

## Comparison of Energy Legislation in the 108<sup>th</sup> Congress

The U.S. Senate and House of Representatives have passed separate versions of sweeping energy legislation (H.R.6). Lawmakers will now meet in a House/Senate conference committee to reconcile differences between the two bills. The following chart offers a comparison of key provisions in the House and Senate bills, as well as S.14, the bill originally debated by the Senate.

✓ Indicates position that protects consumers and the environment  
 ✗ Indicates anti-consumer, anti-environment provision

Issue	House-passed H.R.6 <sup>1</sup>	Senate-passed H.R.6 <sup>2</sup>	S.14 <sup>3</sup>
<b>Electricity Regulation</b>			
Public Utility Holding Company Act (PUHCA).	✗ Repeals PUHCA, leaving consumers vulnerable to rate hikes and market instability [Sec. 16043].	✗ Same as House-passed bill [Sec. 223].	✗ Same as H.R.6 [Sec. 1152].
Consumer protections against massive corporate consolidation.	✗ No.	✓ Moderate provisions to strengthen FERC merger review authority [Sec. 202].	✗ No.
Regulation of energy trading to prevent market manipulation.	✗ Inadequate provisions to ban round-trip trading [Sec.16082].	✗ No.	✗ No.
Siting of transmission lines.	✗ Grants the Secretary of Energy the authority to overrule state decisions and allow corporations to build transmission lines, effectively eliminating local authority; also grants FERC the power of eminent domain to seize private land to build the transmission lines [Sec. 16012].	✓ No.	✓ No.
Transfer of federally-owned transmission to a privately-controlled Regional Transmission Organizations (RTOs).	✗ Encourages FERC's efforts to create RTOs, and allows the DOE to transfer federally-owned transmission to a privately-controlled RTO [Sec. 16022].	✓ No.	✓ Orders FERC to make RTO participation voluntary [Sec. 1123].  ✗ Requires “participant funding” for access to transmission – a gift to Southern Co. and Entergy [Sec. 1131 (3)(b)].
Utility control of transmission and protection of native load prior to offering capacity to competitors.	✗ Allows large utilities such as Southern Co. and Entergy to keep control of their transmission [Sec. 16023].	✓ Requires all utilities to provide access to transmission paid for by ratepayers [Sec. 205]	✗ Same as House-passed bill [Sec. 1131].
FERC authority over public power and rural co-ops.	✗ Extends FERC jurisdiction over large public power and rural co-ops (those selling more than 4 million MWh/year), putting public power at a disadvantage [Sec. 16021].	✗ Same as House-passed bill [Sec. 205].	✓ No.

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Transmission rates.	✗ Alters the Federal Power Act’s definition of “just and reasonable rates” to allow owners of transmission to charge consumers more for the use of transmission lines, a tremendous giveaway to utilities without substantively addressing reliability [Sec. 16011].	✓ No.	✓ No.
National Transmission Reliability Standards.	✓ Mandates and enforces National Transmission Reliability Standards, an important response to the recent blackout in the Midwest and Northeast [Sec. 16031].	✓ Mandates and enforces National Transmission Reliability Standards, an important response to the recent blackout in the Midwest and Northeast [Sec. 206].	✓ Mandates and enforces National Transmission Reliability Standards, an important response to the recent blackout in the Midwest and Northeast [Sec. 1111].
<b>Renewable Portfolio Standard</b>			
Benchmarking transition to renewable energy sources.	✗ No.	✓ Requires that retail electric suppliers generate 10% of electricity from renewable sources by 2020 [Sec. 264].	✗ No.
Definition of “renewable energy resource.”	✗ No.	✗ “Renewable energy resource” may include burning municipal solid waste <sup>4</sup> and trees smaller than 12 inches in diameter, other biomass, and landfill gas [Sec. 264].	✗ No.
<b>Nuclear Relapse</b>			
Subsidies and incentives for the development of new nuclear reactors.	✗ Authorizes DOE’s <i>Nuclear Power 2010</i> program to promote the construction of new nuclear reactors through government/industry cost-share arrangements, and the <i>Generation IV</i> program to develop new reactor designs [Sec. 21411(c),(d)]; requires feasibility study of developing commercial nuclear energy reactors at DOE sites [Sec. 14037].	✗ Authorizes DOE’s <i>Nuclear Power 2010</i> [Sec. 514] and <i>Generation IV</i> [Sec. 1245] programs; authorizes 50% federal financing for energy demonstration and deployment projects [Sec. 1403].	✗ Authorizes DOE’s <i>Nuclear Power 2010</i> and <i>Generation IV</i> programs [Sec. 942 (c),(d)] and provides federal financing for half the cost of constructing new reactors [Sec. 421-424].
Nuclear energy research and development.	✗ \$1.7 billion over 4 years [Sec. 21401(a)].	✗ \$460 million over 4 years [Sec. 1241(c), 1242(f)]. <sup>5</sup>	✗ \$1.76 billion over 5 years [Sec. 941].
Nuclear-generated hydrogen.	✗ Authorizes DOE programs to study nuclear energy production of hydrogen [Sec. 20002(a)(6); 60003(a)].	✗ Directs the DOE to identify potential nuclear-generated hydrogen research projects [Sec. 1709].	✗ Authorizes \$1.1 billion to construct a reactor at INEEL to co-generate hydrogen and electricity [Sec. 431-435]. Authorizes nuclear hydrogen R&D [Sec. 942(e)].

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<p><b>Price-Anderson Act</b></p> <p>Extended insurance subsidies for the nuclear industry.</p> <p>Adjustments to operator liability.</p> <p>Limitations.</p>	<p>✗ Reauthorizes Price-Anderson Act to cover new reactors licensed before Aug.1, 2017; provides incentives for untested “modular” designs [Sec. 14002].</p> <p>✓ Increases annual deferred premium liability to \$15 million [Sec. 14003(1)(B)].</p> <p>✓ Limits indemnification of DOE nuclear contractors for damages caused by willful misconduct [Sec. 14014].</p>	<p>✗ Reauthorizes Price-Anderson Act to cover new reactors licensed before Aug. 1, 2012; provides incentives for untested “modular” designs [Sec. 502].</p> <p>✗ No.</p> <p>✗ No.</p>	<p>✗ Permanently reauthorizes the Price-Anderson Act; provides incentives for untested “modular” designs [Sec. 401-410].</p> <p>✓ Increases annual deferred premium liability to \$15 million [Sec. 403(1)(B)].</p> <p>✗ No.</p>
<p><b>Nuclear Decommissioning Funds</b></p> <p>Expanded tax breaks for nuclear operators.</p>	<p>✗ Extends preferential tax rates on decommissioning funds to “merchant” nuclear operators, costing taxpayers \$1.5 billion over ten years<sup>6</sup> [Sec. 42008].</p>	<p>✗ Largely equivalent to House-passed bill, costing taxpayers \$1.05 billion over ten years<sup>7</sup> [Sec. 2402].</p>	<p>✗ Same as Senate-passed bill.<sup>8</sup> [Energy Tax Incentives Act, S.1149, Sec. 602].</p>
<p><b>Subsidies to Fossil-Fuel Industries</b></p> <p>Tax breaks and giveaways to coal, oil, and gas industries.</p> <p>“Clean” coal subsidies.</p>	<p>✗ Oil and gas tax credits worth \$11.782 billion over ten years.<sup>9</sup></p> <p>✗ Authorizes appropriations worth \$1.6 billion over eight years for funding “clean” coal projects [Sec. 50001].</p>	<p>✗ Oil and gas provisions estimated to cost \$4.637 billion over ten years [Title XXIII].<sup>10</sup></p> <p>✗ Investment and production credits worth \$1.907 billion over ten years [Sec. 2201, 2211].<sup>12</sup></p>	<p>✗ Oil and gas provisions estimated to cost \$7.397 billion over the next ten years [Energy Tax Incentives Act, S.1149, Title V].<sup>11</sup></p> <p>✗ Investment and production credits worth \$2.169 billion over ten years [Energy Tax Incentives Act, S.1149, Title IV].<sup>13</sup></p>
<p><b>Coalbed Methane</b></p> <p>Subsidies and incentives for coalbed methane production.</p>	<p>✗ Expands Section 29 tax credits for coalbed methane production to new wells drilled before 2007 and the fuel derived from these wells for 4 years (up to 2010); extends the tax credit of old wells until 2007 [Sec. 43005]; establishes R&amp;D programs to promote “unconventional” fossil-fuel development, including coalbed methane, and authorizes \$104 million for grants [Sec. 12301-12312; 21523-21530].</p>	<p>✗ Expands Section 29 tax credits for coalbed methane production to new wells drilled before 2005 and the fuel derived from these wells for 3 years; extends the tax credit of old wells until 2005 [Sec. 2310].</p>	<p>✗ Expands Section 29 tax credits for coalbed methane production to new wells drilled before 2007, applies for 3 years after drilling; extends the tax credit of old wells until 2007 [Energy Tax Incentives Act, S.1149, Sec. 509].</p>

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Evaluate effects of coalbed methane production on water resources	✗ No.	✓ Requires study on the effects of coalbed methane production on surface and water resources [Sec. 607].	✗ No.
<b>Fuel Economy Standards</b> Stricter CAFE standards to reduce carbon emissions and dependence on foreign oil.	✗ No.	✗ Requires that federal regulators consider “manufacturer competitiveness” in setting CAFE standards, which would likely drive the standard down to a level achievable by the worst performers in the industry [Sec. 803].	✗ No.
<b>Arctic National Wildlife Refuge</b> Oil and gas exploration and development in the Arctic National Wildlife Refuge (ANWR).	✗ Opens ANWR to oil and gas exploration, development, and production [Sec. 30401-30412].	✓ No. (Silent on ANWR.)	✓ No. (Silent on ANWR.)

**Acronym Key:**

- PUHCA: Public Utility Holding Company Act
- FERC: Federal Energy Regulatory Commission
- RTO: Regional Transmission Organizations
- DOE: U.S. Department of Energy
- R&D: Research and Development
- CAFE: Corporate Average Fuel Economy
- ANWR: Arctic National Wildlife Refuge
- INEEL: Idaho National Engineering and Environmental Laboratory

## Endnotes

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<sup>1</sup> “The Energy Policy Act of 2003,” passed by the House April 11, 2003, by a vote of 247-175.

<sup>2</sup> Originally considered in the 107<sup>th</sup> Congress as S.517 and passed as the Senate substitute to H.R.4; passed again in lieu of S.14 as the Senate substitute to H.R.6 on July 31, 2003, by a vote of 84-14.

<sup>3</sup> “The Energy Policy Act of 2003,” reported by the Senate Energy and Natural Resources Committee May 30, 2003, and considered by the Senate but abandoned in favor of the Senate energy bill from the 107<sup>th</sup> Congress on July 31, 2003.

<sup>4</sup> The inserted Sections (1)(3) and (1)(10) offer conflicting definitions of biomass with respect to the inclusion or exclusion of municipal solid waste.

<sup>5</sup> Figures cited are for core research and development activities and do not include funding authorized for nuclear research infrastructure support or university nuclear programs.

<sup>6</sup> Joint Committee on Taxation, JCX- 35- 03: “Estimated Revenue Effects of the Chairman’s Amendment in the Nature of a Substitute to H.R.1531, the ‘Energy Tax Policy Act of 2003,’ Scheduled for Markup by the Committee on Ways and Means on April 3, 2003”

<sup>7</sup> Joint Committee on Taxation, JCX- 42- 02: “Estimated Revenue Effects of Division H. of H.R.4, the ‘Energy Tax Incentives Act of 2002,’ and Certain Mandates, As Amended by the Senate.”

<sup>8</sup> Joint Committee on Taxation, JCX- 56- 03: “Estimated Revenue Effects of S.1149, ‘The Energy Tax Incentives Act of 2003’ as Reported by the Committee on Finance”

<sup>9</sup> Friends of the Earth analysis of JCX- 35- 03.

<sup>10</sup> Estimated Revenue Effects of the “Energy Tax Incentives Act of 2002,” as reported by the Committee on Finance (S. 1979).

<sup>11</sup> Friends of the Earth citation of the Senate Committee on Finance analysis of the Energy Tax Incentives Act of 2003 (S.1149).

<sup>12</sup> Estimated Revenue Effects of the “Energy Tax Incentives Act of 2002,” as reported by the Committee on Finance (S. 1979).

<sup>13</sup> Friends of the Earth citation of the Senate Committee on Finance analysis of the Energy Tax Incentives Act of 2003 (S.1149).

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