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4 MARKUP ON DISCUSSION DRAFT OF H.R. _____, THE ``NO MORE
5 SOLYNDRAS ACT''
6 WEDNESDAY, JULY 25, 2012
7 House of Representatives,
8 Subcommittee on Energy and Power
9 Committee on Energy and Commerce
10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:06 a.m.,
12 in Room 2123 of the Rayburn House Office Building, Hon. Ed
13 Whitfield [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Whitfield, Sullivan,
15 Shimkus, Walden, Terry, Burgess, Bilbray, Scalise, McMorris
16 Rodgers, Olson, McKinley, Gardner, Pompeo, Griffith, Barton,
17 Upton (ex officio), Rush, Sarbanes, Dingell, Markey, Engel,
18 Green, Capps, Doyle, Gonzalez and Waxman (ex officio).

19 Staff present: Gary Andres, Staff Director; Charlotte
20 Baker, Press Secretary; Mike Bloomquist, General Counsel;
21 Anita Bradley, Senior Policy Advisor to Chairman Emeritus;
22 Maryam Brown, Chief Counsel, Energy and Power; Allison
23 Busbee, Legislative Clerk; Karen Christian, Deputy Chief
24 Counsel, Oversight; Patrick Currier, Counsel, Energy and
25 Power; Andy Duberstein, Deputy Press Secretary; Paul Edattel,
26 Professional Staff Member, Health; Todd Harrison, Chief
27 Counsel, Oversight/Investigation; Cory Hicks, Policy
28 Coordinator, Energy and Power; Peter Kielty, Associate
29 Counsel; Heidi King, Chief Economist; Ben Lieberman, Counsel,
30 Energy and Power; Alexa Marrero, Communications Director;
31 Katie Novaria, Legislative Clerk; John Stone, Counsel,
32 Oversight; Jeff Baran, Democratic Senior Counsel; Phil
33 Barnett, Democratic Staff Director; Jen Berenholz, Democratic
34 Chief Clerk; Greg Dotson, Democratic Energy and Environment
35 Staff Director; Caitlin Haberman, Democratic Policy Analyst;
36 Karen Lightfoot, Democratic Communications Director and
37 Senior Policy Advisor; Roger Sherman, Democratic Chief
38 Counsel; Matt Siegler, Democratic Counsel; and Will Wallace,
39 Democratic Policy Analyst.

|
40 Mr. {Whitfield.} The committee will come to order.

41 At the conclusion of opening statements yesterday, the
42 chair called up the No More Solyndras Act, and the discussion
43 draft was open for amendment at any point. So this morning
44 we will consider any amendments, and the first question I
45 would ask, are there any bipartisan amendments to the
46 discussion draft?

47 Seeing no bipartisan amendments to the discussion draft,
48 are there any amendments to the discussion draft?

49 Dr. {Burgess.} Mr. Chairman.

50 Mr. {Whitfield.} For what purpose does the gentleman
51 from Texas seek recognition?

52 Dr. {Burgess.} Mr. Chairman, I have an amendment at the
53 desk.

54 Mr. {Whitfield.} The clerk will report, I think it is
55 amendment 051.

56 The {Clerk.} Amendment to the discussion draft offered
57 by Mr. Burgess of Texas.

58 [The amendment follows:]

59 ***** INSERT 1 *****

|
60 Mr. {Whitfield.} Without objection, the reading of the
61 amendment is dispensed with and the gentleman from Texas is
62 recognized for 5 minutes in support of his amendment.

63 Dr. {Burgess.} Thank you, Mr. Chairman.

64 You know, since this Congress was sworn in in January of
65 2011, so literally for a year and a half we have been
66 conducting an extensive investigation into the
67 Administration's poor handling of the Energy Department's
68 loan guarantee program, and one of the key issues this
69 committee has discovered was how willing and eager the
70 Administration has been to ignore the law and put taxpayer
71 money at risk by subordinating the government's interest to
72 private equity dollars. As a result, the government and
73 ultimately the taxpayer will probably never see a dime of the
74 \$535 million loaned to Solyndra that subsequently went into
75 bankruptcy, to say nothing of the numerous other recipients
76 who have or may go bankrupt or who are on the verge.

77 The Department of Energy allowing the government's
78 interest to be subordinated, to our knowledge, is the first
79 time in history that this has been allowed to occur. Far
80 worse than that, it goes against the express language of the
81 2005 energy bill authorizing the program which states that
82 the government's interest shall not be subordinated. It

83 really could not be more clear. The Energy Department in
84 refusing to go to the Department of Treasury or the
85 Department of Justice to get a legal opinion on the matter
86 created its own legal memo to allow itself to go against the
87 plain language of this statute. We all know this is wrong.

88 The problem that we have uncovered during our
89 investigation is that the original statute contains no
90 provision for penalty for someone who violates that law.
91 People should have to face the consequences. The employees
92 of the Department of Energy should have to face the
93 consequences for this action. It is pretty easy to ignore a
94 law that Congress writes when you know that there is no
95 penalty for that violation.

96 For that reason, Chairman Upton has worked with my
97 office to craft language that will actually force federal
98 employees who ignore our laws to actually face consequences.
99 The language in the amendment today is based on a long-
100 established and often-used Anti-Deficiency Act, a statute
101 passed in 1982 based on over a decade of precedent which
102 provides for administrative, civil and criminal penalties for
103 employees who ignore or violate provisions in our annually
104 passed appropriations bill. The concept behind the Anti-
105 Deficiency Act is that employees who handle our Nation's
106 finances and write checks in our government's name should be

107 held accountable for their own actions. Dozens of employees
108 are disciplined and sanctioned under the Anti-Deficiency Act
109 in every agency every year so it really should come as no
110 surprise to the men and women working in the Executive
111 Branch.

112 The amendment provides for only administrative penalties
113 to be enforced against Department of Energy employees who
114 ignore the law, the plain language of the law written by the
115 United States Congress. I believe we have struck the right
116 balance with this language. It sends a signal to the
117 Department of Energy employees that if they are going to
118 thwart the Congress's intent, they will face a fine or they
119 will face being suspended without pay or risk losing their
120 jobs.

121 This is no less than anyone in the private sector would
122 face if they went against the wishes of their employers.
123 This is a commonsense provision and one that is critical that
124 we add to protect the taxpayer going forward in the future,
125 and I will yield back the balance of my time.

126 The {Chairman.} Will the gentleman yield?

127 Dr. {Burgess.} I would be happy to yield, Mr. Chairman.

128 The {Chairman.} I just want to offer my support for
129 your amendment. You are one of those that as a member of the
130 Subcommittee on Oversight participated in literally I think

131 more than a dozen different hearings on the issue, and this
132 process is to make sure that it doesn't happen again.

133 So your amendment, which would add penalties for high-
134 level federal employees who fail to perform their duties in
135 administering the remaining loan guarantees is a good one.
136 It is well considered, and I would like to think that we can
137 pass it, and I appreciate you offering the amendment.

138 I yield back.

139 Dr. {Burgess.} I appreciate the chairman's kind words
140 and urge members of the committee, both sides of the dais, to
141 support the amendment, and I will yield back to the chairman.

142 Mr. {Whitfield.} The gentleman yields back the balance
143 of his time.

144 For what purpose does the gentleman from California seek
145 recognition?

146 Mr. {Waxman.} To strike the last word.

147 Mr. {Whitfield.} The gentleman is recognized for 5
148 minutes.

149 Mr. {Waxman.} Mr. Chairman, as I read the amendment by
150 Mr. Burgess, it simply says that any federal official that
151 violates the law should be subject to appropriate discipline.
152 Well, that makes sense, and if it makes Mr. Burgess feel
153 better to put this into law, I see no harm in doing so. But
154 I do want to clear up any misconception about the findings of

155 our Oversight and Investigation Subcommittee with regard to
156 the subordination of the Solyndra loan.

157 The subordination of the Solyndra loan had a bad outcome
158 but the action taken by DOE was legal. During our oversight
159 hearings on Solyndra, we learned that DOE looked carefully at
160 the text of the Title XVII loan guarantee statute. They
161 concluded that although subordination was not allowed during
162 the origination process for the loan guarantee, it was
163 allowed during restructuring. And at the hearing on this
164 bill, DOE told us why the law makes sense: sometimes the
165 subordination option is the best way to save a badly
166 performing loan and ultimately save taxpayers money. That is
167 why DOE wants to keep it as an option for future loans.

168 Now, I have heard members on the other side of the aisle
169 saying well, that is illegal; they can't subordinate a loan.
170 Well, that is their reading, that is their interpretation,
171 but it is not the legitimate interpretation of DOE. I
172 presume that DOE reads the law differently than some members
173 of this committee, that officials at DOE are not breaking any
174 law.

175 For example, I have heard members of this committee say
176 it was never the intent of Congress or EPA to regulate carbon
177 emissions. Well, don't for a minute think that argument is
178 going to hold any sway when people at EPA are regulating

179 carbon emissions. It may not have been the intent of members
180 of this committee when they drafted the Clean Air Act but the
181 wording of the statute as interpreted by the U.S. Supreme
182 Court on a 5-4 decision said that carbon pollution like any
183 other pollution has to be regulated if EPA makes a finding
184 that it is harmful to public health and the environment. EPA
185 under President George W. Bush made that finding. EPA under
186 the present Administration made the same finding. So they
187 have legally acted under the dictates of the Supreme Court,
188 and I don't know how many times members of this committee can
189 say we did not want to do that, it doesn't make any
190 difference. The law is ultimately decided by the courts.
191 Now, I just wanted to clarify that.

192 So Mr. Burgess's amendment would not have affected the
193 federal employees who were responsible for subordination of
194 the Solyndra loan. They acted within the confines of the
195 law. But if it makes people feel better that we want to say
196 that any violation by a federal official of the law should be
197 subject to appropriate discipline, that is fine with me. It
198 is appropriate. Let us make sure that it is not a violation
199 of what Republicans or even some Democrats might think what
200 the law is. It is what the law actually says.

201 And so I join in supporting the amendment and will vote
202 for it, and I yield back the balance of my time.

203 Mr. {Barton.} Would the gentleman yield for a question?

204 Mr. {Waxman.} Yes.

205 Mr. {Barton.} Is it the distinguished ranking member's
206 position now that regardless of the plain reading of the
207 language of laws that we pass out of this subcommittee or in
208 full committee that whatever the Executive Branch interprets
209 them is acceptable?

210 Mr. {Waxman.} No.

211 Mr. {Barton.} That is a reasonable interpretation of
212 what you just said.

213 Mr. {Waxman.} Well, it is your interpretation perhaps
214 but it is not a correct one. What I said was that they
215 interpreted the law at DOE to allow them to have a
216 subordination of the loan but not in the origination period
217 but later on.

218 Mr. {Barton.} Where in the--

219 Mr. {Waxman.} Reclaiming my time, just to complete my
220 sentence. I know the gentleman from Texas doesn't believe
221 that is a correct interpretation. Now, if there is an
222 ambiguity of interpretation, I don't think you sanction an
223 employee at the Department of Energy because they didn't
224 accept your interpretation of the law.

225 So I want to underscore that, and I would be happy to
226 yield to you further if you want more time.

227 Mr. {Whitfield.} The gentleman's time is expired.

228 Does the gentleman from Texas seek recognition? The
229 gentleman does not seek recognition. The gentleman from
230 California has announced that he will support the amendment.
231 Is there any further discussion on the amendment?

232 Mr. {Griffith.} Mr. Chairman.

233 Mr. {Whitfield.} For what purpose does the gentleman
234 from Virginia seek recognition?

235 Mr. {Griffith.} Strike the last word.

236 Mr. {Whitfield.} The gentleman is recognized for 5
237 minutes.

238 Mr. {Griffith.} Mr. Chairman, I know I probably
239 shouldn't say anything but I am going to. I just can't let
240 it lay.

241 I don't think there is any question that DOE's
242 interpretation is invalid. I know that there is disagreement
243 by some but here is what I look at. Their actions belie
244 their words and interpretation, Mr. Chairman. Treasury
245 notified them they questioning whether or not they had legal
246 authority to do this, notwithstanding the fact that there had
247 had already been a default. They didn't contact the Justice
248 Department. Again, there is another questionable
249 interpretation whether they had to, but Solyndra was in
250 default at the time of the subordination. Other agencies

251 raised questions about the subordination and suggested they
252 check with Justice. They did not do so.

253 If you think that you are absolutely right in your
254 opinion, you don't have any problem going out and getting the
255 opinion of the Justice Department. I don't think they wanted
256 to get it. They didn't pay attention to the warnings by
257 other agency and I think that indicates that they knew what
258 they were doing was, at best, taken in the best light more
259 favorable to them, they were skating on very thin ice and
260 they didn't want somebody else to tell them they were
261 breaking the law because they knew in their hearts that is
262 what they were doing.

263 I yield back.

264 Mr. {Whitfield.} The gentleman yields back the balance
265 of his time.

266 Is there further discussion on the Burgess amendment?

267 Mr. {Rush.} Mr. Chairman.

268 Mr. {Whitfield.} For what purpose does the gentleman
269 from Illinois recognition?

270 Mr. {Rush.} I see we are getting started now on--

271 Mr. {Whitfield.} The gentleman is recognized for 5
272 minutes.

273 Mr. {Rush.} I move to strike the last word.

274 Mr. Chairman, I see that we are getting ready to start

275 climbing a slippery slope now because we are trying to
276 anticipate or trying to create or trying to state what is the
277 thinking of members of the Administration, what they are
278 thinking about, their motivations, and I think if we continue
279 down this line along this path, then my fear of this whole
280 process that we are engaged in, this whole markup, is
281 beginning to bear fruit and that is that this is nothing but
282 messaging endeavor, you know, and if that is what it is, then
283 so be it, you know, but let us not try to take the high road
284 when we are really kind of cruising along on the low road. I
285 mean, that doesn't make any sense and I just wish that the
286 members on both sides would curtail the messaging. They are
287 trying to get some political advantage out of questioning the
288 veracity and the motivation of the Administration.

289 It is obvious that members of your side don't like
290 President Obama, don't like nothing about his Administration,
291 don't like nothing about his policies, don't like nobody in
292 the Administration and they can't do any right, so we will
293 accept that. We will stipulate that. But I just don't want
294 us--we shouldn't all have to suffer to be messaging of the
295 other side here.

296 With that said, I yield back.

297 Mr. {Whitfield.} The gentleman yields back the balance
298 of his time.

299 Dr. {Burgess.} Mr. Chairman.

300 Mr. {Whitfield.} For what purpose does the gentleman
301 from Texas seek recognition?

302 Dr. {Burgess.} There is nothing in this amendment or
303 any of the discussion that has in any way impugned the
304 Administration or my affection for the Administration or lack
305 thereof. There are many things in the Administration that I
306 find admirable.

307 But this is an issue, this is a deficiency that needs to
308 be corrected, and I wanted to correct the gentleman's
309 comments. This member, speaking as an individual, plenty of
310 times I have admiration for what is going on in the
311 Administration but this is not one of them.

312 Mr. {Whitfield.} I am sorry. The gentleman has already
313 had his 5 minutes. If he wants to speak, then--for what
314 purpose does the gentleman from Colorado seek regulation?

315 Mr. {Gardner.} To strike the last word, Mr. Chairman.

316 Mr. {Whitfield.} The gentleman is recognized for 5
317 minutes.

318 Mr. {Gardner.} Thank you, and I would yield to the
319 gentleman from Texas.

320 Dr. {Burgess.} Again, I said my piece, and I just take
321 exception to what the gentleman from Illinois said, and I
322 yield back to the gentleman from Colorado.

323 Mr. {Dingell.} Mr. Chairman.

324 Mr. {Bilbray.} Would the gentleman yield?

325 Mr. {Gardner.} I would yield to the gentleman from
326 California.

327 Mr. {Bilbray.} Mr. Chairman, for the record, I would
328 like to go on the record with the fact that I have stated
329 publicly in this room and other places, I think Secretary Chu
330 was probably the best man possible for the Energy Department.
331 In fact, I made the statement that if Secretary Chu can't
332 finally make the Energy Department fulfill their task, then
333 maybe we ought to reconsider even the existence of the
334 department. I think Dr. Chu is the right guy at the right
335 time and I want to make it clear, this comment that there is
336 blanket opposition to everything this Administration does is
337 not reflected in the record, and I want to say that again. I
338 hope to God that both sides are able to allow somebody like a
339 physicist to finally get our energy policy towards energy and
340 not toward politics.

341 So I yield back on that, but I just appreciate the
342 chance to be able to articulate that, and I am sorry the
343 gentleman feels that way.

344 Mr. {Gardner.} Mr. Chairman, I yield back.

345 Mr. {Dingell.} Mr. Chairman.

346 Mr. {Whitfield.} The gentleman yields back the balance

347 of his time.

348 For what purpose does the gentleman from Michigan seek
349 recognition?

350 Mr. {Dingell.} Mr. Chairman, I thank for your courtesy.

351 Mr. {Whitfield.} The gentleman is recognized for 5
352 minutes.

353 Mr. {Dingell.} And I express my affection and respect
354 for the author and all other members how are supporting this,
355 but I have a few questions I would like to ask counsel.

356 Line 12 refers to individuals in the levels I, II, III,
357 IV and V of the Executive Schedule. Level I is secretaries,
358 level II is under secretaries. What are III, IV and V?
359 Could I have the attention of the counsel, and would you
360 please answer the question.

361 {Counsel.} I don't have the exact statute in front of
362 me for III, IV and V but I believe they go by varying degrees
363 down to deputy and then to levels of director.

364 Mr. {Dingell.} Now, they are already--the first
365 paragraph A says that they shall be subject to appropriate
366 discipline if they violate the provisions of the statute.
367 How does that change the law as it is now?

368 {Counsel.} Which law would that be, sir?

369 Mr. {Dingell.} Well, as I gather it, when a federal
370 official violates the law, he is subject to administrative

371 discipline including suspension from duty without pay or
372 removal from office. Am I right or wrong on that? They are
373 subject to all of those things now, are they not?

374 {Counsel.} I believe that is accurate.

375 Mr. {Dingell.} What then does this do in terms of
376 imposing additional discipline or sanctions upon people
377 enumerated in line 12? Does it add any new discipline to
378 them at all?

379 {Counsel.} Based on the precedent of the Anti-
380 Deficiency Act, we do believe by having this included in
381 here, this reinforces that law, yes.

382 Mr. {Dingell.} Say that again.

383 {Counsel.} Based on the prior precedent of the Anti-
384 Deficiency Act, which also has a separate penalty provision
385 not just associated with 5 U.S.C. chapter 75, we are
386 reinforcing the penalty requirements here.

387 Mr. {Dingell.} How does that change things? They are
388 already subject to all of the above, are they not?

389 {Counsel.} They are already subject. We are
390 reinforcing the subject.

391 Mr. {Dingell.} Okay. And as a matter of fact, people
392 at levels I, II, III, I think, and also IV and V serve at the
393 pleasure of the President. These are political appointments,
394 aren't they?

395 {Counsel.} That is correct.

396 Mr. {Dingell.} So how are we changing the law here? IM
397 am just trying to understand.

398 Dr. {Burgess.} Will the gentleman yield on that point?

399 Mr. {Dingell.} Well, can I get the answer from the
400 counsel, and then of course I will yield to my friend.

401 How does that change existing law? Any?

402 {Counsel.} It would not, no.

403 Mr. {Dingell.} So if we vote this thing through, we are
404 reenacting the law as it now is constituted? Am I right?

405 {Counsel.} Similar to the precedent of the Anti-
406 Deficiency Act, which also has a separate penalty
407 administrative actions provision.

408 Mr. {Dingell.} They are subject to administrative
409 action at this time, are they not?

410 {Counsel.} I am sorry?

411 Mr. {Dingell.} Aren't they subject to administrative
412 action at this time?

413 {Counsel.} They are.

414 Mr. {Dingell.} Okay. Well, I am just trying to figure
415 out why we are engaged in this exercise and what it all
416 means.

417 Now I will yield to my good friend from Texas.

418 Dr. {Burgess.} The reason we are engaged in this

419 exercise is to clarify Congressional intent in this regard
420 because apparently the Department of Energy did not have that
421 understanding going into this subordination activity that
422 they undertook in clear violation of the language, the very
423 clear language of the 2005 Energy Policy Act. So for that
424 reason, it is the clarification of Congressional intent. The
425 next Secretary of Energy will have no question about where
426 they responsibilities lie.

427 I yield back.

428 Mr. {Dingell.} I decline to yield further because my
429 time is running out, and I say this with all respect and
430 affection: I have always found it to be unwise to be out
431 reenacting law because when you do, the courts get it and
432 they always say now what in the name of common sense was the
433 Congress doing here, why did they do this. And so I am
434 pretty sure that the courts get this and they are all of a
435 sudden going to say by golly, the Congress meant something so
436 they are going to scratch their heads and try and figure out
437 what the Congress meant so they are going to put a whole lot
438 of new provisions into the law that I don't think we really
439 intend.

440 Dr. {Burgess.} Will the gentleman yield on that point?

441 Mr. {Dingell.} I am sure this makes my good friend from
442 Texas feel good and that comforts me, because I have great

443 affection for him, but I am still trying to understand what
444 is afoot here.

445 Now I will be glad to yield to the gentleman from Texas.

446 Dr. {Burgess.} Well, in the immortal words of Bob
447 Dylan, to live outside the law, you must be honest. This
448 will ensure that future Secretaries of Energy are honest in
449 this regard.

450 I will yield back.

451 Mr. {Whitfield.} The gentleman's time is expired.

452 I might say that I am quite encouraged on an amendment
453 that we all are going to accept and agree to here that it has
454 only taken us 40 minutes.

455 Okay. If there is no further discussion, the vote will
456 occur on the Burgess amendment.

457 All those in favor shall signify by saying aye.

458 All those opposed, no.

459 The ayes have it, and the amendment is agreed to.

460 Mr. {Waxman.} Mr. Chairman.

461 Mr. {Whitfield.} For what purpose does the gentleman
462 from California seek recognition?

463 Mr. {Waxman.} Mr. Chairman, I have an amendment at the
464 desk, number 723.

465 Mr. {Whitfield.} The clerk will report amendment--what
466 was the number?

467 Mr. {Waxman.} Seven two three.

468 Mr. {Whitfield.} Seven two three.

469 The {Clerk.} Amendment to the discussion draft offered
470 by Mr. Waxman of California.

471 [The amendment follows:]

472 ***** INSERT 2 *****

|
473 Mr. {Whitfield.} The gentleman is now recognized for 5
474 minutes.

475 Mr. {Waxman.} I ask unanimous consent the amendment be
476 considered as read.

477 Mr. {Whitfield.} Without objection.

478 Mr. {Waxman.} Thank you, Mr. Chairman.

479 Before I go into this amendment, I just want to point
480 out the expression of affection for Secretary Chu and the
481 Department of Energy does not reflect the votes of
482 Republicans. They voted to cut the budget of the Department
483 of Energy by 80 percent. They voted to cut half of the
484 chairman's clean energy program. They voted to cut 40
485 percent of the--excuse me. They voted 50 times to cut the
486 Secretary's clean energy programs at DOE. They voted 40
487 times to deny the science of global warming, and the chairman
488 of the Oversight Subcommittee of the Energy and Commerce
489 Committee called for Secretary Chu's resignation. If that is
490 called affection and love for the Secretary or this
491 Administration, they don't need any enemies.

492 Now, I would like to begin by asking counsel a few
493 questions. Counsel, under this bill, the DOE loan guarantee
494 program can still use its existing authority to issue
495 additional loan guarantees. Is that correct?

496 {Counsel.} For applications submitted prior to December
497 31st.

498 Mr. {Waxman.} Could you pull the microphone closer to
499 you, please?

500 {Counsel.} For applications submitted prior to December
501 31, 2011, correct.

502 Mr. {Waxman.} And the program has approximately \$34
503 billion in remaining loan guarantee authority. Isn't that
504 right?

505 {Counsel.} Yes, sir.

506 Mr. {Waxman.} The legislation does not set a future
507 date after which the program is prohibited from issuing loan
508 guarantees. Isn't that correct?

509 {Counsel.} That is correct.

510 Mr. {Waxman.} So under this bill, DOE could, for
511 example, issue a new loan guarantee in 2015 or 2020 or 2030
512 so long as it meets the requirements of this bill. Is that
513 correct?

514 {Counsel.} If it was for a pending application
515 submitted prior to December 31, 2011, correct.

516 Mr. {Waxman.} So you emphasized that point. It has to
517 be applications that are in prior to December 2011. Is that
518 right?

519 {Counsel.} Correct, and assuming there is no additional

520 appropriations.

521 Mr. {Waxman.} So this bill prevents DOE from issuing a
522 new loan guarantee to any project that didn't submit its
523 application by December 31, 2011. Is that right?

524 {Counsel.} Correct.

525 Mr. {Waxman.} Thank you.

526 Mr. Chairman, the American people are entitled to an
527 honest debate about the purpose and effect of this bill but
528 the Republican rhetoric about what this bill does is
529 completely divorced from the reality of what the bill
530 actually does.

531 Last week when Chairman Whitfield postponed the markup
532 of this bill until today, he said, ``We are totally committed
533 to ending the 1703-1705 program.'' He emphasized that House
534 Republicans intend to terminate the loan guarantee program
535 with this bill. Well, let us be clear. This Republican bill
536 does not terminate the loan guarantee program. It does not
537 end, phase out or sunset the loan guarantee program.

538 Under this bill, the Department of Energy can use its
539 existing authority to issue \$34 billion in new loan
540 guarantees. DOE can issue those loan guarantees tomorrow,
541 next year or 20 years from now. There is no end date for
542 this program.

543 After lambasting this Bush-era program for more than a

544 year, House Republicans are leaving in place to issue tens of
545 billions more in loan guarantees. That is a fact. That is
546 what the acting director of this program told us at the
547 legislation hearing, and that is what committee counsel has
548 just told us.

549 Here is what the Republican bill actually does. It
550 arbitrarily picks winners and losers by prohibiting DOE from
551 considering any applications for loan guarantees submitted
552 after December 31, 2011. It creates a winners list of about
553 50 projects that are eligible for loan guarantees. Everyone
554 else, no matter how groundbreaking or promising their
555 technology, loses.

556 The loan guarantee program is supposed to support
557 innovative technologies. That is the whole point of this
558 program. But under this bill, new breakthrough technologies
559 need not apply. Even the technologies that Republicans claim
560 to support like coal and nuclear are abandoned. This ensures
561 that DOE can use its remaining funds to provide loan
562 guarantees only to the list that they already have.

563 My amendment does not increase or decrease the amount of
564 the loan guarantees that can be awarded under this program.
565 It would simply allow new ideas to compete with older ones.
566 I would urge support for this commonsense amendment.

567 Mr. {Whitfield.} The gentleman's time is expired.

568 The chair will recognize himself for 5 minutes in
569 opposition to the gentleman's amendment.

570 I would like to ask a couple questions of counsel also.
571 Is it true that this legislation does in effect terminate
572 1703 and 1705 programs with the exception of those already in
573 the queue?

574 {Counsel.} That is correct.

575 Mr. {Rush.} Mr. Chairman.

576 Mr. {Whitfield.} For what purpose does the gentleman
577 from Illinois seek recognition?

578 Mr. {Rush.} To ask counsel to speak up.

579 Mr. {Whitfield.} If you would move the microphone a
580 little bit closer, we would appreciate it.

581 Okay. So you said that it does terminate those programs
582 except for those in the queue?

583 {Counsel.} Correct.

584 Mr. {Whitfield.} Now, what was the reason that we
585 allowed those in the queue to stay in the queue and not
586 terminate those?

587 {Counsel.} I don't want to opine--

588 Mr. {Waxman.} Mr. Chairman, point of order.

589 Mr. {Whitfield.} Yes.

590 Mr. {Waxman.} Counsel can tell us what the law is.

591 Counsel can tell us what the bill us. But counsel is not to

592 give us intent. Intent is for the authors of the bill.

593 Mr. {Whitfield.} Okay. Well, I will tell you then the
594 intent. The intent is this. Contracts have already been
595 entered into in many instances in these applications and
596 there is a strong feeling that like Yucca Mountain, the
597 federal government could become liable in lawsuits. As you
598 know, at Yucca Mountain, because it was terminated, the
599 government has contracts with 104 nuclear power plants around
600 the country. Because the government could not take
601 possession of that waste, they have been sued by the nuclear
602 power plants and now those plants have judgments against the
603 federal government to the tune of \$14 billion. So we did not
604 want to subject the taxpayers to any more potential
605 liability, and that is why these are remaining in the queue.

606 Now, I might also say that we do have strong
607 philosophical differences about this loan guarantee program.
608 I for one do not consider it a success when you either save
609 or you create 1,175 permanent jobs, which is what has
610 happened with this program so far, and when you calculate the
611 amount of money that has already been spent, that adds up to
612 each job that this Administration either saved or created
613 cost the taxpayers over \$12 million.

614 And when we have a \$16 trillion federal debt, and I
615 genuinely believe that this country has made great strides in

616 a technological way, all sorts of inventions and patents have
617 been obtained without federal assistance, but we seem to be
618 moving in this country to a position where we want the
619 federal government involved in everything. And maybe the
620 federal government should be involved in things, but when we
621 are struggling with a debt that provides significant problems
622 to our economy, which puts an additional burden on the young
623 people in this country on top of our liabilities with
624 Medicaid and Medicare and Social Security, I don't think that
625 it is good for us to approve of a program that loans to
626 projects that are not commercially viable and that a lot of
627 the money went to monies like General Electric, Chevron, BP,
628 Google, all of which have capitalizations in excess of \$150
629 billion. These companies have a lot of cash, and the only
630 reason they are taking advantage of this program is because
631 the money is available.

632 Mr. {Waxman.} Will the gentleman yield?

633 Mr. {Whitfield.} I would be happy to yield.

634 Mr. {Waxman.} I would like to direct two questions to
635 counsel. One, I would like to know, are there any legally
636 binding contracts that we have to respect in the pool of
637 applicants?

638 {Counsel.} Of the 50 pending applications, there are
639 approximately 10 to 11 conditional commitments that have been

640 signed and agreed to.

641 Mr. {Waxman.} And are they legally binding?

642 {Counsel.} That I would have to get back to you, sir.

643 Mr. {Waxman.} Okay.

644 Mr. {Whitfield.} Well, reclaiming my time--

645 Mr. {Waxman.} Secondly--

646 Mr. {Whitfield.} Reclaiming my time--

647 Mr. {Waxman.} Can we still allow \$34 billion to be

648 spent?

649 {Counsel.} I am sorry?

650 Mr. {Waxman.} The bill still allows \$34 billion to be

651 spent?

652 {Counsel.} That is the loan guarantee authority that

653 DOE has.

654 Mr. {Whitfield.} Reclaiming my time. We are of the
655 opinion that it does subject the government to potential
656 liability, but the bottom line is, this program has not been
657 successful, it has been too costly, and the government at
658 this particular time in our Nation's history should not be
659 involved in providing money for companies with large
660 capitalizations that do not need loans if they really believe
661 in the project. And my time is expired.

662 Is there further discussion on the amendment?

663 Mr. {Rush.} Mr. Chairman.

664 Mr. {Whitfield.} For what purpose does the gentleman
665 from Illinois seek recognition?

666 Mr. {Rush.} Mr. Chairman, I move to strike the last
667 word.

668 Mr. {Whitfield.} The gentleman is recognized for 5
669 minutes.

670 Mr. {Rush.} Mr. Chairman, I support the Waxman
671 amendment.

672 The bill before us arbitrarily picks winners and losers.
673 It creates a winners list of a dozen projects that were
674 submitted by the end of 2011, those that only have
675 applications that DOE can look at. Any additional
676 applications are prohibited from being looked at by the DOE,
677 and no matter what the merits are of the application, no
678 matter how good or how bad they are, this can't be at all
679 looked at.

680 And Mr. Chairman, no matter how groundbreaking or how
681 promising any new application, the technology that is
682 involved in any new application, they are arbitrarily--the
683 door is shut on them. They can't be looked at at all. And
684 this program that is under consideration was created to
685 support innovative energy technology, and here we are closing
686 the door on innovation.

687 This country has moved forward based on its capacity to

688 innovate, and here we are having a few Members of Congress
689 saying okay, innovation is over, shut the door, lock it up,
690 put a gate on it, we don't want no more innovation because
691 innovation is over in America. New breakthrough technologies
692 under this bill are again turned away.

693 And Mr. Chairman, you know as well as I, when you look
694 at the newspapers, every week, sometimes two or three times a
695 week we read about advancements in solar energy technology
696 that makes it more competitive with conventional polluting
697 technologies but these new technologies won't even be
698 eligible, won't even be considered for loan guarantees under
699 this horrible piece of legislation. This puts our Nation,
700 the Nation that we love, the Nation that we so hard for, the
701 Nation that is really the answer to a lot of the problems
702 that not only our citizens are facing in relation to the
703 energy area, energy innovation, but the whole world is
704 looking to America to be the type of innovative champion that
705 is has always been, but yet still here we have this committee
706 getting ready to risk the future of our Nation and send clean
707 energy markets to China and to Germany and to other
708 countries. New advanced coal technologies could not be
709 funded and new applications for small, modular nuclear
710 reactors or next-generation nuclear plants could not be
711 funded.

712 Mr. Chairman, I think that this is a horrible way for us
713 to proceed, and I yield the balance of my time to the ranking
714 member.

715 Mr. {Waxman.} Thank you very much. You made excellent
716 points.

717 But let me just clarify this. We are going to let \$34
718 billion of loan guarantees go forward only for those
719 applications that are already pending, and of those
720 applications that are pending, there may be eight to ten
721 something or other that has been approved. There are
722 conditional commitments if a company meets certain
723 conditions. Well, if these companies meet these conditions
724 such as an NRC license, then they get a loan guarantee. I
725 doubt very much that there is any legal action that can be
726 taken for those commitments that should require that we keep
727 \$34 billion in the budget available to be used.

728 If you want to end the program, end the program. You
729 could end the program by saying no more applications can be
730 granted unless there is some legal action that would require
731 us to continue with the application loan guarantee.

732 But if you are going to talk about the budget, let me
733 tell you, in Kentucky and all over this country there is a
734 drought that is killing our farms. You are going to come to
735 us and ask for aid when harm is done, and this loan guarantee

736 program is to develop ways to use some alternative fuels and
737 alternative energy so we don't have this global warming
738 climate change. There is a conspiracy of silence in this
739 committee about climate change because there is a denial of
740 science and you are putting your head in the sand and you are
741 going to ask the rest of us to give you some compensation for
742 all the harm that is done, which we always do. But we can
743 prevent these things.

744 If you don't like this program, don't put \$34 billion
745 available for more of it, and if you are going to put \$34
746 billion available for more of loan guarantees, make them for
747 loan guarantees that can do some good to get us away from the
748 present dilemma that we are in.

749 Mr. {Whitfield.} The gentleman's time is expired.

750 Does anyone seek further recognition to speak on the
751 gentleman's amendment?

752 Mr. {Markey.} Mr. Chairman.

753 Mr. {Whitfield.} For what purpose does the gentleman
754 from Massachusetts seek recognition?

755 Mr. {Markey.} I move to strike the last word.

756 Mr. {Whitfield.} The gentleman is recognized for 5
757 minutes.

758 Mr. {Markey.} Thank you.

759 You know, the Republicans have spent months decrying the

760 Solyndra loan guarantee. They have alleged that the
761 Department of Energy failed to predict the risk that Solyndra
762 would go bankrupt. They have alleged that the Department of
763 Energy illegally moved the taxpayers to the back of the line
764 of creditors who would collect if the company went bankrupt.
765 They have even alleged that the Obama Administration's
766 funding for renewable was motivated by political cronyism and
767 that the funds were used to outsource jobs rather than, as
768 the gentleman from California just said, the goal was to
769 produce energy here in the United States, make it renewable,
770 make it safe, make it non-polluting so that we weren't
771 worsening the conditions that lead to droughts, lead to
772 icebergs twice the size of Manhattan breaking off of
773 Greenland last week. By the way, we should name that iceberg
774 twice the size of Manhattan Denier Island so that climate
775 deniers will have a place to go to cool off during these
776 summers that are creating droughts here in the United States
777 that are leading farmers to bankruptcy.

778 But I know you don't want to do anything about climate
779 science because you don't believe that it exists as a threat
780 to the people who live in our country. But the Republicans,
781 they seem to limit their interest in the DOE loan guarantee
782 program to renewable loan guarantees while ignoring the
783 reason why the program was created in the first place.

784 And I want to bring you back into the time machine to
785 this committee 2:30 a.m. July, the conference committee, the
786 House-Senate conference committee is here. It is 2:30 a.m.,
787 Sunday morning. The members who were here, House and Senate
788 members, were in a relatively somnambulant condition, and
789 Senator Domenici has an amendment, and he offered the
790 amendment to that energy conference bill that was intended to
791 find some way for the American taxpayers to fund the nuclear
792 power plants that Wall Street found too risky to invest in.
793 I was sitting right where Mr. Walden is and I was looking
794 over at this very interesting development here at 2:30 in the
795 morning, and I am a night person so I actually do my best
796 work at this point in time, as the committee was, you know,
797 considering this most important of all amendments, and I made
798 a query as to what in fact it was that we were doing at 2:30
799 in the morning having been in session for, like, 12
800 consecutive hours on such an important program. And Senator
801 Domenici, by the way, the Senate chair for this committee, so
802 he was very interested in this amendment. As a matter of
803 fact, it was the most animation I had seen in him in the
804 preceding 2 weeks of the conference committee, and it was
805 just a funny time to raise an issue that seemed to be of such
806 intense interest to him. And what it did was, it offered an
807 amendment that was intended to find some way for the American

808 taxpayers to fund the nuclear power plants that Wall Street
809 found too risky. So I offered an amendment to strike the
810 Domenici language because I felt that it was only going to
811 result in loan guarantees for the wealthiest companies in
812 America and not for emerging renewable energy companies, and
813 I noted actually at 2:30 in the morning, it got a little
814 chuckle although not that many members were still awake that
815 Adam Smith was spinning in his grave so quickly at that point
816 that he would qualify as a new energy source under the poorly
817 drafted amendment that Senator Domenici had brought here.

818 And the Nuclear Energy Institute heralded this new bill
819 when it was enacted saying that the nuclear energy industry
820 now had many of the tools necessary to move forward to new
821 nuclear power plant construction in the country. But it
822 wasn't enough for the nuclear industry. Oh, no, the nuclear
823 industry wanted more. In fact, the Nuclear Energy Institute
824 then urged the Department of Energy to change its regulations
825 so that taxpayers would not have to be first in line to be
826 repaid in the case of default. They argued that private
827 lenders should collect their money before the taxpayers in
828 the event that the company went bankrupt, and the Department
829 of Energy responding to the Nuclear Energy Institute adopted
830 that approach. The Nuclear Energy Institute. And what are
831 they looking for here? They are looking for funding and loan

832 guarantees for the United States Enrichment Corporation for
833 two nuclear power plants down in Georgia that are already 7
834 months and \$1 billion over what their budget is. Do we hear
835 one word from them? No. They take a program created for the
836 Nuclear Energy Institute with the conditions in those rules
837 and regulations that were pretty much drafted by them and now
838 they are blaming the solar industry and exempting an industry
839 that hasn't successfully actually built a new nuclear power
840 plant in 25 years, and the ones that they are giving the loan
841 guarantees to are bankrupt and the United States Enrichment
842 Corporation is now nearing penny-stock status, but that is
843 not stopping under their legislation the loan guarantees and
844 the funding for that.

845 Mr. {Whitfield.} The gentleman's time is expired.

846 Mr. {Barton.} Mr. Chairman.

847 Mr. {Whitfield.} For what purpose does the gentleman
848 from Texas seek recognition?

849 Mr. {Barton.} To strike the last word.

850 Mr. {Whitfield.} The gentleman is recognized for 5
851 minutes.

852 Mr. {Barton.} Mr. Chairman, my intention is not to
853 speak very much today because I know that the subcommittee
854 wants to move the bill, as it should. But I was here at 2:30
855 in the morning. In fact, I was chairing the conference

856 committee, and I would like the gentleman to acknowledge
857 that, A, we really had an open, transparent conference
858 committee, the gentleman was a full participant, was allowed
859 to offer amendments, was allowed to speak, was allowed to
860 succeed and did on several occasions, and so it was not some
861 dark of the night--

862 Mr. {Markey.} Yes, it was.

863 Mr. {Barton.} No, we were trying to get the bill done
864 before we adjourned, and the gentleman at the end of the--not
865 at the end of the podium but was, Mr. Dingell was at the time
866 the ranking member and he and I and Mr. Domenici and Senator
867 Bingaman openly set the agenda and made sure everybody had
868 opportunities to participate, and that particular amendment
869 had been vetted and briefed and it did pass, and there have
870 been some loans made and every indication is, the loans that
871 have been made under the nuclear program are going to be
872 repaid and have brought confidence in the market so that
873 perhaps there will not have to be any additional loans in the
874 future.

875 So you can disagree or agree on the overall content of
876 this bill. I happen to think that No More Solyndras on
877 balance is a good bill. But don't compare an open,
878 transparent conference in which every member on both sides of
879 the aisle and both bodies were full participants and which on

880 a bipartisan basis passed both bodies and which the President
881 signed and which is still the basic energy policy of the land
882 that somehow there was something nefarious about that. The
883 gentleman knows there was not. I mean, the gentleman got
884 more amendments into the bill than I did because he was
885 diligent and worked hard and had good ideas.

886 Mr. {Waxman.} Would the gentleman yield?

887 Mr. {Barton.} I would be happy to yield.

888 Mr. {Waxman.} I wasn't on that conference but I know
889 you as chair always allowed the minority full opportunity to
890 participate and full opportunity on occasion to be outvoted,
891 but--

892 Mr. {Barton.} And also to win.

893 Mr. {Waxman.} The stars really had to be aligned for
894 that.

895 Mr. {Barton.} Mr. Markey won, Mr. Dingell won.

896 Mr. {Waxman.} But I would like to ask you a question.
897 This was a loan guarantee program to encourage more
898 alternative sources of energy. Do you think it makes sense
899 now to limit, since we are going to keep the program going,
900 the only applicants that can apply or those that have already
901 applied? What if there is a new program that comes about
902 that would really do a lot of good? Why should they be stuck
903 with the existing pool, especially if they look at some of

904 those projects and think well, if we have to spend our \$34
905 billion on this group, we may end up having to make the
906 taxpayers have to pay for it because they are not really good
907 as some of the new applications.

908 Mr. {Barton.} At the time that bill became law, there
909 was a bipartisan consensus for an all-of-the-above energy
910 policy that really meant all of the above. This Congress
911 will in all probability modify that policy, which is the
912 right of the new Congress to change as they see the
913 circumstances have changed.

914 Mr. {Waxman.} Well, how do you feel about that?

915 Mr. {Barton.} I have feelings on it.

916 Mr. {Waxman.} Thank you.

917 Mr. {Barton.} I yield back my time.

918 Mr. {Whitfield.} The gentleman yields back the balance
919 of his time.

920 Is there further discussion on the gentleman from
921 California's amendment?

922 Mr. {Doyle.} Mr. Chairman.

923 Mr. {Whitfield.} For what purpose does the gentleman
924 from Pennsylvania seek recognition?

925 Mr. {Doyle.} Move to strike the last word, Mr.
926 Chairman.

927 Mr. {Whitfield.} The gentleman is recognized for 5

928 minutes.

929 Mr. {Doyle.} Mr. Chairman, last week the Wall Street
930 Journal editorialized in favor of the legislation we are
931 considering today. The editorial was entitled ``The GOP's
932 Solyndra Wing,'' and I would like to ask unanimous consent
933 that that editorial be placed in the record.

934 Mr. {Whitfield.} Without objection.

935 [The information follows:]

936 ***** COMMITTEE INSERT *****

|
937 Mr. {Doyle.} The Journal's editorial board is in favor
938 of this bill but it is pretty apparent to me that they are
939 mistaken about what this legislation would actually do if
940 enacted. The Journal's editorial says that a litmus test for
941 the Republicans should be eliminating the loan guarantee
942 program. The editorial goes on to say that the No More
943 Solyndras Act will ``defund the Energy Department loan
944 guarantee program.'' Well, the Journal is simply wrong about
945 what this legislation would do. If you want to terminate,
946 end, defund or eliminate the loan guarantee program, then
947 this bill is not for you.

948 The legislation we are considering today does not
949 eliminate the loan guarantee program nor does it defund the
950 program. In fact, if we were to enact this legislation
951 tomorrow, DOE could issue \$34 billion in new loan guarantees
952 for years to come. But I would also tell you, if you want to
953 invest in clean energy to enhance our international
954 competitiveness and address the challenges of energy security
955 and climate change, this bill is not for you either.

956 The bill allows DOE to award loan guarantees in 2020,
957 for instance, but it only allows DOE to pick from a static
958 list of applicants who submitted applications prior to the
959 end of 2011. This simply doesn't make any sense. The whole

960 point of the program is to spur innovation, not to pick
961 winners and losers now for years and years to come.

962 I support the Waxman amendment. This bill would allow
963 the \$34 billion in loan guarantees to be issued in the coming
964 years but colleagues, let us make sure that the best ideas in
965 clean energy can compete for those guarantees.

966 And with that, I will yield back unless someone wants my
967 time.

968 I will yield to the gentlelady from California.

969 Mrs. {Capps.} Thank you, Mr. Chairman. I thank my
970 colleague for yielding, and I also want to associate myself
971 with his remarks in support of Mr. Waxman's amendment.

972 I think we should be honest with the American people
973 about what this bill does and does not do, and as others have
974 said, it is clear this bill does not end the Department of
975 Energy loan guarantee program. As the ranking member has
976 said, it picks winners and losers, and I believe that the
977 Department of Energy loan program is important in its
978 totality and should be kept in place. It has had major
979 successes. We don't talk about the successes. We should not
980 block it from supporting new, innovative technologies, some
981 of which we don't even know about yet. It has financed
982 already projects that are expected to support nearly 60,000
983 jobs and save nearly 300 million gallons of gasoline a year.

984 The program has supported six power generation projects that
985 are already complete, nine projects that are sending power to
986 the grid. It is funding one of the world's largest wind
987 farms, the Nation's first all-electric vehicle manufacturing
988 facilities and the first nuclear power plant to be built in
989 this country in decades.

990 It is also funding one of the world's largest solar
991 power plants, which I know something about because it is
992 located in a California county that I represent, NRG's
993 California Valley Solar Farm, 350 construction jobs, will
994 supply over 100,000 homes with clean power over the next
995 several years. This is an example of what this program is
996 doing, and with this program, private investors have come off
997 the sidelines to invest tens of billions of dollars and
998 create thousands of job. It is an engine for job creation.
999 We need to look at its successes before we pass such a poorly
1000 thought out, political piece of legislation, and the way this
1001 bill is drafted is not the way we should go.

1002 Let us pass Mr. Waxman's amendment and allow the most
1003 innovative ideas of today and tomorrow to compete with the
1004 applications submitted in previous years.

1005 Mr. {Doyle.} I will reclaim my time and yield what is
1006 left to Mr. Dingell.

1007 Mr. {Dingell.} I thank the gentleman, and I appreciate

1008 the points he has made. I support his view and the gentleman
1009 from California.

1010 The hard fact here is that my Republican colleagues
1011 don't seem to understand what we are doing here. They tell
1012 us that this is going to end the loan program; it is not. It
1013 is simply going to force us to pick from the oldest and
1014 perhaps the least promising while rejecting by Congressional
1015 fiat the opportunity for this country to select from better,
1016 newer and more innovative loans. If you want to do it the
1017 right way, the way the Republicans say they want to do it,
1018 then simply terminate the programs. Don't engage in a lot of
1019 unusual fictions of the kind we are hearing here this
1020 morning.

1021 Mr. {Whitfield.} The gentleman's time is expired.

1022 Mr. {Walden.} Mr. Chairman.

1023 Mr. {Whitfield.} For what purpose does the gentleman
1024 from Oregon seek recognition?

1025 Mr. {Walden.} Move to strike the last word.

1026 Mr. {Whitfield.} The gentleman is recognized for 5
1027 minutes.

1028 Mr. {Walden.} Thank you, Mr. Chairman.

1029 I think the problem that some of my friends on the other
1030 side of the aisle, the Democrats, have is really fessing up
1031 to what this program costs, because when I go home, people

1032 want to know, how did Solyndra happen, why am I as a taxpayer
1033 on the hook for it, and what are you doing about it and can
1034 you phase this out. I mean, Solyndra alone went bankrupt,
1035 \$535 million approved, \$527 distributed. Now, you get
1036 outside, you know, the 26 square miles of the beltway here,
1037 that is a lot of money to real people in the real world.

1038 Now, I know my dear friends from California who lectured
1039 us repeatedly think they have got the solution on the liberal
1040 left of the Democrat party on these issues because they have
1041 done well in their State. You know, how many cities are
1042 going bankrupt in California? I don't want to follow that
1043 model.

1044 So what we are trying to do is be responsible here and
1045 do a phase-down. I mean, part of the issue is this law got
1046 shoved through as part of the President's so-called stimulus,
1047 as I recall it, the Recovery Act. How is that working out?
1048 We should be at 5-1/2 percent unemployment, 6 percent. That
1049 is what taxpayers were promised. Instead, they get all these
1050 bills and we are into our fifth year now of trillion-dollar
1051 deficits added on. You don't get it both ways. You are
1052 going broke and you are taking the country with you, and we
1053 are trying to put some brakes on this and bring some business
1054 principles to it. Beacon Power went bankrupt, \$43 million
1055 approved, \$39 million distributed. Solyndra I mentioned,

1056 \$535 million approved, \$527 million gone. Nevada Geothermal,
1057 substantial debts, no positive cash flow, and \$98.9 pending
1058 out there. First Wind, withdrawn IPO, substantial debt, \$117
1059 million on the line. Abound Solar, \$400 million approved,
1060 \$68 million distributed, oh, they went bankrupt, that is
1061 right.

1062 Now, I actually believe in renewable energy. We have a
1063 lot of it in Oregon, a lot of it in my district, a lot of
1064 wind power. In fact, a lot of the wind turbines spinning in
1065 my district are sending power down to you all in California
1066 and we appreciate the revenue you are sending up to us.

1067 But the program has only saved or created 1,175
1068 permanent jobs with \$15.1 billion awarded. You go home and
1069 explain why we are borrowing money at record rates to
1070 subsidize permanent jobs at \$12,850,000 each.

1071 I was a small business owner for two decades. Actually,
1072 my wife built our business. I didn't see the government
1073 standing at the base of the tower in a foot of snow and over
1074 the course of two nights we had to replace the transmission
1075 line out there, and I will tell you what, I didn't have any
1076 government program here to bail me out. It was our home, our
1077 savings we put on the line. We risked it all.

1078 I think there is a role for government in research.
1079 There is a role for some of these programs. But this one

1080 just has spun out of control and the taxpayers are saying how
1081 are you guys letting this happen when you are borrowing 40
1082 cents on every dollar back there and sending the bill to the
1083 next generation, you have to do something better than that.

1084 Now, my gosh, to hear the rhetoric out of my friends on
1085 the other side, you would think we didn't care about
1086 innovation and technology. I chair the Committee on
1087 Communications and Technology.

1088 Mr. {Waxman.} Will the gentleman yield?

1089 Mr. {Walden.} No, I won't yield.

1090 I have been to the Silicon Valley. I have been to our
1091 higher-education institutions. I am a big advocate for
1092 research and development. We actually passed--Republicans
1093 are the ones who have passed spectrum out into auction. It
1094 never happened in any meaningful way under Democrat majority.
1095 We had an open process to do it. We stepped up and solved
1096 the 9/11 Commission recommendation that our public safety
1097 officials have a broadband interoperable network to operate
1098 on. We got that done. I mean, we are here to get the job
1099 done at the least expense and exposure to the taxpayer while
1100 trying to spur and get Americans working again.

1101 Mr. {Waxman.} Will the gentleman yield?

1102 Mr. {Walden.} You know, I would be happy to yield.

1103 Mr. {Waxman.} What I don't understand is, we are still

1104 going to have \$34 billion in loan guarantees under this
1105 legislation, and that means we could have more Solyndras if
1106 some of these programs--

1107 Mr. {Walden.} Reclaiming my time.

1108 Mr. {Waxman.} --don't survive.

1109 Mr. {Walden.} Reclaiming my time. I would hope that by
1110 now the Obama Administration and the Department of Energy
1111 wouldn't allow us to have another Solyndra because they would
1112 do better due diligence going forward and they wouldn't allow
1113 that to occur.

1114 Beyond that, the legislation that created this whole
1115 thing had no limitation on funds, as I understand it. It was
1116 such ``sums as necessary,' ' which in legislative speak means
1117 you get to spend whatever the Appropriations Committee throws
1118 on the table, and this was at something like \$50 billion.
1119 That is with a B. And they scaled it back to \$34 billion,
1120 and we are not the Appropriations Committee. Perhaps if this
1121 been crafted differently going in, you would have an
1122 authorization limitation on here to begin with, but we don't.

1123 My time is expired.

1124 Mr. {Whitfield.} The gentleman's time is expired.

1125 Does anyone seek recognition?

1126 Mr. {Sarbanes.} Mr. Chairman.

1127 Mr. {Whitfield.} For what purpose does the gentleman

1128 from Maryland seek recognition?

1129 Mr. {Sarbanes.} Move to strike the last word.

1130 Mr. {Whitfield.} The gentleman is recognized for 5
1131 minutes.

1132 Mr. {Sarbanes.} I think that our colleagues on the
1133 other side have basically gotten themselves tangled up
1134 because nobody wants more Solyndras but we don't want to
1135 throw the baby out with the bathwater. This is a good
1136 program, the loan guarantee program.

1137 We had testimony, very powerful testimony about how you
1138 can leverage new technologies through this program. What is
1139 represents is a strong public-private partnership. And I
1140 think even our Republican colleagues who put this forward
1141 understand that and they don't want to throw the baby out
1142 with the bathwater, they don't want to throw the whole
1143 program out, so they put this \$34 billion authorization, they
1144 have maintained that. But then they are getting tangled up
1145 in their message machine which is telling them they have got
1146 to show that they are stopping this thing on the other hand.
1147 So they put this arbitrary limit in those of those particular
1148 programs and projects that can be considered, and there is no
1149 common sense to this. The position that is being put forward
1150 over on the other side doesn't have any internal integrity.
1151 It doesn't make sense. And I think that is the purpose of

1152 Congressman Waxman's proposal is to eliminate this kind of
1153 logical discrepancy that is currently within the bill, and
1154 for that reason, it makes a lot of sense and I support it.

1155 I also want to try to nip in the bud a narrative that
1156 has gained traction here on the other side, and that is this
1157 notion that because the program at different times has
1158 offered some guarantees for some highly capitalized companies
1159 to support some of these emerging projects that there is
1160 something wrong with that, and there was a reference made to
1161 Google and GE and some other large companies. But we had a
1162 witness who testified that the reason for that is these large
1163 companies would otherwise have no interest in pursuing a
1164 particular emerging technology. They have got a lot of big
1165 fish to pursue. And so what you are doing if you offer this
1166 guarantee is, you are giving them the incentive to step in
1167 and actually over the long term put their muscle behind it.
1168 So how smart is that? The program is actually leveraging out
1169 the private sector from actors who have the capacity to do it
1170 further support for some of these emerging technologies.

1171 So you have got a multidimensional way of advancing
1172 these technologies that otherwise might not get the support
1173 and the development that they need to be breakthrough
1174 technologies. So I don't think that that is a fair line of
1175 attack on the program. I think frankly it supports the

1176 wisdom of the program and its ability to leverage that kind
1177 of support out of the private sector.

1178 And with that, I would yield back.

1179 Mr. {Rush.} Will the gentleman yield?

1180 Mr. {Sarbanes.} I would yield to my colleague from
1181 Illinois.

1182 Mr. {Rush.} Mr. Chairman, I am just so glad that this
1183 bill will never reach the President's desk. I think this
1184 bill is not going anywhere. It might pass this subcommittee,
1185 it might pass the House but it ain't going anywhere. And I
1186 believe that the Waxman amendment attempts to cure some
1187 significant defects in the whole thought pattern that went
1188 into this bill.

1189 And Mr. Chairman, I am troubled here because as I sit
1190 back and I think about the young people today in America, the
1191 young students in universities and colleges all across this
1192 Nation, and I just am very troubled by the message that this
1193 bill sends to them. You know, why don't we just close down
1194 all the research institutions, the universities in America?
1195 Why don't we just close them down, shut them up, put bars on
1196 the gates, on the doors? Because what we are saying is that
1197 no matter how you might try to come up with innovative
1198 technologies to deal with America's problems and the world's
1199 problems in terms of climate change and new, innovative,

1200 clean coal technologies and things like that, you don't even
1201 need to try, you know, you don't even need to attempt; stop
1202 doing what you are doing, your new ideas will not be
1203 considered by this country and by this Nation. So why don't
1204 you just close up, lock your doors, go home and just
1205 commiserate in your misery?

1206 Mr. Chairman, I think we send the wrong message to the
1207 young innovators of the future with this bill.

1208 Mr. {Whitfield.} The gentleman's time is expired.

1209 If there is no further discussion, the vote would occur
1210 on the Waxman amendment.

1211 All those in favor shall signify by saying aye.

1212 All those opposed, no.

1213 In the opinion of the chair, the nos have it.

1214 Mr. {Waxman.} Roll call vote.

1215 Mr. {Whitfield.} The gentleman requests a roll call
1216 vote. The clerk will call the roll.

1217 The {Clerk.} Mr. Sullivan?

1218 Mr. {Sullivan.} No.

1219 The {Clerk.} Mr. Sullivan votes no.

1220 Mr. Shimkus?

1221 [No response.]

1222 The {Clerk.} Mr. Walden?

1223 Mr. {Walden.} No.

1224 The {Clerk.} Mr. Walden votes no.
1225 Mr. Terry?
1226 [No response.]
1227 The {Clerk.} Mr. Burgess?
1228 Dr. {Burgess.} No.
1229 The {Clerk.} Mr. Burgess votes no.
1230 Mr. Bilbray?
1231 [No response.]
1232 The {Clerk.} Mr. Scalise?
1233 Mr. {Scalise.} No.
1234 The {Clerk.} Mr. Scalise votes no.
1235 Mrs. McMorris Rodgers?
1236 [No response.]
1237 The {Clerk.} Mr. Olson?
1238 Mr. {Olson.} No.
1239 The {Clerk.} Mr. Olson votes no.
1240 Mr. McKinley?
1241 Mr. {McKinley.} No.
1242 The {Clerk.} Mr. McKinley votes no.
1243 Mr. Gardner?
1244 Mr. {Gardner.} No.
1245 The {Clerk.} Mr. Gardner votes no.
1246 Mr. Pompeo?
1247 Mr. {Pompeo.} No.

1248 The {Clerk.} Mr. Pompeo votes no.
1249 Mr. Griffith?
1250 Mr. {Griffith.} No.
1251 The {Clerk.} Mr. Griffith votes no.
1252 Mr. Barton?
1253 Mr. {Barton.} Aye.
1254 The {Clerk.} Mr. Barton votes aye.
1255 Mr. Upton?
1256 The {Chairman.} No.
1257 The {Clerk.} Mr. Upton votes no.
1258 Mr. Rush?
1259 Mr. {Rush.} Aye.
1260 The {Clerk.} Mr. Rush votes aye.
1261 Ms. Castor?
1262 [No response.]
1263 The {Clerk.} Mr. Sarbanes?
1264 Mr. {Sarbanes.} Aye.
1265 The {Clerk.} Mr. Sarbanes votes aye.
1266 Mr. Dingell?
1267 Mr. {Dingell.} Votes aye.
1268 The {Clerk.} Mr. Dingell votes aye.
1269 Mr. Markey?
1270 Mr. {Markey.} Votes aye.
1271 The {Clerk.} Mr. Markey votes aye.

1272 Mr. Engel?

1273 [No response.]

1274 The {Clerk.} Mr. Green?

1275 Mr. {Green.} Aye.

1276 The {Clerk.} Mr. Green votes aye.

1277 Mrs. Capps?

1278 Mrs. {Capps.} Aye.

1279 The {Clerk.} Mrs. Capps votes aye.

1280 Mr. Doyle?

1281 Mr. {Doyle.} Yes.

1282 The {Clerk.} Mr. Doyle votes aye.

1283 Mr. Gonzalez?

1284 Mr. {Gonzalez.} Aye.

1285 The {Clerk.} Mr. Gonzalez votes aye.

1286 Mr. Waxman?

1287 Mr. {Waxman.} Aye.

1288 The {Clerk.} Mr. Waxman votes aye.

1289 Chairman Whitfield?

1290 Mr. {Whitfield.} No.

1291 The {Clerk.} Chairman Whitfield votes no.

1292 Mr. {Whitfield.} How is Ms. McMorris-Rodgers recorded?

1293 Is she recorded?

1294 The {Clerk.} Mrs. McMorris-Rodgers is not recorded.

1295 Mrs. {McMorris-Rodgers.} No.

1296 The {Clerk.} Mrs. McMorris-Rodgers votes no.

1297 Mr. {Whitfield.} Are there any--the gentleman from New
1298 York.

1299 Mr. {Engel.} How am I recorded?

1300 The {Clerk.} Mr. Engel is not recorded.

1301 Mr. {Engel.} Vote aye, please.

1302 The {Clerk.} Mr. Engel votes aye.

1303 Mr. {Whitfield.} Would the clerk report the results,
1304 please? Oh, the gentleman from Illinois.

1305 Mr. {Shimkus.} How am I recorded?

1306 The {Clerk.} Mr. Shimkus is not recorded.

1307 Mr. {Shimkus.} I regrettably vote no.

1308 The {Clerk.} Mr. Shimkus votes no.

1309 Mr. {Whitfield.} Mr. Terry?

1310 The {Clerk.} Mr. Terry is not recorded.

1311 Mr. {Terry.} No.

1312 The {Clerk.} Mr. Terry votes no.

1313 Mr. {Whitfield.} The clerk will report the result.

1314 The {Clerk.} Mr. Chairman, on that vote, there were 11
1315 ayes, 14 nays.

1316 Mr. {Whitfield.} Eleven ayes, 14 nays. The amendment
1317 is not agreed to.

1318 Are there further amendment?

1319 Mr. {Rush.} Mr. Chairman.

1320 Mr. {Whitfield.} For what purpose does the gentleman
1321 from Illinois seek recognition?

1322 Mr. {Rush.} Mr. Chairman, I have an amendment at the
1323 desk, amendment number 731.

1324 Mr. {Whitfield.} The clerk will report the amendment.

1325 The {Clerk.} Amendment to the discussion draft offered
1326 by Mr. Rush of Illinois.

1327 [The amendment follows:]

1328 ***** INSERT 3 *****

|
1329 Mr. {Whitfield.} Without objection, the reading of the
1330 amendment is dispensed with, and the gentleman from Illinois
1331 is recognized for 5 minutes to explain his amendment.

1332 Mr. {Rush.} Mr. Chairman, the bill we are considering
1333 today will create a winners list of projects that are
1334 eligible for tens of billions of dollars in loan guarantees.
1335 You are on the winners list if you applied to the Department
1336 of Energy before December 2011, but under this bill, all
1337 other innovative projects are out of luck. This makes no
1338 sense. Technology advances and innovation continue,
1339 circumstances develop and our policies should be reflective
1340 of this progress.

1341 For example, on March 27, 2012, the EPA proposed the
1342 first Clean Air Act standard for carbon pollution from future
1343 power plants. In light of the EPA's action, we should allow
1344 power plants that plan to meet the carbon standard in new and
1345 innovative ways to apply for loan guarantees.

1346 Mr. Chairman, scientists have been warning us for
1347 decades that climate change would bring more sea-level rise,
1348 heat waves, droughts, forest fires, floods and extreme
1349 weather events, all of which we are experiencing right now.
1350 We now we have to reduce carbon pollution, and that means
1351 reduction from fossil fuel-fired power plants. So we must

1352 learn how to use coal and natural gas cleanly.

1353 Mr. Chairman, there are six large-scale projects to
1354 install carbon capture and storage technologies in power
1355 plants currently planned or under construction in this
1356 Nation, and that is a good start, but we are going to have to
1357 do more to ensure clean energy's future, and we can't afford
1358 to take any of the tools that we have or will have off the
1359 table, much less these loan guarantees which have been a very
1360 effective tool for developing and deploying advanced energy
1361 technologies.

1362 My amendment is a simple amendment, Mr. Chairman. It
1363 provides that the ban on loan guarantees after December 31,
1364 2011, does not apply to projects that employ innovative
1365 technologies to meet the EPA's carbon pollution standards for
1366 power plants issued under the Clean Air Act.

1367 Some of my colleagues across the aisle seem to think
1368 that coal can't be clean, that it isn't even worth investing
1369 in clean coal, and that the only way to protect the coal
1370 industry is to deny that climate change is real and to block
1371 all action to reduce carbon pollution. Well, Mr. Chairman,
1372 that is one archaic approach, but the limitations of that
1373 approach are pretty obvious. At some point, reality takes
1374 ideology and then we are stuck with pollution and outdated
1375 coal technology.

1376 Mr. Chairman, we need a can-do attitude in this
1377 committee and in this Nation and in the coal industry. I
1378 think coal can be clean. After all, we are building projects
1379 today that will capture the carbon pollution and store it
1380 indefinitely, and I think the government and should play a
1381 role. We have nuclear power today because of tremendous past
1382 and ongoing federal financial support. Federal support has
1383 been critical in bringing down the costs of solar and wind to
1384 where wind is cost-competitive today as we speak. We can do
1385 the same for clean coal and dramatically reduce our carbon
1386 pollution.

1387 I urge my colleagues to accept this present reality and
1388 recognize that regulation of carbon pollution is here to
1389 stay. Stand up for the innovative coal technology that is
1390 coming online and help ensure a future for American
1391 coalminers.

1392 Mr. Chairman, I urge all my colleagues to support this
1393 very brilliant amendment of mine.

1394 Mr. {Whitfield.} The chair recognizes himself for 5
1395 minutes in opposition to the gentleman's amendment.

1396 I oppose this amendment for a number of reasons. One,
1397 it would continue the program, but most important of all, as
1398 the gentleman from Illinois knows very well, the proposed
1399 greenhouse gas regulation coming out of EPA would make it

1400 impossible to build a new coal-powered plant because there is
1401 no commercially available carbon capture and sequestration
1402 technology that can do the job.

1403 So with the Utility MACT on top of that, if an existing
1404 plant modifies the plant to meet the Utility MACT, then it
1405 can be classified as a new plant, and as a new plant, it
1406 wouldn't be able to be built because it can't meet the new
1407 greenhouse gas standard. So the gentleman really is by his
1408 amendment picking winners and losers. And of course, coal
1409 has been the biggest loser under the EPA of this
1410 Administration, and although the President talks about
1411 wanting an all-of-the-above policy, he has done everything in
1412 his power to make sure that a new coal-powered plant is not
1413 built, that coal-mining companies are closed down, that jobs
1414 are lost in that industry.

1415 And so for those reasons, I would respectfully oppose
1416 the gentleman's amendment and yield back the balance of my
1417 time.

1418 Mr. {Waxman.} Mr. Chairman.

1419 Mr. {Whitfield.} For what purpose does the gentleman
1420 from California seek recognition?

1421 Mr. {Waxman.} To strike the last word.

1422 Mr. {Whitfield.} The gentleman is recognized for 5
1423 minutes.

1424 Mr. {Waxman.} Well, I listened to your arguments, and
1425 they don't hold up, in my opinion. You say first of all this
1426 amendment by Mr. Rush would continue the program. The
1427 underlying bill continues the program. We are not ending
1428 this program. What we are saying is that the funds, \$34
1429 billion in loan guarantees, can't be used for anything after
1430 the end of 2011. Well, what we are saying in my amendment
1431 is, let everything come in and compete, and that was
1432 rejected. Mr. Rush is saying okay, if you are not going to
1433 let everything come in to compete, at least if somebody has
1434 an idea of how to capture the carbon from power plants, they
1435 ought to be able to get loan guarantees. And your argument
1436 against that is, there is no technology for it, but that is
1437 the reason to have a loan guarantee program, to develop the
1438 technology to do this.

1439 So the chairman of our committee, Mr. Upton, authored a
1440 bill in the last Congress along with our former colleague,
1441 Representative Boucher, that would have put a fee on
1442 utilities, and that fee would then go to help pay for the
1443 research for this technology. I suggested to Mr. Upton that
1444 we pass that bill. At least let us do something about coal.
1445 Coal is ubiquitous, not only in this country but around the
1446 world. Coal is low-priced, and if we can continue to use
1447 coal in a way that does not add carbon to the atmosphere and

1448 cause climate change and global warming, what an enormous
1449 advance that would be. But if we deny loan guarantees to
1450 develop this technology, if we deny the idea of a fee to be
1451 paid by utility users to help develop this technology, the
1452 logical conclusion is that we are not going to develop this
1453 technology unless somebody is going to put all their money
1454 into research and development. Now, there are some projects
1455 around where people are working on it but it not going to
1456 happen unless the federal government makes it viable because
1457 it is not viable at the present time.

1458 I hear a lot of talk about war on coal. Well, who has a
1459 war on coal? You want to defend coal so eventually it can't
1460 be used? Because let us recognize that carbon pollution
1461 controls are not going away. The Supreme Court has ruled
1462 that EPA has authority to regulate carbon pollution. EPA has
1463 exercised its authority, and the D.C. Circuit Court of
1464 Appeals resoundingly upheld the EPA's action. So carbon
1465 pollution controls are inevitable.

1466 That is because even though people here deny it, they
1467 don't believe in the science, they tell us, but climate
1468 change is real and the costs of ignoring it are enormous.
1469 Day in and day out, Americans across this country are
1470 suffering from increasingly frequent and intense heat waves
1471 and droughts. We are losing lives, power supplies, a lot of

1472 money due to increasingly frequent and intense storms. More
1473 and more communities are flooded, burned or facing major
1474 infrastructure costs due to accelerating sea-level rise.

1475 So rather than say we are eventually going to find that
1476 coal can't be used, let us develop a way to use coal. That
1477 seems to be the logical conclusion we ought to reach. And
1478 the Rush amendment provides one narrow exception of projects
1479 that can be reviewed and can compete with all the number that
1480 are already sitting there as of 2011 to be viewed as possible
1481 loan guarantee candidates. I would say that if the
1482 representatives from the coal areas don't vote for this
1483 amendment, they are trying to protect the status quo and that
1484 status quo is not going to continue, and I would hope they
1485 would rethink that position and support this amendment, and I
1486 yield back my time.

1487 Mr. {Whitfield.} The gentleman yields back the balance
1488 of his time.

1489 If there is no further discussion of the Rush--

1490 Mr. {Shimkus.} Mr. Chairman.

1491 Mr. {Whitfield.} For what purpose does the gentleman
1492 from Illinois seek recognition?

1493 Mr. {Shimkus.} To speak against the amendment.

1494 Mr. {Whitfield.} The gentleman is recognized for 5
1495 minutes.

1496 Mr. {Shimkus.} Thank you, Mr. Chairman, and I
1497 appreciate my friends on the left newfound devotion to coal
1498 and low-cost power, and we did have this debate in the cap-
1499 and-trade debate, and what eventually public policy was, we
1500 didn't want to increase the cost of energy to poor, regular
1501 Americans and manufacturing in this country.

1502 In the argument, it speaks that we do nothing for clean
1503 coal technology where just in the 2012 appropriation, R&D,
1504 which is really the place we need to go on. If we are forced
1505 to go carbon capture and sequestration, as the ranking member
1506 knows, I am skeptical even that that will happen, or whether
1507 we should do that, but if we are eventually forced by this
1508 Administration's war on coal and the support by the Supreme
1509 Court, then we have \$1 billion already in Future Gen 2.0,
1510 which portions of it are in central Illinois, which we are
1511 spending a billion dollars right now for, and that is in
1512 retrofitting a power plant that is decommissioned and also
1513 testing the wells for long-term geological storage of carbon
1514 dioxide. We also have \$368.4 million in clean coal
1515 technology and the Clean Coal Power Initiative.

1516 So this Congress's position on research and development
1517 on clean coal technology if we are eventually forced to move
1518 in that direction is not really disputed. I do appreciate my
1519 colleague's strong devotion and support for coal since it is

1520 a major generator of electricity in this country and it is
1521 one thing that helps continue to make this country great, and
1522 we appreciate their support for that and we look forward to
1523 that in the future.

1524 Mr. {Waxman.} Would the gentleman yield?

1525 Mr. {Shimkus.} I would be happy to yield.

1526 Mr. {Waxman.} Are you saying that whatever money we are
1527 appropriating to look for this new technology is enough and
1528 we don't need to have loan guarantees?

1529 Mr. {Shimkus.} What I am saying--

1530 Mr. {Waxman.} Let me just complete the sentence.

1531 Because this bill and this amendment would not require that
1532 technology be used. It is only to develop the technology
1533 which you and I should both want.

1534 Mr. {Shimkus.} And reclaiming my time. What I am
1535 saying is, on this side we believe that the billion dollars
1536 in Future Gen 2.0 and the \$369 million in clean coal
1537 technology and Clean Coal Power Initiative is a good
1538 investment of taxpayer funds to ensure that coal can be used
1539 for future generations.

1540 So I think, you know, this bill, as you know, is based
1541 upon, we believe, a fraudulent application of the loan
1542 guarantee program. It has besmirched the program, the
1543 Solyndra thing, and the subordination has really caused a

1544 pale on whether that is the government role at all, so that
1545 is why I support the bill. But we always encourage our
1546 friends on the other side to speak highly and strongly about
1547 the need for coal and electricity generation and low-cost
1548 power and we look forward to further affirmations of support
1549 in the future, and I yield back.

1550 Mr. {Whitfield.} The gentleman yields back the balance
1551 of his time.

1552 For what purpose does the gentleman from Pennsylvania
1553 seek recognition?

1554 Mr. {Doyle.} To strike the last word.

1555 Mr. {Whitfield.} The gentleman is recognized for 5
1556 minutes.

1557 Mr. {Doyle.} Thank you, Mr. Chair, and I would just say
1558 to my friend that the cap-and-trade bill was coal's best
1559 chance ever with \$10 billion in the bill for CCS matched by a
1560 private-sector contribution. That was a real opportunity for
1561 those of us that wanted to support coal, and unfortunately,
1562 it didn't become law.

1563 I need some clarification from Mr. Rush because I want
1564 to support his amendment, but I am confused about the
1565 wording. It says that power plants but only if such plants
1566 comply with applicable New Source Performance Standards for
1567 Greenhouse Gases. My concern is, unless I am not

1568 understanding what you are saying there, if a power plant
1569 already complies with the New Source Performance Standards,
1570 it has figured out a way to comply already, so it seems to me
1571 it wouldn't need a loan guarantee to do something that is
1572 already accomplished. I am just wondering if it might not be
1573 more proper to say ``but only if such plants would comply or
1574 agree to comply'' because this sort of sounds like it is a
1575 loan guarantee to a company that has already figured out how
1576 to comply so why would they--unless I am misunderstanding it.
1577 So I am just asking for some clarification from the
1578 gentleman.

1579 Mr. {Rush.} Would the gentleman yield?

1580 Mr. {Doyle.} Yes, I will.

1581 Mr. {Rush.} I think the gentleman is correct, and Mr.
1582 Chairman, I want to really clarify something about the
1583 amendment. My goal is to ensure that if you want to build a
1584 new power plant and your new power plant will comply with
1585 EPA's carbon pollution standard, you will be eligible for a
1586 loan guarantee. And Mr. Chairman, if there is any confusion
1587 about the matter, I would ask unanimous consent that the
1588 words ``will comply'' be inserted so that my intentions would
1589 be absolutely clear.

1590 Mr. {Whitfield.} So the gentleman is asking unanimous
1591 consent to change his amendment so that in the second line of

1592 the amendment it would say ``but only if such plants will
1593 comply.'' Is that correct?

1594 Mr. {Rush.} That is correct, Mr. Chairman.

1595 Mr. {Whitfield.} The gentleman seeks unanimous consent
1596 to change. Without objection, it is agreed to.

1597 Mr. {Doyle.} Reclaiming my time, Mr. Rush. Thank you
1598 very much, and I am happy to support the amendment now.

1599 Mr. {Whitfield.} Does the gentleman yield back the
1600 balance of his time?

1601 Mr. {Doyle.} Yes, Mr. Chairman.

1602 Mr. {Whitfield.} The gentleman yields back the balance
1603 of his time.

1604 If there is no further discussion, the vote would occur
1605 on the amendment as changed by the unanimous consent
1606 agreement.

1607 All those in favor--

1608 Mr. {Rush.} Mr. Chairman.

1609 Mr. {Whitfield.} For what purpose does the gentleman
1610 from Illinois seek recognition?

1611 Mr. {Rush.} I ask for a roll call vote.

1612 Mr. {Whitfield.} The clerk will call the roll.

1613 The {Clerk.} Mr. Sullivan?

1614 [No response.]

1615 The {Clerk.} Mr. Shimkus?

1616 Mr. {Shimkus.} No.

1617 The {Clerk.} Mr. Shimkus votes no.

1618 Mr. Walden?

1619 Mr. {Walden.} No.

1620 The {Clerk.} Mr. Walden votes no.

1621 Mr. Terry?

1622 Mr. {Terry.} No.

1623 The {Clerk.} Mr. Terry votes no.

1624 Mr. Burgess?

1625 Dr. {Burgess.} No.

1626 The {Clerk.} Mr. Burgess votes no.

1627 Mr. Bilbray?

1628 [no response.]

1629 The {Clerk.} Mr. Scalise?

1630 Mr. {Scalise.} No.

1631 The {Clerk.} Mr. Scalise votes no.

1632 Mrs. McMorris Rodgers?

1633 [No response.]

1634 The {Clerk.} Mr. Olson?

1635 Mr. {Olson.} No.

1636 The {Clerk.} Mr. Olson votes no.

1637 Mr. McKinley?

1638 Mr. {McKinley.} No.

1639 The {Clerk.} Mr. McKinley votes no.

1640 Mr. Gardner?

1641 Mr. {Gardner.} No.

1642 The {Clerk.} Mr. Gardner votes no.

1643 Mr. Pompeo?

1644 Mr. {Pompeo.} No.

1645 The {Clerk.} Mr. Pompeo votes no.

1646 Mr. Griffith?

1647 Mr. {Griffith.} No.

1648 The {Clerk.} Mr. Griffith votes no.

1649 Mr. Barton?

1650 Mr. {Barton.} No.

1651 The {Clerk.} Mr. Barton votes no.

1652 Mr. Upton?

1653 The {Chairman.} Votes no.

1654 The {Clerk.} Mr. Upton votes no.

1655 Mr. Rush?

1656 Mr. {Rush.} Rush votes aye.

1657 The {Clerk.} Mr. Rush votes aye.

1658 Ms. Castor?

1659 [No response.]

1660 The {Clerk.} Mr. Sarbanes?

1661 Mr. {Sarbanes.} Aye.

1662 The {Clerk.} Mr. Sarbanes votes aye.

1663 Mr. Dingell?

1664 Mr. {Dingell.} Dingell votes no.
1665 The {Clerk.} Mr. Dingell votes no.
1666 Mr. Markey?
1667 [No response.]
1668 The {Clerk.} Mr. Engel?
1669 Mr. {Engel.} Votes aye.
1670 Mr. Engel votes aye.
1671 The {Clerk.} Mr. Green?
1672 Mr. {Green.} Aye.
1673 The {Clerk.} Mr. Green votes aye.
1674 Mrs. Capps?
1675 Mrs. {Capps.} Aye.
1676 The {Clerk.} Mrs. Capps votes aye.
1677 Mr. Doyle?
1678 Mr. {Doyle.} Aye.
1679 The {Clerk.} Mr. Doyle votes aye.
1680 Mr. Gonzalez?
1681 Mr. {Gonzalez.} Aye.
1682 The {Clerk.} Mr. Gonzalez votes aye.
1683 Mr. Waxman?
1684 Mr. {Waxman.} Aye.
1685 The {Clerk.} Mr. Waxman votes aye.
1686 Chairman Whitfield?
1687 Mr. {Whitfield.} No.

1688 The {Clerk.} Chairman Whitfield votes no.

1689 Mr. {Whitfield.} Have all members had a chance to
1690 record their vote? Mr. Bilbray?

1691 Mr. {Bilbray.} Am I recorded?

1692 The {Clerk.} Mr. Bilbray is not recorded.

1693 Mr. {Bilbray.} Vote no.

1694 The {Clerk.} Mr. Bilbray votes no.

1695 Mr. {Whitfield.} Ms. McMorris-Rodgers?

1696 Mrs. {McMorris-Rodgers.} No.

1697 The {Clerk.} Mrs. McMorris-Rodgers votes no.

1698 Mr. {Whitfield.} Mr. Sullivan?

1699 Mr. {Sullivan.} No.

1700 The {Clerk.} Mr. Sullivan votes no.

1701 Mr. {Whitfield.} Mr. Markey?

1702 Mr. {Markey.} Votes aye.

1703 The {Clerk.} Mr. Markey votes aye.

1704 Mr. {Whitfield.} Does anyone else seek recognition for
1705 a vote? The clerk will report the result.

1706 The {Clerk.} Mr. Chairman, on that vote, there were
1707 nine ayes, 17 nays.

1708 Mr. {Whitfield.} The amendment is not agreed to.

1709 Are there further amendments?

1710 Mr. {Green.} Mr. Chairman.

1711 Mr. {Whitfield.} For what purpose does the gentleman

1712 from Texas recognition?

1713 Mr. {Green.} I have an amendment at the desk.

1714 Mr. {Whitfield.} The clerk will report the amendment.

1715 The {Clerk.} Amendment to the discussion draft offered

1716 by Mr. Green of Texas.

1717 [The amendment follows:]

1718 ***** INSERT 4 *****

|
1719 Mr. {Whitfield.} Without objection, the reading of the
1720 amendment is dispensed with, and the gentleman is recognized
1721 for 5 minutes in support of his amendment.

1722 Mr. {Green.} Mr. Chairman and members, my amendment
1723 builds on the strengths of the bill. First let me talk about
1724 that it expresses the strong opposition with the DOE
1725 subrogation of taxpayers' funds. This amendment leaves that
1726 in to prohibit the bill. I was on the subcommittee when we
1727 drafted this law in 2005. I was on the full committee, and
1728 believe me, the subrogation of taxpayers' funds was never my
1729 intent, and I know the way the DOE received an interpretation
1730 just sounds so bad that instead of doing, going properly what
1731 the law said they actually hired an in-house attorney or had
1732 an in-house attorney make that decision. So this amendment
1733 would leave that in place.

1734 What this amendment does do is this amendment makes sure
1735 the Administration takes a year off from issuing any new loan
1736 guarantees. During this downtime the Department of Energy is
1737 directed to analyze the program and decide whether to
1738 continue it or not. If they decide to continue it, then they
1739 have to issue a report to Congress outlining the cost and
1740 benefits of continuing, as well as recommended administrator
1741 and statutory changes necessary to prevent the mistakes that

1742 occurred with Solyndra.

1743 If the Department of Energy fails to comply, the program
1744 is automatically repealed. Nothing in this amendment forces
1745 the continuation of the program, and if at any time in the
1746 future Congress does not see a reason to continue the
1747 program, we can always revisit it. This language is a way to
1748 make sure no money is spent for a year, but it gives Congress
1749 and the Administration more time to think about what the next
1750 steps need to be before putting it into place.

1751 During the investigation of Solyndra, we saw the harm of
1752 rushed decision. With this bill as it is currently written
1753 the committee would be guilty of similar mistakes. It would
1754 be a rush decision for political reasons, not policy ones, to
1755 eliminate the loan program. After the year moratorium and
1756 subsequent analysis and study of repeals, the consensus, many
1757 more of us would be inclined to agree, but at this point and
1758 months before the election is not the time to throw out a
1759 bipartisan agreement that this committee did in 2005, and
1760 this Congress did in 2005.

1761 No one denies Solyndra was a series of bad mistakes.
1762 The Department of Energy put too much money on the line for
1763 an extremely risky endeavor that failed to see the warning
1764 signs, and to top it off they made the government stay
1765 subordinate to that of outside investors. A federal loan

1766 program isn't needed for safe projects that can get funding
1767 anywhere. It is needed to encourage innovation and try to
1768 find the technologies that may not otherwise exist.

1769 There are reasons for this, this committee under
1770 Republican leadership started this program and why a
1771 Republican President signed it into law. I am pleased that
1772 the underlying bill makes sure the subordination of the
1773 government stake is exclusively prohibited in any
1774 circumstance. That is a needed change.

1775 With that provision this amendment would make strides
1776 towards fixing the program instead of disabling it. There is
1777 a reason for this program. Congress wouldn't have passed it
1778 on a bipartisan basis in 2005, and signed by President Bush
1779 but just ending it the way this bill does makes it, well, if
1780 you have your application in by last December, then that is
1781 okay. I think what we need to do is take a breath, come back
1782 and see what we can do, because there are new technologies,
1783 whether it be in my area, New Orleans gas area, or coal
1784 technology or obviously in other things, I think our country
1785 has an opportunity in solar, but we have a lot of reasons why
1786 Solyndra failed, and one of it was because we now cannot
1787 produce what we need to do with solar panels as cheap as the
1788 Chinese can export to us.

1789 So, Mr. Chairman, I would encourage an aye vote on this

1790 amendment and yield back my time.

1791 Mr. {Whitfield.} The gentleman yields back his time.

1792 The chair recognizes himself for 5 minutes to speak in
1793 opposition to the amendment.

1794 The first comment that I would make is that the first
1795 sentence of this amendment says the Secretary of Energy shall
1796 not accept any new applications under Title XVII of the
1797 Energy Policy Act. Now, you go on and read that second part
1798 of that sentence, but one interpretation of this would be
1799 that your amendment would also continue to allow those
1800 applications that are in queue to be considered. Is that,
1801 was that your intent, or is that your intent, Mr. Green?

1802 Mr. {Green.} No, Mr. Chairman, my intent by this
1803 amendment to the overall bill would be for the Department of
1804 Energy to take a breather. Sure, they could get the
1805 application, but they--

1806 Mr. {Whitfield.} So they would not take any further
1807 action?

1808 Mr. {Green.} They wouldn't take any further action
1809 because I think after what we have seen with Solyndra and
1810 some other cases. We need to look back and say, okay. What
1811 can the Department of Energy do better because there has been
1812 significant amount of taxpayer money lost, and but we would
1813 still have this opportunity to end this program if the

1814 Department of Energy doesn't come back to us in a year, come
1815 back to Congress.

1816 So we would have no more Solyndras as the bill said, but
1817 we would still be able to safeguard innovation in the
1818 technologies that we really want, and again, it has been a
1819 bipartisan basis for 7 years, and I was proud in '05, that we
1820 got 77 Democrats to vote for this Energy Bill in '05, on the
1821 Floor of the House.

1822 Mr. {Whitfield.} The chair will reclaim his time.

1823 I am going to continue to oppose the gentleman's
1824 amendment. First of all, I am so opposed to this entire
1825 program as I have said before. The fact that we have this
1826 \$16 trillion federal debt, the fact that these programs are
1827 going to not commercially-viable projects, risky projects,
1828 which I understand, major capitalized corporations are
1829 receiving the funds. Many of the entities have gone
1830 bankrupt, and I might say Congress has viewed, have reviewed
1831 the Title XVII program. The GAO has reviewed this program.
1832 The Inspector General of the Treasury has reviewed the
1833 program. The White House own hired consultant has reviewed
1834 the program, and now we are asking the Secretary of Energy to
1835 review the program, and although some people may agree, the
1836 Secretary of Energy's personnel came to Congress and
1837 testified that they would even subrogate taxpayers in the

1838 future if circumstances, that they felt that that was the
1839 correct thing to do.

1840 So I am also very much opposed to the subrogation issue.
1841 The taxpayers should not be subrogated to private venture
1842 capitalists.

1843 And then my real objection is once again in the economic
1844 times that we are going through with the debt that we have
1845 for the Federal Government to be providing venture capital is
1846 something that I simply cannot support, and this amendment
1847 that the gentleman from Texas has offered allows the
1848 Department of Energy to decide if the program should be
1849 continued or not. The only way it would be repealed is if
1850 the reports had not been received by Congress by the deadline
1851 described in paragraph two by December 31, 2013.

1852 So here we are, the Congress, who is saying after all
1853 this controversy you, the Department of Energy, will make the
1854 decision of whether or not the program will be continued, and
1855 that is the purpose of our act. Some people are saying,
1856 well, you are not stopping the program. We intend to
1857 terminate the program with the exception of those
1858 applications that have already been filed.

1859 So with that I would respectfully oppose the gentleman's
1860 amendment and would urge our side of the aisle to not support
1861 the amendment.

1862 Mr. {Green.} Mr. Chairman, if you would yield just for
1863 a minute to me in your time left.

1864 Mr. {Whitfield.} I would be happy to yield.

1865 Mr. {Green.} First of all, I agree with you. This
1866 amendment does not touch the language of the bill for
1867 subrogation. I think we need to make sure that the
1868 Department of Energy never again has the opportunity to do
1869 what they did with Solyndra, to shop for an attorney's
1870 opinion instead of going through the proper procedures.

1871 Would you agree that my amendment doesn't touch your
1872 issues on subrogation?

1873 Mr. {Whitfield.} No, I do. I agree with that.

1874 Mr. {Green.} Okay, and the only thing we do is extend
1875 it for a year without any new grants, and Department of
1876 Energy could come back to us. If they don't come back to us,
1877 the program terminates. If they come back and say continue
1878 it, Congress still has the ability to say no, we don't want
1879 to continue this program that started in 2005. Is that
1880 correct?

1881 Mr. {Whitfield.} That is correct.

1882 Mr. {Green.} Thank you.

1883 Mr. {Whitfield.} My opposition is the fact I do not
1884 want the Department of Energy to be making this decision. I
1885 want Congress to be making this decision, and that is why we

1886 have this legislation.

1887 My time has expired.

1888 For what purpose does the gentleman from California seek
1889 recognition?

1890 Mr. {Waxman.} Strike the last word.

1891 Mr. {Whitfield.} The gentleman is recognized for 5
1892 minutes.

1893 Mr. {Waxman.} I just want to point out to my colleagues
1894 that Mr. Barton circulated the identical language last week
1895 but didn't have a chance to offer the amendment because the
1896 markup was postponed until today.

1897 This bill has a lot of problems. The amendment doesn't
1898 fix all of those problems, but I think it is a clear
1899 improvement to the legislation. The amendment provides a
1900 mechanism for real reforms to the Loan Guarantee Program,
1901 which the underlying bill continues. This language has
1902 received support from both sides of the aisle. It would put
1903 things on hold. It would look for the DOE to come up with
1904 some ideas and present them to Congress, and then Congress
1905 can make changes. If we want at that point to abolish a
1906 program, we can do it. If we want to accept some reforms to
1907 the program, we can do that.

1908 But I just don't see continuing the program. Thirty-
1909 four billion can still be put at risk. It makes sense if the

1910 Republicans think they are abolishing this program. I don't
1911 want to abolish the program. I want to reform it and make it
1912 work.

1913 I want to, since I have time, point out to my
1914 colleagues, Mr. Shimkus particularly, on the last argument
1915 about the investment of money for developing sequestration
1916 and capture of carbon from coal, that is--I support that
1917 investment, but the Loan Guarantee Program could leverage
1918 private dollars to go into that same effort, not just a
1919 direct expenditure of public dollars for that goal.

1920 And I would rather encourage private sector activity by
1921 giving them some sense of security that we will stand behind
1922 their loan so that we can really get to the point where we
1923 accomplish the goal of developing the ability to use coal in
1924 a way that would make us the leader in the world, that will
1925 allow us to use that technology and sell it all over the
1926 world because there is coal all over the world, and it could
1927 well be used, and it could be used if the technology is
1928 developed in a way that would not add to greenhouse gases or
1929 climate change.

1930 But at any rate I am getting a little off target, but I
1931 do want to express my support for the Green amendment and
1932 yield back my time.

1933 Mr. {Whitfield.} The gentleman yields back the balance

1934 of his time.

1935 For what purpose does the gentleman from Kansas seek
1936 recognition?

1937 Mr. {Pompeo.} To strike the last word, Mr. Chairman.

1938 Mr. {Whitfield.} The gentleman is recognized for 5
1939 minutes.

1940 Mr. {Pompeo.} Thank you, Mr. Chairman. I oppose the
1941 Green amendment. It fundamentally misconceives the problem
1942 with this Loan Guarantee Program. I appreciate the fact that
1943 DOE may go do a study and come back with a solution. I don't
1944 know what it is that DOE would say that would convince me
1945 that the Federal Government has any business having a credit
1946 committee providing loan guarantees to private companies. In
1947 many cases we have seen in White House documents loan
1948 guarantees that would have been made by the private sector in
1949 any event.

1950 So I am not sure exactly what the purpose of continuing
1951 this program for a DOE review would be. DOE comes back and
1952 presents convincing evidence someday, they can convince us,
1953 and we can pass a law to restart the program if we should so
1954 choose. I will probably oppose that, but it should not be
1955 the default position based on some DOE review that we will
1956 continue to engage in using taxpayer funds to try and pick
1957 among a series of energy sources. It is just a misconception

1958 of the problem. The problem wasn't bad due diligence. The
1959 problem wasn't a bad credit review, although there was bad
1960 due diligence and a bad credit review. The problem with the
1961 program is not crony capitalism, although there was
1962 absolutely that here, too. The problem with the program is
1963 that the government doesn't belong in this space, shouldn't
1964 be providing guarantees to private companies.

1965 And for that reason I oppose the Green amendment.

1966 Mr. {Waxman.} Would the gentleman yield for a question?
1967 Would the gentleman yield to me for a question?

1968 Mr. {Pompeo.} Yes. I am happy to yield.

1969 Mr. {Waxman.} Then why would you support the underlying
1970 bill? Why don't you support the idea of ending the program,
1971 because the underlying bill keeps the program alive and
1972 allows 34 billion to still be spent on loan guarantees.

1973 Mr. {Pompeo.} I yield back the balance--reclaiming my
1974 time. You know, it is interesting to hear from the other
1975 side saying, gosh, you are just concerned that we are just
1976 keeping it going too long and then, of course, really in your
1977 heart being desirous of the program continuing in infinitum.

1978 So--

1979 Mr. {Waxman.} No. I don't--

1980 Mr. {Pompeo.} --I would be happy to--reclaiming my
1981 time, I would be happy to end this program just as quickly as

1982 possible, and that is my objective. I think that is what
1983 Chairman Upton and Chairman Stearns have done following their
1984 investigation of Solyndra. So I am happy to support the bill
1985 as it currently is drafted.

1986 I yield back.

1987 Mr. {Whitfield.} The gentleman--

1988 Mr. {Dingell.} Mr. Chairman.

1989 Mr. {Whitfield.} For what purpose does the gentleman
1990 from Michigan seek recognition?

1991 Mr. {Dingell.} Rise in support of the amendment.

1992 Mr. {Whitfield.} The gentleman is recognized for 5
1993 minutes.

1994 Mr. {Dingell.} Mr. Chairman, it is only a little while
1995 ago that this committee reported with considerable enthusiasm
1996 the legislation that for all intensive purposes we are
1997 seeking to get today. At that time it was understood these
1998 are investments that we are making in the future of this
1999 country. Other countries know this. The Japanese, the
2000 Koreans, and the Chinese are doing it. They are making
2001 batteries, they are doing innovative things. They are
2002 setting up corporations, they are making money.

2003 I inserted into the record yesterday some comments about
2004 how this is going on. The number of jobs that we are
2005 creating with a single investment at this time are

2006 unimportant. What is important is that we are developing the
2007 technology and the ability to utilize that technology in this
2008 country. That is the purpose of the legislation before us.

2009 I want to commend Mr. Green for bringing up this
2010 amendment. I know that my colleagues on the other side, a
2011 number of whom voted with me to create these loan programs,
2012 are under considerable pressure to vote against this
2013 amendment. I believe the amendment takes a reasonable step
2014 by requesting DOE to report on the effectiveness of the loan
2015 program and whether or not it should continue.

2016 I happen to think that it should continue, but I am
2017 willing to allow the doubters on this committee to have the
2018 report from DOE on this point.

2019 As we know, the Allison report and other testimony
2020 provided by DOE tell us that much of this analysis has
2021 already taken place. So hopefully should the bill become
2022 law, DOE can support it--can submit its report sooner rather
2023 than later. As it stands now this is clearly an anti-jobs
2024 bill. Not only is it not going to produce the jobs that we
2025 need in these areas, but it is also going to assure that
2026 future opportunities for us to manufacture these new
2027 technologies will not be available.

2028 The bill also in a very curious way compels us to choose
2029 from the older and the least acceptable of the technologies

2030 on which applications can be made, and it does not permit DOE
2031 to make loans on programs that are new and indeed might be
2032 much more hopeful in terms of creating job opportunities.

2033 I want to remind my colleagues that the Chevy Volt is an
2034 extraordinary piece of work. It is a real breakthrough, but
2035 it is something which is unique in that everything from the
2036 batteries to the automobile itself were done by Americans.
2037 This is American technology. But the interesting thing is
2038 the batteries, American designed and American technologies,
2039 were made guess where? In Korea. Why? Because the Korean
2040 government had the good sense to support its industry. The
2041 Chinese are doing this. We are talking about Solyndra. Why
2042 did Solyndra fail? Not because of DOE, not because of
2043 Solyndra. It failed because the Chinese overwhelmingly
2044 supported their industry and were able, thereby, to undercut
2045 American manufacturing and American jobs.

2046 And so the loan failed. We should understand that this
2047 is going to be a situation we are going to confront time
2048 after time, but we better understand something else, and that
2049 is if there is a problem here, it is not that we have made
2050 the loan to Solyndra. It is that we did not give Solyndra
2051 sufficient support in terms of seeing to it that it was
2052 protected in competing with the Chinese.

2053 Mr. {Scalise.} Would the gentleman yield?

2054 Mr. {Dingell.} That is the problem that we confront,
2055 and to view these things differently is to make a tremendous
2056 mistake. This is a long-term error that this country is
2057 making and moving away from the wisdom of Mr. Barton, who led
2058 the fight for this legislation.

2059 Mr. {Scalise.} Would the gentleman yield?

2060 Mr. {Dingell.} And it was supported by the leadership
2061 of this committee now on the other side of the aisle.

2062 Now, who wants me to yield?

2063 Mr. {Whitfield.} The gentleman from Louisiana.

2064 Mr. {Dingell.} I yield.

2065 Mr. {Scalise.} Aren't there other solar companies in
2066 America that are solvent and not gone--

2067 Mr. {Dingell.} I am not aware of any loans of that
2068 kind. The committee should know--

2069 Mr. {Scalise.} Not that got loans but just that are
2070 functioning--

2071 Mr. {Dingell.} --the answer to this question. There
2072 are others, but none of them are prospering because of the
2073 behavior of the Chinese and their undercutting of our sales,
2074 our technology, and our industry, and they are taking the
2075 jobs away from the United States. If you want no more
2076 Solyndras, my advice is keep on the loan program but go after
2077 the Chinese business practices that are destroying American

2078 jobs and opportunities.

2079 And until you do that, you are assuring that the United
2080 States is not going to succeed and that we are going to have
2081 more and more Solyndras in other areas because the Chinese
2082 are going to do what they did before to see to it that we
2083 fail because they are outcompeting us because we refuse to do
2084 the things we have to do to, in fact, compete.

2085 Mr. {Whitfield.} The gentleman's time has expired.

2086 Mr. {Dingell.} I thank the chair.

2087 Mr. {Whitfield.} Does anyone else seek recognition?

2088 If there is no further discussion, the vote would occur
2089 on the Green amendment. All those in favor shall signify by
2090 saying aye. All those opposed, no. In the opinion of the
2091 chair the nays have it.

2092 The clerk will call the roll.

2093 The {Clerk.} Mr. Sullivan?

2094 Mr. {Sullivan.} No.

2095 The {Clerk.} Mr. Sullivan votes no.

2096 Mr. Shimkus?

2097 Mr. {Shimkus.} No.

2098 The {Clerk.} Mr. Shimkus votes no.

2099 Mr. Walden?

2100 [No response.]

2101 The {Clerk.} Mr. Terry?

2102 Mr. {Terry.} No.

2103 The {Clerk.} Mr. Terry votes no.

2104 Mr. Burgess?

2105 Mr. {Burgess.} No.

2106 The {Clerk.} Mr. Burgess votes no.

2107 Mr. Bilbray?

2108 [No response.]

2109 The {Clerk.} Mr. Scalise?

2110 Mr. {Scalise.} No.

2111 The {Clerk.} Mr. Scalise votes no.

2112 Mrs. McMorris Rodgers?

2113 Mrs. {McMorris Rodgers.} No.

2114 The {Clerk.} Mrs. McMorris Rodgers votes no.

2115 Mr. Olson?

2116 Mr. {Olson.} No.

2117 The {Clerk.} Mr. Olson votes no.

2118 Mr. McKinley?

2119 Mr. {McKinley.} No.

2120 The {Clerk.} Mr. McKinley votes no.

2121 Mr. Gardner?

2122 Mr. {Gardner.} No.

2123 The {Clerk.} Mr. Gardner votes no.

2124 Mr. Pompeo?

2125 Mr. {Pompeo.} No.

2126 The {Clerk.} Mr. Pompeo votes no.
2127 Mr. Griffith?
2128 Mr. {Griffith.} No.
2129 The {Clerk.} Mr. Griffith votes no.
2130 Mr. Barton?
2131 Mr. {Barton.} Aye.
2132 The {Clerk.} Mr. Barton votes aye.
2133 Mr. Upton?
2134 The {Chairman.} No.
2135 The {Clerk.} Mr. Upton votes no.
2136 Mr. Rush?
2137 Mr. {Rush.} Aye.
2138 The {Clerk.} Mr. Rush votes aye.
2139 Ms. Castor?
2140 [No response.]
2141 The {Clerk.} Mr. Sarbanes?
2142 Mr. {Sarbanes.} Aye.
2143 The {Clerk.} Mr. Sarbanes votes aye.
2144 Mr. Dingell?
2145 Mr. {Dingell.} Aye.
2146 The {Clerk.} Mr. Dingell votes aye.
2147 Mr. Markey?
2148 Mr. {Markey.} Aye.
2149 The {Clerk.} Mr. Markey votes aye.

2150 Mr. Engel?
2151 Mr. {Engel.} Aye.
2152 The {Clerk.} Mr. Engel votes aye.
2153 Mr. Green?
2154 Mr. {Green.} Aye.
2155 The {Clerk.} Mr. Green votes aye.
2156 Mrs. Capps?
2157 Mrs. {Capps.} Aye.
2158 The {Clerk.} Mrs. Capps votes aye.
2159 Mr. Doyle?
2160 Mr. {Doyle.} Aye.
2161 The {Clerk.} Mr. Doyle votes aye.
2162 Mr. Gonzalez?
2163 Mr. {Gonzalez.} Aye.
2164 The {Clerk.} Mr. Gonzalez votes aye.
2165 Mr. Waxman?
2166 Mr. {Waxman.} Aye.
2167 The {Clerk.} Mr. Waxman votes aye.
2168 Chairman Whitfield?
2169 Mr. {Whitfield.} No.
2170 The {Clerk.} Chairman Whitfield votes no.
2171 Mr. {Whitfield.} Mr. Bilbray recorded?
2172 The {Clerk.} Mr. Bilbray is not recorded.
2173 Mr. {Bilbray.} Aye.

2174 The {Clerk.} Mr. Bilbray votes aye.
2175 Mr. Walden is not recorded.
2176 Mr. {Walden.} Walden votes no.
2177 The {Clerk.} Mr. Walden votes no.
2178 Mr. {Whitfield.} All the other members recorded?
2179 The clerk will report the result.
2180 The {Clerk.} Mr. Chairman, on that vote there were 12
2181 ayes, 14 nays.
2182 Mr. {Whitfield.} The amendment is not agreed to.
2183 Are there further amendments?
2184 For what purpose does the gentleman from Massachusetts
2185 seek recognition?
2186 Mr. {Markey.} I have an amendment at the desk, Markey
2187 138.
2188 Mr. {Whitfield.} The clerk will report Markey 138.
2189 The {Clerk.} Amendment to the discussion draft offered
2190 by Mr. Markey of Massachusetts.
2191 [The amendment follows:]

2192 ***** INSERT 5 *****

|
2193 Mr. {Whitfield.} Without objection the reading of the
2194 amendment is dispensed with, and the gentleman from
2195 Massachusetts is recognized for five minutes in support of
2196 his amendment.

2197 Mr. {Markey.} Thank you, Mr. Chairman.

2198 This amendment is very simple. It says that if a
2199 publicly-traded company has received a letter from a stock
2200 exchange warning that it will be delisted from the stock
2201 exchange because it is trading at too low a price to comply
2202 with the exchange's listing standards, that company cannot
2203 get a loan guarantee from the Department of Energy unless its
2204 stock price recovers.

2205 Now, this will remove companies whose stocks are in
2206 danger of being tossed out of the New York Stock Exchange or
2207 the NASDAQ or--and from eligibility as a result for loan
2208 guarantees under this program.

2209 Now, why do we need such a provision you ask. Well,
2210 because these listing standards are an important measure of
2211 the financial health of a company. Under the New York Stock
2212 Exchange and NASDAQ's rules, if a company's stock plunges
2213 below \$1 per share, the New York Stock Exchange or the NASDAQ
2214 can delist it, which essentially turns it into a penny stock.
2215 Delisting, in other words, it is clear, it is objective

2216 evidence that a company has fallen into a financial death
2217 spiral.

2218 That makes giving a taxpayer loan guarantee to such a
2219 company a highly-risky proposition.

2220 Now, some of you might think that this is a hypothetical
2221 scenario, and I sincerely wish that it was a hypothetical,
2222 but the reality is that one of the loan guarantee
2223 applications that is pending before the Department of Energy
2224 and which is not precluded by this legislation is for the
2225 United States Enrichment Corporation. After Congress
2226 privatized the United States Enrichment Corporation in 1996,
2227 we quickly learned that it couldn't survive in the private
2228 sector without continued and repeated bailouts to the tune of
2229 billions of dollars. We have given it free centrifuge
2230 technology. We have given it free uranium that it enriches
2231 and then sells it below market prices, undercutting its
2232 competitors. We are paid to clean up its radioactive messes.
2233 We have assumed its liabilities, and what has happened after
2234 all of that taxpayer investment in this corporation?

2235 Well, the entire company's market value is now barely
2236 over \$100 million even though the Department of Energy has
2237 given it a \$132 million bailout, even after the Department of
2238 Energy's recent announcement of another gift of free uranium
2239 for the United States Enrichment Corporation, Standard and

2240 Poor's downgraded it to junk bond status. I have to repeat
2241 that. It is so important. Standard and Poor's has
2242 downgraded the United States Enrichment Corporation to junk
2243 bond status, and yes, this company was warned in mid-May that
2244 it may be delisted from the New York Stock Exchange and
2245 become a penny stock.

2246 Let me say that again. This company was warned in mid-
2247 May that it may be delisted from the New York Stock Exchange
2248 and become a penny stock. This as Standard and Poor's has
2249 downgraded it to junk bond status.

2250 So here is what the United States Enrichment Corporation
2251 told its investors about its delisting risk. ``Our
2252 failure,' 'this is from the United States Enrichment
2253 Corporation. ' 'Our failure to maintain compliance with the
2254 listing requirements of the New York Stock Exchange could
2255 result in a delisting of our common stock, which could
2256 require us to repurchase our convertible notes for cash and
2257 trigger a default under our credit facility.' ' That is from
2258 the United States Enrichment Corporation.

2259 You would think that we would have all the information
2260 we need to stop throwing good money out to bat, but no such
2261 luck. The United States Enrichment Corporation's Loan
2262 Guarantee is still pending before the Department, and the
2263 \$130 million in taxpayer bailouts that it has recently

2264 received are intended to be used to fix their broken
2265 centrifuges so that the loan guarantee can proceed.

2266 And what is more, last year a number of members of
2267 Congress wrote the Energy Secretary and the White House
2268 Office of Management and Budget, urging them to quickly
2269 approve the United States Enrichment Corporation loan
2270 guarantee and to provide favorable loan terms.

2271 We may not agree on much when it comes to loan
2272 guarantees, but surely we can agree about the United States
2273 Enrichment Corporation. If anything meets the criteria of a
2274 No-More Solyndras Bill, it must be this corporation. If you
2275 are not thinking about the United States Enrichment
2276 Corporation, what could you be thinking about? If this isn't
2277 on a precipice ready to collapse and take all of this
2278 taxpayer guaranteed money with it, what else would be?

2279 So my amendment just says that companies like this are
2280 included in the bill so that we protect against taxpayer
2281 losses in an area where we already can see that it is almost
2282 inevitable that that money will be lost. If we had known
2283 about Solyndra and the Chinese \$30 billion investment in the
2284 market when that loan guarantee had been given out, we
2285 probably would have taken a different look at it. Who knew
2286 what the Chinese were going to do to the market.

2287 But that is hindsight, you know. You live life

2288 forwards, but you understand it backwards. That is looking
2289 at Solyndra or something else. Here we can see the United
2290 States Enrichment Corporation right now. We can see what the
2291 danger is right now. The Markey amendment says protect the
2292 taxpayers at all costs against this inevitable loss.

2293 I urge an aye vote.

2294 Mr. {Whitfield.} The gentleman's time has expired.

2295 The chair will seek--the chair will recognize himself
2296 for 5 minutes in opposition to the amendment.

2297 I might say that the gentleman had made some comments
2298 about taxpayers paying for clean up at USEC and so forth, but
2299 I think it is important to remember that up until about 10
2300 years ago those plant locations were owned by the Federal
2301 Government, and those plants both at Portsmouth and Paducah
2302 were operated by the Federal Government during World War II,
2303 at the beginning of World War II, to produce weapons systems
2304 and chemical systems for--to help out during the war.

2305 And as a result of that there has been monumental
2306 environmental clean-up problems in those areas, and it is
2307 true that through the decommissioning, Decontamination Fund
2308 of the Department of Energy, money is spent to clean up those
2309 legacy environmental problems.

2310 But I would say to the gentleman, those were created
2311 long before USEC was privatized by the Federal Government.

2312 Now, I oppose the gentleman's amendment, although I must
2313 say focusing on at least companies that have--are on the New
2314 York Stock Exchange, I believe is a step in the right
2315 direction, because many of the loans that have been made
2316 under those programs have gone to companies that are just
2317 beginning. They are truly start-up companies, and that is
2318 why they have been so risky.

2319 The gentleman's amendment in effect zeros in on one
2320 company, and it is true that evidently there is an
2321 application pending there. I think that the DOE after all
2322 the scrutiny as a result of the Solyndra case as well as the
2323 bankruptcies of three other loans that--companies that
2324 received loans as well as the financial difficulty many of
2325 the recipients are having, that Congress truly would be
2326 micromanaging, and our objective here is to end the program.
2327 You know, we want to get rid of the program.

2328 I know that people say, well, you are not ending the
2329 program because we will allow, those applications have
2330 already been filed for the DOE to make the decision, but DOE
2331 is required to consult with the Treasury, and we do hope that
2332 Treasury will do a better job working with DOE in analyzing
2333 the financial condition and the likelihood that the company
2334 can succeed with its venture.

2335 But for those reasons, particularly the micromanaging

2336 and the fact that we honestly want to get rid of this
2337 program, I would respectfully oppose the gentleman's
2338 amendment and ask, urge all members to vote against the
2339 amendment.

2340 And I yield back the balance of my time.

2341 For what purpose does the gentleman from California
2342 seek--the gentleman is recognized for 5 minutes.

2343 Mr. {Waxman.} First of all, I want to yield to Mr.
2344 Markey. Then I want to say some things.

2345 Mr. {Markey.} I thank the gentleman. Look, if you are
2346 serious about ending this program, let us end it. You are
2347 not ending this program. You are not ending this program at
2348 all. You are just picking an artificial date after which
2349 there will be no loan guarantees, and that just happens to
2350 capture mostly solar and wind guarantees.

2351 But let us be honest. There are still 19 applications
2352 that will be grandfathered by your date that you select for
2353 nuclear facilities, and those nuclear facilities are going to
2354 put the American taxpayer on the line for tens and tens of
2355 billions of dollars of exposure when, let us be honest, there
2356 has been on successful nuclear power plant completed in the
2357 last 25 years. That is risky business.

2358 So just stop saying you are ending the Loan Guarantee
2359 Program, please. That is just not honest, it is not

2360 accurate, it is not true. Just stop saying it. You are not
2361 doing that. If you want to end the program, have all loan
2362 applications going back to June 30, 2008, be suspended. Pick
2363 that date. If you pick that date, you capture all the
2364 nuclear loan guarantees, too. Then you are ending the
2365 program. As a matter of fact, you might even get a vote from
2366 us, okay, because now there is truth in legislator. Because
2367 you are just going to keep saying you are ending the program,
2368 and you are not doing that.

2369 In the same way that you have had 131 votes out on the
2370 House Floor for giveaways for the oil and gas industry in
2371 this Congress, 131 votes, do you know how many votes you have
2372 had to help the wind and solar industry? Zero. There is a
2373 certain honesty in that policy. One-hundred and thirty-one
2374 different votes for oil and gas and zero for wind and solar.
2375 Here, again, you are trying to kill the solar industry. We
2376 appreciate that, but you are trying to preserve the nuclear
2377 industry by picking the date that you select and saying that
2378 you are ending the program when you are not ending the
2379 program. In fact, the program continues for all of those 19
2380 or 20 nuclear applications, which can consume all that money.

2381 So why don't we just say that, you know, it is not the
2382 end of Solyndra's program. It is to continue the Loan
2383 Guarantee Program for all nuclear projects from the United

2384 States Enrichment Corporation to all of those other nuclear
2385 projects that, you know, are still kind of part of your
2386 favorite energy agenda, but just stop calling it all of the
2387 above, please. Just give us a little honesty in legislation.

2388 Mr. {Waxman.} Reclaiming my time--

2389 Mr. {Markey.} I would be glad to.

2390 Mr. {Waxman.} --if I might, I must say I never realized
2391 why we were freezing the pool of applicants to just those
2392 applications that are pending. Never made any sense to me,
2393 and the gentleman from Massachusetts is pointing out 19 or 20
2394 are nuclear. There is a pool of around 50 applications. I
2395 think the members of this committee must know what is in that
2396 pool. I don't, first time I have realized that there are 19
2397 nuclear applications, one of which is very important to the,
2398 to some of the members of this, to the leadership of this
2399 committee. There may be others that are important.

2400 So when we talk about opening it up for competition, we
2401 don't want to do that. If we talk about trying to protect
2402 taxpayers with loan guarantees, we are accused of
2403 micromanaging, Congress micromanaging a program. Well, wait
2404 a minute. That is what Congress is supposed to do. We are
2405 supposed to set out the boundaries for action, and we are
2406 micromanaging by saying that no other applicants but those
2407 are that sitting there can be considered.

2408 But if a company's stock is on the verge of being
2409 delisted by the stock exchange, that is a clear sign of
2410 financial risk, and that company should not be getting a loan
2411 guarantee, whether it is nuclear or solar or wind or anything
2412 else. We don't want loan guarantees to companies that are
2413 not going to be able to survive. We have already had that
2414 problem with Solyndra, but we didn't know in advance. Maybe
2415 we could say they should have done more due diligence, and if
2416 this amendment doesn't pass, DOE better do enough due
2417 diligence not to give a loan guarantee to a program that has
2418 such a precarious economic situation.

2419 Under the Republican bill the Loan Guarantee Program can
2420 continue to issue tens of billions of dollars in new loan
2421 guarantees. We should make sure that a company can keep
2422 their share price at least above \$1, and if they have already
2423 been warned by the stock exchange they are about to be
2424 delisted, they shouldn't be getting a guarantee. We need to
2425 make sure that loan guarantee recipients are financially
2426 stable and well managed. This is an opportunity to adopt a
2427 simple taxpayer protection. Unless there is a special
2428 interest somebody is trying to protect, this is a logical
2429 amendment, and I strongly support it.

2430 Mr. {Whitfield.} The gentleman's time has expired.

2431 Mr. {Sullivan.} Mr. Chairman, I would like to be

2432 recognized.

2433 Mr. {Whitfield.} The gentleman is recognized for 5
2434 minutes.

2435 Mr. {Sullivan.} Strike the last word.

2436 Mr. {Whitfield.} The gentleman is recognized for 5
2437 minutes.

2438 Mr. {Sullivan.} I would like to yield to the chairman.

2439 Mr. {Whitfield.} Thank you for yielding. I might just
2440 point out because of comments made about our bias against
2441 certain renewable, solar, whatever, that of the applications
2442 still pending over at DOE under this program, 17 are solar,
2443 six are biofuels, three are geothermal, and three are wind,
2444 and three are efficiency. So there are applications over
2445 there that certainly apply to wind, solar, efficiency,
2446 geothermal, biofuels, and so forth.

2447 And with that I would yield back the gentleman's time.

2448 Mr. {Sullivan.} I yield back.

2449 Mr. {Waxman.} Mr. Sullivan, will you yield to me?

2450 Mr. {Sullivan.} Sure.

2451 Mr. {Waxman.} If you favor one of those projects, your
2452 favorite applicant is more likely to be chosen if you limit
2453 the competition, and that I think is a real concern that
2454 ought to be underscored, and I thank you for yielding to me.

2455 Mr. {Whitfield.} Does the gentleman yield back his

2456 time?

2457 Mr. {Sullivan.} Yes. I yield back.

2458 Mr. {Whitfield.} The gentleman yields back.

2459 If there is no further discussion on the gentleman's
2460 amendment, then we will call all those in favor shall signify
2461 by saying aye in support of the Markey amendment. All those
2462 opposed to the Markey amendment, no. In the opinion of the
2463 chair the no's have it.

2464 Mr. {Markey.} May I have a roll call vote?

2465 Mr. {Whitfield.} The gentleman asks for a roll call
2466 vote. Will the clerk call the roll?

2467 The {Clerk.} Mr. Sullivan?

2468 Mr. {Sullivan.} No.

2469 The {Clerk.} Mr. Sullivan votes no.

2470 Mr. Shimkus?

2471 Mr. {Shimkus.} No.

2472 The {Clerk.} Mr. Shimkus votes no.

2473 Mr. Walden?

2474 Mr. {Walden.} No.

2475 The {Clerk.} Mr. Walden votes no.

2476 Mr. Terry?

2477 Mr. {Terry.} No.

2478 The {Clerk.} Mr. Terry votes no.

2479 Mr. Burgess?

2480 [No response.]

2481 The {Clerk.} Mr. Bilbray?

2482 Mr. {Bilbray.} No.

2483 The {Clerk.} Mr. Bilbray votes no.

2484 Mr. Scalise?

2485 Mr. {Scalise.} No.

2486 The {Clerk.} Mr. Scalise votes no.

2487 Mrs. McMorris Rodgers?

2488 Mrs. {McMorris Rodgers.} No.

2489 The {Clerk.} Mrs. McMorris Rodgers votes no.

2490 Mr. Olson?

2491 Mr. {Olson.} No.

2492 The {Clerk.} Mr. Olson votes no.

2493 Mr. McKinley?

2494 Mr. {McKinley.} No.

2495 The {Clerk.} Mr. McKinley votes no.

2496 Mr. Gardner?

2497 Mr. {Gardner.} No.

2498 The {Clerk.} Mr. Gardner votes no.

2499 Mr. Pompeo?

2500 Mr. {Pompeo.} No.

2501 The {Clerk.} Mr. Pompeo votes no.

2502 Mr. Griffith?

2503 Mr. {Griffith.} No.

2504 The {Clerk.} Mr. Griffith votes no.
2505 Mr. Barton?
2506 Mr. {Barton.} No.
2507 The {Clerk.} Mr. Barton votes no.
2508 Mr. Upton?
2509 The {Chairman.} No.
2510 The {Clerk.} Mr. Upton votes no.
2511 Mr. Rush?
2512 Mr. {Rush.} Yes.
2513 The {Clerk.} Mr. Rush votes aye.
2514 Ms. Castor?
2515 [No response.]
2516 The {Clerk.} Mr. Sarbanes?
2517 Mr. {Sarbanes.} Aye.
2518 The {Clerk.} Mr. Sarbanes votes aye.
2519 Mr. Dingell?
2520 Mr. {Dingell.} Aye.
2521 The {Clerk.} Mr. Dingell votes aye.
2522 Mr. Markey?
2523 Mr. {Markey.} Aye.
2524 The {Clerk.} Mr. Markey votes aye.
2525 Mr. Engel?
2526 Mr. {Engel.} Aye.
2527 The {Clerk.} Mr. Engel votes aye.

2528 Mr. Green?

2529 [No response.]

2530 The {Clerk.} Mrs. Capps?

2531 Mrs. {Capps.} Aye.

2532 The {Clerk.} Mrs. Capps votes aye.

2533 Mr. Doyle?

2534 [No response.]

2535 The {Clerk.} Mr. Gonzalez?

2536 Mr. {Gonzalez.} Aye.

2537 The {Clerk.} Mr. Gonzalez votes aye.

2538 Mr. Waxman?

2539 Mr. {Waxman.} Aye.

2540 The {Clerk.} Mr. Waxman votes aye.

2541 Chairman Whitfield?

2542 Mr. {Whitfield.} No.

2543 The {Clerk.} Chairman Whitfield votes no.

2544 Mr. {Whitfield.} Have all members cast their vote? The

2545 clerk will report the result.

2546 The {Clerk.} Mr. Chairman, on that vote there were

2547 eight ayes, 15 nays.

2548 Mr. {Whitfield.} The amendment is not agreed to.

2549 Are there further amendments?

2550 Mr. {Markey.} Mr. Chairman.

2551 Mr. {Whitfield.} For what purpose does the gentleman

2552 from Massachusetts seek recognition?

2553 Mr. {Markey.} I have an amendment at the desk, Markey
2554 140.

2555 Mr. {Whitfield.} The clerk will report the gentleman's
2556 amendment.

2557 The {Clerk.} Can you repeat the number, please?

2558 Mr. {Markey.} One forty. One forty.

2559 The {Clerk.} Amendment to the discussion draft offered
2560 by Mr. Markey of Massachusetts.

2561 [The amendment follows:]

2562 ***** INSERT 6 *****

|
2563 Mr. {Whitfield.} Without objection, the reading of the
2564 gentleman's amendment is dispensed with, and the gentleman
2565 from Massachusetts is recognized for 5 minutes in support of
2566 his amendment.

2567 Mr. {Markey.} I thank you, Mr. Chairman, and this is
2568 just going to further kind of explore a little bit this
2569 nuclear area, and I think it is important for all of us to
2570 vote on an informed basis. The last time we had these votes
2571 were at 2:30 in the morning, and so--in this committee, so I
2572 just think it is important for everyone to understand the
2573 consequences of their own votes.

2574 And, again, just to point out that there are 21 nuclear
2575 power plants that are going to be authorized to get federal
2576 loans of upwards of \$130 billion under the bill, which you
2577 are going to be passing out here today, and you know, solar
2578 projects tend to be in the millions and nuclear power plants
2579 tend to be in the billions just so you get a sense of the
2580 scope of what you are doing here today and what the risk is
2581 that you are exposing people to.

2582 My amendment is very simple. It says that if a project
2583 is already over budget by more than \$535 million or if the
2584 company applying for the loan guarantee experienced a net
2585 loss of more than \$535 million dollars in the last year, that

2586 project cannot receive a loan guarantee.

2587 So we have heard all the outrage associated with the
2588 \$535 million loan guarantee that Solyndra received from the
2589 Energy Department. We have all heard the concern that the
2590 Department acted recklessly, even illegally. Those are the
2591 charges when it agreed to restructure the Solyndra loan in an
2592 unsuccessful effort to prevent its bankruptcy.

2593 But what some members of this committee may not have
2594 heard is that two nuclear loan guarantee projects, one of
2595 which has already been conditionally approved by the
2596 Department of Energy, could be even more damaging to the
2597 taxpayers than the Solyndra loan guarantee.

2598 Consider, for example, the \$8.3 billion loan guarantee
2599 that has already been conditionally awarded to the Georgia
2600 Power Company, a subsidiary of the Southern Company, to build
2601 two new AP-1000 nuclear reactors at the Vogtle Nuclear Power
2602 Plant. Never mind that a top nuclear regulatory commission
2603 expert said that the reactor design could be at risk of
2604 shattering like a glass cup if it was impacted by an
2605 earthquake. Never mind that this loan guarantee is more than
2606 15 times as large as the one given to Solyndra and that
2607 renewable energy loan guarantees received an average of 7
2608 percent of the loan guarantee funding awarded to the Georgia
2609 Power project.

2610 Major construction on these new reactors has barely
2611 begun, and the Southern Company just announced costs overruns
2612 of almost \$1 billion and a delay of 7 months. But we are the
2613 committee of oversight. We have to take note of this. We
2614 are the committee with jurisdiction of nuclear power plants,
2615 and we are the committee with jurisdiction over the Loan
2616 Guarantee Program.

2617 So here is a plant is already a billion over its budget
2618 and 7 months delayed. This is nothing new, of course, for
2619 the nuclear sector. Between 2002, and 2008, cost estimates
2620 for new nuclear reactor construction rose from between \$2
2621 billion and \$3 billion per reactor to \$9 billion per reactor,
2622 and of the more than 40 nuclear projects that began
2623 construction after the partial core meltdown at Three Mile
2624 Island, construction cost overruns exceeded a staggering 250
2625 percent. An average of 12 years elapsed between the start of
2626 construction and commercial operation.

2627 A second loan guarantee application for \$2 billion is
2628 for the United States Enrichment Corporation. This company's
2629 shortcomings are well known. It has been rated as junk bond
2630 status, it is in danger of being delisted from the New York
2631 Stock Exchange and becoming a penny stock. There is a
2632 diminishing market for its product following the Fukushima
2633 meltdowns. Its centrifuges do not work despite the

2634 investment of billions of dollars, and remarkably its net
2635 losses were \$540 million in 2011, alone. You got that number
2636 for you, sir? Almost the same number that Solyndra lost in
2637 total they lost last year, the United States Enrichment
2638 Corporation.

2639 So despite hundreds of millions of dollars' worth of
2640 free technology, free uranium, free money, this company still
2641 has lost more money than the entire Solyndra loan guarantee
2642 was worth.

2643 We don't have to agree on nuclear energy policy. We
2644 don't have to agree on the extent to which the government
2645 should support renewable energy, but surely we can agree that
2646 projects or companies that are already blowing their budgets,
2647 are losing money in amounts that are far in excess of the
2648 Solyndra loan guarantee should not get loan guarantees. We
2649 are the bankers. We are the loan officers. People are
2650 looking at us right now post-Solyndra to see what our new
2651 standards as the loan officers for America.

2652 And here you have two clear situations where it makes
2653 Solyndra look penny ante, and I am very concerned about
2654 losses in this Loan Guarantee Program. I don't want to see a
2655 repetition of Solyndra, and so my amendment here is just to
2656 say let us step back in a detached, analytical way, just say
2657 no more Solyndras, we can see the problems, we are going to

2658 anticipate them this time, these companies are already
2659 overrunning their budgets or have already lost vast fortunes
2660 of money, and a vote for the Markey amendment will ensure
2661 that we do not repeat history.

2662 So I yield back the balance of my time with a request
2663 for an aye vote.

2664 Mr. {Whitfield.} The gentleman's time has expired.

2665 The chair will recognize himself for 5 minutes to speak
2666 in opposition to the amendment.

2667 Once again I would like to commend the gentleman for
2668 being so concerned about the economic viability of all these
2669 applicants that are pending at DOE because all of us have the
2670 ultimate responsibility to be as diligent as we can be to
2671 protect the taxpayer dollars. And while people may or may
2672 not completely agree with our approach in this legislation,
2673 the original intent and still is to stop the 1703, 1705
2674 Programs, to allow the normal process to take place for those
2675 applications filed prior to December 31, 2011. And as a part
2676 of that process DOE, through its analysis, working with the
2677 Department of Treasury, will make a decision on what they are
2678 going to do with those pending applications, and we certainly
2679 don't believe that all of them will be receiving their loan
2680 guarantee.

2681 But while I applaud the gentleman for wanting to be very

2682 specific about what can and cannot be done, the purpose of
2683 the legislation as I repeatedly said is simply to stop this
2684 program, allow those applications pending to be considered,
2685 and then to move on.

2686 So with that I would respectfully oppose the gentleman's
2687 amendment and ask the members to oppose it, and I would yield
2688 back the balance of my time.

2689 The gentleman from California is recognized for 5
2690 minutes.

2691 Mr. {Waxman.} Thank you, Mr. Chairman.

2692 Mr. Chairman, it should be clear to all by now that the
2693 Republican bill would not terminate the DOE Loan Program. To
2694 justify the arbitrary sunset date they placed in the
2695 legislation, my Republican colleagues have said that they
2696 don't, they won't terminate the program outright because of
2697 fears about legal liability to companies that have already
2698 submitted applications.

2699 So I want to ask the counsel some questions. Out of the
2700 50 or so projects still in the queue at DOE, less than ten
2701 have received a conditional commitment. Isn't that correct?

2702 {Counsel.} I believe it is ten or 11.

2703 Mr. {Waxman.} And I believe the exact number is six.

2704 {Counsel.} That is different from the information that
2705 we have been provided by DOE.

2706 Mr. {Waxman.} So let us say it is ten. Let us say ten.
2707 The remaining 44 projects that submitted applications before
2708 December, 2011, have received no commitment whatsoever from
2709 DOE, and they would still be eligible to receive loan
2710 guarantees under the legislation. Isn't that correct?

2711 {Counsel.} They are currently in some level of due
2712 diligence within the DOE Program. We are not exactly sure
2713 what sort of contracts have been signed, if any.

2714 Mr. {Waxman.} But they would still be eligible to be
2715 considered.

2716 {Counsel.} They would remain eligible. They are
2717 pending.

2718 Mr. {Waxman.} And one of the projects on this winner's
2719 list but without a conditional commitment is a fossil project
2720 proposed by the Mississippi Power Company for a gasification
2721 plant. This company submitted its loan application before
2722 December, 2011. This project will still be eligible for a
2723 loan guarantee under the legislation we are considering
2724 today. Isn't that correct?

2725 {Counsel.} Correct. In addition to the 17 solar
2726 applications also in the queue.

2727 Mr. {Waxman.} Okay. Now, since this company has not
2728 received a conditional commitment yet, there is no liability
2729 concern about that company if we said it couldn't be in the

2730 queue.

2731 {Counsel.} I am sorry. I am not sure--

2732 Mr. {Waxman.} There is no liability if we said we are
2733 not going to allow that one to be considered.

2734 {Counsel.} Again, they are in some level of due
2735 diligence that is not transparent to us at this point as to
2736 what--

2737 Mr. {Waxman.} Yes, but it doesn't appear that due
2738 diligence means there is a legal commitment of any sort.

2739 Mr. Chairman, I don't understand the majority's claim
2740 that you would terminate the program outright but for
2741 liability concerns about companies with conditional
2742 commitments. There are only six, maybe ten, but I believe
2743 six conditional commitments. The remaining 40 plus
2744 applicants that do not have conditional commitments, so the
2745 Republican liability concerns should not be a factor. But
2746 these companies can still receive billions in loan guarantees
2747 this year, next year, or ten years from now.

2748 Now, if you really wanted to abolish this program,
2749 abolish it except for those where there is a possible
2750 liability consideration, and then if there is no liability
2751 consideration, drop each one of them off, but I think you are
2752 fooling your members into thinking they are eliminating this
2753 program by all the arbitrary lines that have been drawn. The

2754 legislation doesn't make sense. The Republican attempts to
2755 justify it don't stand up to scrutiny.

2756 Mr. {Markey.} Mr. Chairman.

2757 Mr. {Waxman.} Now, I want to yield to Mr. Markey the
2758 rest of my time.

2759 Mr. {Markey.} I thank the gentleman very much, and in--
2760 what Mr. Waxman is saying is right on the money here. The
2761 solar projects are very small compared to the nuclear
2762 projects. There is \$122 billion of taxpayer exposure for
2763 nuclear power plants, for other nuclear facilities including
2764 the United States Enrichment Corporation, \$122 billion
2765 exposure that you are continuing here in the bill, and the
2766 Georgia Power Loan Guarantee is 15 times larger than the
2767 Solyndra Loan Guarantee just so you understand. That is one
2768 plant.

2769 So I just think that we should rename this bill the Only
2770 \$122 Billion More for Nuclear Solyndras Act of 2012 so that
2771 we have an accurate description of what you are doing here.
2772 The only. That is what you are saying, only \$122 billion
2773 more of taxpayer money toward nuclear Solyndras Act of 2012,
2774 and then we are accurately describing it. You are saying no
2775 more Solyndras meaning solar, but the nukes, we are going to
2776 run the risk, and you are not going to even shut down the
2777 loans for the United States Enrichment Corporation or other

2778 problem areas that we can already see.

2779 So that just says like oil and gas that we know your
2780 agenda. We know how much the industries that support you
2781 want to kill wind and solar because of the 45,000 new
2782 megawatts of wind that have been installed in the last 5
2783 years, the 4,000 new megawatts of solar installed this year.
2784 This is a real threat to their business model, and that is
2785 what this whole thing is about.

2786 So, again, I urge an aye vote.

2787 Mr. {Whitfield.} The gentleman from California's time
2788 has expired.

2789 I might just say that the gentleman is talking about
2790 \$122 billion exposure. My understanding is there is only \$34
2791 billion. I shouldn't say only. That is a lot of money left
2792 in the program, but is there further discussion on Markey
2793 Amendment 140?

2794 If not--the gentleman from Maryland is recognized for 5
2795 minutes.

2796 Mr. {Sarbanes.} Thank you, Mr. Chairman. I want to
2797 support Mr. Markey's amendment. What he is trying to do is
2798 just improve the bill and improve the process by which these
2799 projects are analyzed and due diligence is given to them and
2800 so forth, which is--all of his amendments are directed to
2801 that.

2802 The--my Republican colleagues have tried to explain this
2803 juncture between extending authority to the tune of \$34
2804 billion for the Loan Guarantee Program on the one hand but
2805 claiming they are trying to end the program on the other hand
2806 with this sort of exemption for those projects that are in
2807 the pipeline or which have made application. They have tried
2808 to explain that on the basis of worrying about liability
2809 concerns, but the conversation we have been having over the
2810 last half hour has been very revealing, because it is obvious
2811 that that is not the reason to protect that group. If they
2812 are within that group, projects, which are basically getting
2813 special consideration here, and it is convenient that you are
2814 able to sort of draw the line there, create potential winners
2815 as a result of that, as Mr. Waxman said earlier, protect them
2816 from competition.

2817 So we have had revealed here I think the real motivation
2818 for kind of splitting the baby the way you have. The fact of
2819 the matter is that if you listen carefully to the debate,
2820 both sides have pointed to the solution for no more
2821 Solyndras, and that is that you have a heightened due
2822 diligence process in place, that you are more careful in your
2823 review, that potentially you can put the kinds of standards
2824 in place that Mr. Markey has offered, and that is how you
2825 assure that there will be no more Solyndras.

2826 Awhile back we had an interesting exchange because Mr.
2827 Waxman pointed out that given that this legislation would
2828 continue the program to the tune of \$34 billion, you might
2829 have more Solyndras, and then Mr. Walden said, and this was
2830 echoed by Chairman Whitfield as well, well, hopefully that
2831 won't happen because the Administration will exercise more
2832 due diligence and look more carefully at these things and so
2833 forth.

2834 Well, that is the right answer. That is how you solve
2835 this problem. That is how you make sure there are no more
2836 Solyndras. You heighten your due diligence, you bring the
2837 kinds of standards that Mr. Markey wants to bring to bear on
2838 the process, and that will diminish the chances in the future
2839 that you will have this, but you don't go and throw the whole
2840 program out, particularly given the kind of leveraging that
2841 it can do with respect to new cutting technology.

2842 So I accept the proposition that has been articulated on
2843 both sides here, that due diligence, heightened awareness,
2844 vigilance, good standards being applied to this program,
2845 careful review is the way that you solve the Solyndra problem
2846 and that you have no more Solyndras, but to throw the program
2847 out completely makes no sense.

2848 And I yield back.

2849 Mr. {Whitfield.} The gentleman yields back the balance

2850 of his time.

2851 The gentleman from Virginia is recognized for 5 minutes.

2852 Mr. {Griffith.} Mr. Chairman, I do find it relatively
2853 interesting that my colleagues on the other side of the aisle
2854 have apparently adopted the position or at least most of
2855 them, the last comments being excepted, that they don't have
2856 confidence in the Administration or the Administration's
2857 Department of Energy because they think that they might
2858 actually lend money to organizations that are about to be
2859 delisted, that are on the verge of bankruptcy, et cetera.
2860 And I would have to submit that they have got some reason to
2861 be concerned because while some of the comments have
2862 indicated that the subordination of Solyndra took place with
2863 hindsight. The facts are the investigation revealed, and my
2864 questioning of Dr. Chu in one of our hearings was you knew in
2865 December of 2010 through February of 2011 when the
2866 subordination was taking place, you knew that the Chinese
2867 were producing and selling their product cheaper than
2868 Solyndra could make its product, and Dr. Chu, Secretary Chu
2869 responded, yes.

2870 That is not backward looking. That is forward looking.
2871 They put that last bit of money, the \$75 million
2872 subordination on the line knowing that Solyndra couldn't
2873 compete with the Chinese. They put the additional \$95

2874 million that had yet to be lent or yet to be given to
2875 Solyndra on the line knowing that the Chinese were out there.

2876 So, you know, maybe it is true that due diligence would
2877 solve the problem. I just find it interesting that the
2878 Democrats on this committee by and large or a large number of
2879 them believe that this Department of Energy is not capable of
2880 doing that due diligence, and that is what all of these
2881 amendments indicate to me.

2882 Mr. {Whitfield.} Would the gentleman yield?

2883 Mr. {Griffith.} I yield.

2884 Mr. {Whitfield.} I just want to make one more comment.
2885 I have been reading this Markey amendment, and it is quite
2886 interesting because the gentleman says no loan guarantees
2887 shall be made for a project that is projected by the
2888 applicant when he makes his application to be more than \$535
2889 million over the budget. So I honestly think this is really
2890 a speculative, unrealistic amendment because how many project
2891 applicants are going to when they make the application say
2892 they are going to be or project they are going to be \$535
2893 million over the project before they could get their loan
2894 guarantee?

2895 But I would yield back to the gentleman.

2896 Mr. {Griffith.} Mr. Chairman, I yield back my time.

2897 Mr. {Whitfield.} The gentleman yields back his time.

2898 If there is no further discussion, then the vote--the
2899 gentlelady from California is recognized for 5 minutes.

2900 Mrs. {Capps.} I will yield to Mr. Markey.

2901 Mr. {Markey.} And I thank you, and it is only for 1
2902 minute, and it is just to say that the fact that there is a
2903 general consensus, I think, on the Republican side that it
2904 was possible to anticipate what the Chinese were going to do
2905 and what the price of solar panels was going to suffer from
2906 as a result of that investment was knowable but not acted
2907 upon, I appreciate that, but we are in the same situation
2908 right now. The United States Enrichment Corporation lost
2909 \$540 million last year, and they are applying for a loan
2910 guarantee that can be upwards of \$2 billion.

2911 And so applying your standards, okay, why don't we just
2912 take note of this and act upon it right now. I have heard
2913 over and over again how much you don't trust the
2914 Administration, how little confidence you have in the
2915 Administration. So here is an opportunity for you to just
2916 take note of this really egregious problem that exists.
2917 Penny stocks, junk bonds, there it all is, and to vote to put
2918 some controls on to protect the taxpayers.

2919 So I agree with you that maybe it is possible to look
2920 back now on hindsight and see that that was the case as you
2921 are cross examining, you know, witnesses here, but all the

2922 evidence is in front of us on this case as well and as a
2923 result, and I thank the gentlelady. I urge an aye vote on
2924 the Markey amendment to protect us against a repetition of
2925 history we have already lived through once. Mark Twain used
2926 to say that history doesn't repeat itself, but it does tend
2927 to rhyme, and this USEC loan really does rhyme with Solyndra,
2928 and we should do something about it right here and now.

2929 I thank the gentlelady.

2930 Mrs. {Capps.} I yield back.

2931 Mr. {Whitfield.} The gentlelady yields back the balance
2932 of her time.

2933 If there is no further discussion, then the vote would
2934 occur on the Markey Amendment 140. All those in favor shall
2935 signify by saying aye. All those opposed, nay. In the
2936 opinion of the chair the no's have it, and the amendment--the
2937 gentleman asks for a roll call vote. Will the clerk call the
2938 roll?

2939 The {Clerk.} Mr. Sullivan?

2940 Mr. {Sullivan.} No.

2941 The {Clerk.} Mr. Sullivan votes no.

2942 Mr. Shimkus?

2943 Mr. {Shimkus.} No.

2944 The {Clerk.} Mr. Shimkus votes no.

2945 Mr. Walden?

2946 Mr. {Walden.} No.

2947 The {Clerk.} Mr. Walden votes no.

2948 Mr. Terry?

2949 Mr. {Terry.} No.

2950 The {Clerk.} Mr. Terry votes no.

2951 Mr. Burgess?

2952 [No response.]

2953 The {Clerk.} Mr. Bilbray?

2954 Mr. {Bilbray.} No.

2955 The {Clerk.} Mr. Bilbray votes no.

2956 Mr. Scalise?

2957 Mr. {Scalise.} No.

2958 The {Clerk.} Mr. Scalise votes no.

2959 Mrs. McMorris Rodgers?

2960 Mrs. {McMorris Rodgers.} No.

2961 The {Clerk.} Mrs. McMorris Rodgers votes no.

2962 Mr. Olson?

2963 Mr. {Olson.} No.

2964 The {Clerk.} Mr. Olson votes no.

2965 Mr. McKinley?

2966 Mr. {McKinley.} No.

2967 The {Clerk.} Mr. McKinley votes no.

2968 Mr. Gardner?

2969 Mr. {Gardner.} No.

2970 The {Clerk.} Mr. Gardner votes no.
2971 Mr. Pompeo?
2972 Mr. {Pompeo.} No.
2973 The {Clerk.} Mr. Pompeo votes no.
2974 Mr. Griffith?
2975 Mr. {Griffith.} No.
2976 The {Clerk.} Mr. Griffith votes no.
2977 Mr. Barton?
2978 Mr. {Barton.} No.
2979 The {Clerk.} Mr. Barton votes no.
2980 Mr. Upton?
2981 The {Chairman.} No.
2982 The {Clerk.} Mr. Upton votes no.
2983 Mr. Rush?
2984 Mr. {Rush.} Yes.
2985 The {Clerk.} Mr. Rush votes aye.
2986 Ms. Castor?
2987 [No response.]
2988 The {Clerk.} Mr. Sarbanes?
2989 Mr. {Sarbanes.} Aye.
2990 The {Clerk.} Mr. Sarbanes votes aye.
2991 Mr. Dingell?
2992 Mr. {Dingell.} Votes aye.
2993 The {Clerk.} Mr. Dingell votes aye.

2994 Mr. Markey?

2995 Mr. {Markey.} Aye.

2996 The {Clerk.} Mr. Markey votes aye.

2997 Mr. Engel?

2998 Mr. {Engel.} Aye.

2999 The {Clerk.} Mr. Engel votes aye.

3000 Mr. Green?

3001 [No response.]

3002 The {Clerk.} Mrs. Capps?

3003 Mrs. {Capps.} Aye.

3004 The {Clerk.} Mrs. Capps votes aye.

3005 Mr. Doyle?

3006 [No response.]

3007 The {Clerk.} Mr. Gonzalez?

3008 Mr. {Gonzalez.} Aye.

3009 The {Clerk.} Mr. Gonzalez votes aye.

3010 Mr. Waxman?

3011 Mr. {Waxman.} Aye.

3012 The {Clerk.} Mr. Waxman votes aye.

3013 Chairman Whitfield?

3014 Mr. {Whitfield.} No.

3015 The {Clerk.} Chairman Whitfield votes no.

3016 Mr. {Whitfield.} Have all members recorded their vote?

3017 Will the clerk report the result?

3018 The {Clerk.} Mr. Chairman, on that vote there were
3019 eight ayes, 15 nays.

3020 Mr. {Whitfield.} The amendment is not agreed to.

3021 Are there further amendments?

3022 If there are no further amendments then, the question
3023 will not occur on favorably reporting the No More Solyndras
3024 Act. All those in favor shall signify by saying aye. All
3025 those opposed, no. The ayes have it, and the discussion
3026 draft is--the gentleman requests a recorded vote. Would the
3027 clerk call the roll?

3028 The {Clerk.} Mr. Sullivan?

3029 Mr. {Sullivan.} Yes.

3030 The {Clerk.} Mr. Sullivan votes aye.

3031 Mr. Shimkus?

3032 Mr. {Shimkus.} Aye.

3033 The {Clerk.} Mr. Shimkus votes aye.

3034 Mr. Walden?

3035 Mr. {Walden.} Aye.

3036 The {Clerk.} Mr. Walden votes aye.

3037 Mr. Terry?

3038 Mr. {Terry.} Aye.

3039 The {Clerk.} Mr. Terry votes aye.

3040 Mr. Burgess?

3041 [No response.]

3042 The {Clerk.} Mr. Bilbray?
3043 Mr. {Bilbray.} No.
3044 The {Clerk.} Mr. Bilbray votes no.
3045 Mr. Scalise?
3046 Mr. {Scalise.} Aye.
3047 The {Clerk.} Mr. Scalise votes aye.
3048 Mrs. McMorris Rodgers?
3049 Mrs. {McMorris Rodgers.} Aye.
3050 The {Clerk.} Mrs. McMorris Rodgers votes aye.
3051 Mr. Olson?
3052 Mr. {Olson.} Aye.
3053 The {Clerk.} Mr. Olson votes aye.
3054 Mr. McKinley?
3055 Mr. {McKinley.} Aye.
3056 The {Clerk.} Mr. McKinley votes aye.
3057 Mr. Gardner?
3058 Mr. {Gardner.} Aye.
3059 The {Clerk.} Mr. Gardner votes aye.
3060 Mr. Pompeo?
3061 Mr. {Pompeo.} Aye.
3062 The {Clerk.} Mr. Pompeo votes aye.
3063 Mr. Griffith?
3064 Mr. {Griffith.} Aye.
3065 The {Clerk.} Mr. Griffith votes aye.

3066 Mr. Barton?

3067 Mr. {Barton.} Aye.

3068 The {Clerk.} Mr. Barton votes aye.

3069 Mr. Upton?

3070 The {Chairman.} Aye.

3071 The {Clerk.} Mr. Upton votes aye.

3072 Mr. Rush?

3073 Mr. {Rush.} No.

3074 The {Clerk.} Mr. Rush votes no.

3075 Ms. Castor?

3076 [No response.]

3077 The {Clerk.} Mr. Sarbanes?

3078 [No response.]

3079 The {Clerk.} Mr. Dingell?

3080 Mr. {Dingell.} No.

3081 The {Clerk.} Mr. Dingell votes no.

3082 Mr. Markey?

3083 Mr. {Markey.} No.

3084 The {Clerk.} Mr. Markey votes no.

3085 Mr. Engel?

3086 [No response.]

3087 The {Clerk.} Mr. Green?

3088 [No response.]

3089 The {Clerk.} Mrs. Capps?

3090 Mrs. {Capps.} No.

3091 The {Clerk.} Mrs. Capps votes no.

3092 Mr. Doyle?

3093 [No response.]

3094 The {Clerk.} Mr. Gonzalez?

3095 [No response.]

3096 The {Clerk.} Mr. Waxman?

3097 Mr. {Waxman.} No.

3098 The {Clerk.} Mr. Waxman votes no.

3099 Chairman Whitfield?

3100 Mr. {Whitfield.} Aye.

3101 The {Clerk.} Chairman Whitfield votes aye.

3102 Mr. {Whitfield.} Have all members cast their vote?

3103 The clerk will report the result.

3104 The {Clerk.} Mr. Chairman, on that vote there were 14

3105 ayes, six nays.

3106 Mr. {Whitfield.} Fourteen ayes, six nays. The ayes

3107 have it, and the discussion draft is favorably reported.

3108 Without objection the staff is authorized to make

3109 technical and conforming changes to the discussion draft

3110 approved by the subcommittee today.

3111 So ordered, and without objection, the subcommittee will

3112 stand adjourned.

3113 [Whereupon, at 12:46 p.m., the Subcommittee was

3114 adjourned.]