COMPARISON OF DIVISION D OF H.R. 6, THE "ENERGY TAX POLICY ACT OF 2003" AS PASSED BY THE HOUSE OF REPRESENTATIVES AND S. 1149, THE "ENERGY TAX INCENTIVES ACT OF 2003," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND PROPOSED TO BE MODIFIED BY SENATE AMENDMENT NO. 1431

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JOINT COMMITTEE ON TAXATION

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INTRODUCTION

On April 11, 2003, the House of Representatives passed H.R. 6. On July 31, 2003, the Senate amended and passed H.R. 6.

This document,[1] prepared by the staff of the Joint Committee on Taxation, presents a side-by-side comparison of provisions in the House bill and a related bill, S. 1149, reported by the Senate Committee on Finance on May 23, 2003 and as proposed to be modified by a consensus amendment of the Senate Committee on Finance, Senate Amendment No. 1431. The staff of the Joint Committee on Taxation has described S. 1149, as proposed to have been modified by Senate Amendment No. 1431, rather than H.R. 6, as amended by the Senate, because the Chairman of the Senate Committee on Finance with the concurrence of the Majority Leader of the Senate has stated that S. 1149 as modified by Senate Amendment No. 1431 would be the conference position of the Senate with respect to the tax provisions in H.R. 6.[2]

For each provision, the "Senate" column of the side-by-side describes S. 1149 as it would have been modified by Senate Amendment No. 1431. If Senate Amendment No. 1431 has changed the substance of S. 1149, the side-by-side provides parenthetical notes that highlight the changes. After describing the effective date of each provision, the "Senate" column also briefly describes differences, if any, between S. 1149, as modified by Senate Amendment No. 1431, and H.R. 6, as amended by the Senate.[3] In general, the provisions of S. 1149, as modified by Senate Amendment No. 1431, have a counterpart in H.R. 6, as amended by the Senate. The "Senate" column also describes four provisions in H.R. 6, as amended by the Senate, that are not in S. 1149, as modified by Senate Amendment No. 1431.

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[1] This document may be cited as follows, Joint Committee on Taxation, *Comparison of Division D of H.R. 6, the "Energy Tax Policy Act of 2003" as Passed by the House of Representatives and S. 1149, the "Energy Tax Incentives Act of 2003," as Reported by the Senate Committee on Finance and Proposed to be Modified by Senate Amendment No. 1431* (JCX-79-03), September 16, 2003.

[2] Statement of Senator Charles Grassley, *Congressional Record-Senate*, vol. 149, July 31, 2003, pp. S10567-10569. Senator Grassley's statement references Senate Amendments Nos. 1424 and 1431. Senate Amendment No. 1424 is the text of S. 1149 as reported by the Senate Committee on Finance on May 23, 2003. Senate Amendment No. 1424 may be found at *Congressional Record*, vol. 149, July 30, 2003, pp. S10299-S10333. Senate Amendment No. 1431 may be found at *Congressional Record*, vol 149, July 30, 2003, pp. S10339-S10341.

[3] The tax provisions of H.R. 6, as amended and passed by the Senate, are Division H of H.R. 4, as passed by the Senate in the 107th Congress. For a more complete description of these see, Joint Committee on Taxation, *Comparison of Division C of H.R. 4, the "Energy Tax Policy Act of 2001," as Passed by the House of Representatives and Division H of H.R. 4, the "Energy Tax Incentives Act of 2002," as Amended by the Senate* (JCX-43-02), May 23, 2002.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
I. CONSERVATION **A. Residential and Business Property** **1. Residential solar hot water, photovoltaics and other energy efficient property** (sec. 41001 of the House bill and sec. 303 of S. 1149 as modified)	No provision.	Provides a tax credit for the purchase of qualified photovoltaic property and qualified solar water heating property that is used exclusively for purposes other than heating swimming pools and hot tubs. The credit is equal to 15 percent of qualified investment up to a maximum credit of $2,000 for solar water heating property and $2,000 for rooftop photovoltaic property. No carryforward of credit Effective date.–Purchases after December 31, 2003, and in taxable years beginning before January 1, 2007 (January 1, 2009, for photovoltaic property).	House bill plus: 30 percent credit for wind energy property ($2,000 max). 100 percent credit, with caps, for energy efficient: electric heat pump water heaters ($150); geothermal heat pumps ($250); advanced natural gas, oil, or propane furnaces or hot water boilers ($125); natural gas, oil, or propane water heaters ($75); advanced main circulating fan ($150); combination space and water heating system ($50); advanced combination space and water heating system ($150). Credit may be carried forward to succeeding taxable year Effective date.–Purchases after date of enactment and before January 1, 2008. (Qualifying equipment and credit levels differed in S. 1149 and in H.R. 6, as amended by the Senate

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			on July 31, 2003. H.R. 6, as amended, also applied to purchases after December 31, 2002.)
2. Credit for producing electricity from certain sources (secs. 41002 and 43006 of the House bill and sec. 101 of S. 1149 as modified)	Wind, closed loop biomass, poultry litter, credit rate.–An income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities (sec. 45). The credit applies to electricity produced by a wind energy facility placed in service after December 31, 1993, and before January 1, 2004, to electricity produced by a closed-loop biomass facility placed in service after December 31, 1992, and before January 1, 2004, and to poultry waste facilities placed in service after December 31, 1999, and before January 1, 2004. The credit amount is 1.8 cents per kilowatt-hour and is indexed for inflation. The credit is allowable for production during the 10-year	Wind, closed loop biomass, poultry litter, credit rate.–Extends the placed-in-service date for wind facilities and closed-loop biomass facilities to facilities placed in service before January 1, 2007. (Poultry waste facilities are not extended). New qualifying facilities.–Defines three new qualifying facilities: (1) open-loop biomass facilities placed in service before January 1, 2007; (2) landfill gas facilities placed in service before January 1, 2007; and (3) trash combustion facilities placed in	Wind, closed loop biomass, poultry litter, credit rate.–Extends all present law facility placed-in-service dates to include facilities placed in service before January 1, 2007. Permits facilities placed in service before December 31, 1992, and modified to burn closed loop biomass with coal and/or other biomass to claim credit for heat content of the closed loop biomass. For facilities placed in service after date of enactment credit amount 1.8 cents per kilowatt-hour with no inflation adjustment. New qualifying facilities.–Defines six new qualifying facilities: (1) biomass facilities (including agricultural livestock waste nutrient facilities) placed in service before January 1, 2005 (placed in service after the date of enactment and before January 1,

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	period after a facility is originally placed in service.	service after the date of enactment and before January 1, 2007. For qualifying open-loop biomass facilities and qualifying landfill gas facilities placed in service on or before the date of enactment, the taxpayer may claim two-thirds of the otherwise allowable credit for only five years, commencing on the date of enactment.	enactment and before January 1, 2007, in the case of agricultural livestock waste nutrient facilities), (2) geothermal energy facilities placed in service after the date of enactment and before January 1, 2007, (3) solar energy facilities placed in service after the date of enactment and before January 1, 2007, (4) small irrigation power facilities placed in service after the date of enactment and before January 1, 2007, (5) biosolids and sludge facilities placed in service after the date of enactment and before January 1, 2007, and (6) municipal solid waste facilities placed in service after the date of enactment and before January 1, 2007. For a biomass facility originally placed in service before the date of enactment, the ten-year credit period is reduced to a five-year period and commences after December 31, 2003, and the credit is reduced to a 1.2 cent-per-kilowatt-hour (unindexed). For geothermal energy facilities, solar energy facilities and

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			municipal solid waste facilities, the ten-year credit period is reduced to a five-year period.
	Other subsidies.–Credit amount reduced for tax-exempt financing and other subsidies.	Other subsidies.– The reduction in credit by reason of grants, tax-exempt bonds, subsidized energy financing, and other credits cannot exceed 50 percent. No facility that previously claimed or currently claims credit under section 29 of the Code is a qualifying facility for purposes of section 45.	Other subsidies.–Permits tax-exempt financing and rural electrification loans for facilities without reduction of credit.
	Credit claimants.–Generally facility owner must claim credit. Exception for governmentally owned poultry waste facility.	Credit claimants.– For qualifying open-loop biomass facilities originally placed in service on or before the date of enactment, a lessee or operator may claim the credit in lieu of the owner of the qualifying facility.	Credit claimants.–Lessee operators of open-loop biomass facilities, closed-loop biomass facilities modified to co-fire with coal and/or other biomass, and municipal solid waste facilities could claim credit. Credits would be tradable or applied against loans undertaken under the Rural Electrification Act of 1936.
	Alternative minimum tax.– The credit is part of the general business credit. The general	Alternative minimum tax.– Treats the tentative minimum tax as zero for the section 45 credit for electricity produced from a wind facility (placed in service after the	Alternative minimum tax.–No provision.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	business credit is generally allowed only to the extent the regular tax exceeds the greater of the tentative minimum tax or 25 percent of the regular tax.	date of enactment) during the first four years of production beginning on the date the facility is placed in service. (See separate description of the AMT and business credits.) <u>Effective date</u>.–Electricity sold after the date of enactment.	<u>Effective date</u>.–Generally electricity produced and sold after the date of enactment. For open-loop biomass facilities originally placed in service prior to the date of enactment, effective for electricity produced and sold after December 31, 2003. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision.) (H.R. 6, as amended by the Senate on July 31, 2003, is identical in the extension of placed in service dates but does not repeal the indexing of the credit amount.) (H.R. 6, as amended by the Senate on July 31, 2003, is substantially the same in defining closed loop biomass facilities that co-fire with coal (but no

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			restriction to thermal content of closed loop fuel), other biomass facilities (credit for three years of production), swine and bovine waste nutrient facilities, geothermal facilities, solar facilities, municipal biosolids facilities (including facilities placed in service after December 31, 2001), recycled sludge facilities (including existing facilities), and small irrigation facilities.) (H.R. 6, as amended by the Senate on July 31, 2003, is substantially the same with respect to lessee-operators, tax-exempt financing, and tradability of credits.) (H.R. 6, as amended by the Senate on July 31, 2003, generally effective upon the date of enactment.)
3. Fuel cells (sec. 41003 of the House bill and secs. 303 and 304 of S. 1149 as modified)	A 10-percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, or provide solar process heat; and	Provides a 10-percent credit for the purchase of qualified fuel cell power plants for businesses and individuals. The credit may not exceed $500 for each 0.5 kilowatt of capacity. For individuals, the	Similar to House bill, but provides a 30-percent credit with the same $500 cap per 0.5 kilowatt of capacity. Additionally, qualified

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	(2) equipment used to produce distribute, or use energy derived from a geothermal deposit.	qualified fuel cell power plant must be installed on or in connection with a dwelling unit located in the United States and used by the taxpayer as a principal residence. Effective date.–Property placed in service or expenditures made after December 31, 2003, and before January 1, 2007.	microturbines receive 10-percent credit not to exceed $200 for each kilowatt of capacity. Effective date.–Property placed in service after date of enactment and before January 1, 2008, (January 1, 2007, in the case of microturbines). (H.R. 6, as amended by the Senate on July 31, 2003, is similar but is effective for property placed in service after December 31, 2002.)
4. Energy efficient improvements to existing homes (sec. 41004 of the House bill and sec. 309 of S. 1149 as modified)	No provision.	Creates a 20 percent nonrefundable tax credit, up to $2,000, for homeowners for certain energy efficient building envelope components (including metal roofs) for existing homes. Components must meet 2000 International Energy Conservation Code standard (in the case of metal roofs, the Energy Star standard). Homes must be certified by a third party only if the aggregate cost of	Creates a 10-percent nonrefundable tax credit for homeowners for certain energy efficient building envelope components for existing homes. The maximum credit for a taxpayer with respect to the same dwelling for all taxable years is $300. Components must meet the prescriptive criteria of the latest International Energy Conservation Code approved by

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		components exceeds $1,000. Effective date.–Energy efficiency improvements installed after December 31, 2003, and before January 1, 2007.	Department of Energy, or be certified to achieve 30 percent reduction in heating and cooling energy usage. All homes must be certified by a third party. Effective date.–Energy efficiency improvements installed after date of enactment and before January 1, 2007. (H.R. 6, as amended by the Senate on July 31, 2003, differs in that it allows Energy Star certification in the case of windows, and applies to improvements installed after December 31, 2002.)
5. Energy efficient new homes (sec. 41005 of the House bill and sec. 301 of S. 1149 as modified)	No provision.	Creates a new tax credit (up to $2,000 per dwelling) for businesses, construction companies and contractors, for the costs of installing energy efficient heating and cooling appliances and building envelope components (insulation, windows, doors, metal roofs) that reduces heat loss (in winter) and gain (in summer) in new homes. The	Similar to House bill, but the credit cannot exceed $1,000 ($2,000) in the case of a new home which has a projected level of annual heating and cooling costs that is 30 percent (50 percent) less than a comparable dwelling constructed in accordance with the latest standards of Chapter 4 of the International Energy

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		credit qualifying property would have to improve the new home's energy efficiency with respect to heating and cooling by at least 30 percent from the standards established under the 2000 International Energy Conservation Code (10 percent with respect to the building envelope alone). Effective date.–Credit applies to homes substantially completed after December 31, 2003, and purchased between January 1, 2003, and December 31, 2006.	Conservation Code that have been approved by Department of Energy, and any applicable Federal minimum efficiency standards for equipment. Also, manufactured homes that meet the Energy Star standard are treated as a 30-percent home. There is no separate requirement that the building envelope alone account for any portion of the energy savings. Certification requirements differ from House bill. Effective date.–Credit applies to homes substantially completed after date of enactment and purchased between date of enactment and December 31, 2007 (December 31, 2005, in the case of the $1,000 credit). (S. 1149 and H.R. 6, as amended by the Senate on July 31, 2003, did not require that federal minimum efficiency standards for equipment be met and provided different certification options. Additionally, H.R. 6, as amended by the Senate on July 31, 2003, provided a $1,250 credit in place of the $1,000 credit, and such

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			credit was available through December 31, 2007.)
6. Energy credit for combined heat and power system property (sec. 41006 of the House bill and sec. 308 of S. 1149 as modified)	No credit is currently provided for investment in combined heat and power system property. A 10-percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, to provide solar process heat; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.	Provides a 10-percent credit for the purchase of combined heat and power property that meets certain energy efficiency standards and heat vs. power energy output requirements. Also provides that property eligible for the credit that would have a class life of 15 years or less will be treated as having a 22-year class life. <u>Effective date</u>.–Property placed in service after December 31, 2003, and before January 1, 2007.	Similar to House bill, but eliminates energy efficiency standard and heat vs. power energy output requirements for technologies using back-pressure steam turbines or which make use of waste heat from industrial processes such as by using organic Rankin, Stirling, or Kalina heat engine systems. <u>Effective date</u>.–Property placed in service after date of enactment and before January 1, 2007. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision that is effective for property placed in service after December 31, 2002.)
7. Energy efficient appliances (sec. 302 of S.1149 as modified)	No provision.	No provision.	Provides a $50, $100, or $150 credit for the manufacture of certain energy-efficient clothes washers and refrigerators. Credit applies to the number of qualified appliances produced for the

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			calendar year in excess of the average number of appliances produced in such category during the calendar years 2000-2002. $60 million limit on the total credits claimed over all years, no more than $30 million of which may be from the $50 credit. Effective date.–Appliances produced after date of enactment and before January 1, 2008. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision that differs with respect to credit levels, efficiency standards, and applicable years.)
8. Energy efficient commercial building property (sec. 305 of S. 1149 as modified)	A 10-percent business credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, to provide solar process hear; and (2) equipment used to produce distribute, or use energy derived from a geothermal deposit.	No provision.	Provides a deduction equal to energy-efficient commercial building property expenditures made by the taxpayer. Energy-efficient commercial building property expenditures are amounts paid or incurred for energy-efficient commercial building property installed in connection with the new construction or reconstruction of property: (1) which would

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			otherwise be depreciable property; (2) which is located in the United States, and (3) the construction or erection of which is completed by the taxpayer. The deduction is limited to $2.25 per square foot of the property for which such expenditures were made. Energy-efficient commercial building property means any property that reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements the 2001 Standard of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America. <u>Effective date</u>.–Taxable years beginning after date of enactment for buildings whose construction is completed on or before December 31, 2009.

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			(H.R. 6, as amended by the Senate on July 31, 2003, referenced 1999 ASHRAE standards, was effective for taxable years beginning after September 30, 2002. In addition, certification rules differ from those in S. 1149.)
9. Energy management devices (secs. 306 and 307 of S. 1149 as modified)	Taxpayers generally recover the costs of investments in property and equipment in annual depreciation deductions over a specified period.	No provision.	Provides a three-year recovery period for each qualified new energy management device placed in service by any taxpayer who is a supplier of electric energy or is a provider of electric energy services. Provides a three-year recovery period for qualified new water submetering devices placed in service by any taxpayer who is an eligible resupplier who purchases and installs such devices in every unit in a multi-unit property. <u>Effective date</u>.–Property placed in service after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, applied to new and retrofitted energy management devices (including

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			natural gas meters) and to new and retrofitted water submetering devices, and provided an additional $30 deduction for each such device. The definitions of qualified energy management device and water submetering differed as well.
10. Allow personal energy credits against the alternative minimum tax (sec. 41007 of the House bill and secs. 303(b) and 309(b) of S. 1149 as modified)	Before 2004, personal credits are allowed against the alternative minimum tax ("AMT"). After 2003, personal credits (other than the child credit, adoption credit and IRA credit) are not allowed against AMT. Certain personal credits in excess of these tax limitations may be carried over for specified periods.	Allows the personal energy credits added by the bill to offset AMT. (These credits include the credit for residential solar energy property, the credit for qualified fuel cell power plants, and the credit for energy efficient improvements to existing homes.) Any credit for energy efficiency home improvements to existing homes in excess of the tax limitation may be carried over to future years; the other credits added by the bill may not be carried forward. <u>Effective date</u>.–Taxable years beginning after 2003.	Same as House bill. (These credits include the credit for residential energy efficient property and the credit for energy efficient improvements to existing homes.) Each of the two personal energy credits in excess of the tax limitation may be carried forward to future years. <u>Effective date</u>.–Same as House bill. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)

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B. Fuels and Alternative Motor Vehicles **1. Repeal of certain excise taxes on railroad diesel fuel and inland waterway fuel** (sec. 41008 of the House bill and sec. 703 of S. 1149 as modified)	Diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system are subject to a 4.3-cents-per-gallon General Fund excise tax. In both cases, the 4.3-cents-per-gallon excise tax rates are permanent.	The 4.3-cents-per-gallon General Fund excise tax on diesel fuel used in trains and fuels used in barges operating on the designated inland waterways system is repealed. <u>Effective date</u>.–January 1, 2004.	Same as the House bill.
2. Reduced motor fuel excise tax rate for diesel fuel blended with water (sec. 41009 of the House bill)	A 24.3 cents per gallon excise tax is imposed on diesel fuel to finance the Highway Trust Fund. Gasoline and most special motor fuels are subject to tax at 18.3 cents per gallon for that trust Fund.	A special tax rate of 19.7 cents per gallon is provided for diesel fuel blended with water into a diesel/water emulsion fuel to reflect the reduced Btu content per gallon resulting from the water. <u>Effective date</u>.–October 1, 2003.	No provision.
3. Small ethanol producer credit (sec. 205 of S. 1149 as modified)	Present law provides several tax benefits for ethanol and methanol produced from renewable sources (e.g., biomass) that are used as a motor fuel or that are blended with other fuels (e.g., gasoline) for such a use. A per-gallon income tax credit is allowed for alcohol used as a motor fuel (the	No provision.	Allows pass-through of all or any portion of the cooperative's small ethanol producer credit to its patrons. In addition, the provision: • liberalizes the definition of an eligible small producer to

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	"alcohol credit") or used to produce a qualified alcohol fuel mixture (the "alcohol fuel mixture credit"). In the case of ethanol, the Code provides a separate 10-cents-per-gallon credit for small producers for up to 15 million gallons for any taxable year (sec. 40(b)(4)). A small producer is defined generally as persons whose production capacity does not exceed 30 million gallons per year (sec. 40(g)(1)). The alcohol fuels tax credits are includible in income (sec. 87). Under present law, the only excess credits that may be flowed-through from cooperatives to cooperative patrons are the rehabilitation credit (sec. 47), the energy property credit (sec. 48(a)), and the reforestation credit (sec. 48(b)).		include persons whose production capacity does not exceed 60 million gallons; • repeals the rule that includes the small producer credit in income of taxpayers claiming it; • liberalizes the ordering and carryforward/carryback rules for the small producer ethanol credit; • allows the small producer credit to be claimed against the alternative minimum tax; and • provides that the small producer ethanol credit is not treated as derived from a passive activity. <u>Effective date</u>.–Taxable years beginning after date of enactment.
4. Alcohol and Biodiesel Fuel Excise Tax Provisions and Extension of present law section 40 alcohol income tax credit (sec. 206 of S. 1149 as modified.)	The excise tax on gasoline is 18.4 cents per gallon (including .01 cent of the Leaking Underground Trust Fund tax). The tax on diesel fuel and kerosene is 24.4 cents per gallon (including .1 cent of the Leaking Underground Trust Fund tax) Blends of gasoline and	No provision.	Repeals reduced-rate sales of fuel for blending with alcohol. Provides per-gallon excise tax credits for alcohol and biodiesel fuel mixtures. The credit is generally 52 cents per gallon for alcohol used to produce a

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	alcohol are taxed at lower rates and gasoline used in the producing gasohol are taxed at lower rates depending on the type of alcohol and its volume in the mixture. A reduced rate also applies to diesel fuel and kerosene that is combined with alcohol. If gasoline, diesel fuel, kerosene or aviation fuel on which the regular rate of tax was imposed is used in producing a qualified alcohol fuel mixture sold in that person's trade or business, that person is entitled to payment equal to the difference between the regular rate and the applicable reduced rate. In the case of gasohol with respect to which a reduced excise tax is paid, 2.5 cents per gallon of the reduced tax is retained in the General Fund; 2.8 cents in the case of fuel to be blended with alcohol. Section 40 provides 2003 through 2004 52 cents and 2005 through 2007 51 cents per-gallon income tax credit for alcohol used as a motor fuel (the "alcohol credit") or used to produce a qualified alcohol fuel mixture (the alcohol fuel mixture credit). In the case		qualified mixture and 50 cents and $1.00 per gallon of biodiesel and agri-biodiesel, respectively. The term alcohol includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from alcohol. Provides outlay payments (as an alternative to tax credits) to producers of alcohol and biodiesel fuel mixtures and users of neat alcohol and neat biodiesel fuels. Credit and payment provisions related to biodiesel terminate after 2005. Credit and payment provisions related to alcohol terminate after 2010. Extends present law section 40 through December 31, 2010. Repeals the requirement that the 2.5/2.8 cents per gallon regarding alcohol fuels be retained in the General fund. <u>Effective date</u>.–Fuel sold or used after September 30, 2003. (Prior to modification, sec. 205 of S. 1149 provided, with respect to

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	of ethanol, section 40 provides a separate 10-cents-per-gallon credit for small producers for up to 15 million gallons for any taxable year. These section 40 credits generally terminate after December 31, 2007. No income tax credit or excise tax rate reduction is provided for biodiesel fuels under present law.		alcohol used in the production of ETBE, that the alcohol mixture credit and alcohol credit could be transferred to a qualified assignee. A qualified assignee is a person liable for taxes under section 4081, who is registered with the IRS and receives a certificate from the assignor as to the quantity of alcohol used to produce the ETBE. The provision was effective on the date of enactment.) (H.R.6, as amended by the Senate on July 31, 2003, contains a provision similar to sec. 205 of S. 1149 with respect to ETBE. In addition to permitting the transfer of the alcohol mixture credit and alcohol credit could be transferred to a qualified assignee, the provision also permited an election to use the credits to offset excise tax liability for highway motor fuels under Code section 4081. The provision is effective with the date of enactment.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
5. Income tax credit for biodiesel and biodiesel fuel mixtures (sec. 207 of S. 1149 as modified)	No income tax credit or excise tax rate reduction is provided for biodiesel fuels under present law.	No provision.	Provides a 50 cents-per-gallon income tax credit similar to the present-law ethanol benefits for each gallon of biodiesel used or sold as fuel or used in the production of a qualified biodiesel mixture that is used or sold as fuel. Biodiesel derived from virgin sources (agri-biodiesel) receives an increased credit of $1.00 per gallon. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel sold by the producer of the mixture to any person for use as a fuel or used by the producer as a fuel. The fuel does not have to be sold or used by the producer in a diesel-powered engine to qualify for the credit. (Prior to modification S. 1149 provided a credit equal to .05 cents for each percentage point of biodiesel (up to 20 percentage points) in a qualified biodiesel mixture) and 1 cent for each percentage point of agri-biodiesel (up to 20 percentage points) contained in a qualified biodiesel mixture. No credit is provided for 100 percent biodiesel fuel. A

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			qualified biodiesel mixture is defined as a mixture of biodiesel and diesel fuel sold by the producer of the mixture to any person for use as a fuel for use in a diesel powered engine or used by the producer as a fuel in a diesel-powered engine. The credit was not included in income.) <u>Effective date</u>.–Fuel sold after date of enactment in taxable years ending after such date and before January 1, 2006. (H.R. 6, as amended by the Senate on July 31, 2003, provides for biodiesel derived from virgin sources an income tax credit similar to S. 1149 before modification, and an excise tax rate reduction similar to the present-law ethanol benefits. Only an income tax credit is available for biodiesel derived from recycled sources. The amount of credit is identical to S. 1149 prior to modification).

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
6. Sale of gasoline and diesel fuel at duty-free sales enterprises (sec. 209 of S. 1149 as modified)	As a general rule, no tax is imposed on the sale by the manufacturer of an article for export, or for resale by the purchaser to a second purchaser for export, but only if such exportation of use is to occur before any other use (sec. 4221(a)). The Code further provides that if gasoline is sold to any person for the previously described purposes, the government is to pay such person an amount equal to the number of gallons of gasoline so sold multiplied by the rate of tax (sec. 6421(c)). Under 19 USC 1555(B)(8)(D), a duty free enterprise is defined as a person that sells duty free merchandise that is delivered from a bonded warehouse to an exit point for exportation by individuals departing from the customs territory.	No provision.	Amends section 1555(b) of Title 19 to treat gasoline sold from a duty free enterprise as entering into the territory of customs, i.e., not for export. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)
7. Modification of credit for electric vehicles (sec. 41010 of House bill and sec. 202 of S. 1149 as modified)	A 10-percent tax credit is provided for the cost of a qualified electric vehicle, up to a maximum credit of $4,000. The full amount of the credit is	Repeals the phased down reduction in the credit for years 2004, 2005, and 2006. Thus, provides that a taxpayer may claim the full 10-percent credit	Repeals the phased down reduction in the credit and creates a new credit that varies by weight of the vehicle.

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	available for purchases prior to 2004. The credit phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.	(up to a $4,000) maximum for the purchase of qualified electric vehicles before January 1, 2007. Effective date.–Date of enactment.	In general, for vehicles 8,500 pounds or less credit is $3,500 or $6,000 if vehicle has an estimated driving range of at least 100 miles on a single charge of the vehicle's batteries or if it is capable of a payload capacity of at least 1,000 pounds. For vehicles that conform to the Motor Vehicle Safety Standard 500, credit equals the lesser of $1,500 or 10 percent of the manufacturer's suggested retail price. For vehicles weighing greater than 8,500 pounds, credit ranges from $10,000 to $40,000. If vehicle purchased by tax-exempt persons, the seller or lessor may claim the credit. Unused credits may be carried back three years and forward 20 years. Effective date.–Property placed in service after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision except for the

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			effective date. The provision is effective for property placed in service after September 30, 2002.)
8. Alternative motor vehicle credit (secs. 41010 and 41011 of the House bill and sec. 201 of S. 1149 as modified)	Certain costs of qualified clean-fuel vehicle property may be expensed and deducted when such property is placed in service (sec. 179A). Qualified vehicles use certain clean-burning fuels (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). Hybrid motor vehicles and alternative fuel motor vehicles are qualified clean fuel vehicle property. The deduction varies by size of vehicle with the maximum amount $50,000 for a truck or van with a gross vehicle weight over 26,000 pounds or certain buses. Maximum deduction is $2,000 for vehicles with gross weight 10,000 pounds or less. The deduction phases down in the years 2004 through 2006, and is unavailable for purchases after December 31, 2006.	<u>Present law sec. 179A</u>.–Repeals the phased down reduction in the allowable deduction for years 2004, 2005, and 2006. Thus, provides that a taxpayer may claim a full deduction for allowable costs of clean-fuel vehicles (including hybrid motor vehicles and alternative fuel motor vehicles) purchased before January 1, 2007. <u>Fuel cell motor vehicles</u>.–Provides a credit for the purchase of a new qualified fuel cell motor vehicle. Qualified fuel cell motor vehicles are vehicles placed in service before 2013. Credit determined by a base credit amount that depends upon the weight class of the vehicle and, in	<u>Present law sec. 179A</u>.–Extends the sunset date of the deduction for costs of qualified clean-fuel vehicle through December 31, 2007 (December 31, 2011, in the case of property relating to hydrogen). Phase-down is modified: 75 percent of the otherwise allowable deductible in 2004 and 2005 (2004 through 2009 in the case of property relating to hydrogen), 50 percent in 2006 (2010 in the case of property relating to hydrogen), and 25 percent in 2007 (2011 in the case of property relating to hydrogen). <u>Fuel cell motor vehicles</u>.–Same as House bill, except vehicle must be placed in service before 2012.

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		the case of automobiles or light trucks, an additional credit amount that depends upon the rated fuel economy of the vehicle compared to a base fuel economy. The base credit amount ranges from $4,000 (for vehicles weighing less than or equal to 8,500 pounds) to $40,000 (for vehicles weighing in excess of 26,000 pounds). The additional credit amount ranges from $1,000 (fuel economy 150 percent of base fuel economy) to $4,000 (fuel economy 300 percent of base fuel economy). Hybrid motor vehicles.–No separate provision, but see "present law sec. 179A" above.	Hybrid motor vehicles.– Provides a credit for purchase of a new qualified hybrid motor vehicle. Qualified vehicles are vehicles placed in service before 2007. Credit for the purchase of a hybrid vehicle is the sum of two components. In the case of an automobile or light truck, the amount of credit is the sum of a base credit amount that varies with the amount of power available from the rechargeable storage system (range: $250 to $1,000) and a fuel economy credit

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			amount that varies with the rated fuel economy of the vehicle compared to a base fuel economy standard (range: $500 to $3,000). In addition, the vehicle must meet or exceed the EPA Tier II, bin 5 emissions standards. For a heavy duty hybrid motor vehicle (a vehicle weighing more than 8,500 pounds), the credit is the sum of a base credit amount that varies, by vehicle weight class, with the amount of power available from the rechargeable storage system and an additional credit for early adoption of the technology that varies with the model year of the vehicle purchased.
		<u>Alternative fuel motor vehicles</u>.–No separate provision, but see "present law sec. 179A" above.	<u>Alternative fuel motor vehicles</u>.–Provides credit for the incremental cost (over a conventional vehicle) for the purchase of a new alternative fuel motor vehicle. Qualifying alternative fuel motor vehicles are vehicles that operate only on qualifying alternative fuels and are incapable of operating on gasoline or diesel (except in the extent gasoline or diesel fuel is part of a qualified

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			mixed fuel). Qualified vehicles are vehicles placed in service before 2007. Credit equals 40 percent of the incremental cost of such vehicle, plus an additional 30 percent if the vehicle meets certain emissions standards, but allowable incremental cost cannot exceed between $5,000 (vehicles weighing 8,500 pounds or less) and $40,000 (vehicles exceeding 26,000 pounds) depending upon the weight of the vehicle. Qualified alternative fuels: compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid fuel that is at least 85 percent methanol.
		<u>Mixed-fuel vehicles</u>.–No provision.	<u>Mixed-fuel vehicles</u>.– A mixed fuel vehicle is a vehicle that uses a combination of an alternative fuel and a petroleum-based fuel. A mixed-fuel vehicle is eligible for the alternative fuel motor vehicle credit at a reduced rate. For a vehicle operating on a mixed fuel that is at least 75

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			percent alternative fuel, the vehicle is eligible for 70 percent of the otherwise allowable alternative fuel vehicle credit. For a vehicle operating on a mixed fuel that is at least 90 percent alternative fuel, the vehicle is eligible for 90 percent of the otherwise allowable alternative fuel vehicle credit.
		Advanced lean burn technology motor vehicles.–Provides a credit for the purchase of a new advanced lean burn technology motor vehicle. Vehicle is an automobile or light truck. Vehicle must meet the Environmental Protection Agency's Tier II bin 8 emissions standards. Qualified advanced lean burn technology motor vehicles are vehicles placed in service before 2007. Credit determined by a base credit amount dependent upon rated fuel economy of the vehicle compared to a base fuel economy plus an estimated lifetime fuel savings credit. The base credit amount ranges from $500 (fuel economy	Advanced lean burn technology motor vehicles.–No provision.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		125 percent of base fuel economy) to $3,000 (fuel economy 250 percent of base fuel economy). The estimated lifetime fuel savings credit is $250 if the vehicle achieves an estimated lifetime fuel savings of at least 1,500 gallons of fuel and a further additional credit of $500 if the vehicle achieves an estimated lifetime fuel savings of at least 2,500 gallons.	
		Base fuel economy.–Base fuel economy is the 2000 model year city fuel economy rating.	Base fuel economy.–Base fuel economy is the 2002 model year city fuel economy rating.
		Credit claimants.–Buyer claims the credit, unless the buyer is a tax-exempt entity in which case the seller or lessor of the vehicle may claim the credit.	Credit claimants.–Same as House bill.
		Carry forward.–Unused credits to be carried forward for up to 20 years.	Carry forward, carry back.–Unused credits may be carried back three years and forward 20 years.
		Effective date.–Property placed in service after date of enactment.	Effective date.–Property placed in service after date of enactment.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			(H.R. 6, as amended by the Senate on July 31, 2003, contains a substantially identical provision. The provision differs in providing greater credit amounts for certain hybrid motor vehicles and uses the 2000 model year as the base fuel economy standard. In addition, the provision is effective for property placed in service after September 30, 2002.)
9. Extension of deduction for refueling property (sec. 203 of S. 1149 as modified)	Costs of clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Clean-fuel vehicle refueling property comprises property for the storage or dispensing of a clean-burning fuel (natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, any other alcohol or ether). Clean-fuel vehicle refueling property also includes property for the recharging of electric vehicles. Up to $100,000 of such property at each location owned by the	No provision.	Extends deduction through 2007 (through 2011 in the case of hydrogen refueling property). Modifies the definition of refueling property to include property for the production of hydrogen. Provides 50-percent credit for the cost of installing clean-fuel vehicle refueling property. If retail clean-fuel vehicle refueling property, credit may not exceed $30,000. If residential refueling property, credit may not exceed $1,000. To be eligible for the credit, the property must be placed in service before January 1, 2008 (January 1, 2012, in the case of

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	taxpayer may be expensed with respect to that location. The deduction is not available after 2006.		hydrogen refueling property). If property owned by tax-exempt entity, installer may claim credit. Unused credits may be carried forward 20 years. <u>Effective date</u>.–Property placed in service after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical except in three respects. (1) The provision extends the present-law deduction through 2007 rather than 2008. (2) The provision does not provide that property for the production of hydrogen is qualified property. (3) The provision is effective for property placed in service after September 30, 2002.)
10. Credit for retail sale of alternative motor vehicle fuels (sec. 204 of S. 1149 as modified)	There is no retail credit for the sale of alternative motor vehicle fuels. However, blenders may claim a 52-cents-per-gallon income tax credit for alcohol fuels for 2003 and 2004 (51 cents for 2005-2007). The alcohol fuels credit may be claimed as a	No provision.	Provides credit equal to the gasoline gallon equivalent of 30 cents per gallon of alternative fuel sold in 2003, 40 cents per gallon in 2004, 50 cents per gallon in 2005, and 50 cents per gallon in 2006. Qualifying alternative fuels are compressed natural gas,

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	reduction in excise tax payments.		liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid mixture consisting of at least 85 percent methanol or ethanol. Credit for sales prior to January 1, 2007. Effective date.–Sales of fuels after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical except that it also provides a credit of 30 cents per gallon for fuels sold in 2002 and is effective for fuel sold at retail after September 30, 2002.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
II. RELIABILITY			
1. Natural gas gathering lines treated as 7-year property (sec. 42001 of the House bill and sec. 502 of S. 1149 as modified)	Rev. Proc. 87-56 includes two asset classes that could describe natural gas gathering lines owned by nonproducers of natural gas. Asset class 46.0, describing pipeline transportation, provides a recovery period of 15 years. Asset class 13.2, describing assets used in the exploration for and production of petroleum and natural gas deposits, provides a recovery period of seven years.	Establishes a statutory seven-year recovery period for natural gas gathering lines. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to such property. <u>Effective date</u>.–Effective for property placed in service after date of enactment.	Same as House bill, but no alternative minimum tax relief. <u>Effective date</u>.–Effective for property placed in service after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)
2. Recovery period for natural gas distribution lines (sec. 42002 of the House bill and sec. 510 of S. 1149 as modified)	Rev. Proc. 87-56 provides that natural gas distribution pipelines are assigned a 20-year recovery period.	Establishes a statutory 15-year recovery period for natural gas distribution lines. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to such property.	Same as House bill, but no alternative minimum tax relief.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		Effective date.–Effective for property placed in service after date of enactment.	Effective date.–Effective for property placed in service after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)
3. Recovery period for electric transmission property (sec. 42003 of the House bill)	Rev. Proc. 87-56 provides that assets used in the transmission and distribution of electricity for sale and related land improvements are assigned a 20-year recovery period.	Establishes a statutory 15-year recovery period for property used property used in the transmission of electricity for sale at 69 kilovolts and above. In addition, the provision provides that there would be no adjustment to the allowable amount of depreciation for purposes of computing a taxpayer's alternative minimum taxable income with respect to such property. Effective date.–Effective for property placed in service after date of enactment.	No provision.
4. Expensing of capital costs incurred for production in complying with Environmental Protection Agency sulfur regulations for small refiners (sec. 42004 of	Taxpayers generally recover the costs of investments in refinery property through annual depreciation deductions.	Permits small business refiners to claim an immediate deduction (i.e., expensing) for up to 75 percent of the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur	Substantially the same as the House bill, except a qualifying small business refiner is a taxpayer whose average daily refinery runs at all of the taxpayer's facilities does not exceed 410,000 barrels

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
the House bill and sec. 503 of S. 1149 as modified)		Control Requirements of the Environmental Protection Agency. A small business refiner is a taxpayer who employs not more than 1,500 employees directly in refining and has less than 205,000 barrels per day (average) of total refinery capacity. Deduction reduced, *pro rata*, for taxpayers with capacity in excess of 155,000 barrels per day. Effective date.–Effective for expenses paid or incurred after March 31, 2003.	per day. However, the deduction is applied on a per facility basis and is reduced, *pro rata*, at a facility with capacity in excess of 155,000 per day, as in the House bill. (S. 1149, prior to modification by Senate Amendment 1431, was identical to the House bill.) Effective date.–Expenses paid or incurred after December 31, 2002. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical to S. 1149 except it is effective for expenses paid or incurred after the date of enactment.)
5. Credit for small refiners for production of diesel fuel in compliance with Environmental Protection Agency sulfur regulations for small refiners (sec. 42005 of the House bill and sec. 504 of S. 1149 as modified)	There is not a credit for the production of low-sulfur diesel fuel.	Provides that a small business refiner may claim credit equal to five cents per gallon for each gallon of low sulfur diesel fuel produced during the taxable year. The total production credit claimed by the taxpayer is limited to 25 percent of the capital costs incurred to come into compliance with the	Substantially the same as the House bill, except a qualifying small business refiner is a taxpayer whose average daily refinery runs at all of the taxpayer's facilities does not exceed 410,000 barrels per day. However, the credit is applied on a per facility basis and is reduced, *pro rata*, at a facility

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		EPA diesel fuel requirements. Credit reduced, *pro rata*, for taxpayers with capacity in excess of 155,000 barrels per day. <u>Effective date</u>.–Expenses paid or incurred after March 31, 2003.	with capacity in excess of 155,000 per day, as in the House bill. (S. 1149, prior to modification by Senate Amendment 1431, was identical to the House bill in the definition of "small business refiner.") In addition, credit may be apportioned to patrons of certain cooperative organizations. <u>Effective date</u>.–Expenses paid or incurred after December 31, 2002. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical to S. 1149 except it is effective for expenses paid or incurred after the date of enactment.)
6. Independent producer test change from daily runs to average daily runs (sec. 42006 of the House bill and sec. 505 of S. 1149 as modified)	Present law classifies oil and gas producers as independent producers or integrated companies. The Code provides numerous special tax rules for operations by independent producers. An independent producer may not have refining operations the runs from which exceed 50,000 barrels	Allows refiners with average daily refinery runs for the taxable year that do not exceed 75,000 barrels to qualify as independent producers. <u>Effective date</u>.–Taxable years beginning after December 31, 2003.	Same as House bill, except provides a 60,000 barrel average daily run. <u>Effective date</u>.–Taxable years ending after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	on any day in the taxable year during which independent producer status is claimed (sec. 613A(d)(4)).		provision that is identical to S. 1149 except that it is effective for taxable years beginning after December 31, 2002)
7. Dispositions of transmission property to implement FERC restructuring policy (sec. 42007 of the House bill and sec. 603 of S. 1149 as modified)	Generally, a taxpayer recognizes gain to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property. The recognized gain is subject to current income tax unless the gain is deferred ornot recognized under a special tax provision.	Permits a taxpayer to elect to recognize gain from an electric transmission transaction ratably over an eight-year period beginning in the year of sale if the amount realized from such sale is used to purchase qualifying utility property during a four-year period beginning on the date of such sale. A qualifying electric transmission transaction is the sale or other disposition of property used by the taxpayer in the trade or business of providing electric transmission services, or an ownership interest in such an entity, to a FERC approved transmission company prior to January 1, 2007. If a taxpayer is a member of an affiliated group of corporations filing a consolidated return, the provision permits the reinvestment property to be purchased by any	Similar to the House bill, but does not have a reinvestment obligation.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		member of the affiliated group (in lieu of the taxpayer). Effective date.–Effective for transactions occurring after the date of enactment.	Effective date.–Effective for transactions occurring after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)
8. Special rules for nuclear decommissioning costs (sec. 42008 of the House bill and sec. 601 of S. 1149 as modified)	A qualified nuclear decommissioning fund (a "qualified fund") is a segregated fund established by a taxpayer that is used for the payment of decommissioning costs. Contributions to a qualified fund are deductible in the year made to the extent that these amounts were collected as part of the cost of service to ratepayers (the "cost of service requirement"). Accumulations in a qualified fund generally are limited to the amount required to fund post-1984 decommissioning costs of a nuclear powerplant.	Repeals the cost of service requirement for deductible contributions to a qualified fund. Permits a qualified fund to accumulate an amount sufficient to pay for all decommissioning costs. Permits an exception to ratable funding for decommissioning costs that, under present law, are not permitted to be accumulated in a qualified fund (generally pre-1984 decommissioning costs). Amount transferred under this special rule is allowed as a deduction over the remaining useful life of the nuclear powerplant. If a qualified fund that has received amounts under this rule is transferred to another person, the transferor will be	Similar to House bill, but (1) Provides that if a qualified fund that has received amounts under the exception to ratable funding is transferred to another person, that the transferee (and not the transferor) will be permitted a deduction for any remaining deductible amounts ratably over the remaining useful life of the nuclear powerplant. (2) Does not permit funding after useful life of powerplant.

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		permitted a deduction for any remaining deductible amounts at the time of transfer. Allows deductible contributions to a qualified fund subsequent to the end of a nuclear powerplant's estimated useful life. Clarifies that no gain or loss would be recognized as a result of the transfer of a qualified fund in connection with the transfer of the power plant. <u>Effective date</u>.–Effective for taxable years beginning after December 31, 2003.	<u>Effective date</u>.–Effective for taxable years beginning after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision. The provision does not permit the ability to accumulate all decommissioning costs in a qualified fund (i.e., retains present law rules that generally permit only post-84 decommissioning costs to be accumulated in a qualified fund).

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			The provision is effective for taxable years beginning after December 31, 2002.)
9. Treatment of certain electric cooperatives (sec. 42009 of the House bill and sec. 602 of S. 1149 as modified)	No provisions relating to electric energy industry restructuring, nuclear decommissioning transactions, involuntary conversions, or like-kind exchanges. Present law provides that exemption of rural electric cooperatives under section 501(c)(12) is determined without taking into account any income from cancellation of indebtedness income from the prepayment of loans under certain provisions of the Rural Electrification Act of 1936 (as in effect on January 1, 1987). The exclusion for cancellation of indebtedness income applies to such income arising in 1987, 1988, or 1989 on debt that either originated with, or is guaranteed by, the Federal Government.	Provides that income received or accrued by a rural electric cooperative (other than income received or accrued directly or indirectly from a member of the cooperative) from the provision or sale of electric energy transmission services or ancillary services on a nondiscriminatory open access basis under an independent transmission provider agreement approved by FERC is excluded in determining whether the cooperative satisfies the 85 percent member income test for tax exemption under section 501(c)(12). Provides that income received or accrued indirectly from a member by a rural electric cooperative generally is treated as member income for purposes of the 85 percent test. Provides that income received or accrued by a rural electric cooperative from any "nuclear decommissioning transaction" is excluded for purposes of the 85 percent test. Provides that gain realized by a	Similar to House bill, except: (1) Income received or accrued by a rural electric cooperative from any "open access transaction" (other than income received or accrued directly or indirectly from a member of the cooperative) is excluded in determining whether the cooperative satisfies the 85 percent member income test for tax exemption under section 501(c)(12); (2) Income received or accrued indirectly from a member by a rural electric cooperative is treated as member income for purposes of the 85 percent test only if the income is from an "open access transaction"; and (3) Cancellation of indebtedness income from discounted prepayments of loans, debts, or obligations made, insured, or guaranteed by the Federal government under the Rural Electrification Act of 1936 is excluded for purposes of the 85 percent test.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		rural electric cooperative from certain voluntary exchanges or involuntary conversions of certain property is excluded for purposes of the 85 percent test. Provides that income received or accrued by a rural electric cooperative from a "load loss transaction" is treated as member income for purposes of the 85 percent test. Provides that income received or accrued by a taxable electric cooperative from a "load loss transaction" is treated as patronage income. <u>Effective date</u>.–Taxable years beginning after the date of enactment.	<u>Effective date</u>.–Taxable years beginning after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision, except it also provides that income of a rural electric cooperative from receipts before 2007 for the construction of line extensions to facilitate the development of section 29 qualified nonconventional fuel sources is excluded for purposes of the 85 percent test.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
10. Arbitrage rules not to apply to prepayments for natural gas (sec. 42010 of the House bill and sec. 513 of S. 1149 as modified)	Restrictions are imposed on the ability of States or local governments to invest the proceeds of tax-exempt bonds for profit (the "arbitrage restrictions"). One such restriction limits the use of bond proceeds to acquire "investment-type property." The term investment-type property includes the acquisition of property in a transaction involving a prepayment. A prepayment can produce prohibited arbitrage profits when the discount received for prepaying the costs exceeds the yield on the tax-exempt bonds. In general, prohibited prepayments include all prepayments that are not customary in an industry by both beneficiaries of tax-exempt bonds and other persons using taxable financing for the same type of transaction. On August 4, 2003, the Treasury Department issued final regulations deeming to be customary, and not in violation of the arbitrage rules, certain prepayments for natural gas and electricity. Generally, a qualified prepayment under the regulations requires that 90 percent	The provision creates a safe harbor exception to the general rule that tax-exempt bond-financed prepayments violate the arbitrage restrictions. The term "investment type property" does not include a prepayment by a governmental gas utility under a qualified natural gas supply contract. The provision also provides that such prepayments are not treated as private loans for purposes of the private business tests. Under the provision, a prepayment financed with tax-exempt bond proceeds for the purpose of obtaining a supply of natural gas for service area customers of a governmental gas utility is not treated as the acquisition of investment-type property. A contract is a qualified natural gas supply contract if the volume of natural gas secured for any year covered by the prepayment does not exceed the sum of (1) the average annual natural gas purchased (other than for resale) by customers of the utility within the service area of the utility ("retail natural gas consumption") during	Same as the House bill. Clarifies that the safe harbor may be used by joint action agencies.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	of the natural gas or electricity purchased with the prepayment be used for a qualifying use. Generally, natural gas is used for a qualifying use if it is to be (1) furnished to retail gas customers of the issuing municipal utility who are located in the natural gas service area of the issuing municipal utility, however, gas used to produce electricity for sale is not included under this provision (2) used by the issuing municipal utility to produce electricity that will be furnished to retail electric service area customers of the issuing utility, (3) used by the issuing municipal utility to produce electricity that will be sold to a utility owned by a governmental person and furnished to the service area retail electric customers of the purchaser, (4) sold to a utility that is owned by a governmental person if the requirements of (1), (2) or (3) are satisfied by the purchasing utility(treating the purchaser as the issuing utility) or (5) used to fuel the pipeline transportation of the prepaid gas supply. Electricity is used for a qualifying use if it is to be (1) furnished to retail service area electric customers of the	the testing period, and (2) the amount of natural gas that is needed to fuel transportation of the natural gas to the governmental utility. The testing period is the five-calendar-year period immediately preceding the calendar year in which the bonds are issued. Natural gas used to generate electricity by a governmental utility is counted as retail natural gas consumption if the electricity was sold to retail customers within the service area of the governmental electric utility. Effective date.–Bonds issued after date of enactment.	

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	issuing municipal utility. Both governmental gas and electric utilities may take advantage of this regulatory provision.		

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
III. PRODUCTION **A. Oil and Gas Provisions** **1. Marginal wells credit** (sec. 43001 of the House bill and sec. 501 of S. 1149)	There is no credit for the production of oil and gas from marginal wells. The costs of such production may be recovered under the Code's depreciation and depletion rules and in other cases as a deduction for ordinary and necessary business expenses.	Creates a new, $3 per barrel credit for the domestic production of crude oil and a $0.50 per 1,000 cubic feet of qualified natural gas production from qualified marginal wells. The credit is not available for production occurring if the reference price of oil exceeds $18 ($2.00 for natural gas). The credit is reduced proportionately for reference prices between $15 and $18 ($1.67 and $2.00 for natural gas). Credit may be carried back 10 years. Effective date.–Production in taxable years beginning after December 31, 2003.	Similar to House bill. Credit may not be carried back to a taxable year ending on or before the date of enactment. Production from any well during any period such well is not in compliance with applicable Federal pollution requirements is not treated as qualified production for purposes of the credit. Excludes Alaska natural gas from the definition of domestic natural gas. Effective date.–Production in taxable years beginning after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, is similar to S. 1149, except it provided that a marginal well not in compliance with applicable State, as well as Federal, pollution requirements is not treated as a qualified marginal

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			well during the period of noncompliance).
2. Income limitations on percentage depletion for oil and gas properties (sec. 43002 of the House bill and sec. 506 of S. 1149 as modified)	Percentage depletion method for oil and gas properties applies to independent producers and royalty owners. Generally, under the percentage depletion method, 15 percent of the taxpayer's gross income from an oil- or gas-producing property is allowed as a deduction in each taxable year. The amount deducted generally may not exceed 100 percent of the net income from the property in any year (the "net-income limitation"). The 100-percent net-income limitation for marginal wells is suspended for taxable years beginning after December 31, 1997, and before January 1, 2004. Additionally, the percentage depletion deduction for all oil and gas properties may not exceed 65 percent of the taxpayer's overall taxable income (determined before such deduction and adjusted for	Suspends 65-percent taxable income limitation. Extends suspension of the 100-percent net-income limitation for marginal wells. Effective date.–Taxable years beginning after December 31, 2003, and before January 1, 2007.	No provision for the suspension of 65-percent taxable income limitation. Same as House bill. Effective date.–Same as House bill.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	certain loss carrybacks and certain trust distributions).		
3. Delay rental payments (sec. 43003 of the House bill and sec. 507 of S. 1149 as modified)	Present law generally requires costs associated with inventory and property held for resale to be capitalized rather than currently deducted as they are incurred. Oil and gas producers typically contract for mineral production in exchange for royalty payments. If mineral production is delayed, these contracts provide for "delay rental payments" as a condition of their extension. The Treasury Department has taken the position that the uniform capitalization rules of section 263A require delay rental payments to be capitalized.	Allows delay rental payments to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-year amortization period. <u>Effective date</u>.–Amounts paid or incurred in taxable years after 2003.	Same as House bill. <u>Effective date</u>.–Amounts paid or incurred in taxable years beginning after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision except it is effective for taxable years after 2002).
4. Geological and geophysical costs (sec. 43004 of the House bill and sec. 508 of S. 1149 as modified)	Capital expenditures are not currently deductible as ordinary and necessary business expenses, but are allocated to the cost of the property. Courts have held that geological and geophysical costs are capital, and therefore, are allocable to the cost of the property acquired or retained.	Allows geological and geophysical costs incurred in domestic oil and gas exploration to be amortized over two years. In the case of abandoned property, remaining basis may no longer be recovered in the year of abandonment of a property as all basis is recovered over the two-	Same as House bill. <u>Effective date</u>.–Costs paid or incurred in taxable years beginning after the date of enactment.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	The costs attributable to such exploration are allocable to the cost of the property acquired or retained.	year amortization period. Effective date.–Costs paid or incurred in taxable years after 2003.	(H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision except it is effective for taxable years after 2002).
5. Extension and expansion of credit for producing fuel from a nonconventional source (sec. 43005 of the House bill and sec. 509 of S. 1149 as modified)	Fuels produced from "non-conventional sources" and sold to unrelated parties are eligible for an income tax credit equal to $3.00 (adjusted for inflation since 1979, credit value $6.35 per barrel for 2002) per barrel or BTU oil barrel equivalent (sec. 29). Qualified fuels include: (1) oil produced from shale and tar sands; (2) gas produced from geopressured brine, Devonian shale, coal seams, tight formations ("tight sands"), or biomass; and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite). Credit is available only with respect to fuels produced from wells drilled or facilities placed in service after December 31, 1979, and before January 1, 1993. An exception extends the January 1, 1993, expiration date	Extension of credit.–Permits section 29 credit for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. Qualifying fuels are oil from shale or tar sands, and gas from geopressured brine, Devonian shale, coal seams or a tight formation. The value of the credit is re-based to $3.00 for production in 2003 and is indexed for inflation commencing with the credit amount for 2004. The credit may be claimed for production from the well for each of the first four years of production, but not for any production occurring after December 31, 2009.	Extension of credit.–Permits section 29 credit for production of certain non-conventional fuels produced at wells placed in service after the date of enactment and before January 1, 2007. Qualifying fuels are oil from shale or tar sands, and gas from geopressured brine, Devonian shale, coal seams or a tight formation, or biomass. The value of the credit is re-based to $3.00 and the amount is not indexed for inflation for three years of production commencing when the facility is placed in service.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	for facilities producing gas from biomass and synthetic fuel from coal if the facility producing the fuel is placed in service before July 1, 1998, pursuant to a binding contract entered into before January 1, 1997. Credit may be claimed for qualified fuels produced and sold before January 1, 2003 (in the case of non-conventional sources subject to the January 1, 1993, expiration date), or January 1, 2008 (in the case of biomass gas and synthetic fuel facilities eligible for the extension period).	Extension of credit for landfill gas facility.–Permits landfill gas sold to a third party from facilities placed in service after June 30, 1998, and before January 1, 2007, to be eligible for the taxpayer to claim five years of credit from the later of the date of enactment or the date the facility is placed in service. The amount of the credit is $3.00 per barrel of oil equivalent in 2003 and is indexed for inflation commencing with the credit amount for 2004. In the case of a landfill subject to the EPA's 1996 New Performance Standards/ Emissions Guidelines, the credit is $2.00 per barrel of oil equivalent in 2003 and is indexed for inflation commencing with the credit amount for 2004. 1979-1993 landfill gas facility.–Provides a $3.00 indexed credit for production from landfill gas facilities placed in service prior to 1993 as described below under "existing facilities."	Extension of credit for landfill gas facility.–As described above, permits credit at a $3.00 rate for production from landfill gas facilities placed in service after date of enactment and before January 1, 2007. 1979-1993 landfill gas facility.–No provision.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		Definition of a landfill facility.–No change to the definition of facility.	Definition of a landfill facility.–Clarifies that a landfill gas facility is placed in service by reference to when the wells, pipes, and related equipment within a portion of a landfill are placed in service rather than when the landfill is initially placed in service.
		Existing facilities.–Permits production from certain existing wells (any well drilled after December 31, 1979, and before January 1, 1993) to claim a credit equal to the newly, re-indexed value of $3.00 for production in 2003 through 2006.	Existing facilities.–Extends the present-law credit through December 31, 2005, for production from existing facilities producing coke, coke gas, or natural gas and by-products produced by coal gasification from lignite. Provides that the credit amount is $3.00 per barrel of oil equivalent for production from such facilities after December 31, 2002.
		Newly defined facilities.–No provision.	Newly defined facilities.–Defines four new types of qualifying facilities. (1) Agricultural and animal wastes. Permits credit for production of liquid, gaseous, or

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			solid fuels produced from agricultural and animal wastes from facilities placed in service after the date of enactment and before January 1, 2007. Credit value is $3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service. (2) Viscous oil. Permits credit for production of "viscous oil" from facilities placed in service after the date of enactment and before January 1, 2007. Qualifying viscous oil may be sold to a related party. Credit value is $3.00 per barrel of oil equivalent, unindexed, for three years of production commencing when the facility is placed in service. (3) Refined coal. Permits credit for production of "refined coal" from facilities placed in service after the date of enactment and before January 1, 2007. "Refined coal" must meet emissions reduction targets and have market value 50 percent greater than

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			feedstock coal. Credit value is $3.00 per barrel of oil equivalent, unindexed, for five years of production commencing when the facility is placed in service. (4) Coalmine methane gas. Permits credit for production of "coalmine methane gas" captured or extracted from a coal mine and sold after the date of enactment and before January 1, 2007. Qualifying coalmine methane gas is gas liberated during mining operations or extracted up to ten years in advance of mining operations. Credit value is $3.00 per barrel of oil equivalent for gas captured and utilized or sold.
		Daily limit.–Credit limited to production from a facility average of 200,000 cubic feet of gas, or barrel of oil equivalent (200,000 cubic feet is equivalent to 35.4 barrels of oil) from a qualifying well or facility with respect to any production for which credit can be claimed under the modifications above.	Daily limit.–Same as House Bill for facilities placed in service after the date of enactment including newly defined qualifying facilities (agricultural and animal waste facilities, viscous oil facilities, refined coal facilities, and coal mine methane gas).

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		General business credit.–Adds section 29 to the list of general business credits. Study.–No provision. Effective date.–Effective for fuel sold from qualifying wells and facilities after April 1, 2003.	General business credit.–No provision. Study.–Directs Treasury to study effect sec. 29 has had on the production of coal bed methane. Effective date.–Effective for fuel sold after the date of enactment. With respect to the definition of a landfill gas facility, effective for wells, pipes, and related equipment placed in service after date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision.) (H.R. 6, as amended by the Senate on July 31, 2003, is identical for agricultural and animal wastes, viscous oil and refined coal.) (H.R. 6, as amended by the Senate on July 31, 2003, is identical in defining coalmine methane gas but provides for a

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			five-year extraction period in advance of mining operations.) (H.R. 6, as amended by the Senate on July 31, 2003, is substantially the same with respect to existing facilities producing coke, coke gas, or natural gas and by-products produced by coal gasification from lignite but extends the present law credit through December 31, 2004.) (H.R. 6, as amended by the Senate on July 31, 2003, differs by not clarifying the definition of when a landfill gas facility is placed in service). (H.R. 6, as amended by the Senate on July 31, 2003, differs by providing that qualified facilities must be placed in service by January 1, 2005.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
B. Business Alternative Minimum Tax Provisions			
1. Allow business energy credits against the alternative minimum tax (secs. 43006, and 43008 of the House bill and secs. 205(b)(3) and 511(c) of S. 1149 as modified)	Business tax credits are generally allowed only to the extent the regular tax exceeds the greater of the tentative minimum tax or 25 percent of the regular tax. Excess credits may be carried back one year and carried over 20 years.	In applying the tax liability limitation, treats the tentative minimum tax as zero with respect to-- (1) the credits added by the bill for construction of new energy efficient homes; for production of low sulphur diesel fuel; and for oil and gas production from marginal wells, (2) for taxable years beginning in 2004 and 2005, the enhanced oil recovery credit (sec. 43), and (3) the section 45 credit for electricity produced from a wind facility (placed in service after the date of enactment) during the first four years of production beginning on the date the facility is placed in service.	Allows the small ethanol producer credit and the Alaska natural gas credit to be claimed against the entire regular tax and the alternative minimum tax. Other business energy credits are subject to the present-law limitation. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
2. Intangible drilling costs (IDCs) (sec. 43007 of the House bill)	Certain intangible drilling costs ("IDCs") of oil and gas producers are an alternative minimum tax preference.	Repeals alternative minimum tax preference for IDCs of independent producers. Effective date.–Taxable years beginning in 2004 and 2005.	No provision.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
C. Clean Coal Provisions			
1. Credit for production from a clean coal technology unit (secs. 401 and 421 of S. 1149 as modified)	Present law does not provide a production credit for electricity generated at facilities that use coal as a fuel. However, an income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities.	No provision.	Provides production credit for electricity produced from units that have been retrofitted, repowered, or replaced with a clean coal technology within ten years of the date of enactment. The credit is 0.34 cents per kilowatt-hour of electricity produced and is indexed for inflation. The taxpayer may claim the credit during ten-year period commencing from the date the unit is placed in service. A qualifying clean coal technology unit must certain capacity standards, thermal efficiency standards, and emissions standards. The taxpayer must receive a certificate from the Secretary to claim credit. The Secretary may grant certificates only for 4,000 megawatts of capacity. No unit eligible if the unit's capacity exceeded 300 megawatts prior to retrofitting. Maximum allocation to any unit may not exceed 300

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			megawatts. Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer. Effective date.–Effective for electricity produced after the date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical except for some minor technical changes.)
2. Investment credit for advanced clean coal technology (secs. 411 and 421 of S. 1149 as modified)	Present law does not provide an investment credit for electricity generating facilities that use coal as a fuel. However, a nonrefundable, 10-percent investment tax credit is allowable for (1) equipment that uses solar energy to generate electricity, to heat or cool a structure or provide hot water, to provide solar process heat; and (2) equipment used to	No provision.	Provides a 10-percent investment tax credit for investments in advanced clean coal technology units. Qualifying advanced clean coal technology units must utilize advanced pulverized coal or atmospheric fluidized bed combustion technology, pressurized fluidized bed combustion technology, integrated gasification combined cycle

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	produce distribute, or use energy derived from a geothermal deposit.		technology, or some other technology certified by the Secretary of Energy. Any qualifying unit must meet certain capacity standards, thermal efficiency standards, and emissions standards. A qualifying unit must receive a certificate from the Secretary. The Secretary may grant certificates to investments only to the point that 4,000 megawatts of electricity production capacity qualifies for the credit. From the potential pool of 4,000 megawatts of capacity: (1) not more than 1,000 megawatts in total and not more than 500 megawatts in years prior to 2009 shall be allocated to units using advanced pulverized coal or atmospheric fluidized bed combustion technology; (2) not more than 500 megawatts in total and not more than 250 megawatts in years prior to 2009 shall be allocated to units using pressurized fluidized bed combustion technology; (3). not more than 2,000 megawatts in total and not more than 750 megawatts in years prior to 2009 shall be allocated to units using

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			integrated gasification combined cycle technology; and (4) not more than 500 in total and not more than 250 megawatts in years prior to 2009 shall be allocated to any other technology. Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer. <u>Effective date</u>.–The provision would be effective for investments made after the date of enactment generally with respect to property placed in service before January 1, 2017 (before January 1, 2013, in the case of advanced pulverized coal or atmospheric fluidized bed combustion technology). (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is substantially the same. The differences largely involve several thermal efficiency standards required of a qualifying unit.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
3. Credit for production from advanced clean coal facilities (secs. 412 and 421 of S. 1149 as modified)	Present law does not provide a production credit for electricity generated at facilities that use coal as a fuel. However, an income tax credit is allowed for the production of electricity from either qualified wind energy, qualified "closed-loop" biomass, or qualified poultry waste facilities.	No provision.	Provides a production credit for electricity produced from any qualified advanced clean coal technology electricity generation unit that qualifies for the investment credit for qualifying clean coal technology units. Taxpayer may claim a production credit on the sum of each kilowatt-hour of electricity produced and the heat value of other fuels or chemicals produced. Taxpayer may claim the credit for the 10-year period commencing with the date the qualifying unit is placed in service. The value of the credit varies depending upon the year the unit is placed in service, whether the unit produces solely electricity or electricity and fuels or chemicals, and the rated thermal efficiency of the unit. (Senate amendment No. 1431 modifies some of the thermal efficiency standards of S. 1149.) The value of the credit is reduced for the second five years of eligible production. If a unit meets the more stringent qualification standards of post-2008 in years before 2009, the taxpayer may

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			claim the higher post-2008 credit amounts. The value of the credit is indexed for inflation. Certain persons (public utilities, electric cooperatives, Indian tribes, and the Tennessee Valley Authority) eligible to obtain certifications from Secretary for credits and sell, trade, or assign the credits to any taxpayer. Effective date.–Effective for electricity produced after the date of enactment. (H.R.6, as amended by the Senate on July 31, 2003, contains a provision that is substantially the same. The differences largely involve several thermal efficiency standards required of a qualifying unit and it does not include the provision permitting a taxpayer that meets the more stringent qualification standards of post-2008 in years before 2009, to claim the higher post-2008 credit amounts.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
D. Alaska Gas Provisions			
1. Credit for production of Alaska natural gas (sec. 511 of S. 1149 as modified)	No provision. However, natural gas produced from "non-conventional sources" is eligible for an income tax credit equal to $3 (adjusted for inflation since 1979, credit value $6.35 per barrel for 2002) per barrel or Btu oil barrel equivalent (sec. 29).	No provision.	Provides a credit per million British thermal units (Btu) of natural gas for Alaska natural gas entering a pipeline during the 25-year period (S. 1149, prior to modification by Amendment No. 1431 provided a 15-year period) beginning the later of January 1, 2010, or the initial date for the interstate transportation of Alaska natural gas. Credit claimed against regular and minimum tax. The credit a maximum of 52 cents per million Btu. Credit phases out as the reference price of Alaska natural gas rises above 83 cents per million Btu. Credit is not available if the reference price of Alaska natural gas rises above $1.35 per million Btu. The 52-cent and 83-cent figures are indexed for inflation after 2002, with the first adjustment for calendar year 2004. The credit amount is determined monthly for each month's production. Amendment No. 1431 provides that when the State of Alaska is

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			the owner of the gas by a royalty in-kind, the credit may be transferred to the producer or subsequent owner of the gas. Effective date.–Date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a similar provision.) H.R. 6, as amended by the Senate on July 31, 2003, provides a credit equal to excess of $3.25 (indexed for inflation) per 1 million Btu of Alaska natural gas over average monthly price at Alberta, Canada pipeline hub. If price at hub exceeds $4.875 (indexed), any prior credits recaptured.)
2. Certain Alaskan pipeline systems depreciation (sec. 512 of S. 1149 as modified)	Rev. Proc. 87-56 provides that assets used in the private, commercial, and contract carrying of petroleum, gas and other products by means of pipes and conveyors are assigned a 15-year recovery period.	No provision.	Establishes a statutory seven-year recovery period for any natural gas pipeline system, located in Alaska, which has a capacity greater than five hundred billion Btu of natural gas per day and is placed in service after December 31, 2012 (or by taxpayer election treated as placed in service after

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			2012). (S. 1149, prior to modification by Amendment No. 1431, applied to property placed in service after December 31, 2014.) For purposes of the proposal, a natural gas pipeline system is defined as any system used in the carrying of natural gas by means of pipes, including pipe, trunk lines, related equipment, and appurtenances. It does not include any gas treatment plant related to such pipeline. <u>Effective date</u>.–Effective for property placed in service after date of enactment.
3. Enhanced oil recovery credit for Alaska gas facilities (sec. 514 of S. 1149 as modified)	Taxpayer may claim a credit equal to 15 percent of enhanced oil recovery costs. Qualified enhanced oil recovery costs include costs of depreciable tangible property that is part of an enhanced oil recovery project, intangible drilling and development costs with respect to an enhanced oil recovery project, and tertiary injectant expenses	No provision, but makes a modification to the alternative minimum tax with respect to the enhanced oil recovery credit (see separate provision).	Amendment No. 1431 provides that construction expenses for a natural gas processing plant for Alaska natural gas that also produces carbon dioxide for re-injection are qualified enhanced oil recovery costs eligible for the enhanced oil recovery credit. <u>Effective date</u>.–Costs paid or incurred in taxable years after 2003.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	incurred with respect to an enhanced oil recovery project.		

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
IV. ADDITIONAL PROVISIONS **A. Additional Provisions in S. 1149 as Reported** **1. Accelerated depreciation and wage credit benefits for businesses on Indian reservations** (sec. 701 of S. 1149 as modified)	Two tax incentives exist to encourage investment on Indian reservations: a 20-percent general business credit for qualifying wages and costs paid to employees that work on an Indian reservation, and special depreciation recovery periods for qualified Indian reservation property. Both provisions expire on December 31, 2004.	No provision.	Wage credit and accelerated depreciation incentives extended through December 31, 2005, for all types of businesses (not just energy). <u>Effective date</u>.–Effective date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that is identical to S. 1149.)
2. Expansion of research credit (sec. 704 of S. 1149 as modified)	A taxpayer may claim a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The research tax credit is scheduled to expire and generally will notapply to amounts paid or incurred after June 30, 2004.	No provision.	Provides that the taxpayer may claim a credit equal to 20 percent of the taxpayer's all expenditures on qualified energy research undertaken by an energy research consortium, not only those in excess of a base amount. An energy research consortium is a qualified research consortium as under present law that also is organized and operated primarily

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	A 20-percent research tax credit also applied to the excess of (1) 100 percent of corporate cash expenses paid for basic research conducted by universities (and certain nonprofit scientific research organizations) over (2) the sum of (a) the greater of two minimum basic research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.		to conduct energy research and development in the public interest and to which at least five unrelated persons paid, or incurred amounts, to such organization within the calendar year. In addition, to be a qualified energy research consortium no single person shall pay or incur more than 50 percent of the total amounts received by the research consortium during the calendar year. Also provides that 100 percent of amounts paid or incurred by the taxpayer to eligible small businesses, universities, and Federal laboratories for qualified energy research would constitute qualified research expenses as contract research expenses, rather than 65 percent of qualified research expenditures allowed under present law. An eligible small business is a business in which the taxpayer does not own a 50-percent or greater interest and the business has employed, on average, 500 or fewer employees in the two

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			preceding calendar years. Effective date.–Amounts paid or incurred after date of enactment.
3. GAO study of effectiveness of alternative motor vehicles and fuel incentives (sec. 702 of S. 1149 as modified)	No provision.	No provision.	Directs Comptroller General to study effectiveness of alternative motor vehicle and fuel incentives and conservation and energy efficiency incentives. In addition, study to examine distribution of beneficiaries. Compare revenue cost to energy conserved and environmental benefits. Annual reports beginning by December 31, 2004. Effective date.–Date of enactment. (H.R. 6, as amended by the Senate on July 31, 2003, contains an identical provision except that the first report would be due December 31, 2002.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
B. Additional Provisions in H.R. 6, as Amended by the Senate, But Not in S. 1149 as Reported			
1. Treatment of certain dispositions of dairy property to implement bovine tuberculosis eradication program	Generally, a taxpayer may elect not to recognize gain with respect to property that is involuntarily converted if the taxpayer acquires within an applicable period (generally the period ending two years after the end of the taxable year in which the first gain on the conversion is realized) property similar or related in service or use.	No provision.	No provision. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision extending involuntary conversion treatment to qualified dispositions of dairy property pursuant to the bovine tuberculosis eradication program. Treats any property acquired and held by the taxpayer either for productive use in a trade or business or for investment as property similar or related in use to the converted property. Extend the applicable acquisition period from two to four years and permits replacement property to be acquired from related parties. In addition to deferring gain, the provision also permits an ordinary loss equal to the adjusted basis of the converted property. Finally, the provision allows expensing for amounts paid or

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			incurred by the taxpayer to convert any real property into unimproved land pursuant to the bovine tuberculosis eradication program. Effective for dispositions made and amounts received in taxable years beginning after May 22, 2001, but shall not apply to dispositions made after December 31, 2006.)
2. Expand exemption from aviation fuels excise taxes for aerial applicators	Excise taxes are imposed on aviation gasoline (19.4 cents per gallon) and jet fuel (21.9 cents per gallon) (secs. 4081 and 4091). Fuel used on a farm for farming purposes is exempt from tax. Aerial applicators (crop dusters) are allowed to claim the exemption on behalf of farm owners and operators, e.g., in the case of aviation gasoline if the owners or operators give written consent to the aerial applicators. This exemption applies only to fuel consumed in the airplane while operating over the farm, i.e., fuel consumed traveling to and from the farm is not exempt.	No provision.	No provision. (H.R.6, as amended by the Senate on July 31, 2003, contains a provision that expands the present-law exception to include fuel used between farms and base airfields, and provides that the aerial applicator is the exclusive party entitled to the refund. The provision is effective for transportation after 2001 and before 2003.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
3. Expand definition of rural airports exempt from the tax imposed on each segment of a flight	Most domestic air passenger transportation is subject to a two-part excise tax. First, an *ad valorem* tax is imposed at the rate of 7.5 percent of the amount paid for the transportation. Second, a flight segment tax of $3.00 per segment is imposed. The flight segment component of the tax does not apply to segments to or from qualified "rural airports." A rural airport is defined as an airport that (1) in the second preceding calendar year had fewer than 100,000 commercial passenger departures, and (2) either (a) is not located within 75 miles of another airport that had more than 100,000 such departures in that year, or (b) is eligible for payments under the Federal "essential air service" program.	No provision.	No provision. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that expands the present-law exception to include fuel used between farms and base airfields, and provides that the aerial applicator is the exclusive party entitled to the refund. The provision is effective for transportation after 2001 and before 2003.)
4. Exempt transportation by seaplane from ticket taxes	Most domestic air passenger transportation is subject to a two-part excise tax. First, an *ad valorem* tax is imposed at the rate of 7.5 percent of the amount paid for the transportation. Second, a flight segment tax of $3.00 per	No provision.	No provision. (H.R. 6, as amended by the Senate on July 31, 2003, contains a provision that reclassifies seaplane flights as noncommercial aviation, subject

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
	segment is imposed. Noncommercial aviation is subject to a higher fuel excise excise tax, but not the ticket tax. Commercial aviation also is subject to a 4.4-cents-per-gallon fuels excise tax.		only to fuels excise tax. The provision is effective for flights after December 31, 2002.)

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
V. REVENUE PROVISIONS **A. Corporate Expatriation** **1. Corporate inversions** (secs. 44001, 44002 of the House bill and secs. 821, 822, and 823 of S. 1149 as modified)	U.S. corporations may reincorporate in low-tax foreign jurisdictions and thereby replace the U.S. parent corporation of a multinational corporate group with a foreign parent corporation. This allows the corporate group to remove foreign operations from the U.S. taxing jurisdiction. The corporate group may derive further tax benefits from the inverted structure by reducing U.S. tax on U.S.-source income through various earnings stripping or other transactions. In this respect, the post-inversion structure enables the group to employ the same tax-reduction strategies that are available to other multinational corporate groups with foreign parents and U.S. subsidiaries, subject to the same limitations (see, e.g., secs. 163(j) and 482).	Imposes a moratorium on corporate inversion transactions that occur between March 4, 2003, and January 1, 2005. A corporate inversion transaction is a transaction in which: (1) a U.S. corporation becomes a subsidiary of a foreign-incorporated entity or otherwise transfers substantially all of its properties to such an entity; (2) the former shareholders of the U.S. corporation hold (by reason of holding stock in the U.S. corporation) 80 percent or more (by vote or value) of the stock of the foreign-incorporated entity after the transaction; and (3) the foreign-incorporated entity, considered together with all companies connected to it by a chain of greater than 50-percent ownership (the "expanded affiliated group"), does not have	Defines two different types of corporate inversion transactions and establishes a different set of consequences for each type. With respect to the first type of inversion, the Senate definition is similar to the definition in the House bill, but does not apply to a direct or indirect acquisition of the properties of a U.S. corporation no class of the stock of which was traded on an established securities market at any time within the four-year period preceding the acquisition. Intended tax benefits of this type of inversion are denied by deeming the top-tier foreign corporation to be a domestic corporation for purposes of the Code. The second type of inversion is a transaction that would meet the definition of an inversion transaction described above,

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		substantial business activities in the entity's country of incorporation, compared to the total worldwide business activities of the expanded affiliated group. Denies intended tax benefits by deeming the top-tier foreign corporation to be a domestic corporation for purposes of the Code. Includes certain partnership transactions.	except that the 80-percent ownership threshold is not met. In such a case, if a greater-than-50-percent ownership threshold is met, then a second set of rules applies to the inversion. Under these rules, the inversion transaction is respected (i.e., the foreign corporation is treated as foreign), but: (1) any applicable corporate-level "toll charges" for establishing the inverted structure may not be offset by tax attributes such as net operating losses or foreign tax credits; (2) the IRS is given expanded authority to monitor related-party transactions that may be used to reduce U.S. tax on U.S.-source income going forward; and (3) section 163(j), relating to "earnings stripping" through related-party debt, is strengthened. These measures generally apply for a 10-year period following the

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
		Effective date.–Taxable years ending after March 4, 2003. Applies to corporate inversion transactions completed after March 4, 2003, and before January 1, 2005. Expresses the Sense of Congress that present-law rules need to be reformed so that U.S. corporations are not faced with current pressures to engage in inversion transactions.	inversion transaction. In addition, inverting entities are required to provide information to shareholders or partners and the IRS with respect to the inversion transaction. Both types of inversion transactions include certain partnership transactions. Effective date.–Regime applicable to transactions involving at least 80-percent identity of ownership applies to inversion transactions completed after March 20, 2002. Rules for inversion transactions involving greater-than-50-percent identity of ownership apply to inversion transactions completed after 1996 that meet the 50-percent test and to inversion transactions completed after 1996 that would have met the 80-percent test but for the March 20, 2002, date. Imposes a 20-percent excise tax on the value of specified stock compensation held (directly or indirectly) by or for the benefit of a disqualified individual, or a member of such individual's

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			family, at any time during the 12-month period beginning six months before the corporation's inversion date. Effective date.–Effective as of July 11, 2002, except that periods before July 11, 2002, are not taken into account in applying the tax to specified stock compensation held or cancelled during the six-month period before the inversion date. Clarifies the rules giving the Treasury Secretary the authority to allocate items among the parties to a reinsurance agreement, recharacterize items, or make any other adjustment, in order to reflect the proper source and character of the items for each party. Effective date.–Effective for any risk reinsured after April 11, 2002.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
B. Corporate Tax Shelters **1. Penalty for failing to disclose reportable transaction** (sec. 801 of S. 1149 as modified)	Regulations under section 6011 require a taxpayer to disclose with its tax return certain information with respect to each “reportable transaction” in which the taxpayer participates. There is no specific penalty for failing to disclose a reportable transaction; however, such a failure may jeopardize a taxpayer’s ability to claim that any income tax understatement attributable to such undisclosed transaction is due to reasonable cause, and that the taxpayer acted in good faith.	No provision.	Creates a new penalty for any person who fails to include with any return or statement any required information with respect to a reportable transaction. The penalty for failing to disclose a reportable transaction is $50,000. The amount is increased to $100,000 if the failure is with respect to a listed transaction. For large entities and high net worth individuals, the penalty amount is doubled (i.e., $100,000 for a reportable transaction and $200,000 for a listed transaction). The penalty cannot be waived with respect to a listed transaction. A public entity that is required to pay a penalty for failing to disclose a listed transaction must disclose the imposition of the penalty in reports to the Securities and Exchange Commission. Effective date.–Effective for returns and statements the due

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			date for which is after the date of enactment.
2. Accuracy-related penalty for listed transactions and other reportable transactions having a significant tax avoidance purpose (sec. 802 of S. 1149 as modified)	In general, a 20-percent accuracy-related penalty applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. The amount of any understatement generally is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment. Special rules apply with respect to tax shelters. For understatements by non-corporate taxpayers attributable to tax shelters, the penalty may be avoided only if the taxpayer	No provision.	In general, the bill modifies the present-law accuracy related penalty by replacing the rules applicable to tax shelters with a new accuracy-related penalty that applies to listed transactions and reportable transactions with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed. In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction or reportable avoidance transaction. The only exception to the penalty is if the taxpayer satisfies a more stringent reasonable cause and good faith exception (hereinafter referred to as the "strengthened reasonable cause exception").

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	establishes that, in addition to having substantial authority for the position, the taxpayer reasonably believed that the treatment claimed was more likely than not the proper treatment of the item. This reduction in the penalty is unavailable to corporate tax shelters. The understatement penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith.		If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is not available (i.e., a strict-liability penalty applies), and the taxpayer is subject to an increased penalty rate equal to 30 percent of the understatement. In addition, a public entity that is required to pay the 30-percent penalty must disclose the imposition of the penalty in reports to the SEC. Effective date.–Effective for taxable years ending after the date of enactment.
3. Tax shelter exception to confidentiality privileges relating to taxpayer communications (sec. 803 of S. 1149 as modified)	The Code provides that, with respect to tax advice, the same common law protections of confidentiality that apply to a communication between a taxpayer and an attorney also apply to a communication between a taxpayer and a federally authorized tax practitioner to the extent the	No provision.	The bill modifies the rule relating to corporate tax shelters by making it applicable to all tax shelters, whether entered into by corporations, individuals, partnerships, tax-exempt entities, or any other entity. Accordingly, communications with respect to tax shelters are not subject to the confidentiality provision of the

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	communication would be considered a privileged communication if it were between a taxpayer and an attorney. This rule is inapplicable to communications regarding corporate tax shelters.		Code that otherwise applies to a communication between a taxpayer and a federally authorized tax practitioner.
4. Disclosure of reportable transactions by material advisors (secs. 804 and 805 of S. 1149 as modified)	An organizer of a tax shelter is required to register the shelter with the Secretary not later than the day on which the shelter is first offered for sale. A "tax shelter" means any investment with respect to which the tax shelter ratio for any investor as of the close of any of the first five years ending after the investment is offered for sale may be greater than two to one and which is: (1) required to be registered under Federal or State securities laws, (2) sold pursuant to an exemption from registration requiring the filing of a notice with a Federal or State securities agency, or (3) a substantial investment (greater than $250,000 and at least five investors). Other promoted arrangements are treated as tax shelters for	No provision.	Repeals the rules with respect to registration of tax shelters. Instead, the bill requires each material advisor with respect to any reportable transaction to timely file an information return with the Secretary. The information return will include (1) information identifying and describing the transaction, (2) information describing any potential tax benefits expected to result from the transaction, and (3) such other information as the Secretary may prescribe In addition, repeals the present law penalty for failure to register tax shelters. Instead, the bill imposes a penalty on any material advisor who fails to file an information return with respect to a reportable transaction. The amount of the penalty is $50,000.

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	purposes of the registration requirement if: (1) a significant purpose of the arrangement is the avoidance or evasion of Federal income tax by a corporate participant; (2) the arrangement is offered under conditions of confidentiality; and (3) the promoter may receive fees in excess of $100,000 in the aggregate. The penalty for failing to timely register a tax shelter generally is the greater of one percent of the aggregate amount invested in the shelter or $500. However, if the tax shelter involves an arrangement offered to a corporation under conditions of confidentiality, the penalty is the greater of $10,000 or 50 percent of the fees payable to any promoter with respect to offerings prior to the date of late registration. Intentional disregard of the requirement to register increases the penalty to 75 percent of the applicable fees.		If the penalty is with respect to a listed transaction, the amount of the penalty is increased to the greater of (1) $200,000, or (2) 50 percent of the gross income of such person with respect to aid, assistance, or advice which is provided with respect to the transaction before the date the information return that includes the transaction is filed. Intentional disregard by a material advisor of the requirement to disclose a listed transaction increases the penalty to 75 percent of the gross income. The penalty cannot be waived with respect to a listed transaction. <u>Effective date</u>.–The provision requiring disclosure of reportable transactions by material advisors applies to transactions with respect to which material aid, assistance or advice is provided after the date of enactment. The provision imposing a penalty for failing to disclose reportable transactions applies to returns the due date for which is after the

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
			date of enactment.
5. Investor lists and modification of penalty for failure to maintain lists of investors (secs. 804 and 806 of S. 1149 as amended)	Any organizer or seller of a potentially abusive tax shelter must maintain a list identifying each person who was sold an interest in any such tax shelter with respect to which registration was required under section 6111. Recently issued regulations under section 6112 contain rules regarding the list maintenance requirements. The regulations provide that a person is an organizer or seller of a potentially abusive tax shelter if the person is a material advisor with respect to that transaction. A potentially abusive tax shelter is any transaction that (1) is required to be registered under section 6111, (2) is a listed transaction (as defined under the regulations under section 6011), or (3) any transaction that a potential material advisor, at the time the transaction is entered into, knows is or reasonably expects will become a reportable transaction.	No provision.	Each material advisor with respect to a reportable transaction (including a listed transaction) is required to maintain a list that (1) identifies each person with respect to whom the advisor acted as a material advisor with respect to the reportable transaction, and (2) contains other information as may be required by the Secretary. Modifies the penalty for failing to maintain the required list by making it a time-sensitive penalty. Thus, a material advisor who is required to maintain an investor list and who fails to make the list available upon written request by the Secretary within 20 business days after the request will be subject to a $10,000 per day penalty. The penalty can be waived if the failure to make the list available is due to reasonable cause. <u>Effective date</u>.–The provision requiring a material advisor to maintain an investor list applies to transactions with respect to

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	Under section 6708, the penalty for failing to maintain the list required under section 6112 is $50 for each name omitted from the list (with a maximum penalty of $100,000 per year).		which material aid, assistance or advice is provided after the date of enactment. The provision imposing a penalty for failing to maintain investor lists applies to requests made after the date of enactment.
6. Penalty on promoters of tax shelters (sec. 807 of S. 1149 as amended)	In general, a $1,000 penalty is imposed on any person who organizes, assists in the organization of, or participates in the sale of an interest in any entity or plan or arrangement, if in connection with such activity the person knowingly makes or furnishes a false or fraudulent statement or a gross valuation overstatement regarding the securing of any tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement.	No provision.	Modifies the penalty amount to equal 50 percent of the gross income derived by the person from the activity for which the penalty is imposed. The enhanced penalty does not apply to a gross valuation overstatement. Effective date.–Effective for activities after the date of enactment.

Provision	Present Law	House Bill	S. 1149, as Modified by Senate Amendment No. 1431
C. Other Revenue Provisions **1. Extension of IRS User Fees** (sec. 831 of S. 1149 as modified)	The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104-117 extended the statutory authorization for these user fees through September 30, 2003.	No provision.	Extends the statutory authorization for these user fees through September 30, 2013. Moves the statutory authorization for these fees into the Code. <u>Effective date</u>.–Requests made after the date of enactment.
2. Addition of vaccines against hepatitis A to list of taxable vaccines (sec. 832 of S. 1149 as modified)	A manufacturer's excise tax is imposed at the rate of 75 cents per dose on certain vaccines routinely recommended for administration to children	No provision.	Adds any vaccine against hepatitis A to the list of taxable vaccines and makes a conforming amendment to the trust fund expenditure purposes. <u>Effective date</u>.–Vaccines sold beginning on the first day of the first month beginning more than four weeks after the date of enactment.

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3. Individual expatriation (sec. 833 of S. 1149 as modified)	In general, an individual who relinquishes U.S. citizenship or terminates U.S. residency with a principal purpose of avoiding U.S. taxes is subject to an alternative tax regime for income tax purposes for the 10 taxable years ending after expatriation or residency termination. The alternative tax regime generally expands the category of income that is considered taxable U.S.-source income, and imposes gain recognition on certain transactions that otherwise might convert U.S.-source income into foreign-source income. Special rules apply to such individuals for estate and gift tax purposes. A special immigration rule denies certain former citizens re-entry into the United States if the Attorney General determines that their expatriation was tax-motivated.	No provision	Modifies present-law rules by providing: (1) objective standards for determining whether former citizens or former long-term residents are subject to the alternative tax regime; (2) tax-based (instead of immigration-based) rules for determining when an individual is no longer a U.S. citizen or long-term resident for U.S. Federal tax purposes; (3) the imposition of full U.S. taxation for individuals who are subject to the alternative tax regime and who return to the United States for extended periods; (4) imposition of U.S. gift tax on gifts of stock of certain closely-held foreign corporations that hold U.S.-situated property; and (5) an annual return-filing requirement for individuals who are subject to the alternative tax regime, for each of the 10 years following citizenship

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			relinquishment or residency termination. <u>Effective date</u>.–Applies to individuals who relinquish citizenship or terminate long-term residency after February 27, 2003.