

**HB**

**185**

9-LS0685G  
Cook  
3/16/95

CS FOR HOUSE BILL NO. 185( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE IVAN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to exemptions from municipal property taxes for certain  
2 principal residences; relating to the determination of full and true value of taxable  
3 property in a municipality; and providing for an effective date."

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

5 \* Section 1. AS 14.17.140(a) is amended to read:

6 (a) To determine the amount of local effort under AS 14.17.025 and to aid the  
7 department and the legislature in planning, the Department of Community and  
8 Regional Affairs, in consultation with the assessor for each district, shall determine the  
9 full value of the taxable real and personal property in each city or borough district.  
10 If there is no local assessor or current local assessment for a district, then the  
11 Department of Community and Regional Affairs shall make the determination of full  
12 value from information available. In making the determination, the Department of  
13 Community and Regional Affairs shall be guided by AS 29.45.110. However, the  
14 value of property exempted under AS 29.45.050(i) up to \$150,000 may not be

1 included in the determination. The determination of full value shall be made by  
2 October 1 and sent by certified mail, return receipt requested, on or before that date  
3 to the president of the school board in each district. Duplicate copies shall be sent to  
4 the commissioner. The governing body of a borough or city that is a school district  
5 may obtain judicial review of the determination. The superior court may modify the  
6 determination of the Department of Community and Regional Affairs only upon a  
7 finding of abuse of discretion or upon a finding that there is no substantial evidence  
8 to support the determination.

9 \* Sec. 2. AS 29.45.030(e) is amended to read:

10 (e) The real property owned and occupied as the primary residence and  
11 permanent place of abode by a (1) resident 65 years of age or older; (2) disabled  
12 veteran; [OR] (3) resident at least 60 years old who is the widow or widower of a  
13 person who qualified for an exemption under (1) [OR (2)] of this subsection; or (4)  
14 resident at least 60 years old who is the widow or widower of a person who  
15 qualified for an exemption under (2) of this subsection. is exempt from taxation,  
16 The exemption for an individual who qualifies under (1) or (3) of this subsection  
17 is limited to the first \$75,000 of the assessed value of the real property. The  
18 exemption for an individual who qualifies under (2) or (4) of this subsection is  
19 limited to [ON] the first \$150,000 of the assessed value of the real property. A  
20 municipality may, in case of hardship and in accordance with regulations of the  
21 department, provide for exemption [BEYOND THE FIRST \$150,000] of assessed  
22 value beyond the limits set in this subsection [IN ACCORDANCE WITH  
23 REGULATIONS OF THE DEPARTMENT]. Only one exemption may be granted for  
24 the same property and, if two or more persons are eligible for an exemption for the  
25 same property, the parties shall decide between or among themselves who is to receive  
26 the benefit of the exemption. Real property may not be exempted under this  
27 subsection if the assessor determines, after notice and hearing to the parties, that the  
28 property was conveyed to the applicant primarily for the purpose of obtaining the  
29 exemption. The determination of the assessor may be appealed under AS 44.62.560 -  
30 44.62.570.

31 \* Sec. 3. AS 29.45.050(i) is amended to read:

1 (i) A municipality may by ordinance [APPROVED BY THE VOTERS]  
2 exempt from taxation the assessed value of real property that exceeds the limits set  
3 under AS 29.45.030(e) if the [\$150,000 OF REAL] property is owned by an  
4 individual who qualifies for an exemption under AS 29.45.030(e) [AND  
5 OCCUPIED AS A PERMANENT PLACE OF ABODE BY A RESIDENT WHO IS  
6 (1) 65 YEARS OF AGE OR OLDER;  
7 (2) A DISABLED VETERAN, INCLUDING A PERSON WHO WAS  
8 DISABLED IN THE LINE OF DUTY WHILE SERVING IN THE ALASKA  
9 TERRITORIAL GUARD; OR  
10 (3) AT LEAST 60 YEARS OLD AND A WIDOW OR WIDOWER  
11 OF A PERSON WHO QUALIFIED FOR AN EXEMPTION UNDER (1) OR (2) OF  
12 THIS SUBSECTION].

13 \* Sec. 4. This Act takes effect January 1, 1996.

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Cook  
3/10/95

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9 full value of the taxable real and personal property in each city or borough district.  
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1 determination. The determination of full value shall be made by October 1 and sent  
2 by certified mail, return receipt requested, on or before that date to the president of the  
3 school board in each district. Duplicate copies shall be sent to the commissioner. The  
4 governing body of a borough or city that is a school district may obtain judicial review  
5 of the determination. The superior court may modify the determination of the  
6 Department of Community and Regional Affairs only upon a finding of abuse of  
7 discretion or upon a finding that there is no substantial evidence to support the  
8 determination.

9 \* Sec. 2. AS 29.45.030(2) is amended to read:

10 (e) The real property owned and occupied as the primary residence and  
11 permanent place of abode by a (1) resident 65 years of age or older; (2) disabled  
12 veteran; [OR] (3) resident at least 60 years old who is the widow or widower of a  
13 person who qualified for an exemption under (1) [OR (2)] of this subsection; or (4)  
14 resident at least 60 years old who is the widow or widower of a person who  
15 qualified for an exemption under (2) of this subsection, is exempt from taxation.  
16 The exemption for an individual who qualifies under (1) or (3) of this subsection  
17 is limited to the first \$75,000 of the assessed value of the real property. The  
18 exemption for an individual who qualifies under (2) or (4) of this subsection is  
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21 department, provide for exemption [BEYOND THE FIRST \$150,000] of assessed  
22 value beyond the limits set in this subsection [IN ACCORDANCE WITH  
23 REGULATIONS OF THE DEPARTMENT]. Only one exemption may be granted for  
24 the same property and, if two or more persons are eligible for an exemption for the  
25 same property, the parties shall decide between or among themselves who is to receive  
26 the benefit of the exemption. Real property may not be exempted under this  
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1 (i) A municipality may by ordinance approved by the voters exempt from  
2 taxation the assessed value of real property that exceeds the limits set under  
3 AS 29.45.030(e) if the [\$150,000 OF REAL] property is owned by an individual who  
4 qualifies for an exemption under AS 29.45.030(e) [AND OCCUPIED AS A  
5 PERMANENT PLACE OF ABODE BY A RESIDENT WHO IS

6 (1) 65 YEARS OF AGE OR OLDER;

7 (2) A DISABLED VETERAN, INCLUDING A PERSON WHO WAS  
8 DISABLED IN THE LINE OF DUTY WHILE SERVING IN THE ALASKA  
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11 OF A PERSON WHO QUALIFIED FOR AN EXEMPTION UNDER (1) OR (2) OF  
12 THIS SUBSECTION].

13 \* Sec. 4. This Act takes effect January 1, 1996.

# FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 185

1995 LEGISLATIVE SESSION

Revision Date: March 9, 1995

Department Affected: Education

Title: An Act relating to an exemption from municipal property BRU: K-12

taxes for certain primary residences; and providing for...

Component: Foundation

Sponsor: Rep. Ivan

Requester: Rep. Ivan

COMPONENT SERIAL NO.

141

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	-0-	-0-	(4,258.2)	(4,258.2)	(4,471.1)	(4,471.1)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>(4,258.2)</b>	<b>(4,258.2)</b>	<b>(4,471.1)</b>	<b>(4,471.1)</b>

CAPITAL						
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REVENUE FUND SOURCE:						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	-0-	-0-	(4,258.2)	(4,258.2)	(4,471.1)	(4,471.1)
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>(4,258.2)</b>	<b>(4,258.2)</b>	<b>(4,471.1)</b>	<b>(4,471.1)</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY95) impact: \$ -0-

**ANALYSIS:** (Attach a separate page if necessary.) Section 4 amends AS 29.45 by adding a new section, AS 29.45.052, which allows municipalities to exempt by local ordinance certain primary residences from taxation on all or part of the assessed value of the property. The same property would be included in the state's assessment for full value determination. The Department of Community and Regional Affairs has estimated the statewide value of property currently exempted to be approximately \$1,064,556,490 in 1996 and \$1,117,784,315 in 1998. The increased property values will first be reported in the 1996 full value determination. The foundation program utilizes the full value determination from the second preceding year to calculate a municipal school district's required local contribution. The increased property value will decrease the general fund requirement to support the foundation program beginning in fiscal year 1998.

Prepared by: Eddy Jeans

Phone: 465-8685

Division: School Finance

Date: March 9, 1995

Approved by Commissioner: 

Mike Malier

Agency: Education

Date: March 9, 1995

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**Representative Ivan M. Ivan**

**Sponsor Statement - House Bill 185**

The Senior Citizen/Disabled Veteran Property Tax Exemption was enacted by the legislature in 1973. It exempted people over the age of 65 from paying municipal property tax. In 1985, the program was extended to include disabled veterans with a disability of 50% or more. The state was to reimburse municipalities for tax revenues lost because of the exemption. The original cost of the program was \$197,050. The cost of the program in FY 95 was \$16.8 million. The state reimbursed municipalities only \$1.5 million for FY 95, an underfunding of \$15.7 million. Since inception, there has been a steady increase in the number of applicants. The last year the program was fully funded, 1985, there were 5,418 taxpayers eligible. For FY 95, the number increased to 12,197 applicants. This program has become an unfunded mandate passed on to the municipalities who have taken on the fiscal responsibility for this policy.

Municipalities have identified the Senior Citizen/Disabled Veterans Property Tax Exemption as the most problematic unfunded mandate placed on municipalities by the state of Alaska. The municipalities believe that municipal taxpayers should have the right to address their needs in each community that currently pays the cost of the mandate and the senior citizens and disabled veterans of each community will have ample opportunity to address their needs before their respective local governments. It is my belief this issue be resolved on the local level unless the legislature is committed to fully fund this mandate.

House Bill 185 repeals the statutes that allow the tax exemption for senior citizens and disabled veterans. It does allow each municipality to determine the type of exemption, if any, they may wish to offer. The bill also allows a municipality to grant an exemption based on need.

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**DIFFERENCES BETWEEN HOUSE BILL 185 AND COMMITTEE  
SUBSTITUTE DRAFT #9-LS0685\G**

The first notable difference between the original version of House Bill 185 and the proposed committee substitute is the removal of the findings section. This is no longer necessary since the committee substitute amends the current senior citizen/disabled veteran tax exemption program. The original bill deleted the program and gave municipalities various options should they desire to retain a similar program.

The committee substitute reinstates the full exemption of \$150,000 for disabled veterans. This provision was removed in the original bill. The CS also provides the exemption for the widow or widower of a disabled veteran who qualified for the exemption.

The original version deleted the senior citizen property tax exemption program. The committee substitute reduces this part of the program from \$150,000 to \$75,000.

Section 1 of the CS exempts the value of property under the senior citizen/disabled veteran property tax exemption program when making a determination of full value of the taxable real and personal property in each city and borough district. This determines the local effort contributed to education.

The last section in the committee substitute allows the municipalities to exempt the assessed value of real property that exceeds the limits of either \$75,000 for senior citizens and \$150,000 for disabled veterans.

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## SECTIONAL ANALYSIS - HOUSE BILL 185

**Section 1:** Findings section.

**Section 2:** Amends AS 29.45.03(h), Required exemptions. Technical amendment which deletes references to statutes which are being repealed in this bill. Paragraph (j) is a reference to the automobile exemption which may have offered by municipalities.

**Section 3:** Amends AS 29.45.030(k), Required exemptions. Technical amendment which refers to paragraphs deleted in the bill.

**Section 4:** New section to AS 29.45. Allows a municipality the option to offer an full or partial exemption to a senior citizen or disabled veteran or the spouse of a deceased person who qualified for an exemption. This section also allows for the municipality to offer an exemption on a need basis. The definition for disabled veteran and real property is the same as is currently found in AS 29.45.030(i).

**Section 5:** Repeals AS 29.45.030(a)(6), 29.45.030(e), 29.45.030(f), 29.45.030(g), 29.45.030(i) and 29.45.050(i). This statutes refer to the current senior citizen/disabled veteran property tax exemption program.

**Section 6:** Effective date of January 1, 1996.

Sec. 29.45.030

REQUIRED EXEMPTIONS.

(a) The following property is exempt from general taxation:

(1) municipal property, including property held by a public corporation of a municipality, or state property, except that

(A) a private leasehold, contract, or other interest in the property is taxable to the extent of the interest;

(B) notwithstanding any other provision of law, property acquired by an agency, corporation, or other entity of the state through foreclosure or deed in lieu of foreclosure and retained as an investment of a state entity is taxable; this subparagraph does not apply to federal land granted to the University of Alaska under AS 14.40.380 or 14.40.390, or to other land granted to the university by the state to replace land that had been granted under AS 14.40.380 or 14.40.390;

(C) an ownership interest of a municipality in real property located outside the municipality acquired after December 31, 1990, is taxable by another municipality; however, a borough may not tax an interest in real property located in the borough and owned by a city in that borough;

(2) household furniture and personal effects of members of a household;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital, or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of an auxiliary of that organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section;

(7) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended;

(8) property of a political subdivision, agency, corporation, or other entity of the United States to the extent required by federal law; except that a private leasehold, contract, or other interest in the property is taxable to the extent of that interest;

(9) natural resources in place including coal, ore bodies, mineral deposits, and other proven and unproven deposits of valuable materials laid down by natural processes, unharvested aquatic plants and animals, and timber.

(b) In (a) of this section, "property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of a bishop, pastor, priest, rabbi, minister, or religious order of a recognized religious organization;

(2) a structure, its furniture, and its fixtures used solely for public worship, charitable purposes, religious administrative offices, religious education, or a nonprofit hospital;

(3) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a)(3) or (4) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups. If used by nonprofit educational groups, the property is exempt only if used exclusively for classroom space.

(d) Laws exempting certain property from execution under AS 09 (Code of Civil Procedure) do not exempt the property from taxes levied and collected by municipalities.

(e) The real property owned and occupied as the primary residence and permanent place of abode by a (1) resident 65 years of age or older; (2) disabled veteran; or (3) resident at least 60 years old who is the widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection, is exempt from taxation on the first \$150,000 of the assessed value of the real property. A municipality may, in case of hardship, provide for exemption beyond the first \$150,000 of assessed value in accordance with regulations of the department. Only one exemption may be granted for the same property and, if two or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves who is to receive the benefit of the exemption. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560 - 44.62.570.

(f) An exemption may not be granted under (e) of this section except upon written application for the exemption on a form approved by the state assessor for use by local assessors. The claimant must file the application no later than January 15, or a date provided by ordinance that is not later than March 31, of the assessment year for which the exemption is sought. The governing body of the municipality for good cause shown may waive during a year the claimant's failure to make timely application for exemption for that year and authorize the assessor to accept the application as if timely filed. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of this section. If a

failure to file by January 15, or a date provided by ordinance that is not later than March 31, of the assessment year has been waived as provided in this subsection and the application for exemption is approved, the amount of tax that the claimant has already paid for the assessment year for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under (e) of this section, and shall require a disabled veteran claiming an exemption under (e) of this section to provide evidence of the disability rating. The assessor may require proof under this section at any time.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement may be made to a municipality for revenue lost to it only to the extent that the loss exceeds an exemption that was granted by the municipality, or that on proper application by an individual would have been granted under AS 29.45.050(a). If appropriations are not sufficient to fully fund reimbursements under this subsection, the amount available shall be distributed pro rata among eligible municipalities.

(h) Except as provided in (g) of this section, nothing in (e) - (j) of this section affects similar exemptions from property taxes granted by a municipality on September 10, 1972, or prevents a municipality from granting similar exemptions by ordinance as provided in AS 29.45.050.

(i) In (e) - (j) of this section,

(1) "disabled veteran" means a disabled person

(A) separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the Veterans' Administration; or

(B) who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

(2) "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes.

(j) One motor vehicle per household owned by a resident 65 years of age or older on January 1 of the assessment year is exempt either from taxation on its assessed value or from the registration tax under AS 28.10.431. An exemption may be granted under this subsection only upon written application on a form prescribed by the Department of Public Safety.

(k) The department shall adopt regulations to implement the provisions

of (g) and (j) of this section.

(l) Two percent of the assessed value of a structure is exempt from taxation if the structure contains a fire protection system approved under AS 18.70.081, in operating condition, and incorporated as a fixture or part of the structure. The exemption granted by this subsection is limited to

(1) an amount equal to two percent of the value of the structure based on the assessment for 1981, if the fire protection system is a fixture of the structure on January 1, 1981; or

(2) an amount equal to two percent of the value of the structure based on the assessment as of January 1 of the year immediately following the installation of the fire protection system if the fire protection system becomes a fixture of the structure after January 1, 1981.

(m) For the purpose of determining property exempt under (a)(7) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law:

(1) "developed" means a purposeful modification of the property from its original state that effectuates a condition of gainful and productive present use without further substantial modification; surveying, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process, but that do not create the condition described in this paragraph, do not constitute a developed state within the meaning of this paragraph; developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state;

(2) "exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources;

(3) "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract that is used solely for the purpose of exploration.

(n) If property or an interest in property that is determined not to be exempt under (a)(7) of this section reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted, subject to the provisions of (a)(7) and (m) of this section.

History -

(Sec. 12 ch 74 SLA 1985; am Sec. 1, 2 ch 91 SLA 1985; am Sec. 44 ch 37 SLA 1986; am Sec. 2 - 4 ch 70 SLA 1986; am Sec. 3 ch 66 SLA 1991; am Sec. 1 ch 85 SLA 1991; am Sec. 14 ch 93 SLA 1991; am Sec. 1 ch 54 SLA 1992; am Sec. 4 ch 97 SLA 1992)

#### Delayed Action -

of subsection (a). - Under Sec. 3, ch. 66, SLA 1991, (a) of this section is amended by inserting new language in (a)(1), following "'or state property". If the conditions set out in Sec. 58, ch. 66, SLA 1991, as amended by Sec. 37, ch. 5, FSSLA 1994, are met, then the amendment takes effect under Sec. 59, ch. 66, SLA 1991, as added by Sec. 38, ch. 5, FSSLA 1994, on December 16, 1994 or on a date not more than 45 days after December 15, 1994, determined by the governor under Sec. 47, ch. 5, FSSLA 1994. If the conditions are not met, then under Sec. 48, ch. 5, FSSLA 1994, ch. 66, SLA 1991 is repealed. If the amendment takes effect, the new language will read as set out in the delayed amendment note in the main pamphlet.

Under sec. 58, ch. 66, SLA 1991, as amended by sec. 37, ch. 5, FSSLA 1994 and sec. 2, ch. 1, SSSLA 1994, ch. 66, SLA 1991 and secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30 33 - 36, 43, and 46, ch. 5, FSSLA 1994 will take effect December 16, 1994 if, and only if, not later than December 15, 1994, the superior court has made a determination that the state has satisfied its obligation to reconstitute the mental health trust under State v. Weiss, 706 P.2d 681 (Alaska 1985) and the superior court has entered an order dismissing Weiss v. State, 4FA-82-2208 Civil. Under sec. 14, ch. 1, SSSLA 1994, in the event the order of the superior court dismissing Weiss v. State, 4FA-82-2208 Civil, is reversed on appeal, including certiorari to the United States Supreme Court, secs. 3 - 9, 12 - 16, 19 - 21, 23 - 30, 33 - 36, 43, and 46, ch. 5, FSSLA 1994 and ch. 66, SLA 1991, as amended by ch. 5, FSSLA 1994 and ch. 1, SSSLA 1994, are repealed. In that event, under sec. 15, ch. 1, SSSLA 1994, provisions of the Alaska Statutes that were enacted by the repealed laws are repealed, provisions that were amended are restored to read as they did before the amendments, and provisions that were repealed are revived.

#### Revisors Notes -

The amendments made to (e) and (g) of this section by Sec. 1 and 2, ch. 91, SLA 1985 were enacted as amendments to AS 29.53.020(e) and (g). Chapter 74, SLA 1985 enacted AS 29.45.030 and repealed AS 29.55.020. The effective date of both 1985 Acts is January 1, 1986. The legislature's intent to amend the property tax exemption provisions has been recognized by treating the amendments to AS 29.53.020(e) and (g) as amendments to (e) and (g) of this section.

#### Cross References -

For exemption of electric and telephone cooperatives from local ad valorem taxes, see AS 10.25.540(b).

#### Amendment Notes -

The first 1991 amendment, effective January 1, 1992, in paragraph (a)(1), deleted "or federally owned" following "state" in the introductory

language, added the subparagraph designations, and the language in subparagraphs (B) and (C); and added paragraph (a)(8).

The second 1991 amendment, effective September 30, 1991, in paragraph (i)(1), added the subparagraph designations, added subparagraph (B), and made a related stylistic change.

The first 1992 amendment, effective January 1, 1993, added paragraph (a)(9) and made a related stylistic change.

The second 1992 amendment, effective June 20, 1992, inserted "property, including property held by a public corporation of a municipality," in paragraph (a)(1).

#### AG Opinions -

The constitutional convention intended that only so much of the property used for religious purposes as was being used to produce income should be taxable, that such other parts should be exempt, and that a proration between taxable and nontaxable parts should be made. 1962 Op. Att'y Gen. No. 15, decided under former, similar law.

All religious property in the state not used for business, rent or profit, is exempt from taxation. 1962 Op. Att'y Gen. No. 15, decided under former, similar law.

#### Decisions -

Editor's notes. - The cases cited in the notes below were decided under former, similar law.

Strict construction. - The courts must narrowly construe statute granting tax exemptions. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

Provisions exempting property from ad valorem taxation must be strictly construed against the property holder and in favor of the taxing authority. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

Paragraph (a)(1) tracks the Alaska Const., art. IX, Sec. 5. - See *Ben Lomond, Inc. v. Fairbanks N. Star Borough Bd. of Equalization*, 760 P.2d 508 (Alaska 1988).

A former, similar provision was enacted pursuant to Alaska Const., art. IX, Sec. 4. - *Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, 462 P.2d 432 (Alaska 1969).

Purpose. - The purpose of a former, similar provision was to encourage the establishment of privately supported nonprofit educational institutions; the motivation for their establishment was largely irrelevant. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

Burden of showing eligibility for exemption. - A taxpayer claiming a tax exemption has the burden of showing that the property is eligible for the exemption. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

Property leased or rented is exempt if: - (1) The property is leased or

rented for an exempt activity; (2) the lease or rental payments are not the product of an owner's dominant profit motive; and (3) the lease or rental payments are incidental to and reasonably necessary for the exempt use of the property and do not exceed the operational requirements of the exempt activity. If (3) is not met, the property must be used for classroom space to be exempt. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

The termination of a lease of developed property taken alone, would not suffice to render the property tax exempt; what is required, additionally, is a tangible change such as destruction or decay of the improvements to constitute reversion to an undeveloped state. *Kenai Peninsula Borough v. Tyonek Native Corp.*, 807 P.2d 502 (Alaska 1991).

Exclusive use for nonprofit religious, etc., purposes must be shown. - In order to qualify for an exemption, the taxpayer must show not benefits, but exclusive use for nonprofit religious, charitable, cemetery, hospital or educational purposes. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

When the property in question is used even in part by nonexempt parties for their private business purposes, there can be no exemption. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

Actual use rather than owner's use should be analyzed - in determining eligibility for an exemption. *Greater Anchorage Area Borough v. Sisters of Charity*, 553 P.2d 467 (Alaska 1976).

The power of deciding what types of education are to be publicly supported, - either under the School Foundation Act or by tax exemption, is vested with the legislature. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

Alaska Const., art. IX, Sec. 4, directs the legislature to define the educational exemption - and encourage the exercise of that responsibility. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

The phrase "educational purposes" - as used in Alaska Const., art. IX, Sec. 4, and a former, similar provision included systematic instruction in any and all branches of learning from which a substantial public benefit was derived. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

A former, similar provision in no way delimited the term "educational purposes," and there was no justification for the supreme court to give to that term anything other than its ordinary meaning. That restrictive definition was a legislative concern seemed especially apparent at a time when there was increasing desire for specialized practical education, a proliferation of new kinds of educational institutions, and rapidly changing concepts of mass education. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

The minutes of the constitutional convention revealed no indication of what was intended to constitute an "educational" purpose, the drafters

stating merely that they intended to adopt a "standard" state exemption in a former, similar provision. Nor has the legislature defined the term as it has done with regard to "religious purposes." *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

When exemption attaches. - Under a former, similar provision, once it was determined that the institution involved was nonprofit in character and that the property was exclusively used for educational purposes, the exemption attached. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

The Apprenticeship and Manpower Training Trust Fund - was entitled to an exemption from real property taxation by the Greater Anchorage Area Borough (GAAB) on the ground that its property was "used exclusively for nonprofit . . . educational purposes" within the meaning of a former, similar provision. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

The general public was clearly benefited both by the increased opportunity for Alaskans to obtain vocational training not otherwise available, and by the increased quality of service from a skilled trade. *McKee v. Evans*, 490 P.2d 1226 (Alaska 1971).

"Charity" and "charitable purposes". - Neither in Alaska's Constitution nor in its general laws are the terms "charity" or "charitable purposes" defined. In such circumstances, resort to the common-law definition of these terms is appropriate. *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441 (Alaska 1968).

It is quite clear that what is done out of good will and a desire to add to the improvement of the moral, mental, and physical welfare of the public generally comes within this meaning of the word "charity." *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441 (Alaska 1968).

"Charitable purposes" has the identical meaning and application in paragraphs (a)(3) and (b)(2). *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

Property may be exempt under paragraph (a)(3) if - the taxpayer establishes that the use of that property is directly incidental to and vitally necessary for the exempt use of other specifically identified property; similarly, property used part-time for exempt purposes and otherwise for uses directly incidental to and vitally necessary for the exempt purposes is exempt. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

Property will not lose an exemption under paragraph (a)(3) - even if payment is received for the use of the property if: (1) The property is used exclusively for exempt purposes; (2) the payment is not sought as a result of a dominant profit motive; and (3) the payment is both incidental to and reasonably necessary for the accomplishment of the exempt activity and does not exceed the operating costs of the exempt activity for which payment is received. If (3) is not met, the property is only exempt if used

for classroom space. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

Rentals or income not derived as result of dominant profit motive. - If it appeared that rentals or income were not derived as a result of a dominant profit motive on the charity's part, but were incidental to and reasonably necessary for the accomplishment of its charitable purposes, then such rentals or income were not within the ambit of a former, similar provision's limitation upon properties which qualified for a charitable exemption. *Matanuska-Susitna Borough v. King's Lake Camp*, 439 P.2d 441 (Alaska 1968) decided under former, similar law.

The term "claimant," - as used in subsection (f), includes any person having an interest in the property to be exempted, or such person's agent or assigns. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

"Developed." - The meaning of the term "developed" in this section, is consistent with the meaning of that term as used in the Alaska Native Claims Settlement Act. *Kenai Peninsula Borough v. Tyonek Native Corp.*, 807 P.2d 502 (Alaska 1991).

The definition of "developed" is broad enough to include subdivided land which is ready for sale. *Kenai Peninsula Borough v. Cook Inlet Region, Inc.*, 807 P.2d 487 (Alaska 1991).

"Residence" exemption. - The post-Harmon amendment of paragraph (b)(1) broadened the "residence" exemption; the statute now exempts the residence of a pastor who is primarily a spiritual leader but who may also be responsible for other church-related activities. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

The wording of paragraph (b)(1) allows a single parish to contain more than one exempt residence. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

The words "the residence of the pastor," - etc., in a former, similar provision implied that only those residences may qualify that have some direct relationship to a structure used primarily as a house of worship. *Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists*, 462 P.2d 432 (Alaska 1969).

Exemption of assistant pastor's residence. - Sometimes an assistant pastor's residence may be exempt; the label "assistant" does not preclude the exemption. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985).

The parsonage of an assistant or lay pastor - was exempt from an ad valorem tax under the broadened tax exemption provisions of Alaska Const., art. IX, Sec. 4, and a former, similar provision. *Evangelical Covenant Church of Am. v. City of Nome*, 394 P.2d 882 (Alaska 1964).

Residences of church administrators and teachers - did not qualify for property tax exemption under a former, similar provision. *Harmon v. North*

Pac. Union Conference Ass'n of Seventh Day Adventists, 462 P.2d 432 (Alaska 1969).

A religious order has only a single residence; - this is the motherhouse, convent or monastery where the order is based. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

A pastor's choice to allow volunteers or other guests to live in his home does not destroy a "residence" exemption. - *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

But the use of church property for housing visitors and volunteers is not an exempt "religious purpose." - *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Housing for seminary students, church volunteers, and visiting pastors nonexempt. - The policy of strict construction and the Harmon decision necessarily makes nonexempt the housing for seminary students, church volunteers and visiting pastors; nothing in the post-Harmon amendment of paragraph (b)(1) suggests a legislative intent to change the inclusiveness of the exempt residences list. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Youth hostel. - A church-operated youth hostel was a charitable activity. The income from the youth hostel did not taint the hostel's exempt status, for the fees received as payment for the exempt hostel services were related to and necessary for the hostel's operating costs, and were not motivated by profit making; thus, the income limitations of subsection (c) did not apply. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Church-operated radio station. - Ad valorem taxes could be assessed and collected upon the facilities and property of a radio station operated by a church if a portion of the radio time was sold and used for commercial purposes, even if a portion of the profit was used to support the missionary work of the church. *Evangelical Covenant Church of Am. v. City of Nome*, 394 P.2d 882 (Alaska 1964).

To hold that a church-operated, profit-making radio station was exempt from ad valorem taxes would have resulted in a taxed commercial business being forced to compete with the commercial activities of institutions claiming a tax exempt status under a former, similar provision. *Evangelical Covenant Church of Am. v. City of Nome*, 394 P.2d 882 (Alaska 1964).

Property on which a radio station operated by the Catholic bishop was situated was exempt from taxation for the years at issue, for it was used exclusively for "religious purposes"; it was used solely for a combination of "public worship," "religious education," and "charitable purposes." Contributions that were received were only for good will, not in exchange for commercial air time. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska

1985) (decided under former AS 29.53.020).

Office space rented to doctors engaged in private practice. - Office space in a building partially used exclusively for nonprofit hospital purposes, rented to doctors engaged in the private practice of medicine by a nonprofit charitable and religious corporation, was not exempt from taxation. Greater Anchorage Area Borough v. Sisters of Charity, 553 P.2d 467 (Alaska 1976).

Garages. - A garage that housed vehicles used by the Lutheran pastors was exempt property; the garage was "adjacent" to and supporting property for the pastors' exempt residences. City of Nome v. Catholic Bishop, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Storage space - may be exempt as supporting property for other exempt property, or as a charitable use of the property in itself. City of Nome v. Catholic Bishop, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Property leased by hospital. - Property used by a lessee for nonprofit hospital purposes which is also used by the lessor to generate profit is not within the express language of paragraph (a)(3) of this section since the property is not being used exclusively for nonprofit purposes. Sisters of Providence in Washington, Inc. v. Municipality of Anchorage, 672 P.2d 446 (Alaska 1983).

Different tax treatment of equipment owned or leased by hospital is rational - and bears a fair and substantial relation to the object of (a)(3) of this section, which exempts from municipal property tax, property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes; and, therefore, taxation of leased property does not violate the equal protection clauses of the Alaska and United States constitutions. Sisters of Providence in Washington, Inc. v. Municipality of Anchorage, 672 P.2d 446 (Alaska 1983).

While the use of office space by doctor-tenants in conducting their private practices does provide incidental benefits to the adjacent hospital, the office space is not used exclusively for hospital purposes. Greater Anchorage Area Borough v. Sisters of Charity, 553 P.2d 467 (Alaska 1976).

The providing of recreational facilities, - such as accommodations for campers, was a charitable use of the property under a former, similar provision. Matanuska-Susitna Borough v. King's Lake Camp, 439 P.2d 441 (Alaska 1968).

Electric cooperative operating under arrangement with federal agency is not exempt. - A nonprofit cooperative was not an agency of the United States government simply by virtue of an "arrangement" with the Rural Electrification Administration pursuant to 7 USC Sec. 901-915, and therefore immune from local taxation under a former, similar provision. City of Anchorage v. Chugach Elec. Ass'n, 252 F.2d 412 (9th Cir. 1958).

There was no statutory authority under a former, similar provision

exempting the property of Chugach Electric Association from taxation by the city of Anchorage and the Anchorage independent school district. *City of Anchorage v. Chugach Elec. Ass'n*, 252 F.2d 412 (9th Cir. 1958).

Exemption of property on federal land inapplicable to Railroad Reserve. - Under a former, similar provision the doctrine that property located upon federally owned land was immune from local taxation was inapposite where it was not shown that the Railroad Reserve was "federal property" or under the exclusive jurisdiction of the federal government. *City of Anchorage v. Chugach Elec. Ass'n*, 252 F.2d 412 (9th Cir. 1958).

Housing project on air force base. - Any property interest of the federal government in an air force base housing project or any other property within a federal reservation is exempt from taxation by state or local authorities, but any private interest in such land is taxable to the extent of the interest. *Ben Lomond, Inc. v. Fairbanks N. Star Borough Bd. of Equalization*, 760 P.2d 508 (Alaska 1988).

Where taxpayer has leased land on an air force base from the federal government and has leased back to the government the housing project taxpayer constructed on the land, taxpayer's leasehold interest as well as its interest in the buildings are subject to taxation. *Ben Lomond, Inc. v. Fairbanks N. Star Borough Bd. of Equalization*, 760 P.2d 508 (Alaska 1988).

Exceptions to exclusive use rule. - The Supreme Court of Alaska acknowledged two very narrow exceptions to the "exclusive use" rule: (1) De minimus uses and (2) an exception under paragraph (a)(3) for property used for purposes directly incidental to and vitally necessary for the exempt use of other property. *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Spatial apportionment. - The "all, or any portion of, property" language of Alaska Const., Art. IX, Sec. 4 mandates the spatial apportionment of all property into exempt and nonexempt portions; this section mandates spatial apportionment of applicable "property," "residences," "structures," and "lots." *City of Nome v. Catholic Bishop*, 707 P.2d 870 (Alaska 1985) (decided under former AS 29.53.020).

Cited in *City of Valdez v. State, Dep't of Community & Regional Affairs*, 793 P.2d 532 (Alaska 1990).

Collateral Refs -

Exemption from taxation of municipally owned or operated stadium, auditorium, and similar property. 16 ALR2d 1376.

Inclusion of tax-exempt property in determining value of taxable property for purposes of debt limit. 30 ALR2d 903.

Sec. 29.45.040

PROPERTY TAX EQUIVALENCY PAYMENTS.

(a) A resident of the state who rents a permanent place of abode is eligible for a tax equivalency payment from the state through the department if the resident is:

- (1) at least 65 years old;
- (2) a disabled veteran; or
- (3) at least 60 years old and the widow or widower of a person who was eligible for payment under (1) or (2) of this subsection.

(b) For purposes of determining the amount of a payment to an eligible person, the department shall calculate at the rate of one percent per mill a property tax equivalent percentage for each municipality that levies a property tax. The property tax equivalent percentage applied to the annual rent charged to the applicant equals the property tax equivalency payment payable under this section.

(c) To obtain a tax equivalency payment the eligible resident must apply to the department for payment for the preceding year by January 15 of each year on forms and in the manner prescribed by the department. The department for good cause shown may waive an applicant's failure to make timely application for a tax equivalency payment and accept the application as if timely filed. Each applicant shall submit with the application rental receipts or, if rental receipts are not available, other evidence satisfactory to the department for determination of the fact of payment of rent and the amount paid. A disabled veteran shall submit with the application evidence of the disability rating.

(d) If two or more persons occupy a residence as tenants, not all of whom are eligible for a tax equivalency payment under this section, the assessor shall determine equitable partial payments to be made to the eligible tenants. However, a tax equivalency payment to an eligible applicant may not be reduced because the spouse is less than 65 years of age or is not a disabled veteran. If all occupants in a residence are eligible for a tax equivalency payment under this section, the occupants shall decide between and among themselves which shall receive payment.

(e) If appropriations are not sufficient to fully fund tax equivalency payments under this section, the amount available shall be distributed pro rata among eligible residents.

(f) In this section "disabled veteran" has the meaning given in AS 29.45.030(i).

History -

(Sec. 12 ch 74 SLA 1985; am Sec. 3, 4 ch 91 SLA 1985)

Revisors Notes -

The amendment made to (a) of this section by Sec. 3, ch. 91, SLA 1985 was enacted as an amendment to AS 29.73.060(a). Chapter 74, SLA

1985 enacted AS 29.45.040 and repealed AS 29.73.060. The effective date of both 1985 Acts is January 1, 1986. The legislature's intent to amend the tax equivalency provisions has been recognized by treating the amendment to AS 29.73.060(a) as an amendment to (a) of this section. Subsection (e) of this section was enacted as AS 29.73.060(f) and renumbered in 1985. Subsection (f) of this section was enacted as (e) and renumbered in 1985.

Sec. 29.45.045

REIMBURSEMENT PAYMENTS. *REPEALED, Sec. 6 CH 70 SLA 1986, EFFECTIVE JANUARY 1, 1987 .*

Repealed or Renumbered

Sec. 29.45.050

OPTIONAL EXEMPTIONS AND EXCLUSIONS.

(a) A municipality may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at an election. An exclusion or exemption authorized by this section may not exceed the assessed value of \$10,000 for any one residence.

(b) A municipality may by ordinance

(1) classify boats and vessels for the purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage;

(2) classify and exempt from taxation

(A) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes if the income derived from rental of that property does not exceed the actual cost to the owner of the use by the renter;

(B) historic sites, buildings, and monuments;

(C) land of a nonprofit organization used for agricultural purposes if rights to subdivide the land are conveyed to the state and the conveyance includes a covenant restricting use of the land to agricultural purposes only; rights conveyed to the state under this subparagraph may be conveyed by the state only in accordance with AS 38.05.069(c);

(D) all or any portion of private ownership interests in property that, based upon a written agreement with the University of Alaska, is used exclusively for student housing for the University of Alaska; property may be exempted from taxation under this subparagraph for no longer than 30 years unless the exemption is specifically extended by ordinance adopted within the six months before the expiration of that period;

(3) exempt personal property from taxation;

(4) exempt business inventories from taxation;

(5) classify as to type and exempt or partially exempt any or all types of motor vehicles from taxation;

(6) classify as to type and exempt or partially exempt any or all types of aircraft from taxation;

(7) exempt or partially exempt from taxation all boats and vessels that are not documented under the laws of the United States;

(8) exempt or partially exempt from taxation all pickup campers, shells, and canopies;

(9) exempt or partially exempt from taxation all unlicensed motorized all-terrain vehicles, snow machines, and trail bikes.

(c) The provisions of (a) of this section notwithstanding,

(1) a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of a city in the borough, including but not limited to, excluding personal property from taxation, establishing exemptions, and extending the redemption period;

(2) a home rule or first class city has the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes if

(A) the exemptions or exclusions have been adopted as to city taxes; and

(B) the city appropriates to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly;

(3) a city in a borough may, by ordinance, adjust its property tax structure in whole or in part to the property tax structure of the borough, including but not limited to exempting or partially exempting property from taxation.

(d) Exemptions or exclusions from property tax that have been granted by a home rule municipality in addition to exemptions authorized or required by law, and that are in effect on September 10, 1972, and not later withdrawn, are not affected by this chapter.

(e) A municipality may by ordinance classify and exempt or partially exempt from taxation privately owned land, wet land and water areas for which a scenic, conservation, or public recreation use easement is granted to a governmental body. To be eligible for a tax exemption, or partial exemption, the easement must be in perpetuity. The easement is automatically terminated before an eminent domain taking of fee simple title or less than fee simple title to the property, so that the property owner is compensated at a rate that does not reflect the easement grant. The municipality may provide by ordinance that, if the area subject to the easement is sold, leased, or otherwise disposed of for uses incompatible with the easement or if the easement is conveyed to the owner of the property, the owner must pay to the municipality all or a portion of the amount of the tax exempted, with interest.

(f) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to real property if an increase in assessed value is directly attributable to alteration of the natural features of the land, or new maintenance, repair, or renovation of an existing structure, and if the alteration, maintenance, repair, or renovation, when completed, enhances the exterior appearance or aesthetic quality of the land or structure. An exemption may not be allowed under this subsection for the construction of an improvement to a structure if the principal purpose of the improvement is to increase the amount of space for occupancy or nonresidential use in the structure or for the alteration of land

as a consequence of construction activity. An exemption provided in this subsection may continue for up to four years from the date the improvement is completed, or from the date of approval for the exemption by the local assessor, whichever is later.

(g) A municipality may by ordinance exempt from taxation all or part of the increase in assessed value of improvements to a single-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.

(h) A municipality may by ordinance partially or wholly exempt land from a tax for fire protection service and fire protection facilities and may levy the tax only on improvements, including personal property affixed to the improvements.

(i) A municipality may by ordinance approved by the voters exempt from taxation the assessed value that exceeds \$150,000 of real property owned and occupied as a permanent place of abode by a resident who is

- (1) 65 years of age or older;
- (2) a disabled veteran, including a person who was disabled in the line of duty while serving in the Alaska Territorial Guard; or
- (3) at least 60 years old and a widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection.

(j) A municipality may by ordinance approved by the voters exempt real or personal property in a taxing unit used in processing timber after it has been delivered to the processing site from up to 75 percent of the rate of taxes levied on other property in that taxing unit. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration. In this subsection "taxing unit" means a municipality and includes

- (1) a service area in a unified municipality or borough;
- (2) the entire area outside cities in a borough; and
- (3) a differential tax zone in a city.

(k) A municipality may by ordinance approved by the voters exempt from taxation pollution control facilities that meet requirements of the United States Environmental Protection Agency or the Department of Environmental Conservation. An ordinance adopted under this subsection may not provide for an exemption that exceeds five years in duration.

(l) A municipality may by ordinance exempt from taxation an interest, other than record ownership, in real property of an individual residing in the property if the property has been developed, improved, or acquired with federal funds for low-income housing and is owned or managed as low-income housing by the Alaska Housing Finance Corporation under AS 18.55.100 -

18.55.960 or by a regional housing authority formed under AS 18.55.996. However, the corporation may make payments to the municipality or political subdivision for improvements, services, and facilities furnished by it for the benefit of a housing project, and this subsection does not prohibit a municipality from receiving those payments or any payments in lieu of taxes authorized under federal law.

(m) A municipality may by ordinance partially or totally exempt all or some types of economic development property from taxation for up to five years. The municipality may provide for renewal of the exemption under conditions established in the ordinance. However, under a renewal, a municipality that is a school district may only exempt all or a portion of the amount of taxes that exceeds the amount levied on other property for the school district. A municipality may by ordinance permit deferral of payment of taxes on all or some types of economic development property for up to five years. The municipality may provide for renewal of the deferral under conditions established in the ordinance. A municipality may adopt an ordinance under this subsection only if, before it is adopted, copies of the proposed ordinance made available at a public hearing on it contain written notice that the ordinance, if adopted, may be repealed by the voters through referendum. An ordinance adopted under this subsection must include specific eligibility requirements and require a written application for each exemption or deferral. In this subsection "economic development property" means real or personal property, including developed property conveyed under 43 U.S.C. 1601 - 1629e (Alaska Native Claims Settlement Act), that

(1) has not previously been taxed as real or personal property by the municipality;

(2) is used in a trade or business in a way that

(A) creates employment in the municipality;

(B) generates sales outside of the municipality of goods or services produced in the municipality; or

(C) materially reduces the importation of goods or services from outside the municipality; and

(3) has not been used in the same trade or business in another municipality for at least six months before the application for deferral or exemption is filed; this paragraph does not apply if the property was used in the same trade or business in an area that has been annexed to the municipality within six months before the application for deferral or exemption is filed; this paragraph does not apply to inventories.

(n) A municipality may by ordinance classify as to type inventories intended for export outside the state and partially or totally exempt all or some types of those inventories from taxation. The ordinance may provide for different levels of exemption for different classifications of inventories. An ordinance adopted under this subsection must include specific eligibility

requirements and require a written application, which shall be a public document, for each exemption.

History -

(Sec. 12 ch 74 SLA 1985; am Sec. 1 ch 103 SLA 1985; am Sec. 5 ch 70 SLA 1986; am Sec. 1 ch 151 SLA 1988; am Sec. 2 ch 73 SLA 1989; am Sec. 1 ch 98 SLA 1989; am Sec. 15 ch 93 SLA 1991; am Sec. 107 ch 4 FSSLA 1992; am Sec. 1 ch 66 SLA 1993; am Sec. 1 ch 7 SLA 1994; am Sec. 1 ch 65 SLA 1994)

Revisors Notes -

Subsection (h) of this section was enacted as AS 29.53.025(h). Renumbered in 1985. Chapter 103, SLA 1985 also enacted, in Sec. 2, AS 29.63.066, which provides an exemption identical to that set out in (h) of this section from taxes levied under former AS 29.63, repealed by Sec. 88, ch. 74, SLA 1985. The provisions of former AS 29.63 were substantially incorporated in AS 29.45, and the addition of subsection (h) to AS 29.45.050 makes it unnecessary to codify Sec. 2, ch. 103, SLA 1985 to achieve the legislature's purpose.

Amendment Notes -

The 1988 amendment, effective January 1, 1989, added subsection (l).

The first 1989 amendment, effective May 31, 1989, in subsection (e), deleted "However" from the beginning of the third sentence and added the present last sentence.

The second 1989 amendment, effective September 10, 1989, added subsections (m) and (n).

The 1991 amendment, effective September 30, 1991, inserted "including a person who was disabled in the line of duty while serving in the Alaska Territorial Guard" in paragraph (i)(2).

The 1992 amendment, effective July 1, 1992, rewrote subsection (l).

The 1993 amendment, effective September 22, 1993, in subsection (n), deleted the former second and third sentences.

The first 1994 amendment, effective July 5, 1994, added paragraphs (b)(6)-(b)(9) and made a related stylistic change.

The second 1994 amendment, effective August 23, 1994, added subparagraph (b)(2)(D).

History Reports -

For legislative letter of intent in connection with the enactment of (m) and (n) of this section by ch. 98, SLA 1989 (SCS CSHB 272(Fin) am S), see 1989 Senate Journal 1866.

Decisions -

City may not exempt property without express authority. - The authority of a municipal corporation to allow exemptions of particular property from taxation, unless expressly conferred by law, has very

generally been denied. *Valentine v. City of Juneau*, 36 F.2d 904 (9th Cir. 1929), decided under former, similar law.

Cited in *City of Valdez v. State, Dep't of Community & Regional Affairs*, 793 P.2d 532 (Alaska 1990).

# Legislative Research Agency

Alaska State Legislature



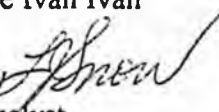
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February 17, 1995

## MEMORANDUM

TO: Representative Ivan Ivan

FROM: Linda J. Snow   
Legislative Analyst

RE: Senior Citizens' and Disabled Veterans' Residential Property Tax Exemptions  
Research Request 95.120

You asked us to provide an overview of the Senior Citizens' and Disabled Veterans' Property Tax Exemption Program [AS 29.45.030 (e) - (i)], including a legislative history and history of appropriations. You also asked us to compare state reimbursements to the municipalities' costs for the program. In this memorandum, we have also included information about the Senior Citizen and Disabled Veteran Property Tax Equivalency Program (AS 29.45.040), which is a companion program to the tax exemption program. The Alaska Department of Community and Regional Affairs administers both programs.

### History of the Senior Citizens' Residential Property Tax Exemptions

Following is a brief chronological summary of legislative activity involving the Senior Citizens' and Disabled Veterans' Property Tax Exemption Program. Table A presents a financial history of the actual property tax exemptions, and the reimbursements to the municipalities for lost revenue.

- 1973 - AS 29.45.030 (e) - (h), allowing a property tax exemption on the full value of residential property for Alaska residents 65 years of age and older with a gross annual income of less than \$10,000, was enacted (Chapter 118, SLA 1972). Alaska municipalities were to grant the exemption, and were to be fully reimbursed by the state for revenues foregone by the granting of the exemptions.
- 1974 - Chapter 60, SLA 1973 deleted the gross income limitation as a prerequisite to eligibility.

Representative Ivan  
February 17, 1995  
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- 1976 - Chapter 65, SLA 1975 added language to allow an extension of the January 15 filing deadline for "good cause shown."
- 1985 - Chapter 40, SLA 1984 added language to the statute allowing the same property tax exemption to Alaska resident veterans with at least 50 percent disability. Chapter 91, SLA 1985 also allows the tax exemption for a person who is at least 60 years of age, and is the widow or widower of a person eligible for property tax exemption under AS 29.45.030 (e) (1) or (2). Further language in this legislation allows the Department of Community and Regional Affairs to prorate reimbursements to the municipalities if legislative appropriations are not sufficient to fully fund the reimbursements. Existing language does not allow the municipalities to cease giving a 100 percent property tax exemption to senior citizens and disabled veterans, and their eligible widows or widowers.
- 1987 - Chapter 70, SLA 1986 limited the tax exemption to the first \$150,000 of the assessed value of the real property, except that municipalities may allow for additional exemptions in hardship cases.

Table A shows the amount of property tax revenue foregone by the municipalities because of the exemption, and the amount reimbursed to the municipalities over the life of the program (fiscal years 1973 to 1995, which correspond to tax years 1972 to 1994). The legislature reimbursed the full amount of lost tax revenues to the municipalities through FY 85. After the law allowed prorated reimbursements to the municipalities, the percent of those reimbursements paid fell progressively, until in FY 95, the legislature reimbursed only 6.9 percent of the mandated tax exemption. Alaska municipalities absorbed \$15.7 million in lost tax revenues due to the mandate in FY 95. The cumulative loss to municipalities since proration of reimbursements began in FY 86 is \$75.1 million.

#### **Senior Citizen and Disabled Veteran Property Tax Equivalency Program (AS 29.45.040)**

This program extends to renters the same benefits received by home owners under the Senior Citizen and Disabled Veteran Property Tax Exemption Program. Eligible renters receive a rebate in the amount equivalent to the portion of their rent that is property tax. The major difference between this program and the tax exemption program is that in this program the state directly pays the eligible senior citizens, disabled veterans, and surviving spouses. Any shortfall directly affects the eligible recipients, as individual rebates are prorated to the amount of funds available for payment. Municipal revenues are not impacted by shortfalls to the program as the property owners must pay the full amount of municipal property taxes. The property owners are not affected, as the eligible renters must still pay the full amount of their rent.

Representative Ivan  
February 17, 1995  
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Following is a brief legislative history of the Senior Citizen and Disabled Veteran Property Tax Equivalency Program. Table B presents a history of the total benefits paid to eligible residents over the life of the program.

- 1976 - AS 29.45.040 was enacted, creating the Senior Citizen Property Tax Exemption Program (Chapter 217, SLA 1976). Initially, the amount of the equivalency payment was computed by multiplying the number of mills that a municipality levies times 1/2 percent. This amount was considered the percentage portion of the total annual rent paid that went to property taxes. That percentage was then multiplied by the eligible residents' annual rent to determine the amount of the rebate, with a limitation of \$375 per eligible resident per year.
- 1978 - the act was amended to double the rebates by increasing the payment from 1/2 percent times the number of mills to 1 percent times the number of mills charged per municipality, and the \$375 annual payment cap was deleted.
- 1985 - the act was amended to include veterans with at least a 50 percent disability, and persons who were at least 60 years of age and a surviving spouse of an eligible person. Prorating language included in this bill allows the Department of Community and Regional Affairs to prorate tax equivalency payments if legislative appropriations are not sufficient to fully fund them.

Table B shows the total rebates paid to eligible Alaska residents over the life of the Senior Citizen and Disabled Veteran Property Tax Equivalency Program (FY 77 to FY 95, which correspond to tax years 1976 to 1994). Although representatives of the Department of Community and Regional Affairs were unable to provide us with the calculated payments due according to the legislation, we do know that payments have been prorated according to available legislative appropriations since FY 86. According to Steve Van Sant, State Assessor in the Department's Division of Municipal and Regional Assistance, FY 95 prorated payments consisted of about 30 percent of the calculated rebates due.

I hope this information is helpful to you. If you have need of further assistance, please feel free to call this office.

Attachments

Table A

**Property Tax Exemptions to Senior Citizens and Disabled Veterans**  
Fiscal Years 1973 to 1994

Fiscal Year	Number of Applications Approved	Assessed Value Exempt	Total Taxes Exempted	Total Revenue Reimbursement	Shortfall to Municipalities	Percent of Exemption Reimbursed	Average Value per App	Average Tax Ex. per App	Average Reimb. per App
1973	911	\$12,960,993	\$197,050	\$197,050	\$0	100.0%	\$14,227	\$216	\$216
1974	1,887	\$40,842,657	\$631,891	\$631,891	\$0	100.0%	\$21,644	\$335	\$335
1975*	2,426	\$59,918,061	\$930,915	\$930,915	\$0	100.0%	\$24,698	\$384	\$384
1976**	0	\$0	\$0	\$0	\$0		\$0	\$0	\$0
1977	2,608	\$76,737,060	\$1,171,227	\$1,171,227	\$0	100.0%	\$29,424	\$449	\$449
1978	2,909	\$104,306,352	\$1,512,983	\$1,512,983	\$0	100.0%	\$35,856	\$520	\$520
1979	3,108	\$128,810,117	\$1,761,540	\$1,761,540	\$0	100.0%	\$41,445	\$567	\$567
1980	3,393	\$165,159,728	\$1,899,611	\$1,899,611	\$0	100.0%	\$48,677	\$560	\$560
1981	3,842	\$211,428,981	\$2,291,811	\$2,291,811	\$0	100.0%	\$55,031	\$597	\$597
1982	4,147	\$277,154,113	\$1,757,887	\$1,757,887	\$0	100.0%	\$66,832	\$424	\$424
1983	4,893	\$324,220,034	\$2,092,317	\$2,092,317	\$0	100.0%	\$66,262	\$428	\$428
1984	5,156	\$392,215,073	\$3,146,618	\$3,146,618	\$0	100.0%	\$76,070	\$610	\$610
1985	5,418	\$478,983,142	\$4,005,075	\$4,005,075	\$0	100.0%	\$88,406	\$739	\$739
1986	6,061	\$609,947,921	\$4,976,081	\$3,958,567	(\$1,017,514)	79.6%	\$100,635	\$821	\$653
1987	6,569	\$737,706,208	\$6,325,947	\$2,770,300	(\$3,555,647)	43.8%	\$112,301	\$963	\$422
1988	7,118	\$760,355,669	\$6,754,982	\$2,622,969	(\$4,132,013)	38.8%	\$106,822	\$949	\$368
1989	7,900	\$598,877,461	\$7,465,500	\$2,519,344	(\$4,946,156)	33.7%	\$75,807	\$945	\$319
1990	8,557	\$606,951,397	\$8,625,456	\$2,543,469	(\$6,081,987)	29.5%	\$70,930	\$1,008	\$297
1991	9,246	\$665,058,233	\$9,588,102	\$2,557,900	(\$7,030,202)	26.7%	\$71,929	\$1,037	\$277
1992	9,986	\$754,166,097	\$11,294,166	\$2,838,800	(\$8,455,366)	25.1%	\$75,522	\$1,131	\$284
1993	10,719	\$883,539,005	\$13,669,469	\$2,838,800	(\$10,827,925)	20.8%	\$82,427	\$1,275	\$265
1994	11,594	\$979,290,045	\$14,840,320	\$1,551,766	(\$13,288,554)	10.5%	\$84,465	\$1,280	\$134
1995	12,199	\$1,064,556,490	\$16,894,296	\$1,163,800	(\$15,731,815)	6.9%	\$87,266	\$1,385	\$95

\* Filing deadline extended.

\*\* The fiscal year time frame was difficult to meet in view of municipal schedules; therefore, FY 76 funds were allowed to lapse and FY 76 reimbursements were made from the FY 77 appropriation.

Notes: 1. The program began with property tax exemptions for senior citizens in FY 73. Disabled veterans and widows or widowers of eligible property owners who were at least 60 years old began receiving exemptions in FY 85.

2. A fiscal year corresponds to the prior tax year (calendar year).

Source: *Alaska Taxable* (1974 - 1994), produced by the Department of Community and Regional Affairs.

Prepared by the Legislative Research Agency, February, 1995 (95.120A).

Table B

**Senior Citizen and Disabled Veteran Property Tax  
Equivalency Program  
Fiscal Years 1977 to 1995**

Fiscal Year	Number of Applications Approved	Total Benefits Paid	Average Payment per Applicant
1977	324	\$62,284	\$192
1978	538	\$99,033	\$184
1979	533	\$94,824	\$178
1980	738	\$122,894	\$167
1981	694	\$230,996	\$333
1982	742	\$160,163	\$216
1983	720	\$208,538	\$290
1984	662	\$210,573	\$318
1985	695	\$268,349	\$386
1986	654	\$260,592	\$398
1987	710	\$311,632	\$439
1988	732	\$397,111	\$543
1989	802	\$499,675	\$623
1990	873	\$644,144	\$738
1991	970	\$745,605	\$769
1992	1,032	\$818,793	\$793
1993	1,207	\$818,793	\$678
1994	1,233	\$448,234	\$364
1995	1,048	\$336,200	\$321

Note: A fiscal year corresponds to the prior tax year (calendar year).

Source: *Alaska Taxable (1978 - 1994)*, produced by the Department of Community and Regional Affairs.

Prepared by the Legislative Research Agency, February 1995 (95.120B).



# Alaska Native Brotherhood

March 17, 1995

Camp No. 2

Mr. Ivan M. Ivan, Chairman  
Committee on Community & Regional Affairs  
State Capitol Bldg.  
Juneau, Ak 99801

Dear Honorable Chairman Ivan:

The Alaska Native Brotherhood Camp Two, Juneau, wishes to express its opposition to H.B. 185.

The Citizen's proportionately, to be most adversely affected are the elderly and retired Natives of Southeast Alaska, who are Alaskan's through and through. These are individuals that regard Alaska as their only home. They are not your typical transient residents. They have spent their entire lifetime at productive activity benefiting the State with their contributions to a better society as well as a lifetime of taxes. Others will of course choose to leave the State and relocate to friendlier climes.

There is a distinct possibility, due to limited income, that some of our people will loose all their resources as well as their homes, resulting in a life supported by the State in the form of welfare.

We urge you to consider the impact on Alaska's first citizens.

Respectively Submitted,

Jeff Anderson, President

Percy Hope, Camp Council

Roy Dennis, Camp Treasurer

cc: Representatives Kim Elton, Karen Robinson  
Senator Jim Duncan



217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

To: Representative Ivan Ivan

From: Kevin Ritchie, Executive Director

Date: March 9, 1995

Re: HB 185- Senior Citizen/ Disabled Veteran Property Tax exemption

On behalf of the municipalities of the Alaska Municipal League, thank you for your support of Alaskan municipalities.

As you know, the mandatory property tax exemption was initially funded by the state. This state has progressively reduced its support of the program. Currently, the program is the most problematic of all state unfunded mandates on municipalities. Making this exemption a local option, instead of a state mandate, has been a top priority of the AML for a number of years. However, the municipalities have represented in the past that each municipality would support some type of locally developed program to address the issue of support for seniors and disabled veterans.

The AML recently met with representatives of seniors and disabled veterans. The conclusion of the discussions was that the disabled veterans did not support a reduction in the program. However, the AARP, which represents 43,000 Alaskan seniors, offered a compromise that is acceptable to the communities of the Alaska Municipal League. The compromise is balanced and fulfills the basic goals of the AML and the AARP.

**The compromise is to reduce the mandatory exemption from \$150,000 for seniors to \$75,000.** This compromise, while still retaining the exemption as a largely unfunded mandate, provides municipalities with a reasonably balanced program for seniors with low administrative costs, a lower municipal subsidy amount for the program, and a slower growth for the municipal subsidy of this program. This compromise ensures that seniors in modest trailers or houses will receive a full exemption and that seniors in more expensive housing will receive a partial subsidy of their property taxes. **It is critical to recognize that a reduction to \$75,000 is not a large windfall for municipalities, in fact, the statewide average exemption under this program is \$87,266 according to the 1994 Alaska Taxable (DCRA).** The average subsidy decrease would be approximately a 20% to 25% reduction in subsidies for the exemption on the part of municipalities (which includes an offset for a higher local contribution for schools), assuming the current state support remains the same.

The Alaska Municipal League supports a compromise to reduce the mandatory exemption for seniors from \$150,000 to \$75,000, which includes the existing provision that municipalities may opt to grant a larger exemption, but, that any larger optional exemption for seniors would not negatively impact the formulas for local contribution for schools or revenue sharing. The AML would not support any exemption amount higher than \$75,000.



*Bringing lifetimes of experience and leadership to serve all generations.*

ALASKA STATE LEGISLATIVE COMMITTEE

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#5 Second Street  
P.O. Box 35  
Hope, AK 99605  
(907) 782-3651

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SECRETARY  
Barbara Rich  
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Fairbanks, AK 99708  
(907) 479-2509

COORDINATOR  
Capital City Task Force  
Rupert Andrews  
9416 Long Run Drive  
Juneau, AK 99801  
(907) 789-7422

March 7, 1995

Kevin Richie, Executive Director  
Alaska Municipal League  
Juneau, Alaska 99801

Dear Kevin:

Alaska's property tax relief program for seniors and disabled veterans is over 20 years old and was enacted to provide tax relief for people who qualified, from an overloading tax burden caused by accelerating property values and tax rate increases. The public policy expressed was to assist seniors and disabled veterans to remain in Alaska and in their own homes for as long as they chose to remain.

Seniors and disabled veterans are most usually living on fixed incomes and are vulnerable to accelerating tax rates and the real probability of losing their homes because they cannot pay their taxes. Because of this concern the Alaska Legislature enacted circuitbreaker legislation for tax overloaded seniors and disabled veterans with limited earning power and fixed incomes by providing exemption from residential property taxes on the first \$150,000 of the appraised evaluation. The exemption mandated by state law, provided for reimbursement to local governments. In practice, however, the reimbursement has been underfunded since its' inception causing the local governments to either absorb the revenue loss and/or shift the tax burden to other property.

Seniors have always supported paying their fair share for services and programs of government. Seniors and disabled veterans want to contribute and share fiscal responsibility with all generations and tax payers within their fiscal

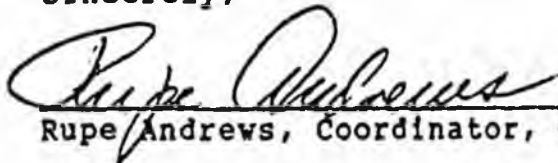
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AARP proposes an amendment to HB 185 that in our opinion will be fair to the seniors and disabled veterans that have been receiving tax relief and for future seniors and disabled veterans, and for local governments that have been carrying the burden. To completely eliminate the property tax relief would impose considerable hardship on thousands of senior and disabled veteran Alaskans to be suddenly faced with a tax bill that they have inadequate resources to adjust to.

AARP proposes that HB 185 be amended to reflect an amendment to AS 29.45 to reduce the real property exemption of \$150,000 of the appraised evaluation, downward 50% to \$75,000 of the appraised evaluation. The effect will be to improve the revenue to the local governments while at the same time targeting the lowest income group with the greatest needs. The exemption should not be means tested beyond the present language of AS 29.45.

AARP further proposes that the \$150,000 exemption for disabled veterans remain the same. Disabled veterans comprise only a few thousand of Alaskans exempted from the property tax and as public policy veterans, and especially disabled veterans, are awarded extra benefits.

Sincerely,



Rupe Andrews, Coordinator, CCTF, AARP

**Senior Citizen Exemption  
Estimated Reduction at Predetermined Values  
\$75,000 and \$60,000 Maximum Exemptions**

	1994 Senior Citizen Assessed Values \$150,000 Maximum	Estimated Taxes For 1994	Indicated Mill Rate	1994 Senior Citizen Assessed Values \$75,000 Maximum	Estimated Taxes On \$75,000 Exemption	Percent Reduction
Municipality of Anchorage	\$494,611,531	\$8,465,767	0.01711599	\$346,083,887	\$5,923,569	30.03%
Fairbanks North Star Borough	\$118,304,477	\$2,170,879	0.01834993	\$82,724,947	\$1,517,997	30.07%
City & Borough of Juneau **	\$93,672,500	\$1,318,909	0.01408	\$55,119,300	\$71,080	41.16%
Kenai Peninsula Borough	\$99,542,997	\$1,266,666	0.01272481	\$71,270,276	\$906,901	28.40%
Ketchikan Gateway Borough	\$45,675,800	\$608,006	0.01331134	\$32,478,500	\$432,332	28.89%
Kodiak Island Borough	\$18,275,450	\$151,795	0.00830595	\$12,343,150	\$102,522	32.46%
Matanuska-Susitna Borough	\$116,567,787	\$2,246,435	0.01927149	\$83,810,000	\$1,615,144	28.10%
<b>Totals</b>	<b>\$986,650,542</b>	<b>\$16,228,457</b>	<b>0.01644803</b>	<b>\$683,830,060</b>	<b>\$11,274,544</b>	<b>30.69%</b>
** Juneau figures for exempt maximums are based upon 1995 values as '94 are unavailable						

*saved*

*4 mill for schools increase*

*2,542,198  
652,882  
542,829  
359,765  
175,674  
50,273  
631,291*

*148,527,644 X .004 = 594,108,  
35,599,530 X .004 142,396  
38,553,200 X .004 154,212  
28,272,721 X .004 113,056  
13,197,300 X " 52,788  
5,932,300 X " 23,728  
32,757,787 X " 131,028  
362,840,482 X .004 = (1,211,362)*

*\$4954,912*

*\$11.2 million - sa*

*These numbers represent 92%  
total state wide*

RECEIVED  
MAR 10 1995



## CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833  
TELEPHONE (907) 772-4511  
TELECOPIER (907) 772-3759

March 7, 1995

Representative Ivan Ivan  
Room 503  
State Capitol  
Juneau, Alaska 99801-1182

Re: House Bill 185  
Municipal Property Tax Exemptions

Dear Representative Ivan:

The City of Petersburg has received a copy of HB 185 relating to an exemption from municipal property taxes for certain primary residences.

The city has consistently supported legislation in the past to require the state to fully reimburse municipalities for revenues lost because of exemptions or allow municipal governments to, by local option, grant property tax relief to senior citizens and disabled veterans. Since 1985, the city has lost \$762,373 in property tax revenue because the state has failed to fully fund its mandated exemption.

The City Council of the City of Petersburg, at their regular meeting of March 6, 1995, voted in support of House Bill 185 and encourages the legislature to act affirmatively on this important piece of legislation this session.

Sincerely,

Dave Carlson, Mayor  
City of Petersburg

cc: Alaska State House of Representatives  
Alaska State Senate

## MILITARY ORDER OF THE PURPLE HEART

CHARTERED BY CONGRESS



1782

1932

ALASKA CHAPTER  
1530 BEAVER PL.  
ANCHORAGE, AK 99504  
19071 333-8760 / 337-1060  
FAX (907) 333-7577

FACSIMILE TRANSMITTAL SHEET

TO: Representative Ivan Ivan  
State Capitol  
Juneau, AK 99801-1182  
Tel: 907-465-4942  
FAX: 907-465-4589

FROM: Brad Bradley, Commander and  
National Chief of Staff for Alaska  
Military Order of the Purple Heart of the U.S.A.  
1530 Beaver Place  
Anchorage, AK 99504-2517  
TEL: 907-333-8760/FAX: 907-333-7577

DATE: March 8, 1995

CC: Representative Ed Willis, State Capitol  
Juneau, AK 99801-1182  
TEL: 907-465-2199/FAX: 907-465-4587

MESSAGE: Ref HB 185, Exemption from Municipal Property Taxes for Certain Primary Residences..

Due to limited time to respond before your hearing is scheduled, I have not been able to contact many 65-year old or older senior citizens and 50-percent combat-connected disabled veterans. However, I do not believe I need more time, because I have worked with these two categories of people for many years.

The requirement should be 50 percent disability for veterans if the veteran's disability was as a result of wounds inflicted by the enemy in combat overseas and 70 percent disability for veterans whose disability while in military service was a result of something like diabetes, high blood pressure, heart, cancer or some other ailment that they might have had if they never had been in service or had served only six months stateside before discharge unless seriously disabled and

NUMBER OF PAGES (INCLUDING TRANSMITTAL SHEET): 4

THE ONLY VETERANS ORGANIZATION IN WHICH MEMBERSHIP AUTOMATICALLY  
DENOTES COMBAT SERVICE AND IS EXCLUSIVELY FOR COMBAT-WOUNDED VETERANS

medically discharged. There is a distinct difference in disabled veterans. Some made bigger sacrifices and are more deserving. Seventy percent is what the Veterans Administration recommended when I first drafted the bills for disabled veterans property tax exemption and the disabled veteran's license plate. The property tax exemption got changed through the legislative process to 50 percent disability service-connected. However, the license plate still requires 70 percent disability. Unfortunately, all legislators do not have full information on some bills, and the sponsor of a bill who does have the information may have to get whatever he can at the time, and hope to correct any errors in a subsequent legislature.

Neither seniors nor disabled veterans want the property tax exemption to be based on financial need, although that truly is the case in most instances. It would then be welfare. That is the reason seniors did not want the longevity bonus to be based on financial need, although it was a financial need for many. Many would not receive it, even if they needed it, if it was considered welfare. If you satisfy the requirement you should receive it. Why should someone that had been on the dole all their life get the same benefit as someone who had worked most of their life, but in their later years, because of loss of health, could no longer do so. The financial-need requirement destroys the dignity of the more deserving senior or disabled veteran.

I canvassed the mayor and six of the Municipality of Anchorage Assembly Persons two years ago, and they all said they would continue the Property Tax Exemption Program for the qualified residents of Anchorage whether the State funded the program or not, but some of the other municipalities/boroughs could not or would not. This would be discriminatory, and there would probably be a deluge of qualified persons moving to Anchorage to get the benefit, which would be an unnecessary burden on Anchorage taxpayers. This would not be a fair solution and would eventually kill the program altogether. I do not know what the financial status is of these municipalities/boroughs to date. I believe most are less capable financially today.

I know quite a few qualified seniors and disabled veterans who have a barely adequate primary abode, a moderately adequate one or a very nice one, but if some of them, regardless of the appraised value of their home, had to pay their property taxes, their homes would eventually be foreclosed on, because of inability to pay back taxes. Then, they would have to go to a Pioneer Home, of which most have a waiting list as long as your arm. The State would have to pay for a place for them to stay and their care, which is welfare. This would cost the State far more than if they stayed in their own homes. It would also destroy their dignity, and to say the least, shorten the last few years they have on this earth. Even if they eventually did get

in a Pioneer Home, it still would cost the State more than if they stayed in whatever kind of home they originally had, which they would prefer.

Although my political philosophy does not usually accommodate unfunded mandates, I believe, in this instance, we should keep the state mandate and limit the amount to be exempted for a home, if we must, which was done several years ago. However, I know quite a few seniors and disabled veterans who have worked as much and long as they were able to, and some had even paid for their homes, but have only their social security or very little savings on which to live. They did not have retirements from companies for which they had worked or from their own businesses. They either got in bad health or were disabled while serving their country in the military service. Most of these citizens did not work for companies that provide adequate retirements and health benefits, or the government like legislators and other employees of the State and Federal governments.

Keep the mandate on municipalities and fund as much as you can. It is still the humane, compassionate, and least costly thing to do until some day we re-establish a State Income Tax or receive more revenue from some other sources to supplement the funding for our elderly and disabled citizens.

I believe I know of what I speak, because I have been working with both seniors and veterans for over 20 years. I am a member of 12 veterans organizations in Anchorage, and have been an officer in most at some time and even a commander in several. Additionally, I arranged for and chaired the first Military and Veterans Affairs Committee in the Senate 15 years ago, and during the committees existence and my eight years in the Senate, I drafted legislation for 14 state veterans benefits, most of which became law. We lost our death gratuity (burial allowance) and Veterans Affairs Division during the last legislature. We should do our best to get both back. It cost about four hundred dollars more to bury someone in Alaska than it does in Washington State.

I organized the Coalition of Alaska Veterans Political Action Committee 18 years ago, the Disabled American Veterans (DAV) organization in Alaska 17 years ago and the Military Order of the Purple Heart of the U.S.A. (MOPH) three years ago. The DAV had only 10 members of 1300 in Alaska that had been disabled in combat with wounds inflicted by the enemy and who had received a Purple Heart Medal. During the last survey of the MOPH, 70 percent of its over 200 members were 50 to 100 percent disabled. Fifty-two were severely disabled due to wounds from enemy fire. Many of our 100 percent disabled members are ambulatory, but four

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are completely wheelchair-bound. None of these can hold a decent job or adequately support themselves and their families. Some of those men may have been able to be a legislator or maybe even President of our Nation, but because they served their country, they are handicapped and can never fulfill their original full potential. This is indeed a shame. If a disabled veteran receives 100 percent of his Private, Corporal or Sergeant's pay, he cannot live on it. However, a General Officer, whether disabled or not, can live quite well on his retirement. It should not be by rank, but a living wage. Who do you think took more risks and did more on the frontlines in combat to win the battles? I believe you know the answer. Unfortunately, I do not have the power to change this. I wish I did, but I can do what I can. That is why I am passing my knowledge on to you in hopes you will see justice done. I also have given a large part of my time since retiring from the military service trying to help veterans, especially the disabled and more deserving. I have done much the same for senior citizens.

In regard to the senior citizens, I am currently Chairman of the Board of Trustees of the Older Persons Action Group (OPAG) Endowment Foundation and a board member of the Chugiak Senior Center Foundation. Additionally, I have been a board member of the regular OPAG Board, the OPAG Advisory Committee, Association of American Retired Persons (AARP) Board, and I have been an active member of both OPAG and AARP for over 20 years.

We have less veterans and less older individuals as legislators today than during my eight years in the Senate. Also, the cold and hot war is over, but I hope you will not forget those who served. "Freedom is not Free." Many citizens, young and old, had to serve. Do not forget our deserving elderly and veterans, especially those who made the greatest sacrifice, both seniors, who for one reason or another could not serve in the military, but wanted to, and the veterans who did.

I hope I have been of some help to your committee, but do not stop there. Make sure the Senate gets the benefit of this information also.

**FY 95 Cost to Individual Municipalities of Underfunding of the  
Senior Citizen/Disabled Veteran Property Tax Exemption Program**

<b>Municipality</b>	<b>Cost of FY 95 Underfunding</b>
Municipality of Anchorage	\$7,878,617
Bristol Bay Borough	5,682
City of Cordova	67,613
City of Craig	9,301
City of Dillingham	13,585
City of Eagle	304
Fairbanks North Star Borough	2,021,295
Haines Borough	78,097
City and Borough of Juneau	1,144,542
Kenai Peninsula Borough	1,179,388
Ketchikan Gateway Borough	566,112
Kodiak Island Borough	141,335
Matanuska-Susitna Borough	2,091,645
City of Nenana	9,166
City of Nome	46,162
North Slope Borough	24,698
City of Pelican	1,602
City of Petersburg	137,169
City and Borough of Sitka	145,902
City of Skagway	22,784
City of Unalaska	2,639
Valdez	58,921
Whittier	372
Wrangell	71,031
City and Borough of Yakutat	8,302
<b>Total Shortfall in FY 95</b>	<b>\$15,726,264</b>

Source: Department of Community and Regional Affairs.

**1994 Senior Citizen/Disabled Veterans Property Tax Exemption Program Summary**

Municipality	Homeowner - S.C/DAV Program				Disabled Veterans			SC/DAV		Pro Rata	Farm-Use Program					Total Taxes
	Senior Citizens	Senior Citizens	Senior Citizens	DAV	Disabled Veterans	Disabled Veterans	SC/DAV	SC/DAV	SC/DAV		SC/DAV	No. of Applicants	Total Acreage	Assessed Value	Farm-Use Value	
Municipality of Anchorage	1,152	\$428,693,826	\$7,308,333	630	\$65,689,176	\$1,123,529	5,452	\$497,382,831	\$8,461,652.10	\$981,045.88	3	07.02	\$1,350,250	\$961,500	\$5,780	
Baraboo Bay Borough	13	\$671,800	\$8,103	0	\$0	\$0	0	\$671,800	\$6,102.60	\$420.50	0	0.00	\$0	\$0	\$0	
Barrow North Star Borough	1,453	\$138,464,927	\$1,864,982	144	\$11,830,550	\$215,697	1,630	\$138,294,477	\$2,170,878.53	\$149,253.72	23	3,143.22	\$4,508,092	\$3,851,364	\$65,670	
Bellevue Borough	113	\$6,030,575	\$87,227	0	\$200,030	\$1,650	116	\$6,230,575	\$43,878.67	\$3,779.49	0	0.00	\$0	\$0	\$0	
City of Bethel	749	\$34,673,803	\$1,182,697	25	\$3,291,630	\$16,246	773	\$37,355,200	\$1,219,242.94	\$84,706.27	0	0.00	\$0	\$0	\$0	
Kenai Peninsula Borough	1,201	\$95,728,027	\$1,218,610	54	\$3,814,976	\$48,757	1,255	\$95,542,697	\$1,266,668.39	\$87,278.91	12	1,452.03	\$2,336,300	\$441,103	\$17,499	
Ketchikan Gateway Borough	482	\$16,284,203	\$653,677	0	\$391,600	\$4,269	486	\$16,675,600	\$648,008.11	\$41,694.31	0	0.00	\$0	\$0	\$0	
Kodiak Island Borough	183	\$17,558,051	\$146,692	6	\$717,400	\$5,103	189	\$17,275,420	\$151,794.35	\$16,459.31	4	320.89	\$1,910,600	\$691,803	\$8,432	
Matanuska-Susitna Borough	1,323	\$104,825,287	\$2,018,512	143	\$11,742,500	\$228,623	1,466	\$116,587,787	\$2,276,434.71	\$154,789.27	10	10,904.59	\$21,504,700	\$14,291,303	\$269,085	
North Slope Borough	28	\$1,463,340	\$28,525	0	\$0	\$0	28	\$1,463,340	\$28,525.15	\$1,827.70	0	0.00	\$0	\$0	\$0	
City & Borough of Sitka	240	\$25,881,570	\$138,689	2	\$150,000	\$1,000	242	\$26,031,570	\$178,689.42	\$10,787.28	0	0.00	\$0	\$0	\$0	
City & Borough of Yentel	17	\$960,759	\$6,917	0	\$0	\$0	17	\$960,759	\$8,918.75	\$614.00	0	0.00	\$0	\$0	\$0	
Cordova	68	\$5,978,143	\$72,618	0	\$0	\$0	68	\$5,978,143	\$72,618.05	\$5,003.57	0	0.00	\$0	\$0	\$0	
Crater	20	\$1,582,238	\$8,377	2	\$102,612	\$812	22	\$1,684,842	\$9,989.05	\$688.29	0	0.00	\$0	\$0	\$0	
Edinburg	21	\$2,431,801	\$14,691	0	\$0	\$0	21	\$2,431,800	\$14,693.63	\$1,005.37	0	0.00	\$0	\$0	\$0	
Esley	6	\$326,654	\$327	0	\$0	\$0	6	\$326,650	\$328.63	\$22.51	0	0.00	\$0	\$0	\$0	
Healy	21	\$772,787	\$9,517	1	\$28,548	\$327	22	\$800,309	\$8,844.03	\$878.50	0	0.00	\$0	\$0	\$0	
Nome	73	\$4,537,003	\$18,450	1	\$104,900	\$1,128	74	\$4,641,903	\$49,578.17	\$2,418.15	0	0.00	\$0	\$0	\$0	
Palcaza	5	\$236,758	\$1,721	0	\$0	\$0	5	\$236,758	\$1,720.80	\$118.65	0	0.00	\$0	\$0	\$0	
Petersburg	134	\$4,355,747	\$143,557	3	\$376,250	\$3,763	137	\$4,731,997	\$147,318.97	\$10,157.00	0	0.00	\$0	\$0	\$0	
Sitka	39	\$3,051,278	\$23,358	1	\$127,300	\$1,113	40	\$3,178,578	\$24,470.28	\$1,688.12	0	0.00	\$0	\$0	\$0	
Unalaska	3	\$240,644	\$2,632	0	\$0	\$0	3	\$240,640	\$2,634.73	\$195.23	0	0.00	\$0	\$0	\$0	
Valdez	41	\$2,928,493	\$58,500	4	\$124,850	\$4,691	45	\$3,053,343	\$63,281.00	\$4,360.54	0	0.00	\$0	\$0	\$0	
Whittier	6	\$70,885	\$399	0	\$0	\$0	6	\$70,885	\$399.43	\$27.82	0	0.00	\$0	\$0	\$0	
Wrangell	110	\$8,051,950	\$15,844	1	\$44,300	\$443	111	\$8,096,250	\$76,287.20	\$5,286.82	0	0.00	\$0	\$0	\$0	
<b>Totals</b>	<b>11,204</b>	<b>\$65,449,705</b>	<b>\$1,206,294</b>	<b>993</b>	<b>\$9,452,656</b>	<b>\$1,684,768</b>	<b>12,197</b>	<b>\$1,064,302,381</b>	<b>\$16,890,064.09</b>	<b>\$1,183,300.00</b>	<b>143</b>	<b>16,987.75</b>	<b>\$1,110,742</b>	<b>20,841,684</b>	<b>\$67,386</b>	
								<b>FY 95 Funding</b>	<b>\$1,163,800.00</b>							
								<b>Shortage</b>	<b>(\$15,726,284.09)</b>							
								<b>Pro Rata Percent</b>	<b>0.06890</b>							

## **Senior Citizen/Disabled Veteran Property Tax Exemption**

The municipalities of the Alaska Municipal League support elimination of the unfunded mandate imposed on municipalities by AS 29.45.030, which establishes the Senior Citizen/Disabled Veteran Property Tax Exemption Program. The League urges the Alaska State Legislature to introduce and adopt legislation that would allow municipal governments to by, local option, grant property tax relief to senior citizens and disabled veterans by exempting or deferring taxes on all or part of the value of eligible property.

### ***What is an Unfunded Mandate?***

An unfunded mandate is the practice of a higher level of government (federal/state) imposing costly programs or requirements on a lower level of government (state/municipalities) without proper funding. This takes the taxing and decision-making rights away from local governments who are forced to pay for the mandates.

### ***What is the Senior Citizen/Disabled Veteran Property Tax Exemption?***

AS 29.45.030(e) requires municipalities to exempt from local property tax up to an assessed value of \$150,000 of the primary residence of:

- (1) a resident 65 years or older;
- (2) a disabled veteran; or
- (3) a resident at least 60 years old who is the widow or widower of a person qualified

A complementary program, which provides refunds directly to senior citizen renters to compensate for property tax included in their rent charges, was established at the same time.

### ***Why does the Alaska Municipal League want to change the program?***

When the program was enacted by the Alaska Legislature in 1973, it included a provision that the state would reimburse municipalities for tax revenues lost because of the exemption. However, the state has not provided reasonable funding for the program. The League believes the level of government responsible for paying for a program should have the authority to make decisions about that program.

### 993 Effort to Solve the Problem

In 1993, legislation requested by the Alaska Municipal League was introduced that would have repealed the state-mandated tax exemption for senior citizens and disabled veterans and allowed local governments to develop their own tax relief programs for these groups. The bill, HB 66, was passed by both houses of the Legislature but fell victim to a last-minute reconsideration.

The Alaska Municipal League urges the Alaska State Legislature to eliminate the unfunded mandate of the Senior Citizen/Disabled Veteran Property Tax Exemption and allow local governments to create their own programs of tax relief for these groups.

### What are the options?

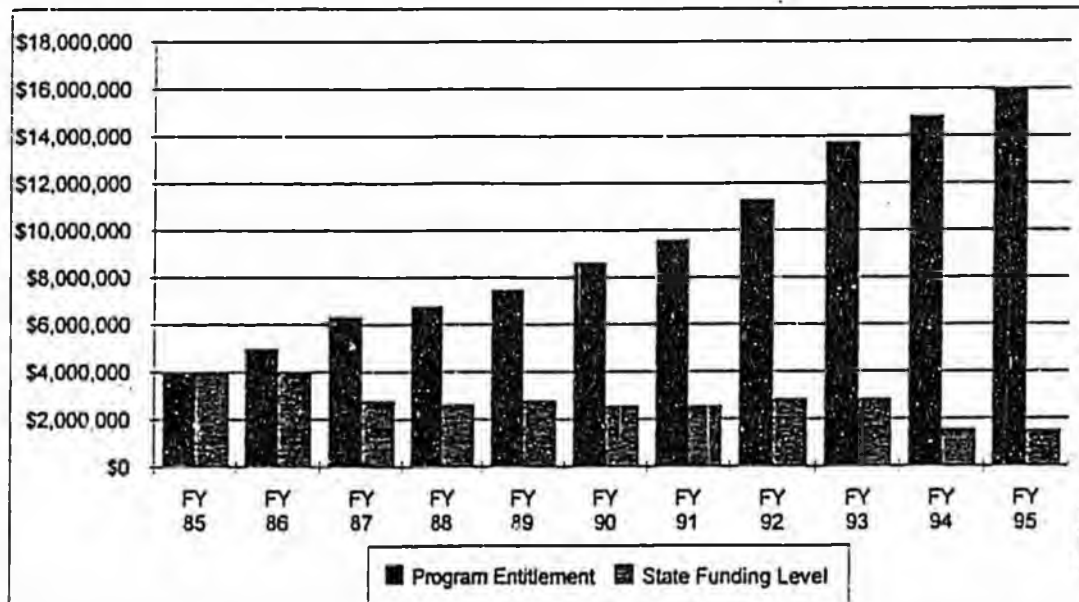
Each community should have the option of structuring a program that will make the best use of its limited resources. Such a program could:

- 1) Continue a program similar to the current state mandated program
- 2) Reduce the property tax exemption level on seniors' homes (currently at \$150,000)
- 3) Base the exemption on need
- 4) "Allow for a deferral of taxes to enable a senior citizen or disabled veteran to stay in his or her home"

### How much has this program cost municipalities?

As witnessed by the following charts, eligibility for the program and its cost has continued to grow, but state funding has been drastically cut back.

Funding History - Senior Citizens/Disabled Veterans  
Property Tax Exemption Program



**D. LOCAL TAXES**

1. **Tax-Levying Authority:** The League supports broader municipal authority to consider alternatives to property taxes. The League opposes any action that would diminish the existing statutory authority of local governments to tax. The League opposes any efforts by the state that would reduce local tax bases or adversely affect the marketability of municipal bonds.

2. **State-Mandated Exemptions:**

a. The League opposes the imposition of state-mandated exemptions of certain classes of property, individuals, organizations, or commodities from the application of taxes unless full compensation is made for revenues lost due to these exemptions. If the reimbursements for state-mandated exemptions are not fully funded, currently or in the future, the exemptions should be repealed or prorated.

In implementing state policies, the legislature has created required tax exemptions from local property taxes for certain classes of property, individuals, organizations, or commodities. As it is a state policy or program that requires these exemptions, the burden of the exemptions should fall on the state, and not the local government. If the state is going to establish such exemptions, it should fully reimburse the municipalities for revenues lost because of the exemptions. If the state is not going to fully fund such losses, the exemptions should be repealed or prorated or suspended.

b. The League supports elimination or proration of the Senior Citizens/Disabled Veterans and agricultural lands property tax exemptions mandated by AS 29.45. In place of these unfunded mandates, the League supports enactment of legislation that would allow municipal governments to, by local option, grant property tax relief to senior citizens and disabled veterans. Legislation establishing a local option property tax relief program should allow for exemption or deferral from taxes on all or part of the value of eligible property and permit exemptions to be based on economic factors. If the programs are not eliminated, the League supports legislation that would allow municipalities to prorate the tax exemptions based on the level of funding provided by the state. (am 11/94)

The Senior Citizens/Disabled Veterans Property Tax Exemption Program and the Farm Use Assessment Program have been underfunded or zero-funded in recent years, leaving local governments responsible for an increasing share of the total cost of the state-mandated programs. This will cost local governments and their taxpayers over \$1.5 million in uncollected taxes in FY 95. Local taxpayers should not have to pay the costs of these unfunded mandates since they did not vote to provide the exemptions. Funding for the tax exemption program for FY 95 is \$1.5 million, less than 8 percent of the total obligation of local governments for the mandated exemption of property taxes on the first \$150,000 value of property owned by senior citizens and disabled veterans.

obligation of local governments for the mandated exemption of property taxes on the first \$150,000 value of property owned by senior citizens and disabled veterans.

Since local governments are being held responsible for the costs of property tax relief for senior citizens and disabled veterans, their citizens should be allowed to determine the nature and level of tax relief granted to these groups. With a local option program, local officials could determine the property value to be exempted and, if they wished, provide assistance to only those senior citizens and disabled veterans who demonstrated need.

If the mandate is not lifted, then legislation should be passed that would allow local governments to prorate the amount of tax exemption granted based on the level of funding appropriated by the legislature and approved by the Governor. For instance, if only 25 percent of the cost of the program were appropriated, local governments would have to grant tax exemptions equal to only 25 percent of the tax bill owed by the affected groups. This would give senior citizens, disabled veterans, and agricultural land owners a tax exemption based on the state's commitment to the program and remove the ever-growing burden the current program has placed on local governments and their tax-paying citizens.

**3. Personal Property Taxation: The League supports legislation which would allow municipalities to classify as to type and exempt or partially exempt personal property from taxation. (11/94)**

This legislation would replace the present haphazard exemption program presently allowed by the State.

**4. Abandoned Motor Vehicle Fund: The League supports legislation that would fund the abandoned Motor Vehicle Fund through a registration fee increase for all vehicles registered in the State of Alaska and the disbursement of those funds to communities and municipalities for the disposal of abandoned motor vehicles.**

AS 28.11.110 of the Motor Vehicle Code authorizes an "abandoned motor vehicle fund," with disbursement of funds "to municipalities upon presentation of a voucher for payment of services rendered." However, the fund has not been financed as intended by previous legislatures and as provided for in the statute.

The number of wrecked, junk, and abandoned automobiles has increased dramatically in the last few years, and the cost to local government to dispose of them properly, as required by the U.S. Environmental Protection Agency, has risen sharply.

Increasing the motor vehicle registration tax would provide revenue so the legislature could fund an abandoned motor vehicle fund to help municipalities.

**Resolution of the Alaska Municipal League**

**Resolution No. 95-2**

**A RESOLUTION OPPOSING UNFUNDED STATE MANDATES AND  
URGING PASSAGE OF LEGISLATION REQUIRING THE STATE OF  
ALASKA TO REIMBURSE MUNICIPALITIES FOR THE COST OF  
ANY NEW STATE-MANDATED PROGRAM**

WHEREAS, "the Alaska Municipal League urges passage of legislation that would require a government agency unilaterally transferring responsibility for a program to a municipality or imposing regulations on a municipality to reimburse the municipality for the costs of the transferred responsibility or regulations" (Alaska Municipal League Policy Statement 1995, Part 1 Taxation and Finance, F.2 Reimbursement for Responsibilities Transferred from State); and

WHEREAS, state aid to municipalities in the form of Municipal Assistance and State Revenue Sharing has been reduced by over 55 percent since FY 86, while during the same period the overall state general fund budget has been reduced by only 10 percent; and

WHEREAS, along with the reduction in state financial assistance, there have been increases in state-mandated programs that take the form of increased costs, new programs, and funding shortfalls for existing programs that are costly for municipalities to administer and implement; and

WHEREAS, legislation affecting municipalities is considered and passed by the Alaska State Legislature without the benefit of knowing its fiscal impact on local governments; and

WHEREAS, these mandated programs, funding shortfalls, and shifts in responsibilities have required municipalities to increase local taxes and reduce services in order to balance their budgets and, at the same time, the Alaska Legislature has ignored deficit spending while boasting that the state has no income or sales taxes and that operating budgets have been reduced; and

WHEREAS, costly state-mandated programs provide a significant additional disincentive for communities to incorporate; and

WHEREAS, the National Conference of State Legislatures in 1987 recommended that state legislatures consider relaxing or eliminating costly requirements on local governments or assuming the cost of complying with the requirements:

NOW, THEREFORE, BE IT RESOLVED that the Alaska Municipal League urges the Alaska Legislature and the Governor to pass legislation requiring the state to reimburse municipalities for the costs of any new state-mandated programs or regulations that increase the costs of local government operations.