

**HB**

**334**

<TARGET><BILL>HB 334</BILL><SUBJECT>HB  
334</SUBJECT><COMM>HRES28</COMM></TARGET>

# Alaska State Legislature



Session:  
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**Representative Lance Pruitt**  
House Majority Leader

## Sponsor Statement

### **HB 334**

***"An Act relating to the qualified oil and gas service industry expenditure credit; and relating to a credit against oil and gas exploration, production, and pipeline transportation property taxes."***

HB 334 is designed to incentivize property manufactured or modified in Alaska and used in the oil and gas industry. This type of industrial activity provides an increase to the in-state economy; providing new, high paying jobs, additional demand for logistics services, as well as fostering innovation in technology and energy distribution. This legislation would also distribute benefits to regions in Alaska whose economies don't directly benefit from the oil & gas sector.

HB 334 creates a transferable tax credit certificate for use against oil and gas exploration, production, and pipeline transportation property taxes. The basis for the tax credit certificate is a tax credit under AS 43.20.049, the qualified oil and gas service industry expenditure credit. A qualified oil and gas service industry expenditure is an expenditure directly attributable to an in-state manufacturer or in-state modification of tangible personal property used in the exploration for, development of, or production of oil and gas deposits.

This credit is expanded to those taxpayers that purchase tangible personal property from a taxpayer that manufactured or modified such personal property in state and which otherwise meets the criteria for a qualified oil and gas service industry expenditure.

HB 334 provides a direct incentive to taxpayers in the Alaska oil and gas service industry to use tangible personal property manufactured or modified by in-state taxpayers, creating state economic benefits beyond direct exploration and extraction and strengthening Alaska based manufacturing and related employment.

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Nauman  
3/4/14

**CS FOR HOUSE BILL NO. 334( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVE PRUITT**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the qualified oil and gas service industry expenditure credit; and**  
2 **relating to a credit against oil and gas exploration, production, and pipeline**  
3 **transportation property taxes."**

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

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

6 **Sec. 43.20.052. Transferable qualified oil and gas service industry**  
7 **expenditure credit certificate.** (a) A person that is entitled to take a credit under  
8 AS 43.20.049 that wishes to transfer the unused credit to another person may apply to  
9 the department for a transferable tax credit certificate. Except as provided in (d) of this  
10 section, a tax credit certificate issued under this section may be applied against a tax  
11 levied under AS 43.56.

12 (b) A tax credit certificate provided under (a) of this section may be sold,  
13 assigned, exchanged, conveyed, or otherwise transferred in whole or in part.

14 (c) The department may review, audit, and bring legal proceedings to recover

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1 any amount of a tax credit awarded under this section from the taxpayer to which a  
2 credit was initially awarded if the department determines that the taxpayer is liable for  
3 damages to the state or a political subdivision of the state or if the amount of the credit  
4 is found to be incorrect upon review.

5 (d) A transferable tax credit certificate provided under (a) of this section,  
6 whether sold, assigned, exchanged, conveyed, or otherwise transferred, in whole or in  
7 part, must be used within five years after being provided by the department. A tax  
8 credit or a portion of a tax credit under this section may not reduce the taxpayer's tax  
9 liability under this chapter or AS 43.56 below zero.

10 (e) A person acquiring two or more tax credit certificates provided under (a)  
11 of this section may combine the unused amounts of the credits for sale, assignment,  
12 exchange, conveyance, or other transfer. At the request of a person holding a tax credit  
13 certificate, the department shall replace a certificate that represents the full amount of  
14 tax credit available with multiple certificates that each represent a portion of the total  
15 tax credit available for the purpose of sale, assignment, exchange, conveyance, or  
16 other transfer under this subsection or, on request, shall provide one tax credit  
17 certificate that represents the combined value of multiple tax credit certificates. A tax  
18 credit certificate provided by the department under this subsection must state the  
19 expiration date and the amount of each credit that is included in the certificate.  
20 Combining or splitting unused amounts of credits under this subsection does not  
21 change or extend the period in which each credit that is included in the combination or  
22 split must be used.

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## **HB 334 Sectional Analysis**

Section 1. Adds a new section to AS 43.20, creating a transferable tax credit certificate for qualified oil and gas service industry expenditures.

Subsection (a) Allows those who qualify for the credit to apply to the DOR for a transferable tax credit certificate and makes the certificate applicable to AS 43.56, the Oil and Gas Exploration, Production, and Pipeline Transportation Property Taxes.

Subsection (b) Allows the tax credit certificate to be sold, assigned, exchanged, conveyed, or transferred in whole or in part.

Subsection (c) Allows DOR to review, audit, and bring legal proceedings to recover any amount of the tax credit awarded to the taxpayer if they are found liable to damages to the state or if the amount of the credit is found to be incorrect.

Subsection (d) Requires the tax credit to be used within five years regardless if it has been sold, assigned, exchanged, conveyed, or otherwise transferred. Also states that the tax credit or part of the tax credit may not reduce the taxpayers liability under AS 43.56 below zero.

Subsection (e) Allows the taxpayer acquiring this tax credit to combine or split up their certificate(s) for the purpose of sale, assignment, exchange, conveyance, or other transfer. Also requires the DOR to state the expiration date and amount of each credit and clarifies that combining or splitting unused amounts doesn't change or extend the expiration date.

# FISCAL NOTE

**STATE OF ALASKA**  
**2014 LEGISLATIVE SESSION**

Bill Version HB 334  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB334-DOR-TAX-03-05-14 Dept. Affected Revenue  
 Title Oil and Gas Transferable Tax Credit Certificate Appropriation Taxation and Treasury  
 Allocation Tax Division  
 Sponsor Rep. Pruitt  
 Requester (H) RES OMB Component Number 2476

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY15 Appropriation Requested	Included in Governor's FY15 Request	Out-Year Cost Estimates				
			FY16	FY17	FY18	FY19	FY20
<b>OPERATING EXPENDITURES</b>	<b>FY15</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>	<b>FY19</b>	<b>FY20</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>***</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1007	I/A Rcpts (Other)							
1156	Rcpt Svcs (DGF)							
		<b>***</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

POSITIONS							
Full-time							
Part-time							
Temporary							

<b>CHANGE IN REVENUES</b>	<b>***</b>	<b>0.0</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>
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Estimated SUPPLEMENTAL (FY14) operating costs \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY15) costs \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes  
 If yes, by what date are the regulations to be adopted, amended, or repealed? 12/31/2015 Discuss details in analysis section.

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Initial version.

Prepared by Matt Fonder, Director  
 Division Tax  
 Approved by Angela M. Rodell, Commissioner  
 Division Department of Revenue

Phone (907) 269-1033  
 Date/Time 03/06/14 2:00 p.m.  
 Date 03/07/14

FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HB 334

**Analysis**

**Bill Language:**

This bill would allow a person who obtained a credit under AS 43.20.049 (oil and gas service industry credit from More Alaska Production Act) to apply to the department for a transferable tax credit certificate. That certificate could only be transferred to the initial purchaser of the tangible personal property which was the basis for the credit under AS 43.20.049.

A transferable tax credit certificate issued under this bill could only be applied against oil and gas property taxes under AS 43.56.

The bill also amends AS 43.56 by adding a new section which allows an oil and gas property taxpayer to apply a credit or a portion of a credit obtained under Section 1 of the bill against the property tax levied by the state. The credit may not reduce the taxpayer's liability below zero, and the bill also allows a taxpayer to carry-forward any unused credit amounts for five years immediately following the tax year in which the expenditure that was the basis of the credit was incurred.

**Revenues:**

The department is unable to determine the amount of credits which may be claimed by taxpayers as the department currently has no information about the amount of this type of activity in the state. Therefore, the department has no basis with which to formulate an estimated effect on revenues.

**Expenditures:**

The department can implement the provisions of this bill with existing resources.

**Regulations:**

The department expects it will need to draft regulations identifying the information a taxpayer will be required to provide when claiming the credit.

**Effective dates.** — Section 47, ch. 51, SLA 2012 makes this section effective May 31, 2012, in accordance with AS 01.10.070(c).

**Sec. 43.20.049. Qualified oil and gas service industry expenditure credit.** (a) For a tax year beginning after December 31, 2013, a taxpayer may apply a credit against the tax due under this chapter for a qualified oil and gas service industry expenditure incurred in the state. The total amount of credit a taxpayer may receive in a tax year may not exceed the lesser of 10 percent of qualified oil and gas service industry expenditures incurred in the state during the tax year or \$10,000,000.

(b) A taxpayer may not apply more than \$10,000,000 in tax credits under this section in a tax year. A tax credit or portion of a tax credit under this section may not be used to reduce the taxpayer's tax liability under this chapter below zero. Any unused tax credit or portion of a tax credit under this section may be applied in later tax years, except that any unused tax credit or portion of a tax credit may not be carried forward for more than five tax years immediately following the tax year in which the qualified oil and gas service industry expenditures were incurred.

(c) An expenditure that is the basis of the credit under this section may not be the basis for

(1) a deduction against the tax levied under this chapter;

(2) a credit or deduction under another provision of this title; or

(3) any federal credit claimed under this title.

(d) Notwithstanding any contrary provision of AS 40.25.100(a) or AS 43.05.230(e), for a year that three or more taxpayers claim a tax credit under this section, the department may publish the aggregated amount of tax credits claimed under this section and a description of the qualified oil and gas service industry expenditures that were the basis for a tax credit under this section.

(e) In this section,

(1) "manufacture" means to perform substantial industrial operations in the state to transform raw material into tangible personal property with a useful life of three years or more for use in the exploration for, development of, or production of oil or gas deposits;

(2) "modification" means an adjustment, equipping, or other alteration to existing tangible personal property that has a useful life of three years or more and is for use in the exploration for, development of, or production of oil or gas deposits; "modification" does not include minor product alterations or inventory activities;

(3) "qualified oil and gas service industry expenditure" means an expenditure directly attributable to an in-state manufacture or in-state modification of tangible personal property used in the exploration for, development of, or production of oil or gas deposits, but does not include components or equipment used for or in the process of that manufacturing or modification. (§ 3 ch 10 SLA 2013)

**Effective dates.** — Section 3, ch. 10, SLA 2013, which enacted this section, took effect on August 19, 2013.

**Sec. 43.20.072. [Renumbered as AS 43.20.144.]**

## Article 2

### Allocation and Apportionment.

**Sec. 43.20.144. Oil and gas producers and pipelines.** (a) All business income of a taxpayer engaged in the production of oil or gas from a lease or property in this state or engaged in the transportation of oil or gas by pipeline in this state shall be apportioned to this state in accordance with AS 43.19 (Multistate Tax Compact) as modified by this section.

(b) A taxpayer's business income to be apportioned under this section to the state shall be the federal taxable income of the taxpayer's consolidated business for the tax period, except that

(1) taxes based on or measured by net income that are deducted in the determination of the federal taxable income shall be added back; the tax levied and paid under AS 43.55 may not be added back;

(2) intangible drilling and development costs that are deducted as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) in the determination of the federal taxable income shall be capitalized and depreciated as if the option to treat them as expenses under 26 U.S.C. 263(c) (Internal Revenue Code) had not been exercised;

(3) depletion deducted on the percentage depletion basis under 26 U.S.C. 613 (Internal Revenue Code) in the determination of the federal taxable income shall be recomputed and deducted on the cost depletion basis under 26 U.S.C. 612 (Internal Revenue Code); and

(4) depreciation shall be computed on the basis of 26 U.S.C. 167 (Internal Revenue Code) as that section read on June 30, 1981.

(c) A taxpayer's business income shall be apportioned to this state by multiplying the taxpayer's income determined under (b) of this section by the apportionment factor applicable to the taxpayer among the following factors:

(1) the apportionment factor of a taxpayer subject to this section but not engaged in the production of oil and gas, or of gas only, as appropriate, from a lease or property in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under AS 43.19 (Multistate Tax Compact) and the sales factor under (d) of this section for the taxpayer for that tax period, and the denominator of which is two;

(2) the apportionment factor of a taxpayer subject to this section but not engaged in the pipeline transportation of oil or gas in this state during the tax period is a fraction, the numerator of which is the sum of the property factor under (e) of this section and the extraction factor under (f) of this

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## MEMORANDUM

To: Rep. Eric Feige Co-Chair House Resources  
Rep. Dan Saddler Co-Chair House Resources

From: Representative Lance Pruitt 

Date: March 5<sup>th</sup>, 2014

Re: HB 334 Hearing Request

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I respectfully request that HB 334 be scheduled for a hearing in House Resources. Please feel free to contact me, or my aide Dirk Craft, at 465-6617 with any questions. Attached you will find a background packet for HB 334 including a current version of the bill, a blank CS, sponsor statement, and sectional analysis.

Thank you for your consideration.