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Energy Tax Incentives in the 108th Congress: A Comparison of the House and Senate Versions of H.R. 6 and the Senate Finance Committee Amendment

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Energy Tax Incentives in the 108th Congress: A Comparison of the House and Senate Versions of H.R. 6 and the Senate Finance Committee Amendment

Summary

The 108th Congress is considering three bills to provide tax incentives to increase the supply of, and reduce the demand for, fossil fuels and electricity: the House version of H.R. 6, introduced as H.R. 1531 and approved by the House by a vote of 247-175 on April 11, 2003; the Senate version of H.R. 6, passed by the Senate on July 31, which is the same as the energy bill H.R. 4 approved by the Senate in 2002; and S.Amdt. 1424, a Senate Finance Committee (SFC) amendment to H.R. 6 that is a slightly modified version of S. 1149, the Energy Tax Incentives Act of 2003 approved by the SFC on May 23, 2003.

Each of the three bills provides a ten-year tax cut of about $18 billion, although the mix of energy tax incentives differs. H.R. 6 as passed by the House provides about $18.2 billion of energy tax incentives and includes just under $0.1 billion ($100 million) of non-energy tax increases, or offsets. The apportionment of tax savings in the House-passed H.R. 6 among the three categories — fossil fuels, energy efficiency, and alternative/renewable fuels — is the same as the House bill in the last Congress (H.R. 4), but the absolute amounts of dollar cuts are much smaller. The Senate version of H.R. 6 is the same as the Senate version of H.R. 4, the omnibus energy measure approved by the Senate in 2002, but on which no conference agreement was reached. This version of H.R. 6 included about $13.2 billion in energy tax incentives over ten years, plus an additional $5.1 billion in energy tax cuts (or revenue losses) due to mandates that would have further reduced energy tax receipts: the renewable portfolio standard and the renewable fuels standard. S. 1149, which was approved by the Senate Finance Committee on April 2, 2003, but not included in the Senate version of H.R. 6, would provide about $19.5 billion in energy tax cuts, offset by about $5 billion of non-energy tax increases — additional curbs on corporate tax shelters, limits on corporate and individual expatriates, and an extension of Internal Revenue Service user fees. Thus the net, ten-year tax cut under S. 1149 would be just over $14.6 billion.

In general, the House version of H.R. 6 confers a larger tax cut, in both absolute and relative terms, for fossil fuels production — particularly the oil and gas industry — and for electricity restructuring (or the production of electricity), and a smaller tax cut for energy efficiency and renewable/alternative fuels development than the other two bills. Also, the downstream tax incentives for oil and gas refining, distribution, and transportation are both absolutely and relatively larger in the House bill than in either of the other two bills. In contrast, the Senate bills are absolutely and relatively more generous to renewable and alternative fuels. The Senate bills also include substantial new tax breaks for investment in clean-coal technologies and for the generation of electricity from these technologies; the House version of H.R. 6 includes no incentives for clean coal technologies — these were dropped from the 2002 bill. Finally, with regard to ethanol fuel, the House version of H.R. 6 has no additional incentives for that renewable transportation fuel, while the other two bills would expand existing tax incentives.

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Energy Tax Incentives in the 108th Congress: A Comparison of the House and Senate Versions of H.R. 6 and the Senate Finance Committee Amendment

Energy taxes incentives have long been an integral component of this nation's energy policy. Efforts to significantly expand existing energy tax subsidies have been undertaken since the 106th Congress, but controversy over various non-tax energy policy provisions — corporate average fuel economy standards, the Alaskan National Wildlife Refuge, etc. — have helped stall the legislation.

At this time, the 108th Congress is considering three bills with energy tax provisions: the House version of energy policy legislation H.R. 6, the Senate version of H.R. 6 (which is the same as the Senate's version of H.R. 4, the energy policy legislation that died in conference at the end of the 107th Congress), and S.Amdt. 1424, the Senate Finance Committee (SFC) substitute amendment that, with some minor amendments, is the same as S. 1149, approved by the SFC in April 2003. This report provides a summary of the energy tax provisions of these three bills, presented as a side-by-side comparison in **Table 2**.

Table 2 has six major headings (four with several subheadings) organized according to topics, rather than by either Senate or House bill section number. Thus, a tax provision is classified according to whether it is (1) an incentive for fossil fuel supply (including coal output incentives), (2) an incentive to facilitate electricity industry restructuring (which is also an energy supply incentive), (3) an incentive to reduce fossil fuel demand through enhanced energy efficiency, (4) an incentive to reduce fossil fuel demand through alternative and renewable fuels output, (5) in a miscellaneous category, which describes energy tax provisions not easily categorized according to the schema, or (6) in the revenue offsets category, which compares tax increase provisions in each of the three bills.

The fossil fuels supply category is further subdivided according to whether a particular provision affects oil/gas exploration and production, refining and distribution, or coal output. Similarly, the energy efficiency and renewable fuels tax incentives are further categorized, as closely as possible, according to the energy consuming sector that would be primarily affected, that is, the business (including commercial and industry), residential, or transportation sector.

Brief Summary of the Three Bills

Upon returning from its August 2003 recess, a House and Senate conference committee is to negotiate the differences in energy policy legislation, the House and Senate versions of H.R. 6. This legislation includes approximately $18 billion of energy tax incentives over ten years — incentives to both stimulate domestic production and distribution of fossil fuels, and reduce the demand for these fuels through energy efficiency and alternative and renewable fuels. In addition, several Republican and Democratic Senators, including some committee leaders, have introduced a substitute to the SFC committee bill, a modified (or amended) version of S. 1149. That bill is to be substituted in conference as S.Amdt. 1424 and S.Amdt. 1431; it also provides for about $18 billion of energy tax cuts over ten years.

House Version of H.R. 6 (108th Congress)

On the House side, on April 3, 2003, the House Ways and Means Committee (WMC) voted 24-12 for a bill (H.R. 1531) that would provide about $18 billion in energy tax incentives. These incentives have been incorporated into H.R. 6, the House's comprehensive energy policy legislation, which was approved by the House on April 11, 2003 by a vote of 247-175. This bill is a substantially scaled down version of the House energy tax bill H.R. 2511 (107th Congress), which was incorporated into H.R. 4, the House energy bill of the 107th Congress which never became law.

H.R. 6 provides about $18.2 billion of energy tax incentives and includes just under $0.1 billion ($100 million) of non-energy tax increases, or offsets. The apportionment of tax savings in H.R. 6 among the three categories — fossil fuels, energy efficiency, and alternative/renewable fuels — is the same as in the House bill in the last Congress, but the absolute amounts of dollar cuts are much smaller.[1]

Senate Version of H.R. 6 (108th Congress)

As a result of disagreements in the 108th Congress over the Senate's omnibus energy bill (S. 14), the Senate leadership decided to resuscitate last year's energy policy legislation (the Senate version of H.R. 4), including last year's energy tax provisions. This was done in order to break the Senate deadlock and pass an energy policy reform bill prior to the August recess and avoid a long and contentious floor debate in the Senate (where there was little progress on the roughly 300 amendments). And so, on July 31, 2003, the Senate approved its version of H.R. 6 by a vote of 84-14. This omnibus energy bill replaces S. 14 and therefore includes last year's energy tax provisions as well.

Senate Version of H.R. 4 (107th Congress). The Senate version of H.R. 4 originated on February 26, 2001, when Senator Murkowski introduced S. 389, the comprehensive energy bill that included significant expansion of tax incentives for

[1] The House version of H.R. 4 of the 107th Congress provided about $37 billion of energy tax cuts.

energy supply, energy efficiency, and alternative fuels. On March 22, 2001, Senator Bingaman introduced a Democratic version of comprehensive energy policy legislation comprising two bills: S. 596, the Energy Security Tax and Policy Act of 2001 (essentially the tax component of the comprehensive legislation), and S. 597, the Comprehensive and Balanced Energy Policy Act of 2001 (the non-tax component of the legislation). S. 596 was based largely on Senator Bingaman's energy tax bill in the 106th Congress (S. 2904).

On December 5, 2001, the Democratic leadership in the Senate introduced S. 1766, a newer version of comprehensive energy legislation, without tax provisions, which was basically to be a revised version of Senator Bingaman's bill, S. 597. S. 1766 was replaced by a substitute bill, S. 517, which was largely the same as the original bill but which included dramatic increases in fuel economy standards. The Energy Tax Incentives Act was approved by SFC February 13, 2002 and added as an amendment (S.Amdt. 2917) to S. 517 on the floor. The Senate approved S. 517 on April 25, 2002 as an amendment in the nature of a substitute to the House counterpart H.R. 4. The conference committee ended its consideration of H.R. 4 on November 13, 2002, after eight sessions did not reconcile major differences.

The Senate version of H.R. 4 is the measure resuscitated and approved as H.R. 6 by the Senate on July 31, 2003. This version of H.R. 6 includes about $13.2 billion in energy tax incentives over ten years, plus an additional $5.1 in energy tax cuts (or revenue losses) due to mandates that would have further reduced energy tax receipts: the renewable portfolio standard and the renewable fuels standard.[2]

Summary of S. 1149

The third energy tax bill that may be considered by the House-Senate Conference this fall is an amended version of S. 1149, which was approved by the SFC but dropped by the Senate leadership during passage of H.R. 6. This bill originated on March 11, 2003, when a bipartisan group of four Senate committee leaders — Senator Grassley, chairman of the Committee on Finance; Senator Baucus, ranking Democrat of the Committee on Finance; Senator Domenici, chairman of the Committee on Energy and Natural Resources; and Senator Bingaman, Energy Committee ranking Democrat — introduced S. 597, the Energy Tax Incentives Act of 2003. This bill was approved by the Senate Finance Committee on April 2, 2003, by a vote of 18-2. On May 23, 2003, the Senate Finance Committee approved the Energy Tax Incentives Act of 2003 (S. 1149), which superseded S. 597 (S.Rept. 108-54) and was incorporated into S. 14, the omnibus energy bill.

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[2] Note that the revenue losses estimated for this bill were $15.5 billion for the eleven-year period from 2002 to 2012. The corresponding revenue loss including the mandates was $20.6 ($15.5 + $5.1). However, the reader is cautioned that the revenue losses for the Senate's version of H.R. 6 presented in this report were estimated for H.R. 4 in 2002. The Joint Committee on Taxation has not re-estimated the revenue losses for this bill as of this writing.

S. 1149 would provide a series of energy tax breaks amounting to about $19.5 billion in cuts. These energy tax reductions would be partially offset through about $5 billion in tax increases — additional curbs on corporate tax shelters, limits on corporate and individual expatriates, and an extension of Internal Revenue Service user fees. Thus the net, ten-year tax cut under S. 1149 would be just over $15.3 billion.

As was just noted, S. 1149 was not adopted by the Senate. As a result of disagreements over the omnibus energy bill, S. 14, the Senate leadership decided to resuscitate last year's energy policy legislation (H.R. 4), in order to break the Senate deadlock. However, under an agreement between the SFC leadership of both parties, the SFC bill (S. 1149) will be reintroduced as S.Amdt. 1424 (to be further amended by S.Amdt. 1431) and substituted for S. 1149 in the forthcoming conference on omnibus energy policy reform bill H.R. 6, should a conference take place.[3]

The amendments to the SFC-approved S. 1149 involve (1) an expansion of the biodiesel tax credit, including an expansion of the rate of credit for agri-biodiesel from $0.50/gallon to $1.00/gallon; (2) clarification and elaboration with respect to the tax credit for construction of more energy-efficient new homes; (3) changes — some increases, some decreases — to the amount of tax credits for different types of energy-efficient heating and cooling equipment, and insulation property for existing homes; (4) some minor modifications to the clean coal tax incentives; and (5) extension of the enhanced oil recovery tax credit to certain oil production facilities in Alaska.

Brief Comparison of the Three Bills

One way to briefly compare the three bills is to compare revenue losses from the energy tax incentives and the percentage distribution by type of incentive as discussed above. This is done in **Table 1**. The odd-numbered columns, (1) and (3), show the revenue losses resulting from the House and Senate versions of H.R. 6 over the ten-year period from FY2003 to FY2012; column (5) shows the ten-year revenue loss resulting from the SFC amendment over the period 2004-2013. Thus, while the revenue losses are each estimated over the same time frame, the exact ten-year period differs among the bills. The percentage distribution of total revenue losses by type of incentive is shown for each bill in the even-numbered columns.

The total revenue losses are reported in two ways. First, the net energy tax cuts are in row (12) of **Table 1**. This shows how the energy tax cuts differ among the three bills, exclusive of non-energy tax increases (or offsets). The grand total revenue loss, inclusive of any non-energy tax increases, appears in row (14), which is row (12) + row (13). Row (14) figures are the same as those reported by the Joint Committee on Taxation for the two congressional tax-writing committees.

[3] Congressional floor statements made by Senators Grassley and Baucus. See *Congressional Record*, July 31, 2003.

Table 1. Energy Tax Provisions: Comparison of Ten-Year Estimated Revenue Loss by Type of Incentive

($ millions; % of total revenue losses)

	House H.R. 6		Senate H.R. 6		SFC Amendment	
INCENTIVES FOR FOSSIL FUELS SUPPLY	(1)	(2)	(3)	(4)	(5)	(6)
(1) Oil & Gas Production	-$6,485	35.6%	-$3,583	19.5%	-$5,401	28.7%
(2) Oil & Gas Refining and Distribution	-3,725	20.4%	-1,509	8.2%	-3,391	17.4%
(3) Coal	0	0%	-1,907	10.4%	-2,167	11.1%
(4) Subtotal	-10,210	56.0%	-6,999	38.2%	-10,959	56.3%
ELECTRICITY RESTRUCTURING PROVISIONS						
(5) Nuclear	-1,462	8.0%	-1,052	5.7%	-1,000	5.1%
(6) Other	-1,614	8.9%	-499	2.7%	+80	- 0.4%[a]
(7) Subtotal	-3,066	16.8%	-1,551	8.5%	-920	4.7%
INCENTIVES FOR EFFICIENCY, RENEWABLES, AND ALTERNATIVE FUELS						
(8) Energy Efficiency	-1,348	7.4%	-2,147	11.7%	-2,231	11.5%
(9) Renewable Energy & Alternative Fuels	-3,564	19.6%	-4,433	24.2%	-5,352	27.5%
(10) Subtotal	-4,912	27.0%	-6,610	36.1%	-7,583	38.9%
(11) MISCELLANEOUS	-33	0.2%	-5,138	28.0%	-18	0.1%
(12) NET ENERGY TAX CUTS: TOTAL	**-18,221**	**100.0%**	**-18,328**	**100.0%**	**-19,480**	**100%**
(13) REVENUE OFFSETS	**+83**		**0**		**+4,877**	
(14) GRAND TOTAL	**-18,138**		**-18,328**		**-14,603**	

Source: CRS estimates based on Joint Tax Committee reports.

Notes: Note that "grand total" measures the net proposed *energy* tax cuts defined as gross energy tax cuts less any energy tax increases, and excluding any non-energy tax increases. See text for important caveats that must be observed when using this table.

[a] Note the negative sign, which indicates revenue losses, and the positive sign, which indicates revenue gains.

Note first the similarities among the three bills. Each reduces energy taxes by about $18-$19 billion, and the House and Senate versions of H.R. 6 would generate a nearly identical revenue loss. Also, each bill apportions the tax cuts to the various energy sectors as discussed above: increased supply incentives for fossil fuels and coal production (including refining, distribution, and transportation), increased supply incentives for electricity production and transmission under the rubric of restructuring provisions, and energy conservation incentives both through the more efficient consumption of energy and through the substitution of alternative and renewable fuels.

There are, however, several differences among the three bills.

- First, the mix of tax incentives — the distribution of the total dollars of cuts among these three broad categories of energy incentives — differs among the three bills. In general, the House-approved H.R. 6 confers a larger tax cut, in both absolute and relative terms, for fossil fuels production and for electricity restructuring (or the production of electricity), and a smaller tax cut for energy efficiency and renewable/alternative fuels development than the other two bills. In particular, the House bill is more generous to the oil and gas industry and much more generous to the electric utility industry than either Senate bill; in contrast, the Senate bills are absolutely and relatively more generous to renewable and alternative fuels. Also, the downstream tax incentives for oil and gas refining, distribution, and transportation are both absolutely and relatively larger in the House bill than in either of the other two bills.

- Second, the House version of H.R. 6 includes no coal incentives (production and investment incentives for clean coal technologies) — these were dropped from the 2002 bill.

- Third, the SFC Amendment (amended version of S. 1149) includes about $5 billion of non-energy tax increases or offsets (row (13), column (5) of **Table 1**), which reduces the net cost of the bill. By contrast, the House version of H.R. 6 provides only $83 million of tax increases, and the Senate version of H.R. 6 provides none.[4]

- Fourth, as shown in row (11), column (3), the Senate version of H.R. 6 has much larger miscellaneous revenue losses from several energy tax provisions. The larger of these result from the combined effect of existing and proposed energy tax incentives with proposed regulatory incentives for renewable fuels: the renewable portfolio standard for electricity providers and the renewable fuels mandate.

[4] It should be noted, however, that some of the energy tax incentive provisions raise revenue over the ten-year period under consideration. These revenue gains may not be shown when the figures are aggregated as they are in **Table 1**.

- Fifth, as between the two Senate bills, the SFC amendment is more generous to renewable and alternative fuels when only the tax incentives are compared; however, if the regulatory incentives in Senate H.R. 6 are taken into account, it is by far more generous than the SFC amendment.

- Finally, with regard to ethanol fuel, the House version of H.R. 6 has no additional incentives for that renewable transportation fuel, while the other two bills significantly expand existing incentives.

Other notable differences between the three bills are (1) the tax incentives for electricity restructuring are significantly larger in the House bill (both in absolute dollar terms and relative to the total tax cut); and (2) the two Senate bills provide much larger tax incentives for alternative fuel vehicles (including advanced technology vehicles) and for alternative fuels production than the House bill.

Caveats

Several caveats should be noted. First, the table is primarily a comparison of the proposed changes to energy tax provisions. While these changes involve primarily tax cuts, they also include some minor energy tax increases, and some major non-energy tax increases, as noted earlier. In the latter case, revenue offsets are clearly shown in column (13) of **Table 1**. In the former case, however, the revenue gains are not separately shown, but are subsumed in the losses corresponding to other provisions. In some of these cases still, there are gains in some years followed by losses in other and vice versa.

Second, as was noted above, the estimates cover two different ten-year periods: FY2003-FY2012 for both the House and Senate versions of H.R. 6, and FY2004-FY2013 for the SFC amendment.

Third, not all of the provisions fall into neat, separate categories. The §29 tax credit, for example, promotes both fossil fuels (shale oil, coal, unconventional gases) and renewable biogases (such as landfill gas), although in **Table 1**, this item is categorized as a fossil fuel supply incentive only. This is done because (1) the available data indicate that the §29 credit primarily benefits unconventional gases such as coalbed methane, tight sands gas, and, more recently, coal; and (2) there are insufficient official data to permit estimates of how much of the total projected revenue loss from the provision accrues to fossil as compared with renewable fuels. There are other tax incentive provisions where this is true. For example, fuel cells improve the energy efficiency of electricity generation, but can be powered by a number of different fuels, including natural gas, hydrogen, and others. It is difficult to determine, therefore, whether to categorize the tax incentive for residential and business fuel cells as a fossil fuel incentive, a renewable incentive, or even an energy efficiency incentive. However, since the Department of Energy funds its fuel cell research in its energy efficiency budgets, **Table 1** categorizes the fuel cell tax incentives, where the separate figures were available, as an energy efficiency incentive.[5]

The total revenue losses are reported in two ways. First the net energy tax cuts are row (12) of **Table 1**. This is presented to indicate how the energy tax cuts differ among the three bills, exclusive of nonenergy tax increases (or offsets). The grand total revenue loss, inclusive of any nonenergy tax increases, appears in row (14), which is basically row (12) + row (13). Row (14) figures are the same as those reported by the Joint Committee on Taxation for the two congressional tax-writing committees.

Fourth, some of the provisions appear to be miscategorized in the bills. Some provisions are characterized as conservation incentives when they are in fact supply-oriented incentives. Other provisions are production incentives but are subsumed under the heading of reliability incentives, rather than production incentives.

Finally, the side-by-side comparison in **Table 2** is a summary of complex and extensive tax code provisions. For brevity, much detail is necessarily omitted.

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[5] This is only true for the House bill, H.R. 6. The two Senate bills do not provide a disaggregated revenue loss figure for fuel cells and solar technology, so that it is impossible to precisely allocate the corresponding revenue loss in terms of energy efficiency and renewables respectively. Using available information, **Table 1** assumes that half of the revenue loss of this provision accrues as renewable incentives and half accrues as energy efficiency incentives.

Table 2. Side-by-Side Comparison of the Provisions in Three Energy Tax Bills in the 108th Congress

Fossil Fuels Supply

Oil/Gas Exploration, Development, and Production

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
MARGINAL OIL AND GAS WELLS	Independent producers can claim a higher depletion rate (up to 25%, rather than the normal 15%) for up to 15 barrels per day (bpd) of oil (or the equivalent amount of gas) from marginal wells ("stripper" oil/gas and heavy oil). [IRC§613A(c)(6)]	*Sec. 43001*. A $3 tax credit is provided per barrel of oil ($0.50/thousand cubic feet (mcf) of gas from marginal wells, and for heavy oil). The credit phases out as oil prices rise from $15 to $18 per barrel (and as gas prices rise from $1.67 to $2.00/thousand cubic feet.) The credit is limited to 25 bpd or equivalent amount of gas and to 1,095 barrels per year or equivalent.	*Sec. 2301*. This provision is the same as the House bill with the exception of 1) the House bill has no carry back provision (while the Senate bill allows the credit to be carried back up to 10 years), and 2) the House bill goes into effect on January 1, 2004, while the Senate bill goes into effect on the date the bill is enacted.	*Sec. 501*. Same as Senate bill H.R. 6.
ALASKAN NATURAL GAS	No special tax incentive is provided for natural gas produced from Alaska's North Slope.	No provision.	*Sec. 2503*. The Senate's energy tax bill would provide a credit equal to the difference between $3.25/mcf (adjusted for inflation) and the average monthly price for such gas sold in the Alberta, Canada, market. In effect, the tax provision would establish a price floor of $3.25 for such gas.	*Sec. 511*. The SFC's amendment would create a new tax credit of $0.52 per million Btu of gas (about $0.50/mcf) for the production of natural gas from Alaska's North Slope area. The credit would be phased out for wellhead prices between $0.83 and $1.35 per million Btu. Both the credit and phase-out thresholds would be adjusted for inflation.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ENHANCED OIL RECOVERY	A 15% tax credit is provided for the costs of recovering oil by one of several selected tertiary recovery techniques. The credit is part of the general business credit and is limited by the minimum tax. No tax credits are allowed against the minimum liability. Further, the law states that the sum of allowable credits must be less than the difference between the regular tax and the minimum liability (it cannot be larger than the difference between the two). [IRC§43]	*Sec. 43008*. The House bill repeals the minimum tax limitation on the enhanced oil recovery credit, thus allowing more of it to be claimed.	No provision.	*Sec. 514*. S.Amdt. 1431 amends the SFC amendment (i.e., S. 1149) to extend the enhanced oil recovery tax credit to certain Alaskan facilities. (The original SFC-approved bill had no such provision. This is one of several provisions added as an amendment to S. 1149, which is expected be offered in conference.)
PERCENTAGE DEPLETION: **a) 100% Net Income Limitation**	The percentage depletion allowance is limited to 100% of taxable income from *each property*, but this limitation is suspended through December 31, 2003, for marginal oil and gas. The Job Creation and Worker Assistance Act of 2002 (P.L. 107-147), enacted on March 9, 2002, retroactively extended the suspension for marginal oil and gas (which had expired on December 31, 2001) through December 31, 2003. [IRC§613A(c)(6)(H), A(d)]	*Sec. 4302.* The suspension for marginal oil and gas is extended through December 31, 2006.	*Sec. 2306.* Same as the House bill.	Same as the other two bills.
b) 65% Taxable Income Limitation	The percentage depletion allowance is also limited to 65% of taxpayer's overall taxable income from *all properties.* [IRC§613A(c)(6)(H), A(d)]	*Sec. 4302.* The 65% limitation on percentage depletion for oil and gas is suspended through December 31, 2006.	No provision.	No provision.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
c) Independent Producer Status	For purposes of percentage depletion, an independent oil producer is a) one that, on any given day, does not refine more than 50,000 barrels of oil, and b) does not have a retail operation grossing more than $5 million/year. [IRC§613A(d)]	*Sec. 42006*. The 50,000 barrel daily limit is raised to 75,000, and it applies to the average over an entire taxable year, rather than on any day during the taxable year.	*Sec. 2305*. This provision is generally the same as in the House bill, except that the limit is raised to 60,000.	*Sec. 505*. These provisions are the same as in the Senate's version of H.R. 6.
INTANGIBLE DRILLING COSTS (IDCs)	Oil and gas producers are allowed to expense, rather than capitalize, certain intangible drilling and development costs. With certain limitations, this deduction is a tax preference item subject to the alternative minimum tax. [IRC§293(c), 57(a)(2)(e)]	*Sec.43007*. The alternative minimum tax on IDCs is repealed through December 31, 2004. Integrated oil companies are excluded from the repeal.	No provision.	No provision.
GEOLOGIC & GEOPHYSICAL COSTS (G&G)	G&G costs for retained properties must be capitalized (via depletion). Dry hole costs are expensed. [IRC§263]	*Sec. 43004*. G&G costs for retained properties are amortizable (deducted evenly) over 2 years.	*Sec. 2307*. Same as the House bill.	*Sec. 508*. Same as the House and Senate versions of H.R. 6.
DELAY RENTALS	Under the uniform capitalization rules, delay rental payments must be capitalized (via depletion). [IRC§263,263A	*Sec. 43003*. Delay rental payments are deducted evenly (amortizable) over 2 years.	*Sec. 2308*. Same as the House bill.	*Sec. 508*. Same as the House and Senate versions of H.R. 6.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
§29 CREDIT FOR FUELS FROM UNCONVENTIONAL SOURCES	A $3 tax credit ($1979) is available for each barrel (or equivalent) of fuels produced from unconventional sources or mined from unconventional locations. For most fuels, the credit ended in 2002 for facilities and mines placed in service by 12-31-92; for biogases, the credit ends in 2007 for facilities placed in service by 6-30-98. No credit is available for facilities placed in service after these cut-off dates (which apply to different fuels). The credit is phased out when oil prices exceed certain limits (currently $49.75/barrel). The credit in 2002 was $6.35/barrel of oil equivalent. Although biogases, such as landfill gas, have qualified for the credit, most of the benefits from this tax credit have accrued to coalbed methane and to other unconventional fossil gases. (See CRS Report 97-679 E.) [IRC §29]	*Sec. 43005*. The House bill also extends the credit and placed-in-service dates, and broadens the types of qualifying fuels, but these differ from the Senate bill. For new projects producing most types of the preexisting qualifying fuels, the credit is extended by 4 years for facilities placed in service through 12-31-2006. For existing "older" facilities, a lower credit is extended from 2002 to 12-31-2005 to build a facility (instead of 2004 in the Senate bill). For any production that would qualify for a credit as a result of the broadening of the provision under this bill, the quantity of fuel qualifying for a tax credit would be limited to 200,000 cubic ft./day of gas or equivalent.	*Sec. 2310*. The credit is extended by 3 years for new facilities for producing most of the preexisting qualifying fuels and placed-in-service through 12-31-2004. For biofuels from certain wastes, the placed-in-service date is extended to 12-31-2004. For "older" facilities that produce coke and other fuels from lignite, the placed-in-service date is extended by 2 years through 12-31-2004. The Senate bill also expands the list of qualifying fuels to include: refined coal that meets emissions reduction targets, heavy oil, and gas from a coal mine that will be mined for coal.	*Sec. 509*. The placed-in-service date for most fuels is extended to 12-31-2006. The credit is rebaselined at $3, but without inflation adjustments. The Senate bill also expands the list of qualifying fuels to include: refined coal that meets emissions reduction targets, heavy oil, and gas from a coal mine that will be mined for coal. For facilities that produce coke and other fuels from lignite, the placed-in-service date is extended by 2 more years through 12-31-2006, and the credit is available for 5 years after the facility is placed in service.
TAX BENEFITS TO AMERICAN INDIANS	Present tax law provides accelerated depreciation of business property located on Indian reservations, and an employment tax credit for wages paid to American Indians. Both of these tax subsidies expire at the end of 2004. [IRC§45A, 168(j)]	No provision.	*Sec. 2501*. The Senate bill extends both subsidies through December 31, 2005.	*Sec. 701*. Same as the Senate version of H.R. 6.

Refining and Distribution

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
OIL AND GAS PIPELINES	The recovery period for the depreciation of oil and gas pipelines is 15 years; for natural gas gathering lines, it could be either 7 or 15 years, depending upon whether they are classified as exploration or transportation equipment. Recent court cases reflect the ambiguous tax treatment. [IRC§168(e)(3)]	*Sec. 42001,42002*. This provision clarifies the statute concerning recovery periods by assigning natural gas gathering lines a 7-year recovery period, and natural gas distribution lines a 15-year recovery period.	*Sec. 2302, 2311*. Same as the House bill.	*Sec. 502, 510, and 512*. Same as the House and Senate bills.
LOW SULFUR DIESEL FUEL	There are no special tax incentives for refining of low sulfur diesel fuel. Investments are recovered through depreciation, generally over 10 years. New, stricter Environmental Protection Agency (EPA) sulfur standards will go into effect in 2006. [IRC§168]	*Sec.42004, 42005*. Small refiners are permitted to expense (deduct in the year incurred), rather than depreciate, 3/4 of the costs of complying with the new EPA sulfur regulations. A tax credit of $2.10/barrel of low sulfur diesel fuel is also provided for small refiners, limited to 25% of the capital costs.	*Sec. 2303,2304*. The Senate provision is generally the same as in the House bill. Both bills reduce the fraction of expensable costs for taxpayers refining between 155,000 and 205,000 barrels per day. A similar limitation is provided with respect to the per-barrel tax credit. The Senate bill would also (unlike the House bill) allow cooperatives to pass through the credits to patrons.	*Sec. 503 and 504*. Same as the Senate version of H.R. 6.
EXCISE TAX ON TRAIN DIESEL	Diesel used in train engines is taxed at 4.4¢/gal., comprising 4.3¢, which goes into the general fund, and 0.1¢, which goes into the LUST (Leaking Underground Storage Tank) trust fund. [IRC§4041(a)(d)]	*Sec. 41008*. The 4.3¢ portion of the tax on train diesel would be repealed on 1-1-2004. The 0.1¢ LUST component remains.	No provision.	*Sec. 703*. Same as the House version of H.R. 6.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
EXCISE TAX ON BARGE DIESEL	Diesel used in barges is taxed at 24.4¢/gal., comprising 1) 20.1¢ that goes into the Inland Waterways Trust Fund, 2) 4.3¢, which goes into the general fund, and 3) 0.1¢, which goes into the LUST trust fund. [IRC§4042]	*Sec. 41008.* The 4.3¢ portion of the tax on barge diesel would be repealed on 1-1-2004. The LUST tax remains.	No provision.	*Sec. 703.* Same as the House version of H.R. 6.
EXCISE TAXES ON TRANSPORTATION BY AIR	For virtually all domestic flights, the airlines assess a 7.5% *ad-valorem* tax on the ticket price of all commercial airline passenger tickets, plus a tax surcharge of $2.75/passenger assessed on each passenger's segment of a domestic flight. Transportation by helicopter for certain specific uses is exempt. If a segment is to or from a rural airport, the domestic segment tax does not apply. Commercial airlines that transport property rather than people are assessed an ad-valorem tax, known as the cargo waybill tax, of 6.25% of the amount charged for shipping the property or freight. [IRC§4261, 4271]	No provision.	*Sec. 2507,2508.* The list of exempt uses for purposes of the passenger ticket tax and the domestic segment tax, is expanded to include transportation by fixed wing aircraft used for forestry purposes. The definition of rural airport for purposes of the domestic segment tax is also modified.	No provision.
BLEND OF DIESEL/WATER EMULSION FUEL	Diesel fuel used in highway vehicles is generally taxed at 24.4¢/gal., comprising the 24.3¢ Highway Trust Fund (HTF) rate, and the 0.1¢ LUST trust fund rate. [IRC§4081]	*Sec. 41009.* The 24.3¢ HTF component of the tax on emulsified blends of diesel and water fuels is reduced to 19.7¢, reflecting the lower Btu value of the blended fuel.	No provision.	No provision.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
UTILITY PURCHASES OF NATURAL GAS	State and local governments cannot use the proceeds from tax-exempt bonds to profit from arbitrage on natural gas purchases. [IRC§148]	*Sec. 42010*. Public power utilities are exempt from the arbitrage restrictions of the tax-exempt bond rules.	No provision.	*Sec. 513*. The Senate provision is the same as in the House bill.
GASOLINE USED ON FARMS	Gasoline (and diesel) used on farms is exempt from the motor fuels excise taxes (as are most other "off-highway" uses of motor fuels). The gasoline used in crop-spraying aircraft is exempt only to the extent it is used while actually spraying the crops — gasoline used from the airport to the farm is not exempt. Further, the farmer must waive the right to claim the exemption in order for the "sprayer" to claim the exemption. [IRC§6420(c)]	No provision.	*Sec 2506*. The Senate bill repeals the waiver requirement and permits the aerial consumer of the fuel to claim the exemption if it is the purchaser of the gasoline. Also, the Senate bill treats the gasoline consumed from the airport and the farm as on-farm use, thus qualifying for the exemption.	No provision.
COMMERCIAL POWER TAKEOFF VEHICLES	No special tax credit is available to businesses that own refuse collection trucks or cement mixing trucks. Such equipment is depreciable property. Fuel excise taxes are not generally imposed on off-highway fuel use such as in construction equipment. But there is no mechanism for crediting the excise tax paid by businesses on that portion of the fuel used by the trucks to power either the load compactor or the mixer drum.	No provision	*Sec. 2009*. Through 2004, a $250 tax credit is provided for each refuse truck with a load compactor and each cement truck with a mixer drum. After 2004, the Treasury Department will issue regulations that will reduce the excise taxes on the fuel used to power the load compactor or the drum, as the case may be.	No provision.

Coal Provisions

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
CLEAN COAL TECHNOLOGIES	There are no special tax breaks for clean coal technologies, either for the investments nor the electricity produced therefrom. Conventional electricity generating equipment is generally depreciable over 15 or 20 years; renewable generally over 5 years. Pollution control equipment is amortizable over 5 years (rather than depreciated over 20 years). [IRC§169]	No provision.	*Sec. 2201, 2211,2212, 2221*. Two new tax credits are created: 1) a variable tax credit for investments in selected types of *advanced* clean coal technologies, and 2) a production tax credit for electricity generated from either *advanced* clean coal technologies, or existing coal-fired steam generators retrofitted with more energy efficient and cleaner coal technologies.	*Sec. 401, 411,412, 421*. Two new tax credits are created: 1) a 10% tax credit for investments in selected types of *advanced* clean coal technologies, and 2) a production tax credit for electricity generated from either *advanced* clean coal technologies, or existing coal-fired steam generators retrofitted with more energy efficient and cleaner coal technologies. Tax-exempt entities would be allowed to sell, trade, or assign any of the credits.

Electricity Restructuring Provisions

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
OPEN ACCESS AND TAX-EXEMPT BONDS	Current federal tax provisions relating to the use of tax-exempt bonds effectively preclude public power entities with outstanding bonds from participating in open-access restructuring plans because of the tax code's private-use restrictions. [IRC§103, 141-147]	No provision.	*Sec. 2405*. This provision eases somewhat the restrictions in IRS temporary regulations with respect to issuers of tax-exempt bonds qualifying under the "output facilities" provisions and participating in open access plans.	No provision.
SALE OR DISPOSITION OF TRANSMISSION ASSETS	Under present tax law, the sale of electricity transmission or distribution facilities is generally not considered to be an involuntary conversion, thus such sales generally trigger a tax, which could inhibit pro-competitive sales of transmission and distribution lines and facilities to independent companies, for example to create regional transmission organizations (RTOs). Income is generally recognized in the year in which it is constructively received, unless there is an explicit exception or the taxpayer uses the accrual method of accounting. [IRC§451, 1033, 1245, 1250]	*Sec. 42007*. Gain from the sale or disposition of transmission assets before December 31, 2006 is recognized over 8 years.	*Sec. 2404*. Generally the same as in the House bill, but with fewer restrictions.	*Sec. 603*. Same as the Senate version of H.R. 6, but applies to sales through December 31, 2007.
RECOVERY PERIOD FOR TRANSMISSION PROPERTY UNDER DEPRECIATION PROVISIONS	The current law recovery period for transmission property is generally 20 years. [IRC §168(e)(3)]	*Sec. 42003.* Shortens the recovery period for transmission property from 20 to 15 years.	*Sec. 2404*. Gain from the sale or disposition of transmission assets is recognized over 8 years.	No provision.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
NUCLEAR DECOMMISSIONING FUNDS	Deductions into a nuclear decommissioning fund are limited to the lesser of the amounts relating to the cost of service regulations or the IRS's ruling amount. Funds may be transferred tax-free in connection with a change in ownership of the nuclear facility to which they relate, but the transferee generally has to be a regulated utility eligible to maintain such a fund. In a deregulated and restructured industry, ambiguity regarding the tax treatment of decommissioning fund transfers may make such transactions taxable. [IRC§468A]	*Sec. 42008.* In addition to the amendments made by the Senate bill, the House provision further liberalizes the tax treatment of nuclear decommissioning costs. Unlike the Senate bill, the House provision allows a utility to make contributions into the fund in excess of the maximum amount established by the Internal Revenue Service in certain circumstances.	*Sec. 2402.* The Senate bill repeals provisions that limited the deduction to regulated utilities, thus liberalizing the deduction in the context of utility restructuring and deregulation. It clarifies that transfers of funds do not trigger a tax, and that the actual decommissioning costs are deductible when paid rather than when the actual decommissioning begins.	*Sec. 601.* The Senate substitute amendment is the same as the Senate's version of H.R. 6.
ELECTRIC COOPERATIVES	In general, cooperatives are exempt from tax although patrons must pay tax on any distributed profits as "patronage dividend." Rural electric cooperatives are also exempt from tax and patrons do not have to report dividends, provided that no more than 15% of the cooperative's income is from services to nonmembers. [IRC§501,512]	*Sec. 42009.* The provision in the House bill is generally the same as the Senate bill, except that it limits the types of income not counted against the 15% test.	*Sec. 2403, 2406.* The income received by a rural electric cooperative from any open access (or nuclear decommissioning) transaction with a nonmember, and from certain other transactions, is excluded from the 15% test. Thus, participating in open access restructuring plans would not jeopardize cooperatives' tax exemption. Certain gross income from any electricity to be used to develop unconventional fuels is also excluded.	*Sec. 602.* The Senate's substitute amendment is the same as the Senate's version of H.R. 6.

Energy Efficiency

Business Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
COMBINED HEAT AND POWER SYSTEMS	No special tax subsidies are provided to combined heat and power (cogeneration) systems; the recovery period for purposes of depreciation is generally 15 years.	*Sec. 41006.* Combined heat and power systems larger than 50 kilowatts (kW) would be treated as business energy property, thus qualifying for the 10% investment tax credit; the recovery period is increased to 22 years. Property using back-pressure steam turbines is also eligible.	*Sec. 2108.* Generally the same as the House bill.	*Sec. 308.* Generally the same as the House and Senate bills.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ENERGY EFFICIENCY IN COMMERCIAL BUILDINGS	Energy efficiency property that is installed as part of a structure is depreciable over 39 years — it has the same recovery period as the structure. [IRC§168(c)]	No provision.	*Sec. 2105*. Expenditures on energy efficiency property made with respect to a commercial building are tax deductible (rather than depreciable), subject to a limit equal to $2.25 x sq.ft. of the building. The property must reduce the building's annual energy costs by at least 50% as compared to a reference building. Commercial buildings include residential rental property. The Senate bill allows designers of commercial buildings to claim this deduction if the energy efficiency items are installed in the buildings of nontaxable entities.	*Sec. 305*. Same as the Senate bill.

Residential Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ENERGY-EFFICIENCY ITEMS IN EXISTING HOMES	No special tax treatment is accorded to homeowners for purchases of more energy efficient water heaters, furnaces, and air conditioners.	*Sec. 41004.* A tax credit of 20% is provided for expenditures on energy efficient improvements (more heating & cooling units and more energy efficient envelope components) retrofitted to existing homes. The maximum lifetime credit would be $2,000. Units and materials must meet Energy efficiency guidelines, but there is no criteria for a certified reduction in energy costs as in the Senate version of H.R. 6.	*Sec. 2103, 2109*. Expenditures on selected types of energy-efficient heating/cooling technologies (furnaces, water heaters, AC units, heat pumps) made either on existing or new homes are allowed a tax credit ranging from $75-$250/unit if they meet certain energy efficiency guidelines. Other energy-efficiency improvements to existing homes qualify for a credit equal to 10% of the costs ($300 maximum) if a certified reduction in heating and cooling costs of at least 30% is achieved.	*Sec. 303, 309*. Generally the same as the Senate bill.
ENERGY-EFFICIENT NEW HOMES	No special tax break is available to builders who construct more energy efficient new homes.	*Sec. 41005*. A tax credit is provided to a builder for the costs of energy-efficiency property (insulation, windows/doors, new roofs, and heating/cooling equipment), which reduce home energy use by 30%. The maximum credit is $2,000. The 30% reduction must be below a comparable reference dwelling must certified.	Sec 2101 Generally the same as the House bill, except that the maximum credit for property that reduces energy use by 30% is $1,250 ($2,000 for "50% property.") Energy efficiency improvements must also be certified as meeting certain standards and that they reduce a home's heat loss or gain by the required fractions. Eligible property includes heating and cooling equipment.	*Sec. 301*. Generally the same as the House and Senate bills, except that the maximum credit is $1,000 for "30% property," and $2,000 for "50% property."

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
HOME APPLIANCES	There is no special tax incentive for either the production or purchase of energy efficient appliances (although regulations set standards for energy use efficiency and labeling).	No provision.	*Sec. 2102*. Increased production of more energy-efficient clothes washers would qualify for $50 tax credit per washer ($100 for refrigerators.) The total credit for any manufacturer is subject to certain limits, including an annual gross receipts limit, and a cumulative lifetime credit limit per manufacturer of $30 million for washers, and $60 billion for both appliances.	*Sec. 302*. Very similar to the Senate bill, except that the efficiency standards are stricter and there is provision for a $150 tax credit for still more energy-efficient refrigerators. The amount depends on the degree of improvements in energy efficiency.
ENERGY MANAGEMENT AND WATER SUBMETERING DEVICES	Current law provides no special tax incentives for meters, thermostats, and other energy management devices that allow utilities or consumers to monitor, control, and thereby possibly conserve electricity or natural gas. Such property is depreciable if used in a business.	No provision.	*Sec. 2106,2107*. A tax deduction is provided to utilities for the cost, up to $30/unit, of energy management devices installed in residences or businesses; the recovery period for depreciation purposes would be 3 years.	*Sec. 306, 307*. The three-year recovery period applies to both energy management and water submetering devices — the tax deduction provision is dropped.

Transportation Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
NEW HYBRID VEHICLES	Under current law there is no tax credit for hybrid vehicles, but they may qualify for a deduction of up to $2,000 as clean-fuel vehicles. [IRC§179A]	*Sec. 41010.* No additional tax incentives for hybrid vehicles, but existing clean-fuel vehicle tax deduction phase-out, which begins in 2004 and ends in 2006, is repealed. Thus, the current tax deduction would be made permanent.	*Sec. 2001, 2010*. A tax credit is provided to purchasers of hybrid vehicles, ranging from $250-$9,000 for cars and light trucks, and $4,000-$13,000 for heavy trucks. The precise credit depends upon vehicle weight, power, and fuel efficiency. For heavy trucks, the credit is increased further if they meet emissions performance standards.	*Sec. 201*. A base tax credit is provided to purchasers of hybrid vehicles, ranging from $250-$1,000 for cars and light trucks, and $1,000-$10,000 for heavy trucks. An additional tax credit ranging from $500-$3,000 for cars and light trucks, and from $400-$4,000 for heavy duty trucks is provided depending on vehicle weight, power, and fuel-efficiency. The credit is increased further for early adoption of extra-fuel efficient hybrid heavy trucks.

Renewable and Alternative Fuels

Business Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ELECTRICITY FROM RENEWABLE FUELS	Electricity producers may claim a tax credit of 1.5¢/kWh (in 1992 dollars) for electricity produced from wind energy, "closed-loop" biomass, or poultry waste. The credit for 2003 is 1.8¢/kWh. Investments have to be made, and the facility has to commence production, by December 31, 2003. A 10% tax credit is provided for investment in 1) solar and geothermal equipment used to generate electricity (including photovoltaic systems), 2) solar energy used to heat or cool a structure, and 3) solar energy used for process heat. Geothermal energy reservoirs qualify for a 15% percentage depletion allowance. The recovery period for renewable technologies is 5 years. [IRC§45,46,48, 613(e)] [IRC§45]	*Sec. 41002*. The House bill expands the list of renewables to include open-loop biomass, landfill gas, and trash combustion facilities. Extends placed-in-service deadline to 12-31-2006. The credit for open-loop biomass and landfill gas applies retroactively but is reduced to 1.0¢/kWh. instead of 1.5¢, and is available for 5 years instead of the normal 10 years.	*Sec. 1901-1906.* The Senate bill expands the list of qualifying renewables to include coal co-fired with closed-loop biomass, open-loop biomass (at 1¢ instead of 1.5¢), swine & bovine waste, geothermal, solar energy, small irrigation power facilities, municipal biosolids, and recycled sludge. The placed-in-service deadline is extended by three years from 12-31-2003 to 12-31-2006 (12-31-2004 for open-loop biomass, which has 3 years to receive the credit instead of the normal 10 years). The Senate provision also allows 1) lessee-operators (rather than owners) to qualify for the tax credit; 2) tax-exempt entities to sell or trade any unused tax credits; and 3) rural electric coops to use the tax credits to pay back government subsidized loans. Other limitations are also liberalized or repealed.	*Sec. 101-106.* Very similar to the Senate bill but generally a broader expansion of the tax credit. Raises the credit rate on new facilities to 1.8¢ (but without inflation adjustment); defines agricultural waste nutrients more broadly than in the Senate bill; and reduces the tax credit for open-loop to 1.2¢ rather than 1.0¢.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
SMALL ETHANOL PRODUCER TAX CREDIT	Present law provides small fuel ethanol producers (ones that produce less than 15 million gallons/year, and have less than 30 mil. gal. in production capacity) with 10¢/gal. tax credit. Any credit claimed must be reported as income subject to tax. Cooperatives are tax-exempt and therefore do not benefit from the producer credit, which cannot flow through to patrons. [IRC§40, 87]	No provision.	*Sec. 2005.* This provision 1) allows patrons of farmers' cooperatives to qualify for the 10¢ small producer credit; 2) defines a small producer as one with <60 mil. gal. capacity; 3) exempts the credit from the passive activity rules; 4) allows the credit against the alternative minimum tax; and 5) exempts the credit from the regular income tax under IRC§87.	*Sec. 205.* This provision is the same as the Senate version of H.R. 6.
EXCISE TAX EXEMPTION OR BLENDER'S TAX CREDIT FOR FUEL ETHANOL	In addition to the small ethanol producers credit, fuel ethanol benefits from a 5.2¢ excise tax exemption on 90-10 blends from the gasoline tax of 18.4¢/gal. and the diesel tax of 24.4¢/gal. In lieu of the exemption, an equivalent 52¢ blender's tax credit is available per gallon of the pure ethanol.) Proportionate tax benefits are available to 5.7% and 7.7% fuel ethanol blends. The credit is taxable as gross income and subject to the alternative minimum tax.[IRC§40, 87 4081]	No provision.	No provision.	*Sec. 208.* The exemption for fuel ethanol would be replaced with a refundable tax credit of 52¢/gal. immediately available against the new higher excise taxes for all fuel ethanol blends.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
FUEL ETHANOL AND THE HIGHWAY TRUST FUND	Present tax law on fuel ethanol blends results in revenue losses to the Highway Trust Fund (HTF) of 7.7¢/gal., comprising for 90/10 blends the 5.2¢ exemption, and the 2.5¢ of the 13.2¢ taxable portion that is allocated into the general fund. [IRC§4081, 9503 (b)(4)]	No provision.	*Sec. 2006.* Beginning on 10-1-2003, the 2.5¢ component of the tax on fuel ethanol blends will be allocated into the HTF.	*Sec. 208.* Same as the Senate version of H.R. 6.
ETBE USED TO PRODUCE GASOHOL	Under IRS regulations, the ether ETBE (ethyl tertiary butyl ether) blended with gasoline qualifies for the same tax advantages as ethanol blended with gasoline, but the blender's credit on ethanol used to produce ETBE can be claimed only by blenders. [IRC§40,4081]	No provision	*Sec. 2007.* The Senate bill permits refiners to claim the blender's tax credit as a credit against excise taxes otherwise due on the ETBE blended fuel. The bill allows the transfer of such credit to any taxpayer with any gasoline excise tax liability	*Sec. 207.* The Senate amendment is the same as the Senate bill. Both bills clarify statutes and IRS regulations.
BIODIESEL	Under present law, biodiesel has no special tax break, and, as a transportation fuel, it is taxed at the same rate as petroleum diesel: 4.4¢ for trains, and 24.4¢ for barges and trucks. [IRC§4041, 4042, 4081]	No provision.	*Sec. 2008.* The bill provides an income tax credit for biodiesel mixtures used as a fuel. The credit is 1¢ for each 1% of biodiesel made from virgin vegetable oil and blended petroleum diesel. The maximum credit is 20¢/gal. The tax credit for recycled vegetable oil is ½ the credit for virgin biodiesel. The excise tax otherwise due on highway biodiesel is reduced by the amount of the tax credit.	*Sec. 208.* The bill provides a tax credit — in the amount of 1¢ for each 1% of biodiesel made from virgin vegetable oil and blended with petroleum diesel. The maximum credit is 20¢/gal. The tax credit for recycled vegetable oil is ½ the credit for virgin biodiesel. In addition, a new biodiesel mixture tax credit would be created in the amount of $1/gal. of agri- biodiesel in a 1-to-5 blend. The credit is taken against the excise taxes.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
BUSINESS USE OF RENEWABLE TECHNOLOGIES	A 10% tax credit is provided for investment in solar equipment used to 1) generate electricity (including photovoltaic systems), 2) used to heat or cool a structure, and 3) used for process heat. Geothermal energy reservoirs qualify for a 15% depletion allowance. Electricity from wind technologies receives the §45 tax credit. The recovery period for renewable technologies is 5 years. Fuel cells do not qualify for tax subsidies. [IRC§45,46,48, 613(e)]	Sec. 41003. A 10% tax credit is provided for investments in stationary fuel cells, subject to a maximum credit of $1,000/kW of capacity.	*Sec. 2104.* Business investments in fuel cells would qualify for a 30% tax credit subject to a limit of $1,000/kW of capacity; investments in stationary microturbine power plants would qualify for a 10% tax credit and the limit would be $200/kW of capacity.	*Sec. 304.* The Senate amendment is the same as the Senate bill.

Residential Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
RENEWABLE ENERGY TECHNOLOGIES	There are no tax subsidies for residential applications of solar, wind, and other renewable energy technologies. The 1978 energy tax credits for solar and wind expired in 1985.	*Sec. 41001, 41003*. A 10% tax credit (up to $2,000) is provided for residential applications of solar technologies (10% credit to residential fuel cells, up to $1,000/kW of capacity).	*Sec. 2103*. A 15% tax credit is provided for residential applications of solar technologies (30% for wind, and 20% for fuel cells subject to a maximum credit of $1,000 for fuel cells, and $2,000 for other technologies).	*Sec. 303*. A tax credit is provided for residential applications of renewable technologies: 15% credit for solar (including photovoltaics), and 30% for wind and fuel cells. The maximum credit is $2,000 except for fuel cells, which are limited to $1,000/kW of capacity.

Transportation Sector

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ALTERNATIVE-FUEL VEHICLES	The incremental costs of an alternative fuel vehicle are tax deductible, up to $2,000 for a car, and $50,000 for a truck. This applies to vehicles powered by LPG, LNG, CNG, hydrogen, E85 and M85. The credit phases out beginning in 2004 and ending in 2006. [IRC§179A]	*Sec. 41011*. Provides a base tax credit for fuel cell vehicles ranging from $4,000 to $40,000 per vehicle depending on the vehicles weight; provides additional tax credits depending on fuel efficiency guidelines. Provides a tax credit for “advanced lean-burn technology vehicles,” ranging from a base of $500 to $3,000 depending on fuel efficiency, and an additional tax credit depending on fuel savings. There are no other tax credits for alternative fuel vehicles. The credits in the House bill may be carried forward for up to 20 years.	*Sec. 2001*. For fuel cell vehicles the credit is generally the same as the House bill. But also provides a 40% tax credit for the incremental costs of an alternative fuel vehicle. An additional 30% tax credit is available if the vehicle meets certain Clean Air Act standards. The maximum credit would be $5,000-$40,000, depending on vehicle weight. The latter credit is not in the House bill.	*Sec. 201*. Generally the same as the Senate bill. Under both bills, lessors (under safe harbor leasing rules) may qualify for the tax credit, thereby benefitting state and local governments, and other tax-exempt entities.
NEW FUEL CELL VEHICLES	Fuel cell vehicles may qualify for the $4,000 electric vehicle tax credit (discussed below). [IRC§30]	*Sec. 41011*. For fuel cell vehicles, the House provision is generally the same as the Senate bill, except for differences in the base (or reference vehicle) fuel economy for purposes of the additional tax credit. The House bill also covers “advanced clean-burn technology vehicles,” which are not in the Senate bill. The credits in the House bill for fuel cell vehicles may be carried forward for up to 20 years.	*Sec. 2001*. A tax credit is provided to purchasers of fuel cell vehicles, ranging from $4,000-$10,000 for cars and light trucks (depending upon vehicle weight, and fuel efficiency), and $20,000- $40,000 for heavy fuel cell trucks. An additional credit for cars and light trucks powered by fuel cells is provided, ranging from $1,000-$4,000 depending on percentage improvements in fuel efficiency relative to a reference conventional vehicle.	*Sec. 201*. Generally the same as the Senate bill.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ALTERNATIVE-FUEL REFUELING STATIONS	A maximum lifetime tax deduction, up to $100,000, is provided for the costs of alternative fuel refueling property (excluding installation costs). This deduction expires in 2006. [IRC§179A]	No provision.	*Sec. 2003,2010.* The Senate bill replaces the current deduction with a 50% tax credit, through 2007, for the costs of clean-fuel refueling equipment (subject to a maximum tax credit of $30,000). It adds "residential clean-refueling property" to qualifying property, subject to a maximum credit of $1,000. For hydrogen refueling stations, the credit is available through 2011.	*Sec. 203.* Both the Senate bill and the Senate amendment also would permit businesses that install refueling equipment on property owned by tax-exempt entities to qualify for the tax credit.
RETAIL SALE OF ALTERNATIVE FUELS	Fuel ethanol (and methanol) qualifies for an excise tax exemption. Fuel ethanol also qualifies for blender's and production tax credits. CNG and other alternative fuels are taxed at lower rates, as measured against the Btu equivalence of gasoline. Electricity used in vehicles is not taxed. There is a tax break for the retail sale of alternative motor fuels. [IRC§40, 4041, 4081]	No provision.	*Sec. 2004.* A 30¢/gal. tax credit (rising to 50¢/gal. by 2005) is provided for the retail sale of an alternative fuel (CNG, LNG, LPG, hydrogen, E85, and M85). The credit is based on the gasoline equivalent of alternative fuel, rated at 114,000 Btu/gal. of gasoline.	*Sec. 204.* This provision is the same as in the Senate bill.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ELECTRIC VEHICLES	A 10% tax credit, up to $4,000, is available for the costs of an electric vehicle. The credit phases out from 2004-2006. The Job Creation and Worker Relief Act of 2002 (P.L. 107-147) retroactively extended the phase-out dates from 2002-2004 to 2004-2006. [IRC§30]	*Sec. 41010.* Repeals the phase-out of the existing tax credit. No additional incentives are provided.	*Sec. 2002.* The Senate bill repeals the existing credit and provides a new tax credit of between $3,500 and $40,000, depending on vehicle weight, payload capacity, and driving range. A smaller tax credit (10% of costs up to $1,500) is provided for electric vehicles with a maximum velocity of between 20-25 mph. Leases of electric vehicles would also qualify for the tax credit.	*Sec. 202.* This is generally the same as in the Senate bill.

Miscellaneous Provisions

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
STUDY OF COALBED METHANE	Coalbed methane is one of the unconventional fuels that qualifies for the §29 tax credit. There is no provision in current law for the study of the effects of the §29 tax credit on coalbed methane. CRS has analyzed the economic effects of the §29 tax credit, including the effects on coalbed methane, through 1997. See *An Economic Analysis of the §29 Tax Credit for Unconventional Fuels.* CRS Report 97-679E.	No provision.	*Sec. 2309.* The Secretary of the Treasury shall study the effects of the §29 tax credit on the production of coalbed methane.	Sec 509. This is the same as in the Senate bill.
STUDY OF ELECTRICITY RESTRUCTURING TAX ISSUES	No part of current tax law directs the Treasury Department to study, and report to the Congress, the tax issues related to the restructuring of the electric utility industry.	No provision.	*Sec. 2401.* The Treasury Secretary shall undertake a study of the tax issues resulting from electricity industry restructuring, particularly the effects of tax-exempt bonds on public power and on corporate reorganization.	No provision.
STUDY OF CERTAIN TAX INCENTIVES	There is no provision in the Internal Revenue Code directing the General Accounting Office to study the effects of the tax incentives for alternative motor fuels and for energy efficiency.	No provision.	*Sec. 2502.* GAO is directed to undertake an analysis of the effectiveness of the tax incentives for alternative motor vehicles and alternative fuels and energy efficiency investments proposed in the bill.	*Sec. 702.* Same as in the Senate bill.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
DUTY-FREE SALES OF GASOLINE AND DIESEL	Customs duties are imposed on the importation of commodities into the United States. The duty on gasoline and diesel imports is 52.5¢/barrel (1.25¢/gal.). Commodities sold in duty-free shops may be sold duty-free if the commodity is not entered into the United States. In some cases, individuals purchase motor fuel at a duty free station, drive briefly outside the U.S., and then return to the U.S. [Harmonized tariff schedules of the U.S.; 19 U.S.C. 1555(b)]	No provision.	*Sec. 2504.* The Senate bill provides that any gasoline or diesel sold in duty-free shops will be considered entered for consumption, and therefore subject to duty.	*Sec. 209.* This is exactly the same as in the Senate bill.
ENERGY CREDITS AND THE ALTERNATIVE MINIMUM TAX	Under current law, energy-related income tax credits, and many of the non-energy tax credits, are aggregated and claimed as one general business credit, which is also subject to several limitations, including the alternative minimum tax limitation. [IRC§38]	*Sec. 43006*, 43007. These sections make the minimum tax limitation inapplicable to several of the personal and business energy tax credits introduced by the bill.	No provision.	No provision.
ENERGY RESEARCH AND DEVELOPMENT (R&D) TAX CREDIT	A 20% tax credit is available on the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. In lieu of this credit, a taxpayer may claim an alternative incremental research credit. The research credit is scheduled to expire and generally will not apply to amounts paid or incurred after June 30, 2004. [IRC§41]	No provision.	No provision.	*Sec 704.* The 20% credit is available for all expenditures on qualified energy research undertaken by a research consortium, and not just those expenses over a certain base amount. The June 30, 2004 deadline is unchanged.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
COAL MINER'S HEALTH BENEFITS FUND	In 1992 the Congress established a health benefits fund to pay for the medical expenses of retired miners and their dependents. Coal operators make annual contributions for each retired miner assigned to a particular operator. [IRC§9704]	*Sec. 42011.* The proposal allows assigned coal operators to be relieved of their liability to make annual contributions, provided that the operator's parent company prepays the premiums.	No provision.	No provision.
TAX TREATMENT OF DAIRY CATTLE	Under present tax law, involuntary conversions of property or assets — such as from theft, fire, or actual or threatened condemnation — are not generally subject to tax, i.e., any gain or loss is not recognized, provided that the property is replaced within a specified period of time, generally two years. [IRC§1033]	No provision.	*Sec. 2505.* The Senate provision treats the destruction of dairy cattle infected with bovine tuberculosis, as part of USDA's eradication program, as an involuntary conversion for tax purposes, thus ensuring that no tax is triggered, provided that the cattle are replaced within 4 years. The costs of disposing of the infected cattle would be expensed rather than depreciated.	No provision.

Revenue Offsets

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
ANTI-TAX SHELTERS PROVISIONS	Numerous provisions of current tax law and supporting regulations are designed to encourage compliance with the tax laws, and impose penalties on taxpayers that engage in transactions and behaviors designed to abuse the tax laws and evade the payment of taxes through "tax shelters." [IRC§ 6111, 6112,6708 6662A,6700,6707, 6707A, 7525]	No provision.	No provision.	*Sec. 801-807.* The Senate amendment creates additional restrictions on behaviors and transactions that create illegal or abusive tax shelters. Additional penalties are imposed for violating these new rules, both on the taxpayer and the tax-shelter promoters.
TAX TREATMENT OF FOREIGN REINCORPORATIONS	The inversion of ownership from a U.S. corporation with a foreign subsidiary to a foreign corporation with a U.S. subsidiary has certain tax benefits for both the corporation and its shareholders when the parent corporation is established in a country with taxes lower than in the United States. [IRC§ 367]	*Sec. 44001,44002.* The House provision imposes a moratorium on corporate inversion transactions undertaken between March 4, 2003, and January 1, 2005, and expresses the sense of the Congress that this section of the tax code needs to be reformed.	No provision.	*Sec 821.* Establishes new tax consequences for each type of corporate inversion transaction, generally denying tax benefits to such transactions.
EXCISE TAX ON STOCK COMPENSATION OF INSIDERS OF INVERTED REINCORPORATIONS	Shareholders generally are required to recognize any gain from a stock inversion transaction, but not for holders of stock options and other stock-based compensation. [IRC§83]	No provision.	No provision.	*Sec 822.* Holders of stock options and other stock-based compensation are subject to a 20% excise tax on the value of certain stock compensation if the corporation reincorporates as part of an inversion transaction.

Provision	Current Law	House Bill (H.R. 6)	Senate Bill (H.R. 6)	SFC Amendment
REINSURANCE AGREEMENTS	In the case of a reinsurance agreement, the Treasury Secretary has the authority to make adjustments in order to more properly reflect income. In cross border transactions, this procedure is more difficult. [IRC§ 845]	No provision.	No provision.	*Sec. 823*. The Senate provision clarifies the rules relating to the Secretary's authority to make it easier to adjust reinsurance agreements in order to more properly reflect and measure income.
INDIVIDUAL EXPATRIATION	U.S. citizens are taxed on their worldwide income; a tax credit is allowed against foreign taxes. Expatriates intending on avoiding U.S. taxes are taxed under an alternative tax regime if it results in more tax than under the rules applicable to nonresidents/noncitizens. [IRC§877,2107,2501,6039]	No provision.	No provision.	*Sec. 833*. Tightens existing rules, and adds new more stringent rules (including additional information requirements) on expatriates intending on terminating residency or citizenship for the purpose of evading U.S. taxes. Imposes more objective criteria in making such determinations.
IRS USER FEES	The Internal Revenue Service charges taxpayers fees for certain services it renders: letter and revenue rulings, determination and opinion rulings, and other similar services. The fee amount depends upon the type of ruling and the section of the tax code it pertains to. The authority for these fees expires on September 30, 2003. [§10511, P.L. 100-203]	No provision.	No provision.	*Sec. 831*. The Senate bill extends the authority to impose these fees by 10 more years, through September 30, 2013. It also authorizes these fees in tax statutes, in addition to regulations.
TAXABLE VACCINES	Several vaccines routinely administered to children are subject to a manufacturer's excise tax at the rate of 75¢/dose. Revenues are deposited into the Vaccine Injury Compensation Trust Fund. [IRC§4132]	No provision	No provision.	*Sec. 842*. The Senate amendment expands the list of taxable vaccines to hepatitis A.