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# COMMITTEE REPORT

## HOUSE

2/4/81

(5)

FURTHER:

Date: May 1 1981

Mr. Speaker:

The Committee on COMMUNITY & REGIONAL AFFAIRS has had HB 88

"An Act relating to the qualifications for the farm or agricultural lands tax exemption; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without <sup>individual</sup> recommendation
- referred to the \_\_\_\_\_ Committee

**MEMBERS SIGNING  
DO PASS**

John D. ...  
\_\_\_\_\_  
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**MEMBERS HAVING  
OTHER RECOMMENDATIONS:**

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\_\_\_\_\_

...  
CHAIRMAN

AMENDMENT #1

OFFERED IN THE HOUSE:

By: Walter Brown

To: \_\_\_\_\_ HOUSE BILL No. 88

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: \_\_\_\_\_

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: Brown, Carney, Moss

To: \_\_\_\_\_ HOUSE BILL No. 88 *and Rogers*

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 15 - 16

Delete: "and the land must have been in farm use"

Insert: "or developing the land for farming under an approved  
United States Soil Conservation Plan"

Page 1: Line 20

After "surface rights" delete the period and add new language:  
"for purposes incompatible with farming."

Page 2: Line 1

After "years" insert "in compliance with this section"

108  
Applications  
in 1980  
16000  
18000  
145000  
145000  
145000

State  
reimbursement  
land grant

Introduced: 2/4/81  
Referred: Community & Regional  
Affairs

1 IN THE HOUSE

BY BROWN, MOSS AND ROGERS

2 HOUSE BILL NO. 88

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the qualifications for the farm or  
7 agricultural lands tax exemption; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. AS 29.53.035(c) is amended to read:

11 (c) In this section "farm use" means the use of land for raising  
12 and harvesting crops or for the feeding, breeding and management of  
13 livestock or for dairying or another agricultural use <sup>for profit</sup> or any  
14 combination of these [THEREOF]. To be farm use land, the owner or the  
15 lessee must be actively engaged in farming the land, and the land must  
16 have been in farm use for three of the preceding five years [DERIVE AT  
17 LEAST 10 PERCENT OF HIS YEARLY GROSS INCOME FROM THE FARM USE LAND].  
18 The provisions of this section do not apply to land respecting which  
19 the owner has granted, and has outstanding, a lease or option to buy  
20 the surface rights. A property owner wishing to file for farm use  
21 classification for land having no history farm use or of farm use  
22 during fewer than three of the preceding five years [OF FARM-RELATED  
23 INCOME] may submit a declaration of intent at the time of filing the  
24 application with the assessor setting out the intended use of the land  
25 [AND THE ANTICIPATED PERCENTAGE OF INCOME]. An applicant using this  
26 procedure shall file with the assessor before February 1 of the follow-  
27 ing year a notarized statement of the actual use of the land [PERCENTAGE  
28 OF GROSS INCOME ATTRIBUTABLE TO THE FARM USE LAND]. Failure to make  
29 the filing required in this subsection or failure to maintain the land

1 in farm use for three of the five years following the filing of the  
2 initial declaration of intent forfeits the exemption and subjects the  
3 owner to liability for the tax which otherwise would have been due.

4 \* Sec. 2. AS 29.53.035(d) is repealed.

5 \* Sec. 3. This Act takes effect January 1, 1982.

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family dwelling if the principal purpose of the improvement is to increase the amount of space for occupancy. An exemption provided in this subsection may continue for up to two years from the date the improvement is completed or from the date of approval of an application for the exemption by the local assessor, whichever is later. (§ 2 ch 118 SLA 1972; am § 2 ch 1 FSSLA 1973; am § 1 ch 33 SLA 1975; am § 1 ch 111 SLA 1976; am § 1 ch 262 SLA 1976; am § 1 ch 95 SLA 1977; am § 31 ch 94 SLA 1980)

Effect of amendments. — The 1973 amendment added the second sentence of subsection (a).

The 1975 amendment added subsection (e).

The first 1976 amendment added paragraph (3) of subsection (c).

The second 1976 amendment added

paragraph (2)(D) of subsection (b).

The 1977 amendment added subsections (f) and (g).

The 1980 amendment deleted "adopted without weighted voting" near the beginning of paragraph (1) of subsection (c).

**Sec. 29.53.035. Farm or agricultural lands.** (a) Farm use lands included in a farm unit and not dedicated or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner is liable to pay an amount equal to the additional tax at the current mill levy together with eight per cent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough.

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor a copy of the lease covering the period for which the exemption is requested.

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must

be actively engaged in farming the land, and derive at least 10 per cent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 per cent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. (§ 2 ch 118 SLA 1972; am § 1 ch 90 SLA 1974; am § 3 ch 229 SLA 1976; am § 1 ch 66 SLA 1978)

*Effect of amendments.* — The 1974 amendment made such changes in subsections (a), (b), and (c) as to make a detailed comparison impracticable and added subsections (d) and (e).

The 1976 amendment, in subsection (a), substituted "uses incompatible with farm use" for "other than farm use purposes," "a use incompatible with farm use" for

"nonfarm use" and "eight per cent" for "five per cent" in the third sentence, inserted "at the current mill levy" in that sentence, and added "for the preceding seven years" at the end of the fourth sentence.

The 1978 amendment substituted "May 15" for "February 1" in the first sentence of subsection (b).

**Sec. 29.53.045. Tax on oil and gas production and pipeline property.** (a) A municipality may levy and collect taxes on taxable property taxable under AS 43.56 only by using one of the methods set out in (b) or (c) of this section.

(b) A municipality may levy and collect a tax on the full and true value of taxable property taxable under AS 43.56 as valued by the Department of Revenue at a rate not to exceed that which produces an amount of revenue from the total municipal property tax equivalent to \$1,500 a year for each person residing within its boundaries.

(c) A municipality may levy and collect a tax on the full and true value of that portion of taxable property taxable under AS 43.56 as assessed by the Department of Revenue which value, when combined with the value of property otherwise taxable by the municipality, does not exceed the product of 225 per cent of the average per capita assessed full and true value of property in the state multiplied by the number of residents of the taxing municipality. For purposes of this subsection the average per capita assessed full and true value of property in the

state shall be calculated under AS 43.56.

(d) By February 1 of each year, a municipality must inform the Department of Revenue that the municipality will use the exemption.

(e) For purposes of this section, the commissioner of statistics of the United States shall provide population data, and the assessor shall so determined '7 Jan 1978.

§ 6 ch 159 SLA 1975

*Effect of amendments.* — The 1976 amendment, in subsection (a), substituted "value" following "Department of Revenue" which" in the first sentence and "second sentence."

The 1976 amendment substituted "\$1,500" for "\$1,000" near subsection (b).

*Editor's note.* — Section 29.53.045, SLA 1975, contains a several

Legislative history report on ch. 107, SLA 1976, 583, see 1976 House Journal.

Alaska Statutes 29.53.045

29.53.180(a) authorize taxes on municipal bonds, independent of this section.

29.53.050, and regardless of whether bonds are in default or default in North Slope Borough v. Sohio Petroleum Corp., Sup. Ct. Op. No. 1750 (1976), 3460, 3513, 3659, 585 P.2d 57.

Alaska Statute 29.53.045, read, does not render this section AS 29.53.050 meaningless. A

applies only to debt financial limitations of this section 29.53.050 apply to operating re-

Merely because they do not also can be pay for bonds does not render nullities. North Slope Borough v. Petroleum Corp., Sup. Ct. Op. No. (File No. 3460, 3513, 3659), 585 P. (1978).

Municipal taxation of AS property may only occur as authorized under this section. North Slope Borough v. Sohio Petroleum Corp., Sup. Ct. Op. No. 1750 (File No. 3460, 3513, 3659), 585 P.2d 57 (1978).

Sec. 29.53.050. Tax limitations on tax for any purpose in excess of the full and true value of property within the municipality.

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APPENDIX B

FARM USE LAND ASSESSMENT

AS 29.53.035

## APPENDIX B

### FARM USE LAND ASSESSMENT AS 29.53.035

Effective January 1, 1968, the first Farm and Agricultural Land Deferred Tax Program was enacted. (ch 82 SLA 1967) Effective January 1, 1975, the act was substantially amended. (sec 1 ch 90 SLA 1974) Effective January 1, 1977, the act was further amended. (sec 3 ch 229 SLA 1976) And effective September 10, 1978, the filing deadline was moved to May 15. (sec 1 ch 66 SLA 1978)

The 1974 amendment reduced the yearly gross farm income requirement from 25% to 10%; provided for the averaging of income over a three year period; provided for estimated farm income for the current year; provided for the use of the lessee farm income to qualify the owner for farm use assessment; increased to seven years the deferred tax payment provision; and provided for reimbursement by the state of property tax revenue lost to the municipality in the operation of the act.

The 1976 amendment increased the penalty for conversion of the land to a use incompatible with farm use by requiring the owner to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years as though the land had not been assessed for farm use purposes.

The program was essentially inactive during the first four years of operation since agricultural and rural real estate, for a variety of reasons, simply was not assessed at as high a percentage of value as urban real estate.

The Farm Use Land Assessment Program provides differential assessment for qualified farm land. The owner paying taxes on the land value as a farm and the state paying the taxes on the remaining value. If the land is converted to a use incompatible with farming, the owner is liable to pay the deferred tax for the preceding seven years.

Experience over the last several years has vividly demonstrated the difficulty of administering existing legislation. The omission of a lien provision to make the eligible property liable for the payment to the state of an amount equal to the deferred taxes plus interest is a glaring weakness in the legislation which effectively negates the imposition of the penalty provisions.

FARM USE LAND ASSESSMENT

FISCAL YEAR 1980 PROGRAM SUMMARY BREAKDOWN

MUNICIPALITIES	NUMBER OF APPLICANTS	NUMBER OF ACRES	FULL AND TRUE LAND VALUE	TOTAL DEFERRED VALUE	TOTAL DEFERRED TAX
Anchorage, Municipality of	6	242.7	2,942,600	2,857,835	\$ 33,451.84
Fairbanks North Star Borough	5	540.1	477,950	404,050	3,037.42
Haines Borough	1	12.2	45,005	36,687	165.92
Kenai Peninsula Borough	21	4,020.4	3,472,150	2,913,000	11,635.01
Kodiak Island Borough	2	324.9	103,960	83,168	513.97
Matanuska-Susitna Borough	<u>73</u>	<u>11,271.6</u>	<u>12,664,040</u>	<u>12,043,940</u>	<u>96,324.87</u>
Statewide Total	108	16,411.9	19,705,705	18,338,680	\$145,129.03
Average Per Applicant		152.0	182,460	169,803	1,343.79
Average Per Acre			129,643	120,649	954.80

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SEVEN-YEAR SUMMARY OF PROGRAM PERFORMANCE

Fiscal Year 1974	66	NA	NA	3,332,290	\$ 34,945
Fiscal Year 1975	71	11,250	NA	4,737,290	57,735
Fiscal Year 1976	91	18,759	9,279,400	6,140,300	77,805
Fiscal Year 1977	84	15,970	13,783,182	11,552,062	99,170
Fiscal Year 1978	86	15,467	13,807,490	11,373,877	118,616
Fiscal Year 1979	87	13,562	17,283,615	15,328,994	140,092
Fiscal Year 1980	108	16,412	19,705,705	18,338,680	145,129

Revenues collected through FY 80, as a result of withdrawal from the program, are as follows:

Number of Applicants:	9	Tax Deferred:	\$5,861.00
Number of Acres:	488	Tax and Interest Collected:	\$6,397.00

FARM LAND ASSESSMENT

FY 80 PROGRAM

USE SUMMARY BY ACRES

	<u>Anchorage</u>	<u>Fairbanks</u>	<u>Haines</u>	<u>Kenai</u>	<u>Kodiak</u>	<u>Matanuska-Susitna</u>	<u>Total</u>
Row Crops	64.69	28.00	1.14	39.60	-0-	498.10	630.53
Small Grains	-0-	9.00	1.20	3.00	-0-	1,407.85	1,421.05
Hay-Ensilage	-0-	188.00	.70	616.50	110.00	2,679.12	3,594.32
Rotation Pasture	11.50	30.68	-0-	769.81	-0-	962.91	1,774.90
Farm Buildings	5.02	24.50	.05	34.25	13.00	169.45	247.27
Residential Buildings	4.43	6.20	.20	15.79	-0-	89.45	116.07
Uncleared	78.09	253.69	3.20	1,862.18	15.00	4,335.00	6,547.16
Permanent Graze	78.00	-0-	5.71	679.78	186.89	1,129.65	2,080.03
<b>Total</b>	<b>242.73</b>	<b>540.07</b>	<b>12.20</b>	<b>4,019.91</b>	<b>324.89</b>	<b>11,271.53</b>	<b>16,411.33</b>

ALASKA STATUTES TITLE 29, MUNICIPAL GOVERNMENT  
CHAPTER 53, MUNICIPAL ASSESSMENT AND TAXATION

Sec. 29.53.035. Farm or agricultural lands. (a) Farm use lands included in a farm unit and not dedicated to or being used for nonfarm purposes shall be assessed on the basis of full and true value for farm use, and shall not be assessed as if subdivided or used for some other nonfarm purpose. The assessor shall maintain records valuing the farm use land for both full and true value and farm use value. Should the farm use land be sold, leased, or otherwise disposed of for uses incompatible with farm use or be converted to a use incompatible with farm use by the owner, the owner shall be liable to pay an amount equal to the additional tax at the current mill levy together with eight percent interest for the preceding seven years, as though the land had not been assessed for farm use purposes. Payment by the owner shall be made to the state to the extent of its reimbursement for revenue loss under (e) of this section for the preceding seven years. The balance of the payment shall be made to the city or borough. (sec 3 ch 229 SLA 1976)

(b) An owner of farm use land must, to secure the assessment, make application to the assessor before May 15 of each year in which the assessment is desired. The application shall be made upon forms prescribed by the state assessor for the use of the local assessor and shall include information which may reasonably be required to determine the entitlement of the applicant. If the farm use land is leased for farm use purposes, the applicant shall furnish to the assessor a copy of the lease bearing the signatures of both lessee and lessor along with the completed application. The applicant shall furnish the assessor with a copy of the lease covering the period for which the exemption is requested. (am sec 1 ch 66 SLA 1978)

(c) In this section "farm use" means the use of land for raising and harvesting crops or for the feeding, breeding and management of livestock or for dairying or another agricultural use for profit or any combination thereof. To be farm use land, the owner or the lessee must be actively engaged in farming the land, and derive at least 10 percent of his yearly gross income from the farm use land. The provisions of this section do not apply to land respecting which the owner has granted, and has outstanding, a lease or option to buy the surface rights. A property owner wishing to file for farm use classification having no history of farm-related income may submit a declaration of intent at the time of filing the application with the assessor setting out the intended use of the land and the anticipated percentage of income. An applicant using this procedure shall file with the assessor before February 1 of the following year a notarized statement of the percentage of gross income attributable to the farm use land. Failure to make the filing required in this subsection forfeits the exemption.

(d) In the event of a crop failure by an act of God the previous year, the owner or lessee may submit an affidavit affirming that 10 percent of his gross income for the past three years was from farming.

(e) Subject to legislative appropriations for the purpose, the state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of this section. (sec 2 ch 118 SLA 1972; am sec 1 ch 90 SLA 1974)

ALASKA ADMINISTRATIVE CODE TITLE 19  
DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS  
CHAPTER 38, FARM OR AGRICULTURAL LAND

19 AAC 38.010. Forms. (a) The Department of Community and Regional Affairs Form 21-410 and Form 21-411 are adopted for use in application for the farm and agricultural land use assessment and tax deferment program. (b) Application and authorization forms shall be made available by and shall be returned to the clerk or assessor of the municipality in which the land for which the farm use assessment and tax deferment are sought is located. (Eff. 12/31/75, Reg. 56)

19 AAC 38.020. Annulled under AS 44.62.320, passed 5/25/77.

19 AAC 38.030. Appeal. An applicant for the farm use assessment and tax deferment who believes that the valuation or classification assigned to the land that is the subject of the application is erroneous may appeal to the board of equalization of the municipality in which the land is located in the manner provided by AS 29.53.130. The municipality shall report the disposition of all such appeals to the state assessor. (Eff. 12/31/75, Reg. 56)

19 AAC 38.040. Maintenance of Records - Duplicate Copies. The municipality in which the land is located shall maintain separate files and records of all applications for the farm use assessment and tax deferment, whether allowed by the municipality or not, including valuation of the property under the full and true value standard of AS 29.53.060. Duplicate copies of all records relating to the application entered in the file shall be forwarded to the state assessor. The municipality shall investigate to determine whether title to land for which the assessment and deferment have been granted has been conveyed or alienated in such a way that the assessment or deferment may be terminated and shall advise the state assessor as to the results of its investigation. (Eff. 12/31/75, Reg. 56)

19 AAC 38.050. Confidentiality. Tax records and other documents providing evidence of the applicant's eligibility for the farm use assessment and tax deferment are confidential and shall be used only for the purpose of ascertaining whether the applicant is entitled to the benefits of the assessment and deferment. (Eff. 12/31/75, Reg. 56)

19 AAC 38.060. Definitions. In this chapter  
(1) "farm use assessment" means the value of the unit or parcel of property for which application for a farm use assessment and tax deferment is made, based upon its highest and best use as farm or agricultural land;

(2) "yearly gross income" means the income of the applicant for the year preceding the tax year for which the application is filed and means the adjusted gross income of the applicant as defined in Section 62 of the Internal Revenue Code (26 U.S.C. 62). (Eff. 12/31/75, Reg. 56)

① Some statements of farmers that they are farming  
1980 - 108 applications  
16,080

# MEMORANDUM

# State of Alaska

TO: Hon. Lee McAnerney  
Commissioner  
Department of Community  
and Regional Affairs

DATE: September 4, 1980

FILE NO: J-66-801-80

Attn: Palmer McCarter

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON  
ATTORNEY GENERAL

SUBJECT: Farm-use-land  
assessment.

By:   
Rodger W. Pegues  
Assistant Attorney General

This responds to your request for advice on this subject.

With respect to proof of eligibility, you may adopt a regulation to require persons to submit a copy of their federal income tax return for any year in which they claim benefits under AS 29.53.035. This is a reasonable requirement. If you do so, you also must, in the same regulations, provide that the returns are confidential, that the information they contain shall not be released except by court order or in aid of a criminal investigation, and that their intentional, unauthorized disclosure by agency employees is grounds for dismissal. See AS 43.05.230 for a good example which you can adapt to your needs.

With respect to the kinds of farms which qualify, while one could read AS 29.53.035(c) to include a greenhouse or vacant-lot garden patches, it would appear to mean something else. First, the use of the term "farm unit" in AS 29.53.035(a) and, in AS 29.53.035(c), the terms "raising and harvesting crops . . . feeding, breeding and management of livestock . . . dairying or another agricultural use for profit" in juxtaposition and as alternatives implies a level of agricultural activity in excess of a greenhouse or a garden patch. In other words, it is not customary to use dairying or livestock feeding, breeding, and management on the one hand as an alternative to raising a garden patch or operating a greenhouse on the other. Because the statute deals in terms of alternatives, the scale of land used in raising and harvesting crops should logically approximate that used in dairying or in feeding, breeding, and managing livestock. Second, the purposes of the statute -- it may reasonably be inferred -- are, principally, to preserve agricultural land and, secondarily, to preserve green space. The operation of a greenhouse contributes to neither. Third, a greenhouse is not, strictly speaking, agricultural land. The land under a greenhouse will generally be paved either by a basement or by a concrete slab. The arable land in

most greenhouses is in containers in which plants are cultivated. We do not, therefore, perceive a greenhouse as falling within the terms of the statute. Of course, a greenhouse used in conjunction with other farming activities would not disqualify the land on which it was located from being included within the overall farm or dairy. But by itself a greenhouse (or a garden patch) would not qualify.

With respect to incompatible uses, the possibilities are infinite, and a general guideline of universal application is impossible. You will have to handle the situations as they arise. If you have one at hand, send it along. You can reduce your uncertainties by adopting regulations to make the statutory provisions more particular. As a general rule, a sale or other disposal of land in and of itself does not trigger the penalties. It is incompatible use which does so. Accordingly, subdivision alone does not trigger the penalties. Subdivision and sale for non-agricultural purposes does. If you want to create a presumption of incompatibility on the basis of subdivision and sale, adopt a regulation based on expert advice, that subdivision and sale into parcels of less than, say, 40 acres constitutes incompatible (non-agricultural) use per se.

With respect to structures, it depends on the situation. If the structures are used for farm-use purposes, the lands they are on are being so used. If not, then they and the lands devoted to their use rather than to agricultural use are taxable at another rate.

With respect to interest, compound interest makes sense, i.e., if you do not compound the interest you do not fully recover. However, it could well be held that, because the statute does not prescribe compound interest, it is not chargeable. Nevertheless, your contemporaneous construction should be upheld.

With respect to who pays the penalty, there is an ambiguity. The statute says "the owner" is liable and shall pay. Obviously, in almost all cases, there will have been a sale of the lands to a new owner or owners. We will need to know what your practice has been here. Where there is an ambiguity such as this, contemporaneous, longstanding agency application carries great weight.

With respect to the means used for repaying the state, the statute is again ambiguous. On the one hand it prescribes payment of "an amount equal to the additional tax at the current mill levy" plus interest. On the other hand, it requires payment "to the state to the extent of its reimbursement for revenue loss" because of the farm-use

Hon. Lee McAnerney  
Attn: Palmer McCarter

September 4, 1980  
Page 3

assessment. If the current mill levy is less than that previously charged, the two may not be the same. However, it is an amount equal to the additional tax and the amount which the state paid in lieu of that tax which must be repaid. Accordingly, while open to debate, your interpretation and application of the statute is probably correct.

With respect to enforcement, you need a statutory lien against the property to arise upon the first approval of an application. Otherwise, your collection problems will be endless. If you have a lien, you need merely record it, and the lien will have to be taken care of when the property is sold or the new owner will be liable and his land can be sold to collect. You need a statutory amendment.

RWP:d1m



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Rep. Ben Grussendorf  
Chairman  
465-3870

Pouch V  
State Capitol  
Juneau, Alaska 99811

Summary - HB 88, By Reps. Brown, Moss & Rogers

"An Act relating to the qualifications for the farm or agricultural lands tax exemption; and providing for an effective date."

Relates to the qualifications for the farm or agricultural lands tax exemption under AS 29.53.025(c) (Municipal Assessment and Taxation. Farm or agricultural lands). States that to be farm use land, the owner or the lessee must be actively engaged in farming the land, and "the land must have been in farm use for three of the preceding five years..."

The Bill deletes the language requiring that the owner or lessee must derive at least 10 percent of his yearly gross income from the farm use land in order to qualify for the exemption.

Language is added stating that failure to maintain the land in farm use for three of the five years following the filing of the initial declaration of intent forfeits the exemption and subjects the owner to liability for the tax which otherwise would have been due.

The bill repeals section AS 29.53.035 (d).

Provides for a January 1, 1982 effective date.

ALASKA  
STATE LEGISLATURE  
**MEMORANDUM**

To: Ben  
From: Linda  
Re: HB 88

Date: March 27/Friday

Just a few notes:

- 1) Terry EARley will be there to testify and will offer an amendment which the Dept. feels is easier to administer than the suggested language by Rep. Brown.
- 2) Rep. Brown mentioned that he didn't necessarily care how the bill was written. just so the eligibility was not tied to the percentage of income
- 3) Senator Kerttula instigated the program originally, they may attend the meeting, I don't think they care much for the bill.
- 4) The attached AG's opinion is in regard to the existing statutes - there are many problems with the program itself and the definition of 'farm use' is one of them.