

## Comparison of 2010 Energy Bills

H.R. 3534, S.3663, and S.3643. 111<sup>th</sup> Congress (Summary released on August 18, 2010)

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The following comparison reviews the similarities and differences between the House-passed Consolidated Land, Energy, and Aquatic Resources (CLEAR) Act (H.R.3534), the Clean Energy Jobs and Oil Company Accountability Act of 2010 (S.3663) proposed by Senate Majority Leader Harry Reid, and the Oil Spill Response Improvement Act of 2010 (S.3643) proposed by Republican Leader Mitch McConnell (R-KY). More detailed summaries of provisions of all three bills relevant to states are available at [www.georgetownclimate.org](http://www.georgetownclimate.org).

### *Topics Covered*

Senator Reid's energy proposal (S.3663) has four main sections, including one that creates a \$400 million program promoting electric vehicles and another establishing a \$5 billion program to improve home energy efficiency. Neither program has a parallel in either the Senate Republicans' bill (S.3643) or the House bill (H.R.3534), both of which focus primarily on oil spill response, although the House passed similar home-efficiency legislation earlier this year in H.R.5019. The following topics are addressed in two or more of the bills.

### *Oil Spill Response*

All three bills establish separate agencies within the Department of the Interior for managing offshore licensing, safety and environmental regulations, and royalty collection, while expanding restrictions preventing officials from the Department of the Interior from taking positions within the oil industry immediately after serving in the government.

Both S.3663 and H.R.3534 include a significant role for the government in research and design of technologies that would make offshore drilling safer and more environmentally secure. The House bill lays out specification requirements for blowout preventers, undersea well construction, and other parts of the extraction process. The Republican-backed S.3643, on the other hand, gives the government a relatively slim role as an assessor of current technologies. Rather than participating in the identification and filling of technology gaps, as in S.3663, the government would simply award funds to independent research organizations and higher learning institutes for technology research.

### *Land and Water Conservation Funding*

The three bills also have significantly differing allocations for conservation and adaptation work by federal agencies and the states. Of the comparable sections in the three bills, the House's CLEAR Act offers significantly more new money than either of the Senate bills. H.R.3534 guarantees \$900 million annually to the Land and Water Conservation Fund and extends the fund until 2040. The CLEAR Act similarly allocates \$150 million to the Historic Preservation Fund. Both funds were previously dependant on allocations from Congress, but now would be funded through royalty revenues from offshore developments.

The CLEAR Act also establishes the Ocean Resources Conservation and Assistance (ORCA) fund, which would receive 10% of the royalty revenues from the outer continental shelf, or some \$580 million, according to recent estimates from the Bureau of Ocean Energy Management, Regulation, and Enforcement.<sup>i</sup> Of the ORCA funds, a full 70% would be allocated directly to coastal states, either as competitive grants or as grants distributed according to the Coastal Zone Management Act. Another 10% of the ORCA money would go to regional planning organizations, while the remainder would fund a global earth observation system. The

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money could be used to prevent degradation, increase coastal resilience, improve research and education, improve development plans, and preserve areas of cultural significance.

To pay for these expenditures and other parts of the CLEAR Act, the government would levy a new tax of \$2 per barrel of oil produced and 20 cents per million Btu of natural gas produced from federal lands.

S.3663 offers similar funding guarantees of \$900 million for the Land and Water Conservation fund from 2011 to 2015, but the funding drops in half in 2016 and is not guaranteed at all from 2022. S.3663 does not guarantee funding for the Historic Preservation Fund and does not have substantial other sources of funding for state or federal programs. The bill also introduces a new tax on the oil industry, raising the payment to the Oil Spill Liability Trust Fund to 45 cents per barrel of oil produced from the current 8 cents per barrel, although the funds would not go toward the Land and Water Conservation fund.

S.3643 appears to offer the least funding for state and federal programs. The bill revamps distribution of offshore royalty revenues, offering a 37.5% share in the funds to a state that requests and receives approval from the federal government to open offshore territories for mineral extraction. In addition, the bill would allocate 12.5% of the royalty revenues from developments on the continental shelf, or approximately \$725 million annually. That allocation may not result in any overall increase in funding for state or federal programs, however, as S.3643 mandates that “any net increase in spending or foregone revenues resulting from this subtitle and the amendments made by this subtitle” be countered with a pro rata cut in spending under the 2009 Recovery Act.

S.3643 also does not mandate firm new taxes on the oil industry, although it proposes an optional pay-in by oil companies operating on the continental shelf. The funds would go into an oil spill liability fund that would be used to cover spill-related damages exceeding the individual strict liability cap assigned to a development by the government.

### *Spill Liability Cap*

Both S.3663 and the House’s CLEAR Act would remove the liability cap for offshore spills. In addition, S.3663 would remove existing liability loopholes and immunities for certain shipping parties and offshore developments.

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<sup>i</sup> <http://www.mrm.boemre.gov/MRMWebStats/FedOffReportedRoyaltyRevenues.aspx?yeartype=FY&year=2009&dateType=AY>