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Senate Finance Committee Tax Provisions in the Build Back Better Act

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On December 11, 2021, the Senate Finance Committee released updated legislative text of the Build Back Better Act.[1] This text updates the version of the Build Back Better Act (BBBA; H.R. 5376) that was passed in the House on November 19, 2021. This report summarizes the tax provisions in the Senate Finance Committee's version of the Build Back Better Act. For more on the provisions in the earlier versions of this legislation, see CRS Report R46923, *Tax Provisions in the "Build Back Better Act:" The House Ways and Means Committee's Legislative Recommendations*, coordinated by Molly F. Sherlock; and CRS Report R46960, *Tax Provisions in the Build Back Better Act: Rules Committee Print 117-18*, coordinated by Molly F. Sherlock.[2]

A number of the tax provisions in the Senate Finance Committee's Build Back Better Act text are designed to raise additional federal tax revenue. Provisions expected to have the largest revenue effects include

- modifications to individual income taxes levied on high-income individuals, including
  - applying the net investment income tax to trade or business income for certain filers;
  - making limitations on excess business losses of noncorporate taxpayers permanent; and
  - establishing a surcharge on high-income individuals, trusts, and estates;
- the addition of a 15% alternative minimum corporate tax based on financial statement income;
- a new excise tax on corporate stock repurchases; and
- modifications to the treatment of international taxes, including changes to
  - the deduction for foreign-derived intangible income;
  - the base erosion and anti-abuse tax; and
  - the tax on global intangible low-taxed income.

Other tax provisions in the Senate Finance Committee's Build Back Better Act text would reduce tax liability for individual taxpayers or businesses engaged in certain types of economic activities. Among these provisions, those expected to have the largest revenue effects include

- for individuals, a temporary extension of enhancements made to the child tax credit in the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) through 2022, with a permanent extension of full refundability beginning in 2023; and
- for businesses, tax credits for investment in or production of renewable electricity.

All tax provisions in the Senate Finance Committee's Build Back Better Act text are summarized in a series of tables below. References to relevant CRS reports are included where applicable.

[1] Senate Committee on Finance, "Finance Committee Releases Updated Build Back Better Text," press release, December 11, 2021, https://www.finance.senate.gov/chairmans-news/finance-committee-releases-updated-build-back-better-text.

[2] A section-by-section staff summary of the Build Back Better Act as reported by the House Committee on the Budget and a comparative staff print showing subsequent modifications are available for both the October 28 and November 3 versions of the legislation at https://rules.house.gov/bill/117/hr-5376.

- **Table 1** includes the provisions in Subtitle E, Infrastructure Financing and Community Development;
- **Table 2** includes the provisions in Subtitle F, Green Energy;
- **Table 3** includes the provisions in Subtitle G, Social Safety Net; and
- **Table 4** includes the provisions in Subtitle H, Responsibly Funding Our Priorities.

The Senate Finance Committee's Build Back Better Act text differs from the version of the act that was passed in the House on November 19, 2021. Most provisions that were in the House-passed version of BBBA appear in the Senate Finance Committee text. The descriptions of the Senate Finance Committee's Build Back Better Act provisions below note whether these provisions were identical or nearly identical to, or a modification of, the House-passed version of the provision.[3] Two provisions that were in the House-passed version were removed in the Senate Finance Committee text: (1) a provision providing that rents from prison facilities could not be treated as qualified income for the purposes of REIT income tests; and (2) a provision that would have imposed a tax on certain nicotine products. A new provision added in the Senate Finance Committee text would modify rules relating to expatriated entities and inverted corporations.

The effective date for most of the proposed tax provisions would be after December 31, 2021. This is generally the case unless otherwise noted in the description of the provision. Additionally, provisions would be permanent unless otherwise noted.

[3] For the purposes of this comparison, a provision is identified as being identical or nearly identical if the change would not have a substantial or substantive policy impact.

Table 1. Subtitle E—Infrastructure Financing and Community Development

Section Title	Description	CRS Resources
Part 1—Low Income Housing Credit		
Increases in State Allocations Section 125101	This provision would increase state low-income housing credit allocation authority for calendar years 2022 through 2025. In 2021, states received low-income housing credit allocation authority equal to $2.8125 per person, with a small population state allocation of $3,245,625. Under this provision, states would receive $2.93 per person in 2022, with a small population state allocation of $3,346,875; $2.98 per person in 2023, with a small population state allocation of $3,425,625; $3.04 per person in 2024, with a small population state allocation of $3,504,375; and $3.86 in 2025, with a small state allocation of $4,481,950. This provision is a modification of Section 135101 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley. • CRS In Focus IF11335, *The Low-Income Housing Tax Credit: Policy Issues*, by Mark P. Keightley.
Tax Exempt Bond Financing Requirement Section 125102	This provision would reduce the 50% tax-exempt bond financing requirement to 25% for bond obligations issued in calendar years 2022 through 2026. Credits awarded to projects where the bond financing threshold is met do not reduce a state's annual housing credit. This provision is identical or nearly identical to Section 135102 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley. • CRS In Focus IF11335, *The Low-Income Housing Tax Credit: Policy Issues*, by Mark P. Keightley.
Buildings Designated to Serve Extremely Low-Income Households Section 125103	This provision would require that at least 8% of a state's annual low-income housing credit allocation authority be set-aside for projects that serve extremely low-income households. The set-aside would apply to projects where at least 20% of the units are rent-restricted and occupied by households whose income does not exceed the greater of 30% of area median income or 100% of the federal poverty line. Projects requiring an increase in credits to be financially feasible would receive a 50% basis boost. A state could not award more than 13% of its credit authority to such projects, and, if such a project utilizes tax-exempt bond financing (and meets the bond financing threshold), a state could not award more than 8% of its private activity bond authority. This provision would apply to allocations made after December 31, 2021. This provision is identical or nearly identical to Section 135103 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley. • CRS In Focus IF11335, *The Low-Income Housing Tax Credit: Policy Issues*, by Mark P. Keightley.

Section Title	Description	CRS Resources
Repeal of Qualified Contract Option Section 125104	This provision would repeal the qualified contract option, and thus limit the ability of a property owner to exit the low-income housing tax credit (LIHTC) program after the first 15 years. The qualified contract option allows a property owner to sell a LIHTC property after 15 years. To exercise this option, a property owner must request that the state housing credit authority locate a buyer who will purchase the property and keep it in the program for another 15 years. The purchase price is determined by statute. If the housing credit authority cannot locate a qualified buyer, the affordability restrictions on the property are phased out over three years. This provision would apply to buildings that received a credit allocation before January 1, 2022, or, in the case of properties utilizing tax-exempt bonds, that received a determination that the building was eligible to receive tax credits. This provision is identical or nearly identical to Section 135104 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley. • CRS In Focus IF11335, *The Low-Income Housing Tax Credit: Policy Issues*, by Mark P. Keightley.
Modification and Clarification of Rights Relating to Building Purchase Section 125105	Under current law, a property may exit the low-income housing tax credit program after 15 years if a right of first refusal option is exercised whereby the holder of the right (typically, a nonprofit organization who helped develop the property) purchases the property. There appears to be a lack of clarity under current law over whether a third-party offer to purchase the property is a necessary prerequisite to the authority to exercise the right of first refusal. This provision would clarify that a third party offer is not needed by changing the right of first refusal to a purchase option. Among other changes, the provision would also clarify that establishing a qualified purchase option would not disallow any of the federal tax benefits of the low-income housing tax credit. This provision is identical or nearly identical to Section 135105 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RS22389, *An Introduction to the Low-Income Housing Tax Credit*, by Mark P. Keightley. • CRS In Focus IF11335, *The Low-Income Housing Tax Credit: Policy Issues*, by Mark P. Keightley.
Part 2—Neighborhood Homes Investment Act		
Neighborhood Homes Credit Section 125201	This provision would provide new federal tax credits to offset the cost of constructing or rehabilitating owner-occupied homes. The credits would be awarded to project sponsors (e.g., developers), which would either use the credits directly to offset development and rehabilitation costs or sell the credits to investors to raise capital for home construction. In 2022, 2023, and 2024, each state would be allowed to annually award an amount of credits equal to the greater of $3 multiplied by its population, or $4 million. In 2025, credit allocation authority would be equal to the greater of $6 multiplied by its population, or $8 million. The credit amount would be limited to no more than 35% of the lesser of qualified development costs or 80% of	For background, see • CRS In Focus IF11884, *Neighborhood Homes Investment Act: Overview and Policy Considerations*, by Mark P. Keightley.

Section Title	Description	CRS Resources
	the national median sales price for new homes as determined by the most recent census data. Credits would be restricted to properties with occupants whose income did not exceed 140% of an area's or state's median income, and to properties located in a qualified census tract. This provision is identical or nearly identical to Section 135201 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 3—Investments in Tribal Infrastructure		
Treatment of Indian Tribes as States with Respect to Bond Issuance Section 125301	This provision would modify the treatment of Indian tribes so that they are generally treated as states for the purposes of issuing qualified private activity bonds. This provision would direct the Secretary of the Treasury to establish a national bond volume cap based on tribal population data for qualifying bonds issued in tribal areas. This provision is identical to Section 135301 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL31457, *Private Activity Bonds: An Introduction*, by Steven Maguire and Joseph S. Hughes.
New Markets Tax Credit for Tribal Statistical Areas Section 125302	This provision would create a temporary New Markets Tax Credit (NMTC) allocation for low-income tribal areas and for projects that serve or employ tribal members. The annual allocation amount would be $175 million per year for calendar years 2022-2025. This provision is identical or nearly identical to Section 135302 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL34402, *New Markets Tax Credit: An Introduction*, by Donald J. Marples and Sean Lowry.
Inclusion of Indian Areas as Difficult Development Areas for Purposes of Certain Buildings Section 125303	This provision would modify the definition of difficult development areas (DDAs) for purposes of the low-income housing tax credit to include "Indian areas." Projects in DDAs are eligible for a 30% basis boost under current law. An Indian area would be any Indian area as defined in Section 4(11) of the Native American Housing Assistance and Self Determination Act of 1996. If an area were to be a DDA solely because it is an Indian area, then a project would not be treated as being located in a DDA unless it were assisted or financed under the Native American Housing Assistance and Self Determination Act of 1996, or the project sponsor were an Indian tribe, a tribally designated housing entity, or wholly owned or controlled by an Indian tribe or a tribally designated housing entity. This provision would apply to buildings placed in service after December 31, 2021. This provision is identical or nearly identical to Section 135303 of H.R. 5376, as passed in the House on November 19, 2021.	

Section Title	Description	CRS Resources
Part 4—Other Provisions		
Possessions Economic Activity Credit Section 125401	This provision would create a new tax credit for certain domestic corporations actively conducting business in American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, Guam, and the Virgin Islands. For these corporations, the credit amount would be equal to 20% of wage and benefit expenses in the possessions. The amount of creditable wages and benefits would be capped at $50,000 per full time equivalent employee per year. The credit is increased to 50% with a cap of $142,800 for certain small businesses. This provision is identical or nearly identical to Section 135401 of H.R. 5376, as passed in the House on November 19, 2021.	
Tax Treatment of Certain Assistance to Farmers, Etc. Section 125402	Under normal tax rules, recipients of loan repayment programs must recognize the amounts repaid as either income or a reduction in the basis of the asset. This provision would exclude from recognition certain payments to socially disadvantaged farmers and others enacted in the American Rescue Plan Act of 2021 (P.L. 117-2). The provision would also provide that no deduction would be denied by reason of the exclusion. This provision is identical or nearly identical to Section 135402 of H.R. 5376, as passed in the House on November 19, 2021	
Exclusion of Amounts Received from State-Based Catastrophe Loss Mitigation Programs Section 125403	Current law excludes qualified disaster relief and qualified disaster mitigation payments from gross income (Section 139). Starting in 2021, this provision would exclude qualified catastrophe mitigation payments made by state or local government programs from gross income. Qualified catastrophe mitigation payments would be amounts received by individuals to make improvements to the individual's residence that would reduce the damage that would be done to the residence by a windstorm, earthquake, or wildfire. Taxpayers receiving these payments would not be required to adjust their basis in property for which payment is received. This provision is identical or nearly identical to Section 135403 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45864, *Tax Policy and Disaster Recovery*, by Molly F. Sherlock and Jennifer Teefy.

Source: CRS analysis of the Senate Finance Committee's updated text for Title XII-Committee on Finance in the Build Back Better Act, as posted on the Senate Finance Committee's website on December 11, 2021, at https://www.finance.senate.gov/chairmans-news/finance-committee-releases-updated-build-back-better-text.

Notes: Provisions are effective in 2022 unless otherwise noted. The changes that would be made by the provisions are permanent, unless otherwise noted. Within the description, "Section" citations refer to the section within the Internal Revenue Code (IRC), 26 U.S.C., unless otherwise noted.

Table 2. Subtitle F—Green Energy

Section Title and Number	Description	CRS Resources
Part 1—Renewable Energy and Reducing Carbon Emissions		
Extension and Modification of Credit for Electricity Produced from Certain Renewable Resources Section 126101	Current law provides a production tax credit (PTC), at a rate of 2.5 cents or 1.3 cents per kilowatt hour (kWh) depending on the technology used, for the first 10 years of production at qualifying renewable electricity production facilities that begin construction before 2022. The credit amount is adjusted annually for inflation from a statutory rate of 1.5 cents per kWh, with some technologies qualifying for a half-credit amount. This provision would extend the PTC for wind, biomass, geothermal, solar (which previously expired at the end of 2005), landfill gas, trash, qualified hydropower, and marine and hydrokinetic resources through 2026. The base credit amount for the PTC would be set in statute at 0.3 cents per kWh (0.5 cents per kWh in 2021, or 0.3 cents for half-credit technologies, after being adjusted for inflation). Facilities that pay prevailing wages during the construction phase and first 10 years of operation and meet registered apprenticeship requirements are eligible for a PTC that is five times the base amount, or 2.5 cents or 1.3 cents per kWh after being adjusted for inflation. Facilities with a maximum net output of less than one megawatt are also eligible for the five times base credit amount (e.g., 2021 rates of 2.5 cents or 1.3 cents per kWh). Qualifying hydropower and marine and hydrokinetic renewable energy projects, which are half-credit technologies under current law, would be allowed the full PTC. A "bonus credit" amount would be provided for projects that meet domestic content requirements to certify that certain steel, iron, and manufactured products used in the facility were domestically produced. The bonus credit amount would be 10% of the credit amount. The credit amount could be increased by 10% for facilities located in an energy community. An energy community is defined as being a brownfield site or a census tract or any adjoining tract in which 5% of employment is in the oil and gas sector, in which a coal mine closed after December 31, 1999, or in which a coal-fired electric power plant was retired after December 31, 2009. Projects on forested land cannot be treated as being located in an energy community. Large facilities not meeting domestic content requirements would be limited in the amount of the credit that could be received as direct pay (see "Elective Payment for Energy Property and Electricity Produced from Certain Renewable Resources, Etc."). The limit would be 90% in 2024, 85% in 2025, and zero afterward. This limit could be waived if materials are not available domestically or if including domestic materials would increase the facility's construction cost by more than 25%. The provision provides that for facilities financed with tax-exempt bonds, the credit amount would be reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs.	For background, see • CRS Report R43453, *The Renewable Electricity Production Tax Credit: In Brief*, by Molly F. Sherlock. • CRS Report R46865, *Energy Tax Provisions: Overview and Budgetary Cost*, by Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

Section Title and Number	Description	CRS Resources
	The proposal also extends the option to claim the energy investment tax credit (ITC) in lieu of the PTC. This provision is a modification of Section 136101 of H.R. 5376, as passed in the House on November 19, 2021.	
Extension and Modification of Energy Credit Section 126102	Current law provides a temporary investment tax credit (ITC) for investments in certain energy property. This provision would extend and modify the ITC, with the credit generally extended through the end of 2026. The ITC would be extended through 2026 at a base rate of 6% for solar, fuel cells, waste energy recovery, and small wind property, and 2% for microturbine and combined heat and power property. These amounts would be increased to 30% and 10%, respectively, if projects pay prevailing wages during the construction phase and during the first five years of operation and meet registered apprenticeship requirements. The higher credit rates are also available to any project with a maximum net output of less than one megawatt of electrical or thermal energy. The ITC for geothermal heat pumps would be extended through 2031 with a 6% base credit rate with the 30% credit rate allowed for projects meeting wage and workforce requirements or for projects below the maximum net output threshold. The credit would phase down after 2031, with the rates being 5.2% and 26% in 2032 and 4.4% and 22% in 2033, with no credit allowed for property beginning construction after 2033. This list of qualifying property would be expanded to include energy storage technology, qualified biogas property, electrochromic glass, microgrid controllers, and hydropower environmental improvement property at the 6% or 30% rate. Linear generator assemblies would be added to the definition of qualifying fuel cells. The credit would also be available for interconnection property. A "bonus credit" amount would be provided for projects that meet domestic content requirements to certify that certain steel, iron, and manufactured products used in the facility were domestically produced. The bonus credit amount would be 2% of the credit amount, or 10% for projects that meet wage and workforce requirements. An increased credit amount would be available to projects in an energy community, with the credit increase being 10 percentage points for projects meeting wage and workforce requirements or 2 percentage points otherwise. An energy community is defined as being a brownfield site or a census tract or any adjoining tract in which 5% of employment is in the oil and gas sector, in which a coal mine closed after December 31, 1999, or in which a coal-fired electric power plant was retired after December 31, 2009. Projects on forested land cannot be treated as being located in an energy community. Large facilities not meeting domestic content requirements would be limited in the amount of the credit that could be received as direct pay (see "Elective Payment for Energy Property and Electricity Produced from Certain Renewable Resources, Etc."). The limit would be 90% in 2024, 85% in	For background, see • CRS In Focus IF10479, *The Energy Credit or Energy Investment Tax Credit (ITC)*, by Molly F. Sherlock. • CRS Report R46865, *Energy Tax Provisions: Overview and Budgetary Cost*, by Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

Section Title and Number	Description	CRS Resources
	2025, and zero afterward. This limit could be waived if materials are not available domestically or if including domestic materials would increase the facility's construction cost by more than 25%. The provision provides that for facilities financed with tax-exempt bonds, the credit amount would be reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. This provision is a modification of Section 136102 of H.R. 5376, as passed in the House on November 19, 2021.	
Increase in Energy Credit for Solar and Wind Facilities Placed in Service in Connection with Low-Income Communities Section 126103	This provision would allow for the allocation of 1.8 gigawatts for "environmental justice solar and wind capacity" credits annually from 2022 through 2026. Taxpayers receiving a capacity allocation may be entitled to tax credits in addition to otherwise allowed ITCs. Specifically, projects receiving an allocation that are located in a low-income community or on Indian land would be eligible for a 10% bonus investment tax credit, while projects that are part of a low-income residential building project or qualified low-income economic benefit project would be eligible for a 20% bonus investment credit. No facility could receive more than a maximum 20% bonus investment credit under this provision. Qualifying solar and wind facilities would include those with a nameplate capacity of 5 megawatts or less, and qualifying property would include energy storage property installed in connection with the solar property and interconnection property. Facilities receiving an allocation would be required to have the facility placed in service within four years. This provision is a modification of Section 136103 of H.R. 5376, as passed in the House on November 19, 2021.	For background on the ITC, see • CRS In Focus IF10479, *The Energy Credit or Energy Investment Tax Credit (ITC)*, by Molly F. Sherlock. For background on housing assistance programs, see • CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*, by Maggie McCarty, Libby Perl, and Katie Jones.
Elective Payment for Energy Property and Electricity Produced from Certain Renewable Resources, Etc. Section 126104	This provision would allow taxpayers to treat certain tax credit amounts as payments of tax. Payments in excess of tax liability can be refunded to the taxpayer, allowing the credits to be received as "direct pay." This direct payment would be allowed for the Section 30C credit for alternative fuel refueling property, the Section 45 renewable electricity production credit, the Section 45Q carbon oxide sequestration credit, the Section 48 energy investment tax credit, and the Section 48C qualifying advanced energy project credit. The direct pay election would also be available for the new Section 48D investment credit for electric transmission property; new Section 48E advanced manufacturing investment credit; new Section 48F clean electricity investment credit; new Section 45W zero-emission nuclear power production credit; new Section 45X clean hydrogen production credit; new Section 45AA advanced manufacturing production credit; new Section 45BB clean electricity production credit; and new Section 45CC clean fuel production credit. Tax-exempt entities, including state and local governments and Indian tribal governments, would be treated as taxpayers eligible to elect a direct payment. Beginning in	For background, see • CRS Report R45693, *Tax Equity Financing: An Introduction and Policy Considerations*, by Mark P. Keightley, Donald J. Marples, and Molly F. Sherlock.

Section Title and Number	Description	CRS Resources
	FY2023, amounts provided as direct spending would be grossed-up (increased) by 6.0445%. This provision would not apply to territories with mirror-code tax systems. This provision is identical or nearly identical to Section 136104 of H.R. 5376, as passed in the House on November 19, 2021.	
Investment Credit for Electric Transmission Property Section 126105	This provision would create a new ITC for qualifying electric transmission property, which includes property that is capable of transmitting at least 275 kilovolts or is a superconducting line, with a capacity of not less than 500 megawatts. Upgrades of existing lines would be treated as replacements. The new ITC would be 6% of qualifying investments, with a 30% ITC available for projects that pay prevailing wages during the construction phase and during the first five years of operation and that meet registered apprenticeship requirements. "Bonus credit" amounts for domestic content and limits on direct pay related to domestic content would apply, similar to those applying to the ITC (see "Extension and Modification of Energy Credit"). Projects financed with tax-exempt bonds would have the credit amount reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. The credit would be available for property that begins construction by December 31, 2031, unless the property began construction prior to January 1, 2022, or was selected for cost allocation in a regional transmission plan. This provision is a modification of Section 136105 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.
Extension and Modification of Credit for Carbon Oxide Sequestration Section 126106	Under current law, industrial carbon capture or direct air capture facilities that begin construction by December 31, 2025, can qualify for the Section 45Q tax credit for carbon oxide sequestration. This tax credit can be claimed for carbon oxide captured during the 12-year period following a qualifying facility's being placed in service. Currently, the per metric ton tax credit for geologically sequestered carbon oxide is set to increase to $50 per ton by 2026 ($35 per ton for carbon oxide that is reused, such as for enhanced oil recovery) and adjusted for inflation thereafter. This provision would extend the start of construction deadline to December 31, 2031. The amount of carbon oxide that must be captured at a qualifying facility would be reduced to 1,000 metric tons annually for a direct air capture (DAC) facility, 18,750 metric tons annually (not less than 75% of which would otherwise have been released into the atmosphere) for an electricity generating facility, and 12,500 metric tons for any other facility. Base credit amounts would be $17 per metric ton for carbon oxide that is captured and geologically sequestered and $12 per metric ton for carbon oxide that is reused. Increased credit amounts of $85 per ton and $60 per ton, respectively, would be available for facilities that pay	For background, see • CRS In Focus IF11455, *The Tax Credit for Carbon Sequestration (Section 45Q)*, by Angela C. Jones and Molly F. Sherlock. • CRS Insight IN11710, *Carbon Capture and Sequestration Tax Credit ("Section 45Q") Legislation in the 117th Congress*, by Molly F. Sherlock and Angela C. Jones. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS Report R45171, *Registered Apprenticeship:*

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	prevailing wages during the construction phase and during the first 12 years of operation and meet registered apprenticeship requirements. The credit amount for DAC would be increased to a base rate of $36 per metric ton, with a credit of $180 per metric ton for projects that meet wage and workforce requirements. These amounts would be $26 and $130 per metric ton for carbon oxide captured using DAC that is beneficially reused. Projects financed with tax-exempt bonds would have the credit amount reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. The provision would also provide flexibility with respect to the period in which credits can be claimed for projects affected by federally declared disasters. This provision is identical or nearly identical to Section 136106 of H.R. 5376, as passed in the House on November 19, 2021.	*Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.
Green Energy Publicly Traded Partnerships Section 126107	If 90% of a business's gross income is qualifying income, the business can elect to be treated as a master limited partnership (MLP), allowing the business to be taxed as a partnership while ownership interests are tradable in financial markets. Qualifying income currently includes mining and natural resource income. This provision would expand the definition of qualifying income to include income derived from green and renewable energy. These additions include income from certain activities related to energy production eligible for the PTC, energy property eligible for the ITC, renewable fuels, and carbon sequestration projects eligible for credits under Section 45Q. This provision is identical or nearly identical to Section 136107 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R41893, *Master Limited Partnerships: A Policy Option for the Renewable Energy Industry*, by Molly F. Sherlock and Mark P. Keightley.
Zero-Emission Nuclear Power Production Credit Section 126108	This provision would create a new tax credit for qualifying zero-emission nuclear power produced and sold after December 31, 2021. Qualified nuclear power facilities are taxpayer-owned facilities that use nuclear power to generate electricity that did not receive an advanced nuclear production tax credit allocation under Section 45J, and are placed in service before the date of enactment (i.e., are existing nuclear power plants). The PTC amount would be 0.3 cents per kWh. Taxpayers that satisfy prevailing wage and registered apprenticeship requirements would be eligible for a tax credit of 1.5 cents per kWh. The credit would be reduced when the price of electricity increases. Credits would be reduced by a "reduction amount," which is 16% of the excess of gross receipts (excluding certain state and local zero-emissions grants) from electricity produced by the facility and sold over the product of 2.5 cents times the amount of electricity sold during the taxable year.	For background, see • CRS Report R42853, *Nuclear Energy: Overview of Congressional Issues*, by Mark Holt. • CRS Insight IN10725, *The Advanced Nuclear Production Tax Credit*, by Molly F. Sherlock and Mark Holt. • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by

Section Title and Number	Description	CRS Resources
	Credit amounts and amounts in the phaseout formula would be adjusted for inflation. Taxpayers could elect to receive the credit as direct pay (discussed above). The credit would terminate on December 31, 2027. This provision is identical or nearly identical to Section 136108 of H.R. 5376, as passed in the House on November 19, 2021.	David H. Bradley and Jon O. Shimabukuro.
Part 2—Renewable Fuels		
Extension of Incentives for Biodiesel, Renewable Diesel, and Alternative Fuels Section 126201	Current law provides a 50-cents-per-gallon tax credit for alternative fuels and alternative fuel mixtures through 2021 and a $1.00-per-gallon tax credit for biodiesel and renewable diesel (with an additional $0.10-per-gallon tax credit for agri-biodiesel) through 2022. The biodiesel and renewable diesel mixtures tax credit may be claimed as an immediate excise tax credit against the blender's motor and aviation fuels excise taxes. Credits in excess of excise tax liability may be refunded. The biodiesel and small agri-biodiesel credits may be claimed as income tax credits. The alternative fuels credit can be claimed as an excise tax credit or received as an outlay. The alternative fuels mixture credit is an excise tax credit. This provision would extend the existing tax credits for alternative fuels and alternative fuel mixtures and biodiesel and renewable diesel through December 31, 2026. This provision is identical or nearly identical to Section 136201 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46865, *Energy Tax Provisions: Overview and Budgetary Cost*, by Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples.
Extension of Second Generation Biofuel Incentives Section 126202	Current law provides a $1.01-per-gallon income tax credit for second-generation biofuel production through 2021. This provision would extend the second-generation biofuel producer tax credit through December 31, 2026. This provision is identical or nearly identical to Section 136202 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46865, *Energy Tax Provisions: Overview and Budgetary Cost*, by Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples.
Sustainable Aviation Fuel Credit Section 126203	This provision would create a new tax credit for the sale or mixture of sustainable aviation fuel starting in 2023. The tax credit would have a base amount of $1.25 per gallon, with a supplemental credit amount of $0.01 per gallon for each percentage point by which the lifecycle greenhouse gas emissions reduction percentage for the fuel exceeds 50% (with a maximum supplemental credit of $0.50 per gallon). Sustainable aviation fuel is defined as liquid fuel that (1) meets the requirements of either ASTM International Standard D7566 or the Fischer Tropsch provisions of ASTM International Standard D1655, Annex; (2) is not derived from palm fatty acid distillates or petroleum; and (3) has been certified to achieve at least a 50% lifecycle greenhouse	For background, see • CRS In Focus IF11696, *Aviation and Climate Change*, by Richard K. Lattanzio.

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	gas reduction percentage as defined according to the most recent Carbon Offsetting and Reduction Scheme for International Aviation adopted by the International Civil Aviation Organization and agreed to by the United States (or a similar methodology which satisfies criteria in the Clean Air Act), as compared with petroleum-based jet fuel. The sustainable aviation fuel credit would require claimants to be registered with the Secretary of the Treasury, and could be used to offset fuel excise tax liability or, in the case of insufficient fuel excise tax liability, be received as a payment. Like the tax credit for biodiesel and renewable diesel, there would be a coordinated income tax credit. Credit amounts would be included in a taxpayer's gross income for income tax purposes. The credit would expire after December 31, 2026. This provision is identical or nearly identical to Section 136203 of H.R. 5376, as passed in the House on November 19, 2021.	
Clean Hydrogen Section 126204	This provision would create a new credit for the qualified production of clean hydrogen. The credit would be available for qualified clean hydrogen produced at a qualifying facility during the facility's first 10 years of operation. The base credit amount would be $0.60 per kilogram (kg) times the applicable percentage. The credit would be $3.00 per kg times the applicable percentage if the clean hydrogen is produced at a facility that meets prevailing wage and registered apprenticeship requirements. Credit amounts would be indexed for inflation. The applicable percentage would be determined by the lifecycle greenhouse gas emissions rate achieved in producing clean hydrogen. The applicable percentage would be 100% for hydrogen achieving a lifecycle greenhouse gas emissions rate of less than 0.45 kilograms of carbon dioxide equivalent (CO_2e) per kg. The applicable percentage would be 33.4% for hydrogen achieving a lifecycle greenhouse gas emission rate of less than 1.5 kilograms of CO_2e per kg (but not less than 0.45 kilograms). For hydrogen with a lifecycle greenhouse gas emission rate of less than 2.5 kgs of CO_2e per kg (but not less than 1.5), the applicable percentage would be 25%, and for hydrogen with a lifecycle greenhouse gas emissions rate of less than 4 kgs of CO_2e per kg (but not less than 2.5), the applicable percentage would be 20%. For facilities placed into service before 2027 producing hydrogen with a greenhouse gas emissions rate of no more than 6 kg of CO_2e per kg (but not less than 4), the applicable percentage would be 15%. Taxpayers could elect to receive the credit as direct pay (see "Elective Payment for Energy Property and Electricity Produced from Certain Renewable Resources, Etc."). Taxpayers could not claim credits for clean hydrogen produced at facilities that claimed credits under Section 45Q. Taxpayers could elect to claim the energy investment tax credit (ITC) in lieu of the clean hydrogen production credit. Taxpayers may claim the Section 45 PTC for electricity produced from renewable resources by the	For background, see • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

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	taxpayer if the electricity is used at a qualified clean hydrogen facility to produce qualified clean hydrogen. The provision would terminate the alternative fuel excise tax credit for hydrogen after December 31, 2021. The provision provides that for facilities financed with tax-exempt bonds, the credit amount would be reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. To qualify for the credit, new facilities must begin construction before January 1, 2029. Facilities existing before January 1, 2022, would be able to qualify based on the date that modifications to their facility required to produce clean hydrogen are placed into service. This provision is a modification of Section 136204 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 3—Green Energy and Efficiency Incentives for Individuals		
Extension, Increase, and Modifications of Nonbusiness Energy Property Credit Section 126301	Current law provides a 10% tax credit for qualified energy-efficiency improvements and expenditures for residential energy property on a taxpayer's primary residence through 2021. The credit is subject to a $500 per taxpayer lifetime limit. This provision would extend the tax credit through December 31, 2031, and make additional modifications. The proposed modifications would increase the credit rate to 30% with an annual per-taxpayer limit of $1,200 and a $600 per item limit (geothermal and air source heat pumps and biomass stoves would be excluded from this cap). The credit would be allowed for expenditures made on any dwelling unit used by the taxpayer (not limited to primary residences). Limits for expenditures on windows and doors would also be increased. Required energy efficiency standards would be modified, and changed to update over time without additional legislative action. Qualifying building envelope components would no longer include roofs, but would include air sealing insulation. Electric load or service center upgrade property installed to enable the use of electric appliances would also be qualifying property. Biomass stoves would be made eligible for tax credits. A 30% credit, up to $150, would be allowed for home energy audits. Treasury would be given the authority to treat errors related to this section as mathematical or clerical errors. Starting in 2024, taxpayers would be required to submit a product identification number to claim the tax credit. The credit would be renamed the energy efficient home improvement credit. This provision is a modification of Section 136301 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R42089, *Residential Energy Tax Credits: Overview and Analysis*, by Margot L. Crandall-Hollick and Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples.
Residential Clean Energy Credit Section 126302	Current law provides a tax credit for the purchase of solar electric property, solar water heating property, fuel cells, geothermal heat pump property, small wind energy property, and qualified biomass fuel property. The credit rate is 26% through 2022 (it was 30% through 2019), and is scheduled to be reduced to 22% in 2023 before expiring.	For background, see • CRS Report R42089, *Residential Energy Tax Credits: Overview and Analysis*, by Margot L.

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	This provision would extend the credit through December 31, 2033, restoring the 30% credit rate after 2021 and through 2031, and then reducing the credit rate to 26% in 2032 and 22% in 2033. Qualified battery storage technology would be added to the list of eligible property. The credit would be made refundable after 2022. Starting in 2023, only property installed by qualified installers would be eligible for the credit and taxpayers would be required to report the qualified installation identification number to claim the credit. Payments would be made to territories for the revenue loss associated with providing the residential energy efficient property credit. The credit would be renamed the residential clean energy credit. This provision is a modification of Section 136302 of H.R. 5376, as passed in the House on November 19, 2021.	Crandall-Hollick and Molly F. Sherlock. • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples.
Energy Efficient Commercial Building Deduction Section 126303	Under current law, a permanent deduction of up to $1.80 per square foot is allowed for certain energy-saving commercial building property installed as part of (1) the interior lighting system; (2) the heating, cooling, ventilation, or hot water system; or (3) the building envelope. This provision would temporarily modify the energy-efficient commercial building deduction, with the modifications effective through 2031. The temporary modifications would reduce the amount by which a building must increase its efficiency relative to a reference building, from 50% to 25%. They would further provide that the per-square-foot deduction of $0.50 be increased by $0.02 for each percentage point by which the certified efficiency improvements reduce energy and power costs, with a maximum amount of $1.00 per square foot. For projects that meet prevailing wage requirements and registered apprenticeship requirements, the base credit is $2.50, which would be increased by $0.10 for each percentage point increase in energy efficiency, with a maximum credit amount of $5.00 per square foot. The maximum credit amount would be the total deduction a building can claim over a four-year period (the current tax year plus the three preceding tax years). Taxpayers making energy-efficiency retrofits that are part of a qualified retrofit plan on a building that is at least five years old would be able to deduct their adjusted basis in the retrofit property (so long as that amount does not exceed a per-square foot value determined on the basis of energy usage intensity). Any tax-exempt organization would be allowed to allocate the deduction to the designer or the building or retrofit plan. This provision is identical or nearly identical to Section 136303 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Committee Print CP10004, *Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020*, by Jane G. Gravelle et al. (pp. 99-104). • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

Section Title and Number	Description	CRS Resources
Extension, Increase, and Modifications of New Energy Efficient Home Credit Section 126304	Under current law, through 2021, a tax credit is available for eligible contractors for building and selling qualifying energy-efficient new homes. The credit is equal to $2,000, with certain manufactured homes qualifying for a $1,000 credit. This provision would extend the energy-efficient new home credit through December 31, 2031, and increase and modify the credit amount. For homes acquired after 2021, a $2,500 credit would be available for new homes that meet certain Energy Star efficiency standards, and a $5,000 credit would be available for new homes that are certified as zero-energy ready homes. Multifamily dwellings that meet certain Energy Star efficiency standards could be eligible for a $500 credit per unit, with a $1,000 per unit credit available for eligible zero-energy ready multifamily dwellings. The credits for multifamily dwelling units would be increased to $2,500 and $5,000, respectively, if the taxpayer ensures that the laborers and mechanics employed by contractors and subcontractors in the construction of the residence are paid prevailing wages. This provision is identical or nearly identical to Section 136304 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.
Modifications to Income Exclusion for Conservation Subsidies Section 126305	Under current law, subsidies provided by public utilities to customers for the purchase or installation of energy conservation measures are excluded from taxable income. This provision would provide that amounts provided for water conservation or efficiency, storm water management, or wastewater management could also be excluded. For wastewater management, the property purchased or installed would need to be on the taxpayer's principal residence. The provision would be effective for amounts received after December 31, 2018. This provision is identical or nearly identical to Section 136305 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Committee Print CP10004, *Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020*, by Jane G. Gravelle et al. (pp. 121-124).
Credit for Qualified Wildfire Mitigation Expenditures Section 126306	This provision would create a tax credit for 30% of qualified wildfire mitigation expenditures made after the date of enactment. Qualified expenditures would be specified wildfire mitigation expenditures made under a state wildfire mitigation program that requires wildfire mitigation expenditures be paid by the taxpayer and the state, for property owned or leased by the taxpayer. The credit rate would be reduced below 30% if the taxpayer's percentage of the wildfire mitigation expenditure (as opposed to the state's share) were to fall below 30%. For business expenditures, the credit would be part of the general business credit. For nonbusiness expenditures, the credit would be a nonrefundable individual income tax credit. If basis of property includes qualified wildfire mitigation expenditures, the property's basis would be reduced by the amount of any tax credits claimed. This provision is identical or nearly identical to Section 136306 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF10244, *Wildfire Statistics*, by Katie Hoover and Laura A. Hanson. • CRS In Focus IF10732, *Federal Assistance for Wildfire Response and Recovery*, by Katie Hoover.

Section Title and Number	Description	CRS Resources
Part 4—Greening the Fleet and Alternative Vehicles		
Refundable New Qualified Plug-In Electric Drive Motor Vehicle Credit for Individuals Section 126401	Buyers of qualifying plug-in electric vehicles (EVs) may be able to claim a nonrefundable federal income tax credit of up to $7,500 under current law. The tax credit phases out once a vehicle manufacturer has sold 200,000 qualifying vehicles. This provision would modify and extend the tax credit for plug-in EVs. The modified credit would be $4,000 for vehicles with a battery capacity of 10 kilowatt hours that can be charged by an external source of electricity, plus $3,500 for vehicles with a battery capacity of at least 40 kilowatt hours (50 kilowatt hours after 2026) that have a gas tank capacity of no more than 2.5 gallons. An additional amount of $4,500 would be available for domestically assembled vehicles assembled at a facility that operates under a union-negotiated collective bargaining agreement, and an additional amount of $500 would be available for vehicles powered by battery cells meeting domestic content requirements. The maximum per-vehicle credit would be up to $12,500, not to exceed 50% of the vehicle purchase price. The credit would be made refundable. Vehicles subject to depreciation would be ineligible. The credit would not apply to vehicles acquired after December 31, 2031. The 200,000 qualifying vehicles per manufacturer limitation would be removed. Certain limitations would apply starting in 2023. First, the credit would phase out for married taxpayers filing a joint return with modified AGI above $500,000 ($375,000 in the case of head of household filers; $250,000 in the case of other filers). The credit would be reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified AGI exceeds the threshold amount. The taxpayer's modified AGI would be the lesser of modified AGI in the taxable year or prior year. Second, credits would only be allowed for vehicles that have a manufacturer's suggested retail price of less than $80,000 for vans, SUVs, or pickup trucks, and $55,000 for other vehicles. Third, taxpayers would be allowed to claim the credit for one vehicle per year. Starting in 2027, the $4,000 plus $3,500 base credit would be available only for EVs with final assembly occurring in the United States. Two- and three-wheeled electric vehicles would be allowed a 30% tax credit, up to $7,500. Starting in 2023, taxpayers purchasing eligible vehicles could elect to transfer the tax credit to the dealer, so long as the dealer meets registration, disclosure, and other requirements. Amounts provided as direct spending would be grossed-up (increased) by 6.0445%. Taxpayers would be required to include the vehicle identification number (VIN) on their tax return to claim a tax credit. Payments would be made to territories for the revenue loss associated with providing the EV credit.	For background, see • CRS In Focus IF11017, *The Plug-In Electric Vehicle Tax Credit*, by Molly F. Sherlock. • CRS Report R46864, *Alternative Fuels and Vehicles: Legislative Proposals*, by Melissa N. Diaz. • CRS Report R46231, *Electric Vehicles: A Primer on Technology and Selected Policy Issues*, by Melissa N. Diaz.

Section Title and Number	Description	CRS Resources
	This provision is a modification of Section 136401 of H.R. 5376, as passed in the House on November 19, 2021.	
Credit for Previously Owned Qualified Plug-In Electric Drive Motor Vehicles Section 126402	This provision would create a new refundable tax credit for previously owned qualified plug-in electric and fuel cell vehicles. The credit would be up to $4,000 (a base credit of $2,000 plus $2,000 for vehicles propelled by a battery with a capacity of 40 kilowatt hours [50 kilowatt hours after 2026] having a gas tank with a capacity of less than 2.5 gallons). The credit would be limited to 50% of the vehicle purchase price. The credit would phase out for married taxpayers filing a joint return with modified AGI above $150,000 ($112,500 in the case of head of household filers; $75,000 in the case of other filers). The credit would be reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified AGI exceeds the threshold amount. The taxpayer's modified AGI would be the lesser of modified AGI in the taxable year or prior year. Credits would only be allowed for vehicles with a sale price of $25,000 or less with a model year that is at least two years earlier than the calendar year in which the vehicle is sold. This credit could only be claimed for the first transfer of a qualifying vehicle. Taxpayers would be required to include the VIN on their tax return to claim a tax credit. Starting in 2023, taxpayers purchasing eligible vehicles could elect to transfer the tax credit to the dealer, so long as the dealer meets registration, disclosure, and other requirements. Amounts provided as direct spending would be grossed-up (increased) by 6.0445%. Payments would be made to territories for the revenue loss associated with providing the EV credit. The credit would not apply to vehicles acquired after December 31, 2031. This provision is a modification of Section 136402 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF11017, *The Plug-In Electric Vehicle Tax Credit*, by Molly F. Sherlock. • CRS Report R46864, *Alternative Fuels and Vehicles: Legislative Proposals*, by Melissa N. Diaz. • CRS Report R46231, *Electric Vehicles: A Primer on Technology and Selected Policy Issues*, by Melissa N. Diaz.
Qualified Commercial Electric Vehicles Section 126403	This provision would create a new tax credit for qualified commercial electric vehicles. The credit would be the lesser of (1) 15% of the vehicle's cost (30% for vehicles not powered by a gasoline or diesel internal combustion engine); or (2) the incremental cost of the vehicle relative to a comparable vehicle. Eligible vehicles would have a battery capacity of not less than 15 kilowatt hours and be charged by an external source of electricity. Mobile machinery and qualified commercial fuel cell vehicles would also be eligible for this credit. Leasing companies could elect to determine the credit using the rules under Section 36C for individuals if the vehicle is leased to an individual. Qualifying vehicles would be depreciable property. Tax-exempt entities would have the option of electing to receive direct payments. Taxpayers would be required to include the VIN on their tax return to claim a tax credit. The credit would not apply to vehicles acquired after December 31, 2031.	

Section Title and Number	Description	CRS Resources
	This provision is identical or nearly identical to Section 136403 of H.R. 5376, as passed in the House on November 19, 2021.	
Qualified Fuel Cell Motor Vehicles Section 126404	Current law allows, through 2021, a tax credit of up to $8,000 for fuel cell vehicles (the base credit amount is $4,000, with up to an additional $4,000 available based on fuel economy). Heavier vehicles qualify for up to a $40,000 credit. This provision would modify the definition of qualified fuel cell motor vehicles to exclude vehicles subject to depreciation (commercial vehicles), and extend the credit through December 31, 2031. Commercial fuel cell vehicles would be eligible for the new credit for qualified commercial electric vehicles. This provision is identical or nearly identical to Section 136404 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS Report R46864, *Alternative Fuels and Vehicles: Legislative Proposals*, by Melissa N. Diaz.
Alternative Fuel Refueling Property Credit Section 126405	Current law allows, through 2021, a tax credit for the cost of any qualified alternative fuel vehicle refueling property installed by a business or at a taxpayer's principal residence. The credit is equal to 30% of these costs, limited to $30,000 for businesses at each separate location with qualifying property, and $1,000 for residences. This provision would extend the credit through December 31, 2031, and make additional modifications. For residential property, the credit would be extended at the 30% rate, with the credit limit increased to $3,333.33. For business property (property subject to depreciation), the credit would be extended at a rate of 6% (30% if prevailing wage and registered apprenticeship requirements were met), with the credit limit increased to $100,000. A supplemental 4% credit (20% if prevailing wage and registered apprenticeship requirements are met) would be available for costs above the $100,000 limit for business property that refuels using only electricity or fuel consisting of at least 85% hydrogen by volume. To qualify for the supplemental credit, the property would need to be intended for general public use (i.e., no fee or payment arrangement required) and accept payments via a credit card reader (including contactless technology) or be exclusively used by commercial or government vehicles. The definition of qualifying property would be modified to include bidirectional charging equipment. The credit would not apply to property placed in service after December 31, 2031. This provision is identical or nearly identical to Section 136405 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46451, *Energy Tax Provisions Expiring in 2020, 2021, 2022, and 2023 ("Tax Extenders")*, by Molly F. Sherlock, Margot L. Crandall-Hollick, and Donald J. Marples. • CRS Report R46864, *Alternative Fuels and Vehicles: Legislative Proposals*, by Melissa N. Diaz. • CRS Report R46231, *Electric Vehicles: A Primer on Technology and Selected Policy Issues*, by Melissa N. Diaz. • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

Section Title and Number	Description	CRS Resources
Reinstatement and Expansion of Employer-Provided Fringe Benefit for Bicycle Commuting Section 126406	Before 2018, up to $20 per month in employer reimbursements for qualifying bicycle commuting expenses were excludable from an employee's income and wages and hence not subject to income or employment taxes. P.L. 115-97, commonly called the Tax Cuts and Jobs Act (TCJA), temporarily suspended, through 2025, the exclusion for employer-provided bicycle commuter fringe benefits. This provision would repeal the suspension and expand the exclusion for bicycle commuting benefits to include employer provision or reimbursement for purchase, lease or rental (including bikeshare), improvement, repair, or storage of bikes or scooters for commuting purposes. The amount excluded could be up to 30% of the monthly dollar limit on qualified transportation fringe benefits ($270 in 2021). This provision would allow employees to elect a salary contribution for bicycle commuting benefits (similar to other qualified transportation fringe benefits). This provision is identical or nearly identical to Section 136406 of H.R. 5376, as passed in the House on November 19, 2021.	
Credit for Certain New Electric Bicycles Section 126407	This provision would create a new refundable 30% tax credit for qualified electric bicycles. The maximum credit amount would be $900. The credit could be claimed for one bike per three-year period per taxpayer (two bikes in the case of a joint return). Qualified electric bicycles include those made by a qualified manufacturer and that include a VIN, cost no more than $4,000, have an electric motor of less than 750 watts, and where the motor does not provide assistance at higher speeds. Qualified manufacturers are those that assign a VIN to electric bicycles produced and provide that information to the Secretary of the Treasury. The credit would phase out for married taxpayers filing a joint return with modified AGI above $150,000 ($112,500 in the case of head of household filers; $75,000 in the case of other filers). The credit would be reduced by $200 for each $1,000 (or fraction thereof) by which the taxpayer's modified AGI exceeds the threshold amount. Prior-year modified AGI could be used for the purposes of determining the phaseout if it was less than current-year modified AGI. Taxpayers would be required to include the VIN on their tax return to claim a tax credit. Payments would be made to territories for the revenue loss associated with this credit. Beginning after December 31, 2022, taxpayers purchasing qualified electric bicycles could elect to transfer the credit to the retailer selling the bicycle if the retailer is registered with the Secretary of the Treasury, reports certain information to the taxpayer, and makes a payment to the taxpayer equal to the amount of the credit. Such payments would be excluded from the taxpayer's gross income. Amounts provided as direct spending would be grossed-up (increased) by 6.0445%. The credit would not apply to bicycles acquired after December 31, 2025.	

<table>
<tr><th>Section Title and Number</th><th>Description</th><th>CRS Resources</th></tr>
<tr><td></td><td>This provision is a modification of Section 136407 of H.R. 5376, as passed in the House on November 19, 2021.</td><td></td></tr>
<tr><td colspan="3">Part 5—Investment in the Green Workforce and Manufacturing</td></tr>
<tr><td>Extension of the Advanced Energy Project Credit

Section 126501</td><td>This provision would provide additional allocations of the qualified advanced energy manufacturing tax credit, which is a 30% tax credit for investments in projects that reequip, expand, or establish certain energy manufacturing facilities. The American Recovery and Reinvestment Act (P.L. 111-5) provided $2.3 billion in allocations, which have been fully allocated.

An additional $5 billion in allocations would be provided in 2022 and 2023 and an additional $1.875 billion would be allocated in each year from 2024 through 2031. In 2022 and 2023, $800 million in annual allocations would be for projects in automotive communities, with $300 million set aside in each of the subsequent years. The same amounts would be set aside for projects in energy communities (as defined for the purposes of the increased credit amount under the PTC and ITC).

The definition of qualifying advanced energy projects would be amended such that it would include projects that reequip, expand, or establish a manufacturing or industrial facility for the production or recycling of renewable energy property; energy storage systems and components; grid modernization equipment and components; property designed to remove, use, or sequester carbon oxide emissions; equipment designed to refine, electrolyze, or blend any fuel, chemical, or product which is renewable or low-carbon and low-emission; property designed to produce energy conservation technologies; electric or fuel-cell vehicles, including technologies, components, or materials for such vehicles and the associated charging infrastructure; hybrid vehicles weighing less than 14,000 pounds, including technologies, components, or materials for such vehicles; or which reequips an industrial manufacturing facility with equipment designed to reduce greenhouse gas emissions by at least 20%.

The base rate for the credit would be 6%, with the 30% credit rate allowed for projects meeting prevailing wage and registered apprenticeship requirements.

The Secretary would be directed to establish a program to award credits to qualifying advanced energy project sponsors. Applicants accepting certifications for credits would have two years to provide evidence that the requirements of the certification have been met and to place property in service.

This provision is a modification of Section 136501 of H.R. 5376, as passed in the House on November 19, 2021.</td><td>For background, see
• CRS Committee Print CP10004, Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020, by Jane G. Gravelle et al. (pp. 221-224).
• CRS Report R45171, Registered Apprenticeship: Federal Role and Recent Federal Efforts, by Benjamin Collins.
• CRS In Focus IF11927, Federally Funded Construction and the Payment of Locally Prevailing Wages, by David H. Bradley and Jon O. Shimabukuro.</td></tr>
<tr><td>Labor Costs of Installing Mechanical Insulation Property

Section 126502</td><td>This provision would create a new tax credit for 2% of the labor cost of installing mechanical insulation (10% if prevailing wage and registered apprenticeship requirements are met).

The credit would not apply to costs incurred after December 31, 2025.</td><td></td></tr>
</table>

Section Title and Number	Description	CRS Resources
	This provision is identical or nearly identical to Section 136502 of H.R. 5376, as passed in the House on November 19, 2021.	
Advanced Manufacturing Investment Credit Section 126503	This provision would create a new advanced manufacturing investment tax credit for taxpayers investing in advanced manufacturing facilities to manufacture semiconductors or semiconductor tooling equipment. The tax credit would have a base amount of 5%, with the credit rate increasing to 25% for facilities that pay prevailing wages and meet registered apprenticeship requirements. Taxpayers would be able to elect to receive the credit as direct pay. For property for which construction began before January 1, 2022, only the basis attributable to construction taking place after December 31, 2021, would be eligible for the credit. To qualify for this credit, construction on a facility must begin by December 31, 2025. This provision is identical or nearly identical to Section 136503 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46581, *Semiconductors: U.S. Industry, Global Competition, and Federal Policy*, by Michaela D. Platzer, John F. Sargent Jr., and Karen M. Sutter.
Advanced Manufacturing Production Credit Section 126504	This provision would create a new production tax credit that could be claimed for the domestic production and sale of qualifying solar and wind components. Credits for solar components would include (1) for a thin film photovoltaic cell or crystalline photovoltaic cell, 4 cents per direct current watt of capacity; (2) for photovoltaic wafers, $12 per square meter; (3) for solar grade polysilicon, $3 per kilogram; and (4) for solar modules, 7 cents per direct current watt of capacity. For wind energy components, if the component is an offshore wind vessel, the credit amount would be 10% of the sales price. Otherwise, credits for wind components would be computed as an applicable amount times the total rated capacity of the completed wind turbine for which the component was designed. The applicable amount would be 2 cents for blades, 5 cents for nacelles, 3 cents for towers, 2 cents for fixed platform offshore wind foundations, and 4 cents for floating platform offshore wind foundations. The credit for torque tubes and longitudinal purlin would be $0.87 per kg, and the credit for structural fasteners would be $2.28 per kg. The credit for inverters would be based on the inverter's capacity, with different types of inverters eligible for specified credit amounts ranging from 1.5 cents to 11 cents per watt. The total credit amount would be increased by 10% for components manufactured in facilities operating under a collective bargaining agreement. Taxpayers would be able to elect to receive the credit as direct pay. The credit would phase out for components sold after December 31, 2028. Components sold in 2029 would be eligible for 75% of the full credit amount. Components sold in 2030 and 2031 would be eligible for 50% and 25% of the	

Section Title and Number	Description	CRS Resources
	full credit amount, respectively. No credit would be available for components sold after December 31, 2031. This provision is a modification of Section 136504 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 6—Environmental Justice		
Qualified Environmental Justice Program Credit Section 126601	This provision would create a new refundable tax credit for eligible educational institutions that received an allocation from the Treasury and incur costs associated with a qualified environmental justice program. The credit would be 30% for a program involving material participation of faculty and students of an institution described in Section 371(a) of the Higher Education Act of 1965, and 20% otherwise. The Secretary would be directed to allocate credits to eligible educational institutions for qualified environmental justice programs that submit applications at such time and in such manner as the Secretary may provide. Up to $1 billion per year could be allocated from 2022 through 2031. The program would be effective upon the date of enactment. Amounts provided as direct spending would be grossed-up (increased) by 6.0445%. This provision is a modification of Section 136601 in H.R. 5376, as reported on September 27, 2021.	
Part 7—Superfund		
Reinstatement of Superfund Section 126701	This provision would permanently reinstate the Hazardous Substance Superfund financing rate for certain excise taxes, but would not reauthorize the Superfund special environmental tax on corporate income that also once financed this trust fund. This provision would permanently reinstate Superfund excise taxes on domestic crude oil and imported petroleum products at the rate of 16.4 cents per barrel in 2022, with adjustments for inflation annually thereafter. The previous tax rate was 9.7 cents per barrel when this tax last expired at the end of 1995. Generally, the tax is paid by refineries that receive crude oil or by the person using or importing a petroleum product. The Infrastructure Investment and Jobs Act (P.L. 117-58) separately renews other excise taxes that contribute to the Superfund. P.L. 117-58 increases the tax rate on domestically produced chemical feedstocks and imported chemical derivatives and renews those taxes from July 1, 2022, through December 31, 2031. P.L. 117-58 also removes the statutory link between the dates of applicability of the crude oil and chemical products taxes. Revenues from the excise tax finance the Hazardous Substance Superfund Trust Fund. Borrowing would be authorized through repayable advances from the General Fund of the U.S. Treasury until the end of 2031. This provision is identical or nearly identical to Section 136701 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF11982, *Superfund Tax Legislation in the 117th Congress*, by Anthony A. Cilluffo and David M. Bearden. • CRS Report R41039, *Comprehensive Environmental Response, Compensation, and Liability Act: A Summary of Superfund Cleanup Authorities and Related Provisions of the Act*, by David M. Bearden.

Section Title and Number	Description	CRS Resources
Part 8—Incentives for Clean Electricity and Clean Transportation		
Clean Electricity Production Credit Section 126801	This provision would create a new clean electricity production tax credit (PTC). This new PTC would be for the sale of domestically produced electricity with a greenhouse gas emissions rate not greater than zero. To qualify for a tax credit, electricity would need to be produced at a qualifying facility placed in service after December 31, 2026. The base PTC amount would be 0.3 cents per kWh, with the tax credit amount increased to 1.5 cents per kWh for facilities that pay prevailing wages and meet registered apprenticeship requirements (0.5 cents and 2.5 cents, respectively, in 2021, applying the inflation adjustment factor; the amounts would be adjusted for inflation annually). Facilities with a maximum net output of less than 1 megawatt would also qualify for the full 1.5 cents per kWh amount. The PTC would be available for electricity produced during the facility's first 10 years of operation. The credit amount would be increased by 10% for electricity produced in energy communities (as defined for the purposes of the increased credit amount under the PTC and ITC). A 10% domestic content bonus would be available for electricity produced at facilities that certify that certain steel, iron, and manufactured products used in the facility were domestically produced. The provision would provide that for facilities financed with tax-exempt bonds, the credit amount is reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. Taxpayers would be able to elect to receive the credit as direct pay, effectively making the tax credit refundable. The ability to claim the credit as direct pay would be subject to meeting domestic content requirements. Taxpayers would not be able to claim the clean electricity production credit if the facility or electricity produced from the facility claimed certain other energy-related investment or production tax credits. Taxpayers would choose between the clean electricity PTC and ITC, and could not claim both. The tax credit would phase out when emissions reduction target levels are achieved or after 2031 (the later of the two). The emissions target phaseout would begin after the calendar year in which greenhouse gas emissions from the electric power sector are equal to or less than 25% of 2021 electric power sector emissions. Once phaseout begins, the full credit amount would remain available for facilities that begin construction the following year. The credit amount for facilities beginning construction in the second year would be 75% of the full credit amount. This would be reduced to 50% for facilities beginning construction in the third year, and zero afterward. This provision is a modification of Section 136801 in H.R. 5376, as passed in the House on November 19, 2021.	

Section Title and Number	Description	CRS Resources
Clean Electricity Investment Credit Section 126802	This provision would create a new clean electricity investment tax credit (ITC). This new ITC would be for investment in qualifying zero-emissions electricity generation facilities or energy storage technology. Costs of interconnection property are eligible for clean electricity projects smaller than 5 megawatts. This credit would be available for facilities and property placed in service after December 31, 2026. The base ITC amount would be 6%, with the tax credit rate increased to 30% for facilities that pay prevailing wages and meet registered apprenticeship requirements. Facilities with a maximum net output of less than 1 megawatt would also qualify for the 30% credit. The clean electricity ITC is increased by one-third (2 percentage points or 10 percentage points) for property placed in service in an energy community (as defined above for the purposes of the clean electricity PTC). Similarly, a 10% domestic content bonus also applies for the clean electricity ITC. The provision would provide that for facilities financed with tax-exempt bonds, the credit amount is reduced by the lesser of (1) 15%; or (2) the fraction of the proceeds of a tax-exempt obligation used to finance the project over the aggregate amount of the project's financing costs. Taxpayers would be able to elect to receive the credit as direct pay, effectively making the credit refundable. The ability to claim the credit as direct pay would be subject to meeting domestic content requirements. Taxpayers would not be able to claim the clean electricity production credit if the facility or electricity produced from the facility claimed certain other energy-related investment or production tax credits. Taxpayers would choose between the clean electricity PTC and ITC, and could not claim both. The clean electricity ITC would phase out according to the same schedule as would apply to the clean electricity PTC. This provision is a modification of Section 136802 in H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.
Increase in Clean Electricity Investment Credit for Facilities Placed in Service in Connection with Low-Income Communities Section 126803	This provision would allow for the allocation of 1.8 gigawatts for "environmental justice solar and wind capacity" credits annually from 2027 through 2031. Taxpayers receiving a capacity allocation may be entitled to tax credits in addition to otherwise allowed clean electricity ITCs. Specifically, projects receiving an allocation that are located in a low-income community or on Indian land would be eligible for a 10% bonus investment tax credit, while projects that are part of a low-income residential building project or qualified low-income economic benefit project would be eligible for a 20% bonus investment credit. No facility could receive more than a maximum 20% bonus investment credit under this provision. Qualifying clean electricity projects would include those with a nameplate capacity of 5 megawatts or less (other than facilities producing electricity through combustion or gasification).	For background, see • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

Section Title and Number	Description	CRS Resources
	Facilities receiving an allocation would be required to have the facility placed in service within four years. This provision would take effect on January 1, 2027. This provision is a modification of Section 136803 of H.R. 5376, as passed in the House on November 19, 2021.	
Cost Recovery for Qualified Facilities, Qualified Property, and Energy Storage Technology Section 126804	This provision would provide that any facility qualifying for the clean electricity PTC or any facility or property qualifying for the clean electricity ITC would be treated as 5-year property under the modified accelerated cost recovery system (MACRS), making it so that cost recovery for renewable energy investments is generally similar to current law. This provision would apply to facilities and property placed in service after December 31, 2026. This provision is identical or nearly identical to Section 136804 of H.R. 5376, as passed in the House on November 19, 2021.	
Clean Fuel Production Credit Section 126805	This provision would create a tax credit for domestic clean fuel production starting in 2027. The tax credit per gallon of transportation fuel would be calculated as the applicable amount multiplied by the emissions factor of the fuel. To qualify, the fuel must be produced by the taxpayer at a qualified facility (excluding facilities that receive credits for producing clean hydrogen or carbon oxide sequestration, or the investment credit for energy produced in clean hydrogen facilities) and sold by the taxpayer. Qualified producers must be registered with the IRS. The "applicable amount" would be determined by the type of fuel and the producer's labor practices. The base credit amount for zero-emissions fuels would be \$0.20 for nonaviation fuel and \$0.35 for aviation fuel. If the producer meets prevailing wage and registered apprenticeship requirements, then the applicable amount would be \$1.00 for nonaviation fuel and \$1.75 for aviation fuel. These amounts would be adjusted annually for inflation. The "emissions factor" would be calculated according to the formula: [(50 kilograms of CO2-equivalent (CO2e) global warming potential per metric million British Thermal Units (mmBTU) – emissions rate of fuel produced) / 50 kilograms of CO2e per mmBTU]. For example, suppose a producer met the labor practices and other requirements and produced a nonaviation fuel with an emissions factor of 25 kg of CO2e emissions per mmBTU. That producer's credit per gallon would be \$1.00 * [(75-25)/75] = \$0.67 per gallon. The Treasury Secretary would publish tables of emissions rates for various fuel types that would be used in the calculation. Qualifying transportation fuel would be fuel with an emissions rate not greater than 50 kilograms of CO2e per mmBTU for fuel sold in 2027 through 2030. For sustainable aviation fuel the emission rate could not be greater than 35 kilograms of CO2e per mmBTU. For fuel sold after 2030, qualifying fuel could not have an emissions rate greater than 25 kilograms of CO2e per mmBTU.	For background, see • CRS Report R45171, *Registered Apprenticeship: Federal Role and Recent Federal Efforts*, by Benjamin Collins. • CRS In Focus IF11927, *Federally Funded Construction and the Payment of Locally Prevailing Wages*, by David H. Bradley and Jon O. Shimabukuro.

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	The tax credit would phase out when emissions reduction target levels are achieved or after 2031 (the later of the two). The emissions target phaseout would begin after the calendar year in which greenhouse gas emissions from the transportation sector are equal to or less than 25% of 2021 transportation sector emissions. Once phaseout begins, the full credit amount would remain available for facilities that begin construction the following year. The credit amount for facilities beginning construction in the second year would be 75% of the full credit amount. This would be reduced to 50% for facilities beginning construction in the third year, and zero afterward. Taxpayers would be able to elect to receive the credit as a direct payment. This provision is a modification of Section 136805 of H.R. 5376, as passed in the House on November 19, 2021.	

Source: CRS analysis of the Senate Finance Committee's updated text for Title XII-Committee on Finance in the Build Back Better Act, as posted on the Senate Finance Committee's website on December 11, 2021, at https://www.finance.senate.gov/chairmans-news/finance-committee-releases-updated-build-back-better-text.

Notes: Part 9 of Subtitle F would appropriate $4,073,433,000 to the IRS, to remain available until September 30, 2031, to administer the provisions in this subtitle.

Provisions are effective in 2022 unless otherwise noted. The changes that would be made by the provisions are permanent, unless otherwise noted. Within the description, "Section" citations refer to the section within the Internal Revenue Code (IRC), 26 U.S.C., unless otherwise noted.

Table 3. Subtitle G—Social Safety Net

Section Title and Number	Description	CRS Resources
Part 1—Child Tax Credit		
Modifications Applicable Beginning in 2021 Section 127101	The bill would make several changes to current law applicable to the 2021 child credit (and the 2022 credit as described in Section 127102 below), including: **Safe Harbor** Under current law, low- and moderate-income taxpayers who receive excess advance child credit payments may, in certain situations, be protected from repayment as a result of a safe harbor provision. Excess advance payments are equal to the value of the credit a taxpayer is eligible to claim on their tax return minus amounts received as advance payments. The safe harbor applies in cases where there is a change in the number of qualifying children used to estimate the advance payment in comparison to the number of children taken into account when claiming and calculating the credit on the applicable income tax return (assuming this information is not updated with the IRS during the year).[a] This provision would amend the existing safe harbor such that the safe harbor would not apply in cases where the qualifying child taken into account in determining the advance payment amount was done so either fraudulently or due to intentional disregard of the rules and regulations. This would include cases where two taxpayers set up an arrangement whereby one taxpayer receives advance payments (equaling up to 50% of the 2021 credit), while the other claims the full amount of the credit on their 2021 return. **Joint Returns** Under current law, to determine the amount of the credit a taxpayer will receive when they file their 2021 tax return, the taxpayer first calculates the total amount of the 2021 child credit they are eligible for. The taxpayer then subtracts from this amount the sum of all the advance payments of the 2021 credit they received. The difference is the amount they will receive with their 2021 return (generally filed in 2022). For the purposes of calculating the amount of the credit a taxpayer will receive with their 2021 return, the provision would provide that each spouse would be assumed to have received half of the advance amount. This may be relevant, for example, in cases where the taxpayer's marital status differs between the year used to calculate the advance payments (2020 or 2019) and 2021. The provision would also apply to advance payments issued by territorial governments. **Information Used to Determine Advance Payment Amounts** The provision would clarify that the data available to the IRS to calculate advance payments of the 2021 credit include "any information known to the [Treasury] Secretary."	For more information, see • CRS Insight IN11827, *The Child Tax Credit in the Senate Finance Committee Text of the Build Back Better Act: Summary Table*, by Margot L. Crandall-Hollick. For background, see • CRS Report R46900, *The Expanded Child Tax Credit for 2021: Frequently Asked Questions (FAQs)*, by Margot L. Crandall-Hollick. • CRS Insight IN11752, *The Impact of a "Fully Refundable" Child Tax Credit*, by Margot L. Crandall-Hollick. • CRS Insight IN11656, *The Child Tax Credit: How Would the Biden Administration's Proposed American Families Plan Change the Child Tax Credit?*, by Margot L. Crandall-Hollick.

Section Title and Number	Description	CRS Resources
	Disclosure of Information Relating to Joint Returns and Advanced Payments In the case of an individual who receives an advance payment, and who was a married joint filer during the reference year (e.g., generally 2020 for the 2021 expanded child credit, or 2019 if data for 2020 are not available), the Treasury may disclose to their spouse (or ex-spouse) information used to determine eligibility for and the amount of the advanced payment (including whether the individual's principal place of abode is the United States or whether the individual is a resident of Puerto Rico). These provisions are generally applicable beginning in 2021 (including to advance payments made in 2021). The provision related to disclosure of information relating to joint returns and advance payments shall take effect after the date of enactment. This provision is identical or nearly identical to Section 137101 of H.R. 5376, as passed in the House on November 19, 2021.	
Extensions and Modifications Applicable Beginning in 2022 Section 127102	The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) temporarily increased (for 2021) the child credit for many taxpayers with children. Specifically, the law increased the maximum child credit from $2,000 per child to $3,000 per child ($3,600 for children under 6 years old); expanded the eligibility age for children to include 17-year-olds; and made the credit "fully refundable." The bill would extend the 2021 ARPA-expanded child credit to 2022 (as modified by Section 127101 above), with additional changes to the 2021 credit in effect for 2022 summarized below.[b] The parameters of the credit in 2022 would not be adjusted for inflation. **Modifications of Advance Payment Program** Under current law, the advance payment program for the 2021 child credit advances up to 50% of the estimated 2021 credit amount in equal periodic payments between July 1, 2021, and December 31, 2021. (The IRS issued advance payments in six monthly payments between July 15, 2021, and December 15, 2021.) This provision would advance all (100%) of the estimated 2022 child credit through the end of December 31, 2022, in 12 monthly payments. Under current law, otherwise-eligible taxpayers are automatically issued an advance payment, irrespective of their income level, though they may opt out of advance payments with the IRS. This provision would generally limit eligibility for the advance payment program to taxpayers whose income in the reference year is below the initial phaseout. (The reference taxable year is generally the prior taxable year, or if such data are not available, the year preceding the prior year. For the 2022 child tax credit, the reference taxable year would be 2021, or if data from that year are not available, 2020.) Those initial phaseout thresholds are	For more information, see • CRS Insight IN11827, *The Child Tax Credit in the Senate Finance Committee Text of the Build Back Better Act: Summary Table*, by Margot L. Crandall-Hollick. For background, see • CRS Report R46900, *The Expanded Child Tax Credit for 2021: Frequently Asked Questions (FAQs)*, by Margot L. Crandall-Hollick. • CRS Insight IN11752, *The Impact of a "Fully Refundable" Child Tax Credit*, by Margot L. Crandall-Hollick. • CRS Insight IN11656, *The Child Tax Credit: How Would the Biden Administration's Proposed American Families Plan Change the Child Tax Credit?*, by Margot L. Crandall-Hollick. • CRS Report R43840, *Federal Income Taxes and Noncitizens: Frequently Asked Questions*, by Erika K. Lunder and Margot L. Crandall-Hollick.

Section Title and Number	Description	CRS Resources
	$150,000 for married joint filers, $112,500 for head of household filers, and $75,000 for single filers. Under current law, residents of Puerto Rico are generally ineligible to receive advance payments. Instead, they must file a 2021 tax return with the IRS to receive their 2021 child credit. The provision would allow the Treasury Secretary to make advanced payments of the 2022 child credit to residents of Puerto Rico between July and December of 2022. If in effect, this would effectively allow Puerto Rican residents to receive up to half of their total 2022 credit in advance payments, and claim the remainder on their 2022 tax return, filed in early 2023. **Repeal of Temporary SSN Requirement for Qualifying Children** Under current law (enacted as part of P.L. 115-97 and in effect from 2018 to 2025), a taxpayer can only receive the child credit for an otherwise-eligible child if they provide the child's Social Security number (SSN). This SSN must be associated with work authorization, meaning an SSN issued solely to receive a public benefit does not qualify. These types of work-authorized SSNs are generally provided to all U.S. citizen children and certain noncitizen children, including legal permanent residents (i.e., "green card holders"), refugees, and asylees. As a result of this provision, for example, taxpayers cannot claim the child credit for otherwise-eligible children with individual taxpayer identification numbers (ITINs). The provision would repeal the temporary "work-authorized" SSN requirement for qualifying children. Hence, eligible taxpayers with children with ITINs could claim the credit for those children (assuming those children meet all the other eligibility requirements). This would apply for 2022-2025. Since this temporary requirement is scheduled to expire at the end of 2025, this provision would effectively permanently repeal the temporary SSN requirement for children. **Income Lookback** Under current law, when a taxpayer calculates their child credit for a given year on their income tax return, they use the income for that year to determine whether and to what extent the credit is subject to phaseout.[c] For example, a taxpayer would generally use their annual 2022 income to calculate their 2022 child credit amount, if subject to the phaseout. The provision would allow taxpayers to elect to use the preceding year's income to determine their current year's credit amount, if subject to the phaseout. Specifically, under this provision a taxpayer could elect to use their 2021 income to calculate their 2022 credit for purposes of the phaseout. This provision would limit the amount taxpayers would need to pay back in advance payments of the credit due to annual fluctuations in their income. **Modification of Safe Harbor**	

Section Title and Number	Description	CRS Resources
	Under current law, low- and moderate-income taxpayers who receive excess advance payments may, in certain situations, be protected from repayment as a result of a safe harbor provision in Section127101 of the bill, as described above. The maximum amount of the safe harbor for 2021 is $2,000 multiplied by the difference in the number of qualifying children between 2021 and 2020 (2019, if 2020 data are unavailable). This amount then gradually phases out as income rises. The prior-year data—in this case 2020 data, or if they are unavailable 2019 data—used to administer the advance payments is generally referred to as the "reference year" data. For 2022, the maximum safe harbor would be larger. Specifically, the maximum safe harbor would be calculated as $3,600 times the number of young children taken into consideration during the reference year to determine the advance payment amounts who are not claimed on 2022 returns *plus* $3,000 times the number of older children taken into consideration during the reference year (to determine the advance payment amounts) who are not claimed on 2022 returns. (In this case, the reference year would be 2021, or if those data are unavailable, 2020.)[d] The phaseout of the safe harbor would be unchanged under the law in effect for 2021. This provision is identical or nearly identical to Section 137102 of H.R. 5376, as passed in the House on November 19, 2021.	
Refundable Child Tax Credit After 2022 Section 127103	Under current law, the child credit is scheduled to revert to levels in effect under prior law, including as amended by P.L. 115-97. The changes made by P.L. 115-97 were in effect from 2018 to 2025, and most of them would be in effect for 2023-2025 under this bill. Specifically, under current law from 2023 to 2025, the credit is scheduled to equal a maximum of $2,000 per qualifying child. Lower-income taxpayers will receive their credit, whether all or part of the credit, as the refundable portion of the credit. From 2023 to 2025, the refundable portion will generally be calculated under the earned income formula as 15% of earned income above $2,500, not to exceed $1,400 per qualifying child.[e] From 2023 to 2025, the credit will begin to phase out when a taxpayer's income exceeds $400,000 for married joint filers and $200,000 for unmarried taxpayers (e.g., head of household). From 2023 to 2025, taxpayers can only receive the credit for children for whom they have furnished a work-authorized SSN. Beginning in 2026, the child credit is scheduled to revert to levels in effect before P.L. 115-97 under current law. In other words, beginning in 2026 the credit is scheduled to equal a maximum of $1,000 per qualifying child. Beginning in 2026, the refundable portion of the credit would generally be calculated as 15% of earned income over $3,000, not to exceed $1,000 per qualifying child.[e] Beginning in 2026, the credit starts to phase out when income exceeds $110,000 for married joint filers and $75,000 for unmarried taxpayers (e.g., head of household). Beginning in 2026, taxpayers can only receive	For more information, see • CRS Insight IN11827, *The Child Tax Credit in the Senate Finance Committee Text of the Build Back Better Act: Summary Table*, by Margot L. Crandall-Hollick. For background, see • CRS Report R46900, *The Expanded Child Tax Credit for 2021: Frequently Asked Questions (FAQs)*, by Margot L. Crandall-Hollick. • CRS Insight IN11752, *The Impact of a "Fully Refundable" Child Tax Credit*, by Margot L. Crandall-Hollick. • CRS Report R45124, *The Child Tax Credit: Legislative History*, by Margot L. Crandall-Hollick.

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	the credit for children for whom they have furnished a taxpayer ID, which includes an SSN, an ITIN, or an adoption taxpayer ID number (ATIN). Finally, under current law, beginning in 2023, a qualifying child will revert permanently to being a dependent child 0-16 years old, meaning 17-year-olds would not be eligible. (This age limit of a qualifying child is a permanent provision that was not temporarily changed by P.L. 115-97.) This provision would modify current law beginning in 2023 by making the credit "fully refundable." Specifically, for taxpayers with a principal place of abode in the United States for more than half the year, the provision would eliminate the formula(s) for calculating the refundable portion of the child credit. Hence, the child credit would be the same amount per child for low- and moderate-income taxpayers, irrespective of their income. The maximum credit would be $2,000 per child from 2023 to 2025 and $1,000 per child beginning in 2026. (Higher-income taxpayers would still be subject to a phaseout of the credit, as scheduled to be in effect for a given year.) Full refundability would also be available to taxpayers who are residents of Puerto Rico. The temporary SSN requirement for qualifying children would be repealed for 2023-2025 by Section 127102 of this bill. Under this provision, the credit's advance payment program would no longer be in effect beginning in 2023. This provision is identical or nearly identical to Section 137103 of H.R. 5376, as passed in the House on November 19, 2021.	
Appropriations Section 127104	The provision would provide for an additional appropriation of $3.9633 billion for the IRS for administrative expenses of the child tax credit and advance payments of the child tax credit, and $1 billion for the Treasury Department for outreach efforts to increase enrollment of eligible families in the child tax credit and the advance payments of the child tax credit. These amounts would be available upon enactment and through September 30, 2026. This provision is identical or nearly identical to Section 137104 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 2—Earned Income Tax Credit		
Certain Improvements to the Earned Income Tax Credit Extended Through 2022 Section 127201	ARPA (P.L. 117-2) temporarily increased for 2021 the earned income tax credit (EITC) for workers without qualifying children (often referred to as the "childless EITC"). Specifically, the law modified several parameters of the credit that in combination tripled the maximum amount of the childless EITC from about $500 to about $1,500 per taxpayer. The law also temporarily reduced the eligibility age of the childless EITC for young workers and eliminated the age limit for older workers. The provision would temporarily extend the changes to the	For more information, see • CRS Insight IN11825, *The Earned Income Tax Credit (EITC) in the Senate Finance Committee Text of the Build Back Better Act: Summary Table*, by Margot L. Crandall-Hollick. For background, see

Section Title and Number	Description	CRS Resources
	childless EITC enacted by the ARPA for one year—2022, as described below Regarding the credit amount, for 2022 this provision would increase the childless EITC amount by making several modifications to the credit formula: (1) increasing—to $9,820—the minimum earned income necessary to receive the maximum credit amount (i.e., "the earned income amount"); (2) increasing—to $11,610—the highest income level at which taxpayers receive the maximum credit amount before it begins to phase out; and (3) doubling the phase-in and phaseout rates from 7.65% to 15.3%.[f] Combined, these changes would effectively triple the maximum EITC for childless workers. (Like other aspects of the EITC under current law, the $9,820 and $11,610 amounts would be indexed for inflation in 2022.) Regarding eligibility age, for 2022, this provision would temporarily expand eligibility for the childless EITC—by reducing the minimum eligibility age from 25 to 19 for most workers. In other words, this change would allow most eligible workers ages 19 to 24 to claim the childless EITC for 2022. For students who are attending school at least part-time, the age limit would be reduced from 25 to 24 for 2022.[g] For former foster children and youth who are homeless, the minimum age would be reduced from 25 to 18. The provision would also temporarily eliminate the upper age limit for 2022, so workers aged 65 and older would be eligible. The provision also includes a temporary earned income lookback for 2022 (a similar provision was temporarily enacted for 2021 under ARPA whereby taxpayers could use their 2019 income). Under this provision, if a taxpayer's earned income in 2022 was less than their earned income in 2021, the taxpayer could elect to use their 2021 earned income in calculating their EITC. This income lookback would be applicable to all EITC recipients—those with and without children. This provision is identical or nearly identical to Section 137201 of H.R. 5376, as passed in the House on November 19, 2021.	• CRS Insight IN11610, *The "Childless" EITC: Temporary Expansion for 2021 Under the American Rescue Plan Act of 2021 (ARPA; P.L. 117-2)*, by Margot L. Crandall-Hollick. • CRS Report R43805, *The Earned Income Tax Credit (EITC): How It Works and Who Receives It*, by Margot L. Crandall-Hollick, Gene Falk, and Conor F. Boyle.
Funds for Administration of Earned Income Tax Credits in the Territories Section 127202	Under current law, residents of the territories may be eligible to receive an EITC under their own territorial tax law. These territories are Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), the United States Virgin Islands (USVI), and Guam. These territorial EITCs are paid by the local territorial government, with the Treasury making aggregate payments to territorial governments for the total cost of these benefits. (Territorial residents are generally ineligible for the federal EITC.) From 2021 to 2025 under current law, the Treasury is also required to pay to territorial governments amounts that these governments spend on education efforts regarding the	

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	EITC—up to $1 million per year for Puerto Rico, and up to $50,000 per year for the other territories. This provision would permanently provide additional funding for territorial governments to cover administrative expenses of their territorial EITCs—up to $4 million per year for Puerto Rico and up to $200,000 per year for the other territories. This provision would apply beginning in 2022. This provision is identical or nearly identical to Section 137202 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 3—Expanding Access to Health Coverage and Lowering Costs		
Improve Affordability and Reduce Premium Costs of Health Insurance for Consumers Section 127301	Under current law, certain individuals without access to subsidized health insurance coverage may be eligible for the premium tax credit (PTC). In order to be eligible to receive the premium tax credit in 2021, individuals must have annual household income at or above 100% of the federal poverty level; not be eligible for certain types of health insurance coverage, with exceptions; file federal income tax returns; and enroll in a plan through an individual exchange. This provision would temporarily extend expanded eligibility for and the amount of the PTC originally enacted under ARPA by modifying the income eligibility criteria and credit formula for 2021 through 2025. Regarding income eligibility, the provision would temporarily eliminate the phaseout for households with annual incomes above 400% of the federal poverty level (FPL). Regarding the formula, the provision would temporarily establish the percentage of annual income that eligible households may be required to contribute toward the premium. The percentages would range from 0.0% to 8.5% of household income, with higher-income groups subject to larger percentages, as specified. The provision would strike the existing indexing provision that annually updates the percentages used in the PTC formula. This provision is identical or nearly identical to Section 137301 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez.
Modification of Employer-Sponsored Coverage Affordability Test in Health Insurance Premium Tax Credit Section 127302	Under current law, individuals who are eligible for minimum eligible coverage from their employer are generally ineligible for the PTC. An exception is provided to an individual whose employer-provided health benefits are unaffordable or inadequate. In 2021, coverage is considered unaffordable if an employee's share of the premium for self-only coverage under the plan exceeds 9.83% of the employee's household income. This affordability test is annually adjusted. For 2022 through 2025, this provision would reduce the percentage of household income used to determine affordability of eligible employer-sponsored plans and qualified small employer health reimbursement arrangements from 9.83% to 8.5%. Hence, more	For background, see • CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez.

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	households with unaffordable employer health benefits could be eligible for the PTC compared to current law. The provision would permanently strike the annual adjustment process. This provision is identical or nearly identical to Section 137302 of H.R. 5376, as passed in the House on November 19, 2021.	
Treatment of Lump-Sum Social Security Benefits in Determining Household Income Section 127303	Beginning in 2022, this provision would exclude from household income—for purposes of determining PTC eligibility and amount for a given year—any lump-sum Social Security benefit payment attributable to a prior year. This provision would allow taxpayers to elect to include as part of their income the excludable amount, as specified, beginning in 2026. This provision is identical or nearly identical to Section 137303 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez.
Temporary Expansion of Health Insurance Premium Tax Credits for Certain Low-Income Populations Section 127304	For 2022 through 2025, this provision would expand PTC eligibility for lower-income households and make other temporary changes. The provision would temporarily disallow income criteria to be used to determine PTC eligibility. For households with incomes not exceeding 138% of FPL, the provision would temporarily disregard the affordability test applicable to eligible employer-sponsored plans and qualified small employer health reimbursement arrangements for PTC eligibility purposes. For households with incomes less than 200% of FPL, the provision would temporarily cap the dollar amount such households would pay back in advanced PTC (APTC) payments that were provided in excess. For a household that would not be required to file a tax return except to reconcile APTC payments, the provision would temporarily repeal the requirements to file a return and pay back excess APTC if an exchange projected such household's income would not exceed 138% of FPL. For applicable large employers of employees with household incomes projected to not (or that do not) exceed 138% of FPL, the provision would temporarily repeal the requirement that such employers pay a penalty if at least one full-time employee enrolls in an exchange plan and is eligible for a PTC or cost-sharing reduction (CSR). This provision is identical or nearly identical to Section 137304 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez. • CRS Report R45455, *The Affordable Care Act's (ACA's) Employer Shared Responsibility Provisions (ESRP)*, by Ryan J. Rosso.
Special Rule for Individuals Receiving Unemployment Compensation	For 2021 and 2022, this provision would deem individuals who receive unemployment compensation for any week during a given year to have met the PTC income eligibility criteria. The provision would temporarily disregard any household income above 150% of FPL in 2022 (133% of FPL in 2021).	For background, see • CRS Report R44425, *Health Insurance Premium Tax Credit and Cost-Sharing Reductions*, by Bernadette Fernandez.

Section Title and Number	Description	CRS Resources
Section 127305	This provision is identical or nearly identical to Section 137305 of H.R. 5376, as passed in the House on November 19, 2021.	
Permanent Credit for Health Insurance Costs Section 127306	For the health coverage tax credit (HCTC), this provision would strike the sunset date of January 1, 2022, to authorize it on a permanent basis. The provision would increase the HCTC's subsidy rate from 72.5% to 80% of the premium for qualifying health plans, for coverage months beginning after December 31, 2021. This provision is identical or nearly identical to Section 137306 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R44392, *The Health Coverage Tax Credit (HCTC): In Brief*, by Bernadette Fernandez.
Exclusion of Certain Dependent Income for Purposes of Premium Tax Credit Section 127307[h]	For 2023 through 2026, this provision would exclude income of a dependent under 24 years old from the calculation of the PTC and determination of eligibility for cost-sharing reductions. An exception to this exclusion would apply to aggregate income from all dependents younger than 24 in a given household that exceeds $3,500; the dollar level would be annually adjusted beginning in 2024. This provision is identical or nearly identical to Section 137307 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R44425, Health Insurance Premium Tax Credit and Cost-Sharing Reductions, by Bernadette Fernandez.
Part 5—Higher Education		
Credit for Public University Research Infrastructure Section 127501	This provision would create a new tax credit for donations to public educational institutions for research infrastructure, in lieu of claiming the charitable contribution deduction for these amounts. Specifically, taxpayers would be able to claim a credit equal to 40% of cash contributions for a *qualifying project* of a *certified educational institution*, subject to credit allocation limits. This tax credit would be part of the general business credit. The Secretary of the Treasury would establish a program to designate a group of certified educational institutions and allocate credit amounts for their qualifying projects. These designations would be based on the institution's expected expansion in science, technology, engineering and math (STEM) research, ensuring consideration for smaller institutions (those with fewer than 12,000 full time students). A qualifying project would be defined as a project to purchase, construct, or improve research infrastructure property. Eligible institutions would generally be limited to state colleges and universities. Certified educational institutions would be awarded a credit allocation, with qualified cash contributions not to exceed 250% of this allocation. A certified educational institution's annual allocation could not exceed $50 million per year. Total allocations would be limited to $500 million per year for 2022 through 2026. For example, a certified educational institution could be allocated $20 million in credits for a qualifying project. The institution could then designate up to $50 million (250% of $20 million) in qualifying cash contributions for	For background, see • CRS Report R45922, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Molly F. Sherlock.

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	that project. These qualifying cash contributions would then generate up to $20 million (40% of $50 million) in credits for taxpayers. This provision is identical or nearly identical to Section 137501 of H.R. 5376, as passed in the House on November 19, 2021.	
Treatment of Federal Pell Grants for Income Tax Purposes Section 127502	Under current law, the portion of a scholarship (including a Pell Grant) that covers qualified tuition and fees is generally excludable from income and hence not taxable.[i] In contrast, the portion of a scholarship that covers room and board and other living expenses is taxable. Pell Grants may be used to pay for tuition and fees, room and board, and other educational expenses. In addition, under current law, when calculating an education tax credit, taxpayers must reduce their credit-eligible education expenses by any amounts received as tax-free scholarships. Since the amount of an education tax credit depends on expenses incurred for tuition and fees, then all else being equal, receipt of a tax-free scholarship reduces the amount of credit-eligible expenses, and may reduce the amount of their education credit. This provision would temporarily modify the current exclusion for scholarship income such that *any amount* of a Pell Grant—not just the portion that pays for qualified tuition and fees—would be excluded from income, and hence not be taxable. In addition, under this provision, expenses eligible for education tax credits would temporarily not be reduced by *any amount* of a Pell Grant. Both of these changes would apply to Pell Grants received in 2022 through 2025. This provision is identical or nearly identical to Section 137502 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45418, *Federal Pell Grant Program of the Higher Education Act: Primer*, by Cassandria Dortch. • CRS Report R41967, *Higher Education Tax Benefits: Brief Overview and Budgetary Effects*, by Margot L. Crandall-Hollick. • CRS Report R42561, *The American Opportunity Tax Credit: Overview, Analysis, and Policy Options*, by Margot L. Crandall-Hollick.
Repeal of Denial of American Opportunity Tax Credit on Basis of Felony Drug Conviction Section 127503	Under current law, the American Opportunity Tax Credit (AOTC) cannot be claimed for a student convicted of a federal or state felony drug possession or distribution offense. This lifetime prohibition generally applies beginning with the year in which the conviction occurs. The provision would repeal this ban, allowing the AOTC to be claimed for an otherwise eligible student convicted of a felony drug offense. This provision is identical or nearly identical to Section 137503 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R42561, *The American Opportunity Tax Credit: Overview, Analysis, and Policy Options*, by Margot L. Crandall-Hollick.
Placeholder for Compromise on Deduction for State and Local taxes, etc. Section 127601	Under current law, taxpayers who itemize their deductions may claim a deduction for certain state and local taxes paid (the SALT deduction). P.L. 115-97 limited nonbusiness SALT deduction claims for tax years 2018 through 2025, set to $10,000 for single taxpayers and married couples filing jointly and $5,000 for married taxpayers filing separately. That law also excluded foreign real property taxes paid from SALT deduction claims over the same time frame.	For background, see • CRS Report R46246, *The SALT Cap: Overview and Analysis*, by Grant A. Driessen and Joseph S. Hughes. • CRS Report RL32781, *Federal Deductibility of State and Local Taxes*, by

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	The language released by the Senate Finance Committee does not provide detail on changes to the limitation, and instead reserves the section as a "Placeholder for Compromise on Deduction for State and Local Taxes." This provision is a modification of Section 137601 of H.R. 5376, as passed in the House on November 19, 2021.	Grant A. Driessen and Steven Maguire.

Source: CRS analysis of the Senate Finance Committee's updated text for Title XII-Committee on Finance in the Build Back Better Act, as posted on the Senate Finance Committee's website on December 11, 2021, at https://www.finance.senate.gov/chairmans-news/finance-committee-releases-updated-build-back-better-text.

Notes: Provisions are effective in 2022 unless otherwise noted. The changes that would be made by the provisions are permanent, unless otherwise noted. Within the description, "Section" citations refer to the section within the Internal Revenue Code (IRC), 26 U.S.C., unless otherwise noted. Part 4 of Subtitle G would establish new Pathway to Practice Training Programs, which are beyond the scope of this report and not included in the table above. Part 4, Section 127403 includes a new refundable tax credit (under Section 36G of the Internal Revenue Code) for qualifying educational institutions to offset amounts paid or incurred by the institution for each eligible student who receives a Pathway to Practice medical scholarship voucher. This provision is *identical or nearly identical* to Section 137403 of H.R. 5376, as passed in the House on November 19, 2021.

a. For example, the advance payments of the 2021 credit will be based on *an estimate* of the 2021 credit amount generally using 2020 tax data (the year of the data used to estimate the credit amount is referred to as the "reference year"). Differences in the number of qualifying children between 2021 and 2020 may occur when children move between taxpayers from year to year or if a child is born in 2021.

b. Territorial residents would be eligible to receive this larger child credit for 2022 from their territorial revenue authority, with the IRS making aggregate payments to the territory for the larger 2022 credit amount under existing law, IRC Section 24(k).

c. Income for purposes of phasing out the child credit is equal to Adjusted Gross Income (AGI) increased by foreign earned income of U.S. citizens abroad, including income earned in Guam, American Samoa, the Northern Mariana Islands, and Puerto Rico.

d. The age of the children would be based on their age at the end of 2022. When issuing advance payments in 2022, the IRS could project a child's age under IRC Section 7527A(b)(1)(D). In other words, a qualifying child who is 5 years old in 2021 and 6 years old in 2022 would result in the taxpayer being eligible for a maximum credit of $3,000, or $250 per month advanced in 2022. Hence, for the purposes of the safe harbor, the child would be considered an older child.

e. Under IRC Section 24(d)(1)(B)(ii), taxpayers with three or more qualifying children can calculate the refundable portion of the child credit—the additional child tax credit or ACTC—using an alternative formula. Under this formula, the ACTC equals the difference in the employee's share of Social Security taxes and Medicare taxes (i.e., 7.65% of earned income) and their EITC, up to the maximum ACTC. The maximum ACTC in 2021 before ARPA was $1,400 per qualifying child and is scheduled under current law to revert to that level from 2022 to 2025. Beginning in 2026, the maximum ACTC is scheduled to be $1,000 per qualifying child. In most cases, the ACTC calculated under the earned income formula is greater than the ACTC calculated under the alternative formula.

f. Under current law, beginning in 2022 the statutory earned income amount and the phaseout threshold amount for childless EITC recipients will revert to their levels prior to ARPA, $4,220 and $5,280 respectively, and be annually adjusted for inflation. For reference, in 2021, prior to ARPA these amounts after inflation adjustment would have been $7,100 and $8,880, respectively. The phaseout threshold amount for married joint filers with a given number of qualifying children is $5,000 more than for unmarried filers. In 2021, once adjusted for inflation, this amount equals $5,940 for childless EITC recipients ($5,950 for those with children). See IRS Revenue Procedure 2020-45.

g. The definition of a student would be someone carrying half or more of the normal full-time workload for their program of study, as defined under IRC Section 25A(b)(3).

h. The Senate Finance Committee text also includes Section 127308, which would require the Health and Human Services (HHS) Secretary to award grants to states for purposes of developing a new Patient Protection and Affordable Care Act Section 1332 waiver application, preparing an application for a waiver extension or amendment, or implementing a state plan. In addition to any other amounts made available, Section 127308 would appropriate $50 million to the HHS Secretary for FY2022 (to remain available until expended) for purposes of implementing the grant program and awarding grants. Grants to states would not be allowed to exceed $5 million and would remain available to the state until expended. For more information, see CRS Report R44760, *State Innovation Waivers: Frequently Asked Questions*, by Ryan J. Rosso.

i. Under current law, taxpayers may elect to have a tax-free scholarship (including a Pell Grant) included in income and hence subject to tax. This may increase a taxpayer's education credit and lower their total tax (or increase their refund).

Table 4. Subtitle H—Responsibly Funding Our Priorities

Section Title and Number	Description	CRS Resources
Part 1—Corporate and International Tax Reforms		
Subpart A—Corporate Provisions		
Corporate Alternative Minimum Tax Section 128101	This provision would impose an alternative minimum tax of 15% on corporations based on financial income. It would apply to corporations with $1 billion or more in earnings in the previous three years. In the case of U.S. corporations that have foreign parents, it would apply only to income earned in the United States of $100 million or more (and apply when the international financial reporting group has income of $1 billion or more). It would apply to a new corporation in existence for less than three years based on the earnings in the years of existence. The provision would exclude Subchapter S corporations, regulated investment companies (RICs), and real estate investment trusts (REITs). Firms that file consolidated returns would include income allocable to the firm from related firms including controlled foreign corporations (and any disregarded entities); for other related firms, dividends would be included. The provision would allow special deductions for cooperatives and Alaska Native Corporations. It would make adjustments to conform financial accounting to tax accounting for certain defined benefit pension plans. It would apply with respect to items under the unrelated business income tax for tax-exempt entities. The additional tax would equal the amount of the minimum tax in excess of the regular income tax plus the additional tax from the Base Erosion and Anti-Abuse tax. Income would be increased by federal and foreign income taxes to place income on a pretax basis. Losses would be allowed in the same manner as with the regular tax, with loss carryovers limited to 80% of taxable income. Domestic credits under the general business tax (such as the R&D credit) would be allowed to offset up to 75% of the combined regular and minimum tax. Foreign tax credits would be allowed based on the allowance for foreign taxes paid in a corporation's financial statement. A credit for additional minimum tax could be carried over to future years to offset regular tax when that tax is higher. This tax would apply to taxable years beginning after December 31, 2022. This provision is a modification of Section 138101 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46887, *Minimum Taxes on Business Income: Background and Policy Options*, by Molly F. Sherlock and Jane G. Gravelle. • CRS Insight IN11646, *A Look at Book-Tax Differences for Large Corporations Using Aggregate Internal Revenue Service (IRS) Data*, by Molly F. Sherlock and Jane G. Gravelle.
Excise Tax on Repurchase of Corporate Stock Section 128102	This provision would impose a 1% excise tax on the repurchase of stock by a publicly traded corporation. The amount subject to tax would be reduced by any new issues to the public or stock issued to employees. The tax would not apply if repurchases are less than $1 million or are contributed to an employee pension or similar plan.	For background, see • CRS In Focus IF11960, *An Excise Tax on Stock Repurchases and Tax Advantages of Buybacks*

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	The tax would not apply if the repurchases are treated as a dividend. It also would not apply to repurchases by regulated investment companies (RICs) or real estate investment trusts (REITs). Further, it would not apply to repurchases that are treated as dividends or to purchases by a dealer in securities in the ordinary course of business. The excise tax would apply to purchases of corporation stock by a subsidiary of the corporation (a corporation or partnership that is more than 50% owned). The tax would also apply to purchases by a U.S. subsidiary of a foreign-parented firm. It would apply to newly inverted (after September 20, 2021) or surrogate firms (firms that merged to create a foreign parent with the former U.S. shareholders owning more than 60% of shares). The tax would not be deductible. This provision is identical or nearly identical to Section 138102 of H.R. 5376, as passed in the House on November 19, 2021.	*over Dividends*, by Jane G. Gravelle. • CRS Legal Sidebar LSB10266, *Stock Buybacks: Background and Reform Proposals*, by Jay B. Sykes. • CRS In Focus IF11393, *Stock Buybacks: Concerns over Debt-Financing and Long-Term Investing*, by Gary Shorter. • CRS In Focus IF11506, *Stock Buybacks and Company Executives' Profits*, by Gary Shorter.
Subpart B—Limitations on Deduction for Interest Expense		
Limitations on Deduction for Interest Expense Section 128111	Section 163(j) of the IRC limits interest deductions to 30% of earnings before interest and taxes (EBIT). Before 2022, the income base is earnings before interest, taxes, depreciation, and amortization (EBITDA). Excess interest is carried forward. The limit applies at the partnership or corporate level for partnerships and Subchapter S corporations. This provision would add an additional interest limitation under Section 163(n). The share of interest deducted by firms with operations in other countries would be limited to 110% of the allocated share of worldwide interest; the allocated share is the same as the U.S. firm's share of worldwide EBITDA. This provision would apply to firms with an average excess interest of $12 million over three years. This limit would not apply to small businesses with average earnings over three years of less than $25 million, partnerships, Subchapter S corporations, real estate investment trusts (REITs), or regulated investment companies (RICs). The firm could elect to provide an allocation reflecting the adjusted basis of assets using the alternative depreciation system. Research and experimental expenditures for this purpose would be treated as if amortized over five years. The Section 163(j) limit applies at the partner or shareholder level for partnerships and Subchapter S corporations. The provision would be effective for taxable years beginning after December 31, 2022. This provision is a modification of Section 138111 of H.R. 5376, as passed in the House on November 19, 2021.	For background see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples. • CRS In Focus IF11809, *Trends and Proposals for Corporate Tax Revenue*, by Donald J. Marples and Jane G. Gravelle.

Section Title and Number	Description	CRS Resources
Subpart C—Outbound International Provisions		
Modifications to Deduction for Foreign-Derived Intangible Income and Global Intangible Low-Taxed Income Section 128121	Current law imposes a minimum tax on global intangible low-taxed income (GILTI) of controlled foreign corporations (CFCs), after allowing a deduction for 10% of tangible assets and 50% of the remainder. A deduction is also allowed for foreign-derived intangible income (FDII) for 10% of tangible assets and 37.5% of the remainder. These deduction amounts for the remainder are scheduled to fall to 37.5% for GILTI and 21.875% for FDII after 2025. With the current 21% tax rate, these deductions result in a rate of 10.5% (13.125% after 2025) for GILTI and 13.125% (16.4% after 2025) for FDII. The combined GILTI and FDII deductions are limited to taxable income and any unused deduction cannot be carried back or forward. This provision would reduce the deduction for GILTI to 28.5% and the deduction for FDII to 24.8%. With the current 21% rate, these deductions would result in a tax rate of 15.015% for GILTI and 15.792% for FDII. The proposal would allow amounts in excess of taxable income to be deducted and increase net operating losses, effectively allowing them to be carried forward. This provision would be effective for taxable years beginning after December 31, 2022. This provision is identical or nearly identical to Section 138121 of H.R. 5376, as passed in the House on November 19, 2021.	For background see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples. • CRS In Focus IF11809, *Trends and Proposals for Corporate Tax Revenue*, by Donald J. Marples and Jane G. Gravelle.
Repeal of Election for 1-Month Deferral in Determination of Taxable Year of Specified Foreign Corporations Section 128122	Under current law, controlled foreign corporations are generally required to have the same tax year as the U.S. parent, but there is an election to begin the tax year one month earlier. This provision would repeal that election. It would apply to tax years beginning after November 30, 2022. This provision is identical or nearly identical to Section 138122 of H.R. 5376, as passed in the House on November 19, 2021.	
Modifications of Foreign Tax Credit Rules Applicable to Certain Taxpayers Receiving Specific Economic Benefits Section 128123	Under current law, a credit for foreign taxes paid offsets U.S. tax on foreign-source income dollar for dollar, whereas a deduction is less valuable. Dual-capacity taxpayers are taxpayers who receive a benefit from a foreign government (such as a right to extract oil). These taxpayers also sometimes pay higher taxes that may not be distinguishable from payments for benefits (such as royalties) that would be deductible. Under this provision, taxes would only be creditable up to the amount that would be paid under rules generally applicable to corporations in that country, and the excess could be deducted. This provision is identical or nearly identical to Section 138123 of H.R. 5376, as passed in the House on November 19, 2021.	

Section Title and Number	Description	CRS Resources
Modifications to Foreign Tax Credit Limitations Section 128124	Current law allows a credit for foreign taxes paid (80% of foreign taxes can be credited for GILTI). The credit is limited to U.S. tax on foreign-source income. The IRC allocates a share of interest and head office expenses of the U.S. parent company to foreign-source income, which reduces the limit. Any excess credits are carried back one year and carried forward 10 years. This limit applies on an overall basis for all countries (within separate overall limits, or baskets, for GILTI, branch, passive, and general income). This overall limit allows taxes in excess of the U.S. tax in high-tax countries to offset U.S. tax due in low- or no-tax countries. This provision would impose the limit separately in each county (referred to as a per-country limit). The provision would also eliminate the branch basket, eliminate allocation of interest and head office expenses to foreign-source income, eliminate the foreign tax credit carryback, and allow excess credits for GILTI to be carried forward five years for tax years beginning after December 31, 2022, and before January 1, 2031. It would also modify the treatment of certain foreign asset dispositions. This provision would be effective for tax years beginning after December 31, 2022. This provision is identical or nearly identical to Section 138124 of H.R. 5376, as passed in the House on November 19, 2021.	For background see: • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples. • CRS In Focus IF11809, *Trends and Proposals for Corporate Tax Revenue*, by Donald J. Marples and Jane G. Gravelle.
Foreign Oil and Gas Extraction Income and Foreign Oil Related Income to Include Oil Shale and Tar Sands Section 128125	Under current law, foreign oil and gas extraction income is not taxed (although another section would include this income in GILTI), and foreign oil-related income (such as a distribution) is included in GILTI. This provision would amend the definition of these incomes to include oil shale and tar sands. This provision is identical or nearly identical to Section 138125 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R43128, *Oil Sands and the Oil Spill Liability Trust Fund: The Definition of "Oil" and Related Issues for Congress*, by Jonathan L. Ramseur.
Modifications to Inclusion of Global Intangible Low-Taxed Income Section 128126	Current law imposes a minimum tax on global intangible low-taxed income (GILTI) of CFCs, after allowing a deduction for 10% of tangible assets and 50% of the remainder (this percentage would be reduced by the section described above). GILTI (including profits and losses) is measured on an overall basis, so that losses in one jurisdiction can offset income in another. Any overall losses cannot be carried forward. Foreign oil and gas extraction income is not included in GILTI and not taxed. This provision would provide for a per-country measure of GILTI income and loss, reduce the deduction for tangible assets to 5%, allow losses to be carried forward for one year, and include foreign oil and gas extraction income in GILTI. The reduction in the 10% deduction for tangible assets would not apply to the territories. This provision would be effective for taxable years beginning after December 31, 2022.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples. • CRS In Focus IF11809, *Trends and Proposals for Corporate Tax Revenue*, by Donald J. Marples and Jane G. Gravelle.

Section Title and Number	Description	CRS Resources
	This provision is identical or nearly identical to Section 138126 of H.R. 5376, as passed in the House on November 19, 2021.	
Modifications to Determination of Deemed Paid Credit for Taxes Properly Attributable to Tested Income Section 128127	Under current law, credits for foreign taxes paid on GILTI are limited to 80% of these taxes. This provision would increase the amount to 95%. It would also provide that CFCs must have direct U.S. shareholders and would apply special rules to foreign-owned U.S. shareholders. This provision would be effective for tax years beginning after December 31, 2022. This provision is identical or nearly identical to Section 138127 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples. • CRS In Focus IF11809, *Trends and Proposals for Corporate Tax Revenue*, by Donald J. Marples and Jane G. Gravelle.
Modifications Related to Deduction for Foreign Source Portion of Dividends and Controlled Foreign Corporations Status Section 128128	On adoption of the GILTI regime in 2017, dividends from foreign corporations became deductible by shareholders with a 10% interest beginning in 2018. The GILTI regime and Subpart F, which taxes certain easily shifted income at full rates, apply only to CFCs. CFCs are 50% owned by U.S. shareholders, each with at least 10% ownership. This provision would limit the 100% dividend deductions by 10% shareholders to dividends of CFCs. Other 10% shareholders could deduct 65% of dividends. Foreign corporations that are not CFCs could elect CFC status with the agreement of all U.S. shareholders. The provision would also largely reverse the elimination of downward attribution where CFC status could result from tracing ownership by a U.S. corporation up through a foreign parent. Currently, these downward attribution rules apply to a U.S. person at least 10% controlled by a foreign person; the revision would raise that share to 50%. These provisions would apply to distributions made after the date of enactment and to taxable years beginning after the date of enactment. This provision is a modification of Section 138128 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples.
Limitation on Foreign Base Company Sales and Services Income Section 128129	Under current law, subpart F imposes current taxes on certain income that is easily shifted, including foreign base company sales and service income. This income is earned in a jurisdiction where the product or service is neither produced nor consumed (i.e., in an intermediary). It applies to transactions with related parties. This provision would limit the definition of related parties to taxable units resident in the United States. It also would close certain tax planning techniques that allow U.S. shareholders to avoid tax. This provision is identical or nearly identical to Section 138129 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples.

Section Title and Number	Description	CRS Resources
Subpart D—Inbound International Provisions		
Modifications to Base Erosion and Anti-Abuse Tax Section 128131	Under current law, the base erosion and anti-abuse tax (BEAT) provides for an alternative calculation of tax by adding certain payments to related foreign parties (such as interest and royalties) and taxing this income at 10%. Payments for the cost of goods sold are not included. BEAT does not allow tax credits, including the foreign tax credit, except for a temporary allowance of the research credit along with 80% of the low-income housing credit and two energy credits. After 2025, the rate will rise to 12.5% and no credits will be allowed. This provision would raise the tax rate to 10% in 2022, 12.5% in 2023, 15% in 2024, and 18% for 2025 and after. Tax credits would be allowed. The base would also include payments to foreign related parties for inventory that is required to be capitalized (such as inventory to produce tangible property) and payments for inventory in excess of cost. This provision is identical or nearly identical to Section 138131 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45186, *Issues in International Corporate Taxation: The 2017 Revision (P.L. 115-97)*, by Jane G. Gravelle and Donald J. Marples.
Subpart E—Other Business Tax Provisions		
Credit for Clinical Testing of Orphan Drugs Limited to First Use or Indication Section 128141	Under current law, businesses investing in the development of drugs to diagnose, treat, or prevent rare diseases and conditions—sometimes referred to as "orphan drugs"—have been able to claim a nonrefundable tax credit for a portion of the qualified clinical testing expenses they incur or pay. This provision would modify the credit to limit the eligibility of drugs to their first use or indication. In addition, expenses eligible for the credit must be incurred prior to the receipt of any other use or indication. This provision is identical or nearly identical to Section 1338141 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Committee Print CP10004, *Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020*, by Jane G. Gravelle et al. (pp. 911-918).
Modifications to Treatment of Certain Losses Section 128142	Under this provision, a worthless security would be considered a loss from the sale or exchange at the time it became worthless, as opposed to on the last day of the taxable year. The rules relating to worthless securities would be expanded to include partnership indebtedness so that partnership indebtedness would be treated the same as corporate indebtedness. A worthless partnership interest would be considered a loss from the sale or exchange of a capital asset and recognized at the time it became worthless. The tax treatment of corporate subsidiary liquidations would be modified. This provision is identical or nearly identical to Section 138142 of H.R. 5376, as passed in the House on November 19, 2021.	

Section Title and Number	Description	CRS Resources
Adjusted Basis Limitation for Divisive Reorganization Section 128143	Corporations that reorganize have rules about whether the corporation will realize gain in the transaction. If these reorganizations only involve the exchange of stock, the reorganization is tax free. However, if money or property is transferred, the corporation receiving the property can be subject to tax on gain in the value of assets as long as they are not distributed to shareholders. If the property is transferred to creditors, it is treated as a distribution. This provision would apply to reorganizations that involve a corporation (the distributing corporation) separating from its controlled corporation. In this case, where the controlled corporation receives property from the distributing corporation and transfers debt securities to the creditors of the distributing corporation, any gain on the property is subject to tax. This provision would apply to reorganizations after the date of enactment with a transition rule for transactions already subject to binding agreements or announced. This provision is identical or nearly identical to Section 138143 of H.R. 5376, as passed in the House on November 19, 2021.	
Modifications to Exemption for Portfolio Interest Section 128144	Under current law, an exemption for portfolio interest allows foreign corporations (and nonresidents) to invest in certain U.S. debt without being subject to U.S. income tax (or withholding). This exemption is not allowed for 10% shareholders—individuals who own 10% of the voting stock of the corporation. This provision would expand the definition of 10% shareholder to also include any individual who owns 10% of the value of the corporation. This provision would apply to obligations issued after the date of enactment. This provision is identical or nearly identical to Section 138145 of H.R. 5376, as passed in the House on November 19, 2021.	
Certain Partnership Interest Derivatives Section 128145	Under current law, income arising from notional principal contracts is generally sourced to the residence of the recipient of the payment—unless the income is effectively connected with U.S. trade or business activity. Publicly traded partnerships, however, are not subject to the rules on effectively connected income. The provision would treat notional principal contract income of publicly traded partnerships as "dividend equivalent amounts" that would be sourced based on the residence of the payor. This provision would apply to payments made after December 31, 2022. This provision is identical or nearly identical to Section 138146 of H.R. 5376, as passed in the House on November 19, 2021.	

Section Title and Number	Description	CRS Resources
Adjustments to Earnings and Profits of Controlled Foreign Corporations Section 128146	Under current law, earnings and profits determine whether a distribution is a dividend (which may be taxed), return of capital (not taxed), or capital gain (taxed). Earnings and profits are adjusted by various items, but controlled foreign corporations are not subject to certain inventory adjustments, installment sales, or the completed contract method of accounting. This provision would relocate the current-law provision in the tax code and would not include the former language that these rules do not apply if they increase earnings and profits above distributions, expanding its applicability to all controlled foreign corporations regardless of the level of distributions. This provision is identical or nearly identical to Section 138147 of H.R. 5376, as passed in the House on November 19, 2021.	
Certain Dividends of Controlled Foreign Corporations Treated as Extraordinary Dividends Section 128147	Under current law, dividends are often exempt or partially exempt from tax through domestic intercompany dividend deductions, and foreign dividends from CFCs are exempt for 10% shareholders. When stock has been held for less than two years, and an extraordinary dividend is paid, that dividend reduces the basis (the basis is the price paid for the stock) of the stock, and if it exceeds the basis it is treated as a capital gain. An extraordinary dividend is one that exceeds 10% of the value of the stock (5% for preferred stock). This provision would make disqualified dividends from CFCs subject to the rules for treatment as a reduction of basis or capital gain regardless of holding period. Disqualified dividends are those that arise from earnings and profits or gains during a disqualified period. A disqualified period is one before the corporation became a CFC or when it was owned by a non-U.S. shareholder. This provision would apply to distributions made after the date of enactment. This provision is a modification of Section 138143 in H.R. 5376, as reported on September 27, 2021. This provision is identical or nearly identical to Section 138148 of H.R. 5376, as passed in the House on November 19, 2021.	
Limitation on Certain Special Rules for Section 1202 Gains Section 128148	Under current law, noncorporate taxpayers may exclude a portion of the gain from the sale of qualified small business stock held for at least five years. The exclusion rate is determined by the date of acquisition—50% for stock acquired on or before February 17, 2009; 75% for stock acquired after February 17, 2009, and before September 28, 2010; and 100% for stock acquired after September 27, 2010. The provision would limit the 75% and 100% exclusions to taxpayers with AGI less than $400,000. Taxpayers with AGI greater than or equal to $400,000, estates, and trusts would be eligible for the 50% exclusion.	

Section Title and Number	Description	CRS Resources
	This provision would apply to sales and exchanges after September 13, 2021, subject to a binding contract exception. This provision is identical or nearly identical to Section 138149 of H.R. 5376, as passed in the House on November 19, 2021.	
Constructive Sales Section 128149	Under the constructive sale rule, certain offsetting financial assets transactions are treated as if the transaction occurred with an unrelated party. This rule results in the realization of any gains in the financial assets for tax purposes as a "constructive sale." The provision would extend current-law constructive sales rules to digital assets. This provision would apply to constructive sales and contracts entered into after the date of enactment. This provision is identical or nearly identical to Section 138150 of H.R. 5376, as passed in the House on November 19, 2021.	
Rules Relating to Common Control Section 128150	Common control rules are applied in the tax code to treat multiple taxpayers as a single taxpayer to apply specific tax rules. These rules apply to both corporate and noncorporate entities that are conducting a trade or business. This provision would include under the common control rules certain component members that may have been previously treated as an excluded member, and these rules would apply for any for-profit or research and development activity. This provision is identical or nearly identical to Section 138151 of H.R. 5376, as passed in the House on November 19, 2021.	
Modification of Wash Sale Rules Section 128151	Wash sale rules generally disallow claims of a loss related to stocks or securities if the taxpayer acquires or contracts to acquire similar assets within 30 days of the sale of the original asset. This provision would extend current-law wash sale rules to the taxpayer and related parties and to specified assets (including digital assets, currencies, commodities, and short sales of these assets). This provision is identical or nearly identical to Section 138152 of H.R. 5376, as passed in the House on November 19, 2021.	
Research and Experimental Expenditures Section 128152	The TCJA (P.L. 115-97) repealed the option to expense qualified research expenditures, beginning in 2022. Under current law, starting in 2022, companies will be required to capitalize those costs and amortize them over five years for domestic research and 15 years for foreign research. This provision would delay the requirement that qualified research expenditures be capitalized and amortized until 2026.	For background, see • CRS In Focus IF10757, *The 2017 Tax Law (P.L. 115-97) and Investment in Innovation*, by Gary Guenther.

Section Title and Number	Description	CRS Resources
	This provision is identical or nearly identical to Section 138153 of H.R. 5376, as passed in the House on November 19, 2021.	
Modifications to Rules Relating to Expatriated Entities and Inverted Corporations Section 128153	Under current law, a domestic corporation acquired by a foreign corporation may be deemed an inverted company depending on the share of the inverted company owned by the domestic corporation's shareholders. If the former domestic corporation's shareholders own at least 80% of the new inverted company, then the inverted company continues to be taxed as if it is a domestic company. If the ownership shares are greater than 60% and less than 80%, then the new company is treated as an expatriated entity. An expatriated entity is not taxed as a domestic corporation, but is required to pay U.S. toll taxes (taxes on gains) on assets transferred to the new entity. This provision would expand the definition of inverted and expatriated entities to include partnerships and lower the applicable ownership thresholds to 65% (from 80%) and 50% (from 60%). This provision would apply to taxable years ending after December 31, 2021. This provision was not included in H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R43568, *Corporate Expatriation, Inversions, and Mergers: Tax Issues*, by Donald J. Marples and Jane G. Gravelle.
Part 2—Tax Increases for High-Income Individuals		
Application of Net Investment Income Tax to Trade or Business Income of Certain High Income Individuals Section 128201	This provision would subject the active income of high-income partners and S corporation owners that is not already subject to Federal Insurance Contributions Act (FICA) or Self-Employed Contributions Act (SECA) tax to the 3.8% net investment income tax. The high-income thresholds would be $250,000 (married filing separately), $400,000 (single or head of household), and $500,000 (married filing jointly). This provision is identical or nearly identical to Section 138201 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF11820, *The 3.8% Net Investment Income Tax: Overview, Data, and Policy Options*, by Mark P. Keightley.
Limitations on Excess Business Losses of Noncorporate Taxpayers Section 128202	The TCJA (P.L. 115-97) introduced excess business loss limitations, which limit the amount of business losses that noncorporate taxpayers can use to offset their nonbusiness income to $500,000 for a joint return and $250,000 for a single return. These limits were set to expire after 2025. In response to the economic effects of the COVID-19 pandemic, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) temporarily suspended the limits on excess business losses through 2025. The American Rescue Plan Act of 2021 (P.L. 117-2) extended the original TCJA limits through 2026. This provision would make permanent the excess business loss limitation for noncorporate taxpayers. This provision is identical or nearly identical to Section 138202 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46377, *The Tax Treatment and Economics of Net Operating Losses*, by Mark P. Keightley.

Section Title and Number	Description	CRS Resources
Surcharge on High Income Individuals, Estates, and Trusts Section 128203	The provision would create an additional income tax on individuals, estates, and trusts on modified adjusted gross income (MAGI) in excess of specified thresholds. The tax would be applied at a flat rate of 5% and would apply to MAGI in excess of $5 million and below $12.5 million for married individuals filing separate returns, $200,000 and $500,000 for estates and trusts, and $10 million and $25 million for all other noncorporate taxpayers. MAGI in excess of these thresholds would be taxed at a flat rate of 8%. Taxes paid under this provision would not be treated as income taxes paid for purposes of the alternative minimum tax. This provision is identical or nearly identical to Section 138203 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 3—Modifications of Rules Relating to Retirement Plans		
Subpart A—Limitations on High-income Taxpayers With Large Retirement Account Balances		
Contribution Limit for Individual Retirement Plans of High-Income Taxpayers with Large Account Balances Section 128301	Under current law, taxpayers can contribute to their individual retirement accounts (IRAs) regardless of the balance in the accounts. This provision would disallow contributions to accounts if the contributions would cause the total value of the individual's IRAs and defined contribution plans to exceed $10 million. It would apply to married couples with taxable income over $450,000 (singles over $400,000 and heads of household over $425,000). There is also a provision for reporting by employer defined contribution plans of accounts with at least $2.5 million. These dollar amounts will be adjusted for inflation after 2028. These provisions would be effective for tax years beginning after December 31, 2028. This provision is identical or nearly identical to Section 138301 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL34397, *Traditional and Roth Individual Retirement Accounts (IRAs): A Primer*, by Elizabeth A. Myers. • CRS Report R46635, *Individual Retirement Account (IRA) Ownership: Data and Policy Issues*, by Elizabeth A. Myers. • CRS Report R43439, *Worker Participation in Employer-Sponsored Pensions: Data in Brief*, by John J. Topoleski and Elizabeth A. Myers. • CRS Insight IN11722, *Data on Contributions to Individual Retirement Accounts (IRAs)*, by Elizabeth A. Myers and John J. Topoleski. • CRS Insight IN11721, *Data on Retirement Contributions to Defined Contribution (DC) Plans*, by John J. Topoleski and Elizabeth A. Myers.

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Increase in Minimum Required Distributions for High-Income Taxpayers with Large Retirement Account Balances Section 128302	Under current law, taxpayers are generally required to begin making withdrawals ("required minimum distributions") from traditional IRAs when they are 72 years old (this does not apply to Roth IRAs). This provision would require individuals with a combined traditional IRA, Roth IRA, and employer defined contribution (DC) plan balance of over $10 million to make withdrawals of 50% of the excess over $10 million. This rule would apply to taxpayers with taxable income in excess of the amounts listed above. A traditional IRA generally allows a deduction of contributions and taxation of withdrawals, while a Roth IRA does not allow the deduction or impose the tax on withdrawals, but exempts the earnings from tax. Employer defined contribution plans can be in the traditional or Roth form. The provision would also require that when the amounts in all IRA and DC accounts exceed $20 million, withdrawals must be made from Roth IRAs and employer plans to reduce the amount to the lesser of the amount needed to bring all accounts to $20 million or the amounts in Roth IRA plans. These provisions would be effective for tax years beginning after December 31, 2028. This provision is identical or nearly identical to Section 138302 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL34397, *Traditional and Roth Individual Retirement Accounts (IRAs): A Primer*, by Elizabeth A. Myers. • CRS Report R46635, *Individual Retirement Account (IRA) Ownership: Data and Policy Issues*, by Elizabeth A. Myers. • CRS Report R43439, *Worker Participation in Employer-Sponsored Pensions: Data in Brief*, by John J. Topoleski and Elizabeth A. Myers. • CRS Insight IN11722, *Data on Contributions to Individual Retirement Accounts (IRAs)*, by Elizabeth A. Myers and John J. Topoleski. • CRS Insight IN11721, *Data on Retirement Contributions to Defined Contribution (DC) Plans*, by John J. Topoleski and Elizabeth A. Myers.
Subpart B—Other Provisions Relating to Individual Retirement Plans		
Tax Treatment of Rollovers to Roth IRAs and Accounts Section 128311	Contributions to Roth IRAs and the deductibility of contributions to traditional IRAs are limited by income, although individuals can make *nondeductible contributions* to traditional IRAs regardless of income. For a nondeductible IRA, the withdrawals are partially exempt to recover the taxpayer's contribution proportional to the withdrawal. Current law allows conversions (i.e., rollovers) from traditional to Roth IRAs regardless of income, so that taxpayers can invest in a nondeductible traditional IRA and then convert it to a Roth IRA (so-called back-door Roths). Employer plans may allow various types of contributions, such as *pretax, Roth*, and *after-tax (non-Roth) contributions*. After-tax contributions are generally made after an individual has contributed the maximum amount of pretax or Roth contributions. Under current law, individuals may convert after-tax savings in an employer plan to a designated Roth account in an employer plan or to a Roth IRA (so-called mega back-door Roths). This provision would prohibit (1) all taxpayers from converting after-tax savings in qualified plans and nondeductible IRA funds to Roth IRAs and designated Roth accounts after December 31, 2021; and (2) high-income taxpayers from converting pretax savings in	For background, see • CRS In Focus IF11963, *Rollovers and Conversions to Roth IRAs and Designated Roth Accounts: Proposed Changes in Budget Reconciliation*, by Elizabeth A. Myers • CRS Report RL34397, *Traditional and Roth Individual Retirement Accounts (IRAs): A Primer*, by Elizabeth A. Myers. • CRS Report R46635, *Individual Retirement Account (IRA) Ownership: Data and Policy Issues*, by Elizabeth A. Myers. • CRS Report R43439, *Worker Participation in Employer-Sponsored Pensions: Data in Brief*, by

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	qualified plans or IRA savings attributable to deductible contributions to Roth IRAs or designated Roth accounts after December 31, 2021. For high-income taxpayers, as described above, rollovers could only be made from Roth plans (IRAs and employer plans) after December 31, 2031. This provision is identical or nearly identical to Section 138311 of H.R. 5376, as passed in the House on November 19, 2021.	John J. Topoleski and Elizabeth A. Myers. • CRS Insight IN11722, *Data on Contributions to Individual Retirement Accounts (IRAs)*, by Elizabeth A. Myers and John J. Topoleski. • CRS Insight IN11721, *Data on Retirement Contributions to Defined Contribution (DC) Plans*, by John J. Topoleski and Elizabeth A. Myers.
Statute of Limitations with Respect to IRA Noncompliance Section 128312	This provision would extend the statute of limitations from three to six years for IRA noncompliance related to valuation and prohibited transactions. This provision is identical or nearly identical to Section 138312 of H.R. 5376, as passed in the House on November 19, 2021.	
IRA Owners Treated as Disqualified Persons for Purposes of Prohibited Transaction Rules Section 128313	Under the prohibited transaction rule, IRA owners cannot do business with disqualified persons (such as relatives who own more than 50% of a business). This provision would clarify that disqualified persons include the owner of the account, individuals who inherit the IRA, or beneficiaries. This provision is identical or nearly identical to Section 138313 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 4—Funding the Internal Revenue Service and Improving Taxpayer Compliance		
Enhancement of Internal Revenue Service Resources Section 128401	This provision would provide the Internal Revenue Service (IRS) with additional appropriations directed toward taxpayer services ($3,181,500,000), enforcement ($45,637,400,000), operational support ($25,236,400,000), business systems modernization ($4,750,700,000), Treasury Inspector General for Tax Administration ($403,000,000), Tax Court ($153,000,000), Treasury's Office of Tax Policy ($104,533,803), and Treasury Departmental Offices ($50,000,000) to be available through the end of FY2031. The IRS would be required to design a multiyear operations plan on the use of these funds and provide Congress with quarterly updates on the use of the additional funding. The IRS would also be appropriated $15,000,000 to study the feasibility of a free IRS-run direct file system. This provision is a modification of Section 138401 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF11607, *Internal Revenue Service Appropriations, FY2021*, by Gary Guenther.

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Application of Backup Withholding with Respect to Third-Party Network Transactions Section 128402	This provision would make payments from third-party networks (such as some electronic payment processors, some "gig economy" platforms, and some cryptocurrency payment processors) subject to backup withholding. Not all taxpayers would be subject to backup withholding on these transactions. Only taxpayers who meet a requirement in Section 3406(a)(1) would have backup withholding from their payments. Generally, this happens when the taxpayer does not provide a tax identification number (such as a Social Security number) to the network or if the taxpayer is subject to backup withholding due to a previous underreporting penalty. Payments typically may be subject to backup withholding if the aggregate payments from the third-party network to the taxpayer are equal to or greater than $600 in a year. This provision is identical or nearly identical to Section 138402 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS In Focus IF11910, *Cryptocurrency Transfers and Data Collection*, by Mark P. Keightley and Andrew P. Scott. • CRS In Focus IF11896, *Tax Treatment of Gig Economy Workers*, by Anthony A. Cilluffo.
Modification of Procedural Requirements Relating to Assessment of Penalties Section 128403	Under current law, generally no penalty or addition to tax under the IRC can be assessed unless the initial determination of such assessment is personally approved (in writing) by the immediate supervisor of the IRS employee making such determination. Exceptions to supervisory preapproval apply, including for penalties/additions to tax automatically calculated through electronic means and associated with failure to file or pay taxes. This provision would repeal this requirement for supervisory preapproval effective for penalties/additions to tax assessed after December 31, 2000. The provision would enact a new requirement that each supervisor certify on a quarterly basis whether employees have followed procedural requirements with respect to issuing notices of penalties to taxpayers. This provision would apply to notices of penalties issued after the date of enactment. This provision is identical or nearly identical to Section 138403 of H.R. 5376, as passed in the House on November 19, 2021.	
Part 5—Other Provisions		
Modifications to Limitation on Deduction of Excessive Employee Remuneration Section 128501	The American Rescue Plan Act of 2021 (ARPA; P.L. 117-2) included expansion of the Section 162(m) limit on excessive employee compensation, effective after December 31, 2026, denying deduction of compensation in excess of $1 million to certain highly paid employees, plus the CEO or CFO, at publicly traded companies. Under the ARPA expansion, up to 10 individuals may be covered under Section 162(m). This provision would modify the definition of employee remuneration to include performance-based compensation, commissions, post-termination compensation, and beneficiary payments, whether or not the compensation is paid by the corporation.	

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	This provision is identical or nearly identical to Section 138501 of H.R. 5376, as passed in the House on November 19, 2021.	
Extension of Tax to Fund Black Lung Disability Trust Fund Section 128502	The black lung excise tax (BLET) is imposed on sales or use of domestically mined coal. The tax is designed to support the Black Lung Disability Trust Fund for domestic miners. Currently, through 2021, coal from underground mines is taxed at a rate of $1.10 per ton and coal from surface mines is taxed at 55 cents per ton, with the tax for both types of coal being no more than 4.4% of the sale price. Effective January 1, 2022, the tax on underground-mined coal will be the lesser of (1) 50 cents per ton, or (2) 2% of the sale price. The tax on surface-mined coal will be the lesser of (1) 25 cents per ton, or (2) 2% of the sales price. This provision would extend the higher excise tax rates through December 31, 2025. This provision is identical or nearly identical to Section 138502 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R45261, *The Black Lung Program, the Black Lung Disability Trust Fund, and the Excise Tax on Coal: Background and Policy Options*, by Scott D. Szymendera and Molly F. Sherlock.
Prohibited Transactions Relating to Holding DISC or FSC in Individual Retirement Account Section 128503	DISCs (Domestic International Sales Corporations) and FSCs (Foreign Sales Corporations) were firms with export benefits, and these benefits were repealed going forward. This provision would disallow an interest in a DISC or FSC at the direction of the individual that receives a payment or commission from an entity owned by the individual from being held in that individual's IRA. Constructive ownership rules require a 50% ownership, which is reduced to 10% for this purpose. This provision is identical or nearly identical to Section 138503 of H.R. 5376, as passed in the House on November 19, 2021.	
Clarification of Treatment of DISC Gains and Distributions of Certain Foreign Shareholders Section 128504	DISCS and FSCs were firms with export benefits, and these benefits were repealed going forward. This provision clarifies that the sale or exchange of, or distributions to a foreign person, would be treated as effectively connected income from a trade or business in the United States, subjecting them to U.S. tax. This provision is identical or nearly identical to Section 138504 of H.R. 5376, as passed in the House on November 19, 2021.	
Treatment of Certain Qualified Sound Recording Productions Section 128505	Under current law, sound recording production costs are not deducted immediately, but are deducted over time under the income forecast method. Television and theater productions have tax benefits that allow them to expense (deduct immediately) up to $15 million. This provision is set to expire after 2025. Production costs of qualified film, television, and live theatrical productions are also eligible for bonus depreciation. Bonus depreciation allows costs to be deducted immediately. Bonus depreciation is currently 100%, but it is scheduled to be phased out over five years starting in 2023, and will no longer be available in 2027 and after. This provision would allow for the expensing of sound recording production costs, up to $150,000. Sound	For background, see • CRS Report RL31852, *The Section 179 and Section 168(k) Expensing Allowances: Current Law and Economic Effects*, by Gary Guenther. • CRS Report R46800, *Temporary Business-Related Tax Provisions Expiring 2021-2027 and Business "Tax Extenders"*, coordinated by Jane G.

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	recording would also be made eligible for bonus depreciation. This provision would expire after 2025. This provision is identical or nearly identical to Section 138505 of H.R. 5376, as passed in the House on November 19, 2021.	Gravelle and Molly F. Sherlock.
Payment to Certain Individuals Who Dye Fuel Section 128506	This provision would modify the existing mechanism for refunding taxes paid by consumers of diesel fuel and kerosene, which had already been taxed, who use the fuel for nontaxable purposes. This provision would specifically exempt off-highway business uses (such as certain farming equipment), all trains, school buses, and qualified local buses. This provision is identical or nearly identical to Section 138506 of H.R. 5376, as passed in the House on November 19, 2021.	
Treatment of Financial Guaranty Insurance Companies as Qualifying Insurance Corporations under Passive Foreign Investment Company Rules Section 128507	Passive foreign investment companies (PFICS) are foreign-incorporated firms that have at least 75% of earnings in passive investments or at least 50% of assets that earn dividends, interest, or capital gains (for example, a mutual fund or hedge fund). These firms are often located in tax havens with little or no corporate tax. Distributions from a PFIC are taxed at the highest tax rate plus an interest charge. Passive income does not include income of life insurance companies if insurance liabilities constitute 25% of their assets. This provision would allow financial guaranty insurance companies to include unearned premium (advanced premiums collected on policies that may be subject to return) reserves in their insurance liabilities. This provision would apply to tax years beginning after December 31, 2017. This provision is identical or nearly identical to Section 138507 of H.R. 5376, as passed in the House on November 19, 2021.	
Extension of Period of Limitation for Certain Legally Married Couples Section 128508	Under current law, taxpayers file their tax return using the applicable tax filing status. Married individuals generally must file using one of the married tax filing statuses: either jointly (married filing jointly) or separately (married filing separately). Unmarried individuals generally must use one of the unmarried tax filing statues: either single if they have no dependents or as a head of household if they have at least one dependent. Tax filing status affects a variety of tax provisions including tax rates, as well as eligibility for and the amount of a variety of tax benefits. For many (although not all) married couples, filing their taxes jointly reduces their tax liability, in comparison to their combined liabilities from unmarried tax filing statuses (i.e., marriage bonuses). Prior to the Supreme Court's decision in *United States v. Windsor*, Section 3 of the Defense of Marriage Act (DOMA) prohibited the IRS from recognizing same-sex marriages. Hence, same-sex couples could not file as married filing jointly (or separately). In *Windsor*, the	For background, see • CRS Report R43157, *The Federal Tax Treatment of Married Same-Sex Couples*, by Margot L. Crandall-Hollick, Molly F. Sherlock, and Erika K. Lunder.

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	Supreme Court held that Section 3 of DOMA was unconstitutional. Section 3 had required that, for purposes of federal enactments, *marriage* be defined as the union of one man and one woman and the word *spouse* be defined as someone of the opposite sex who is a husband or wife. As a result of the *Windsor* decision, on August 29, 2013, the IRS ruled that all legal same-sex marriages would be recognized for federal tax purposes under IRS Revenue Ruling 2013-17. Before the 2013 IRS ruling, all same-sex married couples were required to file their federal income tax returns as unmarried individuals. However, the IRS made clear that taxpayers who were in same-sex marriages for one or more open prior tax years could file amended returns to change their filing status to that of a married couple. At the time of the 2013 IRS ruling, this meant that amended returns could be filed for 2010, 2011, and 2012. Same-sex taxpayers lawfully married under state law before 2010 could not claim the benefits of federal recognition of same-sex marriage for pre-2010 tax years. This provision would provide lawfully married same-sex couples with the option to file amended returns for credits and refunds related to a change in marital status back to their year of marriage (which could be as early as 2004). This provision is identical or nearly identical to Section 138508 of H.R. 5376, as passed in the House on November 19, 2021.	
Allowance of Deduction for Certain Expenses of the Trade or Business of Being an Employee Section 128509	This provision would allow an above-the-line deduction for up to $250 in dues paid to a labor organization described in Section 501(c)(5). Above-the-line deductions are available to eligible taxpayers irrespective of whether they claim the standard deduction or itemize their deductions. This provision would apply in taxable years 2022 through 2025. This provision is identical or nearly identical to Section 138514 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL30110, *Federal Individual Income Tax Terms: An Explanation*, by Mark P. Keightley.
Temporary Increase in Employer-Provided Child Care Credit Section 128510	Under current law, employers are allowed to claim a tax credit equal to 25% of qualified child care expenditures plus 10% of qualified child care resource and referral expenditures. The maximum total credit that may be claimed by a taxpayer cannot exceed $150,000 per year. The credit is reduced by the amount of any tax deduction claimed for the same expenditures. Any credit claimed for acquiring, constructing, rehabilitating, or expanding property is subject to recapture if the facility ceases to operate as a qualified child care facility, or for certain ownership transfers within the first 10 years. Qualified child care expenditures include the cost of acquiring, constructing, rehabilitating, or expanding property used for a qualified child care facility; costs for the operation of the facility (including training costs and certain compensation for employees, and scholarship programs); and costs for contracting with a qualified child care facility	For background, see • CRS Committee Print CP10004, *Tax Expenditures: Compendium of Background Material on Individual Provisions — A Committee Print Prepared for the Senate Committee on the Budget, 2020*, by Jane G. Gravelle et al. (pp. 781-783).

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	to provide child care. A qualified child care facility must have child care as its principal purpose and must meet all applicable state and local laws and regulations. A facility operated by a taxpayer is not a qualified child care facility unless, in addition to these requirements, the facility is open to all employees and, if qualified child care is the principal trade or business of the taxpayer, at least 30% of the enrollees at the facility are dependents of employees of the taxpayer. Qualified child care resource and referral expenditures include amounts paid or incurred under a contract to provide child care resource and referral services to an employee of the taxpayer. Use of a qualified child care facility and use of child care resource and referral services cannot discriminate in favor of highly paid employees. This provision would temporarily modify several parameters of this credit. First, the credit rate for qualified child care expenditures would increase from 25% to 50%. Second, the overall credit limitation would increase from $150,000 to $500,000. Third, the amount of expenses that could be taken into account as qualified child care resource and referral expenditures would be limited to $1.5 million per year. These three temporary changes would apply beginning in 2022 through 2025. This provision is identical or nearly identical to Section 138515 of H.R. 5376, as passed in the House on November 19, 2021.	
Payroll Credit for Compensation of Local News Journalists Section 128511	This provision would create a refundable credit against the Medicare Hospital Insurance tax for local news journalist employers for a portion of the wages paid to local news journalists. Employers would be able to claim a credit against the Medicare Hospital Insurance tax paid on the wages of local news journalists who spend an average of 30 hours a week on local news services during a calendar quarter and reside within 50 miles of the local community served by the employer. The wages for each journalist considered for the credit may not exceed $12,500 per quarter. The credit is equal to 50% of wages paid to each journalist in the first year of the credit. The credit is then 30% for years two through five. The credit expires after the fifth year. To qualify, employers must either be an eligible local news organization or a qualifying broadcast station. Both types must disclose their ownership to the public in ways determined by the Treasury Secretary. Neither type of employer can be a 501(c)(4) tax-exempt organization or a 527 political organization, nor may they receive more than 50% of their gross receipts from 501(c)(4) or 527 organizations. Local news organizations must publish at least one qualifying publication per quarter. To qualify, a publication must be primarily to provide the local community with local news, be covered by media liability insurance, have been published each of the four quarters before the	

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	current quarter, and not have received services from more than 1,500 people during the quarter. The publication must be primarily distributed within the metropolitan or micropolitan area that the local news organization serves. Broadcast stations must own or operate a broadcast station that serves the local community, which it is licensed to serve by the Federal Communications Commission (FCC). The station's services cannot exceed those boundaries. Employers would only be able to consider up to 1,500 workers for the credit. The U.S. government, state or local governments, or any agencies of those governments do not qualify, with the exception of public broadcasting entities. The provision would also prevent employers from getting "double benefits" from this and other payroll tax credits. This provision is identical or nearly identical to Section 138516 of H.R. 5376, as passed in the House on November 19, 2021.	
Above-the-Line Deduction for Employee Uniforms Section 128512	This provision would create a new temporary above-the-line deduction for employee uniforms. The amount that could be deducted would equal the cost of the uniform, up to $250 per taxpayer. Uniform costs eligible for the deduction would be those for uniforms required as a condition of employment and not suitable for everyday wear. This provision would apply beginning in 2022 through 2024. This provision is identical or nearly identical to Section 138517 of H.R. 5376, as passed in the House on November 19, 2021.	
Expenses in Contingency Fee Cases Section 128513	This provision allows plaintiffs' attorneys to deduct out-of-pocket costs when they are incurred rather than waiting for the conclusion of the litigation. Any contingent payment will be included in income when received. This provision is identical or nearly identical to Section 138518 of H.R. 5376, as passed in the House on November 19, 2021.	
Increase in Research Credit Against Payroll Tax for Small Business Section 128514	Small businesses that have gross receipts of less than $5 million and no gross receipts in the previous five years may take up to $250,000 of research and experimentation credits against payroll taxes. This provision would double that amount. This provision is identical or nearly identical to Section 138519 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report RL31181, *Research Tax Credit: Current Law and Policy Issues for the 114th Congress*, by Gary Guenther.

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Termination of Employer Credit for Paid Family and Medical Leave Section 128515	Through 2025, employers can claim a tax credit of up to 25% of wages paid by employers providing paid leave to employees under the Family and Medical Leave Act of 1993 (FMLA; P.L. 103-3). The credit can only be claimed for paid family and medical leave provided to certain employees with incomes below a fixed threshold (for credits claimed in 2021, employee compensation in 2020 cannot have exceeded $78,000). This provision would accelerate the termination of this tax credit by two years, to December 31, 2023. This provision is identical or nearly identical to Section 138521 of H.R. 5376, as passed in the House on November 19, 2021.	For background, see • CRS Report R46800, *Temporary Business-Related Tax Provisions Expiring 2021-2027 and Business "Tax Extenders"*, coordinated by Jane G. Gravelle and Molly F. Sherlock. • CRS In Focus IF11141, *Employer Tax Credit for Paid Family and Medical Leave*, by Molly F. Sherlock. • CRS Report R46390, *Paid Family and Medical Leave: Current Policy and Legislative Proposals in the 116th Congress*, by Molly F. Sherlock, Barry F. Huston, and Sarah A. Donovan.

Source: CRS analysis of the Senate Finance Committee's updated text for Title XII-Committee on Finance in the Build Back Better Act, as posted on the Senate Finance Committee's website on December 11, 2021, at https://www.finance.senate.gov/chairmans-news/finance-committee-releases-updated-build-back-better-text.

Notes: Provisions are effective in 2022 unless otherwise noted. The changes that would be made by the provisions are permanent, unless otherwise noted. Within the description, "Section" citations refer to the section within the Internal Revenue Code (IRC), 26 U.S.C., unless otherwise noted.

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