

# Comparing CSSB 305 (RES) to CSSB 305 (FIN) (version P)

Before the Senate Finance  
Committee

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**RES, Section 32**

**FIN, Section 37**

**New production tax provisions apply to oil  
and gas produced on or after:**

**April 1, 2006 (RES)**

**July 1, 2006 (FIN)**

# RES, Section 5

## AS 43.55.011(e)

There is levied upon the producer . . . a tax for all **oil and gas** produced **each month** . . . [except for] a lessor's royalty interest. . . .

The tax is equal to **25 percent** of the **production tax value** . . . under AS 43.55.160.

# FIN, Section 5

## AS 43.55.011(e)

There is levied upon the producer . . . a tax for all **oil and gas** produced **each month** . . . [except for] a lessor's royalty interest. . . .

The tax is equal to **22.5 percent** of the **production tax value** . . . under AS 43.55.160.

# RES, Section 5 (cont.)

AS 43.55.011(f)

There is levied upon the producer . . . a tax for all oil and gas produced each month . . . the ownership or right to which constitutes a **lessor's royalty interest** . . . . The tax is equal to **five percent of the gross value at the point of production** . . . . [for existing leases]

- BUT . . .

# RES, Section 5 (cont.)

AS 43.55.011(f) (cont.)

The tax is equal to 1.5 percent of the gross value at the point of production . . . . [for existing *COOK INLET BASIN* leases]

- AND . . .

# RES, Section 6 (cont.)

AS 43.55.011(f) (cont.)

The commissioner shall **recommend to the legislature** the rate of tax [**for FUTURE leases**]

# FIN, Section 5 (cont.)

## AS 43.55.011(f)

There is levied upon the producer . . . a tax for all oil and gas produced each month . . . the ownership or right to which constitutes a lessor's royalty interest . . . .

five percent of the gross value at the point of production of the oil . . .

1.667 percent of the gross value at the point of production of the gas [PERIOD]

## FIN, Section 36

The Department of Revenue is directed to study and report to the legislature by 2013 on the private royalty tax rates and whether they should be changed in the future.

# RES, Section 5 (cont.)

AS 43.55.011(g) – (h)

[When West Coast ANS is **above \$40/Bbl**]  
there is levied upon the producer of oil a tax  
... equal to

$$\begin{aligned} & (\text{West Coast ANS} - 40) * .2\% * \\ & (\text{ANS Prevailing Value}) * 75\% * \\ & (\text{amount of oil production}) \end{aligned}$$

# FIN, Section 5 (cont.)

AS 43.55.011(g) – (h)

When **price index is above 45** there is levied upon the producer of oil or gas a tax equal to **.1 % of production tax value times price index**

**price index = production tax value per barrel - 45**

So . . .

The **Resources CS** has **three** production tax components:

- (1) **25%** of net value (now called “production tax value”) *except* for lessor royalty share
- (2) **5% or 1.5%** of **gross value** for lessor royalty share
- (3) A **progressive-rate tax** on prevailing value of *oil only*, including lessor royalty share

## And . . .

The Finance CS also has three production tax components:

- (1) 22.5% of net value (now called “production tax value”) *except* for lessor royalty share
- (2) 5% of oil gross value and 1.667% of gas gross value for lessor royalty share
- (3) a progressive-rate tax on net value of oil and gas (excluding 2/3 of gas gross value), not including lessor royalty share

# RES, Section 22

AS 43.55.160(a)

**production tax value** . . . is the total of the  
**gross value at the point of production** of . . .  
oil and gas . . . from **all leases or properties** in  
the state,  
less **lease expenditures** . . . as **adjusted**

# FIN, Section 26

AS 43.55.160(a)

**production tax value** . . . is the total of the **gross value at the point of production** of . . . oil and one-third of the gross value at the point of production of the gas . . . from **all leases or properties** in the state, less **lease expenditures** . . . as **adjusted**

RES, Section 28  
FIN, Section 32

AS 43.55.900(7)

“gross value at the point of production”  
means

for **oil**, the value . . . at the . . . meter . . . in .  
. . . **pipeline quality**

for **gas** . . . the value . . . where . . . metered  
[**after any separation or gas processing**]

RES, Section 20

FIN, Section 24

AS 43.55.150(a)

... gross value at the point of production is calculated using the reasonable **costs of transportation** ...

# RES, Section 21

AS 43.55.150(d)

if the commissioner completes a detailed fiscal analysis and determines . . . the long-term fiscal interests of the state [would be served] . . . the department **may allow** . . . gross value [to be calculated based upon **DNR or U.S. Dep't of Interior**] royalty . . . valuation [or] another **formula . . . that reasonably estimates** a value . . . .

# FIN, Section 25

## AS 43.55.150(d)

if the department determines [it would improve efficiency & economy of tax administration and be reasonably accurate and not biased toward understating tax] . . . the department **may allow** . . . gross value [to be calculated based upon **DNR or U.S. Dep't of Interior**] royalty . . . valuation [or] another **formula . . . that reasonably estimates a value . . . .**

RES, Section 22  
FIN, Section 26

AS 43.55.160(c)

... lease expenditures ... are the **total** costs **upstream** of the point of production ... on or after **April 1/July 1, 2006** ... that are the **direct, ordinary, and necessary** costs of **exploring for, developing, or producing** oil or gas ... in the state.

# RES Section 22

AS 43.55.160(c) (continued)

In determining . . . [**direct, ordinary, and necessary**] costs . . . the department shall give substantial weight . . . to typical **industry practices and standards** . . . as to [billable] costs . . . under **unit operating agreements** . . . and [**DNR net profits share lease regulations**].

# FIN Section 26

AS 43.55.160(c) (continued)

This CS gives **priority** to industry practices and standards. DNR's net profit share lease regulations are looked to only if industry practices and standards **do not address a subject or are not clear or not uniform.**

## Section 22/26

AS 43.55.160(d) provides specific examples of, and exclusions from, “direct costs”

- FIN CS adds “depletion” to exclusion of depreciation/amortization
- FIN CS clarifies language of several exclusions
- FIN CS deletes RES CS exclusion for “disuse,” dismantlement, restoration, etc.

## Section 22/26 (cont.)

- FIN CS retains RES CS **fair market rule** for **non-arm's length transactions** but **deletes** RES language referring to **IRS provisions**
- Note: **fair market rule** for *adjustments* to lease expenditures is moved from **subsec. (I)** to **sub-subpar. (e)(3)(A)(ii)**
- FIN CS deletes RES CS treatment of **“relinquished assets”**

# RES, Section 22

AS 43.55.160(g)

... a producer that is **qualified** ... and **produces under 55,000 BOE/day** may reduce the net value by **deducting an allowance** ... equal to the following fraction of the production tax value:

$$\frac{(5,000 - 0.2 * [\text{average daily production} - 5,000])}{\text{average daily production}}$$

# RES, Section 22

AS 43.55.160(h) – producer's **qualification** for an allowance. **Expires 12/31/2013.**

This is an anti-splitting provision to prevent abuse of the *per producer* allowance under AS 43.55.160(g).

It is essentially the same anti-splitting provision that is in sec. 21 of the original bill, for the \$73 million *per producer* allowance.

## FIN, Sec. 26 (cont.)

**Allowance** provision in RES CS version (AS 43.55.160(g) & (h)) is replaced with a new **credit** provision in FIN CS (AS 43.55.170)

Credit = **22.5%** of **production tax value** of up to **5,000 barrels per day** of production

Up to \$14 million/yr, non-transferable, not carried forward, expires 2016

## FIN, Sec. 26 (cont.)

Credit provision of AS 43.55.170  
has essentially the same *anti-  
splitting provision* as the  
Governor's bill and the RES CS

AS 43.55.170(c)

## FIN, Section 36

Department of Revenue is directed to **study** the effects of the AS 43.55.170 credit on exploration, encouraging new entrants, etc., and **report to the legislature** by 2015, including recommending whether to extend credit provision.

# RES, Section 13

## AS 43.55.024(a)

... a producer ... that incurs a **qualified capital expenditure** ... may ... elect ... to take a **tax credit** in the amount of **20 percent** of that expenditure.

## FIN, Section 12

### AS 43.55.024(a)

... a producer ... that incurs a **qualified capital expenditure** ... may ... elect ... to take a **tax credit** in the amount of **25 percent** of that expenditure.

[But only if the producer agrees to share exploration data with DNR – as in SB 185]

## Section 12/13 (cont.)

### AS 43.55.024(h)(2)

“qualified capital expenditure” does **not** include an expenditure incurred . . . **for . . .** an extended period of disuse, dismantlement, removal . . . or abandonment . . . or for the restoration of a lease, field, [etc.]

*FIN CS deletes that exclusion.*

## Section 12/13 (cont.)

AS 43.55.024(b)

A producer . . . may elect to take a **tax credit** . . . of **25 / 22.5 percent** of a carried-forward **annual loss** [which is the amount of a previous year's **lease expenditures** that were **not deductible** because they would have reduced the **production tax value** of the oil and gas below zero].

## Section 12/13 (cont.)

AS 43.55.024(d) – (f)

A producer entitled to a tax credit may apply to the Dep't of Revenue for a **transferable tax credit certificate**. Once issued, a certificate may be used for its face value, but a transferee may not apply a certificate to reduce its tax liability by more than **20 percent** during a calendar year.

## Section 12/13 (cont.)

AS 43.55.024(i) – **nontransferable credit for transitional investment expenditures**

... transitional investment expenditures [TIE] are ... **capital expenditures** [incurred **4/2001 through 4/2006**] [**7/2001 through 7/2006**] ... less ... [proceeds from] the **sale ... of assets** ... acquired ... as a result of [those] capital expenditures

# Section 12/13 (cont.)

## AS 43.55.024(i) (cont.)

- a producer may . . . take a **tax credit . . . of 20 percent** of the producer's [**TIE**] but only [up to] **one-half of the producer's qualified capital expenditures . . . during the month**
- credits are **non-transferable**
- credit provision **expires April 1 [July 1] , 2013**

# FIN, Sections 13-17

AS 43.55.025 (from SB 185)

## The FIN CS

- extends the sunset for these exploration credits to **2016 statewide**
- fixes an ambiguity re: \$20 million cap for Cook Inlet
- makes conforming amendments

# RES, Sections 7, 12

AS 43.55.020(a) and (g)

- **95 percent** of principal production tax (AS 43.55.011(e)), net of credits, due **each month**. Remaining portion due at end of **next calendar quarter**.
- **100 percent** of tax on lessor royalty interest (AS 43.55.011(f)) due each month.
- Bill does not specify payment of progressive-rate oil tax (AS 43.55.011(g)).

# FIN, Section 7

AS 43.55.020(a)

**95 percent** of **total** production tax (AS 43.55.011(e)-(g)), net of credits, due **each month**. Remaining portion due **March 31** of **following year**.

# FIN, Section 11

## AS 43.55.020(f) - “Prevailing value”

The Governor’s bill clarified that prevailing value applies where there is **no actual sale** of oil or gas. The FIN CS also clarifies that where there is a sale, prevailing value may be calculated for the **month during which the sale occurred** when that makes more sense than the month during which the oil or gas was produced.

# And finally . . .

## RES Section 25, FIN Section 29

The RES CS increased the oil conservation surcharge under AS 43.55.300 from 3 cents per barrel to **5 cents**.

The FIN CS increases it from 3 cents per barrel to **4 cents**.