COMPARISON OF TITLE XIII OF H.R. 6, THE "ENHANCED ENERGY INFRASTRUCTURE AND TECHNOLOGY TAX ACT OF 2005," AS PASSED BY THE HOUSE OF REPRESENTATIVES AND TITLE XV OF H.R. 6, THE "ENERGY POLICY TAX INCENTIVES ACT OF 2005," AS AMENDED BY THE SENATE

Prepared by the Staff of the
JOINT COMMITTEE ON TAXATION

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INTRODUCTION

This document,[1] prepared by the staff of the Joint Committee on Taxation, presents in side-by-side format a comparison of Title XIII of H.R. 6, the "Enhanced Energy Infrastructure and Technology Tax Act of 2005," as passed by the House of Representatives on April 21, 2005, and Title XV of H.R. 6, the "Energy Policy Tax Incentives Act of 2005," as amended by the Senate on June 28, 2005. In a related publication, the staff of the Joint Committee on Taxation presents the estimated budgetary effects of the proposals described herein.[2]

[1] This document may be cited as follows, Joint Committee on Taxation, *Comparison of Title XIII of H.R. 6, The "Enhanced Energy Infrastructure and Technology Tax Act of 2005," as Passed by the House of Representatives and Title XV of H.R. 6, The "Energy Policy Tax Incentives Act of 2005" as Amended by the Senate* (JCX-52-05), July 19, 2005.

[2] Joint Committee on Taxation, *Comparison of the Revenue Effects of the Tax Provisions of H.R. 6 as Passed by the House and as Amended by the Senate* (JCX-53-05), July 19, 2005.

Provision	Present Law	House Bill	Senate Amendment
A. Energy Infrastructure Tax Incentives **1. Natural gas gathering lines treated as 7-year property** (sec. 1301 of the House bill)	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. In each of three recent cases, courts have held that natural gas gathering lines owned by nonproducers fall within the scope of Asset class 13.2 (*i.e.,* seven-year recovery period). The IRS has not yet indicated whether it acquiesces in the result in these three appellate decisions in cases arising in other circuits.	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. Effective date.–Effective for property placed in service after April 11, 2005.	No provision.
2. Recovery period for natural gas distribution lines (sec. 1302 of the House bill and sec. 1515 of the Senate amendment)	Rev. Proc. 87-56 provides that natural gas distribution pipelines are assigned a 20-year recovery period.	Establishes a statutory 15-year recovery period for natural gas distribution lines. Effective date.–Effective for property placed in service after April 11, 2005.	Similar to House bill, but requires original use by the taxpayer and expires on January 1, 2008. Effective date.–Effective for property placed in service after date of enactment, but does not apply to property subject to a binding contract or under

Provision	Present Law	House Bill	Senate Amendment
			construction on or before June 14, 2005.
3. Recovery period for electric transmission property (sec. 1303 of the House bill)	Rev. Proc. 87-56 provides that assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period.	Establishes a statutory 15-year recovery period for property used in the transmission of electricity for sale at 69 kilovolts and above. Effective date.–Effective for property placed in service after April 11, 2005, the original use of which commences with the taxpayer after such date.	No provision.
4. Amortization of atmospheric pollution control facilities (sec. 1304 of the House bill)	In general, a taxpayer may recover the cost of a pollution control facility over a period of 60 months if it is a new, identifiable treatment facility which (1) is used in an existing plant in operation before January 1, 1976; and (2) does not lead to a significant increase in output or capacity, a significant extension of useful life, a significant reduction in total operating costs for such plant or other property (or any unit thereof), or a significant alteration in the nature of a manufacturing production process or facility. For a pollution control facility with a useful life greater than 15 years,	Expands the ability to recover the cost of certain certified air pollution control facilities (but not water pollution control facilities) over 60 months by repealing the requirement that only certified pollution control facilities used in connection with a plant in operation before January 1, 1976 qualify. The facility must be (1) used in connection with an electric generation plant which is primarily coal fired, and (2) placed in service after April 11, 2005. The provision does not apply to water pollution control facilities.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	only the basis attributable to the first 15 years is eligible to be amortized over a 5-year period.	Effective date.–Effective for air pollution control facilities placed in service after April 11, 2005.	
5. Modification of credit for producing fuel from a non-conventional source (sec. 1305 of the House bill)	Certain fuels produced domestically from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3 (generally adjusted for inflation and equal to $6.56 per barrel of oil equivalent in 2004) per barrel or BTU oil barrel equivalent ("section 29 credit"). Qualified fuels include (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations, or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite). Generally the credit has expired, except for certain biomass gas and synthetic fuels sold before January 1, 2008. The section 29 credit may not exceed the excess of the regular tax liability over the tentative minimum tax. Unused section 29 credits may not be carried forward or carried back to other taxable	Makes the credit for producing fuel from a non-conventional source part of the general business credit. Thus, the credit for producing fuel from a non-conventional source will be subject to the limitations applicable to the general business credit. Any unused credits may be carried back one year and forward 20 years. Makes certain clerical changes in cross-references to the Natural Gas Policy Act of 1978, which has been repealed. Effective date.–Applies to credits determined for taxable years ending after December 31, 2005 (but credits may not be carried back to a taxable year ending before January 1, 2006). Clerical changes are effective on the date of enactment.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	years. However, to the extent the section 29 credit is disallowed because of the tentative minimum tax, the minimum tax credit allowable in future years is increased by the amount so disallowed. Generally, the general business credit may not exceed the excess of the taxpayer's net income tax over the greater of the taxpayer's tentative minimum tax or 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000. General business credits in excess of this limitation may be carried back one year and forward up to 20 years. The section 29 credit is not part of the general business credit. The section 29 credit includes definitional cross-references and a credit limitation relating to the Natural Gas Policy Act of 1978. The Natural Gas Policy Act of 1978 has been repealed.		

Provision	Present Law	House Bill	Senate Amendment
6. Special rules for nuclear decommissioning costs (sec. 1306 of the House bill)	A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used for the payment of decommissioning 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"). Accumulations in a qualified fund generally are limited to the amount required to fund post-1984 decommissioning costs of a nuclear powerplant.	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. Permits an exception to ratable funding for decommissioning costs that, under present law, are not permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). Amount transferred under this special rule is allowed as a deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that has received amounts under this rule is transferred to another person, the transferor will be permitted a deduction for any remaining deductible amounts at the time of transfer. Effective date.–Effective for taxable years beginning after December 31, 2005.	No provision.
7. Arbitrage rules not to apply to prepayments for natural gas (sec. 1307 of the House bill)	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	Creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment by a	No provision.

Provision	Present Law	House Bill	Senate Amendment
	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 transaction. On August 4, 2003, the Treasury Department issued final regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity. Generally, a qualified prepayment under the regulations requires that 90 percent of the natural gas or electricity purchased with the prepayment be used for a qualifying use. Generally, natural gas is used for a qualifying use if it is to be (1) furnished to retail gas customers of the issuing municipal utility who	governmental gas utility under a qualified natural gas supply contract. Also provides that such prepayments are not treated as private loans for purposes of the private business tests. A contract is a qualified natural gas supply contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility ("retail natural gas consumption") during the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is the five-calendar-year period immediately preceding the calendar year in which the bonds are issued. Natural gas used to generate electricity by a governmental utility is counted as retail natural gas consumption if the electricity was sold to retail customers within the service area of the governmental electric utility.	

Provision	Present Law	House Bill	Senate Amendment
	are located in the natural gas service area of the issuing municipal utility, however, gas used to produce electricity for sale is not included under this provision, (2) used by the issuing municipal utility to produce electricity that will be furnished to retail electric service area customers of the issuing utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility owned by a governmental person and furnished to the service area retail electric customers of the purchaser, (4) sold to a utility that is owned by a governmental person if the requirements of (1), (2) or (3) are satisfied by the purchasing utility (treating the purchaser as the issuing utility) or (5) used to fuel the pipeline transportation of the prepaid gas supply. Electricity is used for a qualifying use if it is to be (1) furnished to retail service area electric customers of the issuing municipal utility or (2) sold to a municipal utility and furnished to retail electric customers of the purchaser who are located in the electricity service area of the purchaser.	Effective date.–Bonds issued after date of enactment.	

Provision	Present Law	House Bill	Senate Amendment
	Both governmental gas and electric utilities may take advantage of this regulatory provision.		
8. Small refiner exception for percentage depletion deduction (sec. 1308 of the House bill)	Present law classifies oil and gas producers as independent producers or integrated companies. The Code allows independent producers to claim percentage depletion deductions rather than deducting the costs of their asset, a producing well, based on actual production from the well (i.e., cost depletion). 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 (sec. 613A(d)(4)).	Allows refiners with average daily refinery runs for the taxable year that do not exceed 75,000 barrels to qualify as independent producers. Effective date.–Taxable years ending after the date of enactment.	No provision.
9. Extension and modification of renewable electricity production tax credit (secs. 1501 through 1503 of the Senate amendment)	An income tax credit is allowed for the production of electricity from qualified facilities sold by the taxpayer to an unrelated person (sec. 45). Expiration of "placed in service date."−Except for refined coal facilities, to be a qualified facility the facility must be placed in service by December 31, 2005. A	No provision.	Expiration of "placed in service date."−Extends the expiration of the "placed in service date" to December 31, 2008 for all qualifying facilities, except solar facilities.

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	refined coal facility must be placed in service by December 31, 2008. Qualified facilities.−Qualified facilities comprise wind energy facilities, closed-loop biomass facilities, open-loop biomass (including agricultural livestock waste nutrients) facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities. In addition, an income tax credit is allowed for the production of refined coal. Credit amount.−In general, the amount of the credit is 1.9 cents per kilowatt-hour for 2005. This amount is indexed for inflation. In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the otherwise allowable credit amount is one-half of the otherwise allowable amount (0.9 cents per kilowatt-hour for 2005). Credit period.−In general, taxpayers' may claim credit for		Qualified facilities.−Adds three new qualifying energy resources: fuel cells; hydropower; and wave, current, tidal, and ocean thermal energy. Clarifies that a qualifying trash combustion facility includes a new unit that increases electricity production capacity at an existing trash combustion facility. Credit amount.−Provides full credit amount for production from fuel cell and wave, current, tidal, and ocean thermal facilities (1.9 cents per kilowatt-hour for 2005) and one-half the otherwise allowable amount (0.9 cents per kilowatt-hour for 2005) for production from hydropower facilities. Credit period.−Provides a 10-year credit period for all qualifying

Provision	Present Law	House Bill	Senate Amendment
	production for the 10-year period following the date the facility is placed in service. In the case of open-loop biomass facilities (including agricultural livestock waste nutrient facilities), geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, and trash combustion facilities, the 10-year credit period is reduced to five years. Treatment of co-ops.−Although co-ops may claim the credit, there is no provision in the Code that permits cooperatives to pass the income tax credit for electricity production through to their patrons.		facilities. Treatment of co-ops.−Allows eligible cooperatives to elect to apportion any portion of the section 45 credit to patrons of such organizations on the basis of the amount of business done by the patrons during the taxable year. An eligible cooperative is defined as a cooperative organization that is owned more than 50 percent by agricultural producers or entities owned by agricultural producers. Effective date.−Date of enactment. For fuel cell facilities, a qualifying facility is placed in service after December 31, 2005.

Provision	Present Law	House Bill	Senate Amendment
10. Clean renewable energy bonds (sec. 1504 of the Senate amendment)	Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Restrictions are imposed on the ability of States or local governments to invest the proceeds of tax-exempt bonds for profit (the "arbitrage restrictions"). As an alternative to traditional tax-exempt bonds, States and local governments may issue qualified zone academy bonds ("QZABs") for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel with respect to certain educational facilities. Financial institutions that hold QZABs are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. The Treasury Department sets the credit rate at a rate estimated to	No provision.	The provision creates a new category of tax credit bonds: Clean Renewable Energy Bonds ("CREBs"). As with present law QZABs, the taxpayer holding CREBs on a credit allowance date would be entitled to a tax credit that can be claimed against regular income tax liability and alternative minimum tax liability. The tax credit and the credit rate on CREBs are determined in the same manner as QZABs. CREBs are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are reasonably expected to be used to finance capital expenditures incurred by qualified borrowers for facilities that qualify for the tax credit under section 45 ("qualified projects"), without regard to the placed-in-service date requirements of that section. "Qualified issuers" include (1) governmental bodies (including Indian tribal governments); (2) the Tennessee Valley Authority; (3) mutual or cooperative electric

Provision	Present Law	House Bill	Senate Amendment
	allow issuance of QZABs at neither discount nor premium. The credit is includable in gross income, and may be claimed against regular income tax and AMT liability. The arbitrage restrictions that apply to traditional tax-exempt bonds do not apply to QZABs. There is an annual limitation of $400 million on the amount of QZABs that may be issued in calendar years 1998 through 2005.		companies; and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term "qualified borrower" includes a governmental body (including an Indian tribal government), the Tennessee Valley Authority, and a mutual or cooperative electric company. CREBs are subject to the arbitrage restrictions that apply to traditional tax-exempt bonds. In addition, 95 percent or more of the proceeds of CREBs must be spent on qualified projects within the five-year period that begins on the date of issuance, unless such period is extended by the Secretary or unspent proceeds are used to redeem outstanding bonds. There is a national limitation of $1 billion of CREBs that the Secretary may allocate, in the aggregate, to qualified projects. The authority to issue CREBs expires December 31, 2008.

Provision	Present Law	House Bill	Senate Amendment
			Effective date.–Effective for bonds issued after December 31, 2005.
11. Treatment of certain electric cooperatives (sec. 1505 of the Senate amendment)	Section 501(c)(12) provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative's income consists of amounts collected from members for the sole purpose of meeting losses and expenses of providing service to its members. The 85-percent test is determined without taking into account any income from: (1) qualified pole rentals; (2) open access electric energy transmission services; (3) open access electric energy distribution services; (4) any nuclear decommissioning transaction; (5) any asset exchange or conversion transaction. The exclusion for income from open access, nuclear decommissioning, and asset exchange or conversion transactions does not apply to taxable years beginning after December 31, 2006. Under present law, income received or accrued by a tax-exempt rural electric cooperative from a "load loss transaction" is treated as income collected from members for the sole purpose of	No provision.	Eliminates the sunset date for the rules excluding income received or accrued by tax-exempt rural electric cooperatives from open access electric energy transmission or distribution services, any nuclear decommissioning transaction, and any asset exchange or conversion transaction for purposes of the 85-percent test under section 501(c)(12). Also eliminates the sunset date for the rule allowing income from load loss transactions to be treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test. Eliminates the sunset date for the rule permitting taxable electric cooperatives to treat the receipt or accrual of income from load loss transactions as income from patrons who are members of the cooperative. Effective date.–Date of enactment.

Provision	Present Law	House Bill	Senate Amendment
	meeting losses and expenses of providing service to its members. Thus, income from load loss transactions is treated as member income in determining whether a rural electric cooperative satisfies the 85-percent test. This rule does not apply to taxable years beginning after December 31, 2006. For taxable electric cooperatives, the receipt or accrual of income from load loss transactions is treated as income from patrons who are members of the cooperative. Thus, income from a load loss transaction is excludible from the taxable income of a taxable electric cooperative if the cooperative distributes such income pursuant to a pre-existing contract to distribute the income to a patron who is not a member of the cooperative. This rule does not apply to taxable years beginning after December 31, 2006.		
12. Dispositions of transmission property to implement FERC restructuring policy (sec. 1506 of the Senate amendment)	A taxpayer may elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale, to the extent proceeds are used to	No provision.	Extends the deferral provision to sales or dispositions to an independent transmission company prior to January 1, 2008.

Provision	Present Law	House Bill	Senate Amendment
	purchase exempt utility property within the four years. A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to an independent transmission company prior to January 1, 2007.		Effective date.–Effective for transactions occurring after the date of enactment.
13. Credit for production from advanced nuclear power facilities (sec. 1507 of the Senate amendment)	Present law does not provide a credit for electricity produced at advanced nuclear power facilities. However, an income tax credit is allowed for the production of electricity at wind, open and closed loop biomass, geothermal, solar, small irrigation power, landfill gas, and trash combustion facilities.	No provision.	Provides a 1.8 cents per kilowatt-hour credit for electricity produced at qualifying advanced nuclear power facilities for an 8 year period beginning when the facility is placed in service. The aggregate amount of credit is subject to limitation based on allocated capacity and an annual limitation. The Secretary may allocate up to 6,000 megawatts of capacity. A taxpayer may claim no more than $125 million in credits per year per 1,000 megawatts of allocated capacity. Effective date.–Electricity produced in taxable years beginning after the date of enactment.

Provision	Present Law	House Bill	Senate Amendment
14. Credit for investment in clean coal facilities (sec. 1508 of the Senate amendment)	Present law does not provide an investment credit for electricity production facilities property that uses coal as a fuel or for the gasification of coal or other materials. However, a 10-percent investment tax credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) that is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage (sec. 48).	No provision.	Provides two new 20-percent investment tax credits for clean coal and gasification projects certified by the Secretary. The first credit is part of a program to produce 7,500 megawatts of power generation capacity using integrated gasification combined cycle (4,125 megawatts) and other advanced coal-based technologies (3,375 megawatts). For integrated gasification combined cycle projects, the Secretary must allocate megawatts of capacity in relatively equal amounts to projects using bituminous coal, subbituminous coal, and lignite as primary feedstocks. The second credit applies to $4 billion of qualified investment in certified gasification projects that convert coal, petroleum residue, biomass, or other materials recovered for their energy or feedstock value into a usable synthesis gas composed of carbon monoxide and hydrogen.

Provision	Present Law	House Bill	Senate Amendment
			Effective date.–Credits apply to periods after the date of enactment, under rules similar to the rules of section 48(m) (as in effect before its repeal).
15. Clean energy coal bonds (sec. 1509 of the Senate amendment)	Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Restrictions are imposed on the ability of States or local governments to invest the proceeds of tax-exempt bonds for profit (the "arbitrage restrictions"). As an alternative to traditional tax-exempt bonds, States and local governments may issue qualified zone academy bonds ("QZABs") for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel with respect to certain educational facilities.	No provision.	The provision creates a new category of tax credit bonds: Clean Energy Coal Bonds ("ClECos"). As with present law QZABs, the taxpayer holding ClECos on a credit allowance date would be entitled to a tax credit that can be claimed against regular income tax liability and alternative minimum tax liability. The tax credit and the credit rate on ClECos are determined in the same manner as QZABs. ClECos are defined as any bond issued by a qualified issuer if, in addition to the requirements discussed below, 95 percent or more of the proceeds of such bonds are reasonably expected to be used to finance capital expenditures incurred by qualified borrowers for "certified coal property," defined as any property that is part of a qualifying advanced coal project certified by the Secretary.

Provision	Present Law	House Bill	Senate Amendment
	Financial institutions that hold QZABs are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond. The Treasury Department sets the credit rate at a rate estimated to allow issuance of QZABs at neither discount nor premium. The credit is includable in gross income, and may be claimed against regular income tax and AMT liability. The arbitrage restrictions that apply to traditional tax-exempt bonds do not apply to QZABs. There is an annual limitation of $400 million on the amount of QZABs that may be issued in calendar years 1998 through 2005.		"Qualified issuers" include (1) governmental bodies (including Indian tribal governments); (2) the Tennessee Valley Authority; (3) mutual or cooperative electric companies; and (4) clean energy bond lenders. A clean energy bond lender means a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002. The term "qualified borrower" includes a governmental body (including an Indian tribal government), the Tennessee Valley Authority, and a mutual or cooperative electric company. ClECos are subject to the arbitrage restrictions that apply to traditional tax-exempt bonds. In addition, 95 percent or more of the proceeds of ClECos must be spent on qualified projects within the five-year period that begins on the date of issuance, unless such period is extended by the Secretary or unspent proceeds are used to redeem outstanding bonds.

Provision	Present Law	House Bill	Senate Amendment
			There is a national limitation of $1 billion of ClECos that the Secretary may allocate, in the aggregate, to certified coal property projects. The authority to issue ClECos expires December 31, 2010. Effective date.–Effective for bonds issued after December 31, 2005.
16. Credit for investment in clean coke/cogeneration manufacturing facilities (sec. 1511 of the Senate amendment)	No provision.	No provision.	Provides a 20-percent investment tax credit for investments in depreciable property located in the United States that meets certain emission standards and is used for the manufacture of metallurgical coke or for the production of steam or electricity from waste heat generated during the production of metallurgical coke. Effective date.–Periods after December 31, 2004, under rules similar to the rules of section section 48(m) (as in effect before its repeal).
17. Temporary expensing for equipment used in the refining of liquid fuels (sec. 1512 of the Senate amendment)	Petroleum refining assets are depreciated for regular tax purposes over a 10-year recovery period. A special expensing rule exists for small refiners for capital	No provision.	Provides an election to expense assets used in the refining of liquid fuels: (1) with respect to the construction of which there is a binding contract before January 1,

Provision	Present Law	House Bill	Senate Amendment
	costs incurred in complying with Environmental Protection Agency sulfur regulations.		2008; (2) which are placed in service before January 1, 2012; (3) which increase the capacity of an existing refinery by at least five percent or increase throughput of qualified fuels by at least 25 percent; and (4) which meet applicable environmental laws. Also allows cooperatives to pass through to patrons the deduction permitted for qualified refinery property. Election contingent on refineries filing operating reports with Treasury. Effective date.–Effective for property placed in service after date of enactment, the original use of which begins with the taxpayer, provided the property is not subject to a binding contract for construction as of June 14, 2005.
18. Pass through to patrons of deduction for capital costs incurred by small refiner cooperatives in complying with sulfur regulations (sec. 1513 of the Senate amendment)	The Code permits small business refiners to currently deduct 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 ("EPA"). A	No provision.	Allows a cooperative to pass through to its owners the deduction permitted for costs paid or incurred for the purpose of complying with the Environmental Protection Agency's Highway Diesel Fuel Sulfur Control Requirements. To the extent the deduction is passed

Provision	Present Law	House Bill	Senate Amendment
	small business refiner is a taxpayer who is within the business of refining petroleum products, employs not more than 1,500 employees directly in refining, and has less than 205,000 barrels per day (average) of total refinery capacity. To qualify for the deduction, costs must be paid or incurred during the period beginning on January 1, 2003, and ending on the earlier of the date that is one year after the date on which the taxpayer must comply with the applicable EPA regulations or December 31, 2009. The Code also 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 that is in compliance with the Highway Diesel Fuel Sulfur Control Requirements. 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.		through to owners, the cooperative is denied deductions it would otherwise be entitled with respect to costs attributable to complying with the Highway Diesel Fuel Sulfur Control Requirements. Effective date.−Effective as if included in the amendments made by section 338(a) of the American Jobs Creation Act of 2004 (Pub. L. No. 108-357).

Provision	Present Law	House Bill	Senate Amendment
	In the case of a qualifying small business refiner that is owned by a cooperative, the cooperative is allowed to elect to pass any production credits to patrons of the organization. Present law does not permit cooperatives to pass through to members the deduction permitted for the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements.		
19. Modification of enhanced oil recovery credit (sec. 1514 of the Senate amendment)	Taxpayers may claim a credit equal to 15 percent of enhanced oil recovery ("EOR") costs (sec. 43). Qualified EOR costs include the following costs associated with an EOR project: (1) amounts paid for depreciable tangible property; (2) intangible drilling and development expenses; (3) tertiary injectant expenses; and (4) construction costs for certain Alaskan natural gas treatment facilities. The EOR credit is ratably reduced over a $6 phase-out range when the reference price for domestic crude oil exceeds $28 per barrel (adjusted for inflation after 1991).	No provision.	The provision increases the EOR credit rate to 20 percent with respect to any new or expanded EOR project that occurs after December 31, 2005, and uses as a tertiary injectant industrial source carbon dioxide. The provision also expands the definition of a qualified EOR project to include qualified deep gas well projects. Effective date.–Costs paid or incurred in taxable years ending after December 31, 2005, but terminates for costs paid or incurred after December 31, 2009.

Provision	Present Law	House Bill	Senate Amendment
B. Miscellaneous Energy Tax Incentives			
1. Residential solar hot water heating, photovoltaic, and fuel cell credit (sec. 1311 of the House bill and sec. 1527 of the Senate amendment)	No provision.	Provides a personal 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 each solar water heating property and photovoltaic property. Also provides a 15-percent personal tax credit for the purchase of qualified fuel cell power plants. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The credit is nonrefundable. Effective date.–Effective for property placed in service after the date of enactment in taxable years beginning before January 1, 2008.	Similar to House bill, but the credit amount is raised to 30 percent. Labor costs related to installation are qualified expenditures eligible for the credit. The credit is permitted to be carried forward to the succeeding taxable year. Effective date.–The credit applies to property placed in service after December 31, 2005, and prior to January 1, 2010.
2. Business fuel cell credit (sec. 1312 of the House bill and sec. 1528 of the Senate amendment)	A 10-percent business energy investment tax credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to	Provides a 15-percent credit for the purchase of qualified fuel cell power plants for businesses. The credit is part of the business energy investment tax credit. A qualified fuel cell power plant must have an	Similar to House bill, but the credit is 30 percent. Additionally, provides a 10-percent credit for the purchase of qualifying stationary microturbine power

Provision	Present Law	House Bill	Senate Amendment
	provide solar process heat, or (2) that is used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage. Public utility property is not eligible for the credit.	electricity-only generation efficiency of greater than 30 percent. The credit may not exceed $500 for each 0.5 kilowatt of capacity. The taxpayer's basis in the property is reduced by the amount of the credit claimed. Effective date.–Effective for property placed in service after April 11, 2005, and before January 1, 2008, under rules similar to rules of section 48(m) as in effect before its repeal.	plants. A qualified stationary microturbine power plant must have an electricity-only generation efficiency of not less that 26 percent at International Standard Organization conditions and a capacity of less than 2,000 kilowatts. The credit is limited to the lesser of 10 percent of the basis of the property or $200 for each kilowatt of capacity. Additionally, for purposes of the fuel cell and microturbine credits, and only in the case of telecommunications companies, the provision removes the present-law section 48 restriction that would prevent telecommunication companies from claiming the new credit due to their status as public utilities. Effective date.–The credit applies to periods after December 31, 2005 and before January 1, 2010 (January 1, 2009 in the case of microturbines), for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) as in effect before its repeal.

Provision	Present Law	House Bill	Senate Amendment
3. Business solar investment tax credit (sec. 1529 of the Senate amendment)	A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.	No provision.	Increases the 10-percent credit to 30 percent in the case of solar energy property. Additionally, equipment that uses fiber-optic distributed sunlight to illuminate the inside of a structure is solar energy property eligible for the 30-percent credit. Effective date.–The credit applies to periods after December 31, 2005 and before January 1, 2012 for property placed in service in taxable years ending after December 31, 2005, under rules similar to rules of section 48(m) as in effect before its repeal.
4. Reduced motor fuel excise tax rate for diesel fuel blended with water (sec. 1313 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. The statutory rate for certain special motor fuels is determined on an energy equivalent basis, as follows: liquefied petroleum gas (propane) (13.6 cents per gallon); liquefied natural gas (11.9 cents per gallon); methanol derived from petroleum or natural gas (9.15 cents per	A special tax rate of 19.7 cents per gallon is provided for diesel-water fuel emulsions (containing at least 16.9 percent water) to reflect the reduced Btu content per gallon resulting from the water. Effective date.–January 1, 2006.	No provision.

Provision	Present Law	House Bill	Senate Amendment
	gallon); and compressed natural gas (48.54 cents per MCF).		
5. Amortization of delay rental payments (sec. 1314 of the House bill)	Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred (sec. 263). 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. The Internal Revenue Service has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.	Allows delay rental payments incurred in connection with the development of oil or gas within the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period. Effective date.–Amounts paid or incurred in taxable years beginning after the date of enactment.	No provision.
6. Amortization of geological and geophysical expenditures (sec. 1315 of the House bill)	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 attributable to such exploration are allocable to the cost of the property acquired or retained.	Allows geological and geophysical amounts incurred in connection with oil and gas exploration in the United States to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period.	No provision.

Provision	Present Law	House Bill	Senate Amendment
		Effective date.–Costs paid or incurred in taxable years beginning after the date of enactment.	
7. Alternative technology motor vehicle credit (sec. 1316 of the House bill and sec. 1531 of the Senate amendment)	Certain costs of qualified clean-fuel vehicle may be expensed and deducted when such property is placed in service (sec. 179A). Qualified clean-fuel vehicle property includes motor vehicles that 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). A hybrid-electric vehicle may qualify as a clean-fuel vehicle. The maximum amount of the deduction is $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or a bus with seating capacities of at least 20 adults; $5,000 in the case of a truck or van with a gross vehicle weight between 10,000 and 26,000 pounds; and $2,000 in the case of any other motor vehicle. The deduction is reduced to 25 percent of the otherwise allowable deduction in	Provides a credit for each new qualified advanced lean-burn technology motor vehicle placed in service by the taxpayer. Advanced lean-burn motor vehicle.− The amount of the credit for any vehicle is the sum of an amount for fuel efficiency and an amount for conservation. The fuel efficiency credit is based on a comparison of the fuel efficiency (mpg) of the vehicle to a fuel efficiency of like vehicle. The fuel efficiency credit is $500 (125% ≤ mpg < 150%); $1,000 (150% ≤ mpg < 175%); $1,500 (175% ≤ mpg <200%); $2,000 (200% ≤ mpg < 225%); $2,500 (225% ≤ mpg < 250%); and $3,000 (250% ≤ mpg). The conservation credit is based on estimated lifetime fuel savings of a vehicle. If the vehicle achieves a	Provides a credit for each new qualified fuel cell vehicle, each new qualified hybrid motor vehicle, and each new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year. Advanced lean-burn motor vehicle.−No provision.

Provision	Present Law	House Bill	Senate Amendment
	2006 and is unavailable for purchases after December 31, 2006.	lifetime motor fuel savings between 1,500 and 2,500 gallons of fuel, the credit amount is $250. If the vehicle achieves a lifetime fuel savings of at least 2,500 gallons of motor fuel, the credit amount is $500. Fuel cell vehicle.−No provision.	Fuel cell vehicle.−Credit for the purchase of a fuel cell vehicle is determined by a base credit amount that depends upon the weight class of the vehicle and, in the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. The base credit amount is $8,000 for vehicles weighing ≤ 8,500 lbs; $10,000 for vehicles weighing 8,500 < lbs. ≤ 14,000: $20,000 for vehicles weighing 14,000 < lbs. ≤ 26,000: and $40,000 for vehicles weighing > 26,000 lbs. (For a vehicle weighing less than 8,500 pounds and placed in service after December 31, 2009, the $8,000 amount is reduced to $4,000.) The fuel economy credit is $1,000 (150% ≤ mpg < 175%); $1,500 (175% ≤ mpg <200%); $2,000 (200% ≤ mpg < 225%); $2,500

Provision	Present Law	House Bill	Senate Amendment
			(225% ≤ mpg < 250%); $3,000 (250% ≤ mpg < 275%); $3,500 (275% ≤ mpg < 300%); and $4,000 (300% ≤ mpg).
		Hybrid motor vehicle.−No provision.	Hybrid motor vehicle.−Taxpayers may claim a credit for the purchase of a qualifying hybrid motor vehicle. The amount of the credit depends upon the fuel economy achieved by the vehicle compared to a base fuel economy. For automobiles and light trucks the amount of the credit is $400 (125% ≤ mpg < 150%); $800 (150% ≤ mpg < 175%); $1,200 (175% ≤ mpg <200%); $1,600 (200% ≤ mpg < 225%); $2,000 (225% ≤ mpg < 250%); and $2,400 (250% ≤ mpg). For a qualifying hybrid motor vehicle weighing more than 8,500 pounds, the amount of credit is determined by the estimated increase in fuel economy and the incremental cost of the hybrid vehicle compared to a comparable conventional vehicle. The credit amount is 20 percent of incremental cost for a vehicle that achieves a fuel economy increase of 30% ≤ mpg increase < 40%; the credit is equal to 30 percent of incremental

Provision	Present Law	House Bill	Senate Amendment
			cost for a vehicle that achieves a fuel economy increase of 40% ≤ mpg increase < 50%; and the credit is 40% of incremental cost for a vehicle that achieves a fuel economy increase of 50% or more. For vehicles weighing 8,500 < lbs. ≤ 14,000, the maximum incremental cost is $7,500. For vehicles weighing 14,000 < lbs. ≤ 26,000, the maximum incremental cost is $15,000. For vehicles weighing > 26,000 lbs., the maximum incremental cost is $30,000.
		Alternative fuel motor vehicle.−No provision.	Alternative fuel motor vehicle.−Taxpayers may claim a credit for the purchase of a new alternative fuel vehicle equal to 50 percent of the incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, subject to limitations on the amount of allowable incremental cost. For vehicles weighing ≤ 8,500 lbs., the maximum incremental cost is $5,000. For vehicles weighing 8,500 < lbs. ≤ 14,000, the maximum incremental cost is $10,000. For vehicles weighing 14,000 < lbs. ≤ 26,000, the maximum incremental cost is

Provision	Present Law	House Bill	Senate Amendment
			$25,000. For vehicles weighing > 26,000 lbs., the maximum incremental cost is $40,000. Mixed fuel vehicles also qualify. A vehicle that operates on a mixed fuel that is at least 75 percent alternative fuel is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. A vehicle that operates on a mixed fuel that is at least 90 percent alternative fuel is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit. Alternative fuels comprise compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol.
		Vehicles purchased by exempt persons.−In the case of vehicles sold to a tax-exempt person, the taxpayer selling the vehicle may claim the credit.	Vehicles purchased by exempt persons.−Same as House bill.
		Fuel economy standards and emissions standards.−The amount for fuel efficiency is based on a comparison of the fuel efficiency (mpg) of the vehicle compared to the Environmental Protection	Fuel economy standards and emissions standards.−base fuel economy is the EPA 2002 model year city fuel economy rating for vehicles of various weight classes. Qualifying hybrid vehicles with a

Provision	Present Law	House Bill	Senate Amendment
		Agency's 2000 model year city fuel economy. Qualifying vehicles meet the Environmental Protection Agency's Tier II bin 8 emissions standards. Effective date.–Property placed in service after the date of enactment and before January 1, 2008.	gross vehicle weight rating of 8,500 pounds must meet Tier II bin 5 emissions standards. Effective date.–Vehicles placed in service after the date of enactment and, in the case of qualified fuel cell motor vehicles, before January 1, 2015; in the case of qualified hybrid motor vehicles, before January 1, 2010; and in the case of qualified alternative fuel motor vehicles, before January 1, 2011.
8. Electric vehicle credit (sec. 1532 of the Senate amendment)	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 2006. The credit is reduced to 25 percent of the otherwise allowable amount for purchases in 2006, and is unavailable for purchases after December 31, 2006.	No provision.	Repeals the phase out of the credit under present law. Modifies present law to provide for a credit equal to the lesser of $1,500 or 10 percent of the manufacturer's suggested retail price of certain smaller electric vehicles that conform to the Motor Vehicle Safety Standard 500. Provides a credit equal to $4,000 for purchase of automobiles or light trucks (weight ≤ 8,500 lbs.). This credit is increased to $6,000 if the vehicle has an estimated driving range of at least 100 miles on a single charge or if it is capable

Provision	Present Law	House Bill	Senate Amendment
			of a payload capacity of at least 1,000 pounds. For larger vehicles the credit is $10,000 (8,500 < lbs. ≤ 14,000); $20,000 (14,000 < lbs. ≤ 26,000); or $40,000 (26,000 < lbs.). In the case of vehicles sold to a tax-exempt person, the taxpayer selling the vehicle may claim the credit. Effective date.–Property placed in service after the date of enactment and before January 1, 2010.
9. Alternative fuel refueling property credit (sec. 1533 of the Senate amendment)	Clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). 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 unavailable for costs incurred after December 31, 2006. For the purpose of sec. 179A clean fuels comprise natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity, and any other fuel at least 85 percent of which is methanol, ethanol, or any other alcohol or ether.	No provision.	Permits taxpayers to claim a 50-percent credit for the cost of installing alternative fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. In the case of retail alternative fuel vehicle refueling property the allowable credit may not exceed $30,000. In the case of residential alternative fuel vehicle refueling property the allowable credit may not exceed $1,000. Alternative fuels are any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, liquefied

Provision	Present Law	House Bill	Senate Amendment
			petroleum gas, and hydrogen and any mixture of diesel fuel and biodiesel containing at least 20 percent biodiesel. In the case of refueling property installed on property owned or used by a tax-exempt person, the taxpayer that installs the property may claim the credit. Effective date.–Property placed in service after December 31, 2005 and before January 1, 2010.
10. Excise tax credit and imposition of tax on alternative fuels (sec. 1534 of the Senate amendment)	Under present law, 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 the Trust Fund. The statutory rate for certain special motor fuels is determined on an energy equivalent basis, as follows: liquefied petroleum gas (propane) (13.6 cents per gallon); liquefied natural gas (11.9 cents per gallon); methanol derived from petroleum or natural gas (9.15 cents per gallon); and compressed natural gas (48.54 cents per MCF). No excise tax credit is provided for the sale or use of those fuels.	No provision.	Hydrogen fuel (liquid or gas) is not subject to tax. P Series Fuels and liquefied petroleum gas are taxed at 18.3 cents per gallon. Compressed natural gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. Liquefied natural gas, any liquid fuel derived from coal, and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon. Provides a per-gallon excise tax credit in the amount of 50 cents for sale of these alternative fuels (including hydrogen) as fuel in a motor vehicle or motorboat, or used in producing an alternative fuel mixture sold for use as fuel. However, liquids derived from coal

Provision	Present Law	House Bill	Senate Amendment
			are eligible for the credit only if produced through the Fischer-Tropsch process. If any person sells or uses an alternative fuel or alternative fuel mixture, the Secretary is to pay such person 50 cents per gallon of alternative fuel used or sold. The taxes are dedicated to the Highway Trust Fund and the credit would be paid out of the General Fund. The credit generally sunsets after September 30, 2009, but the credit for hydrogen sunsets after December 31, 2014. Effective date.−Effective for any sale, use or removal for any period after September 30, 2006.
11. Extension of excise tax provisions and income tax credit for biodiesel (sec. 1535 of the Senate amendment)	For biodiesel fuels, the Code provides an income tax credit for biodiesel and qualified biodiesel mixtures. An excise tax credit and payment provisions are also provided for biodiesel mixtures. The credit is generally 50 cents per gallon of biodiesel, however, in the case of agri-biodiesel, the credit is $1.00 per gallon. The provisions do not apply to fuel sold or used after December 31, 2006.	No provision.	Extends the biodiesel incentives through December 31, 2010. Effective date.−Date of enactment.

Provision	Present Law	House Bill	Senate Amendment
12. Credit for energy efficiency improvements to existing homes (sec. 1317 of the House bill and sec. 1524 of the Senate amendment)	No provision.	20-percent credit for the purchase of qualified energy efficiency improvements to principal residences located in the United States. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $2,000. A qualified energy efficiency improvement is any energy efficiency building envelope component that meets or exceeds the prescriptive criteria for such a component established by the 2000 International Energy Conservation Code as supplemented and as in effect on the date of enactment (or, in the case of metal roofs with appropriate pigmented coatings, meets the Energy Star program requirements). Building envelope components are: (1) insulation materials or systems which are specifically and primarily designed to reduce the heat loss or gain for a dwelling; (2) exterior windows (including skylights) and doors; and (3) metal roofs with appropriate pigmented coatings which are specifically and primarily designed to reduce the heat loss or gain for a dwelling.	Provides a personal tax credit equal to the greater of: (1) the credit with respect to a highly energy-efficient principal residence, or (2) the total of the allowable credits for the purchase of certain property. (1) The credit with respect to a highly energy-efficient principal residence is $2,000 if the principal residence achieves a 50 percent reduction in energy costs relative to the original condition of the building. In the case of a new home, the original condition of the building is deemed to be a home constructed in accordance with the standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and for which any applicable Federal minimum efficiency standards for equipment are met. In the case of a principal residence that achieves a reduction in energy costs between 20 and 50 percent, the allowable credit is $4,000 times the percentage reduction. No credit is allowed in the case of energy cost savings of less than 20 percent.

Provision	Present Law	House Bill	Senate Amendment
		In the case of expenditures that exceed $1,000, certain certification requirements must be met in order to qualify for the credit. The credit is nonrefundable.	In order to be eligible for the credit, the residence's energy savings must be demonstrated by performance-based compliance and be certified according to regulations established by the Secretary that follow various rules and procedures, including the use of computer software based on the 2005 California Residential Alternative Calculation Method Approval Manual. (2) The allowable credit for the purchase of certain property is (1) $50 for each advanced main air circulating fan, (2) $150 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $300 for each item of qualified energy efficient property. An advanced main air circulating fan is a fan used in a natural gas, propane, or oil furnace originally placed in service by the taxpayer during the taxable year, and which has an annual electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures). A qualified natural gas, propane, or oil furnace or hot water boiler is a

Provision	Present Law	House Bill	Senate Amendment
			natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95. Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio

Provision	Present Law	House Bill	Senate Amendment
		Effective date.–Effective for qualified energy efficiency improvements installed after the date of enactment and before January 1, 2008.	(SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80. Effective date.–The credit applies to property placed in service after December 31, 2005 and prior to January 1, 2009.
13. Energy efficient commercial building deduction (sec. 1521 of the Senate amendment)	No provision.	No provision.	Provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer that is (1) installed on or in any building located in the United States that is within the scope of Standard 90.1-2001 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America (ASHRAE/IESNA), (2) installed as part of (i) the interior lighting systems, (ii) the heating, cooling, ventilation, and hot water systems, or (iii) the building envelope, and (3) certified as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling,

Provision	Present Law	House Bill	Senate Amendment
			ventilation, and hot water systems of the building by 50 percent or more in comparison to a reference building which meets the minimum requirements of Standard 90.1-2001 (as in effect on April 2, 2003). The deduction is limited to an amount equal to $2.25 per square foot of the property for which such expenditures are made. In the case of a building that does not meet the overall building requirement of a 50-percent energy savings, a partial deduction is allowed with respect to each separate building system of energy efficient property that is certified to meet the applicable system-specific savings targets established by the Secretary of the Treasury. The system-specific targets are those that would result in a total annual energy savings with respect to the whole building of 50 percent, if each of the separate systems met the system specific target. The separate building systems are (1) the interior lighting system, (2) the heating, cooling, ventilation and hot water systems, and (3) the building envelope. The maximum allowable deduction is $0.75 per square foot for each separate system. Special

Provision	Present Law	House Bill	Senate Amendment
			interim rules exist for the lighting system to qualify for the partial deduction. Effective date.–Effective for property placed in service after the date of enactment and prior to January 1, 2010.
14. Deduction for business energy property (sec. 1523 of the Senate amendment)	No provision.	No provision.	Provides a deduction equal to the greater of (1) the allowable deduction with respect to energy-efficient residential rental building property, or (2) the total of the allowable deductions for the purchase of certain property. (1) The allowable deduction with respect to energy-efficient residential rental building property is $6,000 if the building achieves a 50 percent reduction in energy costs relative to the original condition of the building (in the case of new construction, the original condition of the building is deemed to be a building built to the standards necessary for compliance with applicable local building construction codes). In the case of a building that achieves a reduction in energy costs between 20 and 50 percent, the allowable deduction is $12,000 times the percentage

Provision	Present Law	House Bill	Senate Amendment
			reduction. No deduction is allowed in the case of energy cost savings of less than 20 percent. In order to be eligible for the deduction, the building's energy savings must be certified according to regulations established by the Secretary that follow various rules and procedures. In the case of energy efficient residential rental building property which is public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the improvements to the property in lieu of the public entity which is the owner of such property. (2) The allowable deduction for the purchase of certain property is (1) $150 for each advanced main air circulating fan, (2) $450 for each qualified natural gas, propane, or oil furnace or hot water boiler, and (3) $900 for each item of qualified energy efficient property. An advanced main air circulating fan is a fan used in a natural gas, propane, or oil furnace originally

Provision	Present Law	House Bill	Senate Amendment
			placed in service by the taxpayer during the taxable year, and which has an annual electricity use of no more than two percent of the total annual energy use of the furnace (as determined in the standard Department of Energy test procedures). A qualified natural gas, propane, or oil furnace or hot water boiler is a natural gas, propane, or oil furnace or hot water boiler with an annual fuel utilization efficiency rate of at least 95. Qualified energy-efficient property is: (1) an electric heat pump water heater which yields an energy factor of at least 2.0 in the standard Department of Energy test procedure, (2) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 13, (3) a geothermal heat pump which (i) in the case of a closed loop product, has an energy efficiency ratio (EER) of at least 14.1 and a heating coefficient of performance (COP) of at least 3.3, (ii) in the case of an open loop

Provision	Present Law	House Bill	Senate Amendment
			product, has an energy efficiency ratio (EER) of at least 16.2 and a heating coefficient of performance (COP) of at least 3.6, and (iii) in the case of a direct expansion (DX) product, has an energy efficiency ratio (EER) of at least 15 and a heating coefficient of performance (COP) of at least 3.5, (4) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 13, and (5) a natural gas, propane, or oil water heater which has an energy factor of at least 0.80. Effective date.–The credit applies to property placed in service after the date of enactment and prior to January 1, 2009.
15. Energy efficient new homes (sec. 1522 of the Senate amendment)	No provision.	No provision.	Provides a credit to an eligible contractor for the construction of a qualified new energy-efficient home that is certified to have a projected level of annual heating and cooling energy consumption that yields either at least a 30-percent or at least a 50-percent reduction in energy usage, compared to a comparable dwelling constructed in accordance with the

Provision	Present Law	House Bill	Senate Amendment
			standards of chapter 4 of the 2003 International Energy Conservation Code as in effect (including supplements) on the date of enactment, and any applicable Federal minimum efficiency standards for equipment. With respect to homes that meet the 30-percent standard, one-third of such 30 percent savings must come from the building envelope, and with respect to homes that meet the 50-percent standard, one-fifth of such 50 percent savings must come from the building envelope. The credit equals $1,000 in the case of a new home that meets the 30 percent standard and $2,000 in the case of a new home that meets the 50 percent standard. Manufactured homes certified by a method prescribed by the Administrator of the Environmental Protection Agency under the Energy Star Labeled Homes program are eligible for the $1,000 credit. Effective date.–The credit applies to homes whose construction is substantially completed after the date of enactment, and which are purchased during the period beginning on the date of enactment

Provision	Present Law	House Bill	Senate Amendment
			and ending on December 31, 2009 (December 31, 2007 in the case of the $1,000 credit).
16. Energy credit for combined heat and power system property (sec. 1525 of the Senate amendment)	A nonrefundable, 10-percent business energy credit is allowed for the cost of new property that is equipment (1) that uses solar energy to generate electricity, to heat or cool a structure, or to provide solar process heat, or (2) used to produce, distribute, or use energy derived from a geothermal deposit, but only, in the case of electricity generated by geothermal power, up to the electric transmission stage.	No provision.	Provides a 10-percent credit for the purchase of CHP property. CHP property is property: (1) that uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy; (2) that has an electrical capacity of not more than 15 megawatts or a mechanical energy capacity of no more than 2000 horsepower; (3) that produces at least 20 percent of its total useful energy in the form of thermal energy that is not used to produce electrical or mechanical power, and produces at least 20 percent of its total useful energy in the form of electrical or mechanical power (or a combination thereof); and (4) the energy efficiency percentage of which exceeds 60 percent. Additionally, the provision provides that systems whose fuel source is at least 90 percent bagasse

Provision	Present Law	House Bill	Senate Amendment
			and that would qualify for the credit but for the failure to meet the efficiency standard are eligible for a credit that is reduced in proportion to the degree to which the system fails to meet the efficiency standard. Effective date.–The credit applies to periods after the date of enactment in taxable years ending after the date of enactment, for property placed in service before January 1, 2008, under rules similar to rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of enactment of the Revenue Reconciliation Act of 1990).
17. Energy efficient appliances (sec. 1526 of the Senate amendment)	No provision.	No provision.	Provides a credit for the eligible production of certain energy-efficient dishwashers, clothes washers and refrigerators. Dishwashers.–The credit for dishwashers applies to dishwashers produced in 2006 and 2007 that meet the Energy Star standards for 2007. The credit amount equals $3 multiplied by the percentage by which the efficiency of the 2007 standards (not yet known) exceeds

Provision	Present Law	House Bill	Senate Amendment
			that of the 2005 standards. The credit may not exceed $100 per dishwasher. Clothes washers.–The credit for clothes washers equals (1) $50 for clothes washers manufactured in 2005 that have a modified energy factor (MEF) of at least 1.42, (2) $100 for clothes washers manufactured in 2005-2007 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2007, or (3) the lesser of (i) $200 or (ii) $10 multiplied by the average of the energy and water savings percentages of the 2010 Energy Star standards relative to the 2007 Energy Star standards, for clothes washers manufactured in 2008-2010 that meet the requirements of the Energy Star program which are in effect for clothes washers in 2010. Refrigerators.–The credit for refrigerators is based on energy savings and year of manufacture. The energy savings are determined relative to the energy conservation standards promulgated by the Department of Energy that took effect on July 1, 2001.

Provision	Present Law	House Bill	Senate Amendment
			Refrigerators that achieve a 15 to 20 percent energy saving and that are manufactured in 2005 or 2006 receive a $75 credit. Refrigerators that achieve a 20 to 25 percent energy saving receive a (i) $125 credit if manufactured in 2005-2007, or (ii) $100 credit if manufactured in 2008. Refrigerators that achieve at least a 25 percent energy saving receive a (i) $175 credit if manufactured in 2005-2007, or (ii) $150 credit if manufactured in 2008-2010. Credit limitations.–Appliances eligible for the credit include only those that exceed the average amount of production from the 3 prior calendar years for each category of appliance. In the case of refrigerators, eligible production is production that exceeds 110 percent of the average amount of production from the 3 prior calendar years. Proration rules apply in the case of credits for 2005 production. The taxpayer may not claim credits in excess of $75 million for all taxable years, and may not claim credits in excess of $20 million with respect to clothes washers

Provision	Present Law	House Bill	Senate Amendment
			eligible for the $50 credit and refrigerators eligible for the $75 credit. A taxpayer may elect to increase the $20 million limitation described above to $25 million provided that the aggregate amount of credits with respect to such appliances, plus refrigerators eligible for the $100 and $125 credits, is limited to $50 million for all taxable years. Effective date.–The credit applies to appliances produced after the date of enactment and prior to January 1, 2011 (January 1, 2008, in the case of dishwashers).

Provision	Present Law	House Bill	Senate Amendment
C. Alternative Minimum Tax Relief **1. Allow personal energy credits against the alternative minimum tax** (sec. 1321 of the House bill)	Before 2006, personal credits are allowed against the alternative minimum tax ("AMT"). After 2005, personal credits (other than the child credit, adoption credit and savers credit) are not allowed against AMT.	Allows personal energy credits added by the bill to offset AMT. These credits include the credit for residential energy efficient property, and the credit for energy efficient improvements to existing homes. Effective date.–Taxable years beginning after 2005.	No provision.
2. Allow certain business energy credits against the alternative minimum tax (sec. 1322 of the House bill and 1548(c) of the Senate amendment)	The general business tax credit is generally allowed only to the extent the regular tax exceeds the greater of (i) the tentative minimum tax or (ii) 25 percent of so much of the regular tax as exceeds $25,000. Excess amounts may be carried back one year and carried forward 20 years. For purposes of applying these rules to certain specified energy credits, the tentative minimum tax is treated as zero.	In applying the tax liability limitation to the general business tax credit, treats the tentative minimum tax as zero with respect to− (1) the low sulphur diesel fuel production credit, (2) the marginal oil and gas well production credit, (3) the portion of the investment credit attributable to qualified fuel cells, and	In applying the tax liability limitation to the general business tax credit, treats the tentative minimum tax as zero with respect to− (1) the credit for the production of coal owned by Indian tribes.

Provision	Present Law	House Bill	Senate Amendment
		(4) for taxable years beginning in 2006 and 2007, the enhanced oil recovery credit. Effective date.−Credits determined for taxable years beginning after December 31, 2005, except in case of the credit for qualified fuel cells, taxable years ending after April 11, 2005.	Effective date.−Included as part of the provision allowing the credit.

Provision	Present Law	House Bill	Senate Amendment
D. Additional Energy Tax Incentives			
1. 10-year recovery period for underground natural gas storage facility property (sec. 1541 of the Senate amendment)	Natural gas storage facilities and non-recoverable cushion gas are depreciated over 15 years. Recoverable cushion gas is not depreciable because it is not subject to exhaustion, wear, tear, or obsolescence.	No provision.	Reduces the depreciable life of underground natural gas storage facilities and non-recoverable cushion gas to 10 years. Effective date.–Effective for property placed in service after the date of enactment, the original use of which commences with the taxpayer.
2. Modify research credit for research relating to energy (sec. 1542 of the Senate amendment)	A taxpayer may claim a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will not apply to amounts paid or incurred after December 31, 2005. A 20-percent research tax credit also applies to the excess of (1) 100 percent of corporate cash expenses paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of	No provision.	Provides that the taxpayer may claim a credit equal to 20 percent of the taxpayer's expenditures on qualified energy research undertaken by an energy research consortium, not only those in excess of a base amount. An energy research consortium is a qualified research consortium as under present law that also is organized and operated primarily to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, to be a

Provision	Present Law	House Bill	Senate Amendment
	two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed base period, as adjusted for inflation.		qualified energy research consortium no single person can pay or incur more than 50 percent of the total amounts received by the research consortium during the calendar year. Also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal laboratories for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business is a business in which the taxpayer does not own a 50-percent or greater interest and the business has employed, on average, 500 or fewer employees in the two preceding calendar years. Effective date.–Amounts paid or incurred after date of enactment in taxable years ending after such date.

Provision	Present Law	House Bill	Senate Amendment
3. Small agri-biodiesel producer credit (sec. 1543 of the Senate amendment)	For biodiesel fuels, the Code provides an income tax credit for biodiesel and qualified biodiesel mixtures. An excise tax credit and payment provisions are also provided for biodiesel mixtures. The credit is generally 50 cents per gallon of biodiesel, however, in the case of agri-biodiesel, the credit is $1.00 per gallon. The provisions do not apply to fuel sold or used after December 31, 2006.	No provision.	Creates a new small-agri-biodiesel producer credit. The credit is a 10-cents-per-gallon credit for up to 15 million gallons of biodiesel produced by small producers, defined generally as persons whose production capacity does not exceed 60 million gallons per year. Allows cooperatives to pass the credit through to patrons. Consistent with the other biodiesel incentives, as extended by section 1535 of the Senate amendment, the small agri-biodiesel producer credit sunsets after December 31, 2010. Effective date.−Taxable years ending after date of enactment.
4. Small ethanol producer credit (sec. 1544 of the Senate amendment)	In the case of ethanol, the Code provides a 10-cents-per-gallon credit for up to 15 million gallons of ethanol produced by small producers, defined generally as persons whose production capacity does not exceed 30 million gallons per year.	No provision.	Increases the limit on production capacity for small ethanol producers from 30 million gallons to 60 million gallons per year.

Provision	Present Law	House Bill	Senate Amendment
5. Qualified recycling equipment credit (sec. 1545 of the Senate amendment)	No provision.	No provision.	Provides a 15-percent business tax credit for the cost of qualified recycling equipment placed in service or leased by the taxpayer. Qualified recycling equipment is equipment, including connecting piping, (1) that is employed in sorting or processing residential and commercial qualified recyclable materials (any packaging or printed material which is glass, paper, plastic, steel, or aluminum generated by an individual or business) for the purpose of converting such materials for use in manufacturing tangible consumer products, including packaging, or (2) whose primary purpose is the shredding and processing of any electronic waste, including any cathode ray tube, flat panel screen, or similar video display device with a screen size greater than four inches measured diagonally, or a central processing unit. For the purposes of (1), qualified recycling equipment includes equipment that is utilized at commercial or public venues, including recycling collection centers, where the equipment is

Provision	Present Law	House Bill	Senate Amendment
			utilized to sort or process qualified recyclable materials for such purpose. For the purpose of (2), only the cost of each piece of equipment as exceeds $400,000 is eligible for the credit. Effective date.–The credit applies to amounts paid or incurred during the taxable year for qualified recycling equipment placed in service or leased in taxable years beginning after December 31, 2005.
6. Five-year net operating loss carryback period for electric utilities (sec. 1546 of the Senate amendment)	In general, an NOL may be carried back two years and carried forward 20 years. The Job Creation and Worker Assistance Act of 2002 provided a temporary extension of the general NOL carryback period to five years (from two years) for NOLs arising in taxable years ending in 2001 and 2002. A taxpayer can elect to forgo the five-year carryback period.	No provision.	Extends the NOL carryback period to five years for NOLs of certain electric utility companies arising in taxable years ending in 2003, 2004, and 2005. Refund claims resulting from the extended carryback period can be made during any taxable year ending after December 31, 2005, and before January 1, 2009. Refunds claimed during any one tax year may not exceed the company's investment in electric transmission property and pollution control facilities in the preceding tax year. Taxpayers may forgo the five-year carryback period if an

Provision	Present Law	House Bill	Senate Amendment
			election is filed before January 1, 2009. Effective date.–Effective for refund claims resulting from NOLs generated in taxable years ending in 2003, 2004, and 2005.
7. Credit for qualifying pollution control equipment (sec. 1547 of the Senate amendment)	There is no tax credit for investment in pollution control equipment. An investment credit is available for investment in certain energy property.	No provision.	Provides a 15-percent tax credit for qualifying pollution control equipment placed-in-service at a qualifying facility during the taxable year. Qualifying pollution control equipment means any technology that is installed in or on a qualifying facility to reduce air emissions of any pollutant regulated by the Environmental Protection Agency under the Clean Air Act. A qualifying facility is a facility that produces not less than 1,000,000 gallons of ethanol during the taxable year. For depreciation purposes, the basis of qualifying pollution control equipment would be reduced by 50 percent of the value of the credit. Effective date.−Periods after the date of enactment, under rules similar to the rules of section 48(m) (as in effect before its repeal).

Provision	Present Law	House Bill	Senate Amendment
8. Credit for production of coal owned by Indian tribes (sec. 1548 of the Senate amendment)	No provision.	No provision.	Establishes a credit for "Indian coal" sold to an unrelated person. Indian coal is defined as coal produced from coal reserves that on June 14, 2005, were owned by a Federally recognized tribe of Indians or are held in trust by the United States for a tribe or its members. The amount of the credit equals $1.50 per ton for coal sold in 2006 through 2010 and $2.00 per ton for coal sold after 2010. The credit is indexed for inflation after 2006, is part of the general business credit (sec. 38), and is allowed against the alternative minimum tax. Effective date.–Effective for Indian coal sold after December 31, 2005, and before January 1, 2013.
9. Replacement stoves meeting environmental standards in non-attainment areas (sec. 1549 of the Senate amendment)	No tax provision. Stoves produced after June 30, 1992 must comply with EPA's Standards of Performance for Residential Wood Heaters.	No provision.	Provides a $500 credit for the replacement of a non-compliant wood stove with a solid fuel burning stove that complies with EPA emission performance standards. In general, a non-compliant wood stove is any wood stove purchased prior to June 30, 1992. The credit is only available for replacements that occur in areas designated by the EPA as

Provision	Present Law	House Bill	Senate Amendment
			nonattainment areas for particulate matter less than 2.5 micrometers in diameter or nonattainment areas for particulate matter less than 10 micrometers in diameter. Effective date.–The credit applies to solid fuel burning stoves purchased after the date of enactment and before January 1, 2009.
10. Exemption of bulk beds for farm crops from the Federal excise tax on heavy trucks and trailers (sec. 1550 of the Senate amendment)	The Code imposes a 12-percent excise tax on the first retail sale of heavy trucks and trailers. The Code provides an exemption for any body primarily designed to haul feed, seed or fertilizer to and on farms.	No provision.	Exempts bulk beds used for transporting farm crops to and on farms from the excise tax on the retail sale heavy trucks and trailers. Effective date.−Sales after September 30, 2005.
11. National Academy of Sciences study (sec. 1551 of the Senate amendment)	Present law does not provide for a study of the health, environmental, security, and infrastructure external costs that may be associated with the use and production of energy.	No provision.	Provides for a study by the National Academy of Sciences to define and evaluate the health, environmental, security, and infrastructure external costs and benefits associated with production and consumption of energy that are not or may not be fully incorporated into the price of such activities, or into the Federal tax or fee or other applicable revenue measure related to such activities.

Provision	Present Law	House Bill	Senate Amendment
			Effective date.–Date of enactment.
12. Income tax exclusion for employer-provided reimbursement for certain fuel costs of rural carpoolers (sec. 1552 of the Senate amendment)	Under present law, qualified transportation fringe benefits are excluded from gross income and wages for employment tax purposes. Qualified transportation fringe benefits are employer-provided parking, transit and vanpooling.	No provision.	Establishes a new qualified transportation fringe benefit. Employer reimbursement for certain fuel costs (up to $50 per month) of employees who meet rural carpool requirements are excluded from a taxpayer's gross income (but not wages) as a qualified transportation fringe benefit. To be eligible for the benefit, the employee must: (1) reside in a rural area; (2) not be eligible for transit or vanpooling benefits provided by the employer; (3) use the employee's vehicle when traveling between the employee's residence and place of employment; and (4) for at least 75 percent of the total mileage of such travel, be accompanied by one or more employees of the same employer. In addition, the premises of the employer must be located in an area that is not accessible by a transit system. Effective date.−Effective for expenses incurred on and after the date of enactment and before January 1, 2007.

Provision	Present Law	House Bill	Senate Amendment
13. Three-year applicable recovery period for depreciation of qualified energy management devices (sec. 1553 of the Senate amendment)	No provision.	No provision.	Provides a three-year recovery period for qualified new energy management devices placed in service by any taxpayer who is a supplier of electric energy or is a provider of electric energy services. A qualified energy management device is any meter or metering device used by the taxpayer (1) to measure and record electricity usage data on a time-differentiated basis in at least four separate time segments per day, and (2) to provide such data on at least a monthly basis to both consumers and the taxpayer. Additionally, the original use of the energy management device must commence with the taxpayer and the purchase must be subject to a binding written contract entered into after June 23, 2005. Effective date.–Effective for qualified energy management devices placed in service after December 31, 2005, and prior to January 1, 2008.

Provision	Present Law	House Bill	Senate Amendment
14. Exception from volume cap for certain cooling facilities (sec. 1554 of the Senate amendment)	Interest on certain State and local private activity bonds is excluded from income when a governmental unit incurs this debt as a conduit to provide financing for private parties, if the financed activities are specified as tax exempt in the Internal Revenue Code ("qualified private activity bonds"). Activities eligible for financing with qualified private activity bonds include "local district heating or cooling facilities." The volume of most qualified private activity bonds that State and local governments may issue in each calendar year, including bonds issued for local district heating or cooling facilities, is generally restricted by State volume caps. These volume caps are indexed for inflation. For calendar year 2005, the State volume cap is the greater of $80 per resident or $239 million.	No provision.	Provides an exception from the volume cap restrictions for private activity bonds issued to finance local district heating or cooling facilities that are designed to access deep water cooling sources for building air conditionings. The exception only applies if the aggregate face amount of bonds issued to finance such a facility is not more than $75 million. Effective date.−Effective for projects placed in service after the date of enactment and before July 1, 2008.

Provision	Present Law	House Bill	Senate Amendment
E. Revenue Raising Provisions			
1. Treatment of kerosene for use in aviation (sec. 1561 of the Senate amendment)	In general, aviation-grade kerosene is subject to tax at 21.8 cents per gallon. The rate is 4.3 cents per gallon for commercial aviation, and zero cents per gallon for specified exempt uses. The rate of tax on other kerosene is 24.3 cents per gallon. In general, the tax on aviation-grade kerosene is imposed upon the removal of such kerosene from a refinery, terminal, or upon entry into the United States. In general, tax is imposed at the 21.8 cents-per-gallon rate and a refund or credit is available if a reduced rate applies. Aviation-grade kerosene may be removed at the applicable reduced rate if such kerosene is removed from a refinery or terminal directly into the fuel tank of an aircraft for use in commercial aviation or for an exempt use. Certain refueler trucks, tankers, and tank wagons are treated as part of a terminal for purposes of this rule. Revenues from the tax on aviation-grade kerosene are credited to the Airport and Airway Trust Fund.	No provision.	Taxes aviation-grade kerosene at the rate of 24.3 cents-per-gallon. Provides for refunds or credits to the extent kerosene is used for aviation, using as a basis for payment the same rates of tax as under present law (i.e., 21.8 cents for noncommercial aviation, 4.3 cents for commercial aviation, and zero cents for specified exempt uses). The payment for noncommercial aviation may be claimed by qualified ultimate vendors only. Provides that kerosene is taxed at 21.8 cents per gallon if removed from a qualified refueler truck, tanker, or tank wagon without regard to the present law requirement that the terminal fueling such vehicle be located in a secured area of an airport. Clarifies that the present-law refueler truck, tanker, and tank wagon rule applies to removals of kerosene directly into the wing of an aircraft for an exempt use. Provides that the Highway Trust Fund initially is credited with all

Provision	Present Law	House Bill	Senate Amendment
			taxes collected at the 24.3 cents per gallon rate. Requires that the Highway Trust Fund transfer to the Airport and Airway Trust Fund amounts equivalent to taxes received for the aviation use of kerosene, based on claims for payment made to the Secretary. Effective date.–Fuels or liquids removed, entered, or sold after September 30, 2005.
2. Repeal of ultimate vendor refund claims with respect to farming (sec. 1562 of the Senate amendment)	If diesel fuel or kerosene on which tax has been imposed is used by any person in a nontaxable use, the Secretary is to refund (without interest) the amount of tax imposed. The refund is made to the ultimate purchaser of the taxed fuel. However, in the case of diesel fuel or kerosene used on a farm for farming purposes or by a State or local government, refund payments are paid to the ultimate, registered vendors ("ultimate vendors") of such fuels.	No provision.	The provision repeals ultimate vendor refund claims in the case of diesel fuel or kerosene used on a farm for farming purposes. Effective date.–Fuels sold for nontaxable use after September 30, 2005.
3. Refunds of excise taxes on exempt sales of taxable fuel by credit card (sec. 1563 of the Senate amendment)	A registered ultimate vendor may claim a credit or refund of the tax on gasoline sold to a State or local government or to a nonprofit educational organization. In	No provision.	If a State or local government purchases taxable fuel or a nonprofit educational organization purchases gasoline using a credit card, the credit card issuer, if

Provision	Present Law	House Bill	Senate Amendment
	addition, such an ultimate vendor may file refund claims for any period of at least one week for which $200 or more is payable, and is entitled to interest on any refund claims unpaid after 45 days (20 days if filed electronically). Under a special, longstanding, administrative procedure for certain credit card sales, the oil company which paid the tax on the gasoline to the IRS is treated as the only person eligible to make the refund claim if it reimburses the ultimate vendor for the tax. In the case of diesel fuel or kerosene used in a nontaxable use, the ultimate purchaser is generally the proper excise tax refund claimant. However, in the case of diesel fuel or kerosene used by a State or local government, a registered ultimate vendor may generally claim the refund.		registered, is the only person entitled to apply for a credit or refund of the excise tax paid if the following two conditions are met: (1) such registered person has not collected the amount of the tax from the purchaser, or has obtained the written consent of the ultimate purchaser to the allowance of the credit or refund; and (2) such registered person has either repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has otherwise made arrangements that directly or indirectly provide the ultimate vendor with reimbursement of such tax. If the credit card issuer is not registered, or if either condition (1) or (2) above is not met (or if the ultimate purchaser is not exempt), then the credit card issuer is required to collect an amount equal to the tax from the ultimate purchaser, and only an (exempt) ultimate purchaser may claim a credit or payment from the IRS.

Provision	Present Law	House Bill	Senate Amendment
			An unregistered credit card issuer that does not collect an amount equal to the tax from the exempt entity is liable for present-law penalties for failure to register. The present-law refund amount and timing rules applicable to ultimate vendors, including the special rules for electronic claims, apply to refunds to credit card issuers under the provision. The provision also conforms present-law penalty provisions to the new rules. Effective date.−Sales after December 31, 2005.
4. Recertification of exempt status (sec. 1564 of the Senate amendment)	In order to claim a refund of Federal excise taxes on taxable fuel (and on other articles subject to manufacturers excise taxes under Chapter 32 of the Code) sold to a State or local government or to a nonprofit educational organization, a claimant must submit a statement indicating that it possesses evidence of the exempt use.	No provision.	In addition to present-law documentation requirements, in order for a State or local governmental entity to claim exemption from tax on sales of covered articles, or for any person to claim a credit or refund based upon the State or local governmental status of the purchaser of covered articles, the

Provision	Present Law	House Bill	Senate Amendment
	Treasury Regulations specify the required evidence, part of which generally consists of certificates from the ultimate purchaser. A State or local government includes any political subdivision of a State, or the District of Columbia. A nonprofit educational organization means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and which is exempt from income tax.		State must certify that the article is sold to a State or local government entity for the exclusive use of a State or local government. In the case of articles sold to a qualified volunteer fire department, the State must so certify. In order for a nonprofit educational organization to claim exemption from tax on covered articles, or for any person to claim a credit or refund of tax on such articles based upon the nonprofit educational status of an organization, the State in which such organization is providing educational services must certify that such organization is in good standing. The provision covers Federal excise taxes on sales of liquids for use as fuel (including taxable fuels), compressed natural gas (except if sold for use on school buses or intracity buses), heavy trucks and trailers, and tires (except for tires sold for use on qualified buses). The provision does not cover Federal excise taxes on sales of coal, recreational equipment (bows and arrows, sport fishing equipment and firearms), and vaccines.

Provision	Present Law	House Bill	Senate Amendment
			Effective date.−Sales after December 31, 2005.
5. Reregistration in event of change in ownership (sec. 1565 of the Senate amendment)	Certain persons must register with the Secretary for purposes of fuels excise taxes. Civil and criminal penalties apply to a failure to register. Treasury regulations require registrants to notify the Secretary if there is a change in ownership of the registrant.	No provision.	Imposes a requirement that upon a change in ownership of a registrant, the registrant must reregister with the Secretary. Failure to reregister is subject to the present-law penalties for a failure to register. The provision does not apply to publicly traded companies. Effective date.–Actions or failures to act after the date of enactment.
6. Treatment of deep draft vessels (sec. 1566 of the Senate amendment)	Vessel operators, other than operators of deep-draft vessels, must register with the Secretary for purposes of fuels excise taxes. A deep-draft vessel is a vessel that is designed primarily for use on the high seas that has a draft of more than 12 feet. Civil and criminal penalties apply to a failure to register. The transfer of taxable fuel in bulk to a vessel operated by an unregistered vessel operator who is required to register is subject to tax, i.e., such transfers are not	No provision.	Requires that operators of deep-draft vessels register with the Secretary unless the vessel operator uses such vessel exclusively to enter taxable fuel into the United States. Provides that the bulk transfer exemption is not available for transfers of taxable fuel in bulk to a deep-draft vessel operated by an unregistered vessel operator unless such transfer is for entry into the United States. Effective date.–Date of enactment.

Provision	Present Law	House Bill	Senate Amendment
	eligible for the bulk transfer exemption.		
7. Reconciliation of on-loaded cargo to entered cargo (sec. 1567 of the Senate amendment)	Final Customs regulations require the advance and accurate presentation of certain manifest information prior to lading at the foreign port and encourage the presentation of this information electronically. Customs generally must receive from the carrier the vessel's Cargo Declaration (Customs Form 1302) or the electronic equivalent within 24 hours before such cargo is laden aboard the vessel at the foreign port. However, carriers of bulk cargo, such as oil, are required to file cargo declaration data 24 hours prior to arrival in the United States	No provision.	Provides that not later than one year after the date of enactment the Secretary of Homeland Security, together with the Secretary of the Treasury, is to establish an electronic data interchange system through which Customs shall transmit to the IRS information pertaining to cargoes of taxable fuels that Customs has obtained electronically under its regulations. For this purpose, not later than one year after the date of enactment, all filers of required cargo information for such taxable fuels, must provide such information to Customs through its approved electronic data interchange system. Effective date.−Date of enactment.
8. Taxation of gasoline blendstocks and kerosene (sec. 1568 of the Senate amendment)	Under the Treasury regulations, if certain conditions are met, the removal, entry, or sale of gasoline blend stocks is not taxable.	No provision.	With respect to fuel entered or removed after September 30, 2005, requires that: (1) tax be imposed on all nonbulk entries and removals of

Provision	Present Law	House Bill	Senate Amendment
	Generally, the exemption from tax applies if a gasoline blend stock (1) is not used to produce finished gasoline, (2) is received at an approved terminal or refinery, or (3) in bulk transfer to an industrial user. Treasury regulations provide that kerosene does not include any liquid that is an excluded liquid. An "excluded liquid" is (1) any liquid that contains less than four percent normal paraffins, or (2) any liquid that has a distillation range of 125 degrees Fahrenheit or less, sulfur content of 10 ppm or less, and minimum color of +27 Saybolt. These liquids are commonly known as "mineral spirits" and are obtained by distillation of crude oil.		gasoline blend stocks, regardless of whether they will be used to produce finished gasoline or received at an approved terminal or refinery and (2) the Secretary not exclude mineral spirits from the definition of kerosene. The provision does not change the exemption for bulk transfers to registered industrial users. Effective date.−Date of enactment.
9. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States (sec. 1569 of the Senate amendment)	Special provisions under the Code provide for a refund of tax to any person who sells gasoline to another for exportation. It is the long-standing administrative position of the IRS that the exemption from excise tax by reason of exportation does not apply to the sale of motor fuel	No provision.	Reaffirms the IRS's position and restates present law by amending the Code definition of export to exclude the delivery of a taxable fuel into a fuel tank of a motor vehicle that is shipped or driven out of the United States.

Provision	Present Law	House Bill	Senate Amendment
	pumped into a fuel tank of a vehicle that is to be driven, or shipped, directly out of the United States.		Imposes a tax on the sale of taxable fuel at a duty-free sales enterprise unless there was a prior taxable removal, or entry of such fuel. Effective date.–Sales or deliveries made after the date of enactment.
10. Impose assessable penalty on dealers of adulterated fuel (sec. 1570 of the Senate amendment)	Diesel fuel is defined as (1) any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel powered train, (2) transmix, and (3) diesel fuel blend stocks identified by the Secretary. Some taxpayers have contended that certain diesel fuel mixtures or additives do not meet the requirements of (1) above because they are not approved as additives or mixtures by the EPA. In addition, under present law, untaxed fuel additives, including certain contaminants, may displace taxed diesel fuel in a mixture.	No provision.	Any person other than a retailer who knowingly transfers for resale, sells for resale, or holds out for resale for use in a diesel-powered highway vehicle (or train) any liquid that does not meet applicable EPA regulations is subject to an assessable penalty of $10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid, if any. Any retailer who knowingly holds out for sale (other than for resale) any such liquid, is subject to a $10,000 assessable penalty for each such holding out for sale, in addition to the tax on such liquid, if any. The penalty is dedicated to the Highway Trust Fund. Effective date.−Any transfer, sale, or holding out for sale or resale occurring after the date of enactment.

Provision	Present Law	House Bill	Senate Amendment
11. Oil Spill Liability Trust Fund (sec. 1571 of the Senate amendment)	In general, a five-cent-per-barrel tax was imposed on crude oil received at a United States refinery, imported petroleum products received for consumption, use, or warehousing, and any domestically produced crude oil that was used in or exported from the United States if no tax was imposed on the crude oil before use or exportation. The tax was credited to the Oil Spill Liability Trust Fund. The Fund's tax applied after December 31, 1989, and before January 1, 1995. The tax was effective only if the unobligated balance in the Fund was less than $1 billion.	No provision.	Reinstates the Oil Spill Liability Trust Fund tax to apply on and after April 1, 2006, or if later, the last day of any calendar quarter for which the Secretary estimates that, as of the close of that quarter, the unobligated balance in the Oil Spill Liability Trust fund is less than $2 billion. The tax will be suspended during a calendar quarter if the Secretary estimates that, as of the close of the preceding calendar quarter, the unobligated balance in the Oil Spill Liability Trust Fund exceeds $3 billion. The tax terminates after December 31, 2014. Effective date.−April 1, 2006.
12. Extension of leaking underground storage tank trust fund financing rate (sec. 1572 of the Senate amendment)	The Code imposes an excise tax, generally at a rate of 0.1 cents per gallon, on gasoline, diesel, kerosene, and special motor fuels (other than liquefied petroleum gas and liquefied natural gas). The	No provision.	Extends the LUST Trust Fund tax at the current rate through September 30, 2011. Subjects all fuel, including dyed fuel, to the LUST tax (with the exception of exports) and no refund or claim for payment in the case of otherwise

Provision	Present Law	House Bill	Senate Amendment
	taxes are deposited in the Leaking Underground Storage Tank ("LUST") Trust Fund. The tax expires on October 1, 2005. Although the American Jobs Creation Act of 2004 repealed, over a prescribed period, the deficit reduction tax rate of 4.3-cent-per-gallon on diesel fuel used in diesel-powered trains, and in barges operating on inland waterways, such fuel remains subject to LUST Fund rate of 0.1 cents per gallon. Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose. The Code requires the LUST Trust Fund to reimburse the General Fund for certain refund and credit claims related to the nontaxable use of fuel (only to the extent attributable to the LUST Trust fund financing rate).		nontaxable use is permitted for such fuel. Repeals the requirement that the LUST Trust Fund reimburse the General Fund for claims and credits related to the nontaxable use of fuel. Effective date.−October 1, 2005.

Provision	Present Law	House Bill	Senate Amendment
13. Tire excise tax modification (sec. 1573 of the Senate amendment)	The Code imposes an excise tax on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 9.45 cents per 10 pounds of excess. Biasply tires and super single tires are taxed at a rate of 4.725 cents per each 10 pounds of rated load capacity exceeding 3,500 pounds. A super single tire is a single tire greater than 13 inches in cross section width designed to replace two tires in a dual fitment.	No provision.	Subjects super single tires to a tax of 8 cents per 10 pounds of excess rated load capacity over 3,500 pounds. Redefines super single tire to be a single tire greater than 17.5 inches in cross section width designed to replace two tires in a dual fitment. Effective date.−Sales after September 30, 2005.