

**HB**

**367**

<TARGET><BILL>HB 367</BILL><SUBJECT>HB  
367</SUBJECT><COMM>HRES28</COMM></TARGET>

Sectional Analysis for HB 367

Version C	Version O	Outcome/Intention
<p><b>Lines 7-8, Page 1</b></p> <p>commences commercial operation before January 1, 2020, may apply a refundable credit against a tax liability that may be imposed on the public utility</p>	<p><b>Lines 7-8, Page 1</b></p> <p>commences commercial operation or expands, refurbishes, or upgrades an existing diesel fuel storage facility may apply a refundable credit against a tax liability that may be imposed on the public utility</p>	<p>This change opens the tax credits up to tanks that need to be refurbished or upgraded. It was expressed that to help as many diesel dependent utilities in Alaska as possible it would be beneficial to extend the tax credits to these situations as well.</p>
<p><b>Line 11, Page 1</b></p> <p>\$15,000,000</p>	<p><b>Line 13, Page 1</b></p> <p>\$5,000,000</p>	<p>Originally the cap had been set at \$15,000,000 but after further calculations it was realized that this sum was too high. \$5,000,000 will cover the projects that have been discussing with AVEC and GVEA.</p>
<p><b>Lines 13-14, Page 1</b></p> <p>The tax credit in this section is in addition to any other credit under this chapter for which the public utility is eligible.</p>	<p><b>Lines 1- 5, Page 2</b></p> <p>The Alaska Energy Authority (AS 44.83), in consultation with the department, shall adopt regulations to implement this section, including regulations to establish reporting, record-keeping, and certification procedures and requirements and to verify the accuracy of the credit claimed.</p>	<p>This addition gives AEA the responsibility of reporting, record-keeping, and certification procedures. AEA has employees who work with fuel tanks already; therefore it is believed they would be well suited to make sure the correct entities are receiving the tax credits.</p>
<p><b>Lines 6-7, Page 2</b></p> <p>must be regulated as a utility under AS 42.05 or provide diesel or diesel-derived fuel solely to a utility regulated under AS 42.05.</p>	<p><b>Lines 10-12, Page 2</b></p> <p>Or hold a certificate of public convenience and necessity issued by the Regulatory Commission of Alaska under AS 42.05.221</p>	<p>This new section allows a utility, like AVEC, who is not regulated under AS 42.05 to still apply for the credit under AS 42.05.221 with their certificate of public convenience.</p>

28-LS15170  
Nauman  
4/7/14

**CS FOR HOUSE BILL NO. 367( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-EIGHTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): REPRESENTATIVES ISAACSON, Guttenberg**

**A BILL**  
**FOR AN ACT ENTITLED**

1 **"An Act creating a diesel fuel storage facility tax credit for public utilities; and**  
2 **providing for an 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. 43.20.052. Diesel fuel storage facility tax credit.** (a) A public utility that  
6 is an owner of a diesel fuel storage facility described in (b) of this section that, before  
7 January 1, 2020, commences commercial operation or expands, refurbishes, or  
8 upgrades an existing diesel fuel storage facility may apply a refundable credit against a  
9 tax liability that may be imposed on the public utility under this chapter or receive the  
10 amount of the credit in the form of a payment for the taxable year in which the diesel  
11 fuel storage facility commences commercial operation or is expanded, refurbished, or  
12 upgraded. The tax credit or payment under this section may not exceed the lesser of  
13 \$5,000,000 or 50 percent of the costs incurred to establish, expand, refurbish, or  
14 upgrade the diesel fuel storage facility. The tax credit in this section is in addition to

1 any other credit under this chapter for which the public utility is eligible. The Alaska  
2 Energy Authority (AS 44.83), in consultation with the department, shall adopt  
3 regulations to implement this section, including regulations to establish reporting,  
4 record-keeping, and certification procedures and requirements and to verify the  
5 accuracy of the credit claimed.

6 (b) To qualify for the credit in this section, a diesel fuel storage facility must

7 (1) have a diesel or diesel-derived fuel storage volume of at least  
8 100,000 gallons; and

9 (2) be regulated as a utility under AS 42.05, provide diesel or diesel-  
10 derived fuel solely to a utility regulated under AS 42.05, or hold a certificate of public  
11 convenience and necessity issued by the Regulatory Commission of Alaska under  
12 AS 42.05.221.

13 (c) A public utility applying the credit under this section against a liability  
14 under this chapter shall claim the credit on the return of a public utility. A public  
15 utility entitled to a tax credit under this section that is greater than the tax liability of  
16 the public utility under this chapter may request a refund or payment in the amount of  
17 the unused portion of the tax credit.

18 (d) The department may use money available in the oil and gas tax credit fund  
19 established in AS 43.55.028 to make a refund or payment under (c) of this section in  
20 whole or in part if the department finds that

21 (1) the claimant does not have an outstanding liability to the state for  
22 unpaid delinquent taxes under this title; in this paragraph, "unpaid delinquent tax"  
23 means an amount of tax for which the department has issued an assessment that has  
24 not been paid and, if contested, has not been finally resolved in the taxpayer's favor;  
25 and

26 (2) after application of all available tax credits, the claimant's total tax  
27 liability under this chapter for the calendar year in which the claim is made is zero.

28 (e) For the purpose of determining the amount of the credit under this section,  
29 the costs incurred to establish, expand, refurbish, or upgrade a diesel fuel storage  
30 facility shall be submitted to the department with verification by an independent  
31 certified public accountant licensed in the state.

1 (f) A public utility may not receive a credit under this section for the  
2 acquisition of a diesel fuel storage facility for which a credit has been taken under this  
3 section.

4 (g) If the diesel fuel storage facility for which a credit was received under this  
5 section ceases commercial operation during the nine calendar years immediately  
6 following the calendar year in which the diesel fuel storage facility commences  
7 commercial operation, the tax liability under this chapter of the public utility that  
8 claimed the credit shall be increased, and a public utility not subject to the tax under  
9 this chapter that received a payment under (c) and (d) of this section shall be liable to  
10 the state in the amount determined in this subsection. The amount of the increase in  
11 tax liability or liability to the state

12 (1) for a public utility subject to the tax under this chapter, shall be  
13 determined and assessed for the taxable year in which the diesel fuel storage facility  
14 ceases commercial operation, regardless of whether the diesel fuel storage facility  
15 subsequently resumes commercial operation;

16 (2) for a public utility not subject to the tax due under this chapter,  
17 shall be determined and assessed as of December 31 of the calendar year in which the  
18 diesel fuel storage facility ceases commercial operation, regardless of whether the  
19 diesel fuel storage facility subsequently resumes commercial operation; and

20 (3) is equal to the total amount of the credit taken or received as a  
21 payment under (c) of this section, as applicable, multiplied by a fraction, the  
22 numerator of which is the difference between 10 and the number of calendar years for  
23 which the diesel fuel storage facility was eligible for a tax credit under this section and  
24 the denominator of which is 10.

25 (h) The issuance of a refund under this section does not limit the department's  
26 ability to later audit or adjust the claim if the department determines, as a result of the  
27 audit, that the public utility that claimed the credit was not entitled to the amount of  
28 the credit. The tax liability of the public utility receiving the credit under this section is  
29 increased by the amount of the credit that exceeds that to which the public utility was  
30 entitled. If the tax liability is increased under this subsection, the increase bears  
31 interest at the rate set by AS 43.05.225 from the date the refund was issued.

1 (i) A public utility claiming a tax credit under this section for a diesel fuel  
2 storage facility that ceases commercial operation within nine calendar years  
3 immediately following the calendar year in which the diesel fuel storage facility  
4 commences commercial operation shall notify the department in writing of the date  
5 the diesel fuel storage facility ceased commercial operation. The notice must be filed  
6 with the return for the taxable year in which the diesel fuel storage facility ceases  
7 commercial operation.

8 (j) A refund under this section does not bear interest.

9 (k) In this section,

10 (1) "ceases commercial operation" means that the diesel fuel storage  
11 facility fails to add or withdraw 20 percent or more of its working capacity of diesel  
12 fuel during a calendar year after the calendar year in which the diesel fuel storage  
13 facility commences commercial operation;

14 (2) "commences commercial operation" means the first input of diesel  
15 fuel into a diesel fuel storage facility for purposes other than testing.

16 \* Sec. 2. AS 43.55.028(a) is amended to read:

17 (a) The oil and gas tax credit fund is established as a separate fund of the state.  
18 The purpose of the fund is to purchase transferable tax credit certificates issued under  
19 AS 43.55.023 and production tax credit certificates issued under AS 43.55.025 and to  
20 pay refunds and payments claimed under AS 43.20.046, [OR] 43.20.047, or  
21 43.20.052.

22 \* Sec. 3. AS 44.83 is amended by adding a new section to read:

23 **Sec. 44.83.087. Duties of the authority.** The authority shall adopt regulations  
24 to implement the diesel fuel storage facility tax credit (AS 43.20.052).

25 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

# Alaska State Legislature House of Representatives

Rep.Doug.Isaacson@akleg.gov

Representative Doug Isaacson

*Interim*  
301 Santa Claus Lane  
North Pole, AK 99705

*Session*  
State Capitol  
Juneau, AK 99801  
Phone - (907) 465.4527



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## Sponsor Statement for HB 367

The shut down of Flint Hills Refinery (FHR) sent shockwaves all across Alaska. Energy is one of our state's top operational and economic priorities and this event is of upmost importance. The closure of Flint Hills Refinery means our public utilities need help in keeping affordable power.

All across Alaska public utilities make it possible for Alaskans to go about their daily business. The biggest issue facing rural and interior Alaskan public utilities is fuel storage. FHR owns most of the fuel storage in the Interior and public utilities will not have a place to stockpile fuel after it shuts down.

This legislation offers tax credits to regulated utilities that build storage tanks for petroleum-based fuels such diesel, HAGO and naphtha. This will make sure the economic impact caused by FHR's closure is minimized and that utilities throughout Alaska can operate on affordable fuel. We are creating a new tax credit similar to the previous good work done in the realm of gas storage gas credits.

We are in critical times where encouraging industry and affordable power should be of great importance to our state, Please join me in support of this bill and feel free to contact me with any questions.

Staff contact: Brenda Hewitt (907) 465-2847

# Fiscal Note

State of Alaska  
2014 Legislative Session

Bill Version: HB 367  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HB367-DOR-TAX-03-14-14  
Title: DIESEL FUEL STORAGE TAX CREDIT  
Sponsor: ISAACSON  
Requester: (H) RES

Department: Department of Revenue  
Appropriation: Taxation and Treasury  
Allocation: Tax Division  
OMB Component Number: 2476

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2015 Appropriation Requested	Included in Governor's FY2015 Request	Out-Year Cost Estimates					
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None								
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time								
Part-time								
Temporary								

<b>Change in Revenues</b>	***		***	***	***	***	***	***
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**Estimated SUPPLEMENTAL (FY2014) cost:** 0.0 *(separate supplemental appropriation required)*  
*(discuss reasons and fund source(s) in analysis section)*

**Estimated CAPITAL (FY2015) cost:** 0.0 *(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? No  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial version.

Prepared By:	Johanna Bales, Deputy Director	Phone:	(907)269-6628
Division:	Tax Division	Date:	03/14/2014 10:15 AM
Approved By:	Angela M. Rodell, Commissioner	Date:	03/14/14
Agency:	Department of Revenue		

## FISCAL NOTE ANALYSIS

STATE OF ALASKA  
2014 LEGISLATIVE SESSION

BILL NO. HB 367

### Analysis

**Bill Language:**

This bill will allow a public utility that is an owner of a diesel fuel storage facility a tax credit of the lesser of \$15 million or 50 percent of the costs incurred to establish or expand the diesel fuel storage facility. The storage facility must have storage volume of at least 100,000 gallons. The credit can be applied against the public utility's corporate income tax liability and, any amount that exceeds the utility's corporate income tax liability, can be refunded to the utility through the oil and gas tax credit fund established in AS 43.55.028. The bill also provides a credit recapture provision whereby a public utility which received a tax credit will be required to pay back a portion of the tax credit if the diesel fuel storage facility ceases operation during any of the nine calendar years immediately following the calendar year the facility was placed into service and a tax credit was received.

**Revenues:**

This bill could reduce corporate income tax revenue by up to \$15 million each year for each diesel fuel storage facility established or expanded by a public utility. If the amount of the credit exceeds the public utility's corporate income tax liability, the remaining amount of the credit will be refunded from the oil and gas tax credit fund. It is difficult to determine how many public utilities will take advantage of this credit. Most, if not all, public utility companies are nonprofit corporations. Generally speaking, nonprofit corporations are not subject to corporate income tax on net income earned on their business operations. Therefore, it is expected that the majority of the amount of credit claimed by a public utility will be paid to the utility from the oil and gas tax credit fund. Although there are several public utilities located throughout the state, the size of the diesel storage facility required before a credit can be provided is quite large. Therefore, we expect that only a few public utilities will take advantage of this credit and the total tax credit probably will, more than likely, not exceed \$15 to \$30 million in any year. And, unless a public utility establishes a new facility or significantly expands an existing facility, we expect that no more than one tax credit will be claimed by each public utility.

**Expenditures:**

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

**Regulations:**

At this time, the department does not believe regulations will be needed to implement this legislation.



March 17, 2014

Support for HB 367

Honorable members of the House Resources Committee,

Alaska Village Electric Cooperative is a not-for-profit, member-owned utility providing electric service to 55 villages across the state. We will soon be adding the community of Bethel, which itself serves two nearby villages.

AVEC owns and operates 47 bulk fuel tank farms, almost all of which hold more than 100,000 gallons of diesel fuel.

When the Denali Commission was established in 1997 and began funding long overdue projects to upgrade fuel tank farms and bring them into code compliance, it was the first time that substantial funding became available for that purpose. Rural Alaska is inexorably dependent on petroleum fuels for their energy needs because no other technology is currently available to energize these communities through the harsh arctic winter.

AVEC is a leader in alternative energy development and currently owns and operates the most extensive fleet of wind turbines in the state. We have pursued and built interties to connect our communities to improve efficiencies and spread the benefits of wind generation more widely. Six percent of our electric sales came from wind in 2013 - which is a remarkable feat considering that only 15 of our villages actually receive wind-generated electricity.

About half of our communities have been the beneficiaries of tank farm improvements with Denali commission funds. The rest are still in woeful need of upgrades and expansion.

HB 367 provides a desperately needed avenue to provide partial funding (50%) of future tank farm expansion and improvement projects. It ensures that we have "skin in the game" by requiring, in essence, a 50% match from the recipient.

AVEC is not seeking to perpetuate the dependence on diesel that currently exists in rural Alaska. Rather we are actively engaged in alleviating that dependence in every manner possible. But while we seek that goal, we must have sufficient, affordable and code-compliant storage facilities to serve the basic needs of the thousands of Alaskans who still depend on diesel for power and heat.

Thank you for hearing this important bill and thank you for your support.

Yours sincerely,

Meera Kohler  
President and CEO

# GVEA

Golden Valley Electric Association

PO Box 71249, Fairbanks, AK 99707-1249 • (907) 452-1151 • [www.gvea.com](http://www.gvea.com)

Your Touchstone Energy® Cooperative 

March 14, 2014

Dear House Resources Committee Members:

Golden Valley Electric Association (GVEA) supports the passage of House Bill 367, the Diesel Fuel Storage Tax Credit for Public Utilities, because the legislation will allow public utilities to utilize up to a 50 percent tax credit to assist in financing diesel fuel storage facilities in both urban and rural Alaska.

In light of the ongoing uncertainty for the future of the Flint Hills Refinery in North Pole, it is imperative for GVEA to have a way to store diesel fuel in the future.

House Bill 367 will allow for a partnership between public utilities and the State of Alaska. The bill establishes clear criteria for a public utility to apply for this credit, while ensuring the public utility provides its own resources up to 50 percent of the costs, ensuring oversight from the Department of Revenue and protecting the public's interests.

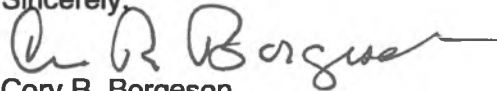
GVEA's mission is to provide its nearly 35,000 member-owners with quality electric service, quality customer service and innovative energy solutions at fair and reasonable prices. The cooperative serves nearly 100,000 Interior residents and operates and maintains 3,166 miles of transmission and distribution lines and 34 substations.

GVEA's system is interconnected with Fort Wainwright, Eielson AFB, Fort Greely, the University of Alaska-Fairbanks and all electric utilities in the Alaska Railbelt which extends from Homer to Fairbanks.

House Bill 367 creates a mechanism for public utilities like GVEA to build diesel fuel storage facilities while attempting to hold energy rates stable for our members.

Thank you for allowing GVEA the opportunity to comment in support of HB 367 and we look forward to the bill moving through the process.

Sincerely,



Cory R. Borgeson  
President and CEO

*Interim*  
301 Santa Claus Lane  
North Pole, AK 99705

**Alaska State Legislature**  
**House of Representatives**  
Rep.Doug.Isaacson@akleg.gov  
**Representative Doug Isaacson**

*Session*  
State Capitol  
Juneau, AK 99801  
Phone - (907) 465.4527



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

**From:** Rep. Doug Isaacson

**Date:** 3/6/14

**Re:** Bill Hearing Request - HB 367

I respectfully request to calendar HB 367, "An Act creating a diesel fuel storage facility tax credit for public utilities; and providing for an effective date."

This bill will create a diesel fuel storage facility tax credit to aid in fuel storage throughout Alaska for utilities. It is partially in response to the closure of Flint Hills that will leave a major part of interior Alaska without fuel storage for petroleum-based fuels such as diesel, HAGO and naphtha. This will help to keep the cost of generating electricity, throughout the state, as low as possible.

Please find the following documents attached:

- Sponsor statement
- Copy of the bill

Names, locations, and contact information of witnesses will be provided closer to the date of the hearing.

My staff contact for this legislation is Brenda Hewitt, who can be reached at 465-2847 or [brenda.hewitt@akleg.gov](mailto:brenda.hewitt@akleg.gov).

Thank you for your consideration of this request.