worked very closely with the committee in recommending amendments that provide for a more equitable and efficient workers' compensation system for employees and employers.

The major portions of the bill will result in a redistribution of benefits which will reduce disencentives to return to work and provide long term reductions in workers' compensation costs. This is based on increases in scheduled permanent partial disabilities, the minimum compensation rate, death benefits and new methods to compute gross weekly earnings.

POSITION PAPER/Department of Labor

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST
Bill/Resolution No.:
Title: ".. Workers' Compensation..."
Sponsor:
Requestor: Rules Committee

II. FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: Public Protection
BRU, Program of Subprogram(s) Affected:
Administration of Workers' Compensation

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES		6.5	14.3	15.7	17.3	19.0
200 TRAVEL						
300 CONTRACTUAL		51.0	15.4	16.9	18.6	20.5
400 COMMODITIES		.1	.1	.1	.1	.1
500 EQUIPMENT		.7	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		58.3	29.8	32.7	36.0	39.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		58.3	29.8	32.7	36.0	39.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL-TIME						
PART-TIME		1	1	1	1	1
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Not available.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Jacquelyn L. McClintock Phone: 465-2790
Division: Workers' Compensation Date: March 21, 1983

Approved by Commissioner: Jim Robison Date: March 21, 1983
Department: Labor
LEG:A:19

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

FISCAL NOTE

THE LEGISLATURE OF THE STATE OF ALASKA
FOURTEENTH LEGISLATURE
TITLE: "An Act relating to workers' compensation, and providing for an effective date."
AGENCY AFFECTED: Department of Labor

Data Control Clerk I (permanent halftime, 6 months first year, 12 months thereafter)

100	Personal Services	$ 6.5	
300	Contractual	1.5	
400	Supplies	.1	
500	Equipment	.7	
			$ 8.8

Other Contractual:

Redesign and printing of forms to accomodate additional questions	3.5*
Rewrite and printing of employee and employer booklets	12.0*
Composition and printing of benefit schedule booklet	7.0
Printing amendment of Act	1.0*
Design computer system and write programs (2 1/2 months x $50/hour)	22.0*
Operation costs for additional computer processing	4.0
TOTAL	$58.3

* Indicates one-time expense in FY 1984 for a total of $38.5

1.	POSITION TITLE: Data Control Clerk I			RANGE/STEP: 9A	BARG. UNIT: G	FORM 12: FN	PAGE/LINE	COV. / APPROV. / DISAPP.
2.	TYPE OF POSITION: PPT	STAFF MONTHS: 3	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION: Juneau	ELECTION DISTRICT	LEG.
3.	CONTINUATION LEVEL		ADDITION: XX					

	TYPE OF EXPENDITURE 1		2	AMOUNT 3
	PERSONAL SERVICES			
5.	Salary 9A (1578 x 6 mos x .5)		4,734	
6.	Benefits	.1587	751	
7.	Supplemental Benefits	.0613	290	
8.	Fixed Benefits	240 x 3	720	
	TOTAL PERSONAL SERVICES	01		6.5
	Travel	02		
11.	Contractual	03		1.5
12.	Commodities	04		.1
13.	Equipment	05		.7
14.	Other			
15.	TOTAL COST			8.8

	RECEIPT CODE	FUNDING SOURCE		
16.		Federal Receipts	1002	
17.		G.F. Match	1003	
18.	100	General Funds	1004	8.8
19.		I-A Receipts	1005	
20.		Program Receipts	1028	
21.		Other		

FOR B&M USE ONLY
4A KEY NUMBER ___ - ___ - ___ - ___ - ___

JUSTIFICATION

The permanent half-time Data Control Clerk I position will provide additional clerical support in the Claims Section to enter and maintain data in the Division's information handling system. This position will handle the increased workload caused by the additional data input necessary for the system to monitor the compensation rate using withholding and average weekly wage information, and the maintenance of two processing systems concurrently.

Line 11 - Contractual:	Space (transfer to DOA)	$ .9
	Indirect (13.17 x 4734)	.6
Line 12 - Commodities:	General Office Supplies	.1
Line 13 - Equipment:	Desk and Chair	.7

13 REQUEST FOR NEW POSITION

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation Administration

Page 1 of 1

Revised Date

FY 84

01-1136 (7/82) - 13

LEG-A-20

CS HB 311
POSITION PAPER

Weekly Workers' Compensation (W.C.) benefits are now based on 66 2/3% of an employees average weekly wage based on gross earnings. As W.C. benefits are not taxable an employee can receive higher income while off work. This bill would base benefits on 80% of spendable (or after-tax) income. The Department of Administration supports this adjustment.

The bill provides for an increase in funeral benefits, the minimum rate of weekly compensation, and payment for scheduled permanent injuries, such as a loss of limb. There has been no increase in these benefits since 1975. The Department of Administration supports these adjustments. The impact on the Division of Risk Management will be insignificant.

John Haywood
Director
Division of Risk Management
Department of Administration

Date

Lisa Rudd
Commissioner
Department of Administration

5/16/83
Date

7/0502-01-3/BDGSF1

STATE OF ALASKA
FISCAL NOTE

Revision Date: April 21, 1983

I. REQUEST
Bill/Resolution No.: C.S. H.B 311
Title: An Act relating to Workers Compensation
Requestor: Furnace and Szymanski

II. FISCAL DETAIL
Agency Affected: Risk Management
Program Category Affected:
Sponsor:
BRU, Program of Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0		
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: John Haywood Phone: 465-2180
Division: Risk Management Date: May 2, 1983

Approved by Commissioner: Lisa Rudd Date: May 2, 1983
Department: ADMINISTRATION

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
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Copy to Requestor (if different from Sponsor) 3/8/83

7/0502-01/BDGSF1

Scott Wetzel Services Incorporated
An Affiliate of The Home Group, Inc
741 Sesame Street • Suite 1A • Anchorage, Alaska 99503
Phone: (907) 561-1725

FEBRUARY 8, 1983

THE HONORABLE RICHARD I. ELIASON
CHAIRMAN, LABOR & COMMERCE COMMITTEE
ALASKA STATE SENATE
STATE OF ALASKA
POUCH V
JUNEAU, AK 99811

RE: ALASKA WORKERS' COMPENSATION ACT
SECTION 23.30.155(c)

DEAR SIR:

I WOULD LIKE TO CALL YOUR ATTENTION TO SECTION 23.30.155(c) OF THE ALASKA WORKERS' COMPENSATION ACT WHICH REFERS TO THE EXCESSIVE PENALTIES WHICH ARE BEING ROUTINELY ASSESSED AGAINST SELF-INSURED EMPLOYERS AND INSURANCE CARRIERS IN THIS STATE FOR FAILURE TO FILE REPORTS WITH THE WORKERS' COMPENSATION DIVISION WITHIN A 14 DAY TIME PERIOD.

all insurance + all employer

FIRST OF ALL, I CALL YOUR ATTENTION TO THE FACT THAT THE PENALTY IS $100 FOR THE FIRST DAY THAT THE REPORT IS LATE AND $25 PER DAY THEREAFTER TO A MAXIMUM OF $2500 AND THE RECIPIENT OF THESE PENALTIES IS THE STATE OF ALASKA.

SECONDLY, THESE PENALTIES IN NO WAY, EITHER DIRECTLY OR INDIRECTLY, INURE TO THE BENEFIT OF THE INJURED WORKER AND DO NOT AFFECT HIS CASE ONE WAY OR THE OTHER. THESE REPORTS ARE FILED WITH THE ALASKA DEPARTMENT OF WORKERS' COMPENSATION SOLELY FOR THE PURPOSE OF PROVIDING THEM WITH STATISTICAL INFORMATION AND TO KEEP THEM CURRENTLY ADVISED ON THE ACTIONS AND STATUS OF THE WORKERS' COMPENSATION CLAIMS. I AM IN AGREEMENT THAT THE BOARD NEEDS THIS INFORMATION AND I HAVE NO QUARREL WITH THAT, HOWEVER, I AM IN COMPLETE DISAGREEMENT THAT WE SHOULD BE SUBJECT TO HUGE FINES FOR FAILING TO FILE A REPORT WITHIN A TIME FRAME WHICH IS BOTH UNREALISTIC AND UNNECESSARY.

THESE PENALTIES ARE A DIRECT COST TO THE EMPLOYER AND/OR THE INSURANCE CARRIER WHICH ARE REFLECTED IN THEIR COST OF DOING BUSINESS, THIS COST IS EVENTUALLY PASSED ON TO THE GENERAL PUBLIC AND CONSUMERS, OF COURSE, AND NO ONE BENEFITS BUT THE STATE OF ALASKA.

THE PORTION OF THIS LAW THAT SERIOUSLY CONCERNS ME IS THAT THERE IS ABSOLUTELY NO ALLOWANCE FOR HUMAN ERROR AND THE LAST INDIVIDUAL WHO WAS NOT SUBJECT TO HUMAN ERROR ALSO WALKED ON WATER.

I WOULD LIKE TO GIVE YOU A COUPLE OF EXAMPLES THAT HAVE OCCURRED IN OUR OFFICE TO SHOW YOU HOW RIDICULOUS THIS ENTIRE SITUATION HAS BECOME.

Prob- ask Jackie - Workers' Comp

—

~~John Lewis - Pamphlet on Workers' Comp~~

How does Anch deal with self-insurance if ~~an~~ no ~~emergency~~ regs are written - Can group fall into line?

WE RECEIVED A MINOR CLAIM ON AN EMPLOYEE WHO LOST ONE DAY OF TIME AND HIS COMPENSATION RATE WAS BASED ON THE MINIMUM COMP. RATE AND HIS TOTAL COMPENSATION PAYMENT FOR THE ONE DAY WAS $9.29. HE WAS PAID IN A PROMPT AND TIMELY MANNER. THE CLAIMS EXAMINER PAID THE OUTSTANDING SMALL MEDICAL BILL AND CLOSED THE FILE, FAILING THROUGH HUMAN ERROR TO FILE THE REQUIRED TERMINATION REPORT REQUIRED BY THE STATE WORKERS' COMPENSATION DIVISION. VERY FORTUNATELY FOR US, A WEEK OR TWO LATER ANOTHER SMALL MEDICAL BILL CAME INTO OUR OFFICE WHICH CAUSED US TO PULL THIS FILE FROM OUR CLOSED FILES AND AT THAT POINT IT WAS NOTICED THAT WE HAD FAILED TO FILE THE TERMINATION REPORT AND THE REPORT WAS SUBSEQUENTLY FILED AND AS A RESULT WE RECEIVED A PENALTY OF $200 OR $300. HAD IT NOT BEEN FOR THE FACT THAT ANOTHER MEDICAL BILL CAME INTO OUR OFFICE AND BROUGHT THIS FILE TO OUR ATTENTION, OUR FIRST NOTICE THAT WE HAD FAILED TO FILE A FINAL REPORT WOULD HVE BEEN A LETTER FROM THE STATE DIVISION OF WORKERS' COMPENSATION ASSESSING US A $2500 PENALTY FOR A CLAIM THAT INVOLVED $9.29 TO THE WORKMAN WHICH WAS PAID TO HIM IN A TIMELY FASHION. NO ONE WAS HURT OR DAMAGED IN ANY MANNER. IN OTHER WORDS, I WOULD LIKE TO KNOW HOW THE PUNISHMENT FITS THE CRIME.

WE HAVE AN EVEN MORE BLATANT RECENT CASE WHEREIN THE INJURED WORKER WAS OVERPAID ON HIS COMPENSATION CLAIM BECAUSE HE HAD RETURNED TO WORK SEVERAL DAYS BEFORE WE WERE NOTIFIED. AS A RESULT OF THIS, THE CLAIMS EXAMINER WROTE HIM A LETTER ASKING FOR REIMBURSEMENT OF THE OVERPAYMENT AND SHE FAILED TO FILE A REPORT WITH THE STATE ADVISING THEM THAT THE BENEFITS WERE TERMINATED AND THAT THE CLAIM HAD BEEN OVERPAID. SO NOW WE ARE FACED WITH NOT ONLY HAVING OVERPAID THE WORKER BUT PAYING A RATHER LARGE PENALTY TO THE STATE IN ADDITION, AND AGAIN ON A CLAIM WHERE ABSOLUTELY NOBODY WAS DAMAGED IN ANY WAY BY OUR FAILURE TO FILE THE REPORT.

YOU WILL NOTE THAT THE LAW STATES, "IF THE EMPLOYEE FAILS TO NOTIFY THE BOARD WITHIN 14 DAYS, THE BOARD SHALL ASSESS AGAINST THE EMPLOYER A CIVIL PENALTY OF $100 PLUS $25 FOR EACH DAY IN EXCESS OF 14 DAYS...."

I HAVE RECEIVED INFORMATION RECENTLY FROM VARIOUS PEOPLE WHO WERE INVOLVED IN THE FORMATION OF THIS LAW, AND IN FACT EVEN ONE ATTORNEY WHO WAS INSTRUMENTAL IN DRAFTING THIS LEGISLATION, AND IT WAS THEIR OPINION THAT THIS PENALTY WOULD NOT BE ROUTINELY ASSESSED BUT WOULD BE USED ONLY IN CASES OF WILFULL AND CONTINUAL VIOLATIONS OF THE REPORTING REQUIREMENTS. THIS IS CERTAINLY NOT THE CASE, NOR CAN IT BE, BECAUSE THE LAW CLEARLY STATES, "SHALL ASSESS" AND DOES NOT SAY "MAY ASSESS IN CASES OF WILFULL AND WANTON NEGLECT," OR WORDS TO THAT EFFECT.

I WOULD AGAIN LIKE TO REITERATE THAT WE HAVE NO OBJECTION TO FILING THESE REPORTS AND, IN FACT, WE HAVE ALWAYS FILED ALL REPORTS WHICH ARE REQUIRED BY THE WORKERS' COMPENSATION BOARD AND WE WILL CONTINUE TO DO SO WITH OR WITHOUT THE THREAT OF ANY PENALTY. WE COMPLY WITH THE LAW AS FULLY AS WE POSSIBLY CAN IN ALL SITUATIONS, BUT BELIEVE IT OR NOT, WE ARE SUBJECT TO AN OCCASIONAL HUMAN ERROR. I CANNOT BEGIN TO TELL YOU THE EFFECT THAT THIS DISCRIMINATORY PENALTY PROVISION HAS HAD ON THE MORALE OF THE EMPLOYEES IN NOT ONLY MY OFFICE BUT THROUGHOUT OUR INDUSTRY.

Picture, if you will, a clerical employee who through a rather insignificant error on their part has failed to file a report with the state and as a result has cost their employer a huge sum of money, up to $2500, and must bring this to the attention of their employer and suffer the consequences. I have had employees come to me in tears, offer their resignations, offer to pay the penalty, etc., which of course we would never consider doing, but I think that this is cruel, inhuman, unnecessary and unrealistic. I cannot believe that the bureaucracy has instituted such an incredible miscarriage of justice.

In the last few years many situations have arisen in the Workers' Compensation Division which have distressed me greatly. I have been involved with workers' compensation insurance in Alaska for many, many years and I must say that I have never seen the morale in our industry at the low point it has reached today.

I would greatly appreciate your consideration of this issue and your efforts to arrive at a fair and equitable solution to the problem.

Very truly yours,

SCOTT WETZEL SERVICES, INC.

Renee Murray

Renee Murray
Alaska Manager

RM/vp

enc. Sec. 23.30.155(c) Alaska Workers' Comp. Act

Scott Wetzel S rvices Incorporated
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FEBRUARY 8, 1983

THE HONORABLE RICHARD I. ELIASON
CHAIRMAN, LABOR & COMMERCE COMMITTEE
ALASKA STATE SENATE
STATE OF ALASKA
POUCH V
JUNEAU, AK 99811

RE: ALASKA WORKERS' COMPENSATION ACT
SECTION 23.30.155(c)

DEAR SIR:

I WOULD LIKE TO CALL YOUR ATTENTION TO SECTION 23.30.155(c) OF THE ALASKA WORKERS' COMPENSATION ACT WHICH REFERS TO THE EXCESSIVE PENALTIES WHICH ARE BEING ROUTINELY ASSESSED AGAINST SELF-INSURED EMPLOYERS AND INSURANCE CARRIERS IN THIS STATE FOR FAILURE TO FILE REPORTS WITH THE WORKERS' COMPENSATION DIVISION WITHIN A 14 DAY TIME PERIOD.

FIRST OF ALL, I CALL YOUR ATTENTION TO THE FACT THAT THE PENALTY IS $100 FOR THE FIRST DAY THAT THE REPORT IS LATE AND $25 PER DAY THEREAFTER TO A MAXIMUM OF $2500 AND THE RECIPIENT OF THESE PENALTIES IS THE STATE OF ALASKA.

SECONDLY, THESE PENALTIES IN NO WAY, EITHER DIRECTLY OR INDIRECTLY, INURE TO THE BENEFIT OF THE INJURED WORKER AND DO NOT AFFECT HIS CASE ONE WAY OR THE OTHER. THESE REPORTS ARE FILED WITH THE ALASKA DEPARTMENT OF WORKERS' COMPENSATION SOLELY FOR THE PURPOSE OF PROVIDING THEM WITH STATISTICAL INFORMATION AND TO KEEP THEM CURRENTLY ADVISED ON THE ACTIONS AND STATUS OF THE WORKERS' COMPENSATION CLAIMS. I AM IN AGREEMENT THAT THE BOARD NEEDS THIS INFORMATION AND I HAVE NO QUARREL WITH THAT, HOWEVER, I AM IN COMPLETE DISAGREEMENT THAT WE SHOULD BE SUBJECT TO HUGE FINES FOR FAILING TO FILE A REPORT WITHIN A TIME FRAME WHICH IS BOTH UNREALISTIC AND UNNECESSARY.

THESE PENALTIES ARE A DIRECT COST TO THE EMPLOYER AND/OR THE INSURANCE CARRIER WHICH ARE REFLECTED IN THEIR COST OF DOING BUSINESS, THIS COST IS EVENTUALLY PASSED ON TO THE GENERAL PUBLIC AND CONSUMERS, OF COURSE, AND NO ONE BENEFITS BUT THE STATE OF ALASKA.

THE PORTION OF THIS LAW THAT SERIOUSLY CONCERNS ME IS THAT THERE IS ABSOLUTELY NO ALLOWANCE FOR HUMAN ERROR AND THE LAST INDIVIDUAL WHO WAS NOT SUBJECT TO HUMAN ERROR ALSO WALKED ON WATER.

I WOULD LIKE TO GIVE YOU A COUPLE OF EXAMPLES THAT HAVE OCCURRED IN OUR OFFICE TO SHOW YOU HOW RIDICULOUS THIS ENTIRE SITUATION HAS BECOME.

We received a minor claim on an employee who lost one day of time and his compensation rate was based on the minimum comp. rate and his total compensation payment for the one day was $9.29. He was paid in a prompt and timely manner. The claims examiner paid the outstanding small medical bill and closed the file, failing through human error to file the required termination report required by the State Workers' Compensation Division. Very fortunately for us, a week or two later another small medical bill came into our office which caused us to pull this file from our closed files and at that point it was noticed that we had failed to file the termination report and the report was subsequently filed and as a result we received a penalty of $200 or $300. Had it not been for the fact that another medical bill came into our office and brought this file to our attention, our first notice that we had failed to file a final report would hve been a letter from the State Division of Workers' Compensation assessing us a $2500 penalty for a claim that involved $9.29 to the workman which was paid to him in a timely fashion. No one was hurt or damaged in any manner. In other words, I would like to know how the punishment fits the crime.

We have an even more blatant recent case wherein the injured worker was overpaid on his compensation claim because he had returned to work several days before we were notified. As a result of this, the claims examiner wrote him a letter asking for reimbursement of the overpayment and she failed to file a report with the state advising them that the benefits were terminated and that the claim had been overpaid. So now we are faced with not only having overpaid the worker but paying a rather large penalty to the state in addition, and again on a claim where absolutely nobody was damaged in any way by our failure to file the report.

You will note that the law states, "If the employee fails to notify the Board within 14 days, the Board SHALL assess against the employer a civil penalty of $100 plus $25 for each day in excess of 14 days...."

I have received information recently from various people who were involved in the formation of this law, and in fact even one attorney who was instrumental in drafting this legislation, and it was their opinion that this penalty would not be routinely assessed but would be used only in cases of wilfull and continual violations of the reporting requirements. This is certainly not the case, nor can it be, because the law clearly states, "shall assess" and does not say "may assess in cases of wilfull and wanton neglect," or words to that effect.

I would again like to reiterate that we have no objection to filing these reports and, in fact, we have always filed all reports which are required by the Workers' Compensation Board and we will continue to do so with or without the threat of any penalty. We comply with the law as fully as we possibly can in all situations, but believe it or not, we are subject to an occasional human error. I cannot begin to tell you the effect that this discriminatory penalty provision has had on the morale of the employees in not only my office but throughout our industry.

PICTURE, IF YOU WILL, A CLERICAL EMPLOYEE WHO THROUGH A RATHER INSIGNIFICANT ERROR ON THEIR PART HAS FAILED TO FILE A REPORT WITH THE STATE AND AS A RESULT HAS COST THEIR EMPLOYER A HUGE SUM OF MONEY, UP TO $2500, AND MUST BRING THIS TO THE ATTENTION OF THEIR EMPLOYER AND SUFFER THE CONSEQUENCES. I HAVE HAD EMPLOYEES COME TO ME IN TEARS, OFFER THEIR RESIGNATIONS, OFFER TO PAY THE PENALTY, ETC., WHICH OF COURSE WE WOULD NEVER CONSIDER DOING, BUT I THINK THAT THIS IS CRUEL, INHUMAN, UNNECESSARY AND UNREALISTIC. I CANNOT BELIEVE THAT THE BUREAUCRACY HAS INSTITUTED SUCH AN INCREDIBLE MISCARRIAGE OF JUSTICE.

IN THE LAST FEW YEARS MANY SITUATIONS HAVE ARISEN IN THE WORKERS' COMPENSATION DIVISION WHICH HAVE DISTRESSED ME GREATLY. I HAVE BEEN INVOLVED WITH WORKERS' COMPENSATION INSURANCE IN ALASKA FOR MANY, MANY YEARS AND I MUST SAY THAT I HAVE NEVER SEEN THE MORALE IN OUR INDUSTRY AT THE LOW POINT IT HAS REACHED TODAY.

I WOULD GREATLY APPRECIATE YOUR CONSIDERATION OF THIS ISSUE AND YOUR EFFORTS TO ARRIVE AT A FAIR AND EQUITABLE SOLUTION TO THE PROBLEM.

VERY TRULY YOURS,

SCOTT WETZEL SERVICES, INC.

Renee Murray

RENEE MURRAY
ALASKA MANAGER

RM/VP

ENC. SEC. 23.30.155(C) ALASKA WORKERS' COMP. ACT

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Proposed Amendment: Page 10, Line 10, add the following:

AS 23.30.155 (c) Upon making the first payment, and upon an increase, reduction, determination, suspension, resumption, or a change in rate or type of compensation paid, the employer shall notify the board within 14 days, on a form prescribed by the board, that payment of compensation has begun or has been increased, reduced, terminated, resumed, changed, or suspended, as the case may be. If the employer fails to notify the board within 14 days, the board shall assess against the employer a late penalty of $100 plus $10 [$25] for each day in excess of 14 days that the employer fails to give notice. Total penalties under this section may not exceed $1,000 [$2,500] for each failure to file a required report.

Renumber other sections accordingly.

SIGN-IN SHEET Proposed Legislation HB311

Name (please print)	Address	Representing	Testify?? (YES or NO)	Phone Number
Kevin Dougherty	Anchorage	Legal Council for Alaska Council Laborers	YES	276-1640
William Reeves	Anch.	AGC-Ad Hoc Comm	Yes	
Jackie McClintock	Jno	Workers' Comp. Division	Yes	x2790
Don Koch	POUCH D	DIV OF INSURANCE	IF NEEDED	465 2577

SENATE LABOR AND COMMERCE COMMITTEE HEARING DATE 5/19

Workers' Comp

Scott Wetzel Services Incorporated
An Affiliate of The Home Group Inc
741 Sesame Street • Suite 1A • Anchorage, Alaska 99503
Phone: (907) 561-1725

FEBRUARY 8, 1983

J. PAUL HOUSE, ADMINISTRATOR
SECOND INJURY FUND
WORKERS' COMPENSATION DIVISION
STATE OF ALASKA
P.O. BOX 1149
JUNEAU, AK 99811

DEAR PAUL:

MARION BERRY HAS REFERRED TO ME YOUR MEMO OF 2/2/83 REFERENCE A LATE REPORT PENALTY ON STEVE SCHOONMAKER AND THE LETTER ATTACHED ASSESSING A $1,575 LATE REPORT PENALTY.

MARION IS VERY UPSET THAT YOU ARE QUESTIONING HER HONESTY AND INTEGRITY AND RIGHTFULLY SO. NO ONE IN OUR OFFICE IS GOING TO LIE TO YOU AND WE STRONGLY OBJECT TO BEING ASKED TO PROVIDE AN AFFIDAVIT ON THIS OR ANY OTHER CLAIM.

IN THIS PARTICULAR CASE, THERE IS A VERY SIMPLE EXPLANATION IN THAT TWO FILES HAVE BEEN SET UP IN YOUR OFFICE, ONE UNDER FILE NUMBER 222819-SCHOONMAKER AND A SECOND FILE NUMBER 226313-SHOONMAKER. WE FEEL CERTAIN THAT IF YOU CHECK BOTH FILES YOU WILL FIND THE ELUSIVE REPORT WHICH WILL PROVE TO YOU THAT WE DID IN FACT FILE IT ON 11/4/82 AS INDICATED.

WHAT THIS WHOLE SITUATION DOES ILLUSTRATE QUITE POINTEDLY IS HOW RIDICULOUS AND UNFAIR THIS PENALTY SITUATION IS IN THAT WE COULD HAVE BEEN ASSESSED A $1,575 PENALTY FOR A SIMPLE MISSPELLING OF A NAME.

I AM CONTINUING IN MY EFFORTS TO DO EVERYTHING POSSIBLE TO OBTAIN THE REPEAL OF SECTION 23.30.155(c) OF THE ALASKA WORKERS' COMPENSATION ACT, INCLUDING CONTACT WITH GOVERNOR SHEFFIELD AND FOR YOUR INFORMATION I'M ATTACHING HERETO A COPY OF A LETTER WHICH I AM CIRCULATING TO THE LEGISLATORS AND WHICH OUT-LINES MY POSITION AND OBJECTION TO THIS VERY UNFAIR AND DISCRIMINATORY PENALTY.

THANK YOU FOR CALLING THIS CASE TO MY ATTENTION BECAUSE IT CERTAINLY DID ADD FURTHER CREDENCE TO MY ARGUMENT.

SINCERELY,

SCOTT WETZEL SERVICES, INC.

Renee Murray

RENEE MURRAY
ALASKA MANAGER

RM/VP

MEMORANDUM (Brief Communications)

State of Alaska

TO:	Name: Marion Berry	Dept./Div./Sect.: Scott Wetzel Services	Mail Stop:
FROM:	Name: J Paul House	Dept./Div./Sect.: DOL - W/C Div. - SIF	Telephone: 465-2791
SUBJ.:	Schoonmaker, Steve RE: Late report penalty		Date: 2-2-83

If you can document that the INIATAL report showing payment date of 11-1-82 was mailed to this office on 11-4-82, please provide us with an affidavit to that effect. Otherwise, payment is due the Fund as outlined in the attached letter. If payment or the affidavit is not provided then we will proceed to Board action for a resolution on this matter.

02 001C(12/80)

STATE OF ALASKA
DEPARTMENT OF LABOR
WORKERS COMPENSATION DIVISION
P.O. BOX 1149
JUNEAU ALASKA 99811
(907) 465 2790

DATE 01/31/83

SCOTT WETZEL SERVICES
741 SESAME ST SUITE 1A
ANCHORAGE AK 99503

DEAR INSURER:

AS 23.30.155(C) REQUIRES YOU TO NOTIFY THE BOARD WITHIN 14 DAYS AFTER MAKING FIRST PAYMENT OR INCREASING, REDUCING, TERMINATING, SUSPENDING, RESUMING OR CHANGING COMPENSATION RATES OR TYPES.

YOUR COMPENSATION REPORT FOR THE CASE CAPTIONED BELOW REGARDING PAYMENT MADE 11/04/82, WAS 60 DAYS OVERDUE. ACCORDINGLY, $1,575 LATE REPORT PENALTY IS DUE. PLEASE SEND YOUR CHECK IN THAT AMOUNT TO THE SECOND INJURY FUND, P.O. BOX 1149, JUNEAU, AK 99811.

EMPLOYEE:	SCHOONMAKER, STEVE P O BOX 686 KODIAK AK 99615
EMPLOYER:	ALASKA, STATE OF (F&G) DEPT OF FISH AND GAME P.O. BOX 686 KODIAK AK 99615
INJURY DATE:	10/15/82
AWCB CASE NO:	222919
REF YOUR CLAIM	267

VERY TRULY YOURS,

Paul House

PAUL HOUSE, ADMINISTRATOR
SECOND INJURY FUND

FORM NO. 6104R

The Report of

The National Commission on State Workmen's Compensation Laws

WASHINGTON, D. C.
July 1972

EXHIBIT #1

Chapter 3

The Income Maintenance Objective

A basic objective of a modern workmen's compensation program is to provide protection to workers against loss of income from work-related injuries and diseases. To achieve this goal, the program must carefully weigh the worker's interest in substantial income benefits against factors such as the loss of incentive for rehabilitation, which some believe may occur if income benefits are too high.

A perfect balance of these contending interests can not be reached by a scientific formula or any other means. It is possible, however, to develop general guidelines for income benefits, and much of this chapter is devoted to that task. These guidelines are used, together with recommendations advanced earlier by other organizations, to evaluate the cash benefits in current workmen's compensation programs.

We are asked by the Occupational Safety and Health Act of 1970 to evaluate several aspects of State workmen's compensation laws, including the amount and duration of permanent and temporary disability benefits, with respect to their adequacy and equity. Although workmen's compensation has many strengths, as this report will elaborate, surely the current level of benefits is not among them. Except in a few States, workmen's compensation benefits are not adequate. Moreover, the adequacy of cash benefits in only a few States emphasizes the inequities when comparisons are made among States. Inequities also occur within States. In some, workers with minor impairments receive relatively more generous benefits than workers with serious impairments.

Progress in recent years in raising benefit levels provides encouraging evidence of increased interest by the States in improving workmen's compensation. Nonetheless, even the recent improvements leave many States with inadequate benefits, as this chapter will demonstrate.

A. GENERAL ISSUES CONCERNING INCOME BENEFITS

Several general issues must be discussed before the specific categories of benefits—temporary total, permanent total, permanent partial, and death—can be evaluated.

Two Types of Benefits

As indicated in Chapter 2, a worker must meet three tests before he is potentially eligible for income benefits. The worker must (1) experience an impairment (2) caused by an injury or disease (3) that is work-related. If these tests are met, then two types of workmen's compensation cash benefits are possible:

i. *Impairment benefits* are paid to a worker with an impairment caused by a work-related injury or disease, and

ii. *Disability benefits* are paid when an employee has impairment *and* wage loss, both due to a work-related injury or disease.

Impairment benefits are paid whether or not the worker experiences a wage loss. Disability benefits are paid only if the worker has an actual or potential wage loss due to a work-related impairment.

The exact circumstances governing payment of impairment benefits and disability benefits in the present workmen's compensation program are described in later sections. In general, temporary total, permanent total, and death benefits require disability. Impairment benefits are presently of importance only as a basis for permanent partial benefits although, even for this class of benefits, disability is the primary basis for awards.

Our recommendations for temporary total, permanent total, and death benefits assume disability, and we believe that disability should be the primary basis for permanent partial benefits.

The Proper Approach for Determining Disability Benefits

A number of issues must be resolved in the design of a workmen's compensation disability benefit schedule. What is the proper measure of the worker's economic loss resulting from a work-related impairment? Shall only wages be considered, or should fringe benefits be added? Should consideration be given to the impact of income taxes? And what proportion of economic loss should be compensated?

Remuneration or earnings? The value of a job to a worker cannot be measured simply by his wage or salary. Table 3.1 documents the growing importance of supplements relative to earnings in the employee's total remuneration. Earnings are defined in this table to include basic wages and salaries plus irregular wage payments (e.g., payments for overtime) plus pay for leave time. Even with this inclusive definition of earnings, remuneration as a percentage of earnings has increased from 104.2 percent in 1946 to 111.4 percent in 1970.

The status of supplements subsequent to a worker's injury or disease varies with circumstances. Some employers continue payments on behalf of their injured workers for such programs as health insurance, life insurance, and pensions. Moreover, some workers injured on the job may be eligible for benefits under supplementary programs, such as the disability retirement option in a pension plan. However, a disabled worker may lose some supplements, particularly if he is out of the job for an extended period. Because workmen's compensation benefits usually are tied solely to earnings, the program is increasingly deficient in the protection provided to the remuneration of American workers.

Total or net remuneration? While workmen's compensation should protect remuneration (earnings plus supplements), it is net remuneration, not total remuneration that is the relevant basis for workmen's compensation benefits. Net remuneration takes account of payroll taxes and job-related expenses incurred by a worker.

Table 3.2 indicates how taxes take an increasing share of earnings. In 1946, gross average weekly earnings were $46.69, and almost 98 percent of this income was spendable.

TABLE 3.1. Relationship of average annual total remuneration to average annual earnings in all private industries, 1940-70

	1940	1946	1956	1966	1970
Remuneration per full-time employee	$1352	2460	4365	6615	8315
Earnings per full-time employee	$1291	2360	4089	5974	7462
Remuneration as a percentage of earnings	104.7	104.2	106.7	110.7	111.4

Source. Calculated from data in Tables 6.1, 6.4, and 6.5 of U.S. Department of Commerce, *The National Income and Product Accounts of the United States, 1929-1965 Statistical Tables; Survey of Current Business*, July 1970 and July 1971.

In this Report, "remuneration" is used in place of "compensation," as that term is defined in the above publications. "Earnings" and "Wages and Salaries" are equivalent. The definitions in the Department of Commerce publication are:

Compensation of employees is the income accruing to persons in an employee status as remuneration for their work. It is the sum of wages and salaries and supplements to wages and salaries.

Wages and salaries consists of the monetary remuneration of employees, inclusive of executives' compensation, commissions, tips, and bonuses, and of payments in kind which represent income to the recipients.

Supplements to wages and salaries consists of employer contributions for social insurance and of other labor income. Employer contributions for social insurance comprises employer payments under the social security, Federal and State unemployment insurance, railroad retirement and unemployment insurance, government retirement and a few other minor social insurance programs. Other labor income comprises employer contributions to private pension, health, unemployment, and welfare funds; compensation for injuries; directors' fees; pay of the military reserve; and a few other minor items.

TABLE 3.2. Relation between gross and spendable weekly earnings, 1940-70

1956 Year	(1) Gross average[a]	(2) Spendable average[b]	(3) Spendable as pct of gross
1940	$ 27.02	$ 26.76	99.0%
1946	46.69	45.55	97.6
1956	81.15	74.16	91.4
1966	114.51	101.17	88.4
1970	141.09	121.70	86.3

a Gross average weekly wages for all workers covered by the unemployment insurance program, U.S. average, from Handbook of Unemployment Insurance Financial Data, 1938-1970.

b Spendable average weekly earnings for a married worker and three dependents. Spendable earnings reflect deductions for Federal income and social security taxes. Formulas are presented in U.S. Department of Labor, Bureau of Labor Statistics, *Employment and Earnings* February 1972, pp. 13-17.

In 1970, gross weekly earnings were $141.09, but only 86 percent was spendable: the balance went for Federal income taxes and Social Security deductions. Because workmen's compensation benefits are tied to basic wages and salaries, and because the benefits are tax-free, workmen's compensation benefits have tended to become more attractive relative to a worker's spendable earnings. If weekly benefits were tied to pre-tax wages, and if the limits on maximum weekly benefits were raised to the point where most workers would have all of their pre-tax wages used in calculating disability benefits, high wage workers would receive so much that their incentive for rehabilitation might be weakened. Because the income tax is progressive, tax-free benefits set as a percentage of pre-tax earnings would tend to approach or even surpass post-tax earnings for high wage workers.

Dependents' allowance? Still another factor must be considered in the design of workmen's compensation benefits. Many States pay a dependents' allowance in addition to the basic benefit for the disabled worker. From the employer's standpoint, the dependents' allowance may seem illogical because he pays the same wage to a worker whether or not that worker has dependents. On the other hand, from the employee's standpoint, the dependents' allowance may seem entirely rational. Because of the income tax, two workers with the same pre-tax wages may have different post-tax wages: the family with more dependents will have the larger income after taxes. It can be argued that workmen's compensation benefits should reflect differences in net remuneration among workers with different numbers of dependents.

A new basis for disability benefits. Conceptually, the ideal workmen's compensation program would measure a disabled worker's loss by the difference between his net remuneration before the injury or disease with his net remuneration thereafter. Obvious administrative difficulties make this ideal solution impractical, but the difficulties do not compel a modern workmen's compensation program to continue the tradition of comparing gross weekly wages before the injury with gross weekly wages after the injury and of calculating benefits by replacing the traditional proportion of lost wages.

An administratively feasible procedure can simultaneously take into account the difference between gross and spendable earnings, the virtues of dependents' allowances, the impact of the progressive income tax, and the increasing importance of supplements. This procedure first determines the worker's gross average weekly wage prior to disability (which must be determined now in virtually every State workmen's compensation program) and the number of his dependents (which must now be determined in many States). The gross weekly wage and dependency data are then inserted into a formula prepared and published by the U.S. Department of Labor to determine the worker's spendable earnings. (See *Compendium* for the 1972 formulas.) Once spendable earnings are calculated, workmen's compensation benefits for all sizes of families can be calculated as a fixed proportion of spendable weekly earnings. No further allowances for dependents or tax considerations are necessary or appropriate.

The method used to determine spendable weekly earnings is neither complicated nor impractical. A similar, though more complex, method is already in use in the Federal Wage Garnishment Law.

What is the appropriate proportion of spendable earnings to pay as benefits? Unfortunately, there is no easy answer to that question. The traditional approach has been to replace two-thirds of lost wages. This proportion represented a rough judgment about the adjustments needed to reflect the reduction in the disabled worker's work-related expenses, and to provide him an incentive to return to work. As the proportion of wages replaced is increased, the worker is assumed to have less incentive to return to work. Of course, if the proportion is too low, a worker may be in such dire circumstances that he may be forced to return to work before he is properly recovered or he may become so demoralized as to be indefinitely disabled.

There may be ingenious ways to retain effective incentives to rehabilitation while increasing the proportion of benefits to lost wages. For example, it may be possible to replace a substantial, though incomplete, portion of lost wages during the period of disability, and then pay the worker a part of the remaining loss as a bonus if he returns to work successfully. We encourage States to consider such inducements to rehabilitation which could increase the proportion of benefits to wage loss above the level of our recommendations.

Because our preference is for benefits to be based on spendable earnings, which represent only a portion of gross earnings, and because total remuneration is increasingly greater than gross earnings because of the growing importance of supplements, we believe the traditional proportion (two-thirds of lost wages) is too low.

R3.1

We recommend that, subject to the State's maximum weekly benefit, a worker's weekly benefit be at least 80 percent of his spendable weekly earnings.

In Table 3.3, the benefits provided by our recommendation are contrasted with those paid by the traditional 66 2/3 percent of pre-tax wages. The average 1972 weekly wage for all workers is approximately \$150.00. The average family size is about four. For a worker with three dependents, earning \$150.00, spendable weekly earnings would be \$131.91. A benefit allowing 80 percent of this amount would be \$105.53. In contrast, a benefit of 66 2/3 percent of the gross weekly wage (\$150) would be \$100.00. We believe the extra \$5.53 is an appropriate adjustment reflecting the increasing importance of supplements since the 66 2/3 percent allowance was first endorsed.

There are several advantages in our recommendation. As Table 3.3 indicates, this procedure automatically mirrors the difference in spendable weekly earnings between a work-

TABLE 3.3. Workmen's compensation benefits as a percentage of spendable earnings compared with benefits as a percentage of wages

Gross average weekly wage		Spendable average weekly earnings*		Workmen's compensation benefits		
Pct of U.S. av. ($150)	$ Amount	Dependents		66.7% of gross av. wkly wage	80% of average spendable weekly earnings, Dependents	
		None	Three		None	Three
(1)	(2)	(3)	(4)	(5)	(6)	(7)
50	$ 75	$ 65.63	$ 71.10	$ 50.00	$ 52.50	$ 56.88
66.67	100	84.64	92.38	66.67	67.71	73.90
100	150	121.86	131.91	100	97.49	105.53
133.33	200	159.99	172.36	133.33	127.99	137.89
166.67	250	199.26	214.25	166.67	159.41	171.40
200	300	235.68	253.46	200	188.54	202.77

* Calculated by 1972 formula cited in Table 3.2. Table assumes U.S. average weekly wage for 1972 is $150, which is an estimate by the staff of the National Commission on State Workmen's Compensation Laws.

with dependents and a worker with no dependents. For example, the worker earning $150.00 a week would receive $97.49 a week as a workmen's compensation benefit if he had no dependents, but would receive $105.53 if he had three dependents.

The system shown in Table 3.3 also has the virtue of assuring that high-wage workers have an economic incentive to return to work. For example, the worker without dependents who earns twice as much ($300.00 per week) as the U.S. average weekly wage would receive $200.00 if allowed 66 2/3 percent of gross earnings, which is equivalent to 85 percent of his spendable earnings.

A transitional formula. While our recommendation is not particularly complex, compared to other aspects of workmen's compensation, States will require a transitional period to revise their laws. A somewhat simpler, though generally inferior, formula can be used in the interim.

R3.2

We recommend that, subject to the State's maximum weekly benefit, a worker's weekly benefit be at least 66 2/3 percent of his gross weekly wage.

This formula should be used until the maximum weekly benefit in a State exceeds 100 percent of the State's average weekly wage.

The General Relationship Between Workmen's Compensation and Other Insurance Programs Providing Income Benefits

The relationship between workmen's compensation and other private and public insurance programs providing income benefits for disabled workers has not been a particularly important issue because workmen's compensation benefits generally have been so low. In the event that our recommendations for benefits are adopted, the total benefits received from a combination of workmen's compensation and other programs could become substantial. For this reason, we believe the overlap of benefits from several sources needs examination. If a disabled worker's combined benefits are too high relative to what he might earn, he may see no reason to return to work. Even more serious is the issue of equity. The availability and extent of insurance benefits vary among occupations, industries, and States. Two workers with similar earnings records and similar disabilities may receive markedly dissimilar benefits unless workmen's compensation and these insurance programs are coordinated.

Typically, coordination involves reducing the benefits paid by one program when benefits are also paid by the other program. The issue is, which program should reduce payments in event of overlap? There are advantages to not reducing workmen's compensation benefits such as the stimulus to safety inherent in having employers bear the full cost of work-related injuries and diseases.

R3.3

We recommend that, if our recommended benefit increases for workmen's compensation are adopted, the benefits of other public insurance programs should be coordinated with workmen's compensation benefits. In general, workmen's compensation should be the primary source of benefits for work-related injuries and diseases.

(Circumstances justifying exceptions to this general rule are discussed later in the chapter.)

Coordination between workmen's compen- tion and some private insurance programs finan- d by employers is also generally appropriate. These programs include, for example, sick leave plans and disability retirement provisions of pension plans, but would not include employer-financed life insurance.

Workmen's compensation will have to be coordinated with other insurance programs in order to resolve problems such as the plight of workers at the dividing line between two programs who may be denied benefits by both.

The General Relationship Between Workmen's Compensation and Programs Based on Need

Several programs provide benefits to persons in need, including disabled workers, without any requirement that the individual or his employer contribute to an insurance fund. These programs include the General Assistance program, Aid to the Blind, and Aid to the Permanently and Totally Disabled. The proposed Family Assistance Plan, and other versions of an income maintenance program that have been given serious attention in recent years, would provide a basic level of income for all Ame- cans.

Workmen's compensation has a different role than these programs. Their task is to protect families from poverty. Workmen's compensation is an insurance program designed to protect workers and their families against wage loss due to work-related injuries or diseases. For most employees, workmen's compensation should protect income well above the poverty level.

The difference in these roles explains why, for most workers, there can be no adequate substitute for a modern workmen's compensation program. To be sure, there are many full-time workers whose earnings do not take them out of poverty. Nonetheless, the basic insurance purpose of workmen's compensation suggests that the program should not be expected to remove low-wage workers from poverty if they are so unfortuante as to suffer a work-related injury or disease. One reason why our recommendations for benefit levels will not place considerable stress on high minimum weekly benefits is that we assume a family assistance program or other form of income maintenance program soon will assure al families a sufficient income.

R3.4

We recommend that workmen's compensation benefits not be reduced by the amount of any payments from a welfare program or other program based on need.

If a family assistance program or other generally available income support program is adopted with benefit levels that insure all families an income above the poverty level, then this income support program should consider reducing its allowances in the presence of workmen's compensation payments.

B. TEMPORARY TOTAL DISABILITY BENEFITS

A temporary total wage loss benefit, usually called a temporary total disability benefit, is paid because a work-related injury or disease causes a temporary and total loss of earnings. Our evaluation of this type of benefit is based on comparisons involving a worker with three dependents, a family of average size.

Waiting Period

After a worker is temporarily and totally disabled, he normally does not receive benefits the first few days. Virtually every workmen's compensation statute has a waiting period expressed in calendar days, for which no benefits are paid. If the worker is disabled for an extended period, however, benefits for the initial waiting period are paid retroactively.

The recommended standard published by the Department of Labor provides a three day waiting period, with the benefits for the three days paid if the total period of disability exceeds 14 days. The Model Act specifies a seven day waiting period, with benefits paid retroactively for the first seven days if the total period of disability exceeds 28 days.

Table 3.4 indicates the record of compliance with these recommendations in the various States during the period 1966-1972. Most States now meet the Model Act standard, but a substantial majority do not meet the Department of Labor recommendation. The shorter the waiting period, the more workers with work-related injuries and diseases are eligible for benefits. As the period to qualify for retroactive benefits shrinks, the average number of weeks of benefits per case increases.

TABLE 3.4. Jurisdictions in compliance with recommended standards published by the U.S. Dept. of Labor and the Model Act for waiting period and period of disability qualifying for retroactive pay, 1966-72

Year	States (50)		Other "States" (6)		Federal (2)	
	USDL	Model Act	USDL	Model Act	USDL	Model Act
1966	7	44	2	3	0	2
1972	10	45	3	4	0	2

The recommended standards published by the U.S. Department of Labor (USDL) specify 3 days waiting period before benefits begin, and 14 days of disability to qualify for retroactive payments for time lost in the original waiting period. The Model Act specifies 7 days waiting and 28 to qualify for retroactive benefits. Both standards refer to calendar days, not working days.

See Table 2.3 for explanatory notes.

The advantage of reducing both the waiting and the qualifying period is that workers will have a higher proportion of their lost remuneration replaced by benefits. At the same time, the cost of the program increases, both in benefits paid and in administrative expenses. Proponents of the waiting period argue also that a waiting period is necessary to discourage malingering.

TABLE 3.5. Percentage of disability days compensable with various combinations of waiting and retroactive periods

Calendar days of disability to qualify for retroactive benefits	Calendar days to wait before benefits begin			
	0	3	5	7
0	100%	–	–	–
3	–	98%	–	–
7	–	95%	94%	93%
14	–	93%	90%	88%
21	–	92%	88%	84%
28	–	91%	86%	83%

Calculated by actuarial techniques of the National Council on Compensation Insurance.

Table 3.5 indicates the approximate relationship in cost among various combinations of waiting periods and retroactive periods. The table is constructed so that the cost of paying benefits for *all* days of lost time is equal to 100 percent. Thus, the Model Act standard (7 days wait/retroactive after 28 days) would pay benefits for approximately 83 percent of all lost time, and the Department of Labor standard would pay for approximately 93 percent of all lost time.

R3.5

We recommend that the waiting period for benefits be no more than three days and that a period of no more than 14 days be required to qualify for retroactive benefits for days lost.

We believe this recommendation represents a reasonable compromise between the interests of reducing the number of payments for truly minor disabilities and of insuring that even moderately serious injuries will have benefits restored retroactively for the first days lost.

Proportion of Lost Remuneration to be Replaced

The Model Act suggests that temporarily and totally disabled workers should receive 55 percent of their average weekly wage in benefits, with an additional 2 1/2 percent paid for each dependent up to a maximum of five dependents. As an alternative formula, the Model Act uses the more traditional standard of benefits equal to 66 2/3 percent of the worker's weekly wage. (The worker's benefit is subject to minimum and maximum weekly benefits.)

In general, present workmen's compensation programs do a creditable job of meeting this standard. In 1972, 32 of the 50 States meet this 66 2/3 percent standard and six others pay 65 percent. No State pays less than 60 percent of the worker's wage.

There is a great virtue in relating a worker's benefits to his previous wages. This approach, in contrast to a system which would pay workers a flat amount if they are disabled, permits workmen's compensation reasonably to accomplish its objective of maintaining income with fair regard for the level of earnings before disability. Also, this means States with high wage levels automatically provide higher benefits for their workers than States with low wages.

We have indicated our preference for a formula which bases a worker's benefit on his spendable earnings before disability.

R3.6

We recommend that, subject to the State's maximum weekly benefit, temporary total disability benefits be at least 80 percent of the worker's spendable weekly earnings. This formula should be used as soon as feasible and in any case, as soon as the maximum weekly benefit in a State exceeds 100 percent of the State's average weekly wage.

We realize that, on an interim basis, use of a generally inferior formula may be necessary.

R3.7

We recommend that, subject to the State's maximum weekly benefit, temporary total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.

In addition to this 66 2/3 percent, a State may wish to provide a dependents' allowance. However, a dependents' allowance in addition to the 80 percent of spendable weekly earnings would be inappropriate.

Maximum Weekly Benefit

The recommendation published by the Department of Labor provides that the maximum weekly benefit in a State should be at least 66 2/3 percent of the average weekly wage in the State. Table 3.6 indicates the extent of full compliance with this standard since 1940. The majority of States do not now meet the standard. Maximum benefits were nearer to the average wage in 1940 than they have been since then, although there has been some improvement in recent years.

The data in Table 3.6 need to be interpreted with caution. Part of the apparent increase in full compliance between 1966 and 1972 may be a statistical artifact. The evaluations for the years prior to 1972 are based on the statutes in effect on December 31 of a given year compared to the average weekly wage during that same year. For 1972, the statutes in effect as of January 1 are compared to the average wages in the first half of 1971, the latest data available. If the comparisons were made between the January 1, 1972, statutes and the average weekly wage for the entire calendar year of 1971, it appears likely that three more States would not fully comply with the recommended standard.

The sensitivity of the full compliance results in Table 3.6 to the wage being used demonstrates how some States find it difficult to keep benefits in line with rising wages. If a State conscientiously amends its law to set the maximum weekly benefit equal to two-thirds of the average weekly wage for the latest data available, it usually would find that when the wage data subsequently became available for the date when the law was amended, the maximum would fall short of its target. Recognizing that the rising trend in wages makes it difficult for States to have their maximum benefits equal or exceed the two-thirds standard, Table 3.6 identifies the States which have substantially complied with the traditional 66 2/3 percent standard by creating a category where the maximum weekly

TABLE 3.6. Maximum weekly benefits for temporary total disability as a percentage of average weekly wage: distribution of jurisdictions, 1940-72

	States (50)					Other "States" (6)					Federal (2)				
Year (19)	40	46	56	66	72	40	46	56	66	72	40	46	56	66	72
Full compliance															
75% or more	29	3	2	2	4	1					2		1	1	1
66.7 to 74.9%	9	1	1	1	6		1	1					1		
Substantial compliance															
60 to 66.6%	7	4	1	1	8				2			2		1	
Substandard															
50 to 59.9%	4	17	7	16	12					1					
Less than 50%	0	24	39	30	20					1					1

The maximum benefits for 1940 through 1946 are for December 31 and are compared to the State's average weekly wage for the corresponding year. The 1972 maximums are those in effect on January 1, 1972, and are compared to the State's average weekly wage for the first half of 1971.

Benefits are calculated as payments to a worker with three dependents.

Wage data for 4 other "States" are not available. Mississippi law did not go into effect until January 1, 1949. Wage data for Puerto Rico was not available before 1961.

Source of wage data: Handbook of Unemployment Insurance Financial Data, 1938-1970, and unpublished data from U.S. Department of Labor.

See Table 2.3 for explanatory notes.

benefit is at least 60 percent of the average weekly wage in the jurisdiction. Eighteen States are in "full compliance" or "substantial compliance" with the 66 2/3 percent standard. However, the maximum weekly benefit in 20 States is less than 50 percent of the State's average weekly wage, and in another 12 States, the maximum weekly benefit is between 50 and 60 percent of the State's average weekly wage. The deficiencies in these States are due to more than a temporary lag in legislative enactments.

Judged by traditional standards, a majority of States have maximum weekly benefits which are inadequate. Moreover, the wide variation among the States in the relationship of maximums to average weekly wages indicates that the maximum weekly benefits for temporary total disability are not equitable.

Our judgment that the maximum weekly benefit levels are generally inadequate is reinforced by comparing the maximum weekly benefit in each State as of January 1, 1972, with the 1971 national poverty level for a non-farm family of four persons, which is $79.56 a week. It is distressing that as of January 1, 1972, the *maximum* weekly benefit for temporary total benefits in more than half of the States did not reach this poverty level.

Some temporarily disabled workers have sources of income in addition to workmen's compensation benefits. After the first six months of disability, a worker who continues to be incapacitated may be eligible for disability insurance benefits under the Social Security program. In California, some workers may receive a benefit under the temporary disability insurance law equal to the difference between the TDI benefit and the workmen's compensation benefit. More common but available nationally only to a minority are sick leave or insurance benefits provided by employers to pay for the waiting period or supplement the weekly workmen's compensation benefits. The sick pay plans sometimes replace wages in full, but more often pay some flat amount or an amount proportioned to replace part of earnings.

The extent of such coverage varies by size of firm (the larger firms tend to offer more protection), by industry (public utilities and manufacturing are more likely to have such plans), and by type of worker (salaried workers are much more likely to enjoy this protection than wage workers.) Moreover, even among progressive firms, fewer than half the workers are covered by sick leave or other plans which supplement workmen's compensation benefits for temporarily disabled workers. These private plans are almost always integrated with payments by public programs so that duplicate payments are rare.

Despite such supplementary income, the conclusion is inescapable that the maximum weekly benefits for most disabled workers are in general inadequate and inequitable.

It seems likely that workmen's compensation beneficiaries prior to injury have on the average weekly wages lower than the State average. It is difficult to confirm this assumption, although it has been observed that the injured are often the young and inexperienced. The only available series on wages of injured workers is published by the National Council on Compensation Insurance. The Council believes the average wages for injured workers are probably understated by its data because some of the sources the Council uses do not report the full wage of high-wage workers.

Weekly benefits for disability often are reduced by attorney's fees. (See Chapter 6) The data on legal expenses are limited, but it is evident that the adequacy of benefits is further undermined by the effect of these fees, which in almost every State are paid by the worker.

While we recognize that not all of the data that would be useful to evaluate the adequacy of benefits are available, nonetheless there are enough data to support a finding that the States are failing to meet in a responsible fashion the traditional standard of a maximum weekly benefit of at least 66 2/3 percent of the average weekly wage in the State. Moreover, that traditional maximum is too low.

A statute which provides that a worker's benefit shall be 66 2/3 percent of his wages subject to the State's maximum weekly benefit, coupled with a maximum weekly benefit which is 66 2/3 percent of the State's average weekly wage, means that in fact approximately half of the workers in a State are going to receive benefits that are less than 66 2/3 percent of their previous wages. It is wrong to restrict the benefits of such a substantial proportion of the work force through the operation of the maximum weekly benefit.

R3.8

We recommend that as of July 1, 1973, the maximum weekly benefit for temporary total disability be at least 66 2/3 percent of the State's average weekly wage, and that as of July 1, 1975, the maximum be at least 100 percent of the State's average weekly wage.

By 1975, the most expensive phase of our recommendations for maximum benefits will be over, and the States should then proceed to increase the protection for workers with above-average earnings.

R3.9

We recommend that as of July 1, 1977, the maximum weekly benefit for temporary total disability be at least 133 1/3 percent of the State's average weekly wage; as of July 1, 1979, the maximum should be at least 166 2/3 percent of the State's average weekly wage, and on and after July 1, 1981, the maximum should be at least 200 percent of the State's average weekly wage.

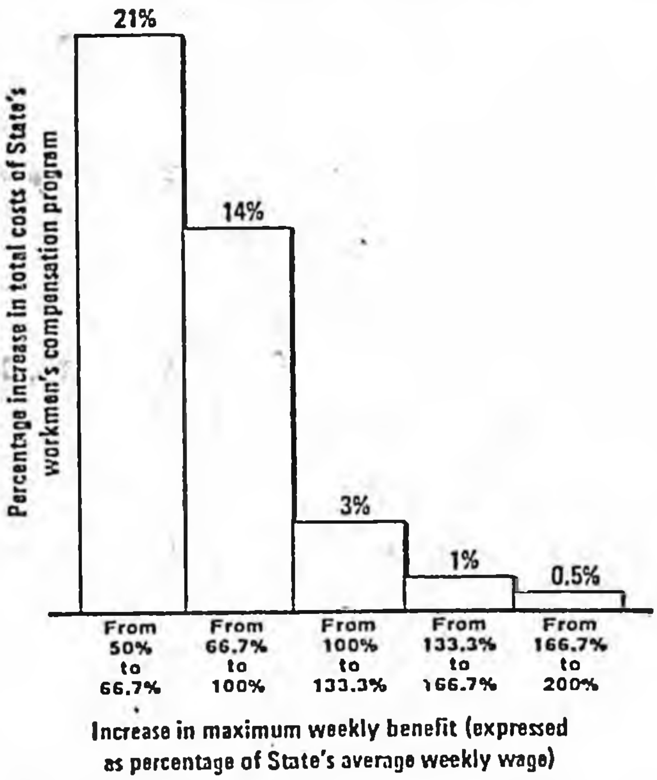
R3.10

We recommend that, for all maximum weekly benefits, the maximum be linked to the State's average weekly wage for the latest available year as determined by the agency administering the State employment security program.

Increasing the maximums according to our recommendations is not only essential to make benefits equitable and adequate, it is administratively and economically feasible. Thirteen States now have provisions which automatically increase the maximum weekly benefit for temporary total benefits as their average weekly wage increases.

Figure 3.1 indicates the approximate cost of moving to these successive increments of maximum weekly benefits when the maximums are coupled with the Model Act standard of a minimum weekly benefit equal to 20 percent of the State's average weekly wage and a weekly disability benefit equal to 66 2/3 percent of the worker's weekly wage.

FIGURE 3.1. Additional cost of increasing maximum weekly benefits in workmen's compensation



Calculated by staff of National Commission on State Workmen's Compensation Laws with actuarial techniques of the National Council on Compensation Insurance. Calculations assume that a worker's benefit is 66.67% of his weekly wage, subject to a minimum weekly benefit equal to 20% of the State's average weekly wage and to the maximum weekly benefits shown in the figure.

C. PERMANENT TOTAL DISABILITY BENEFITS

Only about 10 percent of all workmen's compensation claims (including claims paying medical benefits only) involve impairments serious enough to qualify the workers for permanent total disability or permanent partial benefits. Only about 1,000 workers each year receive permanent total disability awards.

Although numerically less important than the claims involving temporary total disability benefits or medical care only, the claims involving workers with permanent impairments present the most difficult challenges. These cases are the most expensive in terms of benefits paid and services provided. In addition, the claimants present the greatest potential for rehabilitation—a potential which too often is unappreciated and unfulfilled.

One reason for the insufficient attention to rehabilitation is the tendency to view workmen's compensation primarily in terms of payment of cash benefits. In some States virtually all that happens is that a worker is injured, inspected, and indemnified. Such a policy is unsatisfactory and inhumane, and in Chapters 4 and 6 we spell out procedures which should insure that workers with serious impairments will receive needed medical and rehabilitation services under the close supervision and careful attention of the State workmen's compensation agency. We stress these restorative aspects of a modern workmen's compensation program because we do not wish our discussion of cash benefits for serious impairments to divert attention from our goal of an integrated and comprehensive set of services for workers with serious impairments.

Legal Definition

Permanent total disability benefits should be paid to a worker who experiences a work-related injury or disease which leads to a permanent impairment that makes it impossible for him to engage in any substantial gainful activity for a prolonged period. If a worker earns income subsequent to his injury, he may be eligible for the permanent partial disability benefits described later in this chapter.

Our recommendations for improvements in the level and extent of permanent total disability benefits assume that the improvements will be applied only to those who truly are permanently and totally disabled. A few jurisdictions, however, use definitions of permanent total disability which permit such awards to impaired workers who retain substantial wage earning capacity.

R3.11

We recommend that the definition of permanent total disability used in most States be retained. However, in those few States which permit the payment of permanent total disability benefits to workers who retain substantial earning capacity, we recommend that our benefit proposals be applicable only to those cases which meet the test of permanent total disability used in most States.

Proportion of Lost Remuneration to be Replaced

The traditional benefit for permanent total disability replaces two-thirds of the worker's wages, subject to minimum and maximum weekly benefits. The Model Act's alternative formula encompasses this traditional view. The Model Act also provides a method for automatically increasing the benefits of a totally disabled worker as the average weekly wage in the State increases. (See Section 21 of the Model Act)

Most States specify an adequate percentage of lost wages to be replaced for a totally disabled worker, although only five now provide for automatic increases in benefits as the State's average weekly wage increases.

R3.12

We recommend that, subject to the State's maximum weekly benefit, permanent total disability benefits be at least 66 2/3 percent of the worker's gross weekly wage.

After a transition period, our preferred formula (R.3.13) should be used.

R3.13

We recommend that, subject to the State's maximum weekly benefit, permanent total disability benefits be at least 80 percent of the worker's spendable weekly earnings. This formula should be used as soon as feasible or, in any case, as soon as the maximum weekly benefit in the State exceeds 100 percent of the State's average weekly wage.

A dependents' allowance may be appropriate in addition to the benefits based on gross weekly wages, but is not appropriate in addition to the benefits based on spendable earnings.

Protection against erosion in the value of the benefits must be provided for claimants with long-term disability cases.

R3.14

We recommend that beneficiaries in permanent total disability cases have their benefits increased through time in the same proportion as increases in the State's average weekly wage.

Maximum Weekly Benefit

Like maximum temporary total benefits, the maximum weekly benefits for permanent total disability are seriously deficient in certain States. Table 3.7 indicates the relationship of the maximum benefits for permanent total disability to average wages in the various jurisdictions in 1972.

TABLE 3.7 Maximum weekly benefits for permanent total disability as a percentage of average weekly wages: distribution of jurisdictions, 1972

Percentage	States (50)	Other "States" (6)*	Federal (2)
75% or more	4	NA	1
66.7/74.9%	6	NA	0
60/66.6%	4	NA	0
50/59.9%	11	NA	0
Less than 50%	25	2	1

* Average wage data not available for four "States."

See Table 2.3 for explanatory notes.

The maximum weekly benefits in most States are inadequate, and the considerable variation among the States in the relationship of the maximums to the State average weekly wage indicates considerable inequity.

R3.15

We recommend that as of July 1, 1973, the maximum weekly benefit for permanent total disability be at least 66 2/3 percent of the State's average weekly wage, and that as of July 1, 1975, the maximum be at least 100 percent of the State's average weekly wage.

R3.16

We recommend that as of July 1, 1977, the maximum weekly benefit for permanent total disability be at least 133 1/3 percent of the

State's average weekly wage; as of July 1, 1979, the maximum should be at least 166 2/3 percent of the State's average weekly wage; and on and after July 1, 1981, the maximum should be at least 200 percent of the State's average weekly wage.

These maximums should be linked to the State's average weekly wage as defined in recommendation 3.10.

Duration of Permanent Total Benefits

Permanent total benefits should be paid for the entire period of disability or for life, according to the recommendation published by the Department of Labor and the Model Act. There should be no limits of time or total dollar amount on permanent total benefits.

Table 3.8 indicates the extent of compliance with these recommendations. It is distressing to note that 19 States in 1972 did not meet the standard. In 15 States, a totally disabled worker can receive benefits for a maximum period of less than 10 years. In 11 States, often the same States with maximum limits on duration, the most a totally disabled worker can receive in benefits is less than $25,000. This amount is less than the average American worker earns in four years of full-time work.

TABLE 3.8. Jurisdictions with compensation for permanent total disability payable for life or period of disability

Year	States (50)	Other "States" (6)	Federal (2)
1946	16	0	1
1956	26	1	2
1966	30	2	2
1972	31	3	2

See Table 2.3 for explanatory notes.

These limitations on permanent total benefits are inexcusable in a modern workmen's compensation program. The worker with a permanent total disability presents a compelling need for long-term support from workmen's compensation.

R3.17

We recommend that total disability benefits be paid for the duration of the worker's disability, or for life, without any limitations as to dollar amount or time.

This recommendation is primarily relevant for permanent total disability benefits, but also is applicable to temporary total disability benefits, which are of limited duration or amount in some States.

Relationship of Permanent Total Benefits to Other Programs

A permanently and totally disabled worker who is receiving workmen's compensation benefits often is eligible for payments from other programs. The most important additional public benefit is provided under the Social Security program (OASDHI). Although it is not known how many workmen's compensation beneficiaries are eligible for benefits under Social Security, a rough idea can be gleaned from awards data. In recent years there have been about 1,000 permanent total and 35,000 major permanent partial disability awards annually under workmen's compensation. In 1968 about 11,000 workers receiving permanent disability benefits from Social Security had these benefits reduced because they were receiving workmen's compensation benefits. It is estimated that perhaps another 2,000 to 4,000 were receiving both benefits, but were not subject to the offset because their combined workmen's compensation and Social Security benefits were less than 80 percent of their former wage. It thus appears likely that most seriously disabled workers receiving workmen's compensation benefits are not receiving Social Security benefits.

Private supplements also are available to some workers. Perhaps three-fourths of the 30 million American workers in private industry covered by retirement plans may receive benefits if they become disabled. However, vesting limitations and age and service requirements limit the number of these workers who are eligible. This form of protection, like other private supplements, varies by industrial sector, size of firm, union status, and other factors. Most manufacturing workers, but only about one-third of retail-trade workers, have pension plans with disability benefits.

Another type of benefit available for permanent total disability in private industry is group long-term disability insurance. This plan has few eligibility restrictions but is offered mainly to salaried workers. (A recent survey of leading firms showed more than half of salaried workers but little more than a fourth of hourly workers are covered by long-term-disability plans.)

In the aggregate, supplements to workmen's compensation permanent total disability benefits are probably substantial, but their availability differs greatly among and within firms. Supplements are more prevalent in large than in small firms, and in unionized than in nonunionized firms. Reliance on supplements may only exaggerate the inequity of the treatment of permanently and totally disabled workers.

Because of the numerous possible sources of benefits for permanently and totally disabled workers and the substantial inequities which can occur if the benefits we have recommended for workmen's compensation are duplicated by benefits from other programs, we believe that coordination is necessary. Coordination is essential also because the general availability of programs for totally disabled workers in addition to workmen's compensation may have undercut the sense of urgency concerning the need for increases in workmen's compensation benefits. Unfortunately, many workers have probably suffered as a consequence of the lack of urgency because, for them, workmen's compensation was the sole or primary source of protection when they became totally disabled. Only if workmen's compensation is coordinated with other programs can there be assurance that the substantial workmen's compensation benefits necessary to protect those workers who rely on the program for primary protection will not provide unnecessary support to other workers with multiple sources of protection.

The most obvious need for coordination involves the disability insurance program of Social Security and workmen's compensation.

R3.18

We recommend that, provided our other recommendations for permanently total disability benefits are adopted by the States, the Disability Insurance program of Social Security continue to reduce payments for those workers receiving workmen's compensation benefits.

We believe also that it is appropriate to integrate workmen's compensation benefits with other benefits provided by an employer. As in the past, we believe that employers and other interested parties, such as unions, should be free to develop provisions which either supplement workmen's compensation benefits or reduce retirement or disability benefits paid for by the employer in the presence of workmen's compensation benefits.

D. PERMANENT PARTIAL BENEFITS

A worker who experiences an impairment because of a work-related injury or disease, but who is not totally disabled, may be eligible for permanent partial benefits. Permanent partial cases are the most expensive portion of the workmen's compensation program: cash benefits and medical care in permanent partial cases account for more than 50 percent of all payments.

Permanent partial benefits are also the most controversial and complex aspect of workmen's compensation. We were impressed during our hearings and meetings that for no other class of benefits are there more variations among the States or more divergence between statutes and practices.

One element in the variations is the relative importance of cash benefits for minor permanent partial cases. Such benefits represent less than 10 percent of all payments in four States, but represent more than 30 percent in four others. (Table 3.9)

The imbalance in the importance of permanent partial benefits among the States is accentuated by the apparent paradox that some States with an unusually high proportion of total benefits paid for permanent partial benefits also have unusually low maximum weekly benefits for the category. New Jersey expends over 35 percent of all benefit payments on minor

TABLE 3.9 Distribution of 44 States and the District of Columbia according to cash benefits paid for minor permanent partial impairments as a percentage of their total outlays for workmen's compensation benefits, 1970

Indemnity	Number of States
Less than 10%	5
10/14.9%	9
15/19.9%	11
20/24.9%	10
25/29.9%	6
30% or more	4

permanent partial cases even though its maximum weekly benefit for permanent partial ($40) is far below the maximum for other classes of benefits ($101).

A possible explanation of these imbalances is that the evaluation of the extent of disability in permanent partial cases permits considerable discretion for decision makers, including agency adjudicators and courts. In some States, officials apparently have stretched the rules out of sympathy for claimants with permanent partial injuries. Occasionally, because the statutory benefits were so low, every effort was made to pay those benefits freely by, for example, evaluating the extent of impairment liberally. However, because of the frequency of minor injuries, the cumulative amount of payments was substantial.

For these and possibly other reasons, the total cost and the imbalance of permanent partial benefits tend to undermine the entire workmen's compensation program. Employers, disturbed by what they consider excessive payments for minor injuries, have refused to support general increases in benefits. Labor spokesmen oppose surrender of the substantial awards for minor injuries because they fear that any general benefit increases given in exchange would soon be eroded by the passage of time and the assault of inflation. The result of this stand-off has too often been the permanent impairment of reform efforts other than inconsequential or bizarre statutory amendments, such as New Jersey's differentiation between maximum benefits for permanent partial claims and maximums for other classes of benefits.

We believe the States must break the log-jam barring general reform posed by the imbalances of permanent partial benefits. Workers with truly serious injuries suffer, while employers bear the costs of extravagant awards for minor injuries.

A bold and substantial reform of permanent partial benefits is necessary. Indeed, there is no more pressing and fundamental issue confronting workmen's compensation. Nonetheless, we have concluded that the issue is so intractable that we would do a disservice to make precise recommendations for the restructuring of permanent partial benefits on the basis of the time for analysis that was available to us.

R3.19

We recommend that each State undertake a thorough examination of permanent partial benefits and that the Federal government sponsor a comprehensive review of present and potential approaches to permanent partial benefits.

We offer below some suggestions which should be considered in the State and Federal reviews of the topic. In Chapter 7, we describe the Federal vehicle we believe is appropriate for the review, which we believe will require more time for analysis than was available to this Commission.

Two Bases for Permanent Partial Benefits

There are two possible bases for permanent partial benefits. Benefits can be paid solely because of a work-related *impairment*. Benefits can be paid because the worker has a *disability* which resulted from a work-related impairment. The disability can be measured by actual wage loss or by loss in wage-earning capacity.

Workmen's compensation benefits now are usually justified as payments because of disability. Nonetheless, payments solely because of impairment are of some importance. In practice, there are several approaches to permanent partial benefits which combine the impairment and disability bases in different ways. The same statute may contain more than one of the approaches.

Benefits based solely on extent of impairment. Some statutes incorporate a schedule of benefits for a specific list of impairments, and the benefits are paid whether or not there is a disability. Moreover, the benefits are the exclusive remedy for workers with these impairments (except, in most States, for the temporary total disability benefits paid during the healing period), even if the worker's wage loss far exceeds the scheduled benefits. The Model Act incorporates this approach for certain impairments, such as the loss of a foot (which, on the assumption that the whole man is rated at 400 weeks, results in 112 weeks of benefits in addition to healing period benefits).

It could be argued that the main purpose of such a schedule is to provide benefits for disability, and that impairment is used as the basis for benefits because impairment and disability are closely related. The validity of this argument is questionable because there is no exact relationship between the degree of impairment and the extent of wage loss. Some workers with only minor permanent impairments have substantial wage losses. The concert pianist who loses a part of one finger is the classic example. Other workers may suffer serious impairments and experience only limited disability. A lawyer might, for example, lose an arm without permanent loss of earning capacity.

Despite the doubtful validity of using impairment ratings to predict the extent of disability, there is an obvious advantage to the use of schedules. They provide a convenient method to determine, on the basis of one evaluation, the benefits that are considered appropriate as a cushion for possible future wage loss or, if no wage loss is suffered, for the impairment itself.

Benefits based solely on extent of disability. Some statutes provide that, for permanent impairments which are not specifically named in the statute, the worker's exclusive remedy (again, with the exception in some States of healing period benefits) are benefits paid only if there is disability. The Model Act provides that for those disabilities which result from injuries not listed in the schedule, the weekly benefit is 55 percent of the loss in wage-earning capacity, payable during the period of disability (subject to minimum and maximum weekly benefits and dependents' allowances).

Benefits based on both disability and impairments; predetermined formula used. Another approach is to base permanent partial awards on a formula that considers factors relating to impairment and to disability. For example, California uses an impairment rating as a starting point for its permanent partial awards, but then modifies the rating to take account of the worker's age and previous occupation. The California approach, while recognizing the difference between impairment and disability, still represents only a rough estimate of the effect of a specific permanent impairment on the actual wage loss of a particular worker.

Benefits based on both disability and impairment; flexible formula used. Some statutes use impairment ratings as the basis for determining the initial duration of permanent partial benefits, but also provide additional benefits if the actual disability extends beyond this initial period. The Model Act, for example, specifies the number of weeks of benefits for certain serious impairments, such as 240 weeks for the total loss of an arm. Benefits, however, may be paid beyond the prescribed period provided the disability continues. Michigan and New York have adopted this Model Act approach for certain impairments.

Benefits based on disability or impairment. In Florida, a worker with a nonscheduled permanent impairment receives benefits based on impairment or disability. After evaluating the extent of impairment a disability rating is prepared, based on the impairment rating and other information relevant to the worker's earning capacity. Benefits are based on the more generous of the two ratings.

Dual benefits. Another approach, used in Massachusetts, is to separate benefits for impairment from benefits for disability. A worker may be eligible for both.

Suggestions for Restructuring Permanent Partial Benefits

The considerable differences among the States in the benefits awarded for similar impairments cannot be justified. We offer the following suggestions as a starting point for further investigations of the area. We are not endorsing all of these suggestions, though we believe they warrant serious consideration.

Explicitly separate impairment and disability benefits. As indicated in Chapter 1, we believe that the primary basis for workmen's compensation benefits should be the worker's loss of wages. We also believe that limited payments for permanent impairments are appropriate. A major difficulty with present permanent partial benefit provisions is that most seem to use one formula which bases benefits on both the impairment and disability bases. Combining both bases into one formula appears unworkable.

Consideration should be given to the use of two types of benefits:

permanent partial impairment benefits, paid to a worker solely because of a work-related impairment

permanent partial disability benefits, paid to a worker because he has both a work-related impairment and a resultant disability.

A worker might be eligible for both types of benefits. The impairment benefits would be based on the worker's impairment relative to the whole man. If, for example, the whole man were defined as 400 weeks, and the disability evaluation unit of the workmen's compensation agency (described in Chapters 4 and 6) determined that a worker was 50 percent impaired, then he would be eligible for 200 weeks of benefits.

Impairment benefits are justified because of losses an impaired worker experiences that are unrelated to lost remuneration. The impairment may, for example, have lifetime effects on the personality and normal activities of the worker. Since impairment benefits have no relationship to wage loss, there would be no necessity to link the value of the weekly benefits to the worker's own weekly wage; the weekly benefit could be the same amount for all workers in the State.

In contrast, the disability benefits could be based on actual wage loss or loss in wage earning capacity. In most States, permanent partial benefit awards are based on estimates of the future loss in wages caused by the impairment. In some States, such as Michigan, the worker can be paid benefits on the basis of actual wage loss as it develops over an extended period. While the Michigan approach has some costs, primarily the added administrative expenses of keeping a case open for a long time, these burdens are not insupportable. The method has the substantial merit of matching benefits to a worker's actual loss of wages, rather than basing benefits on guesses about future wage loss.

Remove schedules from the statutes. Almost every workmen's compensation statute contains a schedule which stipulates the benefits to be paid for the listed impairments. These schedules in some cases may provide a short-cut to the determination of the benefits to be paid, but that is not an adequate justification for their use. Present schedules include only a small proportion of all medically identifiable permanent impairments. Also, some schedules have not been revised for many years, despite considerable progress in the understanding of the relationship between specific injuries and extent of functional impairment. A basis for a rational evaluation of injury or disease is the recently published American Medical Association's *Guides to the Evaluation of Permanent Impairment.* Use of the AMA publication instead of statutory scheduling appears desirable.

It must be stressed, however, that the AMA guides are relevant for evaluation of impairment, not disability; and disability should be the primary basis for awarding permanent partial benefits. Use of the AMA guides to help establish the impairment rating, and then use of the impairment rating in conjunction with other information, such as the worker's age, education, and previous experience, to establish the extent of disability seems most appropriate. It is hard to see how any statutory schedule could substitute effectively for this process.

Modify existing schedules. We are skeptical of the validity of many statutory schedules, partially because of the substantial inconsistencies in benefits paid for identical impairments. A loss of a foot entitles a worker to an award of $6,000 or less in five States; at the other extreme, in five others, the loss of a foot may mean $15,000 or more. (Table 3.10)

If it is believed desirable to retain a schedule for permanent partial benefits, either in a statute or in administrative regulation, then we offer these suggestions. The States should review their schedules on the basis of the AMA guides, recognizing that impairment and disability are distinctive concepts. One way to reflect the distinction would be to follow the California policy of modifying impairment ratings by factors relevant to earning capacity. Another

TABLE 3.10 Specified maximum amounts of benefits provided for loss of arm, foot, and eye in various jurisdictions, 1972

Arm at shoulder	States (50)	Other "States" (6)*	Federal (2)
Over $25,000	6	1	1
20,000-24,999	1	1	1
15,000-19,999	14	1	0
10,000-14,999	22	2	0
Under 10,000	7	0	0
Foot			
Over $20,000	2	1	1
15,000-19,999	3	0	0
10,000-14,999	14	2	1
6,000-9,999	26	2	0
Under 6,000	5	0	0
Eye*			
Over $20,000	1	1	1
15,000-19,999	4	0	0
10,000-14,999	8	2	1
6,000-9,999	27	1	0
Under 6,000	10	0	0

* No set amount in Puerto Rico.

See Table 2.3 for explanatory notes.

way to give additional emphasis to disability as a basis for permanent partial awards would be to adopt the Model Act provision which permits benefits beyond the scheduled period when the disability persists.

Reallocate resources. As indicated, permanent partial benefits in some States appear to take a disproportionate share of total benefits. Moreover, permanent partial benefits for minor impairments in some States seem to be excessive compared to benefits for more serious impairments. In some States, payments are made even though there are no impairments. At the same time, the maximum weekly benefits for permanent partial benefits are so low in many States that seriously disabled workers are penalized.

Drastic reform may be necessary in some States to shift benefits to workers with the most serious impairments. A possible strategy would be to increase the maximum weekly benefits at the rate we have recommended for other classes of benefits, while simultaneously proscribing permanent partial payments unless the worker experiences a permanent impairment of at least 10 percent of the whole body or an actual wage loss of at least 10 percent of the pre-disability wage.

Healing period benefits. Most workers with permanent partial impairments experience a brief initial period of total disability. Temporary total benefits are awarded for this healing period. After wage-earning capacity returns, eligibility for permanent partial benefits is determined. In most States, permanent partial benefits are paid in addition to the healing period benefits, but in a few States, benefits paid for the healing period are subtracted from the permanent partial awards. This practice is questionable since the permanent partial awards generally are designed to estimate future wage loss, whereas healing period benefits are paid because of wages already lost at the time of the evaluation.

Relationship to Other Programs

Many workers with permanent partial disability receive benefits from two or more programs, including workmen's compensation. About 25,000 beneficiaries with retirement or disability awards under Social Security in 1968 also were receiving workmen's compensation benefits. Although it is not known what number were receiving permanent partial benefits, these benefits are the most likely to be involved in the overlap as there are only about 1,000 permanent total disability awards annually.

The most common private supplement to workmen's compensation for certain types of permanent partial disability comes from accidental death and dismemberment insurance. A majority of companies with at least 100 employees offer these benefits, but not all plans pay benefits for work-related disability.

Some with permanent partial disability awards may subsequently become eligible also for veterans' pensions or for aid to the permanently and totally disabled under the public assistance system. The overlap of these programs is probably small: any duplicate payments are hardly excessive.