

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
4 may 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 shall appoint the personnel necessary to carry out
28 this chapter. The commissioner shall make arrangements for such
29 public hearings as he considers necessary and shall require an

1 applicant for a tax credit to present evidence that will justify
2 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 newspapers necessary to guarantee general circulation in
12 the state.

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

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

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

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

28 (3) the grantee of a tax credit fails to comply with any
29 conditions or terms of the grant or any provisions of this chapter

1 or regulations adopted under it; or

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

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

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

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

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

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

1 Sec. 43.26.060. PENALTY. A person who fraudulently represents
2 facts or circumstances upon which a grant of tax credit is predicated
3 in whole or in part is guilty of a misdemeanor and upon conviction shall
4 be punished by a fine of not more than \$1,000 or by imprisonment for
5 not more than one year, or by both.

6 Sec. 43.26.070. TERMINATION DATE FOR APPLICATIONS. An applica-
7 tion for a grant of tax credit under this chapter shall be received by
8 the department until midnight of June 30, 1973, but not after that date.

9 Sec. 43.26.080. GRANT OF TAX CREDIT BY POLITICAL SUBDIVISION.
10 With respect to taxes levied by it, a political subdivision of the
11 state may award grants of tax credit in the same manner and subject
12 to the same restrictions as provided for the department under this
13 chapter, except that the amount of tax credit granted may not exceed
14 25 per cent of the value of the investment made in the business as of
15 the date it commences operation, and a political subdivision shall
16 levy at least a 3.5 mil real property tax on the investment.

17 Sec. 43.26.090. EFFECT ON INDUSTRIAL TAX EXEMPTIONS. Exemptions
18 granted in whole or in part under sec. 6, ch. 10, SLA 1949, ch. 33,
19 SLA 1953 and ch. 129, SLA 1957 (the Alaska Industrial Incentive Act)
20 shall remain in full force and effect upon the terms and for the
21 periods granted. No business granted a tax exemption under any of
22 those laws may qualify for a grant of tax credit under this chapter.

23 Sec. 43.26.100. DEFINITIONS. In this chapter

24 (1) "department" means the Department of Economic Development;

25 (2) "eligible business" means

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

1 facilities capable of the production of that manufactured product
2 on a commercial scale; or

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

7 (1) is established in good faith and with a
8 permanent character, and

9 (ii) produces, or will produce, on a sustained
10 basis, within a reasonable time, a substantial amount of
11 a designated article additional to the amount of the same
12 articles being produced by other industrial units in opera-
13 tion in the state; in determining the amount of the produc-
14 tion in the state of these articles, the department shall
15 use the average production in the state of these articles,
16 for the three calendar years immediately preceding July 1,
17 1968; or

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

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

24 (ii) the new industrial unit has begun production
25 on a commercial scale.

26 (3) "industrial unit" means a plant, factory, machine, or
27 machine ensemble which has a capacity to perform the major functions
28 involved in the production of a manufactured product on a commercial
29 scale and land which is necessary to perform these functions; an

1 industrial unit may not include business inventories, company stores
2 or company housing, or land devoted to company stores or company housing;
3 a plant, factory, machine or machine ensemble may be considered a
4 separate industrial unit even though it uses, in common with other
5 industrial units,

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

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

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

16 (5) "designated articles" includes the following articles or
17 businesses:

18 (A) lumber,

19 (B) plywood,

20 (C) chemical grade pulp,

21 (D) newsprint,

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

23 (F) petroleum products,

24 (G) handicrafts,

25 (H) agricultural products,

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

27 (J) fish products,

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

29 (L) products of slaughtering operations, including the

1 products of packing houses that use the products of slaughtering
2 operations as raw material,

3 (M) livestock raising,

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

6 (6) "manufactured product" means

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

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

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

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

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

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

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

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

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