

TaxNewsFlash

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Legislative update: Senate Finance Committee marks up energy tax legislation

The Senate Finance Committee on May 26, 2021, marked up the “Clean Energy for America Act”—an energy tax bill.

The Finance Committee voted on the proposal, as amended, along party lines (14-14).

Provisions in the bill

The bill includes:

- Clean electricity tax incentives (scored as losing approximately \$191 billion over 10 years)
- Incentives for clean transportation (scored as losing approximately \$ 58 billion over 10 years)
- Incentives for energy efficiency (scored as losing approximately \$22 billion over 10 years)
- Domestic manufacturing incentives for clean energy, extending and modifying the qualifying advanced energy property credit (scored as losing approximately \$6.7 billion over 10 years)
- Workforce-development requirements
- Additional provisions, including credits for the production of clean hydrogen as well as exempt facility bonds for carbon capture and storage and direct air capture projects (scored as losing approximately \$6.6 billion over 10 years)

The bill also includes approximately \$24.5 billion of revenue offsets from terminating or modifying certain fossil fuel provisions, including:

- Ending amortization of geophysical and geological costs
- Repealing percentage depletion of oil and gas wells, coal, lignite, and oil shale
- Terminating intangible drilling costs in the case of oil, gas, and geothermal wells
- Terminating the enhanced oil recovery credit
- Repealing the corporate tax exemption for fossil fuel publicly traded partnerships
- Modifying the rules for dual capacity taxpayers
- Reinstating the treatment of foreign base company oil-related income as foreign base company income

During consideration of the bill, a number of amendments were adopted with bipartisan support—including amendments relating to joint rulemaking by relevant agencies, restricting goods produced by forced or child labor, and clarifying that Chinese-made vehicles would not be eligible for the electric vehicle credit.

Documents

The Joint Committee on Taxation (JCT) prepared a description and revenue estimate of the bill.

- Read the chairman's mark: [JCX-26-21](#) [PDF 395 KB]
- Read the chairman's modification to the mark: [JCX-28-21](#) [PDF 167 KB]
- Read a revenue estimate of the modified mark: [JCX-29-21](#) [PDF 107 KB]

What's next?

Given that the Senate consists of 50 Democrats and 50 Republicans, the membership of the Senate Finance Committee consists of 14 Democrats and 14 Republicans. The "power sharing agreement" that Majority Leader Schumer and Minority Leader McConnell agreed to earlier this year governs what happens when a committee cannot report out a measure because of a tie vote. In that situation, the agreement generally provides that:

- The chairman of the committee (in this case, Senator Wyden) transmits a notice of the tie vote to the Secretary of the Senate.
- Either the majority leader or the minority leader may, after consultation with the chairman and ranking member of the committee, make a motion to discharge the measure to the Senate floor, with time for debate on such motion to be limited to four hours, to be equally divided between the two leaders or their designees, with no other motions, points of order or amendments in order.

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