Oil & Gas Taxation – Provision Comparison
HB 488/SB 305

Provision	Administration – HB 488/SB305	Senate Resources – CSSB 305 (RES)	House Resources – CSHB 488
		Senate Finance – CSSB 305 (FIN)	*House Finance – CSSB 305 (HFIN)*
		Senate Final – CSSB 305 (FIN) am	
Production Tax - Tax Rate	Sec. 5(a). Levies a tax of 20% of the net value of the taxable oil and gas.	RES Sec. 5(e). Levies a tax of 25% of the net value of the taxable oil and gas.	RES Sec. 5(a). Levies a tax of 20% of the net value of the taxable oil and gas.
		FIN Sec. 5(e). For oil, changes the tax rate to 22.5% on the net value. For Cook Inlet oil, tax is 5% on the net. For gas, section 26(a) provides that only one-third of the gross value of gas is taxable. In effect, this means that two-thirds of the produced gas is not taxable although 100% of the costs associated with gas production are still deductible and creditable – this provision could cost the state billions of dollars.	*FIN Sec. 5(e),(i), (j); Sec. 26(a): Levies a tax of 20% on the taxable value of the oil, which is defined as: all of the non-Cook Inlet oil, plus 25% of the Cook Inlet oil, plus 1/3 of the non-Cook Inlet gas, plus 1/6 of the Cook Inlet Gas; less all lease expenditures. Language from S(FIN) remains that would allow 100% deduction for lease expenditures even though only a fraction of gas production is taxed; this could potentially reduce gas taxes to less than zero and thus gas production would generate tax credits against oil taxes.*
		Final. Sec. 5(e) and 25(a). Same as S FIN.	
Production Tax - Progressivity	No progressivity.	RES Sec. 5(g), (h). In addition to the 25% tax on the net value, there is an additional tax on oil that kicks in when the price of oil is over $40 barrel per barrel Alaska North Slope (ANS) West Coast price. The tax rate is .02 percent of the gross value per $1.00 in excess of $40 with no upper limit. Not deductible.	RES Sec. 6(f), (g), (h). In addition to the 20% tax on the net value, there is an additional tax that kicks in when the price of oil is over $50 per barrel West Texas Intermediate (WTI). The tax rate is .3% of the gross value per dollar in excess of $50. For example, the tax is .3% at $51, .6% at $52, etc. At $110 per barrel, the tax rate jumps to 37.5% and stays there. The surtax on gas is 2% per dollar of gross value when the average gas price exceeds $8 per million BTUs with a cap at $18 per million BTUs. The additional taxes are deductible from the tax levied on the net value.
		FIN Sec. 5(g), (h). Changes the additional tax so it kicks in at $45 per barrel ANS wellhead price (generally 7$ below ANS west coast prices). The tax rate is .01 percent of the net value per $1.00 in excess of $45 with no upper limit.	*FIN Sec. 5(g): Effectively 0.25% per dollar over $35 / barrel net. Price is determined by taking total taxable value divided by number of barrels produced, less 35. Since the taxable gas is reduced by 2/3, and there is a gas to oil equivalent of 6 mcf / bbl, this appears to trigger a progressivity factor for gas at 35 / 6 x 3 or $17.50 / mcf. The rate would escalate 0.25% for each 1 / 6 x 3 or $0.50 over that.*

		Final. Sec. 5(g), (h). Trigger is $50 ANS West Coast, .02 percent rate on the gross value (but under the formula, rate works out to .00155).	
Point of Production	Sec. 31. For oil, the point of production is where it is metered before entering the carrier pipeline. For gas, there are four possible points of production depending on whether or how the gas is processed.	RES Sec. 28. No change.	RES Sec. 43. No change.
		FIN Sec. 32. No change.	*FIN Sec. 31and 34. Splits out the definition of "gross value" from "point of production." Point of production has a change in subsection (24)(B)(iii) and (C) – affect unknown.*
		Final. Sec. 31. No change.	
Determination of Gross Value	Sec. 20. Gross value at the point of production is determined through existing statutes and regulations, except that the commissioner of revenue may allow producers to calculate gross value using alternative methods, including using royalty settlement agreements.	RES Sec. 21. Same as administration except requires the commissioner of revenue to complete a detailed fiscal analysis that determines that use of an alternative method would serve the long-term fiscal interests of the state.	RES Sec. 27. Allows commissioner to calculate gross value using alternative methods, including royalty settlement agreements.
		FIN Sec. 25. Changes the S RES requirement for the commissioner to complete a fiscal analysis to requiring that the department determine that use of an alternative method "would improve the efficiency and economy of tax administration and would result in calculations that represent value and actual costs of transportation with reasonable accuracy and are not biased toward understating a producer's tax liability…"	*FIN Sec. 25. Allows commissioner to calculate gross value using alternative methods, including royalty settlement agreements. Same as administration (no extra analysis required).*
		Final. Removed section.	
Deductible Lease Expenditures	Sec. 21(c). Deductible lease expenditures are the total costs upstream of the point of production incurred after July 1, 2006, that are the "direct, ordinary, and necessary costs" of exploring for, developing, or producing oil or gas. In determining deductible expenditures, the department shall give "substantial weight" to typical industry practices and standards regarding allowable costs under producer/operator unit operating agreements and DNR	RES Sec. 22(c). Same as administration except applies to expenditures incurred after April 1, 2006.	RES Sec. 28(c). Same as administration except applies to expenditures incurred after January 1, 2006; and adds that deductible lease expenditures do not include containment and clean up expenses incurred by a producer in connection with a catastrophic oil discharge into marine or inland waters of the state.

	standards regarding allowable deductions under Net Profit Share Leases.	*FIN Sec. 26(c). Applies to expenditures incurred after April 1, 2006. Adds that the department shall give substantial weight to industry practices and standards, and then, for matters not addressed by these standards, give substantial weight to DNR standards regarding allowable deductions under Net Profit Share Leases.*	*FIN Sec. 26. Same as SEN Final except applies to expenditures incurred after July 1, 2006.* ***ADDS that an activity need not be physically located on or near a lease or property for the cost of the activity to be a deductible lease expenditure.***
		Final. Sec. 25(c). Same as S FIN.	
Specific Deductible Lease Expenditures	Sec. 21(d). Deductible expenditures specifically include outlays for capital assets, payments in lieu of property taxes and overhead expenses.	RES Sec. 22(d). Same as administration except adds more definition to specified deductible expenditures.	RES Sec. 28(d). Same as administration except adds more definition to specified deductible expenditures.
		FIN Sec. 26(d). Same as S RES.	*FIN Sec. 26(d).Same as SEN Final.*
		Final. Sec. 25(d). Same as S RES.	
Deductible Lease Expenditures – added definition	None.	RES Sec. 22(n)(2). Same as H RES.	RES Sec. 28(j). Adds that "ordinary and necessary" deductible costs has the meaning given to "ordinary and necessary" in 26 U.S.C. 162 (Internal Revenue Code) and regulations adopted under that section.
		FIN Sec. 26(j)(2). Technical change (after "regulations" adds "as amended").	*FIN Sec. 26(j). Same as SEN Final. Note: this definition adds little clarity (but rest assured, bribes and illegal kickbacks are not deductible).*
		Final. Sec. 25(j)(2). Same as S FIN.	
Audit of Allowable Deductions	Sec. 21(c). The state can rely on the industry to verify its own deductions.	RES Sec. 22(c). Same as administration. Secs. 22(k). Adds additional audit requirements for determining whether purchase of an asset was done as an arm's length transaction (transactions where buyer and seller act independently of each other) and imposes a 5% penalty for failure to comply with requests for documentation supporting the arm's length transaction.	RES Sec. 28(c). Same as administration.
		FIN Sec. 26(c). Same as administration. *Sec. 26. Removes additional audit requirement regarding arm's length transaction.*	*FIN. Sec. 26(i). Same as SEN Final.*
		Final. Sec. 25(i). Adds that department may adopt IRS audit regulations.	

Non-deductible Expenditures	Sec. 21(d). Includes eleven specific items that are not deductible lease expenditures.	RES Sec. 22(d)(2). Same as administration except adds the following to the list of nondeductible lease expenditures – conservation surcharges; abandonment costs incurred before the effective date of the act; purchase of interests in other business entities; and amounts that exceed fair market value in transactions not done as an arm's length transaction.	RES Sec. 28(d). Same as administration except adds that conservation surcharges are not deductible.
		FIN Sec. 26(d)(2). Same as S Res. Adds that depletion and payment of the production tax are non-deductible expenditures.	*FIN Sec. 26(d)(2). Same as SEN Final.*
		Final. Sec. 25(d)(2). Same as S FIN.	
Adjustment of Deductible Lease Expenditures	Sec. 21(e). Lease expenditures must be reduced by payments and credits received by the producer for use of their production facilities, reimbursements that offset a producer's lease expenditures, and the sale or transfer of assets.	RES Sec. 22(e). Adds that if a producer removes an asset for use outside the state, the value of the asset at the time it is removed is considered a payment received by the producer.	RES Sec. 28(e). Same as administration.
		FIN Sec. 26(e). Adds that transactions that are internal transfers or not arm's length, the amount subtracted must be the fair market value.	*FIN Sec. 26(e). Same as SEN Final.*
		Final. Sec. 25(e). Same as S FIN.	
Transitional Investment Expenditures	Sec. 21(g). For the first six years after the PPT is enacted, for any month where the Alaska North Slope (ANS) spot price is above $40 per barrel, a producer may deduct from the net value a pro rata amount (1/72) of capital costs incurred in the five years before the new tax system takes effect.	RES Sec. 13(i). Changes transitional investment provision. Producers can get a credit against the net production tax for one dollar in capital expenditures made between 2001and 2006 for every two dollars spent on new investment made after April 1, 2006 (referred to as "2 for 1" provision). The credit is 20% of the investment expenditures. Sunsets March 13, 2013.	RES Sec. 42. Deletes transitional investment provision. Allows deductions for lease expenditures and credits for capital expenditures made on or after January 1, 2006.
		FIN Sec. 12(i). Same as S RES.	*FIN Sec. 12(i): All capital expenditures from July 1, 2001 - June 30, 2006 are creditable at 20%. Maintains "2 for 1" provision introduced in S(RES) requiring future capital expenditures to qualify. Changes S(FIN) version, which expired in 2013. Instead, producer has seven years from the first time the credits are applied for- this is to protect explorers who are not yet producing anything.*
		Final. Sec. 12(i). Same as S RES.	

Standard Deduction	Sec. 21(i). Each producer is granted a standard deduction up to $73 million a year.	RES Sec. 22(g). Allows up to 5,000 barrels per day as tax free for producers that produce less than 30,000 barrels per day from all properties in the state. (The legislation says 55,000 barrels per day, but the proposed formula works out to 30,000 barrels). Sunsets December 31, 2013.	RES Sec. 28. AS 43.55.170. Allows a standard tax credit up to $12,000,000 for qualified capital expenditures. Sunsets March 31, 2016.
		FIN Sec. 26 AS 43.55.170. When the average production per day is not more than 5,000 barrels, allows a credit of 22.5% of the producer's production tax. When the average production per day is over 5,000, a formula provides the percentage for deduction (5000/total bpd = %). The credit is capped at $14 million per calendar year. Sunsets March 31, 2016.	*FIN Section 26, AS 43.55.170: Takes language from H(RES) with $12 million annual tax credit in addition to all calculated tax credits. Non transferable and can't be carried forward. Changes language that would sunset the deduction in 2016; instead producer has ten years from the first time the credits are applied for- this is to protect explorers who are not yet producing anything.*
		Final. Sec. 25 AS 43.55.170. Same as S FIN.	
Tax Credit Rate	Sec. 12(a). Tax credits against the production tax are available for 20% of a producer's "qualified capital expenditures."	RES Sec. 13(a). Same as administration.	RES Sec. 14(a). Same as administration.
		FIN Sec. 12(a). Changes tax credit to 25%.	*FIN Sec.12(a). 20% tax credit.*
		Final. Sec. 12(a). Same as S FIN.	
Tax Credit for Carried Forward Annual Loss	Sec. 12(b). Tax credits are available for 20% of a carried forward annual loss (deductible lease expenditures that could not be used in a year because the deduction would take the net value below zero).	RES Sec. 13(b). Sets the credit at 25% of the carried forward annual loss.	RES Sec. 14(b). Same as administration.
		FIN Sec. 12(b). Changes the carry-forward credit to 22.5%.	*FIN Sec. 12(b). Carry-forward credit is 20%.*
		Final. Sec. 12(b). Same as S FIN.	
Definition of Qualified Capital Expenditures	Sec. 12(h). Qualified capital expenditures are lease expenditures incurred for exploration or that are treated as a capitalized expenditure under IRS code. Qualified expenditures do not include costs for assets previously acquired or assets previously placed in service in the state.	RES Sec. 13(h), (j). Same as administration.	RES Sec. 14(i), (j). Same as administration.
		FIN Sec. 12(h), (j). Same as administration except adds technical clarity.	*FIN Sec. 12(h), (k). Same as SEN Final.*
		Final. Sec. 12(h), (l). Same as S Fin.	
Transferability of Credits	Sec. 12(d), (e). An unused credit may be sold to other producers. Credits may be used to offset up to 20% of the purchaser's tax.	RES Sec. 13(d), (e). Same as administration.	RES Sec. 14(d), (e). Same as administration.
		FIN Sec. 12(d), (e). Same as administration.	*FIN Sec. 12(d), (e). Same as administration.*
		Final. Sec. 12(d)(3). Same as administration.	
Credit Refund	No credit refund.	No credit refund in any version.	RES Sec. 14(f). The state will repurchase credits up to $10,000,000 per calendar year provided certain requirements are met.

			FIN No provision for credit refund.
Tax Credit Conditions	No provision	RES No provision.	
		FIN No provision.	*FIN Sec. 12. Same as SEN Final.*
		Final. Sec. 12(a)(2). When credits used for exploration, geological and geophysical data becomes public after 10 years. **Sec. 12(j), (k). Adds that taxpayers show that 100% of the credit related to FERC-regulated and non-regulated facilities flows through to ratepayers as a reduction in costs.**	
Existing Tax Credits	No extension of existing 40% exploration credit available under AS 43.44.025 (due to expire in 2007) .	RES No extension.	RES Sec. 16(b). Extends the existing exploration credit to 2016.
		FIN Sec. 14(b). Extends the existing exploration credit to 2016.	*FIN. Sec. 13(b). Extends credit to 2016.*
		Final. Sec. 14(b). Same as S FIN.	
Abandonment Costs	Abandonment costs could be deductible (up to $100 million on some leases). The administration says that abandonment costs would not generate a credit (March 15, response to questions). If deductible, the state takes on a share of the costs through reduced tax revenue.	RES Sec. 13(h). No tax credits for abandonment. Sec. 22(d)(2)(M). No deduction for the portion of costs incurred for abandonment that are attributable to production of oil or gas occurring before the effective date of this section.	RES Sec. 14(i). No tax credits for abandonment.
		FIN Sec. 26(d)(2)(P). Same as S RES except with clearer language.	*FIN Sec. 26(d)(2)(P). Same as SEN Final (no deduction for abandonment costs prior to effective date of act; deductions for costs incurred after effective date).*
		Final. Sec. 25(d)(2)(P). Same as S FIN.	
State Income Tax	Secs. 2,3. Allows the new production tax to be deducted from the state corporate income tax. Taxes based on net income that are deducted in determining federal taxable income are added back when determining state income tax – under the bill, the production tax is not added back.	RES Sec. 3, 4. Same as administration.	RES Secs. 3,4. Same as administration.
		FIN Sec. 3, 4. Same as administration.	*FIN Secs. 3, 4. Same as administration.*
		Final. Sec. 3, 4. Same as administration.	
Payment of Tax	Sec. 7. 90% of the production tax is due monthly; the remaining portion is due March 31 of the next calendar year. The administration says this provides a "safe harbor" for taxpayers to adjust their taxes in light of later information or events such as	RES Sec. 7. 95% of the production tax is due monthly; the remaining portion is due on the last day of the third month following the calendar quarter when the oil and gas were produced (provides a quarterly "safe harbor" rather than annual).	RES Sec. 8. Requires a monthly payment of the tax due with payment due at the end of each month. 5% penalty. No "safe harbor" provision.

	capital investments.	*FIN Sec. 7. Changes to an annual true-up on March 31. Interest on amount up to 95%.*	*FIN Sec. 7. Same as SEN Final.*
		Final. Sec. 7. Same as S FIN.	
Conservation Surcharges	Secs. 22-29. Credit against the production tax is allowed for conservation surcharges for spill mitigation and prevention accounts. Surcharge is $.02 per barrel of oil for the mitigation account; and $.03 per barrel for the prevention account.	RES Sec.22(d)(2)(L). Surcharges not deductible. Lowers the mitigation surcharge to $.01 and raises the prevention surcharge to $.05.	RES Secs. 29-32. No credit for surcharge. Sec. 28(d). Surcharges are not deductible lease expenditures. Lowers the mitigation surcharge to $.01 and raises the prevention surcharge to $.04.
		FIN Sec. 26(d)(2)(L). Same as S RES.	*FIN Mitigation surcharge $.01; prevention surcharge $.04.*
		Final. Sec. 25(d)(2)(L). Same as S RES.	
Private Royalty Interest	Sec. 9. Provides a method for determining the tax on royalty oil produced from private land in the absence of an agreement between the producer and royalty owner to use a different method.	RES Sec. 5(f). Sets the private royalty rate at 5% except for Cook Inlet where the rate is 1.5%. 20% alternative rate same as House. Sec. 9. Same method as House.	RES Sec. 6(e). Sets the tax rate for oil produced from private land at 5% of the gross value at the point of production. An alternative rate of 20% of the gross value is required if the producer receives payment from the lessor offsetting the producer's obligation. Sec. 10. Provides a different method than the administration's for determining the royalty share of taxes in the absence of an agreement between the producer and royalty owner to use a different method.
		FIN Sec. 5(f). Sets the private royalty rate at 5% of the gross value for oil, and 1.667 percent for gas. Alternative rate is 22.5 % for oil and 7.5% for gas. *Sec. 9. Same method as H RES*	*FIN Same as SEN Final (except alternative rate is 20%)*
		Final. Same as S FIN.	
Effective Date	Sec. 40. Tax is in effect as of July 1, 2006.	RES Sec. 38. Tax is in effect as of April 1, 2006.	RES Sec. 45. Tax is in effect as of April 1, 2006.
		FIN Sec. 41. Immediate effective date with applicability to oil and gas produced on or after April 1, 2006 (Sec. 36(a).	*FIN Sec. 41.* ***Effective date is JULY 1, 2006.***
		Final. Sec. 40 (and sec. 35). Same as S FIN.	
Reporting Requirements	No provision.	RES. No provision.	RES No provision.
		FIN. No provision.	*FIN Same as SEN Final.*

		Final. Sec. 43.55.180 (pg. 26). Requires department of revenue to study and report on effects of the private royalty tax rates in 2013; on exploration credits in 2015.	