

HB 258

NOT GERMAIN

REVENUE BASE INCREASE -  
BY GIVING A TAX CREDIT LIKE THIS  
HOW WILL THIS STIMULATE - THE  
PRODUCTION OF MINING

14500  
12500  
\$270.00

80,000.00

5

30,000

STATE OF ALASKA  
FISCAL NOTE

Revision Date \_\_\_\_\_, 1983

I. REQUEST

Bill/Resolution No: SSHB 258  
 Title: Special Investment Tax Credit  
 Sponsor: Hayes & Szymanski  
 Requestor: Labor, Commerce & Finance

II. FISCAL DETAIL

Agency Affected: \_\_\_\_\_  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program of Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
-	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

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

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Vincent D. Wright *vdw*  
 Division: Revenue - Research

Phone: 465-2173  
 Date: 3/25/83

Approved by Commissioner: *[Signature]*  
 Department: Revenue

Date: 4/4/83

Distribution:

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

## Analysis of SSMB 258

The incorporation of this expanded credit in effect would reduce state taxes as a deductible item at the federal level and thus increase the federal tax take at the expense of Alaska.

The bill is also discriminatory in that it applies only to specified geographical regions within the state.

The impact of this bill is negative to the state in terms of lost revenues. The quantitative impact cannot be assessed due to carry forward and carry backward provisions which vary from one existing operation to another. If the bill is intended for new facilities, the effect cannot be assessed until they are completed and in operation.

# Alaska State Legislature



{ 1980 }

Speaker of the House of Representatives

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3720

Official Business

113-866

## SPECIAL INVESTMENT TAX CREDIT LEGISLATION

As projections of declining revenue loom in Alaska's near future, we must begin to diversify our economy so that both state government and local economies are not so heavily dependent on oil derived revenues. I have introduced legislation which would accomplish this goal by establishing a special investment tax credit. Such a credit would apply for investments to develop gas processing facilities South of the Arctic Circle and to investments for exploration, development and mining of minerals other than oil and gas throughout Alaska. A major priority of both myself and the House Majority is diversification of our economy. I believe enactment of this legislation would go a long way towards achieving that goal.

MAKING  
IT EQUAL 100% FEDERAL CREDIT

Currently state law limits the amount of investment tax credit (ITC) which is allowed to corporations in computing their Alaska income taxes to 18% of the amount of investment tax credit which is allowed for federal income tax purposes. So while the Federal ITC is 10%, the Alaska investment tax credit is only 1.8%. Current law also limits the ITC which is allowed in computing Alaska income taxes to the first \$20 million of qualified investment put into use in the state for each taxable year. That limitation would be removed by this bill.

The Alaska tax credit would only apply to investments which also qualify for the federal credit. This is primarily personal property such as trucks, machinery and manufacturing equipment.

2 1/2 -  
MILLION  
(27-M)  
NO  
FISCAL  
NOTE

It would not include roads, buildings, mine sites and such things as feasibility studies. Using the \$1 billion Quartz Hill mine project for example, a very limited amount of that development would qualify for the tax credit. But enough of an incentive would be created to attract industry to Alaska that currently is lacking.

The promotion of exploration, development and mining of minerals and other natural deposits in the state will encourage development of Alaska's non oil and gas mineral resources. This legislation would also accelerate the diversification of the state's economy and employment base.

One new addition to this legislation, not included in the version which passed the House last session, <sup>866</sup> is inclusion of gas processing facilities South of the Arctic Circle. There are areas in Alaska where established infrastructure, access to ice free ports and substantial amounts of uncommitted reserves of natural gas combine to provide great potential for gas processing development and export activity. The development of these gas processing facilities will promote full and stable employment and minimize adverse population and environmental impacts.

I expect the impact on state revenues upon enactment of this legislation would be minimal. While initially there would be a slight loss of revenue, the long range goal to promote investment and development would increase non petroleum related revenue in future years. The investment tax credit is a temporary tax reduction directly tied to profitable investment that will produce increased revenues in the future. Additionally, investments in targeted industries may substantially expand local governments sales and property tax bases. If the Prudhoe bay curve is accurate, and oil revenues begin to decline in the late 1980's, it is our responsibility to plan to offset that decline. I am confident it will have the support of the administration, which has stated a desire to reach this goal as well.

# # # # # # #

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MAR 23 1983

MAR 23 1983

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

March 23, 1983

SUBJECT: Special investment tax credit  
(HB 258)

TO: Representative Joe L. Hayes

FROM: Richard C. Folta (1)  
Legislative Counsel

You have requested a sectional analysis of HB 258, relating to special investment tax credits.

Section 1 of the bill modifying the special investment tax credit for state corporate income taxes, sets out the state legislature's purpose, which is identical to the congressional purpose, in providing for an additional allowance for tax credits for certain property. The thrust of the investment credit is to stimulate the economy through encouragement of investment in productive resources, which tend to wear out at quicker rates than those which have been recognized by depreciation previously allowed by the Internal Revenue Service. In the Alaska case, these special properties which the sponsor wishes to give additional credits, are stated to be gas processing facilities and mineral extraction systems established south of the arctic circle in the State of Alaska.

Section 2 of the bill provides that the 18 percent investment credit limit on state corporation income tax will not be applicable for the gas processing facilities and mineral extraction systems established south of arctic circle.

Section 3 of the bill provides for a 100 percent investment credit instead of the previous 18 percent for gas processing facilities and mineral extraction systems. Subsections (j) and (k) also provide that the 20 million dollar investment credit allowed will not be in addition to that under sec. (b). There is also a provision that the credits will not apply on leased property -- they have to be purchased properties.

Representative Joe L. Hayes  
Page 2  
March 23, 1983

Sections 4 and 5 provide that the tax years for credit considerations under this bill begin January 1, 1984, and this act will be in effect immediately upon passage.

RCF:ljb  
12/002

# STATE OF ALASKA

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RICK UEHLING, VICE CHAIRMAN  
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POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3892

## HOUSE LABOR AND COMMERCE COMMITTEE

### MEETING SCHEDULE

FOR THE WEEK OF APRIL 4 - APRIL 10

#### LABOR & COMMERCE

Meets: Behrends Rm. 209  
M - F 8:45 - 10 am

Monday, April 4

NO MEETING SCHEDULED

Tuesday, April 5

\*\* HB 25 An Act providing for preferences and reservations in sale or purchase of state royalty oil to companies purchasing state coal.

HB 258 An Act establishing a special investment tax credit; and providing for an effective date.

Wednesday, April 6

HB 22 An Act establishing a state residence requirement for loans purchased by the Alaska Industrial Development Authority.

Sunset - Medical Board

HB 111 An Act relating to investments and deposits of public money with foreign banks.

Thursday, April 7

HB 126 An Act limiting the liability of aircraft owners or operators for personal injury or death to guest passengers.

HB 246 An Act relating to the deregulation of interest rates; and providing for an effective date.

Friday, April 8

HB 26 An Act establishing the business refinancing and expansion loan program in the Alaska Industrial Development Authority; and providing for an effective date.

\*\* HB 308 An Act relating to insurance

\*\* Indicates notice of first public hearing on a new bill.

Introduced: 3/25/83  
Referred: Labor & Commerce  
and Finance

*FUTURE REVENUES  
KENAI GAS PRODUCTION*

*1. COAL PRODUCTION  
2. MINING  
3. GAS PRODUCTION*

1 IN THE HOUSE BY HAYES AND SZYMANSKI

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 258

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a special investment tax credit;  
7 and providing for an effective date."

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

9 \* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds  
10 and declares that

11 (1) there exist areas of the state south of the Arctic Circle in  
12 which the factors of established population centers, established infra-  
13 structure, access to ice-free ports, and substantial uncommitted reserves  
14 of natural gas combine to provide an optimum basis for gas processing  
15 development for an export market;

16 (2) development of gas processing facilities in the areas will  
17 minimize adverse population and environmental impacts on the other areas of  
18 the state;

19 (3) development of gas processing facilities in the areas will  
20 promote full and stable employment, promote the creation of export markets  
21 for the natural energy resources of the state, and promote the long-term  
22 development of other natural resources in the state;

23 (4) it is in the statewide public interest, and is declared to  
24 be a public purpose, to promote the prosperity and general welfare of all  
25 citizens of the state by stimulating the development of gas processing  
26 facilities in such areas;

27 (5) it is further in the statewide public interest, and is  
28 declared to be a public purpose, to promote the exploration, drilling of  
29 wells, development, and mining of minerals and other natural deposits

1 (other than oil and gas) in the state, to assist the state by diversifying  
2 its economy, to make it less dependent on oil and gas, provide increased  
3 employment opportunities and provide an incentive for investment in the  
4 state; and

5 (6) the establishment of a special investment tax credit is  
6 necessary in order to promote and accomplish the objectives listed in (1) -  
7 (5) of this section.

8 \* Sec. 2. AS 43.20.021(d) is amended to read:

9 (d) Where a credit allowed under the Internal Revenue Code is  
10 also allowed in computing Alaska income tax, it is limited to 18  
11 percent for corporations of the amount of credit determined for fed-  
12 eral income tax purposes which is attributable to Alaska. This limi-  
13 tation shall not apply to the credits allowed by AS 43.20.036(j) and  
14 (k).

15 \* Sec. 3. AS 43.20.036 is amended by adding new subsections to read:

16 ~~(B)~~ For purposes of calculating income tax payable under this  
17 chapter the taxpayer may apply as a credit against a tax liability 100  
18 percent of the investment credit allowed as to federal taxes under  
19 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the  
20 full amount of qualified investment put into use south of the Arctic  
21 Circle in the state for each taxable year for gas processing facili-  
22 ties; for the purposes of this paragraph, "gas processing facilities"  
23 means plants and facilities for processing any product, other than  
24 crude oil, of an oil or gas well, including but not limited to lique-  
25 fied natural gas, methanol and urea processing plants and facilities,  
26 excluding any pipelines from oil and gas wells to any plants and  
27 facilities. The amount of credit allowed under this subsection shall  
28 not be subject to the limitations imposed by (b) of this section, but  
29 any credit which is allowed under this subsection shall not also be

1 allowed under (b) of this section. No credit shall be allowed under  
2 this subsection for any investment credit which is allowed as to  
3 federal taxes for leased property by reason of section 168(f)(8) P.L.  
4 97-34 of the Internal Revenue Code (26 U.S.C. 168(f)(8) P.L. 97-34).

5 (k) For purposes of calculating income tax payable under this  
6 chapter the taxpayer may apply as a credit against a tax liability 100  
7 percent of the investment credit allowed as to federal taxes under  
8 Internal Revenue Code Section 38 (26 U.S.C. 38 P.L. 87-834) on the  
9 full amount of qualified investment [put into use south of the Arctic  
10 Circle] in the state for each taxable year for exploration, drilling of  
11 wells, development, or mining of the natural deposits listed in Sec-  
12 tion 613(b) of the Internal Revenue Code (26 U.S.C. 613(b))(P.L.  
13 89-809 and P.L. 88-571); for the purpose of this subsection, "mining"  
14 has the meaning given in Section 613(c)(2) of the Internal Revenue  
15 Code (26 U.S.C. 613(c)(2) P.L. 85-866). The amount of credit allowed  
16 under this subsection shall not be subject to the limitations imposed  
17 by (b) of this section, but any credit which is allowed under this  
18 subsection shall not also be allowed under (b) of this section.  
19 Credit shall not be allowed under this subsection for any investment  
20 credit which is allowed as to federal taxes for leased property by  
21 reason of Section 168(f)(8) of the Internal Revenue Code (26 U.S.C.  
22 168(f)(8) P.L. 97-34).

23 \* Sec. 4. This Act applies to tax years beginning after December 31,  
24 1983.

25 \* Sec. 5. This Act takes effect immediately in accordance with AS 01.-  
26 10.070(c).

**Inter - Office Memorandum**

TO: Lance Anderson, Vice President, Finance  
SCA

FROM: Steve Hillard, Vice President and General Counsel

Date: March 28, 1983

Subject: CONSTITUTIONALITY OF GEOGRAPHIC CLASSIFICATION IN INVESTMENT TAX CREDIT BILL

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You have asked for a review of the constitutionality of a geographic distinction contained in an bill drafted by CIRI and introduced in the Alaska State Legislature. The legislation will grant certain investment tax credits to those gas processors located south of the Arctic Circle. The question presented is whether this type of classification, based on geography, violates the United States or Alaska Constitutions.

Based upon a review of pertinent federal and state authorities, it is my view that the proposed legislation does not violate the United States or Alaska Constitutions.

I. Federal Constitutional Issues

It is useful to note at the outset that there is one significant constitutional provision which does not appear to apply to the proposed tax credit. The United States Constitution provides that all taxes levied by Congress shall be uniform throughout the United States. U.S. Const. Art. 1, Section 8. The United States Supreme Court has consistently interpreted this requirement to mean geographic uniformity. Knowlton v. Moore, 178 U.S. 41 (1900); Steward v. Davis, 301 U.S. 494 (1938). Under this interpretation, distinctions among the states are impermissible. Thus, the United States District Court for the District of Wyoming has recently held that the Crude Oil Windfall Profits Tax Act of 1980 is unconstitutional because it exempts oil produced from north of the Arctic Circle. Ptasvnski v. United States, 82-2 USTC Para. 9654 (D.C. Wyo. 1982). The court noted that although rational justifications for the exemption do exist, the exemption is specifically forbidden by the Constitution. In short, the court appeared to hold that geographic distinctions are per se unconstitutional. The United States Supreme Court recently has determined to review this distinction.

In light of these precedents, it would appear that if Congress were to enact the proposed bill, the bill would run a strong risk of being held unconstitutional. The federal uniformity provision, however, by its terms applies only to acts of Congress, not acts of the states. Generally it has been held, for example, that there is nothing in the United States Constitution which requires state taxation to be uniform. See Carmichael v. Southern Coal Co., 301 U.S. 495 (1937). Thus, the proposed legislation does not violate the uniformity clause of the United States Constitution.

It is also possible to assert that the legislation violates the Equal Protection Clause of the Fourteenth Amendment. It might be contended, in other words, that the proposed legislation impermissibly discriminates against gas processors

located north of the Arctic Circle. The United States Supreme Court, however, has consistently held that where state "taxation is concerned and no special right, apart from equal protection, is imperiled, the States have large leeway in making classifications and drawing lines which in their judgment produce reasonable systems of taxation." Lehnhauser v. Lake Shore Auto Parts, 410 U.S. 356 (1973); State Board of Tax Comm'rs of Indiana v. Jackson, 283 U.S. 527 (1931). The appropriate test to be applied to state taxation schemes is whether the state classification has a "rational basis" or whether it is "palpably arbitrary" or "capricious." Id. If "any state of facts reasonably can be conceived" to justify a classification, the Court will sustain it.

Applying the foregoing principles to the proposed legislation, it appears that the Supreme Court would uphold the classification. Although not in the context of a taxation case, the Supreme Court has specifically stated that the "Equal Protection Clause relates to equality between persons as such rather than between areas . . . . Territorial uniformity is not a constitutional requisite." Salsburg v. Maryland, 346 U.S. 545 (1954). In the tax area, the Court has upheld a state tax which provided for different tax rates based on the "gravity" of certain oil and which arguably discriminated between oil produced in Northern and Southern Louisiana. Ohio Oil Co. v. Conway, 228 U.S. 146 (1910). The Court held that the classification based on "gravity" was not unreasonable. Although not directly on point, since the case did not involve a specific geographic distinction, Conway does confirm that the Court will apply a relaxed standard of review to state taxation schemes and that all areas of a state need not have an equal tax burden.

A number of lower courts have specifically addressed state tax classifications based on geography. These courts have held that "distinctions based on geographical areas are not, in and of themselves, violative of the Fourteenth Amendment." Levy v. Parker, 346 F.Supp. 877 (E.D. La. 1972); McCarthy v. Jones, 449 F.Supp. 480 (S.D. Ala. 1973) (no "rational basis" for different tax rates for different counties); Weissinger v. Boswell, 330 F.Supp. 615 (M.D. Ala. 1979) (same). These courts have explained that a state "must demonstrate, if it wishes to establish different classes of property based on different geographical locations -- e.g., rural areas as opposed to urban areas -- that the classification is neither capricious nor arbitrary but rests upon some reasonable consideration of difference or policy." Id.

The question thus remains whether the justification asserted for the geographic classification in this case -- to encourage the location of a certain industry in a certain region of the State -- is sufficient to sustain the classification. Although I have not found a case directly on point, the Supreme Court has suggested that tax classifications designed to create incentives for business to locate within a state are permissible. In Allied Stores of Ohio v. Bowers, 358 U.S. 522 (1959), the Court stated that a tax statute which "encourages the location within the state of needed and useful industries by exempting them, though not also others, from its taxes is not arbitrary and does not violate the Equal Protection Clause of the Fourteenth Amendment." The same rationale would appear to apply equally well to the proposed legislation here, since it is designed to encourage location of a business in a particular part of the state.

## II. Alaska Constitutional Issues

There are at least three potential issues under the Alaska Constitution. First, the legislation might violate an implied requirement of "equality and uniformity" of all state taxes. Second, the legislation might violate the Equal Protection Clause found in the Alaska Constitution, Article I, Section 1, which has been interpreted somewhat differently from the Equal Protection Clause of the Fourteenth Amendment. Third, the legislation might constitute a "local or special act" prohibited by Article II, Section 19 of the Alaska Constitution. Let me address the first two issues together, since they are interrelated.

It is necessary to begin with a bit of background. The vast majority of state constitutions embody some provisions for "uniform or equal" taxes. There is, however, no such provision in the Alaska Constitution. The general rule appears to be that in the absence of express provision in the state constitution, it is not essential that state tax statutes operate equally and uniformly. See generally 84 C.J.S. 2d. Taxation, Section 21 (discussing authorities). However, at least one court has held that the principle of uniformity in taxation applies even in the absence of an explicit constitutional provision. See, e.g., Commissioners of Sinking Fund of City of Louisville v. Ohio Valley Grocery Store Co., 240 S.W. 2d 56 (Ky.). Thus, there is at least some possibility that a court might imply a uniformity requirement in the Alaska Constitution.

This possibility is further complicated in the State of Alaska. Although the Constitution of the State of Alaska nowhere requires state taxes to be uniform, Section 9 of the Organic Act of Alaska, 48 U.S.C. Section 28, provides that "all taxes should be uniform upon the same class of subjects." Under the Organic Act, the courts have interpreted the requirement of uniformity to require geographic uniformity. In Hess v. Mullaney, 91 F.Supp. 139 (D.C. Alaska 1950), reversed on other grounds, 189 F.2d 417 (9th Cir. 1950), the court considered whether Alaska's first property tax violated the uniformity requirement of the Organic Act. The property tax levied a tax on all properties in the state, provided that if the property was located within an incorporated city, town or school district, that entity should assess and collect the tax. Plaintiff claimed that the tax was unlawful, since property would be taxed differently depending on where it was located. The District Court agreed, reasoning that classifications may not be based on geographical lines or mere location of the property.

This view was somewhat modified in a successor case, Hess v. Mullaney, 102 F. Supp. 430 (D.C. Alaska 1952), affirmed, 213 F.2d 635 (9th Cir. 1954). Although the court ultimately upheld the property tax, it acknowledged that "unquestionably, systematic geographical discriminations in the burdens of taxation have been held void." The court found, however, that "we assume that the uniformity clause of the Organic Act requires the same measure of uniformity or equality which is required by the Equal Protection Clause of the Fourteenth Amendment." The court held that under the "rational basis" test, it was reasonable for the legislature to have cities assess and collect taxes for property within their jurisdiction.

In light of the foregoing, a strong argument can be made that a separate and distinct "uniformity" requirement no longer exists in Alaska. First, the Alaska Constitution does not provide for uniformity. The Organic Act is a mere act of Congress, and, whatever its continuing effect in light of Alaska statehood, it

probably adds little to the provision of the Alaska Constitution. Second, even if the uniformity requirement of the Organic Act is still controlling, the Ninth Circuit in Hess v. Mullaney held that the Alaska uniformity requirement is no stricter than the equal protection requirement.

A recent case, State v. Reefer King Co., Inc., 559 P.2d 56 (Alas. 1976), support this view and is particularly relevant to this case. The case involved the constitutionality of a state tax which drew a distinction between "floating" and "shore-based" fish processors. Because the tax placed a higher tax rate on floating processors, the floating processors claimed that the statute created an illegal classification under the State equal protection clause. The Alaska Supreme Court rejected that contention. Although the classification could in one sense be deemed to be a "geographical" classification, the Court did not even mention the Hess v. Mullaney cases. Instead, the Court held that the classification should be tested against the State's equal protection analysis, which provides that a statutory classification must

"be reasonable, not arbitrary, and must rest upon some ground of difference having fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced, shall be treated alike."

The Court held that the classification reflected a legislative judgment that shore-based processors make a more valuable contribution to the State's local economies than the floating processors. According to the Court, it is not arbitrary for the legislature to conclude that shore-based processors were to be preferred over floating processors, which distributed economic benefits over several locations. And, in important language for the present issue, the Court concluded that

"The state may legitimately encourage, through tax incentives or exemptions, industries or types of industries which it considers desirable, and this method of encouragement does not deprive other taxpayers, who do not qualify for the benefit, of equal protection of the laws.

Two additional points should be made with respect to Reefer King. First, the case strongly supports the notion that the State of Alaska may make a classification in order to encourage businesses to locate in a particular area. A primary reason for CIRI's proposed legislation, of course, is to encourage gas processors to locate south of the Arctic Circle. Second, the equal protection test adopted by the Alaska Supreme Court is somewhat more demanding than the test used in interpreting the Equal Protection Clause of the Fourteenth Amendment. The Alaska test, for example, requires the classification to bear a "fair and substantial" relation to the purpose of the statute, rather than merely a "reasonable" relationship. More significantly, under the Alaska test, unlike the federal test, the courts will "no longer hypothesize facts which would otherwise sustain questionable litigation." Isakson v. Rickey, 550 P.2d 359 (1975). This means that in order to survive constitutional scrutiny, the proposed legislation must clearly articulate the purpose of the legislation and the rationale for the geographic classification. The rationale for the geographic classification is expressly contained in the investment tax credit bill.

There is one final issue. Article II, Section 19 of the Alaska Constitution provides that the "legislature shall pass no local or special act if a general act can be made applicable." In this case, it could be argued that the proposed legislation is a local or special act in that it favors a particular region of the State.

It is doubtful that the proposed legislation constitutes a local or special act. In Baucher v. Engstrom, 528 P.2d 456 (Alas. 1974), the Alaska Supreme Court stated that "legislation does not become local merely because it operates only on a limited number of geographical areas rather than on a statewide geographical basis. A legislative act may affect only one of a few areas and yet relate to a matter of statewide concern or common interest." Accord, Abrams v. State, 534 P.2d 91 (Alas. 1975); State v. Lewis, 559 P.2d 630, cert denied, 432 U.S. 901 (1977) (upholding the land exchange between CIRI, the United States and Alaska). Thus, to the extent the proposed legislation is a matter of statewide concern, which we believe it is, the proposed legislation is permissible.

More significantly, the Alaska Supreme Court in State v. Lewis held that the test for determining what constitutes "local or special" acts is substantially the same for determining what violates the State equal protection clause. If the equal protection standard is satisfied, "the legislation will not be invalid because of incidental local or private advantages." *Id.* In terms of our case, then, the crucial issue is whether the proposed legislation violates the State standard of equal protection. If not, Article II, Section 19 will not pose a problem.

SCH:lw