

**COMPARISON OF DIVISION C OF H.R. 4,
THE "ENERGY TAX POLICY ACT OF 2001,"
AS PASSED BY THE HOUSE OF REPRESENTATIVES
AND DIVISION H OF H.R. 4,
THE "ENERGY TAX INCENTIVES ACT OF 2002,"
AS AMENDED BY THE SENATE**

Prepared by the Staff of the
JOINT COMMITTEE ON TAXATION



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INTRODUCTION

On August 2, 2001 the House of Representatives passed H.R. 4. On April 25, 2002 the Senate amended and passed H.R. 4.

This document,¹ prepared by the staff of the Joint Committee on Taxation, presents a side-by-side comparison of provisions in the House bill and Senate amendment that would modify the Internal Revenue Code.

This document does not contain a description of section 3212 of H.R. 4, as passed by the House. That provision, relating to diesel fuel dyeing requirements, was enacted by the Job Creation and Worker Assistance Act of 2002. Additionally, certain other expiring provisions were extended by that Act, but for different periods than would have been provided in H.R. 4 when passed by the House. Those extensions were the credit for producing electricity from wind, closed-loop biomass, and poultry litter, the deduction for qualified clean-fuel vehicle property, the deduction for qualified clean-fuel vehicle refueling property, the credit for the purchase of electric vehicles, the suspension of the taxable income limitation on percentage depletion for oil and gas property, and the tax incentives for investment on Indian reservations. In addition, the Job Creation and Worker Assistance Act of 2002 also provided for five-year carryback of certain net operating losses.

¹ This document may be cited as follows, Joint Committee on Taxation, Comparison of Division C of H.R. 4, the "*Energy Tax Policy Act of 2001*," as Passed by the House of Representatives and Division H of H.R. 4, the "*Energy Tax Incentives Act of 2002*," as Amended by the Senate, (JCX-43-02), May 23, 2002.

Provision	Present Law	House Bill	Senate Amendment
<p>I. CONSERVATION</p> <p>1. Residential solar hot water, photovoltaics and other energy efficient property (sec. 3101 of the House bill and sec. 2103 of the Senate amendment)</p>	<p>No provision.</p>	<p>Provides a tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent of qualified investment up to a maximum credit of \$2,000 for solar water heating property and for rooftop photovoltaic property.</p> <p><u>Effective date.</u>—purchases after December 31, 2001 and in taxable years beginning before January 1, 2007 (January 1, 2009 for photovoltaic property)</p>	<p>House bill plus:</p> <p>30 percent credit for wind energy property (\$2,000 max).</p> <p>100 percent credit, with caps, for energy efficient: electric heat pump hot water heaters (\$75); electric heat pumps (\$250); geothermal heat pumps (\$250); natural gas furnaces (\$250); central air conditioners (\$250); natural gas water heaters (\$75)</p> <p><u>Effective date.</u>—purchases after December 31, 2002 and before January 1, 2008.</p>
<p>2. Credit for producing electricity from certain sources (sec. 3102 of the House bill and secs. 1901, 1902, 1903, 1904, 1905, and 1906 of the Senate amendment)</p>	<p>An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified “closed-loop” biomass, or qualified poultry waste facilities (sec. 45).</p> <p>The credit applies to electricity</p>	<p>Extends the placed-in-service date for wind facilities and closed-loop biomass facilities to facilities placed in service before January 1, 2007. (Poultry waste facilities are not extended).</p> <p>Defines two new qualifying facilities: (1) open-loop biomass</p>	<p>Extends all present law facility placed-in-service dates to include facilities placed in service before January 1, 2007.</p> <p>Defines eight new qualifying facilities: (1) open-loop biomass placed in service before January 1, 2005. The credit for these</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to a poultry waste facility placed in service after December 31, 1999, and before January 1, 2004. The credit is allowable for production during the 10-year period after a facility is originally placed in service.</p> <p>Credit amount reduced for tax-exempt financing and other subsidies. Generally facility owner must claim credit.</p>	<p>facilities and (2) landfill gas facilities. The credit for these facilities is available only for five years of production.</p> <p><u>Effective date.</u>—electricity sold after the date of enactment.</p>	<p>facilities is available for three years of production. Existing facilities qualify, but at reduced credit rate; (2) certain existing facilities modified before January 1, 2007 to use closed-loop biomass co-fired with coal.</p> <p>Credit available for all electricity, not only that attributable to close-loop fuel; (3) swine and bovine waste nutrient facilities placed in service after the date of enactment and before January 1, 2007; (4) geothermal facilities placed in service after the date of enactment and before January 1, 2007. Credit available for five years of production; (5) solar facilities placed in service after the date of enactment and before January 1, 2007. Credit available for five years of production; (6) municipal biosolids facilities placed in service after December 31, 2001 and before January 1, 2007; (7) recycled sludge facilities, including existing facilities, placed in service before January 1, 2007; and (8) small</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>irrigation power facilities placed in service after the date of enactment and before January 1, 2007.</p> <p>Permits tax-exempt financing and rural electrification loans for facilities without reduction of credit.</p> <p>Credits would be tradable. Lessee operators could claim credit.</p> <p><u>Effective date.</u>—electricity sold after the date of enactment.</p>
<p>3. Fuel cells (sec. 3103 of the House bill and sec. 2103 and 2104 of the Senate amendment)</p>	<p>A 10 percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, or provide solar process heat; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.</p>	<p>Provides a 10 percent credit for the purchase of qualified stationary fuel cell power plants for businesses and individuals. The credit may not exceed \$1,000 for each kilowatt of capacity. For individuals, the qualified fuel cell power plant must be installed on or in connection with a dwelling unit located in the United States and used by the taxpayer as a principal residence.</p>	<p>30 percent credit for business and residential fuel cells of at least 0.5 kilowatt of capacity. Credit may not exceed \$500 for each 0.5 kilowatt of capacity.</p> <p>Additionally, qualified microturbines receive 10 percent credit not to exceed \$200 for each kilowatt of capacity.</p> <p><u>Effective date.</u>—property placed in service after December 31, 2002</p>

Provision	Present Law	House Bill	Senate Amendment
		<p><u>Effective date.</u>—property placed in service or expenditures made after December 31, 2001 and before January 1, 2007.</p>	<p>and before January 1, 2008.</p>
<p>4. Alternative motor vehicle credit (secs. 3104 of the House bill and secs. 2001 and 2010 of the Senate amendment)</p>	<p>Certain costs of qualified clean-fuel vehicle property may be expensed and deducted when such property is placed in service (sec. 179A). Qualified vehicles use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). The deduction varies by size of vehicle with the maximum amount \$50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or certain buses. Maximum deduction is \$2,000 for vehicles with gross weight 10,000 pounds or less. The deduction phases down in the years 2004 through 2006, and</p>	<p>Extends present-law deduction through December 31, 2007, with phaseout beginning in 2005.</p> <p>Repeals present-law credit for electric fuel cell vehicles.</p> <p>Provides credit for the purchase of fuel cell motor vehicles, hybrid motor vehicles, alternative fuel motor vehicles, mixed-fuel vehicles, and advanced lean burn technology motor vehicles. If a tax-exempt entity purchases a vehicle, the seller or lessor may claim the credit. Unused credits may be carried forward 20 years. Credit for property placed in service before 2008 (2012 in the case of fuel cell motor vehicles).</p>	<p>Similar to House bill.</p> <p>Extends present-law deduction through December 31, 2007 (December 31, 2011 in the case of hydrogen-related property). 25-percent phaseout in 2004 and 2005 (2004 through 2009 in the case of hydrogen-related property).</p> <p>Repeals present-law credit for electric fuel cell vehicles.</p> <p>Unused credits may be carried back three years and forward 20 years. Credit for property placed in service before 2007 (2012 in the case of fuel cell motor vehicles).</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>is unavailable for purchases after December 31, 2006.</p> <p>In addition, the 10-percent tax credit provided for the cost of a qualified electric vehicle, up to a maximum credit of \$4,000 (sec. 30) includes a vehicle that is powered primarily by an electric motor drawing current from fuel cells. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.</p>	<p><u>Fuel cell motor vehicles.</u>—Credit ranges from \$4,000 for vehicles weighing less than or equal to 8,500 pounds to \$40,000 for vehicles weighing more than 26,000 pounds.</p> <p>There are additional credits to automobiles and light trucks for meeting fuel economy performance standards compared to 2000 model year standards. Additional credits range from \$1,000 for fuel economy 150 percent of year 2000 to \$4,000 for fuel economy 300 percent of year 2000.</p> <p><u>Hybrid motor vehicles.</u>—Credit varies by weight of vehicle and power available from the battery system compared to the power of the internal combustion engine. For auto and light truck credit ranges from \$250 for battery power of 2.5 percent to \$1,000 for battery power of 30 percent. For vehicle weighing more than 26,000 pounds, credit ranges from \$6,000 for battery power of 20 percent to</p>	<p><u>Fuel cell motor vehicles.</u>—Same as House bill.</p> <p><u>Hybrid motor vehicles.</u>—Similar to House bill. For auto and light truck credit ranges from \$250 for battery power of 4.0 percent to \$1,000 for battery power of 30 percent. For vehicle weighing more than 10,000 pounds but not more than 14,000 pounds, credit ranges from \$1,000 for battery power of 20 percent to \$2,500 for battery power of 60 percent.</p> <p>Additional credits for meeting fuel economy performance standards compared to 2000 model year standards range from \$500 for fuel economy 125 percent of year 2000 to \$3,000 for fuel economy 250 percent of year 2000. No addition lifetime fuel savings credit for autos and light trucks. Vehicles weighing more than 10,000 pounds eligible for additional credits for emissions reductions in years 2002 through 2006.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>\$10,000 for battery power of 60 percent.</p> <p>There are additional credits to autos and light trucks for meeting fuel economy performance standards compared to 2000 model year standards. Additional credits range from \$1,000 for fuel economy 125 percent of year 2000 to \$3,500 for fuel economy 250 percent of year 2000. Autos and light trucks eligible for an additional \$250 or \$500 credit for estimated lifetime fuel savings. Vehicles weighing more than 10,000 pounds eligible for additional credits for emissions reductions in years 2002 through 2006. For vehicles weighing 14,000 pounds or less credit ranges from \$3,500 in 2002 to \$1,500 in 2006. For vehicles weighing more than 26,000 pounds credit ranges from \$14,000 in 2002 to \$6,000 in 2006.</p> <p><u>Alternative fuel motor vehicles.</u>—50-percent credit for incremental cost of a dedicated alternative fuel motor vehicle. Additional 30-</p>	<p><u>Alternative fuel motor vehicles.</u>—Similar to House bill. 40-percent credit for incremental cost of alternative fuel motor vehicle with additional 30-percent credit if vehicle meets certain emissions standards.</p> <p><u>Mixed-fuel vehicles.</u>—Same as House bill.</p> <p><u>Advanced lean burn technology motor vehicles.</u>—No provision.</p> <p><u>Effective date.</u>—property placed in service after September 30, 2002.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>percent credit if vehicle meets certain emissions standards. Incremental cost measured by reference to manufacturer's suggested retail price. Limitations on qualifying incremental cost. Limit varies from \$5,000 for auto and light truck to \$40,000 for vehicles weighing more than 26,000 pounds. Qualified alternative fuels: compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and a fuel consisting of at least 85 percent methanol. Vehicle must operate exclusively on an alternative fuel.</p> <p><u>Mixed-fuel vehicles.</u>—certain alternative fuel vehicles weighing more than 14,000 pounds can be mixed-fuel vehicles.</p> <p>Mixed-fuel vehicles must use 75/25 mixtures or 95/5 mixtures of alternative fuels and petroleum-based fuel. 75/25 vehicles may claim 70 percent of the otherwise allowable alternative fuel motor vehicle credit. 95/5 vehicles may claim 95 percent of the otherwise</p>	

Provision	Present Law	House Bill	Senate Amendment
		<p>allowable alternative fuel motor vehicle credit.</p> <p><u>Advanced lean burn technology motor vehicles.</u>—Advanced lean burn technology motor vehicles must meet certain technical specifications. Credit varies for meeting fuel economy performance standards compared to 2000 model year standards. Credit range from \$1,000 for fuel economy 125 percent of year 2000 to \$3,500 for fuel economy 250 percent of year 2000. Additional \$250 or \$500 credit for estimated lifetime fuel savings.</p> <p><u>Effective date.</u>—property placed in service after December 31, 2001.</p>	
<p>5. Extension of deduction for refueling property (sec. 3105 of the House bill and secs. 2003 and 2010 of the Senate amendment)</p>	<p>Costs of clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel (natural gas,</p>	<p>Extends deduction through 2007.</p> <p><u>Effective date.</u>—date of enactment.</p>	<p>Extends deduction through 2007 (through 2011 in the case of hydrogen refueling property).</p> <p>Provides 50-percent credit for the cost of installing clean-fuel vehicle refueling property. If retail clean-fuel vehicle refueling property, credit may not exceed</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles. Up to \$100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. The deduction is not available after 2006.</p>		<p>\$30,000. If residential refueling property, credit may not exceed \$1,000. In case of hydrogen, property producing hydrogen also eligible. To be eligible for the credit, the property must be placed in service before January 1, 2007 (January 1, 2012 in the case of hydrogen refueling property). If property owned by tax-exempt entity, installer may claim credit. Unused credits may be carried forward 20 years.</p> <p><u>Effective date.</u>—property placed in service after September 30, 2002.</p>
<p>6. Modification of credit for electric vehicles (sec. 3106 of House bill and sec. 2002 of the Senate amendment)</p>	<p>A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of \$4,000. The full amount of the credit is available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.</p>	<p>Redefines credit eligibility to apply to battery vehicles. Modifies credit to vary by weight of vehicle. For certain smaller vehicles credit is lesser of 10 percent of manufacturer’s suggested retail price or \$4,000. For vehicles 8,500 pounds or less credit is \$4,000 or \$5,000 if certain performance and capacity criteria met. For other vehicles, credit varies from \$10,000 for vehicles over 8,500 but not over 14,000</p>	<p>Similar to House bill.</p> <p>For certain smaller vehicles credit is lesser of 10 percent of manufacturer’s suggested retail price or \$1,500. For vehicles 8,500 pounds or less credit is \$3,500 or \$6,000 if certain performance (different than House bill) and capacity criteria met.</p> <p>Unused credits may be carried</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>pounds to \$40,000 for vehicles exceeding 26,000 pounds.</p> <p>If a tax-exempt entity purchases a vehicle, the seller or lessor may claim the credit. Unused credits may be carried forward 20 years.</p> <p>Extends credit through 2007 and repeals phaseout.</p> <p><u>Effective date.</u>—property placed in service after December 31, 2001.</p>	<p>back three years and forward 20 years.</p> <p><u>Effective date.</u>—property placed in service after September 30, 2002.</p>
<p>7. Credit for retail sale of alternative motor vehicle fuels (sec. 2004 of the Senate amendment)</p>	<p>There is no retail credit for the sale of alternative motor vehicle fuels. However, blenders may claim a 53-cents-per-gallon income tax credit for alcohol fuels. The alcohol fuels credit may be claimed as a reduction in excise tax payments.</p>	<p>No provision.</p>	<p>Provides credit equal to the gasoline gallon equivalent of 30 cents per gallon of alternative fuel sold 2002 and in 2003, 40 cents per gallon in 2004, and 50 cents per gallon thereafter for retail sale of alternative fuels. Qualifying alternative fuels are compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, any liquid mixture consisting of at least 85 percent methanol, and any liquid mixture consisting of at least 85 percent ethanol. Credit for sales prior to</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>January 1, 2007.</p> <p><u>Effective date.</u>—fuel sold at retail after September 30, 2002.</p>
<p>8. Energy efficient appliances (sec. 3107 of the House bill and sec. 2102 of the Senate amendment)</p>	<p>No provision.</p>	<p>Provides a \$50 or \$100 credit for the manufacture of certain energy-efficient clothes washers and refrigerators. Credit applies to the number of qualified appliances produced for the calendar year to the extent that number exceeds the average number of appliances in such category during the calendar years 1998, 1999, and 2000. \$30 million limit on the maximum credit claimed with respect to each credit. (i.e., the \$50 or \$100 credit)</p> <p><u>Effective date.</u>—appliances produced after date of enactment and before January 1, 2007 (January 1, 2005 in the case of refrigerators meeting the 10-percent standard).</p>	<p>Similar to House bill. Base period years are 1999-2001.</p> <p><u>Effective date.</u>—appliances produced after December 31, 2002 and before January 1, 2007 (January 1, 2005 in the case of refrigerators meeting 10 percent standard)</p>

Provision	Present Law	House Bill	Senate Amendment
<p>9. Energy efficient improvements to existing homes (sec. 3108 of the House bill and sec. 2109 of the Senate amendment)</p>	<p>No provision.</p>	<p>Creates a 20 percent nonrefundable tax credit, up to \$2,000, for homeowners for certain energy efficient building envelope components (including metal roofs) for existing homes. Components must meet 1998 International Energy Conservation Code standard. Homes must be certified by a third party only in the aggregate cost of components exceeds \$1,000.</p> <p><u>Effective date.</u>—energy efficiency improvements installed after December 31, 2001 and before January 1, 2007.</p>	<p>10-percent nonrefundable tax credit for homeowners for certain energy efficient building envelope components for existing homes.</p> <p>The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is \$300. Components must meet 2000 International Energy Conservation Code Standard or Energy Star Standard in the case of windows or be certified to achieve 30 percent reduction in heating and cooling energy usage.</p> <p>All homes must be certified by a third party.</p> <p><u>Effective date.</u>—energy efficiency improvements installed after date of enactment and before January 1, 2007.</p>
<p>10. Energy efficient new homes (sec. 3109 of the House bill and sec. 2101 of the Senate amendment)</p>	<p>No provision.</p>	<p>Creates a new tax credit (up to \$2,000 per dwelling) for businesses, construction companies and contractors, for the</p>	<p>Similar to House bill but the credit cannot exceed \$1,250 (\$2,000) in the case of a new home which has a projected level</p>

Provision	Present Law	House Bill	Senate Amendment
of the Senate amendment		<p>costs of installing energy efficient heating and cooling appliances and building envelope components (insulation, windows, doors, metal roofs) that reduces heat loss (in winter) and gain (in summer) in new homes. The credit qualifying property would have to improve energy efficiency by at least 30 percent from the standards established under the 1998 International Energy Conservation Code.</p> <p><u>Effective date.</u>—credit applies to homes substantially completed after December 31, 2001 and purchased between January 1, 2002 and December 31, 2006.</p>	<p>of annual heating and cooling costs that is 30 percent (50 percent) less than a comparable dwelling constructed in accordance with Chapter 4 of the 2000 International Energy Conservation Code. Also, manufactured homes that meet the Energy Star standard are treated as a 30% home. Certification requirements differ from House bill.</p> <p><u>Effective date.</u>—credit applies to homes substantially completed after date of enactment and purchased between date of enactment and December 31, 2007.</p>
<p>11. Energy efficient commercial building property (sec. 3110 of the House bill and sec. 2105 of the Senate amendment)</p>	<p>A 10 percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, to provide solar process heat; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.</p>	<p>Provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures are amounts paid or incurred for energy-efficient commercial building property installed in connection with the new construction or</p>	<p>Similar to House bill. Updated standards; certification requirements differ.</p> <p><u>Effective date.</u>—taxable years beginning after September 30, 2002 for plans certified prior to December 31, 2007, whose construction is completed on or before December 31, 2009.</p>

Provision	Present Law	House Bill	Senate Amendment
	geothermal deposit.	<p>reconstruction of property: (1) which would otherwise be depreciable property; (2) which is located in the United States, and (3) the construction or erection of which is completed by the taxpayer. The deduction is limited to an amount equal to the product of \$2.25 and the square footage of the property for which such expenditures were made. Energy-efficient commercial building property means any property that reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of a Standard 90.1-1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America.</p> <p><u>Effective date.</u>—property placed in service after date of enactment and</p>	

Provision	Present Law	House Bill	Senate Amendment
		before January 2, 2007.	
<p>12. Energy management devices (secs. 3111 and 3112 of the House bill and secs. 2106 and 2107 of the Senate amendment)</p>	No provision.	<p>Provides a deduction of up to \$30 for each qualified new or retrofitted energy management device placed in service by any taxpayer who is a supplier of electric energy or natural gas or is a provider of electric energy or natural gas services. A taxpayer is required to reduce the adjusted basis of such property by the amount of the deduction. Provides a three-year recovery period for qualified new or retrofitted energy management devices placed in service by any taxpayer who is a supplier of electric energy or natural gas or is a provider of electric energy or natural gas services.</p> <p><u>Effective date.</u>—property placed in service after date of enactment.</p>	Same as House bill, but adds water submetering devices that are placed in service before January 1, 2008.
<p>13. Energy credit for combined heat and power system property (sec. 3113 of the House</p>	A 10 percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or	Provides a 10 percent credit for the purchase of combined heat and power property.	Same as House bill, but eliminates energy efficiency standard and heat vs. power energy output requirements for

Provision	Present Law	House Bill	Senate Amendment
bill and sec. 2108 of the Senate amendment)	cool a structure or provide hot water, to provide solar process heat; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.	Also provides that property eligible for the credit that would have a class life of 15 years or less will be treated as having a 22-year class life. <u>Effective date.</u> —property placed in service after December 31, 2001 and before January 1, 2007.	technologies using back-pressure steam turbines or which make use of waste heat from industrial processes such as by using organic Rankin, Stirling, or Kalina heat engine systems. <u>Effective date.</u> —property placed in service after December 31, 2002 and before January 1, 2007.
14. Allow personal energy credits against the alternative minimum tax (sec. 3114 of the House bill and secs. 2103(b) and 2109(b) of the Senate amendment)	For taxable years beginning after 2003, personal credits (other than the child credit, adoption credit and IRA credit) are not allowed against the alternative minimum tax.	Allows the personal energy credits added by the bill to offset both the regular tax and the alternative minimum tax. These credits include the credit for residential solar energy property, the credit for certain energy-efficient property, and the credit for energy efficient improvements to existing homes. <u>Effective date.</u> —effective taxable years beginning after 2003.	Same as House bill. These credits include the credit for residential energy efficient property and the credit for energy efficient improvements to existing homes. <u>Effective date.</u> —effective taxable years beginning after 2003.
15. Repeal of certain excise taxes on railroad diesel fuel and inland waterway fuel (sec. 3115)	Diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system are subject	The 4.3-cents-per-gallon General Fund excise tax on diesel fuel used in trains and fuels used in barges operating on the designated inland	No provision.

Provision	Present Law	House Bill	Senate Amendment
of the House bill)	to a 4.3-cents-per-gallon General Fund excise tax. In both cases, the 4.3-cents-per-gallon excise tax rates are permanent.	waterways system is repealed over a prescribed phase-out period. The tax will be fully repealed effective on January 1, 2010. <u>Effective date.</u> —October 1, 2001.	
16. Btu-based highway excise tax rate for diesel fuel blended with water (sec. 3116 of the House bill)	A 24.3 cents per gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund. Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon for that trust Fund.	A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel/water emulsion fuel to reflect the reduced Btu content per gallon resulting from the water. <u>Effective date.</u> —October 1, 2001.	No provision.
17. Small ethanol producer credit (sec. 2005 of the Senate amendment)	Present law provides several tax benefits for ethanol and methanol produced from renewable sources (e.g., biomass) that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. A 53-cents-per-gallon income tax credit is allowed for ethanol used as a motor fuel (the "alcohol fuels credit"). In the case of ethanol, the Code provides a separate	No provision.	Allows pass-through of all or any portion of the cooperative's small ethanol producer credit to its patrons. In addition, the Senate amendment: (1) liberalizes the definition of an eligible small producer to include persons whose production capacity does not exceed 60 million gallons; (2) repeals the rule that includes the small producer credit in income

Provision	Present Law	House Bill	Senate Amendment
	<p>10-cents-per-gallon credit for small producers, defined generally as persons whose production does not exceed 15 million gallons per year and whose production capacity does not exceed 30 million gallons per year. The alcohol fuels tax credits are includible in income. Under present law, the only excess credits that may be flowed-through from cooperatives to cooperative patrons are the rehabilitation credit (sec. 47), the energy property credit (sec. 48(a)), and the reforestation credit (sec. 48(b)).</p>		<p>of taxpayers claiming it and liberalizes the ordering and carryforward/carryback rules for the small producer ethanol credit; (3) allows the small producer credit to be claimed against the alternative minimum tax; and (4) provides that the small producer ethanol credit is not treated as derived from a passive activity.</p> <p><u>Effective date.</u>—date of enactment.</p>
<p>18. Transfer full amount of excise tax imposed on gasohol to the Highway Trust Fund (sec. 2006 of the Senate amendment)</p>	<p>In general, 18.3 cents per gallon of the gasoline excise tax is deposited in the Highway Trust Fund and 0.1 cent per gallon is deposited in the Leaking Underground Storage Tank Trust Fund (the "LUST" rate). In the case of gasohol with respect to which a reduced excise tax is paid, 2.5 cents per gallon of the</p>	<p>No provision.</p>	<p>Transfers the 2.5 cents per gallon of excise tax on gasohol that currently is retained in the General Fund to the Highway Trust Fund.</p> <p><u>Effective date.</u>—October 1, 2003.</p>

Provision	Present Law	House Bill	Senate Amendment
	reduced tax is retained in the General Fund.		
<p>19. Modify income tax and excise tax rules governing treatment of ETBE (sec. 2007 of the Senate amendment)</p>	<p>A 53-cents-per-gallon income tax credit is allowed for ethanol used as a motor fuel (the "alcohol fuels credit"). The benefit of the alcohol fuels tax credit may be claimed as a reduction in excise tax payments when the ethanol is blended with gasoline ("gasohol"). The reduction is based on the amount of ethanol contained in the gasohol. The Treasury Department regulations provide that gasohol blenders may claim the income tax credit and excise tax rate reductions for ethanol used in the production of ETBE. The regulations also provide a special election allowing refiners to claim the benefit of the excise tax rate reductions even though the fuel being removed from terminals does not contain the requisite percentages of ethanol for claiming the excise tax rate</p>	<p>No provision.</p>	<p>In lieu of excise tax rate reductions for specified gasohol blends, a refiner blending ETBE and gasoline accrues an excise tax credit equal to the amount of the alcohol fuels credit or excise tax rate reduction otherwise available for the ETBE blended fuel. In lieu of claiming an income tax credit under section 40, the refiner may offset its excise tax liability for highway motor fuels under Code section 4081. Alternatively, the credit may be transferred to a registered position holder and the position holder may use the excise tax credit to offset its liability for excise taxes under those Code sections.</p> <p><u>Effective date.</u>—date of enactment.</p>

Provision	Present Law	House Bill	Senate Amendment
	reduction.		
<p>20. Income tax credit and excise tax rate reduction for biodiesel fuel mixtures (sec. 2008 of the Senate amendment)</p>	<p>No income tax credit or excise tax rate reduction is provided for biodiesel fuels under present law.</p>	<p>No provision.</p>	<p>Provides an income tax credit (or excise tax rate reduction) similar to the present-law ethanol benefits for biodiesel derived from virgin sources and an income tax credit only (at a reduced rate) for biodiesel derived from recycled sources.</p> <p><u>Effective date.</u>—fuel sold after 2002 and before 2006.</p>
<p>21. Tax credit for certain "power takeoff" vehicles (sec. 2009 of the Senate amendment)</p>	<p>Fuel used in vehicles carrying equipment that is unrelated to the transportation function is subject to the Highway Trust Fund excise taxes without regard to whether the fuel is used for transportation or the unrelated equipment. An exception excepts fuel used by non-transportation equipment if the fuel used by a separate motor, if the vehicle owner can allocate fuel used in a manner acceptable to the IRS.</p>	<p>No provision.</p>	<p>Provides a \$250 income tax credit to business owners of highway vehicles that consume fuel for both transportation and in non-transportation-related equipment, using a single motor. Requires that by January 1, 2005, the Treasury provide by regulation a method for exempting from the fuels excise tax fuel used to power equipment attached to such vehicles.</p>

Provision	Present Law	House Bill	Senate Amendment
			<u>Effective date.</u> —taxable years beginning after the date of enactment through 2004.
<p>22. Credit for production from a clean coal technology unit (secs. 2201 and 2221 of the Senate amendment)</p>	<p>Present law does not provide a production credit for electricity generated at facilities that use coal as a fuel. However, an income tax credit is allowed for the production of electricity from either qualified wind energy, qualified “closed-loop” biomass, or qualified poultry waste facilities.</p>	<p>No provision.</p>	<p>Provides production credit for electricity produced from units that have been retrofitted, repowered, or replaced with a clean coal technology within ten years of the date of enactment. The credit is 0.34 cents per kilowatt-hour of electricity produced and is indexed for inflation. The taxpayer may claim the credit during ten-year period commencing from the date the unit is placed in service.</p> <p>A qualifying clean coal technology unit must certain capacity standards, thermal efficiency standards, and emissions standards.</p> <p>The taxpayer must receive a certificate from the Secretary to claim credit. The Secretary may grant certificates only for 4,000 megawatts of capacity. No unit eligible if the unit’s capacity</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>exceeds 300 megawatts.</p> <p>Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer.</p> <p><u>Effective date.</u>—effective for electricity produced after the date of enactment.</p>
<p>23. Investment credit for advanced clean coal technology (sec. 3117 of the House bill and secs. 2211 and 2221 of the Senate amendment)</p>	<p>Present law does not provide an investment credit for electricity generating facilities that use coal as a fuel. However, a nonrefundable, 10-percent investment tax credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, to provide solar process heat; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.</p>	<p>Provides a 10 percent tax credit for qualified expenses for construction of a new power plant using advanced clean coal technology, or retrofitting and repowering of an existing conventional power plant with new advanced clean coal technology.</p> <p>Requires facilities meet certain design net heat rate standards. Requires that the technology reduce certain pollutants by specific amounts.</p> <p>To be a qualified investment in</p>	<p>Similar to House bill.</p> <p>Generally requires facilities to meet lower design net heat rate standards than does House bill. Requires that the technology reduce certain pollutants by different specified amounts.</p> <p>Secretary may grant certificates to investments only for 4,000 megawatts of capacity. Not more than 1,000 megawatts for advanced pulverized coal or atmospheric fluidized bed combustion technology; not more</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>advanced clean coal technology, the taxpayer must receive a certificate from the Secretary of the Treasury. The Secretary may grant certificates to investments only to the point that 7,500 megawatts of electricity production capacity qualifies for the credit.</p> <p>Certificates are limited for different categories of advanced clean coal technology. Not more than 4,000 megawatts for advanced pulverized coal or atmospheric fluidized bed combustion technology; not more than 1,000 megawatts for pressurized fluidized bed combustion technology; not more than 2,000 megawatts for integrated gasification combined cycle technology, with or without fuel or chemical co-production; and not more than 2,000 megawatts of other advanced clean coal technology. Not more than 6,500 megawatts may be placed in service before 2009, with sub-limits by type of technology.</p>	<p>than 500 megawatts for pressurized fluidized bed combustion technology; not more than 2,000 megawatts for integrated gasification combined cycle technology, with or without fuel or chemical co-production; and not more than 500 megawatts of other advanced clean coal technology. Not more than 2,000 megawatts may be placed in service before 2009, with sub-limits by type of technology.</p> <p>Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer.</p> <p><u>Effective date.</u>—the provision would be effective for investments made after the date of enactment generally with respect to property placed in service before January 1, 2017 (before January 1, 2013 in the case of advanced pulverized coal</p>

Provision	Present Law	House Bill	Senate Amendment
		<p><u>Effective date.</u>—the provision would be effective for investments made after December 31, 2001 and before January 1, 2012.</p>	<p>or atmospheric fluidized bed combustion technology).</p>
<p>24. Credit for production from advanced clean coal facilities (sec. 3118 of the House bill, sec. 2212 and 2221 of the Senate amendment)</p>	<p>Present law does not provide a production credit for electricity generated at facilities that use coal as a fuel. However, an income tax credit is allowed for the production of electricity from either qualified wind energy, qualified “closed-loop” biomass, or qualified poultry waste facilities.</p>	<p>Provides a production credit for electricity produced from a qualified advanced clean coal technology facility that received an investment credit certificate from the Secretary. The production credit is claimed on the sum of each kilowatt-hour of electricity produced and the heat value of other fuels or chemicals produced by the taxpayer at the facility. The value of the credit (indexed for inflation) varies depending upon the year the facility was placed in service, the heat content of the coal (more or less than 9,000 Btu per pound), and the rated thermal efficiency of the facility. The production credit may be claimed for the 10-year period commencing with the date the qualifying facility is placed in service, with the credit allowable in the second five years generally less than that allowable</p>	<p>Similar to House bill.</p> <p>Value of the credit does not depend upon whether the design coal has a heat content less than 9,000 Btu per pound. The design net heat rate is adjusted for the heat content of the design coal. Some differences in rated thermal efficiency of facilities compared to House bill.</p> <p>Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer.</p> <p><u>Effective date.</u>—effective for electricity produced after the date of enactment.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>for the first five years.</p> <p>Credit ranges from \$.0010 to \$.0140 cents per kilowatt hour for production of electricity from a coal-fired power plant using advanced clean coal technology.</p> <p><u>Effective date.</u>—effective for electricity produced after the date of enactment.</p>	

Provision	Present Law	House Bill	Senate Amendment
<p align="center">II. RELIABILITY</p> <p>1. Natural gas gathering lines treated as 7-year property (sec. 3201 of the House bill and 2302 of the Senate amendment)</p>	<p>Rev. Proc. 87-56 includes two asset classes that could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0, describing pipeline transportation, provides a recovery period of 15 years. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a recovery period of seven years.</p>	<p>Establishes a statutory seven-year recovery period for natural gas gathering lines. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to such property.</p> <p><u>Effective date.</u>—effective for property placed in service after date of enactment.</p>	<p>Same as House bill but no AMT relief.</p> <p><u>Effective date.</u>—effective for property placed in service after date of enactment.</p>
<p>2. Recovery period for natural gas distribution lines (sec. 3202 of the House bill and 2311 of the Senate amendment)</p>	<p>Rev. Proc. 87-56 provides that natural gas distribution pipelines are assigned a 20-year recovery period.</p>	<p>Establishes a statutory 10-year recovery period for natural gas distribution lines. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to such property.</p>	<p>Establishes a statutory 15-year recovery period for natural gas distribution pipelines. Provides no AMT relief.</p> <p><u>Effective date.</u>—effective for property placed in service after date of enactment.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p><u>Effective date.</u>—effective for property placed in service after date of enactment.</p>	
<p>3. Petroleum refining property treated as 7-year property (sec. 3203 of the House bill)</p>	<p>Rev. Proc. 87-56 provides that petroleum refining assets are assigned a recovery period of 10 years.</p>	<p>Establishes a statutory 7-year recovery period for petroleum refining property. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer’s alternative minimum taxable income with respect to such property.</p> <p><u>Effective date.</u>—effective for property place in service after date of enactment.</p>	<p>No provision.</p>
<p>4. Expensing of capital costs incurred for production in complying with Environmental Protection Agency sulfur regulations for small refiners (sec. 3204 of the House bill and sec. 2303 of the Senate amendment)</p>	<p>Taxpayers generally recover the costs of investments in refinery property through annual depreciation deductions.</p>	<p>Permits small business refiners to claim an immediate deduction (i.e., expensing) for up to 75 percent of the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency.</p> <p>A small business refiner is a</p>	<p>Substantially the same as the House bill.</p> <p>A small business refiner is a taxpayer who employs not more than 1,500 employees directly in refining and had an average daily refinery run less than or equal to 205,000 barrels per day in the preceding year.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p>taxpayer who employs not more than 1,500 employees directly in refining and has less than 155,000 barrels per day (average) of total refinery capacity.</p> <p><u>Effective date.</u>—effective for expenses paid or incurred after the date of enactment.</p>	<p>preceding year.</p> <p>Deduction reduced, pro rata, for taxpayers with average daily refinery runs in excess of 155,000 barrels per day.</p> <p><u>Effective date.</u>—effective for expenses paid or incurred after the date of enactment.</p>
<p>5. Credit for small refiners for production of diesel fuel in compliance with Environmental Protection Agency sulfur regulations for small refiners (sec. 3205 of the House bill and sec. 2304 of the Senate amendment)</p>	<p>There is not a credit for the production of low-sulfur diesel fuel.</p>	<p>Provides that a small business refiner may claim credit equal to five cents per gallon for each gallon of low sulfur diesel fuel produced during the taxable year. The total production credit claimed by the taxpayer is limited to 25 percent of the capital costs incurred to come into compliance with the EPA diesel fuel requirements.</p> <p>Recapture of credit for failure to comply with EPA regulations, cessation of operation, or change in ownership.</p> <p><u>Effective date.</u>—expenses paid or incurred after the date of</p>	<p>Substantially the same as the House bill.</p> <p>A small business refiner is a taxpayer who employs not more than 1,500 employees directly in refining and had an average daily refinery run less than or equal to 205,000 barrels per day in the preceding year.</p> <p>Credit reduced, pro rata, for taxpayers with average daily refinery runs in excess of 155,000 barrels per day.</p> <p>No recapture provisions.</p>

Provision	Present Law	House Bill	Senate Amendment
		enactment.	Credit may be apportioned to patrons of certain cooperative organizations. <u>Effective date.</u> —expenses paid or incurred after the date of enactment.
6. Independent producer test change from daily runs to average daily runs (sec. 3206 of the House bill and sec. 2305 of the Senate amendment)	Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides numerous special tax rules for operations by independent producers. An independent producer may not have refining operations the runs from which exceed 50,000 barrels on any day in the taxable year during which independent producer status is claimed.	Allows refiners with average daily refinery runs for the taxable year that do not exceed 75,000 barrels to qualify as independent producers. <u>Effective date.</u> —taxable years beginning after 2001.	Same as House bill, except provides a 60,000 barrel average daily run. <u>Effective date.</u> —taxable years beginning after 2002.
7. Tax-exempt bonds for public power facilities (sec. 3207 of the House bill and secs. 2401 and 2405 of the Senate amendment)	The Code limits public power’s ability to use tax-exempt bonds to finance output property when more than specified amounts of the output will be used by private	Provides special, liberalized private business use rules for bonds issued by public power entities to finance electric output facilities when the entities participate in qualifying electric	Requires Treasury study on tax-law changes appropriate to conform tax rules to new industry structure (See 10, below.) Allows modification to amount

Provision	Present Law	House Bill	Senate Amendment
amendment)	individuals and businesses on a basis other than the basis on which the general public uses the output.	<p>industry restructuring arrangements. Allows public power entities that engage in activities beyond those allowed under the liberalized private business use rules to elect to forego certain future issuances of tax-exempt bonds for new generating capacity while preserving the tax-exempt status of all other bonds. Modifies current rules regarding issuance of tax-exempt bonds for the acquisition of existing electric output facilities. Bond-financed facilities must be governmentally owned, determined under generally applicable tax rules.</p> <p><u>Effective date.</u>—date of enactment with election for transactions on or after April 14, 1996.</p>	<p>sold under certain existing requirements contracts without contracts losing benefits of a grandfather exception under Treasury regulations.</p> <p><u>Effective date.</u>—date of enactment.</p>
<p>8. Dispositions of transmission property to implement FERC restructuring policy (sec. 3208 of the House bill and 2404 of the Senate amendment)</p>	<p>Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller’s basis in the property. The recognized gain is subject to current income tax</p>	<p>Permits a taxpayer to elect to treat an electric transmission transaction as an involuntary conversion and expand the types of replacement property that qualify as related or similar in use to converted electric transmission property. An electric</p>	<p>Permits a taxpayer to elect to recognize gain from an electric transmission transaction ratably over an eight year period beginning in the year of sale. An electric transmission transaction is the sale or other disposition of</p>

Provision	Present Law	House Bill	Senate Amendment
amendment)	<p>unless the gain is deferred or not recognized under a special tax provision.</p> <p>Under section 1033, gain realized by a taxpayer from an involuntary conversion of property is deferred to the extent the taxpayer purchases property similar or related in service or use to the converted property within the applicable period.</p>	<p>transmission transaction is the sale or other disposition of property used in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to a FERC approved transmission company prior to January 1, 2009.</p> <p><u>Effective date.</u>—effective for transactions occurring after the date of enactment.</p>	<p>property used in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to a FERC approved transmission company prior to January 1, 2007.</p> <p><u>Effective date.</u>—effective for transactions occurring after the date of enactment.</p>
<p>9. Distributions of stock to implement FERC or State electric restructuring policy (sec. 3209 of the House bill)</p>	<p>A corporation can distribute the stock of a controlled corporation in a tax-free transaction (a "spin-off") if certain requirements are satisfied. A corporate-level tax is imposed on a spin-off, however, if the spin-off is part of a plan in which more than 50 percent of a corporation involved in the spin-off is acquired (sec. 355(e)).</p>	<p>Creates an exception to section 355(e) for the acquisition of stock (or assets) of any controlled corporation in an electric transmission transaction. For this purpose, an electric transmission transaction is defined as the sale or other disposition of property used in the trade or business of providing electric transmission services, or an ownership interest in an entity whose principal trade or business consists of providing electric transmission services, to a FERC approved transmission company prior to January 1, 2009.</p>	<p>No provision.</p>

Provision	Present Law	House Bill	Senate Amendment
		<p><u>Effective date.</u>—effective for distributions occurring after the date of enactment.</p>	
<p>10. Ongoing study and reports with regard to tax issues resulting from future restructuring decisions (sec. 2401 of the Senate amendment)</p>	<p>No provision.</p>	<p>No provision.</p>	<p>Directs Treasury to conduct an ongoing study of tax issues resulting from the restructuring of the electric service industry. The Treasury is to report to the Senate Committee on Finance and the House Committee on Ways and Means at least cooperatives, including implications on tax exempt bonds and asset divestitures.</p> <p><u>Effective date.</u>—first report due no later than December 31, 2002 with reports to continue until industry restructuring is complete.</p>
<p>11. Special rules for nuclear decommissioning costs (sec. 3210 of the House bill and sec. 2402 of the Senate amendment)</p>	<p>A qualified nuclear decommissioning fund (a “qualified fund”) is a segregated fund established by a taxpayer that is used for the payment of decommissioning</p>	<p>Repeals the cost of service requirement for deductible contributions to a qualified fund. Permits a qualified fund to accumulate an amount sufficient to pay for all decommissioning costs.</p>	<p>Similar to House bill but does not include:</p> <p>(1) Ability to accumulate all decommissioning costs in a qualified fund (i.e., retains</p>

Provision	Present Law	House Bill	Senate Amendment
Senate amendment)	<p>costs. Contributions to a qualified fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers (the “cost of service requirement”).</p> <p>Accumulations in a qualified fund generally are limited to the amount required to fund post-84 decommissioning costs of a nuclear powerplant.</p>	<p>Also permits an exception to ratable funding for decommissioning costs which, under present law, are not permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs).</p> <p>Allows deductible contributions to a qualified fund subsequent to the end of a nuclear powerplant’s estimated useful life. Clarifies that no gain or loss would be recognized as a result of the transfer of a qualified fund in connection with the transfer of the power plant and provides that all nuclear decommissioning costs are deductible when paid.</p> <p><u>Effective date.</u>—effective for taxable years beginning after December 31, 2001.</p>	<p>present law rules that generally permit only post-84 decommissioning costs to be accumulated in a qualified fund).</p> <p>(2) Does not permit funding after useful life of powerplant.</p> <p><u>Effective date.</u>—effective for taxable years beginning after December 31, 2002.</p>
<p>12. Treatment of certain electric cooperatives (sec. 3211 of the House bill and secs. 2403 and 2406 of the Senate amendment)</p>	<p>No provisions relating to electric energy industry restructuring, nuclear decommissioning transactions, involuntary conversions, or like-kind exchanges. Present</p>	<p>Provides that income received or accrued by a rural electric cooperative from any “open access transaction” (other than income received or accrued directly or indirectly from a member of the</p>	<p>House bill (with some technical revisions), plus: (1) Income from certain "asset exchange or conversion transactions" (i.e., in general, gain that would qualify for deferred recognition under</p>

Provision	Present Law	House Bill	Senate Amendment
amendment)	<p>law provides that exemption of rural electric cooperatives under section 501(c)(12) is determined without taking into account any income from cancellation of indebtedness income from the prepayment of loans under certain provisions of the Rural Electrification Act of 1936 (as in effect on January 1, 1987). The exclusion for cancellation of indebtedness income applies to such income arising in 1987, 1988, or 1989 on debt that either originated with, or is guaranteed by, the Federal Government.</p>	<p>cooperative) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). Provides that income received or accrued by a rural electric cooperative from any “nuclear decommissioning transaction” also is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12). Provides that income received or accrued by a rural electric cooperative from a “load loss transaction” is treated under 501(c)(12) as income collected from members for the sole purpose of meeting losses and expenses of providing service to its members. Provides that similar rules apply to the receipt or accrual of income from load loss transactions of taxable electric cooperatives.</p> <p><u>Effective date.</u>—taxable years beginning after the date of enactment.</p>	<p>secs. 1031 or 1033 if the replacement property is for generating, transmitting, distributing or selling electric energy or natural gas) is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12); (2) Cancellation of indebtedness income from discounted prepayments of loans, debts, or obligations made, insured, or guaranteed by the Federal government under the Rural Electrification Act of 1936 is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12); (3) Income received or accrued indirectly from a member by a rural electric cooperative from any "open access transaction" is treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12); and (4)</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>Income from receipts before 2007 for the construction of line extensions to facilitate the development of section 29 qualified nonconventional fuel sources is excluded in determining whether a rural electric cooperative satisfies the 85-percent test for tax exemption under section 501(c)(12).</p> <p><u>Effective date.</u>—taxable years beginning after the date of enactment.</p>

Provision	Present Law	House Bill	Senate Amendment
<p align="center">III. PRODUCTION</p> <p>1. Marginal wells credit (sec. 3301 of the House bill and sec. 2301 of the Senate amendment)</p>	<p>There is no credit for the production of oil and gas from marginal wells. The costs of such production may be recovered under the Code's depreciation and depletion rules and in other cases as a deduction for ordinary and necessary business expenses.</p>	<p>Creates a new, \$3 per barrel credit for the production of crude oil and a \$0.50 per 1,000 cubic feet of qualified natural gas production from qualified marginal wells. The credit is not available for production occurring if the reference price of oil exceeds \$18 (\$2.00 for natural gas). The credit is reduced proportionately for reference prices between \$15 and \$18 (\$1.67 and \$2.00 for natural gas).</p> <p><u>Effective date.</u>—production in taxable years after 2001.</p>	<p>Same as House Bill.</p> <p><u>Effective date.</u>—production in taxable years beginning after date of enactment.</p>
<p>2. Net income limitation on percentage depletion for oil and gas property and suspension of limitation based on 65 percent of taxable income (sec. 3302 of the House bill and sec. 2306 of the Senate amendment)</p>	<p>The Code generally limits the percentage depletion method for oil and gas properties to independent producers and royalty owners. Generally, under the percentage depletion method 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a</p>	<p>Suspends the 65 percent taxable income limitation for taxable years beginning after December 31, 2001, and before January 1, 2007.</p> <p>The suspension of the 100-percent net-income limitation for marginal wells is extended an additional five years, through taxable years beginning before January 1, 2007.</p>	<p>Suspension of the 100-percent net-income limitation for marginal wells for same period as in House bill.</p> <p><u>Effective date.</u>—taxable years after 2001.</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the net income from that property in any year (the "net-income limitation"). Section 11522(a) of the OBRA 1990 prospectively changed the net-income limitation threshold to 100 percent only for oil and gas properties, effective for taxable years beginning after 1990. The 100-percent net-income limitation for marginal wells has been suspended for taxable years beginning after December 31, 1997, and before January 1, 2004.</p> <p>Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for certain loss carrybacks and trust distributions).</p>	<p>(This provision was enacted in 2002 for taxable years beginning before January 1, 2004. (See Present Law.)</p> <p><u>Effective date.</u>—taxable years after 2001.</p>	

Provision	Present Law	House Bill	Senate Amendment
<p>3. Delay rental payments (sec. 3303 of the House bill and sec. 2308 of the Senate amendment)</p>	<p>Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred. Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for “delay rental payments” as a condition of their extension. In proposed regulations issued in 2000, the Treasury Department took the position that delay rental payments are to be capitalized.</p>	<p>Allows delay rental payments to be deducted in the year paid or incurred.</p> <p><u>Effective date.</u>—amounts paid or incurred in taxable years after 2001.</p>	<p>Two year amortization (prospective only).</p> <p><u>Effective date.</u>—amounts paid or incurred in taxable years after 2002.</p>
<p>4. Geological and geophysical costs (sec. 3304 of the House bill and sec. 2307 of the Senate amendment)</p>	<p>Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property. Courts have held that geological and geophysical costs are capital, and therefore, are allocable to the cost of the property acquired or retained. The costs</p>	<p>Allows geological and geophysical costs incurred in domestic oil and gas exploration to be deducted in the year paid or incurred.</p> <p><u>Effective date.</u>—costs paid or incurred in taxable years after 2001.</p>	<p>Two year amortization (prospective only).</p> <p><u>Effective date.</u>—costs paid or incurred in taxable years after 2002.</p>

Provision	Present Law	House Bill	Senate Amendment
	attributable to such exploration are allocable to the cost of the property acquired or retained.		
<p>5. Five year carryback for net operating losses from oil and gas properties (sec. 3305 of the House bill)</p>	<p>NOLs generally can be carried back two years and carried forward 20 years to offset taxable income in such years. The Job Creation and Worker Assistance Act of 2002 extended the general NOL carryback period to five years for net operating losses arising in taxable years ending in 2001 and 2002. Different rules also apply with respect to NOLs arising in certain circumstances (such as from farming losses, Presidentially declared disasters, and specified liability losses).</p>	<p>Provides a special five-year carryback for certain eligible oil and gas losses.</p> <p><u>Effective date.</u>—NOLs for taxable years after 2001.</p>	<p>No provision.</p>
<p>6. Extension and expansion of credit for producing fuel from a nonconventional source (sec. 3306 of the House bill and secs. 2309 and 2310 of the Senate</p>	<p>Fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to \$3 (adjusted for inflation since 1979, credit value \$6.14 per barrel for 2000) per barrel</p>	<p>Permits section 29 credit for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. Qualifying fuels are oil from shale or tar sands, and</p>	<p>Permits section 29 credit at a rate of \$3.00 per barrel of oil equivalent (unindexed) for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before</p>

Provision	Present Law	House Bill	Senate Amendment
amendment)	<p>or BTU oil barrel equivalent (sec. 29). Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite).</p> <p>Credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993 expiration date for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997.</p> <p>Credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in</p>	<p>gas from geopressured brine, Devonian shale, coal seams or a tight formation. The value of the credit is \$3.00 for production in 2001 and 2002 and is indexed for inflation commencing with the credit amount for 2003. The credit may be claimed for production from the well for each of the first four years of production, but not for any production occurring after December 31, 2009.</p> <p>Permits production from certain existing wells (any well drilled after December 31, 1979 and before January 1, 1993) to claim a credit equal to the newly, re-indexed value of \$3.00 for production in 2003 through 2006.</p> <p>Permits landfill gas sold to a third party from facilities placed in service after June 30, 1998 and before January 1, 2007 to be eligible for the taxpayer to claim five years of credit from the later of the date of enactment or the date the facility is placed in service.</p>	<p>January 1, 2005. Qualifying fuels are oil from shale or tar sands, and gas from geopressured brine, Devonian shale, coal seams or a tight formation. The value of the credit is \$3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service.</p> <p>Extends the present-law credit through December 31, 2004 for production from existing facilities producing coke, coke gas, or natural gas and by-products produced by coal gasification from lignite.</p> <p>Permits credit for production of "refined coal" from facilities placed in service after the date of enactment and before January 1, 2007. "Refined coal" must meet emissions reduction targets and have market value 50 percent greater than feedstock coal. Credit value is \$3.00 per barrel of oil equivalent, unindexed, for five years of production commencing when the facility is placed in</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>the case of non-conventional sources subject to the January 1, 1993 expiration date) or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).</p>	<p><u>Effective date.</u>—effective for fuel sold from qualifying wells and facilities after the date of enactment.</p> <p>The taxpayer may not claim any credit for production in excess of a daily average of 200,000 cubic feet of gas (or barrel of oil equivalent) from a qualifying well or facility.</p>	<p>service.</p> <p>Permits credit for production of “viscous oil” from facilities placed in service after the date of enactment and before January 1, 2005. Qualifying viscous oil may be sold to a related party. Credit value is \$3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service.</p> <p>Permits credit for production of “coalmine methane gas” captured or extracted from a coal mine and sold after the date of enactment and before January 1, 2005. Qualifying coalmine methane gas is gas liberated during mining operations or extracted up to five years in advance of mining operations. Credit value is \$3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service.</p> <p>Permits credit for production of liquid, gaseous, or solid fuels</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>produced from agricultural and animal wastes from facilities placed in service after the date of enactment and before January 1, 2005. Credit value is \$3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service.</p> <p>Directs Treasury to study effect sec. 29 has had on the production of coal bed methane.</p> <p><u>Effective date.</u>—effective for fuel sold after the date of enactment.</p>
<p>7. Allow certain business credits against the alternative minimum tax (sec. 3307 of the House bill and secs. 2005(b)(3) and 2503(c) of the Senate amendment)</p>	<p>Most business credits are not allowed against the alternative minimum tax.</p>	<p>Makes the minimum tax limitation inapplicable to the business energy credits added by the bill. These credits include the credit for efficient appliances, the credit for construction of new energy efficient homes, the environmental tax credit, the credit for oil and gas production from marginal wells and the credit for production from qualifying advanced clean coal technology</p>	<p>Allows the small ethanol producer credit and the Alaska natural gas credit to be claimed against the entire regular tax and the alternative minimum tax; other business credits may not be claimed against the alternative minimum tax.</p>

Provision	Present Law	House Bill	Senate Amendment
<p>8. Intangible drilling costs (IDCs) (sec. 3308 of the House bill)</p>	<p>Certain IDCs are an alternative minimum tax preference.</p>	<p>Repeals alternative minimum tax preference for IDCs of independent producers.</p> <p><u>Effective date.</u>—taxable years beginning in 2002, 2003, and 2004.</p>	<p>No provision.</p>
<p>9. Enhanced oil recovery credit (sec. 43) (sec. 3309 of the House bill)</p>	<p>The credit is not allowed against the alternative minimum tax.</p>	<p>Allows the enhanced oil recovery credit against the alternative minimum tax.</p> <p><u>Effective date.</u>—taxable years beginning in 2002, 2003, and 2004.</p>	<p>No provision.</p>
<p>10. Accelerated depreciation and wage credit benefits for businesses on Indian reservations (sec. 3310 of the House bill and sec. 2501 of the Senate amendment)</p>	<p>Two tax incentives exist to encourage investment on Indian reservations: a 20 percent general business credit for qualifying wages and costs paid to employees that work on an Indian reservation, and special depreciation recovery periods for qualified Indian reservation property. Both provisions expire on</p>	<p>Extends the accelerated depreciation incentive years through December 31, 2006, but only with respect to property that is part of a facility for (1) the generation or transmission of electricity (2) an oil or gas well, (3) the transmission or refining of oil or gas, or (4) the production of any qualified fuel.</p> <p>Extends the Indian employment</p>	<p>Wage credit and accelerated depreciation incentives extended through December 31, 2005, for all types of businesses (not just energy).</p>

Provision	Present Law	House Bill	Senate Amendment
	December 31, 2004.	credit incentive through December 31, 2006, but only in the case of wages paid for services performed at a facility for (1) the generation or transmission of electricity (2) an oil or gas well, (3) the transmission or refining of oil or gas, or (4) the production of any qualified fuel.	

Provision	Present Law	House Bill	Senate Amendment
<p style="text-align: center;">IV. ADDITIONAL PROVISIONS</p> <p>1. Arbitrage rules not to apply to prepayments for natural gas (sec. 3213 of the House bill)</p>	<p>Restrictions are imposed on the ability of States or local governments to invest the proceeds of tax-exempt bonds for profit (the "arbitrage restrictions"). One such restriction limits the use of bond proceeds to acquire "investment-type property." The term investment-type property includes the acquisition of property in a transaction involving a prepayment. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same type of</p>	<p>Similar to the Treasury regulations, except (1) the exception applies only if at least 85 percent of the purchased natural gas is to be used by governmental utilities in the State where the issuer of the bonds is located; (2) the limits on customers are not as restrictive and (3) the use of swap transactions is not as limited.</p> <p><u>Effective date.</u>—Bonds issued after October 22, 1986, except 85 percent limit applies only to bonds issued after date of enactment.</p>	<p>No provision.</p>

Provision	Present Law	House Bill	Senate Amendment
	<p>transaction.</p> <p>The Treasury Department has issued regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas that are reasonably expected to be used by customers that public gas authorities are obligated to serve.</p>		
<p>2. GAO study of effectiveness of alternative motor vehicles and fuel incentives (sec. 2502 of the Senate amendment)</p>	<p>No provision.</p>	<p>No provision.</p>	<p>Directs Comptroller General to study effectiveness of alternative motor vehicle and fuel incentives and conservation and energy efficiency incentives. In addition, study to examine distribution of beneficiaries. Compare revenue cost to energy conserved and environmental benefits. Annual reports beginning by December 31, 2002.</p> <p><u>Effective date.</u>—date of enactment.</p>
<p>3. Credit for production of Alaska natural gas</p>	<p>No provision. However, natural gas produced from</p>	<p>No provision.</p>	<p>Provides a credit equal to excess of \$3.25 (indexed for inflation)</p>

Provision	Present Law	House Bill	Senate Amendment
(sec. 2503 of the Senate amendment)	"non-conventional sources" is eligible for an income tax credit equal to \$3 (adjusted for inflation since 1979, credit value \$6.14 per barrel for 2000) per barrel or BTU oil barrel equivalent (sec. 29).		per 1 million Btu of Alaska natural gas over average monthly price at Alberta, Canada pipeline hub. If price at hub exceeds \$4.875 (indexed), any prior credits recaptured. Credit applies beginning later of January 1, 2010 or initial date of interstate transportation of Alaska natural gas. Credit claimed against regular and minimum tax. <u>Effective date.</u> —date of enactment.
4. Sale of gasoline and diesel fuel at duty-free sales enterprises (sec. 2504 of the Senate amendment)	As a general rule, no tax is imposed on the sale by the manufacturer of an article for export, or for resale by the purchaser to a second purchaser for export, but only if such exportation of use is to occur before any other use (sec. 4221(a)). The Code further provides that if gasoline is sold to any person for the previously described purposes, the government is to pay such person an amount equal to the number of gallons of gasoline so sold multiplied by the rate	No provision.	Amends section 1555(b) of Title 19 to treat gasoline sold from a duty free enterprise as entering into the territory of customs, i.e., not for export.

Provision	Present Law	House Bill	Senate Amendment
	<p>of tax (sec. 6421(c)). Under 19 USC 1555(B)(8)(D), a duty free enterprise is defined as a person that sells duty free merchandise that is delivered from a bonded warehouse to an exit point for exportation by individuals departing from the customs territory.</p>		
<p>5. Treatment of certain dispositions of dairy property to implement bovine tuberculosis eradication program (sec. 2505 of the Senate amendment)</p>	<p>Generally, a taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period (generally the period ending two years after the end of the taxable year in which the first gain on the conversion is realized) property similar or related in service or use.</p>	<p>No provision.</p>	<p>The Senate amendment extends involuntary conversion treatment to qualified dispositions of dairy property pursuant to the bovine tuberculosis eradication program. Treats any property acquired and held by the taxpayer either for productive use in a trade or business or for investment as property similar or related in use to the converted property. Extend the applicable acquisition period from two to four years and permits replacement property to be acquired from related parties. In addition to deferring gain, the amendment permits an ordinary loss equal to the adjusted basis of the converted property.</p>

Provision	Present Law	House Bill	Senate Amendment
			<p>Finally, the amendment allows expensing for amounts paid or incurred by the taxpayer to convert any real property into unimproved land pursuant to the bovine tuberculosis eradication program.</p> <p><u>Effective date.</u>—generally effective for dispositions made and amounts received in taxable years beginning after May 22, 2001 but shall not apply to dispositions made after December 31, 2006.</p>
<p>6. Expand exemption from aviation fuels excise taxes for aerial applicators (see 2506 of the Senate amendment)</p>	<p>Excise taxes are imposed on aviation gasoline (19.4 cents per gallon) and jet fuel (21.9 cents per gallon) (secs. 4081 and 4091). Fuel used on a farm for farming purposes is exempt from tax. Aerial applicators (crop dusters) are allowed to claim the exemption on behalf of farm owners and operators, e.g., in the case of aviation gasoline if the owners or operators give written consent to the aerial</p>	<p>No provision.</p>	<p>Expands the present-law exception to include fuel used between farms and base airfields, and provides that the aerial applicator is the exclusive party entitled to the refund.</p> <p><u>Effective date.</u>—transportation after 2001 and before 2003.</p>

Provision	Present Law	House Bill	Senate Amendment
	applicators. This exemption applies only to fuel consumed in the airplane while operating over the farm, i.e., fuel consumed traveling to and from the farm is not exempt.		
<p>7. Expand definition of rural airports exempt from the tax imposed on each segment of a flight (sec. 2507 of the Senate amendment)</p>	<p>Most domestic air passenger transportation is subject to a two-part excise tax. First, an <i>ad valorem</i> tax is imposed at the rate of 7.5 percent of the amount paid for the transportation. Second, a flight segment tax of \$3.00 per segment is imposed. The flight segment component of the tax does not apply to segments to or from qualified "rural airports." A rural airport is defined as an airport that (1) in the second preceding calendar year had fewer than 100,000 commercial passenger departures, and (2) either (a) is not located within 75 miles of another airport that had more than 100,000 such departures in that year, or (b) is eligible for payments under the Federal</p>	<p>No provision.</p>	<p>Expands the definition of rural airport to include otherwise qualified airports that are within 75 miles of a larger airport, but are not connected by paved road to such an airport.</p> <p><u>Effective date.</u>—January 1, 2003.</p>

Provision	Present Law	House Bill	Senate Amendment
	"essential air service" program.		
<p>8. Exempt transportation by seaplane from ticket taxes (sec. 2508 of the Senate amendment)</p>	<p>Most domestic air passenger transportation is subject to a two-part excise tax. First, an <i>ad valorem</i> tax is imposed at the rate of 7.5 percent of the amount paid for the transportation. Second, a flight segment tax of \$3.00 per segment is imposed.</p> <p>Noncommercial aviation is subject to a higher fuel excise tax, but not the ticket tax.</p> <p>Commercial aviation also is subject to a 4.4-cents-per-gallon fuels excise tax.</p>	<p>No provision.</p>	<p>Reclassifies seaplane flights as noncommercial aviation, subject only to fuels excise tax.</p> <p><u>Effective date.</u>—January 1, 2003.</p>