

Introduced: 3/28/68  
Referred: Commerce &  
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE

2 SENATE BILL NO. 409

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to state and local industrial incen-  
7 tive tax credits; and providing for an effective date."

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

9 \* Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 26. INDUSTRIAL INCENTIVE TAX CREDITS.

11 Sec. 43.26.010. TAX CREDITS AUTHORIZED. A person who has  
12 established and owns or proposes to establish and own an eligible  
13 business is entitled to a tax credit not to exceed 75 per cent of  
14 the value of the investment made in the business as of the date it  
15 commenced operation. The grant of tax credit shall be effective  
16 for a period of 10 years from the date of grant and shall be applied  
17 against the amount of all taxes due the state during that period as  
18 a result of the development, organization, construction, establish-  
19 ment and operation of the specific business for which the credit is  
20 granted. The unused portion of a tax credit authorized under this  
21 chapter shall be forfeited at the expiration of the 10-year period  
22 of credit. Only one grant of tax credit shall be made an eligible  
23 business, irrespective of transfer of the business or other  
24 circumstances.

25 Sec. 43.26.020. APPLICATION FOR CREDIT. Application for a  
26 grant of tax credit shall be made in a manner and upon forms prescribed  
27 by the department. A grant of tax credit under this chapter shall be  
28 considered a contract between the grantee and the state. The depart-  
29 ment may determine the amount of the tax credit and attach such terms

1 and conditions to the credit as in its judgment will further the pur-  
2 poses of industrial development.

3 Sec. 43.26.030. USE OF COMMON FACILITIES. (a) The department may  
4 grant authorization for a plant, factory, machine or machine ensemble  
5 to use major industrial facilities in common with other industrial units  
6 if the department determines, after consulting with the Department of  
7 Natural Resources, that the common use is necessary or convenient for  
8 the development of the economy and welfare of the state because it will

9 (1) provide increased opportunities for work in either or  
10 both industrial units;

11 (2) add substantially to the net income of the state, and

12 (3) result in a substantial investment in equipment, machinery  
13 and supplies, comparable to the investment in the original unit, less  
14 the value of the facilities to be used in common.

15 (b) If the industrial unit providing major or minor industrial  
16 facilities to be used in common by other industrial units does not  
17 have a tax credit, but a tax credit is obtained by the unit using  
18 such facilities, the department may grant a tax credit with regard  
19 to such facilities, except that the tax credit is limited to a part  
20 of the value of such facilities and a part of the compensation  
21 received for the use of the facilities, in proportion to the use made  
22 of the facilities by the industrial unit which has a tax credit. The  
23 determinant factors of the use include space occupied, time and nature  
24 of use, and the importance the use bears on the industrial unit or  
25 units making use of the facilities.

26 Sec. 43.26.040. ADMINISTRATION. (a) The commissioner of  
27 economic development and planning shall appoint the personnel  
28 necessary to carry out this chapter. The commissioner shall make  
29 arrangements for such public hearings as he considers necessary and

1 shall require an applicant for a tax credit to present evidence that  
2 will justify the credit.

3 (b) The commissioner or another person whom the commissioner  
4 designates shall hear the evidence presented in relation to an appli-  
5 cation for tax credit; he may summon witnesses and take their testimony  
6 as to facts related to the tax credit applied for, and administer an  
7 oath to the person testifying before him; he shall make a report to  
8 the department on the evidence, together with his recommendations.

9 (c) The department shall adopt regulations it considers necessary  
10 to carry out the purposes of this chapter. The regulations shall be  
11 published in a newspaper of general circulation in the state.

12 (d) All decisions and findings of the department under this  
13 chapter are final and no judicial or administrative appeal or other  
14 proceeding lies against them unless otherwise specifically provided in  
15 this chapter or by regulation.

16 Sec. 43.26.050. REVOCATION OF TAX CREDIT. After furnishing notice  
17 and opportunity to be heard to the grantee of a tax credit under this  
18 chapter, the department may revoke the grant if

19 (1) the business for which the tax credit is granted ceases  
20 to be an eligible business; or

21 (2) the department determines that the grantee of a tax  
22 credit has falsely or fraudulently represented facts or circumstances  
23 upon which grant of the credit was predicated in whole or in part, or  
24 the department determines that the grantee has used the tax credit for  
25 taxes upon a business not included in the application upon which the  
26 credit was granted; or

27 (3) the grantee of a tax credit fails to comply with any  
28 conditions or terms of the grant or any provisions of this chapter  
29 or regulations adopted under it; or

1 (4) a transfer of shares of stock or partnership participa-  
2 tion in an eligible business is made which represents a change of  
3 control in the business, except

4 (A) a transfer by will or by operation of the laws of  
5 inheritance, or

6 (B) a transfer made solely to create security for bona  
7 fide indebtedness, or

8 (C) a transfer by operation of law or court order to a  
9 trustee in bankruptcy or receiver.

10 (b) Upon revocation of a grant of tax credit, all taxes which,  
11 except for the tax credit, would have been due the state prior to  
12 revocation shall become due and shall be assessed and collected in  
13 accordance with the provisions of the tax laws. Other taxes which  
14 were the subject of the tax credit shall be likewise assessed and  
15 collected as they become due.

16 (c) A person aggrieved by department action revoking a grant of  
17 tax credit may seek judicial review of the action by filing an appeal  
18 with the superior court within 30 days after final determination by the  
19 department. Pending judicial review, the department may postpone the  
20 effective date of the action taken by it upon such conditions as may  
21 be required and to the extent necessary to prevent irreparable injury.  
22 If a postponement is applied for and denied, the court may issue appro-  
23 priate process to postpone the effective date of the action taken by  
24 the department or to preserve the status or rights of the parties  
25 pending conclusion of the review proceedings. Postponement by the court  
26 shall be conditioned upon the giving of acceptable bond to the depart-  
27 ment in an amount equal at least to the amount of taxes credited prior  
28 to revocation plus interest and penalties as provided by the tax laws.

29 Sec. 43. 26.060. PENALTY. A person who fraudulently represents

1 facts or circumstances upon which a grant of tax credit is predicated  
2 in whole or in part is guilty of a misdemeanor and upon conviction shall  
3 be punished by a fine of not more than \$1,000 or by imprisonment for  
4 not more than one year, or by both.

5 Sec. 43. 26.070. TERMINATION DATE FOR APPLICATIONS. An applica-  
6 tion for a grant of tax credit under this chapter shall be received by  
7 the department until midnight of June 30, 1973 but not after that date.

8 Sec. 43.26.080. GRANT OF TAX CREDIT BY POLITICAL SUBDIVISION.  
9 With respect to taxes levied by it, a political subdivision of the  
10 state may award grants of tax credit in the same manner and subject  
11 to the same restrictions as provided for the department under this  
12 chapter, except that the amount of tax credit granted may not exceed  
13 25 per cent of the value of the investment made in the business as of  
14 the date it commences operation.

15 Sec. 43. 26.090. EFFECT ON INDUSTRIAL TAX EXEMPTIONS. Exemptions  
16 granted in whole or in part under sec. 6, ch. 10, SLA 1949, ch. 33,  
17 SLA 1953 and ch. 129, SLA 1957 (the Alaska Industrial Incentive Act)  
18 shall remain in full force and effect upon the terms and for the  
19 periods granted. No business granted a tax exemption under any of  
20 those laws may qualify for a grant of tax credit under this chapter.

21 Sec. 43.26.100. DEFINITIONS. In this chapter

22 (1) "department" means the Department of Economic Development

23 (2) "eligible business" means

24 (A) an industrial unit having as its object the produc-  
25 tion on a commercial scale in the state of a manufactured product  
26 which was not produced on a commercial scale before July 1, 1968,  
27 and for which there were on that date in the state no production  
28 facilities capable of the production of that manufactured product  
29 on a commercial scale; or

1 (B) an industrial unit established after July 1, 1968,  
2 and having as its objective the production on a commercial scale  
3 in the state of a designated article, and which, in the judgment  
4 of the department

5 (i) is established in good faith and with a  
6 permanent character, and

7 (ii) produces, or will produce, on a sustained  
8 basis, within a reasonable time, a substantial amount of  
9 a designated article additional to the amount of the same  
10 articles being produced by other industrial units in opera-  
11 tion in the state; in determining the amount of the produc-  
12 tion in the state of these articles, the department shall  
13 use the average production in the state of these articles,  
14 for the three calendar years immediately preceding July 1,  
15 1968; or

16 (C) an industrial unit established before July 1, 1968,  
17 engaged in the production of a designated article in the state on  
18 a commercial scale if

19 (i) tax credit has been granted to a new indus-  
20 trial unit under the terms of this chapter to produce the  
21 same designated article, and

22 (ii) the new industrial unit has begun production  
23 on a commercial scale.

24 (3) "industrial unit" means a plant, factory, machine, or  
25 machine ensemble which has a capacity to perform the major functions  
26 involved in the production of a manufactured product on a commercial  
27 scale and land which is necessary to perform these functions; an  
28 industrial unit may not include business inventories, company stores  
29 or company housing, or land devoted to company stores or company housing

1 a plant, factory, machine or machine ensemble may be considered a  
2 separate industrial unit even though it uses, in common with other  
3 industrial units,

4 (A) minor facilities such as sections of buildings,  
5 power plants, warehouses, material conveyors, or other minor  
6 production facilities, or

7 (B) major facilities, if the department authorizes  
8 the common use of the facilities, as provided in sec. 30 of this  
9 chapter;

10 (4) "production on a commercial scale" means production for  
11 sale in the market in the normal course of business in quantities and  
12 at prices which justify the operation of an industrial unit as a going  
13 business;

14 (5) "designated articles" includes the following articles or  
15 businesses:

16 (A) lumber,

17 (B) plywood,

18 (C) chemical grade pulp,

19 (D) newsprint,

20 (E) ores which have been processed or refined,

21 (F) petroleum products,

22 (G) handicrafts,

23 (H) agricultural products,

24 (I) manufactured articles from fur or native skins,

25 (J) specialty fish products such as clams, crab, and

26 shrimp,

27 (K) furniture, but not the mere assembly of it,

28 (L) products of slaughtering operations, including the  
29 products of packing houses that use the products of slaughtering

1 operations as raw material,

2 (M) livestock raising,

3 (N) other related articles including industrial power  
4 development;

5 (6) "manufactured product" means

6 (A) a product transformed from raw material into an  
7 article of commerce finished by hand or machinery; or

8 (B) a product with respect to which substantial  
9 industrial operations are undertaken in the state if

10 (1) in the judgment of the department the product  
11 merits treatment as a manufactured product within the scope  
12 of this chapter because of the nature and extent of the  
13 operations, the technology involved, the employment provided,  
14 or other contribution made or to be made by the operation to  
15 the welfare of the state, and

16 (ii) the operations are carried out substantially  
17 as originally represented by the tax credit petitioner,  
18 except as the tax credit grant is modified by the department  
19 in its discretion upon appropriate petition of the grantee; or

20 (C) the production obtained from a mining operation  
21 if it is beneficiated or substantially processed in the state  
22 directly by the producer or by an independent enterprise.

23 (7) "political subdivision" means a home rule or general  
24 law organized borough or city;

25 (8) "value" means appraised value as determined by the  
26 department.

27 Sec. 43.26.110. SHORT TITLE. This chapter may be cited as the  
28 Alaska Industrial Tax Credit Act.

29 \* Sec. 2. This Act takes effect July 1, 1968.