

**HB**

**232**

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO. CS HB232 (STA)**

Revision Date: April 12, 1995 Department: Commerce and Economic Development  
 Title: An Act establishing an economic development tax credit BRU: Alaska Industrial Export and Development Authority  
 Sponsor: Representative Kott Component: \_\_\_\_\_  
 Requestor: House State Affairs COMPONENT SERIAL NO. 1234

(Thousands of Dollars)

| Expenditures/Revenues         | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|-------------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING EXPENDITURES</b> |       |       |       |       |       |       |
| PERSONAL SERVICES             |       |       |       |       |       |       |
| TRAVEL                        |       |       |       |       |       |       |
| CONTRACTUAL                   |       |       |       |       |       |       |
| SUPPLIES                      |       |       |       |       |       |       |
| EQUIPMENT                     |       |       |       |       |       |       |
| LAND & STRUCTURES             |       |       |       |       |       |       |
| GRANTS, CLAIMS                |       |       |       |       |       |       |
| MISCELLANEOUS                 |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b>        | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

|                             |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|
| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
|-----------------------------|--|--|--|--|--|--|

|                           |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES</b> |  |  |  |  |  |  |
|---------------------------|--|--|--|--|--|--|

(Thousands of Dollars)

| FUND SOURCE              | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|--------------------------|-------|-------|-------|-------|-------|-------|
| 1002 Federal Receipts    |       |       |       |       |       |       |
| 1003 GF Match            |       |       |       |       |       |       |
| 1004 General Fund        |       |       |       |       |       |       |
| 1005 GF/Program Receipts |       |       |       |       |       |       |
| 1006 GF/MHTIA            |       |       |       |       |       |       |
| Other                    |       |       |       |       |       |       |
| <b>TOTAL</b>             | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

Estimate of any current year (FY 95) cost: \$ \_\_\_\_\_

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

Prepared by: Guy Bell, Director Phone: 465-2505  
 Division: Administrative Services Date: 4/12/95  
 Approved by Commissioner: William L. Hensley Date: 4/12/95  
 Agency: Commerce and Economic Development

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Revision Date: \_\_\_\_\_ Dept. Affected: Revenue  
 Title: Economic Development Tax Credit BRU: Audit Operations  
 Component: Income and Excise Audit  
 Sponsor: Rep. Kott  
 Requestor: (H) STA COMPONENT SERIAL NO. 113

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         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|                         |       |       |       |       |       |       |
|-------------------------|-------|-------|-------|-------|-------|-------|
| REVENUE FUND SOURCE: GF | ***** | ***** | ***** | ***** | ***** | ***** |
|-------------------------|-------|-------|-------|-------|-------|-------|

FUNDING: (Thousands of Dollars)

|                          |     |     |     |     |     |     |
|--------------------------|-----|-----|-----|-----|-----|-----|
| 1002 Federal Receipts    |     |     |     |     |     |     |
| 1003 GF Match            |     |     |     |     |     |     |
| 1004 GF                  |     |     |     |     |     |     |
| 1005 GF/Program Receipts |     |     |     |     |     |     |
| 1006 GF/MHTIA            |     |     |     |     |     |     |
| Other                    |     |     |     |     |     |     |
| <b>TOTAL</b>             | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

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

Estimate of current (FY95) impact \$ 0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director *Robert N. Bartholomew* Phone: 465-2320  
 Division: Income and Excise Audit Date: 4/13/95  
 Approved by Commissioner: *[Signature]* Date: 4/13/95  
 Agency: Department of Revenue

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Fiscal Note Analysis  
CSHB 232(STA)  
April 13, 1995  
Page 2 of 2

## FISCAL ANALYSIS

### Maximum Credit

The Alaska Industrial Development and Export Authority (AIDEA) determines the amount and duration of the credit to be awarded. A credit is not allowed for jobs that the taxpayer relocates from one site in the state to another site in the state. The credit may not exceed the lesser of 5% of the amount of gross wages payable as compensation to new employees or 25% of the tax due by the taxpayer under AS 44.88 (*see technical correction below*). The credit is in addition to all other credits that may be allowed under the corporation income tax provisions. The credit may be claimed for up to 10 consecutive taxable years after approval.

### Operating Costs

Department of Revenue is submitting a zero fiscal note for HB 232(STA) contingent on understanding that AIDEA will assume responsibilities required under Section 1, page 2, lines 4 through 15. This fiscal note is based on a limited number of projects qualifying for the credit. If it is determined through further discussion with AIDEA and the bill's sponsor that the scope of this bill will apply to numerous projects, the Department may require additional staffing to verify credits through its audit program. Department of Revenue is working with AIDEA to clarify AIDEA's responsibilities in implementing the economic development tax credit program and the scope of application that this bill will have for qualifying projects.

### State Revenue Impact

Department of Revenue is unable to determine revenue impacts of this bill because it is not feasible to estimate the magnitude of projects eligible for credits under this bill and volume of applications that AIDEA would receive for the credit. Initial discussions have indicated a small number of applications would qualify due to requirement for competition among two states for a new business opportunity. Discussions to refine intent of the legislation are ongoing. If this legislation in final form is applicable to most new business ventures the department may have additional policy concerns.

### Technical Correction

Page 4, lines 12 and 13 should be changed to replace "this chapter" with "AS 43.20" as there are no taxes due under AS 44.88.

CS FOR HOUSE BILL NO. 232(STA)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an economic development tax credit; and providing for an  
2 effective date."

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

4 \* Section 1. AS 43.20 is amended by adding a new section to read:

5 Sec. 43.20.043. ECONOMIC DEVELOPMENT TAX CREDIT. (a) Subject to  
6 the conditions set out in this section, and in addition to any other credit authorized to the  
7 taxpayer by this chapter, a taxpayer may apply as a credit against the state tax liability  
8 that may be imposed on the taxpayer under this chapter for a taxable year after  
9 December 31, 1995, the amount approved as a credit by the Alaska Industrial  
10 Development and Export Authority under AS 44.88.088 for that taxable year.

11 (b) The credit allowed by this section may not

12 (1) exceed the amount approved as a credit by the Alaska Industrial  
13 Development and Export Authority under AS 44.88.088;

14 (2) be awarded for more than 10 consecutive taxable years after approval;

1 and

2 (2) be used in a tax year by a taxpayer in conjunction with any other tax  
3 credit program.

4 (c) If the commissioner determines that a taxpayer who has received a credit  
5 under this section is not complying with the requirements of the tax credit agreement or  
6 all of the provisions of this section and AS 44.88.088, the commissioner shall, after  
7 giving the taxpayer an opportunity to explain the noncompliance, begin an enforcement  
8 action against the taxpayer under AS 43.10.

9 (d) On or before March 31 each year, the commissioner shall submit a report to  
10 the Alaska Industrial Development and Export Authority on the tax credit program under  
11 this section. The report must include information on the number of agreements that were  
12 entered into under AS 44.88.088 during the preceding calendar year, a description of the  
13 project that is the subject of each agreement, a summary of the status of projects under  
14 agreements entered into before the preceding calendar year, and the sum of the credits  
15 awarded under this section.

16 \* Sec. 2. AS 44.88 is amended by adding a new section to article 3 to read:

17 Sec. 44.88.088. ECONOMIC DEVELOPMENT TAX CREDIT. (a) The  
18 membership of the authority may make economic development tax credit awards under  
19 this section to foster job creation or to expand value-added manufacturing or processing  
20 industries in the state. The credit may only be claimed for the taxable years specified  
21 in the taxpayer's tax credit agreement and may not be applied retrospectively.

22 (b) A person that proposes a project to create new jobs or to expand value-added  
23 manufacturing or processing industries in the state may apply to the authority to enter  
24 into an agreement for a tax credit under this section. The authority shall prescribe the  
25 form of the application.

26 (c) After receipt of an application, the authority shall negotiate with the applicant  
27 and may enter into an agreement with the applicant for a credit under this section if the  
28 membership of the authority determines that

29 (1) the applicant's project satisfies at least one of the following:

30 (A) the authority

31 (i) verifies that at least one other state is being considered  
32 for the project;

1 (ii) determines, using best available data, that the  
2 projected costs for the applicant's project in this state would exceed the  
3 costs of the project in the competing state, taking into account the  
4 probable effect of the competing state's incentive programs based on state,  
5 local, private, and federal funds available to the competing state; and

6 (iii) finds that receiving the tax credit is a beneficial  
7 factor in the applicant's decision to proceed with the project and not  
8 receiving the tax credit will result in the applicant not creating new jobs  
9 in the state;

10 (B) the applicant's project will, upon completion, provide a net  
11 increase of at least 25 percent in the number of new employees employed by the  
12 applicant; or

13 (C) the applicant's project is economically feasible and will, upon  
14 completion, benefit the people of the state by increasing opportunities for  
15 employment and strengthening the economy of the state, and significantly  
16 expands existing facilities in the state;

17 (2) awarding the tax credit will result in a net increase in jobs, in value-  
18 added manufacturing or processing industries, or in a net fiscal gain to this state, as  
19 certified by the office of management and budget, using the best available data; and

20 (3) the credit is not prohibited by (g) of this section.

21 (d) A person is not entitled to claim the credit provided by this section for jobs  
22 that the person relocates from one site in the state to another site in the state.  
23 Determinations under this subsection shall be made by the membership of the authority.

24 (e) In negotiating the credit amount that should be awarded, the membership of  
25 the authority shall take into consideration the following factors:

- 26 (1) the economy of the area where the proposed investment is to occur;  
27 (2) the potential effect on the economy of the state;  
28 (3) the magnitude of the cost differential between the state and the  
29 competing state;  
30 (4) the incremental payroll attributable to the project;  
31 (5) the extent to which new or expanded value-added manufacturing or  
32 processing will take place;

- 1 (6) the capital investment attributable to the project;
- 2 (7) the amount the average wage paid by the applicant exceeds the
- 3 average wage paid within the area in which the project will be located;
- 4 (8) the costs to the state with respect to the project; and
- 5 (9) the financial assistance that is otherwise provided by the state and the
- 6 municipalities in the affected area.

7 (f) The membership shall determine the amount and duration of a tax credit

8 awarded under this section. The credit amount may not exceed the lesser of

9 (1) the amount of the credit approved under (c) of this section, which

10 credit amount may not exceed five percent of the amount of gross wages payable as

11 compensation for new employees; or

12 (2) 25 percent of the tax due and payable by the taxpayer under this

13 chapter.

14 (g) The membership of the authority shall enter into an agreement with an

15 applicant that is awarded a credit under this section. The agreement must include

16 (1) a detailed description of the project that is the subject of the

17 agreement;

18 (2) the duration of the tax credit and the first taxable year for which the

19 credit may be claimed;

20 (3) the credit amount that will be allowed for each taxable year;

21 (4) a requirement that the taxpayer shall maintain operations at the

22 project location for at least two times the number of years as the term of the tax credit;

23 (5) a specific method for determining the number of new employees

24 employed during a taxable year who are performing jobs not previously performed by

25 an employee;

26 (6) a requirement that the taxpayer shall annually report to the authority

27 the number of new employees who are performing jobs not previously performed by an

28 employee and any other information the membership of the authority needs to perform

29 its duties under this section;

30 (7) a requirement that the membership of the authority is authorized to

31 verify with the appropriate state agencies the amounts reported under (6) of this

32 subsection and after doing so shall issue a certificate of verification to the taxpayer

1 stating that the amounts have been verified;

2 (8) a requirement that the taxpayer shall provide written notification to  
3 the authority and the membership of the authority not more than 30 days after the  
4 taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability  
5 obligations to a successor taxpayer; and

6 (9) any other performance conditions that the membership of the  
7 authority determines are appropriate.

8 (h) A taxpayer claiming a credit under this section shall submit to the department  
9 a copy of the certificate of verification under (g) of this section for the taxable year.  
10 However, failure to submit a copy of the certificate does not invalidate a claim for a  
11 credit.

12 (i) Biennially, the authority shall provide for an evaluation of the tax credit  
13 program authorized by this section. The evaluation must include an assessment of the  
14 effectiveness of the program in creating new jobs in the state and of the revenue effect  
15 of the program, and may include a review of the practices and experiences of other states  
16 with similar programs. The membership of the authority shall submit a report on the  
17 evaluation to the governor and the legislature.

18 (j) In this section,

19 (1) "credit amount" means the amount agreed to between the membership  
20 of the authority and applicant under this section;

21 (2) "full-time employee" means an individual who is employed for  
22 consideration for at least 35 hours each week or who renders any other standard of  
23 service generally accepted by custom or specified by contract as full-time employment;

24 (3) "new employee"

25 (A) means

26 (i) a full-time employee employed by a taxpayer in the  
27 project that is the subject of a tax credit agreement and who is first  
28 employed by the taxpayer after the taxpayer enters into the tax credit  
29 agreement;

30 (ii) notwithstanding (B)(i) of this paragraph, a new  
31 employee who performs a job that was previously performed by an  
32 employee who was treated under the agreement as a new employee and

1 was promoted by the taxpayer to another job;

2 (B) does not include

3 (i) an employee of the taxpayer who performs a job that  
4 was previously performed by another employee if that job existed for at  
5 least six months before hiring the new employee;

6 (ii) an employee of the taxpayer who was previously  
7 employed in the state by a related member of the taxpayer and whose  
8 employment was shifted to the taxpayer after the taxpayer entered into the  
9 tax credit agreement; or

10 (iii) a child, grandchild, parent, or spouse, other than a  
11 spouse who is legally separated from the individual, of any individual  
12 who is an employee of the taxpayer and who has a direct or an indirect  
13 ownership interest of at least five percent in the profits, capital, or value  
14 of the taxpayer, as determined in accordance with 26 U.S.C. 1563.

15 \* Sec. 3. This Act takes effect January 1, 1996.

HOUSE COMMITTEE REPORT

Date of Committee Action: April 6, 1995

The STATE AFFAIRS Committee considered:

HB 232

HOUSE BILL NO. 232

ECONOMIC DEVELOPMENT TAX CREDIT

"An Act establishing an economic development tax credit; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 232 (STA)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept, Date) \_\_\_\_\_  
 fiscal note(s) \_\_\_\_\_  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) Reg, Comm  zero fiscal note(s) \_\_\_\_\_  
AIDEA

| SIGNING WITH RECOMMENDATIONS | DP                                  | DNP | NR                                  | AM |
|------------------------------|-------------------------------------|-----|-------------------------------------|----|
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>[Signature]</i>           | <input checked="" type="checkbox"/> |     |                                     |    |
| <i>[Signature]</i>           |                                     |     | <input checked="" type="checkbox"/> |    |
| <i>[Signature]</i>           |                                     |     | <input checked="" type="checkbox"/> |    |
|                              |                                     |     |                                     |    |
|                              |                                     |     |                                     |    |
|                              |                                     |     |                                     |    |
|                              |                                     |     |                                     |    |

CHAIR'S SIGNATURE *[Signature]*

# Alaska State Legislature House of Representatives

## COMMITTEE ASSIGNMENTS.

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MILITARY & VETERANS AFFAIRS. CHAIRMAN  
COMMUNITY & REGIONAL AFFAIRS  
RESOURCES  
INTERNATIONAL TRADE / TOURISM  
LEGISLATIVE COUNCIL



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SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE (907) 465-3777  
FAX (907) 465-2819

TO: Representative Jeannette James, Chair  
House State Affairs Committee

FROM: Representative Pete Kott

DATE: March 21, 1995

RE: House Bill 232

Please schedule HB 232 for a hearing in the House State Affairs Committee.

This legislation establishes an Economic Development Board in the Department of Commerce & Economic Development. The board has the responsibility of evaluating projects that involve facility expansion and increased employment and, when they meet established criteria, allow a tax credit against future Net Income Tax Liability.

This legislation should result in increased economic activity in Alaska and entice companies who have expansion plans to implement their plans in Alaska.

Thanks in advance for scheduling HB 232 for a hearing.



Representative Pete Kott



Alaska State Legislature  
House of Representatives

COMMITTEE ASSIGNMENTS.

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SESSION:  
STATE CAPITOL  
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SPONSOR STATEMENT  
HB 232

In the continuing effort to facilitate economic diversity in the State, House Bill 232 establishes the Economic Development Board in the Department of Commerce & Economic Development.

This board, whose membership is comprised of the Commissioner of Commerce, the Director of the Office of Budget & Management, the Commissioner of Revenue and two public members, has the authority to allow net income tax credits to taxpayers whose proposed project meets the criteria established in this legislation.

The legislation also makes provision for monitoring the project and calls on the Board to report on the performance of the program to the legislature.

I encourage your support for this legislation which provides an attractive incentive to foster economic development in the form of expanded business and employment in Alaska.



Representative Pete Kott



# Alaska State Legislature House of Representatives

## COMMITTEE ASSIGNMENTS

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COMMUNITY & REGIONAL AFFAIRS  
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STATE CAPITOL  
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## SECTIONAL ANALYSIS CSHB 232(ECD)

- Sec. 1. - Amends Alaska Net Income Tax section of law defining the economic development tax credit but not allowing its use in conjunction with another tax credit program.
- Sec. 2. - Establishes an Economic Development Board in the Dept. of Commerce & Economic Development and defines its membership. It also establishes the criteria for qualifying for a tax credit and the administration of the program.
- Sec. 3. - Establishes the effective date of the act as January 1, 1996.



Representative Pete Kott



# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 232

Revision Date: March 20, 1995 Department: Commerce and Economic Development  
 Title: "An Act establishing an economic development tax credit; and providing for an effective date." BRU: Economic Development  
 Sponsor: Representative Kott Component: Economic Development  
 Requestor: Representative Kott COMPONENT SERIAL NO. 801

| Expenditures/Revenues  | (Thousands of Dollars) |             |             |             |             |             |
|------------------------|------------------------|-------------|-------------|-------------|-------------|-------------|
| OPERATING EXPENDITURES | FY 96                  | FY 97       | FY 98       | FY 99       | FY 00       | FY 01       |
| PERSONAL SERVICES      |                        |             |             |             |             |             |
| TRAVEL                 | 5.0                    | 5.0         | 5.0         | 5.0         | 5.0         | 5.0         |
| CONTRACTUAL            | 25.0                   | 25.0        | 25.0        | 25.0        | 25.0        | 25.0        |
| SUPPLIES               |                        |             |             |             |             |             |
| EQUIPMENT              |                        |             |             |             |             |             |
| LAND & STRUCTURES      |                        |             |             |             |             |             |
| GRANTS, CLAIMS         |                        |             |             |             |             |             |
| MISCELLANEOUS          |                        |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>30.0</b>            | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> |

|                             |  |
|-----------------------------|--|
| <b>CAPITAL EXPENDITURES</b> |  |
|-----------------------------|--|

|                           |  |
|---------------------------|--|
| <b>CHANGE IN REVENUES</b> |  |
|---------------------------|--|

| FUND SOURCE              | (Thousands of Dollars) |             |             |             |             |             |
|--------------------------|------------------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |                        |             |             |             |             |             |
| 1003 GF Match            |                        |             |             |             |             |             |
| 1004 General Fund        | 30.0                   | 30.0        | 30.0        | 30.0        | 30.0        | 30.0        |
| 1005 GF/Program Receipts |                        |             |             |             |             |             |
| 1006 GF/MHTIA            |                        |             |             |             |             |             |
| Other                    |                        |             |             |             |             |             |
| <b>TOTAL</b>             | <b>30.0</b>            | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> | <b>30.0</b> |

Estimate of any current year (FY 95) cost: \$ 0.0

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

This fiscal note includes \$5.0 in travel costs for the members of the Economic Development Board, \$5.0 in contractual services for public notices and board meeting costs, and \$20.0 in contractual services for economic and financial analyses of requests which come before the board.

Prepared by: William G. Paulick, Industrial Developer Phone: 465-3961  
 Division: Economic Development Date: 3/20/95  
 Approved by Commissioner: William L. Hensley Date: 3/20/95  
 Agency: Commerce and Economic Development

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**FISCAL NOTE**

BILL NOTE: HB 232

Revision Date: 3/20/95

Dept. Affected: Revenue

Title: Economic Development Tax Credit

BRU: Audit Operations

Component: Income and Excise Audit

Sponsor: Rep. Kott

Requestor: (H) ECD

COMPONENT SERIAL NO.

113

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING              | FY 96       | FY 97       | FY 98       | FY 99       | FY 00       | FY 01       |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| PERSONAL SERVICES      | 18.3        | 18.3        | 18.3        | 18.3        | 18.3        | 18.3        |
| TRAVEL                 | 1.0         | 1.0         | 1.0         | 1.0         | 1.0         | 1.0         |
| CONTRACTUAL SUPPLIES   |             |             |             |             |             |             |
| EQUIPMENT              |             |             |             |             |             |             |
| LAND & STRUCTURES      |             |             |             |             |             |             |
| GRANTS, CLAIMS         |             |             |             |             |             |             |
| MISCELLANEOUS          |             |             |             |             |             |             |
| <b>TOTAL OPERATING</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> |

|         |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|
| CAPITAL |  |  |  |  |  |  |
|---------|--|--|--|--|--|--|

|                         |       |       |       |       |       |       |
|-------------------------|-------|-------|-------|-------|-------|-------|
| REVENUE FUND SOURCE: GF | ***** | ***** | ***** | ***** | ***** | ***** |
|-------------------------|-------|-------|-------|-------|-------|-------|

FUNDING:

(Thousands of Dollars)

|                          |             |             |             |             |             |             |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts    |             |             |             |             |             |             |
| 1003 GF Match            |             |             |             |             |             |             |
| 1004 GF                  | 19.3        | 19.3        | 19.3        | 19.3        | 19.3        | 19.3        |
| 1005 GF/Program Receipts |             |             |             |             |             |             |
| 1006 GF/MHTIA            |             |             |             |             |             |             |
| Other                    |             |             |             |             |             |             |
| <b>TOTAL</b>             | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> | <b>19.3</b> |

POSITIONS:

|           |      |      |      |      |      |      |
|-----------|------|------|------|------|------|------|
| FULL-TIME | 0.25 | 0.25 | 0.25 | 0.25 | 0.25 | 0.25 |
| PART-TIME |      |      |      |      |      |      |
| TEMPORARY |      |      |      |      |      |      |

Estimate of current (FY96) Impact \$

0.0

ANALYSIS: (Attach a separate page if necessary)

(See Attached Analysis)

Prepared by: Robert N. Bartholomew, Deputy Director

Phone: 466-2320

Division: Income and Excise Audit

Date: 3/20/95

Approved by Commissioner: [Signature]

Date: 3/20/95

Agency: Department of Revenue

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Fiscal Note Analysis - Revised 3/20/95  
HB 232 - Economic Development Tax Credit  
Page 2 of 2

## FISCAL ANALYSIS

### Maximum Credit

The EDB determines the amount and duration of the credit to be awarded. A credit is not allowed for jobs that the taxpayer relocates from one site in the state to another site in the state. The credit may not exceed the lesser of 5% of the amount of gross wages payable as compensation to new employees or 25% of the tax due by the taxpayer under AS 44.20 (see technical correction below). The credit is in addition to all other credits that may be allowed under the corporation income tax provisions. The credit may be claimed for up to 10 consecutive taxable years after approval.

If Revenue determines that a taxpayer is not complying with the requirements of the agreement, a notice and hearing must be provided after which an enforcement action under AS 43.10 may be brought.

### Operating Costs

In order to effectively implement this new program, considerable time and resources of impacted agencies would be needed for board activities and staff time to fulfill new requirements. Department of Revenue estimates the increase in operating costs to be \$19,250 which includes personal service costs of \$18,250. This work cannot be absorbed by existing staff during a time of continued budget reductions.

### State Revenue Impact

Department of Revenue is unable to determine revenue impacts of this bill because it is not feasible to estimate the magnitude of projects eligible for credits under this bill and volume of applications that the EDB would receive for the credit.

### Potential Legal Concerns

The United States Supreme Court has recently reaffirmed the fundamental principle that broad based taxes coupled with narrowly focused credits or exemptions favoring local interests offends the negative Commerce Clause of the United States Constitution. Thus, a tax credit targeted to a specific in-state activity, i.e. investment in an economic development project in Alaska, may be very vulnerable to a constitutional challenge.

### Technical Correction

Page 4, lines 19 and 20 should be changed to replace "this chapter" with "AS 43.20" as there are no taxes due under AS 44.33.

HB 232 - 9-LS0323\O  
AMENDMENTS

#1

- Pg. 2, Ln. 28: Following "membership"  
Insert "of the authority"
- Pg. 3, Ln. 6: Delete "[major]"  
Insert "beneficial"
- Pg. 3, Ln. 12: Delete "[sound]"  
Insert "feasible"
- Pg. 3, Ln. 22: Following "membership"  
Insert "of the authority"
- Pg. 3, Ln. 23: Following "the" and prior to "authority"  
Insert "membership of the"
- Pg. 3, Ln. 25: Delete "[projected]"  
Insert "proposed"
- Pg. 4, Ln. 13: Following "membership"  
Insert "of the authority"
- Pg. 4, Ln. 27: Following "membership"  
Insert "of the authority"
- Pg. 4, Ln. 29: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 2: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 5: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 15: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 18: Following "membership"  
Insert "of the authority"

HB 232 - 9-LS0323\0  
AMENDMENTS

For Jack Chenoweth  
From Sam Griswold  
Rm 102 #3743

Attn. Karen

2029

- Pg. 2, Ln. 28: Following "membership"  
Insert "of the authority"
- Pg. 3, Ln. 6: Delete "[major]"  
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- Pg. 5, Ln. 2: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 5: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 15: Following "membership"  
Insert "of the authority"
- Pg. 5, Ln. 18: Following "membership"  
Insert "of the authority"

9-LS0323VO ✓  
Chenoweth  
4/6/95

CS FOR HOUSE BILL NO. 232( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an economic development tax credit; and providing for an  
2 effective date."

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

4 \* Section 1. AS 43.20 is amended by adding a new section to read:

5 Sec. 43.20.043. ECONOMIC DEVELOPMENT TAX CREDIT. (a) Subject to  
6 the conditions set out in this section, and in addition to any other credit authorized to the  
7 taxpayer by this chapter, a taxpayer may apply as a credit against the state tax liability  
8 that may be imposed on the taxpayer under this chapter for a taxable year after  
9 December 31, 1995, the amount approved as a credit by the Alaska Industrial  
10 Development and Export Authority under AS 44.88.088 for that taxable year.

11 (b) The credit allowed by this section may not

12 (1) exceed the amount approved as a credit by the Alaska Industrial  
13 Development and Export Authority under AS 44.88.088;

14 (2) be awarded for more than 10 consecutive taxable years after approval;

1 and

2 (3) be used in a tax year by a taxpayer in conjunction with any other tax  
3 credit program.

4 (c) If the commissioner determines that a taxpayer who has received a credit  
5 under this section is not complying with the requirements of the tax credit agreement or  
6 all of the provisions of this section and AS 44.88.088, the commissioner shall, after  
7 giving the taxpayer an opportunity to explain the noncompliance, begin an enforcement  
8 action against the taxpayer under AS 43.10.

9 (d) On or before March 31 each year, the commissioner shall submit a report to  
10 the Alaska Industrial Development and Export Authority on the tax credit program under  
11 this section. The report must include information on the number of agreements that were  
12 entered into under AS 44.88.088 during the preceding calendar year, a description of the  
13 project that is the subject of each agreement, a summary of the status of projects under  
14 agreements entered into before the preceding calendar year, and the sum of the credits  
15 awarded under this section.

16 \* Sec. 2. AS 44.88 is amended by adding a new section to article 3 to read:

17 Sec. 44.88.088. ECONOMIC DEVELOPMENT TAX CREDIT. (a) The  
18 membership of the authority may make economic development tax credit awards under  
19 this section to foster job creation or to expand value-added manufacturing or processing  
20 industries in the state. The credit may only be claimed for the taxable years specified  
21 in the taxpayer's tax credit agreement and may not be applied retrospectively.

22 (b) A person that proposes a project to create new jobs or to expand value-added  
23 manufacturing or processing industries in the state may apply to the authority to enter  
24 into an agreement for a tax credit under this section. The authority shall prescribe the  
25 form of the application.

26 (c) After receipt of an application, the authority shall negotiate with the applicant  
27 and may enter into an agreement with the applicant for a credit under this section if the  
28 membership determines that

29 (1) the applicant's project satisfies at least one of the following:

30 (A) the authority

31 (i) verifies that at least one other state is being considered  
32 for the project;

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(ii) determines, using best available data, that the projected costs for the applicant's project in this state would exceed the costs of the project in the competing state, taking into account the probable effect of the competing state's incentive programs based on state, local, private, and federal funds available to the competing state; and

(iii) finds that receiving the tax credit is a major factor in the applicant's decision to proceed with the project and not receiving the tax credit will result in the applicant not creating new jobs in the state;

(B) the applicant's project will, upon completion, provide a net increase of at least 25 percent in the number of new employees employed by the applicant; or

(C) the applicant's project is economically sound and will, upon completion, benefit the people of the state by increasing opportunities for employment and strengthening the economy of the state, and significantly expands existing facilities in the state;

(2) awarding the tax credit will result in a net increase in jobs, in value-added manufacturing or processing industries, or in a net fiscal gain to this state, as certified by the office of management and budget, using the best available data; and

(3) the credit is not prohibited by (g) of this section.

(d) A person is not entitled to claim the credit provided by this section for jobs that the person relocates from one site in the state to another site in the state. Determinations under this subsection shall be made by the membership.

(e) In negotiating the credit amount that should be awarded, the authority shall take into consideration the following factors:

(1) the economy of the area where the projected investment is to occur;

(2) the potential effect on the economy of the state;

(3) the magnitude of the cost differential between the state and the competing state;

(4) the incremental payroll attributable to the project;

(5) the extent to which new or expanded value-added manufacturing or processing will take place;

(6) the capital investment attributable to the project;

1 (7) the amount the average wage paid by the applicant exceeds the  
2 average wage paid within the area in which the project will be located;

3 (8) the costs to the state with respect to the project; and

4 (9) the financial assistance that is otherwise provided by the state and the  
5 municipalities in the affected area.

6 (f) The membership shall determine the amount and duration of a tax credit  
7 awarded under this section. The credit amount may not exceed the lesser of

8 (1) the amount of the credit approved under (c) of this section, which  
9 credit amount may not exceed five percent of the amount of gross wages payable as  
10 compensation for new employees; or

11 (2) 25 percent of the tax due and payable by the taxpayer under this  
12 chapter.

13 (g) The membership shall enter into an agreement with an applicant that is  
14 awarded a credit under this section. The agreement must include

15 (1) a detailed description of the project that is the subject of the  
16 agreement;

17 (2) the duration of the tax credit and the first taxable year for which the  
18 credit may be claimed;

19 (3) the credit amount that will be allowed for each taxable year;

20 (4) a requirement that the taxpayer shall maintain operations at the  
21 project location for at least two times the number of years as the term of the tax credit;

22 (5) a specific method for determining the number of new employees  
23 employed during a taxable year who are performing jobs not previously performed by  
24 an employee;

25 (6) a requirement that the taxpayer shall annually report to the authority  
26 the number of new employees who are performing jobs not previously performed by an  
27 employee and any other information the membership needs to perform its duties under  
28 this section;

29 (7) a requirement that the membership is authorized to verify with the  
30 appropriate state agencies the amounts reported under (6) of this subsection and after  
31 doing so shall issue a certificate of verification to the taxpayer stating that the amounts  
32 have been verified;

1 (8) a requirement that the taxpayer shall provide written notification to  
2 the authority and the membership not more than 30 days after the taxpayer makes or  
3 receives a proposal that would transfer the taxpayer's state tax liability obligations to a  
4 successor taxpayer; and

5 (9) any other performance conditions that the membership determines are  
6 appropriate.

7 (h) A taxpayer claiming a credit under this section shall submit to the department  
8 a copy of the certificate of verification under (g) of this section for the taxable year.  
9 However, failure to submit a copy of the certificate does not invalidate a claim for a  
10 credit.

11 (i) Biennially, the authority shall provide for an evaluation of the tax credit  
12 program authorized by this section. The evaluation must include an assessment of the  
13 effectiveness of the program in creating new jobs in the state and of the revenue effect  
14 of the program, and may include a review of the practices and experiences of other states  
15 with similar programs. The membership shall submit a report on the evaluation to the  
16 governor and the legislature.

17 (j) In this section,

18 (1) "credit amount" means the amount agreed to between the membership  
19 and applicant under this section;

20 (2) "full-time employee" means an individual who is employed for  
21 consideration for at least 35 hours each week or who renders any other standard of  
22 service generally accepted by custom or specified by contract as full-time employment;

23 (3) "new employee"

24 (A) means

25 (i) a full-time employee employed by a taxpayer in the  
26 project that is the subject of a tax credit agreement and who is first  
27 employed by the taxpayer after the taxpayer enters into the tax credit  
28 agreement;

29 (ii) notwithstanding (B)(i) of this paragraph, a new  
30 employee who performs a job that was previously performed by an  
31 employee who was treated under the agreement as a new employee and  
32 was promoted by the taxpayer to another job;

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(B) does not include

(i) an employee of the taxpayer who performs a job that was previously performed by another employee if that job existed for at least six months before hiring the new employee;

(ii) an employee of the taxpayer who was previously employed in the state by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement; or

(iii) a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who is an employee of the taxpayer and who has a direct or an indirect ownership interest of at least five percent in the profits, capital, or value of the taxpayer, as determined in accordance with 26 U.S.C. 1563.

\* Sec. 3. This Act takes effect January 1, 1996.