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CONTINUED MARKUP OF H.R. 2454,
AMERICAN CLEAN ENERGY AND
SECURITY ACT OF 2009
WEDNESDAY, MAY 20, 2009
House of Representatives,
Committee on Energy and Commerce,
Washington, D.C.

The committee met, pursuant to call, at 10:25 a.m., in Room 2123, Rayburn House Office Building, Hon. Henry A. Waxman [chairman of the committee] presiding.

Present: Representatives Waxman, Dingell, Markey, Boucher, Pallone, Gordon, Rush, Eshoo, Stupak, Engel, Green, DeGette, Capps, Doyle, Harman, Schakowsky, Gonzalez, Inslee, Baldwin, Ross, Weiner, Matheson, Butterfield, Melancon, Barrow, Hill, Matsui, Christensen, Castor, Sarbanes, Murphy of Connecticut, Space, McNerney, Sutton, Welch, Barton, Hall, Upton, Stearns, Deal,

Whitfield, Shimkus, Shadegg, Blunt, Buyer, Radanovich, Pitts, Bono Mack, Walden, Terry, Rogers, Myrick, Sullivan, Murphy of Pennsylvania, Burgess, Blackburn, Gingrey and Scalise.

Staff Present: Phil Barnett, Staff Director; Kristin Amerling, Chief Counsel; David Rapallo, General Counsel; Bruce Wolpe, Senior Policy Advisor; Greg Dotson, Chief Environmental Counsel; Lorie Schmidt, Senior Counsel/Air Quality and Climate Change; Alexandra Teitz, Senior Counsel; Michael Goo, Counsel; Jeff Baran, Professional Staff Member; Alex Barron, Professional Staff Member/Climate and Energy; Melissa Bez, Professional Staff Member; Joel Beauvais, Policy Advisor; Ben Hengst, EPA Detailee; John Jimison, Counsel; Rob Cobbs, Professional Staff; Earley Green, Chief Clerk; Sharon Davis, Chief Legislative Clerk; Jen Berenholz, Deputy Clerk; Caitlin Haberman, Assistant Clerk; Mitch Smiley, Special Assistant; Douglas Wilder, Fellow; Miriam Edelman, Special Assistant; Valerie Baron, Special Assistant; Matt Eisenberg, Staff Assistant; Caren Auchman, Communications Associate; Lindsay Vidal, Press Assistant; Pope Barrow, Legislative Counsel at Desk; Warren Burke, Legislative Counsel at Desk; Will Carty, Minority Professional Staff Member; David Cavicke, Minority Chief of Staff; Sam Costello, Minority Legislative Analyst; Jerry Couri, Minority Professional Staff Member; Heather Couri, Minority Deputy Chief of Staff; Aaron Cutler, Minority Counsel; Garrett Golding, Minority Legislative Analyst; Chad Grant, Minority Legislative Analyst; Peter Kielty,

Minority Legislative Analyst; Kevin Kohl, Minority Special Assistant; Lance Kotschwar, Minority General Counsel; Brian McCullough, Minority Professional Staff Member; Amanda Mertens Campbell, Minority Counsel; Mary Neumayr, Minority Counsel; Peter Spencer, Minority Professional Staff Member; Andrea Spring, Minority Professional Staff Member; and Shannon Weinberg, Minority Counsel.

The Chairman. The committee will please come to order.

We are on title I of the bill. We want to consider two Republican amendments to that title and one Democratic amendment to that title, and then the Chair will be open to recognize members who wish to offer amendments to title II.

The first amendment on the Republican side, Mr. Stearns, is that right?

Mr. Stearns. Thank you, Mr. Chairman.

The Chairman. The gentleman seeks recognition to offer the amendment.

The amendment has been made available for at least 2 hours, and it pertains to this title is that correct.

Mr. Stearns. I think it has been about 12 hours.

The Chairman. Twelve hours. More than qualifies.

Mr. Stearns. So it is six times the definition you require.

The Chairman. The clerk will report this amendment.

The Clerk. Amendment offered by Mr. Stearns.

In Section 610(a) of the Public Utility Regulatory Policies Act of 1978 as added by Section 101 of the discussion draft at the end of paragraph --

The Chairman. Without objection, the amendment will be considered as read.

[The information follows:]

***** INSERT 1-1 *****

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Stearns. Thank you, Mr. Chairman.

My colleagues, particularly on the majority side, I hope you will give this a fair hearing. It is a very simple amendment.

On page 23 of the manager's amendment, line number 8, we just take out about 11 words. So it reads: Electricity generated by a nuclear generating unit placed in service after the date of enactment of this section. I delete the words "placed in service after the date of enactment of this section". Because, by so doing it, then you recognize nuclear power as a source of energy in America which has no CO2 and can be used under the States' requirement, renewable electric standard, it can be as a credit. So it is not part of the total amount that the States have to report.

So, with my amendment, prior and existing nuclear power will also be excluded from the base amount, which would then mean, my colleagues, when you take the 20 percent renewable electricity standard, the amount for renewable electricity standard will be lower and less of a burden for States to meet.

Now, we are going to have an amendment later on talking about the definition of nuclear energy as a renewable energy resource. But that is not the debate here. It is just saying that you are going to recognize nuclear power as a source of renewable energy.

And in fact, the way the bill is written now, it is only

going to be recognized for new construction. And we all know this could be 10, 15, 20 years. So my amendment is saying let's recognize nuclear energy that is already built and exists. And I particularly bring this attention to folks in Arkansas that have a nuclear power plant.

Obviously, in Florida, we have one. Around Tampa, we have a nuclear power plant. So that nuclear power plant in Tampa under the manager's amendment would not be recognized, only new construction. So all that nuclear power in Tampa would not get credit under the base amount when you determine what the retail electric supplier's base amount would be for the State. And I think the nuclear power plant in Tampa should be.

Now, we are trying to build a nuclear plant in the northern part of my district, but that is going to take a long time. The bill says you can recognize that, but I say why discriminate. Why not also include those nuclear plants around the country, not just in Arkansas? But they are in California, Connecticut, Florida, Georgia -- I have got a list here if anybody wants to see it -- Illinois, Kansas, Louisiana, New Jersey, New York, Michigan, Pennsylvania, North Carolina, Ohio, Tennessee.

I can go on. Most of the States in the Union have a nuclear power plant. The manager's amendment excludes them from being part of the credit for green energy because nuclear energy has no CO2 emission. So your State, if it has a nuclear power plant, will not benefit. So I hope you will look at my amendment and in

a bipartisan fashion say, okay, the manager's amendment says it is okay if it is built it will be part of the solution, but if it is existing it won't be.

So by taking out those 11 words on page 23 of the manager's amendment we essentially move this into the equation which allows you, your State, to ultimately -- it will be easier for you to meet the RES; and, more importantly, the retail electric supplier's base amount will be lower. So 20 percent of that lowered amount will mean it will be easier for your State to comply. But, more importantly, this simple change will allow States that have existing nuclear power plants to more easily meet the renewable electric standard.

So it has one of fairness, because the manager's amendment said new plants can have it. So this is fairness. Why not recognize old plants?

And, two, it will allow a renewable electric standard to be more easily met by your State.

So I think it should be a given, Mr. Chairman.

The Chairman. Will the gentleman yield?

Mr. Stearns. I will be glad to yield.

The Chairman. Your staff told us the amendment you wanted to bring up is to take nuclear out of the baseline. This amendment defines nuclear as a renewable. No, it is just the opposite. We thought you were going to offer one amendment. We are not for either.

Mr. Stearns. I can't convince you on this then.

The Chairman. Well, without objection, the gentleman will be given an additional minute.

Mr. Stearns. I would appreciate this colloquy.

The Chairman. Thank you.

Mr. Stearns. I would like to understand your objection, because I think a lot of members on your side that have nuclear power plants that I just mentioned would benefit, as I say, in fairness and also in the fact that it would be more easier for them to meet the renewable electric standard.

The Chairman. Well, I thank you for yielding. We spent a lot of time negotiating with members on the renewable electricity standard; and, as you point out, several members expressed concern that nuclear power was not addressed in the standard. So we struck a delicate balance. We agreed that electricity from new nuclear generation units would come out of the utilities baseline. In other words, utilities wouldn't have to generate more renewable power as a result of bringing a new nuclear power plant on line.

The RES doesn't create any disincentive for nuclear power. On the other hand, nuclear power doesn't receive renewable electricity credits under the RES because it is not a renewable power. Nuclear power is fueled by uranium, which is a finite natural resource. It is also a mature technology currently supplying 18 percent of our Nation's electricity. If nuclear power received credits under the RES, the standard would have to

be much, much higher.

So that was our thinking about the matter. We did part of what you wanted but not all of what you wanted. We can't go as far as you want to go.

Mr. Stearns. Mr. Chairman, my staff has indicated that you might have the wrong amendment that you are talking about. Is it a possibility that the amendment that I have before me and which I have described, you don't have that same amount and we are not talking about the same thing? Because I think we you recognize that you might have the wrong amendment.

The Chairman. There has been a misunderstanding. But would you prefer the other amendment to be the -- by unanimous consent would you --

Mr. Stearns. Yes -- that out by unanimous consent so then you have the right amendment.

The Chairman. So what we are proposing is that, by unanimous consent, the amendment by Mr. Stearns that will be in order for consideration at this point will be the amendment that will keep nuclear power -- deal with nuclear power on the baseline question.

Mr. Stearns. Yeah. I am sorry for the confusion.

Ms. Harman. Mr. Chairman, I am asking which -- is the amendment that was passed out the amendment that we are considering?

The Chairman. No. The amendment we are considering is the amendment that is now being passed out, and the amendment that

members received is not the amendment we are considering.

Do you want to take another 2 or 3 minutes to clarify this?

Mr. Stearns. Okay. I will just read the amendment to the amendment in the nature of a substitute offered by myself.

Page 23, line 8, strike "placed in service after the date of enactment of this section".

[The information follows:]

***** INSERT 1-2 *****

Mr. Stearns. And let me just review, particularly for those on the other side of the aisle that have a nuclear power plant.

If you vote against my amendment, what you are saying is when the what is called the total retail electric supplier base amount, which is your total amount of electricity that is used in your State, they are going to include your nuclear power plant, but your nuclear power plant has no CO2 emissions so it should not be part of it.

So let's take an arbitrary figure of, let's say, 10 gigawatts as your total State's power. But that includes your nuclear power, let's say, which is 2 gigawatts. If you take it out and consider it a renewable, then the 20 percent of your total State will be less.

It is only fair. If the manager's amendment says it is okay to have nuclear as a renewable after the bill is passed, only new construction, what about all the old construction? So it is one of fairness.

And, second of all, it will make it easier for your State to meet the renewable electric standards. Because this power plant will be taken out of your total electricity because it doesn't have CO2 emissions, and so the 20 percent of the number will be less.

Now, if there is anybody that doesn't quite understand, I try to make this as simple as possible.

And the fact that we have had so much what appears to be partisan amendments here, in your opinion, this is not a partisan amendment. This is something, Mr. Chairman, in all honesty I think you would have to say -- you arbitrarily say that no nuclear power will be considered, except new construction is discouraging those folks that already have nuclear power plants.

And I have got -- you know, in the State of Illinois, they have got 1, 2, 3, 4, 5, 6, 7, 8, 9, 10. So why, Mr. Chairman, should we discourage and prevent those nuclear power plants for getting credit as a renewable so that in the end their total electricity for the State will come down when you take the nuclear out and then the 20 percent of the base amount will be less and they will be clearly able to comply?

So I just ask again, on the basis of fairness and, two, make your State have an easier time to comply because the 20 percent will be lower.

Does that make sense, Mr. Chairman?

The Chairman. I understand your argument, yes.

Ms. Harman. Mr. Chairman.

Mr. Stearns. Okay. That is the main thing. And I hope members on that side, if you don't understand my argument -- because if you vote no against this you are voting against your existing nuclear power plant. And California has got quite a number here.

And I think -- I mean, in your heart of hearts, as much as

you are for global warming or as much as you are for renewables, why discriminate against your nuclear power plant that is already existing and provided all that electricity for your State for all these years? Give it the benefit of the doubt. Make it part of this solution. Because there is no CO2 coming from it.

Ms. Harman. Mr. Chairman.

The Chairman. The gentleman's time has expired.

Ms. Harman.

Ms. Harman. Mr. Chairman, I agree that this is not a partisan amendment, and I applaud that. I think after a very long yesterday it is nice to start off today with an amendment that is, I think, pitched to be good policy. But I am not sure I think it is good policy; and that is why I wanted to ask you a couple of things, Mr. Chairman.

I don't have any nuclear power plants in my district, but there is nuclear power in California. And I have said on a number of occasions that I do think nuclear power should be part of our mix going forward and perhaps should be in this bill.

Nonetheless, I am just asking you, Mr. Chairman, to amplify the record on a point you just made, which I think is where I come out, which is, as I understood it, that nuclear power is not a renewable and that, therefore, if you are trying to come up with the proper standard, you can't grandfather in existing nuclear power. Did I understand that correctly? And could you explain that a little more for the record so that I am confident that I am

making the right vote?

The Chairman. Yes. I certainly think nuclear power has to be part of the mix. And we don't discriminate against nuclear power. It is going to be used and is already being used.

But in terms of defining a renewable, it is not a renewable. But in terms of deciding how much we need to get by way of new renewables, we have a compromise; and we have said, in the future, new nuclear power will not be counted in the base. So that it won't change the amount of -- it won't require more renewables. But if we go back and bring in all the existing nuclear power plants, it would mean that the renewables ought to be much higher than the amount we have.

The compromise dealt with the amount of renewables that would be required, and we didn't want to make it so high that if we brought in all the old nuclear power plants it would be a great burden.

Mr. Markey might want to further elaborate on that.

Mr. Upton. Mr. Chairman.

Ms. Harman. Let me just reclaim my time and say something, then yield to Mr. Markey and Mr. Upton.

I am persuaded by that. I understand that. I asked you the question so that we could have a clearer record.

I know there are -- and I know Mr. Markey is going to say this, too -- enormous safety issues and proliferation issues connected to nuclear power. But, nonetheless, Al Gore and

President Obama and many others think some nuclear power is in our future, and so do I, and I don't want to discourage it. On the other hand, I don't want to use it to discriminate against the true renewables that we are trying to promote in the bill.

I now yield to Mr. Markey.

Mr. Markey. I thank the gentlelady very much.

Twenty percent of our electrical generation in the United States today is nuclear. We have more nuclear power than France has. We are the largest nuclear country in terms of electrical generation in the world.

It is a technology which in the 1992 Energy Policy Act received permission to have an application for construction and operation, meaning a 10-year gap all compressed down into one application.

In the 2005 Energy Act, we actually extended that to the new, smaller 100 megawatt plants. We give it insurance protection, the Price-Anderson Act. Loan guarantees were included in the 2005 and 2007 laws for nuclear power. Mr. Dingell yesterday had an amendment to create a new body that would be able to create -- to be able to grant loans to the nuclear industry. It is and has been a very favored industry under U.S. law.

However, the intent of the renewable electricity standard, as we have listed in the bill, is to provide incentives for a whole range of nascent technologies that have the potential of really providing a new generation of electrical generating capacity for

our country. And let me just go down that list: Wind energy, solar energy -- these are the technologies that do get credits under this provision: Wind, solar, geothermal, renewable biomass, biogas derived from renewable biomass, qualified hydropower, marine and hydrokinetic renewable energy, fuel cells, landfill gas, waste --

Mr. Walden. Will the gentleman yield?

The Chairman. The gentlelady's time is expired.

Mr. Upton. I would ask that the gentlelady be given an additional minute.

The Chairman. Without objection, the gentlelady will be given another minute.

Ms. Harman. Thank you, Mr. Chairman. And can I yield 30 seconds of it to Mr. Markey and 30 seconds to Mr. Upton, please?

Mr. Markey. I thank the gentlelady.

Wastewater treatment gas, coal mine methane, qualified waste to energy, including combustion of municipal solid waste and construction and demolition waste, animal waste, algae. There is a triple credit in here for distributed generation efficiency savings in many, many forms.

So we are taking all of those new energy technologies that are just exploding and we worked with the members to ensure that many definitions that have been excluded -- municipal solid waste and much of the biomass is now included as part of it, and we

worked hard to broaden the definition, and we think that is where it belongs. Nuclear is a more mature technology. It receives tremendous benefits in other parts of the U.S. Code. But we think this is just a special area.

Ms. Harman. Reclaiming my time, Mr. Markey, I would like to yield to Mr. Upton.

The Chairman. How about this, Mr. Upton? Why don't I call on you for 5 minutes?

Mr. Upton. Well, I can probably do this in 30 seconds.

The Chairman. Okay. Go ahead.

Mr. Upton. I would just like to say, Mr. Waxman, Mr. Chairman, I think it was you that mentioned it a few minutes ago about the percentage of renewables. I think on our side we would accept a higher renewable percentage if in fact we could include nuclear, not only new nuclear but also old nuclear, existing nuclear. And, frankly, I think there is a lot of support on our side to take existing hydro as well. And if we can increase the number and expand the base to include those, I think you would have pretty much universal support over here.

And maybe that is -- maybe instead of just negotiating with that side of the aisle, maybe we ought to be talking to some of the folks here, and maybe we can work together on an amendment, and I look forward to doing that.

Mr. Whitfield. Mr. Chairman.

Mr. Walden. Mr. Chairman.

The Chairman. Sixty seconds for the gentleman from Kentucky.
Mr. Whitfield. Thank you, Mr. Chairman.

I want to support the Stearns amendment about the retail supplier's base, and here is why.

This is not about nuclear power plants that we are trying to protect here. But each State is going to have to meet this requirement of renewable, 20 percent of renewable. Right now, renewables are providing less than around 1 percent of all electricity produced in the country; and the key point is if a State does not attain that goal, reach that 20 percent, then there is going to be a penalty per kilowatt hour of two and a half cents.

We did a calculation of just an average manufacturing plant in my district. The original was a \$0.05 per kilowatt hour penalty, which amounted to over \$20,000 a month in increased electrical costs. Well, the 2.5, which you reduced it to 2.5, so that would increase the electrical cost for an average manufacturing plant to over \$10,000 a month.

So that is why this is so important. Because it is going to make it easier for these entities to attain this goal. And if they do not attain the goal, the penalty is going to be on those people paying the electric rates. Because -- and that affects the competitiveness of the American industry in providing jobs in America with other countries. And if our electric rates go up -- and they will go up -- there will be penalties if you do not meet

this renewable standard.

So I think that is why it makes a lot of sense to adopt the Stearns amendment to increase -- to provide -- to make it easier for these States and entities to meet this requirement. Because if they don't meet the requirement, there is going to be some consequences.

And with that I would yield back. I yield to the gentleman from Oregon.

Mr. Walden. I thank the gentleman for yielding, because I think he makes a very good point, and I think the gentleman from Michigan makes a good point as well. At least if you took all these into account in the baseline you would have a more accurate reflection of what is renewable and not, and then you could go from there. We may debate what that percentage should be from there.

I look at -- the Chairman makes the comment that you can't necessarily include nuclear because it is not a renewable, and I guess I can understand that logic. The logic I don't get, though, is hydro is clearly a renewable, and you don't include all hydro in the baseline.

So the last discussion draft last week, I believe, the date that was set was hydro after 2000 or 2001 was renewable, 2001. In this bill, now hydro after 1992 is renewable. And I am trying to figure out how water flowing through a dam producing electricity is renewable if that facility was created after 1992, but if it

was developed during FDR's time it is not renewable energy. I don't understand that. I don't think there is a logical explanation for that.

I think either hydropower is renewable energy or it is not; and if it is renewable, it should be included. And yet the majority -- or at least some on the majority side say hydropower is only renewable if it is put in place by some arbitrary day, 1992.

Mr. Whitfield. Reclaiming my time. I yield to the gentleman from Indiana.

Mr. Buyer. I thank the gentleman for yielding.

I think we have a wonderful opportunity here; and I am curious if my friend, Ms. Harman of California, would be interested if we could convince Mr. Stearns to withdraw this amendment and what we do is we go ahead and expand the base to include hydro and nuclear and whether the gentlelady would be supportive of offering such an amendment with us.

Ms. Harman. I like the tone of this conversation a lot, Mr. Buyer; and in the abstract my answer to that would be yes. But it is the Chairman and a few others who have carefully constructed a deal to promote new sources of energy. That is the conversation we have been having here, including new nuclear as a source of energy.

And as you heard me say, I am not against nuclear; and I gather from the comments of Mr. Markey and the Chairman that they

are not, either. I don't know. I would put the question to them. Is there a way forward here to revisit this in some way at this point? I would certainly suggest once the bill is reported from committee that we continue this discussion and perhaps maybe come up with something on the floor.

Mr. Whitfield. I would like to reclaim my time, and the Chairman might want to respond in just a minute, but I would like to yield to the gentlelady from Tennessee.

Mrs. Blackburn. I thank the gentleman for yielding, and I do support the amendment. And I support looking at nuclear, including nuclear and hydroelectric power, as renewables.

In Tennessee, we know that wind and solar -- I have got an article I would love to submit for the record, Mr. Chairman. It talks about TVA and a forum that was held to look at renewables. And there is a quote from Senator Alexander in here saying the one renewable source that will not work well for Tennessee is wind power.

So in trying to do our part we know that hydroelectric power and nuclear power is an imperative that we use. We know if it is not included in the RES that it will be impossible for us to meet those standards and that our electric rates per consumer -- and consumers do look at rates -- will go up 42 percent, is what is expected.

So I would ask that we do consider that, and I yield back to the gentleman from Kentucky.

The Chairman. The gentleman's time has expired.

The Chair recognizes Mr. Markey.

Mr. Markey. Thank you, Mr. Chairman, very much.

Again, for new nuclear power which is constructed in our country, it is excluded from the baseline in terms of what the renewable electricity standard is. The Energy Information Agency expects 20,000 new megawatts of nuclear capacity to come on line through the year 2030 with all the current incentives for nuclear power that are on the books. Electric utilities have filed 17 new applications with the Nuclear Regulatory Commission for 26 new reactor operating licenses just over the last couple of years.

There are loan guarantee programs out there. We provide the Price-Anderson insurance protection for them. It is a mature industry. These are the largest utilities in the United States that, for the most part, constitute the electric utility industry. They are a very wealthy industry.

On the other hand, the American wind industry says that if this amendment was adopted that it would reduce by 38 percent the amount of new wind power that would be generated in the United States, that there would be a 25 percent reduction overall in the new generation of electricity from the renewables that we have defined in the bill.

But we are trying to encourage now renewables from waste, from biomass, from wind, from solar, from geothermal, from that whole list. Nuclear has done extremely well over the years. It

continues to do well in the 1992, 2005, and 2007 energy bills. They were and continue to have tremendous support.

And, again, as I pointed out, Mr. Dingell's amendment yesterday opens up a new program where upwards of 30 percent of that program can also go towards new nuclear technology. We are talking about something here that is very exciting to the American people. It represents a breakthrough in terms of all of these new technologies that have been bottled up and are waiting to explode.

And it is not meant to be achieved at the expense of nuclear power or coal. They each have huge roles in this mix. In fact, the nuclear industry believes that just by moving to a cap-and-trade system, by putting a price on carbon, by saying that there has to be less carbon in our society, that it is central to the complete revival of the nuclear industry. So cap and trade itself is something central to their long-term well-being. They all say that.

In fact, Constellation Energy, which is one of the largest nuclear utilities in the United States in endorsing this legislation, Constellation Energy applauds the proposed climate change legislation as a promising first step in promoting greater investment in renewable technology, energy efficiency, and new nuclear.

That is their press release that they put out 2 days ago. They are one of the small handful of the largest nuclear power companies in the United States.

So, again, there is a balance. We want to render to nuclear the things that are nuclear and render to wind and solar and renewable from waste the things that are theirs.

Mr. Stearns. Will the gentleman yield?

Mr. Markey. Let me continue, please.

That is really the dilemma that we have here. But at the same time --

Mr. Stearns. Will the gentleman yield?

Mr. Markey. I will yield from the gentleman from California.

The Chairman. Let me see if I understand this.

We want to develop more renewable alternatives that are carbon -- that do not include carbon emissions in our electricity. We want more of all of the above. We want to diversify our portfolio of sources of electricity. We don't want to do this at the expense of coal, we don't want to do it at the expense of nuclear, we don't want to do it at the expense of hydro, but we want to encourage investment in these new renewable fuels.

So this section provides that we are going to have 15 percent renewable and up to 20 percent combination of renewable and efficiency. And if a State can't get to the 15 percent we let them go to 12 percent. But if we count in all the existing sources of electricity that are already used, like hydropower and nuclear, and say you have done a good enough job, that is enough, you don't really promote this new renewable fuels.

Now, some people say, well, let's just raise the amount of

renewable fuels it will require and count in the baseline hydro and nuclear. Well, if we did that, we would have to readjust the numbers in order to encourage that renewable fuels market.

The compromise that was worked out in the proposal that is before us is for new -- we will count new nuclear not in the baseline, so we can, in effect, allow that to be encouraged, especially with the new technology for nuclear but not to call it a renewable. Is that where we are?

Mr. Markey. That is correct.

Mr. Blunt. Mr. Chairman --

The Chairman. Mr. Markey's time is expired.

Mr. Blunt. Move to strike the last word.

The Chairman. Mr. Blunt is next on the Republican side.

Mr. Blunt. Thank you, Mr. Chairman.

You mentioned a couple of times the compromise that this bill, this language represents. It does seem to me, first of all, the compromise was a compromise that the majority reached because we haven't really been in this discussion. And the whole idea of renewables -- I mean, there are many people in this room, and certainly on this side of the room, that believe that hydro is a renewable. The argument that nuclear is not a renewable because of the uranium content, it seems to me that is like arguing wind is not a renewable because of the metal it takes to build the towers. Nuclear is clearly largely an investment that I would see as a potential renewable.

But that argument aside, since I think there is a legitimate disagreement there, it would seem to me that the compromise is actually the language that Mr. Stearns has recommended. Many of us believe nuclear should be a renewable; many of us apparently believe it should not be a renewable. The compromise should be let's just take nuclear, current and future, off the table that counts toward this calculation. That would be the logical compromise, not the idea that -- and there is no carbon.

There seems to be a lot of different agendas and goals here. We talk about how the goal is no carbon, but then somehow existing hydro and most new hydro doesn't meet the category, doesn't meet the standard of a renewable. Or the goal is no carbon. But nuclear, new or old, doesn't count as renewable. At best, it counts as a neutral. Because you don't count new nuclear against the number that the utility is trying to measure against.

The compromise would be to take it all off the table rather than to decide to take some of it off the table. And that would be much more in the middle of this debate --

The Chairman. Will the gentleman yield?

Mr. Blunt. -- than a debate that we are going to count some nuclear -- some existing nuclear doesn't have any impact on anything except it counts toward the overall base load. New nuclear counts as a neutral, apparently, because it doesn't -- it just doesn't count in any way that impacts the situation, no matter how much you have invested. And hydro doesn't count at

all.

And I would yield to the Chairman.

The Chairman. I thank you for yielding.

This a compromise we would have liked to have worked out with the Republican members, but the Republican members did not wish to negotiate it with us. So we negotiated with and have the agreement with -- this proposal -- with Duke Energy, American Electric Power, Edison Electric Institute, Exelon, PG&E Corporation, FPL Group, Entergy Austin, Constellation Energy, Seattle City Light, Public Service Enterprise, and PNM Resources.

The people who provide us the electricity, they think this makes sense; and I would hope that -- I could see what you are arguing. But if these groups that provide the electricity thinks this serves their interest as well as the public interest, I think we have already a good compromise.

Mr. Blunt. So the compromise is between the majority and essentially the utility companies, Mr. Chairman. Is that what you are telling me?

The Chairman. The compromise is among majority members and with the industries who are involved in making sure that they can meet the demands of their rate payors, their consumers, and live within the direction we are taking to encourage new renewables as a diversification of our sources for electricity.

Mr. Blunt. Well, in that discussion, I don't know how much power those negotiators brought to the table, but I think it is a

poor compromise, and I support the Stearns amendment.

And I would yield to Mr. Walden.

Mr. Walden. Thank you, Mr. Chairman.

I would just point out, too, in that discussion that the quote from Peter Orszag, the now head of the Office of Management and Budget, when he was CBO Director in 2007 he said, if you don't auction the permits, that would represent the largest corporate welfare program that has ever been enacted in the history of the United States.

All the evidence suggests that what would occur is corporate profits would increase by approximately the value of the permits. And I know that the allocation process that was negotiated, apparently, sure allocates those permits. It doesn't auction them.

I would get back to hydro, though. The majority says they want to encourage new renewable energy production; and yet, on page 15, line 4, when they define new hydro they basically exclude it by definition. And I will have an amendment later on to deal with that. But the language in the bill doesn't do what is being claimed is occurring, and so the doublespeak here is really difficult.

The Chairman. The gentleman's time has expired.

Who seeks recognition? No one on the Democratic side?

Mr. Barton.

Mr. Barton. Thank you, Mr. Chairman.

I have been on this committee for 23 years. I have participated at some level in every energy and environmental debate we have had in that 23-year period, and I want the members and those that are watching the debate to understand something. We are moving from a market-based approach to energy to a -- I don't want to say a political-based approach. That is probably too strong. But the majority on the committee is in the process of making determinations that says it is more important that we have a politically correct energy and environmental policy than that we really have an energy policy and environmental policy that maximizes domestic energy and minimizes environmental emissions.

When my good friend, the subcommittee chairman, says that you have got a lot of new nuclear that is going to come on line, that is true. At least, I hope it is true. But somehow because it is going to happen we shouldn't count it in the renewable electricity standard that is before the committee, that is a political decision. That is not a market-based decision.

Nuclear is zero emissions. If the goal of this bill is to reduce CO₂ and the other greenhouse gases that the bill would regulate, then nuclear has to be a part of that equation. It is zero emissions.

If we really want to go to a less carbon intensive economy and not totally wreck the economy in the process, there are two fuel choices out there that are going to have to be a part of the equation. One is base load nuclear power for electricity

generation and the other is natural gas.

There is a field in Pennsylvania and New York that probably has between 250 and 500 trillion cubic feet of natural gas. Now, natural gas is a fossil fuel and natural gas will create CO₂, but it creates approximately a half to two-thirds as much per megawatt as coal. So I wouldn't argue that nuclear is renewable in the sense that hydro is and biomass and wind and solar, but I would argue in the sense that it is zero emissions and clean. It is just as viable.

So if we really want to move to a less carbon intensive economy, we should accept definitions that include new nuclear and new hydro, as Mr. Walden has talked about. Because there is zero emissions, they are domestic, and they are clean.

And so at some point in today's process or tomorrow's process somebody on our side is going to offer an amendment to the definition of the renewable portfolio standard, renewable electricity standard that is in this bill to include hydro and nuclear. We are not opposed to wind. We are not opposed to solar. We are not opposed to biomass. We are not opposed to any of those, but we still should keep some shred of a market-based decision process. And then if you want to go beyond that you can create some incentives to get more wind and more solar and more thermal power into the grid.

But we have the best energy situation in the world because we have for the last 150 years used a market-based approach. This

bill is going away from that. But don't go so far away from it that the one totally zero free emission that is base loadable right now, the technology is available right now, take that off the table. You are playing political games when you do things like don't put it in the denominator. That is a political decision. It is not based on fact.

All these companies that our good chairman just pointed out that are for this compromise, if you ask them if they are for the Stearns language, especially if they can take a secret ballot, they would say yes. They may have accepted this as the best they think they can get, but they don't believe for a minute it is the best public policy. Stearns moves us to a better public policy. We should vote for it.

Thank you, Mr. Chairman.

The Chairman. The gentleman's time is expired.

Who seeks recognition?

Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman; and I would like to yield my time to Mr. Markey.

Mr. Markey. I thank the gentlelady very much.

Let me read to you.

First, we will begin with John Rowe. John Rowe is the CEO of Exelon. Exelon is the largest nuclear utility in the United States. Twenty percent of all of the United States nuclear industry's power capacity is controlled by that one company,

Exelon.

Here is what Mr. Rowe in a speech to the National Press Club 1 week ago said about this bill. He discussed the bill, and he said it will drive the low carbon investments and discourage high carbon investments. Mr. Rowe also stated that the renewable electricity standard contained in the bill should be achievable without undue stress on either the economy or the reliability of our power supplies.

Mr. Rowe continued to hope for a bipartisan result on the House floor and the Senate and that my Republican friends in the Senate will follow the lead of their candidate in the last Presidential election. This is a real opportunity.

So that is the largest electric utility -- nuclear electric utility in the United States. I already read to you what Constellation Energy said about this bill. Mr. Rowe makes specific reference to the renewable electricity standard.

Again, we are not trying here to discriminate against nuclear. Each of the largest nuclear utilities in the United States for the most part are supportive of the bill, because it does create a climate where nuclear power can revive.

But, on top of that, there is a production tax credit for nuclear. The nuclear industry receives 1.8 cents per kilowatt hour of power generated for the first 8 years of nuclear power plant operation. Plants that come on line before 2021 are eligible for all or a portion of that tax credit. This is on a

par with the production tax credit for renewable power, but the production tax credit for renewables expires in 2012. So they have a better guarantee, a longer term guarantee in the law today.

In the 2005 Energy Act that was passed out of this committee by you, Mr. Chairman, Mr. Chairman Barton at the time, and President Bush provided upwards of \$18.5 billion of loan guarantees for the nuclear power industry.

And let's go back over the years. Over the years, the nuclear industry has received \$145 billion worth of Federal subsidies. Combined, the solar and wind industry has received \$5 billion. So in talking about socialism, if you look at what the nuclear industry has received from this committee, what the coal industry in terms of subsidies has received from this committee, the oil industry received in benefits from this committee, it so dwarfs the benefits that we have or even remotely intend to provide for these nascent renewable energy sources.

The truth is, this entire bill is a clean energy bill. We have in huge subsidies for clean coal, huge, much more than we have in more renewables. We already have all these nuclear programs as well. No one is saying that any of these technologies are going to be excluded. All we are saying is that over in this area -- and it is an exhaustive list. Again, it is wind, solar, geothermal, biomass, biogas, hydropower, marine and hydrokinetic renewable energy, fuel cells, landfill gas, wastewater treatment gas, coal mine methane, qualified waste to energy, animal waste,

algae. All of this, triple credits for distributed generations --

Mr. Walden. Will the gentleman yield?

Mr. Markey. Let me finish. All of this offers a real potential for job creation and innovation in our country and the production of new technologies that we can export overseas.

The nuclear industry, however, as they look at this bill, these largest of all nuclear utilities in the country, are saying we support the bill. And as John Rowe is saying from Exelon, specifically saying, that the renewable electricity standard is something that he supports.

So I know what you are trying to do, but please understand that it is a balanced bill: nuclear, coal, oil, gas, all these renewables, all part of the mix, including new hydro, okay, all of it. And I just beg you to give these new renewable energy technologies a chance to play their role as well.

The Chairman. The gentlelady's time has expired.

Who seeks recognition?

Mr. Upton.

Mr. Upton. Mr. Chairman, I just would like to -- I want to go back to my statement a few minutes ago. We shouldn't be picking winners or losers in this bill. This amendment is about and this bill should be about the overall reduction of emissions, especially if they can be carbon free. And so whether it is existing hydro or existing nuclear or new hydro or new nuclear, if it reduces carbon emissions, that is the goal that we all want,

whether it is wind, solar, hydro, tide, you name it.

And this amendment, if it doesn't prevail today, I would like to think that we ought to have this same debate on the House floor. Because I am convinced that folks are going to look at this and say, shouldn't this be part of the mix?

And I, for one, would be willing to raise the RPS number overall if we can include that as part of the base. Because that means we are going to rely less on foreign energy. And that is what this bill ought to be all about. And if we can do it from renewables that, too, ought to be where we go.

And I yield to my friend, Mr. Stearns from Florida.

Mr. Stearns. Thank you.

Sometimes you debate, you can talk too much, but let me just make three points.

When I look at this list, Mike Ross has two nuclear power plants in Arkansas. Ms. Eshoo, there is four in California, and Ms. Harman. There is five, Representative Castor, in Florida. Mr. Barrow we have four nuclear power plants in Georgia. Bobby Rush has 11 in Illinois. There is two in Maryland, Mr. Sarbanes. Mr. Dingell has three. Mr. Pallone has four in New Jersey. Eliot Engel, you have six in New York. Mr. Butterfield, you have five in North Carolina. Mr. Doyle, you have nine nuclear power plants in Pennsylvania. Tennessee, there is three for Mr. Gordon. And, of course, in Texas, Mr. Green, you have three nuclear power plants. And Rick Boucher has four in Virginia.

My question to all of you: Why should States be punished because you have nuclear power plants? If you vote for my amendment, you are going to make it easier for your State to meet the RES standard. But if you vote against it, you are going to increase energy prices and make it harder. Now, particularly a State like California that has so much fiscal problems in trying to meet their budget, I would think you would want a little relief.

So States should not be punished because they have nuclear power.

So I reach across the aisle. You voted with Mr. Waxman on every amendment last night. It doesn't hurt to show independence to vote for the Stearns amendment, Mr. Doyle. Because, Mr. Doyle, you have got these nuclear power plants. You could rise up and show leadership here by saying, enough is enough. We are trying to show bipartisanship, and this is the place we are going to do it.

And I have time left for anybody who would like it.

Mr. Walden. Will the gentleman yield?

Mr. Upton. It is my time. I yield to the gentleman from Oregon.

Mr. Walden. Well, I understand fully what the gentleman is saying. But certainly, with nuclear power, this is a big issue; with hydropower, it is an issue. The gentleman from Massachusetts, Mr. Markey, keeps saying you are all for new

hydropower and the biomass, and we will continue that debate as well. But the language in your bill precludes new hydropower.

Let me say that again. Page 15, line 4, the language precludes new hydropower.

So don't tell us that you are all for new hydropower development when your own bill is written in a way that any engineer will tell you precludes new hydropower from counting. Because you can't add hydropower to a facility and not manipulate the water behind a facility.

We come from hydropower in the West. They manage the flow behind the dams all the time. And in fact -- in fact, when it comes to wind energy, they praise hydro as a natural match. Because you store the water when the wind is blowing, and when the wind stops blowing you release the water to generate the hydropower to balance out the load.

So I don't know if you have much hydro in Massachusetts. I don't know if you have much hydro in some of these other States. But we got it in Oregon, we have it in Washington, we have it in Idaho, and they use it to balance out the load.

And this language, according to the Bonneville Power Administration, does not work for them. I am not making this stuff up. I ask the head of the Corps of Engineers, who isn't weighing in on the legislation, but, in my region, could you even do an in-stream hydro project and have it count? And he said, I don't think so, because you are going to naturally have some

back-up behind that because that is how you produce the energy that runs through it.

So the language doesn't work. So at least let's get the language right.

Mr. Markey. [Presiding.] The gentleman's time has expired. Are there other members seeking recognition?

Mr. Rogers. Mr. Chairman.

Mr. Markey. The Chair recognizes the gentleman from Illinois, Mr. Shimkus.

Mr. Shimkus. Thank you, Mr. Chairman.

I know John Rowe. John Rowe is a friend of mine. And, Mr. Chairman, you are no John Rowe. John Rowe supports Yucca Mountain. John Rowe understands that you can safely transport interstate nuclear waste. John Rowe would never claim, as you have numerous times, Mr. Chairman, about a mobile Chernobyl. John Rowe would never do that.

What is John Rowe doing? John Rowe is doing exactly what everyone that you brought in behind closed doors is doing.

The responsibility of corporate America, especially the CEO, is protect shareholder wealth. So they are cutting a deal to make sure that they protect the shareholder wealth, which goes back to the debate, we are fighting for the rate payor. This debate is who is fighting for the rate payor.

The corporate titans are my friends, all right? I am a Caterpillar supporter. I am an Exelon supporter. I am an Amron

supporter.

A lot of these companies that negotiate deals, they support me. But I know that they are in the room to protect shareholder wealth, the wealth of the bondholders, the wealth of the stockholders. And that is okay. Because they are afraid that if they are not in the room they are going to be destroyed. And that is what -- so who is talking for the rate payor? That is what this debate is about.

I have a question to counsel. What is the emissions difference between -- the carbon emissions difference between new nuclear and old nuclear?

Counsel. I don't have that information at the table.

Mr. Shimkus. Would the chairman like to respond about the difference between the carbon emissions between new nuclear and old nuclear?

RPTS KESTERSON

DCMN NORMAN

[11:22 a.m.]

Mr. Markey. Does the gentleman know the answer?

Mr. Shimkus. I do know the answer.

Mr. Markey. Oh, good. I would like --

Mr. Shimkus. Never ask a question that you don't know the answer to, Mr. Chairman. You taught me that.

Mr. Markey. I want to dial a friend and I am going to call John Shimkus. I am going to ask John Shimkus for the answer. Do we have John Shimkus on the line? The question is, what is the difference between --

Mr. Shimkus. There is no difference in carbon emissions.

But let me ask another question. Since part of this bill talks about indirect land use and renewable fuel calculation, let me ask you now a more difficult question, Mr. Chairman. What is the indirect carbon use of new nuclear plants? If you are going to build a new nuclear facility, what -- if you were going to calculate carbon emissions, would building a new nuclear power plant create more carbon emissions or less carbon emissions?

Mr. Markey. This is a lot like being up in my district at MIT, because up there a lot of the questions actually come in the form of answers. And it really simplifies things for you when you are having a discussion. So I am assuming I am in that kind of

discussion again. So the answer is --

Mr. Shimkus. There will be a bigger carbon footprint when you build a new nuclear power plant than an existing power plant. Building a new nuclear power plant has 10 times more job creation ability than anything in this renewable portfolio development. Cost per kilowatt hour of nuclear power baseload generation is approximately a half to less of kilowatt power. That is the concern about renewables, just keeping it at wind and solar, because it costs more. So if you are worried about the ratepayer, you need strong baseload generation.

I want to end on this. Take a steel mill that uses 545 megawatts a year; it would require roughly 138 turbines on roughly 12,433 acres of land for a total output. However, during peak load at that steel mill, it requires 100,000 kilowatts. For that you would need roughly 825 turbines and on 33,000 acres of land to account for peak load. And remember, renewable power never can be relied upon for baseload generation because the wind is not always going to blow and the sun is not always going to shine. So if you are concerned about the ratepayer, you would support this amendment. And I yield back my time.

The Chairman. I think we have had a good debate on this amendment and I hope the members are ready to proceed to a vote.

Who seeks recognition? The gentleman from Pennsylvania, Mr. Doyle.

Mr. Doyle. Yes. And I certainly won't take 5 minutes,

Mr. Chairman. I want to thank my good friend, Mr. Stearns, for asking us all to exhibit some independence. I am trying to remember in the 7 years I have been on this committee how many times he exhibited independence when the shoe was on the other foot. And I think I can count it on one finger.

Mr. Terry. Which finger?

Mr. Doyle. Having said that --

Mr. Stearns. I voted with you yesterday. I was the only Republican. Did you know that?

Mr. Doyle. I am sorry, Cliff. I take it back. On two fingers I can count how many times. Mr. Chairman -- and I want to thank my friend for reminding me that we have nine nuclear power plants in Pennsylvania. My State has a renewable energy standard. Pennsylvania's is 18 percent. We have a two-tiered system of how you can meet that standard. Nowhere in Tier 1 or Tier 2 do we allow nuclear to be counted as part of the mix. We allow photovoltaic, solar, thermal, wind, low-impact hydro, geothermal, biomass, biologically derived methane gas, coal mine methane and fuel cells.

And our Tier 2 is waste coal, distributed generation systems, demand-side management, large-scale hydro, municipal solid waste, wood pulping, and manufacturing byproducts and integrated gasification combined cycles.

So Pennsylvania is well aware of how we meet an RES standard in our State. It is 18 percent. We don't include nuclear. I

think this amendment that we have reached in the bill was a pretty good accommodation and I intend to oppose the amendment. Thank you.

Mr. Upton. Would the gentleman yield?

Mr. Doyle. Sure.

Mr. Upton. It is my understanding that the base that Pennsylvania uses for the 18 percent includes coal. Includes coal, right? Waste coal?

Mr. Doyle. Yeah, waste coal.

Mr. Upton. Would you accept that as part of this amendment?

Mr. Doyle. That is not your amendment. Your amendment was nuclear --

Mr. Upton. What about if we add it?

Mr. Doyle. That is a separate amendment. You can offer them -- we will talk to you, then. But Mr. Stearns' amendment talks about nuclear, and he was kind enough to remind us that I have nine nuclear plants in my State and that somehow that I should be affected by that. And I am saying my State has a standard; nuclear is not part of it.

I yield back.

The Chairman. The gentleman yields back.

Mr. Barton. Would the gentleman yield to me for just comment, not a question? I just want to say that we are having a pretty good debate and we have already had two great lines. We have had the Ed Markey, "I am going to dial John Shimkus," which

beat anything he said yesterday; and the lead Terry line, "which finger," is probably going to make YouTube. We are starting off pretty good today, Mr. Chairman.

The Chairman. The Chair would only note that we have sunk to a new low if we are debating for YouTube.

Mr. Barton. It is what it is.

The Chairman. We will now proceed to a vote. Who seeks recognition? Mr. Buyer. For what purpose do you seek --

Mr. Buyer. I move to strike the last word.

The Chairman. You feel you must speak on this amendment?

Mr. Buyer. I move to strike the last word.

The Chairman. The gentleman is recognized.

Mr. Buyer. Thank you, Mr. Chairman. What I encourage all members to do is exactly what I have been doing. Go to EEI, find out what the breakout of your energy portfolio is per congressional district. When you do that and you do the math, you will figure out where you fall out.

What I find most interesting and also -- well, let me show you what I have learned. And I will start with -- I went to Speaker Pelosi. And I looked at Mr. Welch, I looked at Mr. Inslee, and I looked at my own in Indiana. So here is what I have learned. When I do the calculation, I look at Ms. Pelosi. She has 23 percent nuclear, 13 percent hydro, 47 percent natural gas and 4 percent coal, 1 percent fossil fuel. So when I do that, I say, okay, with regard to base generation, 75 percent there is

going to be -- actually more than that. She has got 23 percent old nuclear, natural gas, coal and old fossil. You add all that to figure out what your base is. Excuse me. When you get your base, it is 7, it is 5 -- there you go. Seventy-five percent. Her base then is 25 percent. On that base of 25 percent, what is 20 percent of the 25 percent? Guess what? She fits. It absolutely works, because she is 12 percent renewables. Gee, what a shock. We have actually come up with an equation that Speaker Pelosi has no penalties whatsoever. Amazing.

Now I will look at my State of Indiana. In Indiana, let's see, I am 96 percent coal; I am 3 percent natural gas; 99.6 percent is my baseline. So in order to create my base, I am at .4 percent. I have got to get -- well, I have a long way to go. I get a huge penalty. You can do this per congressional district.

If you look at Mr. Inslee, for example. I looked at this one. Mr. Inslee of Washington, he is 91 percent hydro, 5 percent nuclear, he is 3 percent wind, and less than 1 percent coal and natural gas. I think that is extraordinary. I think that is absolutely wonderful. But then when I look at that and say, okay, of his base what does he have left? He has to do, then, 20 percent of a base of 9 percent; 20 percent less of the base of 9 percent. It works. He fits. There is no penalty.

You can go down the line per congressional district and I -- I will do it. I will figure out where the votes are. This is pretty doggone easy. And that is -- I guess that is how we do it.

Cutting deals, getting votes, figuring out the equation, satisfying people, that is what has been done here. That is right. It comes down to who is going to pay and who doesn't.

So now it is Mr. Shimkus' point exactly. Who is going to look out for the little guy? So I am really bothered by this. If we really want to do it by sound public policy, stop the games, because that is what we have here. These are games.

Mr. Inslee. Will the gentleman yield?

Mr. Buyer. Someone is at stake. I would be more than happy to yield.

Mr. Inslee. Are you suggesting that I did something untoward here about --

Mr. Buyer. No. I am just saying you are the benefit of a great equation.

Mr. Inslee. I just want to make this really clear that your --

Mr. Buyer. I reclaim my time. You are the benefit of a great equation. I am upset because the State of Indiana -- I am penalized in the State of Indiana. The Midwest is penalized. You are going to receive a great benefit in the Pacific Northwest.

What we should do if we really care about, quote, the emissions of CO2, then let's create permits based on the emissions. Don't do taxpayer giveaways to utilities out there -- that Indiana, we have to go out there in the market and then buy these. First of all, whose money is it anyway? Trillions of

dollars of taxpayers' money? We are going to take it from taxpayers and you are making it sound as though we are giving it to someone. No, we are taking it. We have got to borrow it from China. I encourage all members to get into the bill, look at your energy portfolio and do the math so you will know where you fall out.

With that, I yield back.

The Chairman. The gentleman yields back his time.

Mr. Inslee, do you wish to be recognized?

Mr. Inslee. I do.

The Chairman. Would you be willing to be recognized for 3 minutes?

Mr. Inslee. Yes, certainly. I am certainly sorry to have to talk at this late moment. But given the last comment, I think it is necessary. I think we are having a good healthy debate until the last little round there.

The fact of the matter is we have a very diverse country. Where I live, we are blessed with abundant hydropower. We have done well on clean energy not because of great leadership from a House Member, but because we have some great rivers out in the Northwest and we have struggled mightily to try to develop an energy policy that responds to all of our districts.

That is why in this bill we have made very substantial progress in ameliorating the differences of our areas. We have ameliorated by reducing the target. We have ameliorated it by

adding a clean energy bank that will help finance new nuclear power. We have ameliorated it by including \$1 billion for coal research that goes only to coal research for those areas, like the previous speaker's, that are heavily coal-dependent. We have found every way under this green Earth to ameliorate the fact that we have different districts.

But I want to answer a fundamental question that Mr. Stearns' amendment proposes, which is a very important one. Why, if nuclear power and hydropower are zero CO2 emitting, are they treated differently than wind or concentrated solar energy? That is a very important question for us to answer. And the answer is this. Whereas nuclear and hydro are very clean and very efficient and very efficacious, they are not new. The effort of the renewable electrical standard is as much to make new types of technology as it is to make renewable energy. Hydropower is perfectly renewable and perfectly clean. But it is old, unless you do run of the river. And by the way, I want to tell you there is some new technology, run of the river, where you don't have to dam it and you get energy that is included in this.

The thrust of the renewable electric standard is to create new technologies. If we voted for this amendment, you will get less concentrated solar technology in America, you will get less advanced wind in America, you will get less engineered geothermal in America, you will get less cellulosic biofuels in America, you will get less algae-based biofuels in America, you will get less

advanced efficiency in America, you will get less hydrokinetic energy from wavepower -- a new source of energy and tidal power -- which are included in this bill.

So let's not forget there is a difference between old and new. We will never skin this cat unless we create new energy technologies. We can do that without this amendment. Thank you.

Mr. Terry. Can I be recognized?

The Chairman. Who seeks recognition? If the gentleman -- would the gentleman be willing to take 2 minutes? Let us do 2 minutes and then we are going to proceed to a vote. And I hope we don't have to vote to vote, I think an hour and a half on one amendment is enough time.

The gentleman is recognized.

Mr. Terry. I appreciate that, and I do think that this nuclear component is important enough to have this level and time for discussion. But adding up what the gentleman from Washington has said, and Massachusetts, this bill is about climate change, global warming and reducing CO2. And what we should be doing is allowing each region to use what type of clean energies -- and I am going to tell you, I only have wind and the ability to do nuclear. So I want to support nuclear power.

So this argument of limiting nuclear power because somehow it is going to step on wind and solar doesn't make sense to me. As long as we get to zero emissions and generate electricity, let's do it.

And I will yield to my friend from Indiana.

Mr. Buyer. Mr. Inslee, when I look at the math with regard to your particular district and just listen to your arguments, if you included hydro into the base, then you get penalized; because as of right now in your base, you are completely covered because you are at 3 percent wind. Your base is at 9 percent of the total pie. But If you include hydro, you are going to get penalized. So actually from your perspective, no, you won't get penalized. You should encourage hydro to be included in the base so you can get the new clean technologies that you just argued for.

Why don't you offer an amendment, then, to include hydro in the base, to include new nuclear in the base. That fits your argument to have clean jobs in your district. But you are not doing that. You are not doing that because the math tells you you are completely covered in your 3 percent wind; 20 percent of the 9 percent, you are clean, you are good to go.

Mr. Inslee. Will the gentleman yield for just a moment?

Mr. Buyer. Absolutely.

Mr. Inslee. Thank you. Actually I supported a higher standard for the country in the State of Washington. In order to reach a compromise, we lowered it. But in the State of Washington, just so you will know, my constituents voted by an initiative to adopt a stronger standard than we are even having here. I am comfortable my constituents answered your question, which is they want new technology and they passed a State

referendum to say that. We have already done this.

Mr. Buyer. You are covered by this bill.

The Chairman. All time has expired. We only have one amendment to vote on, although a lot of different ideas have been discussed. And that amendment is the Stearns amendment.

All those in favor of the Stearns amendment will say aye.

Opposed, no.

Mr. Barton. Mr. Chairman, I ask for a roll call vote.

The Chairman. Mr. Barton asked for a roll call vote. We will proceed to a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman, no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell, no.

The Clerk. Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey, no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak, no.

Mr. Engle.

Mr. Engle. No.

The Clerk. Mr. Engle, no.

Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Caps, no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle, no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman, no.

Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky, no.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez, no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin, no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner, no.

Mr. Matheson.

Mr. Matheson. Yes.

The Clerk. Mr. Matheson, aye.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

[No response.]

The Clerk. Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow votes aye.

Mr. Hill.

[No response.]

The Clerk. Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui, no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen, no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor, no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes, no.

Mr. Murphy of Connecticut.

[No response.]

The Clerk. Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space, no.

The Clerk. Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney, no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton, no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch, no.

Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

[No response.]

The Clerk. Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton, aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns, aye.

Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal, aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

[No response.]

The Clerk. Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg, aye.

Mr. Blunt.

[No response.]

The Clerk. Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Radanovich.

[No response.]

The Clerk. Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts, aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden, aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers, aye.

Mrs. Myrick.

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick, aye.

Mr. Sullivan.

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan, aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania, aye.

Mr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess, aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn, aye.

Mr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Mr. Gingrey votes aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise, aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

Mr. Hall.

Mr. Hall. Yes.

The Clerk. Mr. Hall votes aye.

Mr. Melancon.

Mr. Melancon. Aye.

The Clerk. Mr. Melancon votes aye.

Mr. Hill.

Mr. Hill. Aye.

The Clerk. Mr. Hill votes aye.

The Chairman. Have all members responded to the roll?

The Clerk. Mr. Ross.

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

The Chairman. Have all members responded to the call of the roll? Mr. Murphy?

The Clerk. Which Mr. Murphy?

The Chairman. Mr. Murphy from Connecticut is walking in the door, and Mr. Radanovich also seeks recognition. Mr. Radanovich.

The Clerk. Not recorded, Mr. Chairman.

Mr. Radanovich, Yes.

The Chairman. Now he is recorded voting aye.

The Clerk. Votes aye.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

The Chairman. Have all members responded to the call of the roll? Any member wish to change his or her vote?

Mr. Barton. Mr. Chairman, I would like to change my vote from aye to no.

The Chairman. Mr. Barton wishes to change his vote from aye to no.

Mr. Pallone, how do you wish to vote?

Mr. Pallone. No.

The Chairman. Do you wish to vote with Mr. Barton, no?

The Clerk. I am sorry. Mr. Pallone was no?

The Chairman. Mr. Pallone is no.

The Clerk. Mr. Pallone votes no. And Mr. Barton?

Mr. Barton. Changed from aye to no.

The Clerk. Mr. Barton is off aye and on no.

The Chairman. Any other member wish to be recorded or change a vote? If not, the clerk will tally the vote.

The Clerk. On that vote, Mr. Chairman, the nays were 26 and ayes were 30.

The Chairman. 26 ayes and 30 noes. The amendment is not agreed to. Are there other amendments?

Mr. Green. I have an amendment at the desk.

The Chairman. The gentleman seeks recognition to offer an amendment. Is it to this title?

Mr. Green. Yes, it is to this title.

The Chairman. And the clerk will inform us. Has it been available? Has this amendment been available the requisite period of time?

The Clerk. Yes, Mr. Chairman.

The Chairman. The clerk will please report the amendment by Mr. Green.

The Clerk. Amendment offered by Mr. Green of Texas:
In section 786(B)(1)(b)(2) strike "source" and insert "emission point."

The Chairman. The gentleman from --

Mr. Green. Mr. Chairman, I reserve a point of order.

The Chairman. The gentleman reserved a point of order.

Mr. Green. Thank you, Mr. Chairman. The primary purpose for carbon dioxide transportation storage lies within the oil and gas

sector. The sector has been injecting carbon in geological formations to enhance oil recovery methods that have provided the bulk of knowledge on the CCS technologies to date, and our testimony bore that up. Early CCS demonstration projects are critical to begin to reducing cost and uncertainty and to stimulate rapid deployment of CCS technology.

I want to thank the Subcommittee Chairman Boucher for his leadership on these issues and for the strong CCS framework he has created in the bill.

My amendment seeks to clarify one word within section 115 which relates to commercial deployment of carbon capture and sequestration technology. In order for oil and gas sector to take advantage of the bonus allowance of value for CCS in H.R. 2454, it is critical that the word "source" on page 77, line 2, be amended to read "emission point."

A typical refinery will have more than 20 major emission points, heaters, process vents, boilers, with emissions over 2 million tons per year.

Mr. Barton. Will the gentleman yield? We are prepared to accept it if you want to save some time.

Mr. Green. Sure.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. Will the gentleman yield to me? I thank you for this amendment. It makes a technical change in the bonus allowance section for carbon capture and sequestration, so the appropriate point at an industrial source that is conducting carbon capture and sequestration is identified. And the bill should be supported.

Mr. Green. Thank you, Mr. Chairman. And I would like to ask unanimous consent -- I have such a great statement, at least I would like to have it in the record.

The Chairman. Without objection, the full statement of the gentleman from Texas will be made part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. We will now proceed to a vote. All those in favor -- who seeks recognition?

Mr. Walden. Mr. Walden from Oregon would withdraw his --

The Chairman. The gentleman withdraws his point of order. All those in favor of the Green amendment say aye. Opposed, no.

The ayes have it and the amendment is agreed to.

Are there further amendments? Mr. Shadegg.

Mr. Shadegg. Mr. Chairman, I have an amendment.

The Chairman. The gentleman seeks recognition to offer an amendment. And is it to this title?

Mr. Shadegg. Yes.

The Chairman. The clerk will inform us of the timeliness of the filing of this amendment.

The Clerk. Yes, Mr. Chairman, it was received in time.

The Chairman. The clerk will please report the amendment.

The Clerk. The amendment offered by Mr. Shadegg --

The Chairman. Without objection, the amendment will be considered as read.

[The information follows:]

***** INSERT 2-1 *****

The Chairman. The gentleman from Arizona is recognized for 5 minutes.

Mr. Shadegg. Thank you, Mr. Chairman. One of the biggest controversies surrounding this legislation which is intended to address global warming and greenhouse gas emissions is the global nature of the problem; that is to say, the emission of carbon dioxide which is sought to be controlled by this legislation occurs not just in the United States, but throughout the world. Many of us are deeply concerned that other countries around the world will not control their greenhouse gas emissions and will have a competitive advantage and, indeed, jobs will be lost from this country to countries which fail to impose any greenhouse emissions or any carbon dioxide emission limits.

Indeed, yesterday during the questioning, Mr. Scalise pointed out that 55 pages of the current legislation are dedicated to job loss. And it was noted that that was because the proponents of the bill are genuinely concerned about taking care of those who might lose their jobs in the transition.

This amendment is a simple and straightforward amendment. It goes not to suspension of the bill, just to the reporting of factual information and disclosure. It is an amendment that calls for transparency, sunshine and public information.

What the amendment says is that once per year, the Department of State and the U.S. Trade Representative shall prepare a report

to Congress regarding whether China and India have adopted greenhouse gas emission standards; and, assuming they have not, will once a year notify Members of Congress of their determination and will publicize that determination in the country.

Obviously, Americans have a right to know whether greenhouse gas emissions are being restricted or capped or limited or restrained throughout the other parts of the world, but in particular in those nations which pose the greatest job threat to those of us in America and to American jobs and American workers.

My colleague, Mr. Shimkus, has pointed out repeatedly that what we are trying to do on this side of the aisle is look out for the little guy whose job is threatened, and try to make sure that indeed he has a chance under this legislation not to be punished or suffer.

The proponents of this legislation argue, compellingly, they believe that if we adopt the provisions of this bill, then other nations around the world including, importantly, our biggest competitors in this field, China and India, will limit their greenhouse gases as well. And indeed there is belief that if we take the passage of this legislation into foreign discussions and into conferences on the topics of greenhouse gas emissions and on global warming, the passage of this legislation will pressure those countries to limit their greenhouse gases.

This amendment, I would hope, is noncontroversial. It simply provides that once per year, a survey will be conducted to

determine if China and India in particular, though it could be expanded to cover other countries as well, have adopted greenhouse gas emission standards similar to those or as strict as those here in the United States, so that we know we are limiting greenhouse gases throughout the world.

Many of us are concerned that this legislation will result in jobs being moved from the United States because plants will close in the United States, go to other countries and begin operating, and will emit more greenhouse gases than those same plants would have emitted here in the United States. Clearly, the American people and Members of Congress deserve to know what efforts are being made to limit greenhouse gas emissions throughout the world and particularly by our competitors around the world to assure ourselves we are not losing jobs to those countries.

I believe it is a sound amendment. It provides information to the American people, it is critically needed. It provides information to Members of Congress, and I would strongly urge its adoption.

The Chairman. Would the gentleman yield?

Mr. Shadegg. Certainly.

The Chairman. If we took that first sentence where we say, "The Administrator, in consultation with the Department of State and the U.S. Trade Representative, shall annually prepare and certify a report to Congress regarding whether China and India have adopted greenhouse gas emission standards at least as strict

as those standards required under this Act" and stop there, we could accept it. Would you be willing to make that accommodation?

Mr. Shadegg. Reclaiming my time. I guess I am -- I certainly would think about it. I would be interested in knowing why you would not want the information reported, assuming it is gathered, or why you would not want it reported to Members of Congress or the American people.

The Chairman. Well, you ask they notify each Member of Congress, release this to the media, seek to publicize such determination in congressional districts in the United States. That is a lot -- a lot of extra busy work. Once a report is out, I am sure that Members of Congress will take note of it:

Mr. Shadegg. Let us go through those one at a time. Certainly, Mr. Chairman, you wouldn't have a problem with each Member of Congress being notified, would you? That can't be very burdensome.

The Chairman. It calls for a report to Congress. So each Member --

Mr. Shadegg. But that report --

The Chairman. Most reports to Congress don't go separately to each individual Member.

Mr. Shadegg. Yeah, regrettably.

The Chairman. You are not getting those reports, I gather.

Mr. Shadegg. I am not. As low down the tail as I am. Mr. Chairman, I would propose to leave the second sentence to the word

"media" and strike the balance of the sentence. So given to each Member of Congress and released to the media. Certainly you can't be against that.

The Chairman. That sounds reasonable to me. You will accept a yes?

Mr. Shadegg. I have been trained pretty well to accept a yes, Mr. Chairman.

The Chairman. Without objection, the amendment will be modified.

And now the question comes on this amendment.

All those in favor of the Shadegg amendment, as modified, all those in favor say aye.

Opposed, no.

The ayes have it and the amendment is agreed to. Will someone inform Mr. Stearns?

Mr. Shadegg. And they say that Congress isn't bipartisan.

The Chairman. We have had a great deal of amendments to title I. The Chair was willing to entertain amendments to title II. We can do that. But let us see if we can move on -- you won't be precluded from offering an amendment.

Mr. Buyer. My inquiry is now that you are moving to title II, I would like for the record -- I have four amendments on title I and I would like that right preserved to offer. And I would like to know when I could offer those amendments.

The Chairman. The gentleman will have his rights protected

to offer amendments to title I and we would certainly guarantee the amendments to be in order at the completion of the bill and all the other titles.

Mr. Buyer. Thank you.

The Chairman. Are there amendments to title II?

Mr. Upton. Mr. Chairman, I have a quick parliamentary inquiry. I know it is the Democratic side, but I have five amendments that I can do en bloc for title I.

The Chairman. We need to go to the Democratic side first and then we will come back to the Republicans.

Mr. Buyer. Parliamentary inquiry.

The Chairman. Yes. The gentleman will state his parliamentary inquiry.

Mr. Buyer. There is nervousness -- and I want you to bring a calm, Mr. Chairman, on the Republican side, that you are by procedure moving -- we are very accustomed to moving title, exhausting amendments, going to the next title. So many of us have amendments per title, and we want your assurance that when we get after the third title, that you will not entertain a motion for previous question, excluding our amendments.

The Chairman. Well, the Chair can't talk about what amendments or procedural votes would be called sometime tomorrow. We are going to try to process the amendments, but if we really have 400 amendments and it takes us so many hours to just do a couple --

Mr. Buyer. Further parliamentary inquiry. Does the committee have the assurance that you would not support a motion to move the previous question until our amendments have been offered?

The Chairman. Let me give you this assurance. We will have further opportunity for title I amendments.

Mr. Buyer. In this markup?

The Chairman. In this markup. In this week.

Mr. Buyer. All right.

The Chairman. All right. In this bill.

To go to the Democratic side, I want to now call on Ms. Matsui. You seek recognition to offer an amendment; is that correct?

Ms. Matsui. Mr. Chairman, I would like to offer an en bloc amendment that would be my amendment, including also Ms. Baldwin's two amendments, Ms. Eshoo's and Mr. Welch's.

The Chairman. Without objection, the amendments will be considered en bloc. The clerk will report the amendments. And the amendments will be distributed. Is the clerk prepared to -- almost.

The Clerk. Mr. Chairman, the amendment offered by Ms. Matsui of California: After section 204 --

The Chairman. Without objection, that amendment will be considered as read.

[The information follows:]

***** INSERT 2-2 *****

The Clerk. Amendment offered by Mr. Welch and Ms. DeGette:
At the end of title II, add the following:

The Chairman. Without objection, that amendment will be
considered as read.

[The information follows:]

***** INSERT 2-3 *****

The Clerk. Amendment offered by Ms. Baldwin of Wisconsin:
At the end of subtitle D --

The Chairman. Without objection, that amendment will be
considered as read.

[The information follows:]

***** INSERT 2-4 *****

The Clerk. Amendment offered by Ms. Baldwin of Wisconsin:
At the end of subtitle D of title II add the following new
sections.

The Chairman. Without objection, that amendment will be
considered as read.

[The information follows:]

***** INSERT 2-4 *****

The Clerk. Amendment offered by Ms. Eshoo of California: In title II, add at the end the following --

The Chairman. Without objection, that amendment will be considered as read.

[The information follows:]

***** INSERT 2-5 *****

The Chairman. Does that complete the amendments en bloc?

The Clerk. Yes, Mr. Chairman, it does.

The Chairman. Who sought recognition? Yes, Mr. Radanovich.

Mr. Radanovich, I reserve a point of order on those.

The Chairman. The gentleman reserves a point of order on the amendments. The Chair would yield 5 minutes to the gentlelady from California on the amendments.

Ms. Matsui. I thank the gentleman for yielding me time. My amendment today is to strengthen the building efficiency portion of the bill by making homes and small office buildings more energy efficient. The built environment is responsible for a significant portion of greenhouse gas emissions.

My amendment creates a simple grant program that would provide funding to utilities across the country to invest in tree planting programs that are designed to reduce peak load demand. In places like Tucson, Austin, and Iowa, utilities have used this strategy as an effective method to manage their customers' demand. In my district, our local electric utility has planted thousands of trees in recent years around homes throughout Sacramento. This has saved the equivalent of 30,000 air-conditioning units through energy efficiency gains. It has sequestered 600 tons of ozone and more than 700 tons of particulate matter. This program has also saved participating consumers between 25 and 40 percent on their energy bills each month.

Across the United States, there are 100 million available sites across the country for strategic tree planting. If we were to take advantage of all of these available slots, the potential energy efficiency savings are enormous, over \$1 billion.

This is a win-win amendment because it helps lower our constituents' energy bills, increases the commitment of this legislation to building energy efficiency and gives local utilities the tools they need to help their consumers manage electricity demand.

With that I yield back my time.

Ms. Baldwin. Will the gentlelady yield?

Ms. Matsui. Yes, I will yield to the gentlelady.

Ms. Baldwin. Thank you. I wanted to briefly explain the two amendments that are under consideration that I have offered. Both of these amendments address the motor market, motors used in pumps, compressors, material handling, material processing, food processing, conveyors, fan blowers, escalators and elevators.

The language in both of these amendments has been incorporated in the Senate appliance standards bill and is supported by Mr. Ross and myself. In the Energy Independence and Security Act, a new efficiency standard was set that mandates motor efficiencies beyond those established in the 1992 Energy Policy act. This upgrade to premium efficient motors will raise initial motor costs by an estimated 10 to 15 percent. Therefore, there is a concern that due to initial costs, some may be inclined

to simply repair and extend the life of old and inefficient motors.

As a result, the first amendment before us would provide a rebate of \$25 per horsepower, per customer, for a high efficiency motor. These funds will help end users in offsetting the cost difference between repair and replacement of low-efficiency motors. Specifically, it would provide a subsidy through distributors who would be responsible for documenting the sale and for proper disposal of the old motor through distributors.

The National Electrical Manufacturers Association and the American Council for an Energy Efficient Economy both support this amendment and estimate replacement of at least 1 percent of old motors. Each would save an estimated 1.5 billion kilowatt hours annually; 1.5 billion kilowatt hours annually. Further, the assessment --

Mr. Upton. Would the gentlelady yield? In order to maybe get back to title I, our side is willing to accept the amendment.

Ms. Baldwin. Both of them?

The Chairman. They are en bloc.

Mr. Upton. Yes.

Ms. Baldwin. Great.

The Chairman. No.

Ms. Baldwin. Then I will keep on --

The Chairman. It sounds like we are ready for the vote on the en bloc amendment.

All those in favor of the en bloc amendments will say aye.

Opposed, no.

Mr. Buyer. Whoa. How do you cut off debate?

The Chairman. The Chairman of the Subcommittee said that your side was willing to accept the amendment.

Mr. Shimkus. On the Baldwin amendment, not the en bloc in total. The parliamentary procedure was that --

The Chairman. Without objection, the vote will be rescinded and we will return to debate.

Ms. Baldwin, you have explained your amendment, but I gather they don't care for any further debate because they agree with yours.

Ms. Baldwin. Mr. Chairman, if I could just clarify. Among the en bloc, I have two amendments. And so I just want to clarify that they have accepted both of them.

Mr. Upton. No, no. Which amendment --

The Chairman. Why don't we go vote on the House floor and we all figure out which ones we can support and which ones you oppose, and then we will focus on those issues. So we stand in recess.

Mr. Upton. We have three votes. Do we come back at 1:00?

The Chairman. We will come back at 1:00.

RPTS JURA

DCMN HOFSTAD

[1:10 p.m.]

The Chairman. The committee will come to order.

We would like to begin this afternoon's session of the markup. So any members who are watching in their offices, the fact that this is being televised, we would urge them to come to the committee room so we can begin.

The committee will come back to order.

We have pending an en bloc amendment, five separate amendments. As I understand it, there are two of the five for which there is no opposition. And I would like to put the vote on those two, and then we will recognize members to discuss the other three.

The two are an amendment by Ms. Eshoo and Mr. Rogers called the Energy-Efficient Information and Communications Technology, and one of the two amendments by Ms. Baldwin; this is the Motor Market Assessment and Commercial Awareness Program.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. Are we ready for the vote on those two amendments?

All those in favor of those two amendments will say, "Aye."
Opposed, "No."

The ayes have it, and the amendments are agreed to.

Now we have three pending amendments en bloc. And the Chair would like to see who would like to be recognized to discuss any of those three amendments.

Mr. Shimkus, did you want to speak on those amendments?

Mr. Shimkus. Yes, thank you, Mr. Chairman. And I am not going to take a lot of time, but on each one of these there is just a couple questions and a couple points.

One is on the amendment offered by Mr. Welch and Ms. DeGette, the National Energy Efficiency Goals. I guess the first question would be, what are the goals based on? Can anyone answer that question?

The Chairman. Which amendment is this?

Mr. Shimkus. This is Mr. Welch. And I would yield to Mr. Welch.

Mr. Welch. Thank you, Mr. Shimkus.

There have been a couple of studies, one by the United Nations Foundation, that conclude --

Mr. Shimkus. That doesn't help me. Just a joke. Go ahead. I am sorry.

Mr. Welch. -- that suggested just under the present arrangement we could likely get efficiency improvements of 1.2 percent. And the goal here is, in effect, the challenge to raise that to 2.5 percent.

Mr. Shimkus. Can I just follow up? Why 2.5? 1.2 to 2.5 -- how did we grab 2.5 out of there?

Mr. Welch. Well, I will tell you, a lot of us thought it could be higher. So the goal, you have to pick a number. And 2.5 is about 40 percent above what is under present arrangements without the passage of this legislation, without an aggressive effort to actually invest in efficiency.

Mr. Shimkus. Can I follow up on that?

Ms. DeGette. Would the gentleman yield?

Mr. Shimkus. Is there any scientific study that talks about --

Ms. DeGette. Yes.

Mr. Shimkus. I yield my time to Ms. DeGette.

Ms. DeGette. Yes, thank you.

The U.N. Foundation did a report that showed that we could increase energy efficiency by 2.5 percent. And if we did that in just the G8 countries, then we would reduce G8 energy demand by about 20 percent in 2030.

It is important to note that, in Mr. Welch's and my amendment, this is a goal, it is not a requirement. And so we think that, under the U.N. report, it is doable. Energy

efficiency is one of the least recognized but most effective ways to meet our challenges. And so we think that this is a reasonable amount.

I yield back.

Mr. Shimkus. And if I could follow up with any one of the authors, what happens with this plan once it is developed?

I yield my time to Mr. Welch.

Mr. Welch. The information is provided by the Secretary of Energy and EPA to Congress.

Mr. Shimkus. Is that to each Member's office? No, that is just another joke.

Mr. Welch. Basically, it is about, one, setting a goal; and then, two, tracking the information as to how we are achieving the goal. And it also would break down information by different type of activity so that we could assess as we are going along what is working better in one place versus another.

So, really, it is about having a goal for efficiency, and then tracking it to see how successful we are with our policies to achieve greater efficiency.

Mr. Shimkus. And I appreciate that. My time is quickly expiring, and I want to thank the two authors. You have answered a lot of questions, and I appreciate that.

Let me go to Ms. Matsui, who is obviously my colleague and co-author of DERA, which we have been celebrating over the last couple of days.

This amendment, in essence, is going to pay utilities to plant trees. Is that correct?

Ms. Matsui. Actually, what it does is have a grant program, in essence, and Federal moneys go to that. And it has to be matched one for one for private moneys.

Mr. Shimkus. So the whole premise of the cap-and-trade, which would then have money and people purchasing credits to force the Nation as a carbon-sequestration-type of product, this would be in addition to -- is this not duplicative? I guess that is the question.

I mean, the problem with the bill is we are piling on numerous issues. And it seems like, if the cap-and-trade system works, then why do we have this program that takes off additional money?

Ms. Matsui. It is not duplicative. The U.S. Forest Service already runs, obviously, an Urban Community Forestry Program. But its intent is simply to increase the number of urban trees in this country, not to drive up building efficiency and drive down ratepayer cost.

So, you know, we have heard a lot about the little guy from the colleagues on the other side of the aisle. And if this amendment is adopted, it is the perfect example of how we are looking out for the little guy, because it will lower the amount of money consumers pay for electricity.

Mr. Shimkus. Mr. Chairman, if I could just, I have one

more --

The Chairman. Without objection, the gentleman will be given another 1 minute. That will be the order.

Mr. Shimkus. Thank you, Mr. Chairman.

And I would just say -- I am the one who is raising the little guy debate, and I would just say that giving grants to corporations to plant trees doesn't seem like it is helping the little guy.

On the last amendment, which is by Ms. Baldwin, I think my colleague Mr. Whitfield did a great job identifying that there is \$2.8 trillion already authorized in this bill. And there is concern from many of us about the additional authorization: \$80 million for 2011, \$75 million for 2012, \$70 million for 2013, \$55 million for 2014. There is going to be a time when we cannot pay for all the funding that we are incurring, and that is why rates increase.

So, with that, Mr. Chairman, I yield back my time.

The Chairman. The gentleman yields back his time.

Yes? The gentlelady.

Mrs. Blackburn. Thank you, Mr. Chairman. I move to strike the last word.

The Chairman. The gentlelady from Tennessee, Mrs. Blackburn, is recognized for 5 minutes.

Mrs. Blackburn. Thank you.

I do have a couple of questions I would like to ask

Ms. Matsui, if I may do so, on her amendment. I find the amendment such an interesting take on -- and I do look at this and see it as being very duplicative and redundant in its efforts.

You know, I come from a family that has always participated enormously in conservation efforts, whether it was Farm Bureau/4-H Club or my mother with Garden Clubs of America. My mother received the Keep America Beautiful Lifetime Achievement Award in 1997 for the work that she has done starting programs exactly like the gentlelady from California is mentioning in her bill.

Now, we have wonderful not-for-profits that go about this work. And she does reference them in her bill, but these organizations for decades have been planting trees. So, in addition to the U.S. Forest Service carrying out some of this good work, we have garden clubs all around the country. We have Boy Scout and Girl Scout clubs that work on Arbor Days planting trees.

So is it the gentlelady's intent that all of these organizations will be able to draw down this dollar-for-dollar match? Would they use that to grow their programs, or would this have the unintended consequence of doing away with the corporate contributions that they receive, the charitable contributions they receive in order to help carry out those programs? Have we thought through what that would do to these not-for-profits who have for decades been engaged in this type work?

And I yield to the gentlelady for a response.

Ms. Matsui. Yes, I would like to respond.

First of all, I really appreciate garden clubs also, and I think they really fill a wonderful place in our communities.

The critical difference between my amendment and things like garden clubs and the reason we need the amendment is because utilities need to plant the right tree in the right place in order to get the kind of efficiency --

Mrs. Blackburn. Reclaiming my time. So then the individuals who put a lot of work into these efforts, our assumption, the arrogance of an assumption by us in Congress would be that these volunteers do not plant the trees in the right place.

And I just would have a tremendous amount of concern about what this would do to these organizations that put effort into carrying forth these programs, even begin these programs.

The Chairman. Would the gentlelady yield?

Mrs. Blackburn. Yes, I would be happy to yield.

The Chairman. I would think those groups would welcome this proposal. It is a voluntary one; it is not mandatory. They are doing the best job they can. And I am pleased to hear about your mother's involvement. They do a great service. They make our communities more liveable.

What this proposal would do is, no mandate, but it is an option for local utility companies who want to reduce consumer energy bills, they can do it through tree planting. When you get shade for trees, less electricity is used. So if a utility wants to do that, as I understand it, they have to match the money, and

they know that they are helping their ratepayers save money.

So I think volunteer groups are great and they are doing the best they can, but this would help. And I think utilities would probably want to engage them in the activity.

Mrs. Blackburn. I thank the chairman for the explanation, and I reclaim my time.

I think that as we look at taking a program that has been very successful in the not-for-profit sector and pulling that in, institutionalizing it and making it a government program, that we need to be very careful about how we go about that.

I would think that we would not want to take steps that are going to hurt the not-for-profit-sector and their good work, diminishing the work they have done, while we say global warming and fighting global warming and paying umbrage to global warming is the objective of the legislation.

The Chairman. Would the gentlelady yield for a question?

Mrs. Blackburn. And I yield back the balance of my time.

The Chairman. Okay. The Chair will recognize himself.

I would be interested in whether you think that faith-based initiatives have harmed the religious and volunteer groups that are doing great things in the community, running drug abuse programs and other things, where they serve a very worthwhile purpose and the government wanted to have them do the work and not set up government agencies to do it.

So I just show you a different aspect of it. I hear what you

are saying, and I wouldn't want those nonprofit groups to be pushed out of the way at all. But I think this would expand it. We would have more opportunities for people to do things together. I just want to give you a different explanation.

Further discussion on the amendment?

Mr. Terry. Mr. Chairman?

The Chairman. Who seeks recognition?

Mr. Terry. The gentleman from Vermont, but then after him I would like to.

The Chairman. Mr. Welch, are you seeking recognition? The gentleman is recognized.

Mr. Welch. Yes, just briefly, I just want to speak to the national efficiency improvement goals.

You know, we have been having a very contentious debate about the climate, about the consumers, and about jobs that will be affected. And efficiency is a means of doing three things that we all agree need to be done: We want to protect the climate. We obviously want to provide relief to the consumer; lower electric bills will do that. And we want to create jobs. And efficiency, by definition, requires investment in local economies. And the folks who have those jobs are your local electricians, local plumbers, local mechanics.

And what this national energy efficient goals amendment does -- and I thank Diana DeGette and Chris Murphy -- what it does is state very explicitly something that is important for this country

to do, and that is to pursue efficiency for the benefits that are ours to be had if we make the effort. And it can be something that unifies us because you are a winner whether you are in a coal State, in a hydro State, in an oil State.

So I thank my cosponsors and, at this point, would like to yield to the member from Colorado, Diana DeGette.

Ms. DeGette. Thank you very much. And I want to thank the sponsor for his leadership.

Just to add, the other thing our amendment does is it requires the Secretary to develop a strategic plan based on these goals and to see how we can achieve them.

I think Mr. Welch and I would both agree that, as we move along, energy efficiency is really sort of the low-hanging fruit of this whole debate. And if people really work towards energy efficiency, then we will achieve our goals of reducing greenhouse gas emissions and also, most importantly, we will save consumers money and stimulate the local economies.

I wish we could do more with efficiency, but I think this is a good first start in this bill. And, Mr. Chairman, I look forward to working with you and everybody else to improve efficiency standards as best we can.

And, with that, I will yield back.

The Chairman. The gentleman's time has expired.

Mr. Terry?

Mr. Terry. Thank you, Mr. Chairman.

And I have to hand it to the authors, this seems very thorough. It goes in and makes sure that anyone who is going to be planting the trees is going to be properly certified and knowing the proper distance to plant the tree from a building foundation and air conditioning units and driveways and property fences and pre-existing utility infrastructures, any septic systems, swimming pools. They have to have a certain education, I think, on eligibility. So I commend them for the thoroughness.

A couple of things that stood out to me that I want to ask about is, first of all, I understand maybe not the rest of the country is as intelligent as Nebraskans, but if we want to plant a tree in our yard to help shade it, we pretty well know it is west to northwest. So we can save some time here. To block the winter winds, it is the north side of the house.

But size does matter with trees, in being able to accomplish this. So, you know, having the retail generator pay for a nice little redbud tree in my front yard on the northwest corner will make my yard look very beautiful but will do absolutely nothing for energy efficiency. So the one thing that I didn't see in here is size of trees, deciduous versus pine. Of course, in Nebraska, having trees that drop leaves in the winter on the north side of your house is fairly meaningless.

So even though it is, how many pages, 15 pages on how to plant trees and the conditions for being able to meet and actually receive grant moneys to plant the tree, I was wondering if size

was part of the discussion.

The Chairman. Will the gentleman yield?

Mr. Terry. Yes.

The Chairman. Why would you think a utility would take up this option? They have to put in some of their own money to do this tree planting. The idea is that they would plant it so that there would be less electricity used because of the shade.

Mr. Terry. What credit do they receive?

The Chairman. What credit do they receive?

Mr. Terry. They get to plant a tree. And maybe, Mr. Chairman, like the Arbor Day Foundation that gave my 8-year-old a tree, a nice pine tree, that was four inches tall, you know, that is going to be 20 years before it has any effect. Are we going to pay \$200 for a six-inch pine tree?

The Chairman. No, no. We will probably have to do more fully grown trees.

Mr. Terry. But it doesn't say that.

I guess the bottom line, Mr. Chairman, is I think we are getting silly now.

I yield back.

The Chairman. Any further recognition on this amendment?

The gentleman is recognized.

Mr. Rogers. Mr. Chairman, I hopefully won't take much time here.

This is, I think, what strikes us as odd about this whole

bill and is very symptomatic of the problem with this. You used the word, "it is their own money."

So let me get this right. They have a guaranteed rate of return, which even this bill authorizes to go back to ratepayers in order to recoup their costs. So ratepayers pay for half the tree. Then we create a new government program that is a lot more expensive to even find, get the tree, get the contract to get the tree to the place, of which ratepayers are paying half. Then, oh, by the way, taxpayers are paying for the other half of the tree, which are ratepayers.

And you have just charged the bill to the very people you are saddling with the largest energy tax in the history of the United States. And your logic -- and I do assume you believe it -- is, no, no, it is free, it is great, it is wonderful, nobody really pays for it.

This comes out of somebody's pocket, for a shade tree. And if it saves money, I will guarantee you somebody is clever enough to go plant the tree themselves without a large, very regulated government mandate about the size of the tree, the scope of the tree, and where the tree goes.

It is ludicrous. And this is absolutely exemplary of why this bill is so bad. I mean, it went from a climate change bill to a global warming bill. Now it is not quite that, yesterday; now it is a jobs bill. No, no, it is not really a jobs bill; now it is a new energy bill. No, it is a tax bill on people who are

trying to make it back home.

The Chairman. Will the gentleman yield?

Mr. Rogers. You can have the remainder of my time, Mr. Chairman.

You can tell why we are frustrated, because people back home are paying for every single penny of this, unless, of course, you are in a district, as Mr. Buyer pointed out, where you have exempted yourselves.

I would yield you the remainder of my time.

The Chairman. I thank you very much for yielding. And I do sense the frustration that you must have. But I think Mr. Scalise was very wise when he said yesterday -- I believe it was Mr. Scalise -- "If you dig a hole, I believe you ought to plant a tree."

Mr. Rogers. On top of the ratepayer, apparently.

The Chairman. All right. Any further discussion, or are we ready for the vote? I think we are ready for the vote.

Mr. Murphy?

Mr. Murphy. Thank you, Mr. Chairman. Just very briefly, I wanted to get back to Mr. Welch's amendment and speak very quickly in support of it.

You know, it has been said that this country is the Saudi Arabia of energy consumption. And Mr. Welch's amendment, which I am happy to join him on, is, I think, a very important reminder to us that some of the greatest savings that we can immediately

achieve is through energy efficiency.

We have a small, little company headquartered in Connecticut, United Technologies, which has expanded greatly over the past 3 to 4 years and, at the same time, has had a net reduction in their energy consumption and their water consumption, vastly disproportional to the excess production happening at that facility. It is because they have invested the time in trying to figure out ways to do things more efficiently.

In the RGGI cap-and-trade system in New England and northeastern States, by putting almost all of the revenues from those auctions back into energy efficiency we have kept the rate base and the rates for consumers relatively stable, because we have pushed down and are going to continue to push down the demand side of our energy market, which will counterbalance against some of the passthroughs due to the auction prices.

Energy efficiency has so far to go in this country. And by simply setting a goal here I think we are reminding everyone, from end consumers to those who are producing the energy in the first place, who are often wasting more energy in producing it than they actually send out into the grid, that we can do so much to try to get to the goals in this bill through energy efficiency. And I am thankful to Representative Welch and others for reinforcing that.

Mr. Murphy. Would the gentleman yield to Ms. Castor?

Mr. Murphy. Absolutely, I would yield the balance of my time to Ms. Castor.

Ms. Castor. Thank you very much.

I just wanted to speak in favor of Ms. Matsui's amendment, because in Florida our per capita residential electricity demand is among the highest in the country, largely because of air conditioning use. We need air conditioning desperately during the summer months. And when you combine that with poorly insulated homes that are inefficient, it causes us to use far more energy than we need. And we know that, throughout the entire country, that heating and cooling of homes accounts for nearly 60 percent of residential electricity use.

So when you are able to plant a tree in a strategic location in concert with the utility, this is a cost-saving proposal for consumers. What is more cost-efficient, to target a few subdivisions and plant trees to save energy or to have to replace your AC equipment with higher load capacity? It is much more efficient to plant a few trees.

This is an important consumer provision, and I thank Ms. Matsui for offering it today.

The Chairman. Time is yielded back.

We will now proceed to a vote on the following three amendments en bloc: Baldwin amendment No. 40, the motor efficiency rebate program; Matsui 35, tree planting program; Welch-DeGette-Murphy 96, the national energy efficiency goals.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. All those in favor of the amendments en bloc will say, "Aye."

Opposed, "No."

The ayes have it, and the amendments are agreed to.

The Chair asks if there are further amendments to title II.

Mr. Scalise. Mr. Chairman?

The Chairman. For what purpose does the gentleman seek recognition?

Mr. Scalise. I have an amendment to title II.

The Chairman. And I want the clerk to inform us whether the time limit has been met.

Mr. Scalise. It is at the desk titled Scalise-201.

The Clerk. It is timely, Mr. Chairman.

The Chairman. Clerk will report the amendment.

The Clerk. Amendment offered by Mr. Scalise. "Strike section 201 and make necessary conforming changes."

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. The gentleman from Louisiana is recognized on his amendment.

Mr. Scalise. Thank you, Mr. Chairman.

Section 201 of this cap-and-trade energy tax creates a national building code, something that we don't have in place today. If you look across the country right now, 30 States have their own State building codes. A number of States actually go even to the local level, where they have codes that are based on different cities or different parishes or counties.

Just to use Louisiana for an example, right after Hurricane Katrina, our legislature passed a statewide building code. We didn't have one before. We created a statewide building code, and we took into account in our code the various segmented differences between regions of our State. In fact, the code is different in south Louisiana where our main threats are hurricanes and flooding, much different than they are in the northern part of the State of Louisiana where tornados are a bigger threat.

And so, if you look at the fact that 30 States have these types of statewide codes, this bill in section 201 creates a Federal code that would trump, throw out all of those State building codes that have been worked on for years, in many cases. We worked on ours for months, just for our State's code. Here, with really no debate, we are creating a Federal code that trumps all of the States' codes and, in some cases, would actually lower

the standards that States have for building.

And if you go back to why we have building codes and why States have done this, the purpose, typically, is to protect safety and health. Safety and health have always been the main driving factors behind a building code. What this bill does in section 201, it is literally taking global warming and using global warming to trump safety and health.

Because now, if I am in South Louisiana and I want to rebuild after hurricane damage -- which, by the way, we had 120,000 homes in Louisiana that had more than 50 percent damage due to Hurricane Katrina. Under this bill, in section 201, when people are rebuilding those 120,000 homes, they would have to follow the Federal building code. And, in many cases, that would mean they can't use the same types of strength that they might want to use in their windows. They might want to use stronger windows because they don't want the storm to blow out their windows. But under this bill, a Federal standard could actually say that their windows are out of the Federal code.

And then, what does that mean? Let's go to the bill and look at the penalties, because there are actually civil penalties in this bill. We are actually creating a global warming police.

Go to page 235. "The Secretary may set and collect reasonable inspection fees to cover the cost of inspections required." So, number one, they can come in, the Federal Government can come in, inspect your house, and send you the bill.

And if they find that you are out of compliance with this new Federal code, "The Secretary shall assess a civil penalty for violations of this section."

And then further, going to page 236, "Each day of unlawful occupancy shall be considered a separate violation." We are setting up a global warming gestapo that can literally come in -- and, now this new term, "unlawful occupancy." So now living in your home is considered unlawful under this bill. This is ludicrous.

If you go -- well, first of all, let's go to the U.S. Constitution and look at the Tenth Amendment. "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively or to the people." The Tenth Amendment of the U.S. Constitution says the States have the right to do what they are doing if they are not prohibited by the Constitution.

So States, over 30 of them, have established building codes. This bill comes in and basically says, throw out the Tenth Amendment of the U.S. Constitution and the Federal Government is going to throw out your building code.

I would like to submit the U.S. Constitution into the record, if I can, by unanimous consent, so that it can be reviewed, because I think we also need to go to another section that talks about unlawful occupancy.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Scalise. The only part of the Constitution that talks about unlawful occupancy of your home says in amendment three, "no soldier shall, in time of peace, be quartered in any house." So, basically, the Federal Government and the Constitution says the protection as a homeowner gives you the ability to determine who comes in your house. Here, we are saying each day of unlawful occupancy shall be considered a separate violation, and you will be subject to Federal civil fines. That is what this bill does. That is what section 201 does.

And other people have looked at this. You have a number of groups that have come out in strong opposition to section 201 and support my amendment. I would like to read and enter into the record a letter from about nine different organizations, including the National Association of Home Builders, the National Association of Realtors, the Building Owners and Managers Association International, the National Apartment Association, and a number of others who say: "The proposal creates a new authority for the Federal Government to police building codes; holds developers and owners of buildings, including homeowners, liable for not reaching Federal energy efficiency mandates even if the buildings are presumably in compliance with applicable local building codes; and establishes a civil penalty for violators of this section of the bill. This measure would have a chilling effect on development and property transfer across the spectrum of

real properties."

Now, we are in a housing slump right now. Why would we want to be passing legislation that creates a Federal building code with civil penalties and tells people who live in their houses that they are unlawfully occupying that house if they don't meet this new Federal building code when they are in compliance with their own State's building code? This is ludicrous.

I will enter these letters into the record, including this letter from the National Association of Home Builders, which goes even further and talks about some of the legal problems with this and also the shortfalls, how this would adversely affect homeowners in this country who would be subject to this global warming police that would be created to come in and drag you out of your house and fine you in civilly in Federal court because maybe you wanted to protect your family at a higher level than the Federal Government.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Markey. [Presiding.] The gentleman's time has expired. The Chair recognizes the gentleman from Utah, Mr. Matheson.

Mr. Matheson. Thanks, Mr. Chairman. I move to strike the last word.

Mr. Markey. The gentleman is recognized for that purpose.

Mr. Matheson. I think when we look at section 201, there are certain aspects of that section that do warrant some change, and I will be offering an amendment to address those issues, because I believe that the Federal cause of action is a concern. But throwing out the whole section doesn't make sense to me, and that is what this amendment would do.

There are significant opportunities, and I think everybody knows it, in terms of energy efficiency in our country, sufficient opportunities to create lower costs for people who occupy these facilities, sufficient opportunities to lower energy use. This is one where, well, most everyone agrees: Energy efficiency is a good policy for us to pursue in this country.

Buildings represent roughly 40 percent of U.S. energy use. That is a big deal in our country. U.S. buildings are responsible for 10 percent of global greenhouse gas emissions. Section 201 sets targets for building efficiency that seeks to achieve savings of 50 percent above current codes by 2016. And local agencies can meet these targets with their own building codes or by the Secretary of Energy establishing codes.

These targets are feasible. These codes have been endorsed by a number of industry and consumer groups, including the Alliance to Save Energy, the ACEEE, the National Association of State Energy Officials.

I just think we ought to be careful here in terms of taking a meat axe and taking all of section 201 out. We ought to address what is problematic language. As I said, I will be offering an amendment that removes this new Federal cause of action against property owners for noncompliance, because I do think that is an overreach and we ought to address that issue. But I would recommend voting against this amendment, and I would encourage people to take a look at the amendment that I will offer after that.

I will yield back, Mr. Chairman.

Mr. Welch. Mr. Chairman?

Mr. Markey. Would the gentleman yield to the gentleman from Vermont?

Mr. Matheson. Sure, I would yield to Mr. Welch.

Mr. Welch. Well, I see that the gentleman from Michigan was seeking recognition. I will yield to him.

Mr. Dingell. Mr. Chairman, I thank you. I guess those bells tell you everybody ought to listen fast.

This is not the first time we have seen this amendment, nor is it the first time we have seen this language. For years, we have been trying to address this question in the energy bills that

we have been pushing through this committee. During the last Congress, we tried, and the real estate lobby got similar language out.

This is a very modest proposal. It is one which is needed if we are going to address the problems. Buildings are enormous users of energy. The best way to address this use is by seeing to it that it is properly done in the first place with a proper building code and to see to it that communities do not have their building codes tinkered with by builders and by real estate folks. The end result of that is that another building goes on the market which is not suitable to the needs of the country in terms of energy conservation.

This is, as I said before, a very modest proposal. The buildings that we are talking about last 120 years. Efficiency improvements pay for themselves in 5 to 7 years. And, when spread over a 30-year mortgage, the cost of efficiency improvements are more than covered by energy cost savings from day one.

I think that if we are going to be serious about this business of dealing with energy and energy conservation and climate change, we have no excuse but to do exactly what the bill would do here.

Inefficient buildings are a drag on the economy. Energy costs over the 30-year life of a mortgage could be as high as \$100,000, and a house that is more than 50 percent efficient could save \$50,000. This gives the owner of that house a much better

source of revenue for his home and his family than might meet the eye. Because kilowatt hours cost the same no matter whether you are rich or poor, energy costs are highly regressive and hit the poor folks the hardest. Inefficient homes can help keep the poorest families poor by keeping away from that family food, clothes, and everything else that they would spend that money for. This part of the population needs energy efficiency far more than does any other part of our society.

States and local governments normally adopt and enforce building codes but have traditionally done so for fire, wiring, plumbing safety, but not for energy efficiency. And if we are going to achieve the goal of energy efficiency and a massive savings for our people, doing so by seeing to it that the building codes represent what they should -- an honest mechanism for saving and conserving energy -- is the best way to do it.

So I urge my colleagues to support the bill as is, reject the amendment, and write a better piece of legislation.

I thank you, Mr. Chairman.

Mr. Markey. I think I already nodded that I would recognize the gentleman from Georgia.

Mr. Gingrey. Mr. Chairman, thank you. I move to strike the last word and support the amendment of my colleague from Louisiana, Mr. Scalise.

You know, overall it just seems to me that this section 201 is typical of the entire bill and particularly typical of the

title that we just finished with, and that is the renewable energy standards. It is a one-size-fits-all approach to the entire country. And what Mr. Scalise was pointing out is that there are differences in climate and geography and humidity and that sort of thing, and the type of windows that would be appropriate in Minnesota or the northeast of our country may not at all be appropriate for a building, either a residential or commercial building, in a moist, humid, hot south Louisiana.

So I don't disagree with the distinguished former chairman in regard to wanting to have energy efficiency and putting best practices forward and making recommendations, but the problem is, as I see it -- and I think that is the whole purpose of this amendment -- is there is no room for maneuvering.

Indeed, as the gentleman from Louisiana said, that Big Brother could come right in and fine you for every day that you live in your own home or go to work in your own office building if you are not in compliance with a Federal standard. I think this is way, way overreaching, and there needs to be some sanity brought to this issue.

And that is the same concern, as I say, that I had, Mr. Chairman, in regard to the renewable energy standards that are very, very burdensome for the Southeast when you do not include nuclear and hydro-electric power and where there is not a reliable consistent source of wind and solar.

In my State of Georgia, not even 1 percent -- maybe 1 percent

of our electricity right now is generated by renewable, and 60 percent by coal, and maybe 20 percent by nuclear. So here we are coming along with a massive 900-page bill. This title may be even more onerous than title I in regards to one-size-fits-all. I don't want to throw the baby out with the bath water, but I don't want to drown the baby in the bath water either.

And I yield back.

Mr. Markey. The gentleman yields back.

There are approximately 8 minutes left to go on three roll-calls on the House floor. So, at this time, we will recess, with the request to the members that they return here very rapidly after those roll-calls. There are many amendments that we have to process.

So we will take a recess, but please return as quickly as possible.

[Recess.]

RPTS MERCHANT

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The Chairman. The committee will come back to order.

The clerk will inform us of the pending amendment. It is the Scalise amendment.

The Clerk. Mr. Chairman, when the committee recessed, pending was the amendment offered by Mr. Scalise to title II.

The Chairman. Who wishes to be recognized?

Mr. Welch.

Mr. Welch. Thank you. Thank you, Mr. Chairman.

A couple of things. First, Mr. Scalise I think made some good points about enforcement; and Mr. Matheson addressed that with an amendment that we will have an opportunity to vote on. It will make it much more reasonable and realistic and user friendly.

So, Mr. Scalise, thank you for pointing those things out; and I am delighted that Mr. Matheson, I believe, has addressed them with the amendment that we are soon going to have an opportunity to vote on.

Second, I want to address some of your concerns about the one-size-fits-all. That is something I am certainly sensitive to. Being from a rural State where many of the large programs don't really fit us, I have a significant concern about that very, very question. But I have looked into how that applies to this bill, and it doesn't. This is not a one-size-fits-all Nationwide code.

First -- and this is tremendously important -- all States and localities could have their energy efficiency code certified if they meet the energy efficiency percentage improvement goals. So the power is going to be in the local community to do it the best way that they can and take into account, I believe, some of the concerns that you are not unique in having about wanting your folks to be able to take appropriate decisions for their own individual needs.

Second, the Secretary would only determine the national energy efficiency code after the normal code setting consensus-based organizations failed to adopt a national code that meets the efficiency targets.

Third, they would have unprecedented Federal support in attempting to reach those levels. That is a really important thing. A lot of times there are these unfunded mandates where one level of government tells another what to do and doesn't provide them with the resources to get the job done. We are not doing that here. We are really putting out a partnership plan that enables the States and the localities to do this at the local level.

Fourth, if both the States and the code organizations in fact fail, then the Secretary at that point has the power to determine the code. But he is instructed to base his code on the consensus codes that in fact have been proposed and previously adopted.

And, in fact, I am going hold up here the International

Energy Conservation Code. This is the 2009 version, and almost all of the States in Federal Government in fact use this code now as a baseline. And it is not a one-size-fits-all. It provides for six -- count them -- six different climate zones in which different variations of the energy efficiency code would apply. It has 11 pages that detail every county -- that is not every State, that is every county in the United States and indicate which of these microclimate efficiency codes should be applied to that county.

So far from being a one-size-fits-all, this is a one-idea-fits-all. And that is the question for us, do we believe in the idea of efficiency? And if we do, then we will give flexibility on implementation as long as one part of the country that is doing it their way is meeting the standards that achieve the one-idea-fits-all that we are going to save money, build jobs, and clean the environment starting with efficiency.

I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of his time.

Is there further debate?

Mrs. Myrick.

Mrs. Myrick. Yes. I have a question -- Mr. Chairman, thank you -- of counsel or whoever can answer it, regarding the Energy Star rating on windows.

I was told that in order to qualify for the tax credits

through this bill that the Energy Star rating that we used to have is no longer good on a particular window and that they have to move up to a higher-cost window in order to qualify. And what that will force people to do is buy a cheaper window that doesn't have any rating at all if they get no tax credit.

Counsel. Mrs. Myrick, first, there is nothing in this bill on tax credits because, of course, that is not in our jurisdiction. There is nothing in this provision that deals directly with windows. Windows would be one of the parts of a building shell that would be subject to code provisions. So if an efficiency code required a certain level of window that would have to meet code.

In many cases, one can improve windows and do something else less in order to meet the overall code target. But there is nothing in this bill that goes to the question at all -- or nothing in this section that goes to the question at all of Energy Star windows one way or the other.

Mrs. Myrick. Okay. Thank you.

The Chairman. The gentlelady yields back the balance of her time.

I would like to recognize the representative from Tennessee.

Mrs. Blackburn. Thank you, Mr. Chairman. I appreciate that.

I move to strike the last word.

I do have a question of counsel. I am going through the bill, page 233, if you want to look, starting at line 7 where it

talks about noncompliance. And it shows that through this -- I want to be sure I am understanding this right, because I think this is something we will hear from our State and local governments on. So I have kind of got a two-part question for you, and then I want to yield to the author of his amendment to address his striking of this section.

But the way I am reading this is that if a State is out of compliance in their building codes -- in other words, if they have not accepted the Federal mandate and have put that in place in their building codes, then year one they are out of compliance they lose 25 percent of the funds that would come under this American Clean Energy and Security Act of 2009 which would be cap and trade. Then year two it is 50 percent; year three, it is 75 percent. And then fourth year and all subsequent years for which the State is out of compliance 100 percent is gone. So I would like for you to address that.

And then, secondly, what happens if a local government is in compliance but the State government is not in compliance? What if a local government has said we accept these building codes, we have changed to meet the Federal standard, but then the State does not?

And I yield to you for the response.

Counsel. Thank you.

Taking the second part of your question first, because that is right in front of me, at the top of page 233 there is a local

compliance section that says, in any State that is out of compliance with this section as provided in subparagraph (a), a local government may be in compliance with this section by meeting all certification requirements applicable to the State.

Mrs. Blackburn. Yes. What happens to that local government's funding? Because --

Counsel. They will receive --

Mrs. Blackburn. Okay. Because the remainder of that provision is silent on that funding stream. Unless there is something there that I am not seeing.

Counsel. On page 237 in paragraph 2, it states that in the instance the Secretary certifies that one or more local governments are in compliance with this section the administrator shall provide to each such local government the portion of the emission allowances that would have been provided to the State.

Mrs. Blackburn. That is for the emission allowances. And are we to assume then that any other funds that would be directed to this would be unencumbered to that local government?

Counsel. Yes, the bill provides emission allowance value to support this process so that the States and the local governments do not have to depend on separate value --

Mrs. Blackburn. So that is not only the allowances but all funds.

Counsel. That would be our --

Mrs. Blackburn. Thank you. I appreciate that clarification,

and I yield to the author --

Counsel. I have the first part of your question.

Mrs. Blackburn. First part, yes, go ahead.

Counsel. The first part of your question goes to the timing of certification of State compliance. And a State would have 2 years after a target was set and 1 year after a code was adopted to become in compliance or to demonstrate adequate progress toward meeting compliance. And that is up to a 7-year period to receive the support even while out of compliance if they are making adequate progress toward compliance. And it would only be after the expiration of a full period that the reduction of emission allowance value to that State would begin. So it is a very long period to be in compliance.

Mrs. Blackburn. Okay. So, in total then for our local governments and our State governments, you are saying you would give them a 7-year window to meet this compliance.

Counsel. That is correct.

Mrs. Blackburn. Okay. Thank you for the clarification, and I yield to the gentleman from Louisiana the remainder of my time.

Mr. Scalise. I thank the gentlelady from Tennessee.

In the limited time I have got, I will say there is one off ramp, if you want to call it that, for States. It is on page 228. It says, for the purpose of meeting the target described in the subsection here, a State that adopts the code represented in California's title shall be considered to have met the

requirement.

So the only State mentioned in here is California. So, basically, if you follow California's code -- and we don't have earthquakes in Louisiana. I am sorry that they do, but our problems and challenges aren't the same as theirs.

But if you go to the Matheson amendment -- I just went to the desk and got it -- it still says in his amendment, the Secretary shall determine and adopt by rule what shall constitute violations and the penalties that shall apply.

So you still have a global warming Gestapo. They just take some of the language out so the people can't tell what it is really doing. So I think that it actually decreases some of the disclosure that is in this bill.

But the bottom line is this bill gives the Secretary to civilly fine citizens who are in their house -- the senior citizen who in the Midwest had a tornado destroy her house and wants to rebuild it, if she doesn't rebuild it according to this Federal Code, she is now going to be considered, according to their own language, an unlawful occupant of her own home.

Now, they just won't use that terminology anymore, but they will still give them the ability under that amendment to go and fine them. So the ability is there. We need to take this section out.

The Chairman. The time has expired.

I would like to ask a question of the gentleman. You said

"global warming Gestapo". What does that mean?

Mr. Scalise. It basically is the powers that are vested in the Secretary under Section 201 of this cap-and-trade energy tax to go into someone's house -- number one, to go in and then charge them. The government would be --

The Chairman. So if anybody does something you don't like, you call them Gestapo.

Mr. Scalise. -- but then if they are in violation, they would be able to -- the terminology you used in your own bill, Mr. Chairman, is unlawful occupancy. That is Gestapo terminology.

The Chairman. People who run other government agencies -- do you think the government is made up of Gestapo people?

Mr. Scalise. I don't think the government should be able to tell somebody if they are in their home and they are living in their home, abiding by all of the laws, that they are an unlawful occupant of their house. That is the terminology in the bill. That is frightening.

The Chairman. I would welcome the expression of your point of view, but I would like to request that perhaps that is a little strong to say Gestapo.

Mr. Scalise. It is strong language. I would be interested in seeing who came up with this term on page 236: "each day of unlawful occupancy".

The Chairman. The gentleman's time has expired.

Who else wishes to speak on the Scalise amendment?

The gentleman from Illinois.

Mr. Shimkus. Thank you, Mr. Chairman.

I do want to raise support of my colleague from Louisiana and just highlight a couple of the issues that he has raised.

We did have this debate on energy and energy efficiencies over the years; and one of the concerns was, where is the arbitrary line of where you delineate regional boundaries? Again, in the issue of heating and cooling, heat pumps versus natural gas furnaces versus all electric, who is best to decide? And I think again the problem that many of us have on this side is the centralized authority. Big government Washington dictates how best we are to live.

And the overall problem that I continue to have -- and this is the full committee mark, and for my colleagues who are on other committees and don't serve on the Energy in their quality subcommittee, these are things that I have said before. I mean, it is not -- this is isn't new, in essence, rhetoric for me.

But what we are doing with this bill is having the Federal Government tell individual homeowners what type of house they live in. We are going to dictate what kind of cars we drive. We are going to dictate what kind of fuels we use. We are going to dictate eventually how far away we live from the urban center. Centralization run amuck.

Why not allow, as my colleague from Louisiana has stated, the States, under the concept of federalism, to set building codes?

Why not allow States, under the concept of federalism, to establish building codes? Why usurp States' rights and intervene in the management of what State lawmakers do based upon the specific regions of the country that they represent?

Even the State of Illinois, which is a very large State -- again, many people know there is some areas it takes me 3 hours to drive to one point. Well, I live 5 hours from Chicago. So to get from the southern part of the State of Illinois, which is across from my colleague Ed Whitfield in Paducah, Kentucky, to get up to the Wisconsin border is probably an 8-1/2- to 9-hour drive. What different geographical regions do you go through from purely southern to midwesterner until you get up into the upper Midwest? Three different regions.

The State of Illinois has trouble establishing its own building codes to meet its own energy needs, and we are going to think the Federal Government is going to do better. That is the affront of this bill, an attack on federalism.

And as the folks in Louisiana, we had some talks about hurricanes last night. If the State of Louisiana decides to emplace building codes to protect it from those areas that would damage it the most, which they did 2 years ago, who are we to say no or revise those standards or say now you don't comply?

In fact, we use the traditional Federal Government activity of extortion by saying, if you don't comply, guess what, no money. If you don't comply, no money. And we do that all the time.

We were attacked numerous times when we were in the majority about our belief in States' rights and walking away. And I know counsel is smiling because they have heard this debate before.

Well, now we are back to that argument. Now it is our turn to say, when you guys were defending States' rights and attacking us, where are you now? You are in direct opposite of what you all did years ago to attack us for not applying to the principles of States' rights and the principles of federalism.

So I would caution you for people who believe in life, liberty, and the pursuit of happiness. I think the Founding Fathers, had they realized that personal property could be attacked by the Federal Government, would have written property in our Founding Father documents. And I wish they would have, because it is under assault.

The Chairman. The gentleman's time is expired.

Mr. Murphy.

Mr. Murphy of Connecticut. Thank you, Mr. Chairman.

I would refer the gentleman to the section and back to the points that Mr. Welch made. We are not setting one national code that usurps State building codes. In fact, we are setting national guidelines for building energy efficiency that will then have to be met by individual State codes. And the question is why. Why do that?

The gentleman brings up a good point. Why should the Federal Government set these national guidelines even if we are not

getting into the micromanagement of codes?

And it is very simple. It is very simple. The same constitution that Mr. Scalise put into the record at the beginning of his introduction of this amendment also suggests that this country and this Congress have an obligation to provide for the common defense. Set aside our national interest in combating global warming. Every single dollar that we send in energy costs to Iran, to Russia, to the Middle East compromises this country's national security. We have absolute national interests from an environmental and a national security side in saying to States, do this yourself; set the parameters so that it makes sense for your own State.

I don't want Connecticut's code to be like Louisiana's. I know it has to be different. But we have a constitutional obligation to provide for the security of this country. And whether we like it or not, the amount of energy that we continue to consume and the amount of money that we send overseas is interrelated to the defense and the security of this Nation.

So I understand the gentleman's caution that we shouldn't get into the business of telling every single State what to do. But we absolutely have a national interest in how much energy these buildings suck up, and I think it is the underlying reason why you see this amendment.

And I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of his

time.

Mr. Whitfield. Mr. Chairman.

The Chairman. The gentleman is recognized.

Mr. Whitfield. Thank you very much.

I think the bottom line here is we always recognize that there is a balancing act in any action of government. The fact is the people most affected by this piece of legislation, the National Home Builders Association, the Realtors Association, are all very much opposed to this provision of the bill.

I think Mr. Scalise's amendment should be supported. It is easy for us to sit up here and talk in macro terms. But when you are down there building these houses, building commercial buildings, trying to get the permits, trying to meet the requirements of this new Federal guideline, and there are penalties involved in not meeting these guidelines, particularly each day of unlawful occupancy, and that means a building that does not meet the code, shall be considered a separate violation. In the event a building constructed out of compliance has been conveyed by a knowing builder or seller to another person, that is another violation.

We have a retrofitting provision in here for all existing buildings so that we can bring them into compliance, and I don't think any of us have any idea of how much money that would cost. But for the Federal Government to be setting these guidelines and requiring States and local governments to meet these guidelines is

what I think is really micromanaging.

I think one of the common complaints all of us hear from builders and everybody else is the number of permits, the process that you have to go through to build a building. This is going to make it even more cumbersome, more difficult to deal with, more expensive; and I would urge support of the amendment of Mr. Scalise.

And I would yield to the gentleman from Arizona.

Mr. Shadegg. I thank the gentleman for yielding.

And I think it is fear for our constituents across America to listen to this debate and hear the good intentions of the members of this committee as they craft the wording of this bill, but it is more important for them to actually look at the language of the bill and to face the reality of the conflicting code and requirements and penalties that they are going to be exposed to. And if we think that good intentions expressed here about, well, nobody would really impose a uniform standard and nobody would enforce this in an unreasonable way, that simply is not the way that government is perceived out across America, and for good reason.

I believe that this is a microcosm reflection of this entire bill. We have chosen to decide that the marketplace and the cost of energy will not solve these problems on its own, that people won't make rational decisions to lower their energy bill, they won't reduce the cost of operating their companies, they will just

go on unless we mandate a solution.

My wife and I built a home 4 years ago. It is in Phoenix, Arizona. It is very, very hot in Phoenix, Arizona. Our prior home was extremely well insulated for its day. But I decided when I was building a new home that I would go above and beyond, and I put every form of insulation into that home that I could possibly think of.

My brother, who is a home builder in Tucson, Arizona, pointed out that there was a new reflective film that you could put on the underside of the roof rafters and that he was in homes where this was being used and the temperature on the side of the home where they had installed it was 5, 8, 10 degrees cooler than the temperature on the opposite side of the home where they hadn't finished the installation. I couldn't find a contractor in Phoenix that would install that form of insulation or that form of reflective material in the Phoenix area so I went, driven by the market forces, driven by my own paycheck, and found a contractor in Tucson. He found an associate in Phoenix, and we got it installed in my home.

I would caution you that this bill is becoming so bizarre and so Byzantine in its micro requirements of every single thing all the way down to we are setting standards which I think we are going to address in an amendment fairly soon on Jacuzzis, what Jacuzzis work and don't work. Well, are we going to look at whether a Jacuzzi in Phoenix, Arizona, must be a different

standard where it is 120 in the heat of the summer than one in, we will say, Massachusetts?

We are setting standards for art lighting. I don't know how many of you have art lighting in your homes, but I don't.

I think Mr. Scalise's amendment is headed in the right direction. I believe that micromanagement of the entire economy and of every aspect of these things is not in fact the solution to our problem and that market forces encouraging people to be prudent with their expenditures -- indeed, the idea of raising the cost of energy in this bill will achieve the goal you want without the prescriptive solutions of this legislation.

And I yield back the balance of my time.

The Chairman. The time has expired.

The Chair would like to now put the question on the Scalise amendment. The clerk will call the roll.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk.

Mr. Dingell votes no.

Mr. Markey.

[No response.]

The Clerk. Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

[No response.]

The Clerk. Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

[No response.]

The Clerk. Mr. Barrow.

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

[No response.]

The Clerk. Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space votes no.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

[No response.]

The Clerk. Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

[No response.]

The Clerk. Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns votes aye.

Mr. Deal.

[No response.]

The Clerk. Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt votes aye.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Radanovich.

Mr. Radanovich. Aye.

The Clerk. Mr. Radanovich votes aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden votes aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick.

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick votes aye.

Mr. Sullivan.

[No response.]

The Clerk. Mr. Murphy of Pennsylvania.

[No response.]

The Clerk. Dr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Dr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Dr. Gingrey votes aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Deal.

Mr. Deal. Yes.

The Clerk. Mr. Deal votes aye.

The Chairman. Have all members been recorded? Any members wish to change his or her vote.

If not, the clerk will tally the vote.

The Clerk. Mr. Chairman, on that vote, the yeas were 20; and the nays were 31.

The Chairman. Twenty ayes, 31 noes. The amendment is not agreed to.

Mr. Matheson, do you have an amendment at the desk?

Mr. Matheson. Yes, I do, Mr. Chairman.

The Chairman. On this title?

Mr. Matheson. Yes, I do. It is on title II.

The Chairman. The clerk will report the amendment.

The Clerk. The amendment offered by Mr. Matheson of Utah --

The Chairman. Without objection, the amendment will be considered as read.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. The gentleman is recognized to explain his amendment.

Mr. Matheson. Well, thank you, Mr. Chairman.

As we discussed during this debate --

Mr. Shadegg. Point of order. Mr. Chairman, can we get copies before it is discussed?

The Chairman. Mr. Matheson, if you will hold for a minute. The copies are being distributed now.

Mr. Shadegg. Thank you.

The Chairman. Mr. Matheson.

Mr. Matheson. Thank you, Mr. Chairman.

As we discussed, when it comes to the issue of building commercial structures there is a huge opportunity for efficiency gain. But the discussion also mentioned the notion that there is a fine line between bringing building codes up to par while avoiding an overreach by the Federal Government.

Many people are concerned about Section 201 which would insert the Federal Government into this issue more and particularly the issue of establishing a new Federal cause of action against the property owner for noncompliance. This is a significant departure from existing law in construction practice. It may have unintended consequences.

Building owners shouldn't be held responsible for the deficiencies of State and local building codes, some of which have

not been updated for years. When codes are tough, builders will build to those standards.

This amendment removes elements of the Federal enforcement language. It allows the Energy Secretary to address this issue in a public rulemaking, taking into account stakeholder concerns. It also allows the Secretary to take a hard look at the complex issue of Federal involvement with local building code violations. The Department will have the opportunity to assess similarities between local and State building code and property laws in order to avoid duplication.

I would describe this amendment as a good first step. Personally, I still have some concerns about the stakeholder process and the degree to which the government -- the Federal Government would be involved or should be involved in this issue. But I do think this is a good first step.

I would mention that this amendment is supported by the Builder Owners and Managers Association, the International Council of Shopping Centers, the National Association of Real Estate Investment Trusts, and the Real Estate Round Table.

Thank you, Mr. Chairman. I yield back.

The Chairman. The gentleman yields back his time.

Is there further discussion?

Mr. Barton.

Mr. Barton. I would like to ask the author and the counsel some questions.

If this amendment is accepted and adopted and actually becomes law, what would be the enforcement agency of a violation? Would it be at the local level, at the State level or the Federal level? Either.

Counsel. If a State or local code was certified, enforcement would be part of that code and be undertaken by the State or local code agency that had the code in effect.

If that did not happen and a Federal Code were adopted under this, then the enforcement would fall to the Secretary of Energy. But this amendment prescribes that he determines what kind of enforcement that would be through a rulemaking process with a 3-year deadline so that there is the opportunity for all stakeholders to help him determine what constitutes a violation and, if there is a violation, what kind of penalty.

Mr. Barton. Could that rulemaking result in the decision that the enforcement be at the local level?

Counsel. Under this statute, if this became law and we were in a position where there were a Federal Code, then it would not result in State enforcement of the Federal Code. But a State can at any time under this provision certify its own code, get that to be compliant --

Mr. Barton. I understand that portion.

Could I ask the author what his intent is here?

Mr. Matheson. I think the effort here is to get the stakeholders to the table and talk about what the best way is to

go about doing this. And it requires that the Secretary would have to determine if it requires any additional statutory authority and has to come back to this Congress to ask for it if they determine they need more statutory authority.

As I said, I think this a good first step. I may have some other issues in this, too, but I think this at least takes away the new Federal cause of action that I think was the most disconcerting aspect of the legislation as it is written right now.

Mr. Barton. With those questions answered, I think the minority is prepared to accept the amendment.

The Chairman. Let's proceed to a vote on the Matheson amendment. All those in favor of the amendment say aye; opposed, no.

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

Mr. Stearns, for what purpose do you seek recognition?

Mr. Stearns. Mr. Chairman, I have an amendment at the desk.

The Chairman. Is that amendment to this title II?

Mr. Stearns. That is correct, and I believe it has been in.

The Chairman. The clerk will report the amendment.

The Clerk. Amendment to the amendment in the nature of a substitute offered by Mr. Stearns of Florida.

Strike Section 204.

The Chairman. The gentleman is recognized.

Mr. Stearns. Thank you, Mr. Chairman.

Let me say to my colleagues on the majority side, when I had an amendment that was talking about labeling of utility bills to define what the cost would be for renewable energy and to see how much it would go up because of the implementation of this bill, a lot of the people on the other side said, no, they didn't want to have that labeling.

Well, now I think you can support this amendment, and I say this a little bit humorously. Because what this amendment does is delete a section of the manager's amendment which calls on a detail building energy performance labeling program.

Just to give you a little bit of idea of what the manager's amendment says, it talks about not later than 90 days after the date of enactment of this piece of legislation the administrator, which is the EPA, shall provide to Congress as well as to the Secretary of Energy and the Office of Management and Budget a report identifying all principal building types -- this is in the United States of America -- for which statistically significant energy performance data exists to serve as a basis of measurement, protocols, and labeling requirements for achieved building energy performance.

Well, this section goes on quite a bit; and it talks about all this complex matter of setting up labels that you can put on every house in America so that it will be identified whether it is energy conservation, energy efficient. So what my amendment does is eliminate this EPA regulation which is basically establishing

an Energy Star labeling on new and existing homes.

Now, think about that. All the existing homes in America will have to have this brand new Energy Star.

Now, this is an amendment that is supported by the National Association of Realtors. I have a letter from them, Mr. Chairman, and I ask unanimous consent that the letter from the National Association of Realtors be made part of the record, Mr. Chairman. Hopefully -- I asked this be made part of the record.

The Chairman. Without objection, that will be the order.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Stearns. Okay -- which outlines in detail their objection to this portion of the manager's amendment.

You know, frankly, my colleagues, if you have an older home and they put this Energy Star on it and it says your home ain't good, your home will be stigmatized as not only less energy efficient and an older property, but it is going to reduce the value of your home.

Now, reducing the value of your home at a time when many homeowners have seen their equity and their retirement savings vanish is not in the best, in my view, the best means of action; and we should not put forward this section. Because in 90 days the Secretary of Energy and the EPA are going to identify every home in America existing and try to put these labels on it.

Now, labels do not necessarily save energy; home improvements do. So let's say you get this label. Then immediately your house is degraded, and it has lost value. You don't have the money because you are unemployed or you don't have the money because you lost money in your 401(k). So you are going to read the label as a buyer and you are going to say, I am not going to take that house, whereas it might not scare you away otherwise.

Consumers would then have to voluntarily take the next step and act on the data that the EPA and the Secretary of Energy have come up with to install these energy saving measures. And it is going to have to be done voluntarily. They won't have the money.

There is no assurance that the buyers will install these measures once they successfully use a label at the closing to negotiate their home by discounting the price.

I just think this is not the way to go. It is hugely bureaucratic.

And the people on that side talked about my amendment when I talked about determining how much the renewables would cost on utility bills. They talked about the bureaucracy and so forth.

This is going to be very bureaucratic, and I am not sure there is data available to identify every single home in America to do this. Because the energy profile of a home varies dramatically from one to the next. It might be a house of historical, classical nature; and it might not be. There are so many variables involved.

So that is why I urge my colleagues to support this amendment, and it is supported by the National Association of Realtors. Thank you, Mr. Chairman.

The Chairman. The gentleman's time has expired.

Further debate on this amendment?

Ms. Harman. Mr. Chairman.

The Chairman. Ms. Harman.

Ms. Harman. Thank you, Mr. Chairman.

I first want to say that our colleague, Jim Matheson, offered an excellent amendment which we have accepted by voice vote. It was intended to meet some of the concerns that have been offered

by the realtor group about building labeling, and I think it was a responsible amendment, and I am very happy that it will become part of the base text.

In this case, however, Mr. Stearns, I think that adjustments have already been made to the base text which go a long way to meeting the objections of the realtors. I am sorry that they don't support what is now in the bill, but I just want to remind us what is in the bill and what changes have been made and speak in opposition to the Stearns amendment.

First of all, buildings represent 39 percent of annual U.S. energy use. That's a big deal, and so it matters that we make them as efficient as possible.

Second of all, the underlying text creates a national labeling model. It is optional, rating buildings energy efficiency, one that would make it easy to count carbon and energy costs similar to a nutrition label. I look at nutrition labels, and if I am buying a new home I would like to look at that label as well.

The realtors are very concerned that the program would be mandatory, and their concerns were met. The program is voluntary. States can opt in or not. It is basically a consumer right-to-know amendment, and the other side has been all about the little guy getting hurt. I think consumers should know the efficiency of places they are purchasing, and also they should have the opportunity to save money on their energy bills because

they buy more efficient or rent more efficient structures.

So let me conclude by saying that I think consumers deserve as much information as possible. This allows them to -- those who want energy efficiency, energy efficient homes to purchase those. Sellers may not only improve curb appeal but also improve energy efficiency in their homes that they are going to sell.

I think this takes us in the right direction, and it will make a huge improvement in our climate situation. So I urge rejection of the Stearns amendment and applaud the committee and the staff for accommodating the concerns of the realtors in the base text.

Mr. Markey. Will the gentlelady yield for just a second?

Mr. Stearns. Will the gentlelady yield?

Ms. Harman. Let me yield to Mr. Stearns and then Mr. Markey.

Mr. Stearns. I think the Matheson amendment was applicable to Section 201 and had nothing to do with 204, just to clarify.

Ms. Harman. You are right, but it had to do with buildings. And so you are right. It doesn't have to do with the specifics.

Mr. Stearns. Air space and material, yes, okay.

Ms. Harman. Mr. Markey.

Mr. Markey. I thank the gentlelady.

Buildings are responsible for 40 percent of greenhouse gas emissions. Seventy percent of electricity in the United States is consumed in buildings. And this a very good amendment. This is a voluntary program that we are talking about, a voluntary program

which empowers States to adopt measures that will make building energy efficiency and building energy costs transparent. It provides education and incentives to support building energy transparency.

But again, let me say this -- I can't repeat it enough -- this is a voluntary program that we are voting on; and if a State does not want to participate, that is their choice. But it is voluntary. And I thank the gentlelady for her leadership on it.

Ms. Harman. Mr. Chairman, just reclaiming my time for just a few second here. There are prototype programs already in operation in the U.S. that have been peer reviewed and are supported by builders as well as State and Federal governments. So it is clear that such a program can be accurate and effective in providing information. And there are established programs in Europe that do what the base text seeks to do. So I think we are making a big contribution here, and consumers will thank us for it, and I don't think that realtors are inconvenienced by this opt-in program.

Mr. Stearns. Will the gentlelady yield for one more?

Ms. Harman. Well, I have 30 seconds. Sure, I will yield.

Mr. Stearns. I can use it.

When you go to page 276 -- and Mr. Markey and yourself have indicated it is voluntary -- and it says a State may become eligible, well, when the States look at this and they realize that they are going to get money and they are going to get Federal

support, there are incentives for the States to adopt this. Because there is going to be a huge amount of direct Federal support -- and I am reading from the bill for the program -- and if the States comply they are going to get this money. And there is going to be temptation by the States to get this money, realizing they need it.

And yet when you go to look -- and I say to the gentlelady, if you look at different -- you know, you have such a diverse geographical climate region. You have single families versus multi-families and commercial buildings versus single occupant commercial buildings. I think it is just a nightmare, and I am afraid the States are not going to see this. So I don't want to have them tempted because of Federal subsidies for this program.

The Chairman. The time has expired.

Any further debate on this amendment?

The gentleman from Georgia.

Mr. Gingrey. Mr. Chairman, thank you.

I certainly support the gentleman from Florida's amendment. I haven't completely read all of Section 204, but if what the information that has been presented is accurate it would seem to me that if you had a labeling requirement for residential and commercial, both the homes and buildings, it should be on new construction and it should hold harmless existing construction for the very reason that Representative Stearns has outlined and for the very reason that the real estate agents across this country

are opposed to this part of the bill.

You can -- with all due respect to the gentlewoman from California, I think we at our own peril dismiss the opinion of the realtors in this situation.

And I think that, again, going forward on new construction, it makes sense, but on existing you certainly can encourage. And when people are in the market to buy a commercial building or a home, generally they are going to have someone that is going to advise them about a lot of things about the building -- how the heating, ventilation, air-conditioning system works, and does it need a new roof, and is there any evidence of termites, and also if the building is energy efficient or not. So I think we already have pretty well protected the consumer in that regard.

And there are incentives that exist for existing buildings to get tax breaks for upgrading, whether it is windows or what, low-water-flush toilets and things that would incentivize people to be environmentally friendly and to do the right thing.

But I mean this labeling I think is dangerous. I will say to the majority, if you feel that a label is important, then why didn't we accept the Blackburn amendment yesterday which would put a label on your utility bill and tell consumers in the interest of transparency how much this new cap and trade in title III is causing them to pay in regard to increased utility bills?

The Chairman. Will the gentleman yield?

Mr. Gingrey. So why is it not good for that, but it is good

for the other? It just doesn't make sense to me.

The Chairman. Will the gentleman yield?

Mr. Gingrey. I would be glad to yield.

The Chairman. Well, this labeling is going to be very helpful for consumers, because they can do something about making their homes more energy efficient. And there is some information that would be valuable because they know they can save money if they make changes that may not even cost all that much. So I think to strike this whole section doesn't really make sense. It is a voluntary one, consumers could get useful information, and I think people would want to know that information.

Mr. Gingrey. Well, reclaiming my time, Mr. Chairman, with all due respect, I just simply disagree with you; and I think we should strike the section. I think it is a bad idea. Somebody just came up with a bad idea. They thought they had a good idea. But when you look at it, as Mr. Stearns has and the realtors have, that the unintended consequences far outweigh any good, and for that reason I fully support this amendment.

And with that --

Mr. Stearns. The gentleman from Georgia, would you yield the balance?

Mr. Gingrey. I would be happy to yield the balance of my time to the gentleman from Florida.

Mr. Stearns. I just want to tell my colleagues, Mr. Markey says it is voluntary. Reading from the bill on page 280, there

are an authorization of \$50 million to the EPA administrator to implement this bill, and then the Secretary of Energy gets \$20 million. So, together, this program is a \$70 million program.

Now, I just, in a short amount of time, I want to ask counsel, when they talk about putting a label on every house in America with a Star, can you describe to me what this Star label looks like? Is it going to be the size of a fist? Is it going to be the size of a tire? Tell me a little bit about what this label would look like. Is it going to be so that you can see it from the road, you can see it from the highway or do you have to get up very close to see this Star Energy label.

Counsel. First, there is nothing in this section that directly requires this to be an Energy Star label. This is a separate program from the Energy Star program. The design contents, appearance, placement of the label is entirely up to the process that is set up for the EPA to study it, to look at how many different building types --

Mr. Stearns. So we could have 50 States have 50 separate Star labelings on the houses, whether it is an historical commercial building, multi-family, single family. So EPA will establish this, but each State will have the right. Will the State decide on what this Star label on your home looks like, or will it be each State?

Counsel. The way I think the program is intended to work is that EPA would design a prototype label, explain how it is to

work, use DOE data on building type consumption to --

Mr. Stearns. Last question, Mr. Chairman, for the counsel. Who decides whether this label is going to go on the front door, on the window, the back door, the chimney? Where is this label going to go?

Counsel. That is not in the statute, so that, too, would be up to administrative discretion and suggestions. Because it is a voluntary program, the States would certainly be able to place the label --

The Chairman. The gentleman's time has expired.

In the opinion of the Chair, we have had a very good debate on this amendment. I think members understand it. Let's proceed to the vote. All those in favor of the Stearns amendment, say aye. Opposed, no.

In the opinion of the Chair, the noes have it.

Mr. Barton. Mr. Chairman, I ask for a roll call vote.

The Chairman. You want a roll call vote. Let's go to a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak.

[No response.]

The Clerk. Mr. Engel.

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

[No response.]

The Clerk. Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

Mr. Melancon. Yes.

The Clerk. Mr. Melancon votes aye.

Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow votes aye.

Mr. Hill.

[No response.]

The Clerk. Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Murphy of Connecticut.

[No response.]

The Clerk. Mr. Space.

Mr. Space. Pass.

The Clerk. Mr. Space passes.

Mr. McNerney.

Mr. McNerney. Yes.

The Clerk. Mr. McNerney votes aye.

Ms. Sutton.

Ms. Sutton. Aye.

The Clerk. Ms. Sutton votes aye.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

[No response.]

The Clerk. Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

[No response.]

The Clerk. Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns votes aye.

RPTS KESTERSON

DCMN NORMAN

[3:44 p.m.]

The Clerk. Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal, aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus, aye.

Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

[No response.]

The Clerk. Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer, aye.

Mr. Radanovich.

Mr. Radanovich. Aye.

The Clerk. Mr. Radanovich, aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts, aye.

Mrs. Bono Mack.

Mrs. Bono Mach. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden, aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry, aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers, aye.

Mrs. Myrick.

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick, aye.

Mr. Sullivan.

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan, aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvslvania. Aye.

The Clerk. Mr. Murphy, aye.

Mr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn, aye.

Mr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Mr. Gingrey, aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise, aye.

Mr. Hall.

Mr. Hall. Aye.

The Clerk. Mr. Hall votes aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mr. Ross.

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

The Chairman. Mr. Murphy, have you been recorded?

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy votes no.

The Chairman. Have all members responded to the call of the roll? Does any member wish -- any member of the Republican side wish to change his or her vote, or the Democratic side? If not, let us tally the votes.

The Clerk. On that vote, Mr. Chairman, the ayes were 27 and the nays were 29.

The Chairman. 27 ayes, 29 noes. The amendment is not agreed

to. Mr. McNerney.

Mr. Stearns. Point of order.

The Chairman. The gentleman thinks he has a different calculation. Well, I will tell you what. We will start on the next amendment, and you go through and coordinate it with the staff and we will see if it is accurate. If it is not accurate, then we will come back and address it.

Mr. McNerney, you have an amendment to Title II?

Mr. McNerney. Yes. Thank you, Mr. Chairman. I would like to offer an en bloc amendment. This includes my amendment, as well as the amendments offered by Ms. Baldwin and Mrs. Christensen.

The Chairman. Without objection, the two amendments will be considered en bloc. Without objection, both amendments will be considered as read and the gentleman from California is recognized for 5 minutes.

[The information follows:]

***** INSERT 5-1 *****

Mr. McNerney. Thank you, Mr. Chairman, for recognizing me to offer this amendment which promotes water efficiency, reduced water use, and consequently reduce our Nation's energy consumption.

The amendment I offer today is based on H.R. 2368, the Water Advance Technologies for Efficient Water Use Act of 2009. This legislation was recently introduced by Representative Holt of New Jersey and has also been championed by Representative Miller of California. I would like to thank both of them for their leadership on this issue and note that they are strongly supportive of my efforts to amend this legislation.

The original bill also enjoys cosponsors from both parties and a broad coalition of stakeholders. Although water use may seem to be a distinctly different challenge from energy, the two issues are closely linked. Our country uses vast amounts of matter in energy production and it uses vast amounts of energy in producing drinking water, agricultural water, and water for other purposes.

For instance, in 2005, a report prepared by the California Energy Commission concluded that California uses 19 percent of the State's electricity and 30 percent of its natural gas for water-related purposes. Climate change is impacting the water supply of California and elsewhere. Reduced snow pack in the Sierras has led to a diminished fresh water supply throughout the

State, and changing weather patterns across the Nation pose serious threats for water use everywhere. Energy supply, climate change and water use are closely and inseparably linked.

My amendment includes provisions that will reduce water use, lessen the strain on water infrastructure, conserve energy used to pump, treat and transport water, and encourage water conservation.

Specifically, my amendment codifies the already existing Water Sense Program within the Environmental Protection Agency. This program is tasked with promoting voluntary labeling of products -- voluntary -- buildings, landscapes, and services that are water-efficient and high-performing. Similar to the Energy Star Program, the Water Sense Program is meant to ensure that consumers have information about water efficiency of the products they purchase. Empowering consumers with this information will help all of our constituents save on the utility bills and facilitate the realization of the energy and environmental goals this committee is working to achieve.

My amendment is a commonsense consumer-friendly initiative to conserve water resources, which will help our country reduce energy use as well as adapt to, mitigate the effects of climate change. This initiative has broad bipartisan support.

Concerning the handout, the EPA just reviewed the bill and got back with a number of technical corrections which are written in, handwritten in on the bill. So this bill is about water conservation, efficient water use. Water and energy are very

closely related. So I encourage my colleagues to look at this bill and support it as a part of the energy bill that we are considering.

With that, I yield the balance of my time.

The Chairman. The gentleman yields back his time or yields to another member?

Mr. McNerney. I am going to yield back, Mr. Chairman. I think Mrs. Christensen wants to strike the last word.

The Chairman. The gentlelady from the Virgin Islands is recognized.

Mrs. Christensen. Thank you, Mr. Chairman. Mr. Chairman, my amendment again aims to address the unique circumstances of the United States' territories, which are island communities and island economies, by adding a subtitle G to Title I. If the current energy infrastructure and energy development in the territories are not specifically addressed in this bill, again in this instance, my colleagues and I from the territories fear the underlying goals and principles of this bill will not be realized in our islands.

Furthermore, the inability to attain standards contained within this bill by the territories would have a lasting negative impact on our island economies. We do not need to further the disparity and economic and energy advancement between the territories and U.S. mainland. Instead, we should be continuing to work to reduce this disparity by providing the territories with

the tools and resources needed to improve energy efficiency and to work towards greater energy independence.

My amendment at its core adopts a pragmatic approach at finding a workable energy solution for our territories. This amendment is about providing our territories with the assistance to meet the standards this bill promises. This amendment would instruct the Secretary of Energy to establish an Island Energy Independence Team whose mission would be to work with local leadership to develop energy action plans for each of the territories. This team would consist of technical, policy, and financial experts that would examine the unique energy needs of each territory. The energy action plans for each territory called for by this amendment would take into account the long-term sustainability of territorial energy production and use and its intimate connection with the environment and economy of our islands.

My amendment recognizes that as islands, the territories are well-suited with opportunities to develop renewable and environmentally friendly energy resources, but, at the same time, face difficult technical and financial challenges to develop these resources.

The team would seek to identify strategies to reduce the reliance of expenditures on imported fossil fuels, improve the energy efficiency of power generation, transmission, and distribution and increase consumer energy efficiency. The team

would also seek to improve the performance of energy infrastructure of each territory through enhanced planning, education and training.

The resulting custom-made energy action plans that my amendment would implement would allow for the goals, ambitions, set forth in this bill to be achieved in the territories.

And I want to recognize the work of Congresswoman Bordallo of Guam and Congressman Pierluisi of Puerto Rico for their work on this amendment, and I urge its adoption.

Thank you, Mr. Chairman. I yield back.

The Chairman. The gentlelady yields back her time. Further discussion on these en bloc amendments?

Ms. Baldwin. Mr. Chairman, could I be recognized to strike the last word on my amendment?

The Chairman. The gentlelady is recognized.

Ms. Baldwin. Thank you, Mr. Chairman. The amendment I am offering is a result of collaborative discussions involving the NRDC, the World's Resources Institute, EPA, the Carbon Trust, and leading academics. It is aimed at addressing greenhouse gas emissions through consumer behavior; in particular, by measuring and disclosing the amount of greenhouse gas emissions that go into the making and use of a product. By getting this information, consumers can make informed choices about what they purchase.

This would be an entirely voluntary program. I want to emphasize that point, entirely voluntary. A carbon label can be a

sort of nutrition label for the environment. It allows consumers to be armed with the information they need to make a difference. Just as food labeling has changed the way we think about what we eat, a carbon label for consumer goods, including industrial products, food items, and household cleaners will provide us with information about the energy and environmental impact of products we buy. And not only can individual behavior be influenced, but product carbon disclosure and labeling provides a unique way of addressing some of the international competitiveness issues that we have been talking about, and influencing producers in China and India to monitor their emissions output.

Recognizing that there are many questions about how best to measure life cycle greenhouse gas emission, this amendment requires, as a precursor to a program, the EPA to first conduct a study into the feasibility of establishing a national program for measuring, reporting and labeling products or materials in the U.S. for their carbon content.

Further, upon conclusion of the study, the EPA is required to set up a national product carbon disclosure program which may involve a product label. Participation, as I stressed before, would be voluntary. The product carbon disclosure and labeling concept is not at all new. The Carbon Trust in the U.K. has taken a lead in establishing international standards for carbon measurement. Many familiar companies are already partnering with the Carbon Trust, including Tropicana Orange Juice, a Pepsico

product; Walkers brand potato chips; Huggies and Cadbury chocolates.

Japan, too, is carrying out carbon footprint labels on food packaging and other products. Consumers of Sapporo Black Label beer will be told how much CO₂ is emitted by the machinery used to plant barley and hops in drink production and transportation and up until the empty can is recycled.

Further, the California legislature is currently considered a voluntary carbon label bill. I want to show this as an example of Walkers chips. Not only do they have the nutrition labeling that we are so familiar with here in this country, but on this side we have their CO₂ label and it describes how much CO₂ is emitted, everything from planting the potatoes and the sunflowers that produce the sunflower oil all the way until it can be purchased. And I want to mention not only does this help drive consumer choices, but it does also inform manufacturers and producers so they can better understand where they can limit their greenhouse gas emissions.

As in Walkers example, they learned to their surprise that transportation was actually a minor factor, but some of the practices used in the planting of potatoes extracted a higher carbon impact, and they were able to take corrective action and reduce their own carbon footprint in the production of these products by 10 percent just by understanding it better.

So I would urge my colleagues to support this amendment and I

yield back my remaining time.

Mr. Barton. Mr. Chairman.

The Chairman. Mr. Barton.

Mr. Barton. I seek recognition. Strike the --

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Barton. I feel a little bit like, Mr. Chairman, I have gone to a church bazaar and bought the mystery package, not knowing what is in it.

The Chairman. Congratulations.

Mr. Barton. Well, what is in it are three disparate amendments that have no relevance to each other, other than they are all amendments to the same bill and even, apparently, the same title. One of them, the gentlelady from the Virgin Islands appears to correct some discrepancies in the territories, and that would be appear to be something that is worth doing.

Then our friend from California has offered a water rebate program that starts at 50 million a year and escalates to 150 million a year. That would in some sectors be a huge bill, and a major debate all of its own, dealing with water and water rebates. And it is just one of the three.

And then our good friend from Wisconsin has got a voluntary carbon labeling program which is mandated that it be studied and, if I understood her correctly, mandated that they make a decision whether to make it voluntary that people comply with it.

And my question on the carbon: If we knew the carbon

content, what would we know? What information does that give us?

So, Mr. Chairman, I am going to ask for a division, to divide the Christensen amendment and accept it or let you have a separate vote and then have a roll call vote on the divided en bloc amendments of Mr. McNerney and Ms. Baldwin.

The Chairman. Let us proceed first to vote on the Christensen amendment.

All those in favor of the Christensen amendment will say aye.
Opposed, no.

The ayes have it. The vote now comes on the other three --

Ms. Baldwin. Two.

The Chairman. Two, the other two en bloc amendments.

Mr. Shimkus. Mr. Chairman, there may be -- just to bring up the point that we are going to label homes, we want to label carbon in potato chips, but we don't want to label the climate effect on energy bills. That is what we are saying, right? We had the chance to -- we had a chance to amend the bill last night to say let us put in the energy bills of ratepayers what the increase to their electricity cost would be on climate. And the Republicans voted yes, labeling is good. Democrats voted, no, let's don't label. But now we voted to label homes. We now want to label potato chips.

I am concerned about the nutrition labeling for the ratepayer. I am concerned about the nutrition labeling for the taxpayer. When is the taxpayer going to know the cost of the

increase of this bill on their electricity rates? And I would think that maybe through this process, Mr. Chairman, we could work to an agreement if we are going to be labeling everything, that we would come to some agreement to label the electricity bill so that the ratepayer knows how much of this escalated cost will be about this legislation.

And that is why I feel so strongly to speak out against labeling potato chips when we won't label electricity bills. And I yield back my time.

The Chairman. We now proceed to a vote on the other two amendments en bloc. Mr. Barton indicated he wanted a roll call vote. We will proceed to a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. Aye.

The Clerk. Mr. Waxman, aye.

Mr. Dingell.

Mr. Dingell. Aye.

The Clerk. Mr. Dingell, aye.

Mr. Markey.

Mr. Markey. Aye.

The Clerk. Mr. Markey, aye.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo, aye.

Mr. Stupak.

Mr. Stupak. Yes.

The Clerk. Mr. Stupak, aye.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. Aye.

The Clerk. Ms. DeGette votes aye.

Mrs. Capps.

Mrs. Capps. Aye.

The Clerk. Mrs. Caps, aye.

Mr. Doyle.

Mr. Doyle. Yes.

The Clerk. Mr. Doyle, aye.

Ms. Harman.

Ms. Harman. Aye.

The Clerk. Ms. Harman, aye.

Ms. Schakowsky.

[No response.]Mr.

The Clerk. Mr. Gonzalez.

Mr. Gonzalez. Aye.

The Clerk. Mr. Gonzalez votes aye.

Mr. Inslee.

Mr. Inslee. Aye.

The Clerk. Mr. Inslee, aye.

Ms. Baldwin.

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin votes aye.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. Aye.

The Clerk. Mr. Weiner, aye.

Mr. Matheson.

Mr. Matheson. Aye.

The Clerk. Mr. Matheson, aye.

Mr. Butterfield.

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield votes aye.

Mr. Melancon.

[No response.]

The Clerk. Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow votes aye.

Mr. Hill.

Mr. Hill. Aye.

The Clerk. Mr. Hill, aye.

Ms. Matsui.

Ms. Matsui. Aye.

The Clerk. Ms. Matsui, aye.

Mrs. Christensen.

Mrs. Christensen. Aye.

The Clerk. Mrs. Christensen, aye.

Ms. Castor.

Ms. Castor. Aye.

The Clerk. Ms. Castor votes aye.

Mr. Sarbanes.

[No response.]

The Clerk. Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. Aye.

The Clerk. Mr. Murphy of Connecticut, aye.

Mr. Space.

[No response.]

The Clerk. Mr. McNerney.

Mr. McNerney. Aye.

The Clerk. Mr. McNerney, aye.

Ms. Sutton.

Ms. Sutton. Aye.

The Clerk. Ms. Sutton, aye.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. Aye.

The Clerk. Mr. Welch, aye.

Mr. Barton.

Mr. Barton. No.

The Clerk. Mr. Barton votes no.

Mr. Hall.

Mr. Hall. No.

The Clerk. Mr. Hall, no.

Mr. Upton.

Mr. Upton. No.

The Clerk. Mr. Upton, no.

Mr. Stearns.

Mr. Stearns. No.

The Clerk. Mr. Stearns, no.

Mr. Deal.

Mr. Deal. No.

The Clerk. Mr. Deal, no.

Mr. Whitfield.

Mr. Whitfield. No.

The Clerk. Mr. Whitfield, no.

Mr. Shimkus.

Mr. Shimkus. No.

The Clerk. Mr. Shimkus, no.

Mr. Shadegg.

Mr. Shadegg. No.

The Clerk. Mr. Shadegg votes no.

Mr. Blunt.

[No response.]

The Clerk. Mr. Buyer.

Mr. Buyer. No.

The Clerk. Mr. Buyer votes no.

Mr. Radanovich.

Mr. Radanovich. No.

The Clerk. Mr. Radanovich votes no.

Mr. Pitts.

Mr. Pitts. No.

The Clerk. Mr. Pitts, no.

Mrs. Bono Mack.

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack votes no.

Mr. Walden.

Mr. Walden. No.

The Clerk. Mr. Walden, no.

Mr. Terry.

Mr. Terry. No.

The Clerk. Mr. Terry, no.

Mr. Rogers.

Mr. Rogers. No.

The Clerk. Mr. Rogers, no.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

Mr. Sullivan. No.

The Clerk. Mr. Sullivan votes no.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. No.

The Clerk. Mr. Murphy votes no.

Mr. Burgess.

Mr. Burgess. No.

The Clerk. Mr. Burgess votes no.

Mrs. Blackburn.

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn votes no.

Mr. Gingrey.

Mr. Gingrey. No.

The Clerk. Mr. Gingrey votes no.

Mr. Scalise.

Mr. Scalise. No.

The Clerk. Mr. Scalise votes no.

Mr. Boucher.

Mr. Boucher. Aye.

The Clerk. Mr. Boucher votes aye.

Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

Mr. Gordon. Aye.

The Clerk. Mr. Gordon, aye.

Mr. Green.

Mr. Green. Aye.

The Clerk. Mr. Green, aye.

Mr. Rush.

Mr. Rush. Aye.

The Clerk. Mr. Rush, aye.

Mr. Melancon.

Mr. Melancon. Aye.

The Clerk. Mr. Melancon, aye.

Ms. Schakowsky.

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky votes aye.

Mr. Engel.

Mr. Engel. Aye.

The Clerk. Mr. Engel, aye.

Mr. Sarbanes.

Mr. Sarbanes. Aye.

The Clerk. Mr. Sarbanes votes aye.

Mr. Ross.

Mr. Ross. Aye.

The Clerk. Mr. Ross, aye.

Mr. Space.

Mr. Space. Aye.

The Clerk. Mr. Space, aye.

The Chairman. Have all members responded to the call of the roll? If the clerk will tally the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 34, the nays were 21.

The Chairman. 34 ayes, 24 noes. The amendments are agreed to.

We now recognize Member Sullivan.

Mr. Sullivan. Yes, Mr. Chairman, I have an amendment.

The Chairman. You seek recognition to offer an amendment. Is it to Title II?

Mr. Sullivan. Yes, sir.

The Chairman. And the clerk will tell us whether it has been sitting around long enough.

Mr. Sullivan. I hope so.

The Clerk. Amendment offered by Mr. Sullivan of Oklahoma --

The Chairman. Without objection, the amendment will be considered as read. The gentleman is recognized.

[The information follows:]

***** INSERT 5-2 *****

Mr. Sullivan. Thank you, Mr. Chairman. This amendment adds the use of transit buses that are powered by alternative fuel, including natural gas, to a substitute amendment. As we have this energy debate, considering a huge energy proposal here today and yesterday and tomorrow, that we need to look at all types of energy and all of the above strategies, it is very important. And right now, we need to make sure we don't shoot the horse that we are on until we get a horse to get on.

One of the things we need to do as we do that is focus on using natural gas as a bridge fuel until we determine how we can get through a lot of this. It burns clean. We have a 120-year reserve of natural gas in this country. And we are not utilizing it the way we should. We use 21 million barrels of oil a day, roughly, give or take, and 69 percent of that 21 million barrels of oil is used for transportation fuel.

So one of the things we need to do is focus on the vehicles, getting more natural gas vehicles, having a new infrastructure in place to distribute that natural gas. We do have a pipeline infrastructure in place; 1.5 million miles of pipeline in place. We don't have the gas -- the gas stations don't have it all, but we need to have incentives for that.

In Europe and Asia and other countries around the world, they have roughly 10 million natural gas vehicles that they use. Here in the United States, we have 110,000 natural gas vehicles. If

you look at the gas equivalent it is a no-brainer that we do this. If we are looking at addressing greenhouse gas emissions, natural gas is something we certainly need to look at as a bridge fuel until we get the technologies in place so we can use all these different kinds of fuels, and then we can have these standards in place, renewable standards in place.

I move adoption of the bill.

Mr. Engel. Would the gentlemen yield? I am wondering if I could ask the gentleman, because I am a little bit confused, as to what this actually does. Is the gentleman proposing to use alternative fuels for transit buses? Is that essentially natural gas you mentioned?

Mr. Sullivan. Alternative fuel, natural gas, getting the conversion, using natural gas. We do use it in a lot of fleets right now, a lot of buses. That is really something that we need to capitalize on more. I was talking about cars and stuff, but this does address mainly fleets, buses.

Mr. Engel. Well, I would say to the gentleman that I would like to know more about his amendment, but I think that this country should be moving towards alternative fuels, whether it is natural gas or whether it is ethanol or methanol. I think we are crazy if we don't try to end the stranglehold that big oil has on us. If we don't wean ourselves off of foreign oil, it is not going to be very good for this country. And, again, while I support the thrust of what the bill does, I think any more

emphasis that we can have on alternative fuels as a transition until we are finally energy independent I think is a good thing. And if the gentleman is just saying that he is for more alternative fuel, then I think the gentleman is moving in the right direction.

Mr. Markey. Would the gentleman yield?

I thank the gentleman. I thank the gentleman for his amendment. I think it is a good amendment and I think it points us in the right direction, and that means towards the future. And I thank the gentleman for his work.

Mr. Sullivan. Does that mean you are going to accept it? Are you going to accept it instead of -- it is a good amendment.

The Chairman. Good amendment, good author.

Mr. Sullivan. Right, right.

The Chairman. Good bill.

Mr. Sullivan. I wouldn't go that far. Also, since you are in this good mood, I do have four amendments I would like to submit en bloc on the first title later on, if I can. And it deals with the same type of issue on natural gas vehicles.

The Chairman. We look forward to reviewing them.

Mr. Shimkus. Would the gentleman yield?

I just ask the question, since I know natural gas is a big issue in Oklahoma, what is the effect of changing the depletion allowance in the Tax Code proposed would do to the exploration of natural gas?

Mr. Sullivan. That is a good question. The proposal to get rid of the depletion allowance and intangible drilling costs is very detrimental to the independent producers that are in my State and around the country, kind of the backbone of our industry; not big oil or big gas or anything like that. They are market takers, not market makers, so they don't have anybody to pass it on to. In essence, if that was taken away from these independent producers, it would mean -- it would be catastrophic to their business.

I think the proposal will generate about \$31 billion to use that for other purposes, and I think that is something we should not do. We need to keep those in place. It is very important and it would be very detrimental to the industry because there is no one to pass --

Voice. Would the gentleman yield? I think the Majority is going to accept your amendment if we stop talking about it.

The Chairman. Are we ready for the question?

All those in favor of the amendment, say aye.

Opposed, no.

The ayes have it. And the amendment is agreed to it.

Mr. Welch. Mr. Welch, are you seeking recognition or is that just a false rumor?

Mr. Welch. No. I am seeking recognition.

The Chairman. The gentleman is seeking recognition for the purpose of offering an amendment?

Mr. Welch. That is correct. I have an amendment --

The Chairman. To this title? The clerk will report the amendment.

The Clerk. Amendment offered by Mr. Welch of Vermont and Mr. Inslee of Washington and Ms. Harman of California. At the end of subtitle B of Title II, add the following; Section 215 --

The Chairman. Without objection, the amendment will be considered as read and the Chair recognizes Mr. Welch.

[The information follows:]

***** INSERT 5-3 *****

Mr. Welch. Thank you, thank you, Mr. Chairman. This amendment offered by Mr. Inslee and Ms. Harman is about wood stoves and it is based upon two things: One, in many States, including Vermont, folks use wood stoves to provide efficient heat. But the old stoves do cause some significant discharge of carbon emissions. And this is about establishing a certified stove program with the goal of reducing particulate emission.

The specifics in this is that it would apply to wood stoves, pellet stoves or a fireplace insert that use wood or pellets for fuel which meet EPA standards of performance for new residential wood heaters. The EPA Administrator is directed under this amendment to create a program to replace wood stoves that don't meet the standards of performance. Many of the older stoves didn't have catalytic converters and the updated technological devices that help reduce the emissions. Funding would be used towards installation of a replacement certified stove and necessary replacement of or repairs to relevant items necessary for safe installation.

Twenty million dollars would be available for fiscal year 2010 through 2014, and 72 percent would be designated for use to carry out the program under this section nationwide; 25 percent would be designated for use to carry out the program under this section on lands held in trust for the benefit of federally recognized Indian tribes; and 3 percent would be designated for

use to carry out the program under this section in Alaskan Native villages or regional and village corporations. I yield back.

The Chairman. Who seeks recognition?

Mr. Walden. I do.

The Chairman. The gentleman from Oregon is recognized.

Mr. Walden. I can't resist, because I haven't talked about woody biomass in the last few hours. But once again, in my part of the world we have a lot of this that would be converted into something called pellets, which are referenced in these stoves. That is what we are trying to fix in the bill, so that the material that comes off of these forests can be converted into pellets, that that generation of energy would be considered renewable.

And I guess that is a frustration I am going to continue to express until we get it right here; that the underlying bill treats pellets from forestlands from mature forests that are dead, dying, beetle-infested, whatever is nonrenewable. And I don't get why there is that distinction when the same wood off private land is treated as renewable.

So I just put that on the record. Hopefully we will be able to go back to Title I of this bill, get one more crack at the mature forest line, because I think people have figured out I was right yesterday. And we can correct this problem. So I yield back.

Mr. Barton. Mr. Chairman.

The Chairman. Mr. Barton.

Mr. Barton. I seek recognition to strike --

The Chairman. The gentleman is recognized.

Mr. Barton. Mr. Chairman, I want to ask the author of the amendment some questions before I make a decision on the amendment. I would assume that many people in Vermont and New Hampshire heat their homes with these stoves. They are their primary source of heat; is that correct?

Mr. Welch. I am among them.

Mr. Barton. You are among them. Do you have an idea for what percentage of the population this is the primary heating source?

Mr. Welch. Actually, I don't. It is a minority. Vermont is actually one of the States with probably the highest percentage of folks who use this either as primary or, most often, as I do, as supplemental.

Mr. Barton. Okay. I am confused. Most people in Vermont use this as their primary heating source or most people use it as a supplemental heating source?

Mr. Welch. Probably, strictly speaking, most people don't use it.

Mr. Barton. Don't use it at all. Well, the highest percentage, I believe, of folks who use wood stoves is in Vermont. We have a lot of people who use it, but it -- the primary heat for us is oil and hot water.

Mr. Walden. Would you yield to me?

Mr. Barton. I would be happy to.

Mr. Walden. Just real quickly. The hospital in Harney County just converted last year to a pellet-burning heating system. They reduced their energy costs, I want to say, by two-thirds. At the same time, they dramatically increased the size of the hospital. Our Department of Environmental Quality said that the emissions are so minor from this that they are hardly -- they can't even detect them. They are using a pellet heating system I think they got out of Sweden. Provides all their hot water, all their heat.

They were petroleum-based, and so it has replaced all of that, and they take out a garbage can standard -- residential garbage can load of ash every 2 to 3 months. That is the residual which they then put in gardens, and it is a soil emulsifier. And so they reduce their emissions. They are not using petroleum. They cut their cost by two-thirds. This is a wonderful technology that I think we should encourage. And I have a lot of constituents did --

Mr. Welch. I appreciate you saying that. We have had some schools, and I am sure the same is true for you, the property taxes are just a wicked burden. They are trying to figure out ways to cut down on the cost. We have a clean energy fund in Vermont and schools can apply for grants and they put in these wood chip or biomass systems. And what is interesting is that the

students have played a major role in this, getting involved not just in the idea, but the actual implementation and they have had to deal with practical problems. But the new technology is like you say, they are clean as well as using the biomass --

Mr. Walden. We are working off the Ranking Member's time here. I will be brief. I have a school that did the same thing. They went to hog fuel, which is wood chips, and dramatically reduced their oil use to heat their school. But the trouble is the only chips they could get they have to truck in from, like, 60 miles away off private forestland. They are surrounded by Federal forestland that needs treatment, and that is why I am saying there are some excellent things we could do to stop using petroleum, start using wood, that would be efficient, better for the environment and reduce fires.

Mr. Barton. Reclaiming my time, I am of a mixed opinion about this. I am a strong supporter of the technology. Former Congressman Charlie Bass of New Hampshire is a big advocate of wood pellet stoves. But apparently this is not a primary heating source for many people, it is more of a secondary heating source. And I have tried to carefully read the amendment. Mercifully, it is written in language that normal people can understand. So I want to compliment you on that, that it is not too technical.

As I understand, you want to create a program that all wood stoves sold have to meet certain performance requirements, but you also want to set up a program that if a stove doesn't meet that

performance requirement, you can apply to the EPA for funding to replace it. And you have authorized \$20 million, if I understand it correctly, for such replacement program.

You also have a provision that sets up some mandatory emission reductions program, but they are not to be considered mandated. So I am going to mildly oppose it. I think it is a little bit of overkill. But I am certainly not opposed to wood pellet stoves. So I am going to oppose the amendment.

The Chairman. Are we ready for the question?

Mr. Shimkus. Mr. Chairman, just a quick question. To the author of the amendment, on page 6 on certification, in any settlement agreement regarding an alleged violation of environmental law, would you -- is there a definition of specific aspects of law or just any environmental law?

Mr. Welch. It says "any environmental law" and that is what it is, the laws that are currently on the books, Mr. Chairman.

Mr. Shimkus. And I would say normally we would be in reference to the Clean Air Act. Is that the author's view, that this is in response to environmental laws with respect to the Clean Air Act?

Mr. Welch. Yes. The issue that we have --

Mr. Shimkus. There are a lot of environmental laws out there.

Mr. Welch. Right. No, this is all about trying to get cleaner stoves. It is kind of like cash for clunkers. There are

a lot of folks -- by the way, I found out that 30 to 50 percent of Vermonters have wood stoves; some secondary, some primary. Some have old wood stoves, and this would be to encourage them to get the kind of clean-burning facilities that Mr. Walden was referencing.

Mr. Shimkus. Yeah. And I appreciate that. I just wanted to make sure there was a clarification. And your intent is the Clean Air Act, the environmental laws with respect to emissions, not any other environmental laws?

Mr. Welch. That is my intention, Mr. Shimkus.

Mr. Shimkus. Yield back, Mr. Chairman.

The Chairman. Time has expired. Ms. Harman.

Ms. Harman. Yes. I am proud to cosponsor this amendment. And I have just checked again with staff, and my understanding -- I would like Mr. Welch to correct me if I am wrong. It is not a mandatory program, it is a voluntary program; am I correct?

Mr. Welch. You are correct.

Ms. Harman. So I would just hope that Mr. Barton might reconsider his soft opposition. Why I like this is, as he said, it is an interesting technology. It is used in regions of the country. For example, in northern California in some regions of my State. I know my own brother has a wood burning stove, and there could be good ones and not good ones and technology matters.

And it also resembles other features of this bill that most of us like, the sort of cash-for-clunkers approach. The idea is

to push the technology, to come up with something that is good, and then to encourage people through a system of incentives to get rid of their clunkers.

And so I applaud Mr. Welch. I am glad he wrote an amendment in English, and I just hope that Mr. Barton is reviewing the fact that it is a voluntary program and maybe he will decide he can accept it.

Mr. Inslee. Will the gentlelady yield?

Ms. Harman. Yes, I yield to Mr. Inslee.

Mr. Inslee. Very briefly, two points. I just want to make sure Mr. Barton realizes this. There are tons of folks that use this, at least in the West, as a primary heating source, particularly in rural areas. There are

9 million of these stoves out there that are quite old and inefficient. Now they are making these stoves that are 30, 40, 50, 60 percent more efficient. So this is really a step forward; it is just not a marginal improvement.

The second point I want to make is it isn't just the Clean Air Act that is at stake here. Stoves do emit black carbon soot, and soot has been sort of a new culprit in global climate change because when it drifts north and lands in the snow, it absorbs heat and melts snow. And it is one of the culprits in the Arctic problem. So there are a couple of good reasons to do this. Thank you.

Mr. Shimkus. If the gentleman will yield. Then we need to

find a clarification from the gentlelady. Then I need to know what this environmental law -- as the author of the amendment replied, to the Clean Air Act.

Ms. Harman. Let me, if you don't mind, ask Mr. Welch to reply to you.

Mr. Welch. Well, the answer to that is yes. But also the laws are the laws. Whatever laws are on the books, all of us have an obligation, obviously, to be in compliance with. But this is all about clean air.

Mr. Barton. Well, I missed something. I heard somebody offer to change the amendment to make it voluntary. So what --

Ms. Harman. Reclaiming my time. I believe it is voluntary, Mr. Barton. I am trying to get that point corrected by the bill's sponsor. It is not corrected. But I am trying to get the bill's sponsor to take you through the amendment and show you that it is a voluntary amendment.

The Chairman. Mr. Welch.

Ms. Harman. Yield to Mr. Welch.

Mr. Welch. Thank you. Just to clarify a little further for Mr. Shimkus and his good question, what that section is really about is giving the EPA authority to allow someone who is found to have been in violation of some environmental law for pollution to essentially avoid a fine by installing the proper equipment. So it is an incentive and actually some help to provide that person or that entity with a clean stove. And that is a win-win. Folks

who have stoves like them, having a cleaner burning stove is more efficient and, obviously, better for the environment. So that is the goal, Mr. Shimkus.

Mr. Barton. Who has the time?

Ms. Harman. I have the time. And I will --

Mr. Barton. On page 2 at the bottom of the page, on line 20 under the heading Establishment, it says the Administrator shall establish and carry out a program. "Shall." That is not "may."

Ms. Harman. Mr. Barton, it says to assist in the replacement of wood stoves, et cetera. It doesn't say that one has to replace a wood stove. It is creating an option which is going to drive the technology, just the way the cash-for-clunkers program drives the technology and encourages consumers to use more energy-efficient appliances; in this case, stoves.

Mr. Barton. All right. It just says "shall."

The Chairman. The Chair would like to know the status of the amendment. Ms. Harman's time has expired. The Chair would inquire, has the amendment been perfected?

Mr. Welch. Yes.

The Chairman. Are we ready for the question on the amendment?

All those in favor of the amendment say aye.

Well, let's do it this way. Show of hands.

All those in favor of the amendment, please hold up your hands. The clerk will count the vote.

All those opposed to the amendment, please raise your hand.
The clerk will inform us of the tally of the show of hands.

The Clerk. Mr. Chairman, by the show of hands, the division vote was 25 ayes and 4 noes.

The Chairman. 25 ayes and 4 noes. The amendment is agreed to.

Mr. Shimkus. Mr. Chairman, parliamentary inquiry. First of all, the question is, was this amendment perfected in the legislative process?

The Chairman. Is this a parliamentary inquiry?

Mr. Shimkus. I am not a lawyer, but it is an inquiry into the parliamentary procedures of the committee of whether you had asked if the amendment had been perfected. My question is, did we --

The Chairman. Will the gentleman yield to me?

Mr. Shimkus. I would.

The Chairman. I wasn't following the debate that closely. It sounded like there is some question of confusion as to what -- whether they -- somebody wanted a change in it or not, or whether it was voluntary or not voluntary. So I thought that maybe there was perhaps a suggestion of language. But it seems to me that there was a meeting of the minds for those who were listening.

Mr. Shimkus. As you know, I was following it fairly closely. My question is, in this process of the environmental law, if someone is against Federal law on a Superfund, would installing

wood stoves be -- the proper word is not "mitigation," but --

The Chairman. If the gentleman would permit.

Mr. Shimkus. -- "compliance."

The Chairman. Mr. Welch, would you listen to his question, because I would like you to respond to it and then I will move on.

Mr. Welch. I am listening. I will even try to understand it.

The Chairman. That is all the Chair wants to do.

Mr. Shimkus. The Superfund Act, which is bad stuff in the ground, we have all dealt with it. Any environmental law is a part of this amendment, so you could comply with mitigation of the Superfund environmental law by the wood stove purchasing rebate fund.

Mr. Welch. Well, you know, the way it works with laws is they are supposed to be reasonably read. And let us say there is an Exxon Valdez spill off Alaska. They are not going to be able to mitigate that by putting in a wood stove somewhere. This really relates to the actor, the person with the stove and the impact of the use of that stove, perhaps the cause of the pollution as a result of it being inefficient.

So my understanding of this, and it was intended to be drafted this way, Mr. Shimkus, is that this is all about the Clean Air Act, where there may be a violation of clean air regulations; and a person who is the, quote, violator is given the opportunity to mitigate rather than to pay a fine.

Mr. Shimkus. If the gentleman will yield. But that is the problem. You are now using the Clean Air Act, and we have already decided that is all environmental law. That is the whole problem; the amendment is trying to get definition.

And, Mr. Chairman, this is -- there are a lot bigger fish to fry. I would like to move on. But I think I would like as this process moves forward, that on this issue we would clarify it, because it is not clear; because every time we try to debate what this means, we use a different terminology for environmental law.

And I yield back my time.

The Chairman. The gentleman yields back the balance of the time, and there will be further discussions as this bill moves on on this issue, so members can make sure they feel comfortable with it. But a majority did feel comfortable to vote for it and it is adopted.

Mr. Radanovich, I understand you have some amendments en bloc you wish to offer. I want to recognize you at this time.

Mr. Radanovich. Thank you, Mr. Chairman. I have three amendments at the desk labeled Shadegg 71 B, C and D, and I would ask unanimous consent that all three amendments be considered as read.

The Chairman. Without objection, these three amendments will be considered as read. And we will now proceed to yield the gentleman 5 minutes.

[The information follows:]

***** INSERT 5-4 *****

Mr. Radanovich. Thank you, Mr. Chairman. I appreciate that. Mr. Chairman, in my time in Congress, I have admired many States who seem to come together and unify over various issues. And, you know, as in California, we have 53 members. It is a diverse State. I love the State but sometimes it is hard to come together on things. And I asked a friend from another State, I said, how do you do it, how do you come together? He said, we use California as an example of how not to be.

And the reason why I mention that, it is in this spirit that I offer these three amendments, because they speak to different efficiency mandates that were lifted from the California Efficiency Standard Code as it relates to electric spas, mandates for water dispensers, and mandates for food-holding cabinets. And the amendments that I offer would strike the efficiency standards and the mandates for all three of these items.

I do have a question of counsel. If I may, I would like to ask how many spas would currently meet this requirement -- or would be affected by this requirement, can you tell me, in the United States?

Counsel. I don't have that information.

Mr. Radanovich. Thank you, counsel. I appreciate that. If you don't have the information, why are we implementing the standard? Wouldn't it be wise before we implemented a standard like this that we know the impact on CO2 output?

Counsel. I do have information, a calculation of how much energy and CO2 output would be saved.

Mr. Radanovich. On spas and water dispensers and food-holding cabinets?

Counsel. Yes. This is an estimate that was created by -- I believe by the industries involved and by the American Council for an Energy Efficient Economy. So it is not a committee number, but there is information in --

Mr. Radanovich. I am sorry. Who were the ones that provided the information?

Counsel. The manufacturers involved, apparently, and the American Council for an Energy Efficient Economy.

Mr. Radanovich. Who is the American Council for an Energy Efficient Economy?

Counsel. That is a nonprofit energy efficiency group that was one of the groups involved in negotiating and agreeing to the consensus standards that are in this section, along with the manufacturers who make these products.

Mr. Radanovich. Do you know who they are funded by or have any idea who that group is funded by or headed up by?

Counsel. I don't know their funding sources.

Mr. Radanovich. The reason why I am offering these amendments, Mr. Chairman, is that, again, California is not the State to be modeling yourself after. As you know, yesterday there have been some budget initiatives that have failed, and the State

is now \$42 billion in debt. And I think it is in large part because California has become a nanny State in that they are trying to do too many things to too many people, and the State global warming bill is trying to do too many things for everybody on the planet just by itself.

The result has been large increases in costs to consumers and businesses in California. For the first time we have got more people leaving California than are entering California. And we have got more business leaving California because of the unfavorable business climate. These are examples, and nitpicking small examples of why things are so tough in California and why an onerous global warming initiative, if you apply nationally what has been done in California, you are going to experience the same problems we are in balancing the budget and running out of money. And so it is in that spirit that I offer these three amendments and --

The Chairman. Will the gentleman yield back?

Mr. Radanovich. I yield to the gentleman from Arizona.

Mr. Shadegg. I would like to ask counsel, there is a similar provision in the bill that sets standards for art lighting. That is, lighting placed on art objects in residences. Do you have an estimate of how much energy is consumed? I believe you just -- you do have for some. Do you happen to have one for art lighting consumed in residences?

Counsel. The table that I have has an estimate for the

portable lighting consensus agreement within which the art lighting part is a part. But I don't have a separate estimate.

Mr. Shadegg. Did you say portable lighting?

Counsel. I am not interested in portable lighting. I assume art lighting is fixed to the art object or to shine on the art object. But you are saying art lighting is within that category?

Counsel. If you can move the art object, I guess you move the light as well.

Mr. Shadegg. Thank you.

The Chairman. The gentleman's time has expired. The Chair recognizes himself.

These sections enact new standards for a variety of appliances, including outdoor lights, which will save immense amounts of energy. There are also several crucial improvements to the appliance standard setting process that will enhance the process. Appliance standards are one of the most effective energy efficiency policies. The standards already on the books will save over 400 billion by 2030, according to the American Council for an Energy Efficient Economy. The new standards in the bill will cut emissions by almost 12 million metric tons of carbon dioxide per year by 2020.

In the absence of Federal standards, States can set their own efficiency requirements. Consensus agreements like those not only ensure significant energy savings, but also provide certainty for manufacturers who sell appliances throughout the country.

Industry wants us to put these standards in place.

I have a letter from the Association of Pool and Spa Professionals giving their support to our bill. They say, quote: Having a uniform national standard is easier for our members to implement than having a patchwork in which some States have standards and some do not. End quote.

So these standards may make a great joke for some people, but real businesses, people who make their livelihoods out of this business, want their products to be energy efficient.

RPTS JURA

DCMN MAGMER

[4:45 p.m.]

The Chairman. So I would hope that we would not accept these en bloc amendments.

And, without objection, the letter that I referred to will be made part of the record.

[The information follows:]

***** COMMITTEE INSERT *****

Mr. Radanovich. Will the chairman yield?

The Chairman. I would be happy to yield.

Mr. Radanovich. Mr. Chairman, I thank you for yielding to me.

I have been informed that the manufacturers want it because it increases the cost of their machines to the caterer on the street who is trying to make a living and to the people that are providing water coolers to their employees. It just increases cost to the consumer and to the little guy. And then that is why I think these mandates ought to be lifted.

The Chairman. Reclaiming my time. I think the little guy likes to know that when you buy an appliance or use any appliance that efficiency standards are in place, that they are reducing their carbon footprint. They are going to be much more efficient in their use of energy. It could well save them money as a result. And they can't make appliances more efficient. The manufacturers are the ones who make appliances more efficient.

I think that we have seen when we have had efficiency standards in place that the costs are not exorbitant at all and the results are a major plus. So rather than have a patchwork of State standards, I think the national standards makes sense. You may want to doubt the -- you may just want to attack industry and say that they are trying to make more money out of it. But the Association of Pool and Spa Professionals do believe that the

provisions in the bill make a lot of sense; and I think that they are a committed to making pools, spas, and hot tubs more energy efficient. I would like to help them accomplish that goal and not strike out the provisions.

I have some time remaining; and if the gentleman from Connecticut wishes, I would be glad to yield to him.

Mr. Murphy of Connecticut. If the gentleman would yield for a moment, with respect to the issue of cost, I think the exact opposite happens here. You have State standards right now that create a very unlevel playing field for these manufacturers. And one of the reasons why they, as I understand it, came to the table here and asked for a national standard was because they have a lot of costs built in right now potentially creating different products for different markets and different standards set State by State.

So by creating a uniform standard, frankly, you have the ability to have a double win for consumers to have both a product which is going to cost them less money in energy usage but also a product which could cost less because these manufacturers don't have to produce ultimately 50 different products for 50 different set of standards. They can produce one product.

So I think, to the gentleman's concern about cost, the result of this could be a much lower cost for consumers.

The Chairman. A very good point.

Who wishes to be recognized?

Let's go to Mr. Terry, and then he can yield to you, Mr. Radanovich. If not, I will recognize you.

Mr. Terry. I appreciate it, and move to strike the last word.

It was interesting in discussion with counsel -- and perhaps it should be vetted out a little bit more -- but that the lighting section -- and I don't disagree with Mr. Waxman, Chairman Waxman, that I think there will be some efficiencies through this new Federal mandate, but that an outside organization, a consumer group, is the one that provided the information and wrote this section. And I am just curious as to how many other outside groups and environmental groups wrote other parts of this bill.

For example, there has been a suspicion that an outside group, the NRDC, helped write, if not most, all of the next section we are going to discuss. And I was just curious about that, counsel.

Mr. Weiner. Would the gentleman yield before counsel answers?

Mr. Terry. Yes.

Mr. Weiner. Because I just want to make sure you characterized counsel's answer earlier. He was just asking where the statistics that were quoted came from.

Mr. Terry. They were provided by a consumer group.

Mr. Weiner. Well, actually, no. The answer was an organization that also includes members of the industry. But the

answer was not that they wrote the section of the bill.

Mr. Terry. And I will reclaim and yield back to you, Mr. Weiner, that how much of this bill was written by the NRDC? And who was in the room when it was written?

Seeing that you won't answer, I will yield to Mr. Buyer.

Mr. Weiner. Point of order, Mr. Chairman.

The Chairman. Who is raising a point of order? Please state your point of order.

Mr. Weiner. Mr. Chairman, point of order. I think it is appropriate for counsel to lend expertise on the bill. But to be a foil for political questions I think should be directed to the chairman.

Mr. Terry. You were the one that was speaking.

The Chairman. Excuse me. The Chair would prefer to be the signal.

Mr. Terry. I yielded to Mr. Buyer anyway. Was it Buyer that wanted the time? Mr. Radanovich.

Mr. Radanovich. Normally, I think that I would just want to respond that if you want business leaving your State as it is in California, then continue to think that these stringent mandates on manufacturing are actually going to reduce cost to consumers. It is baloney.

Use California as an example. Look at what is happening in our State. We are losing jobs. We are \$42 billion in debt. We are leading the Nation and the world in our global warming policy.

Thank God that our carbon footprint is being less. And if we continue down this path, you will have a crippled State economy that can't accomplish anything, let alone solve global warming.

So if you want business leaving your State, then continue to think that mandates like this are going to reduce cost to consumers and make everybody happy at no cost, because it just won't happen.

Thank you, Mr. Chairman.

The Chairman. I guess we have a disagreement.

Mr. Terry. Reclaiming and yield back.

The Chairman. Ms. Harman.

Ms. Harman. Thank you, Mr. Chairman.

I am not a nanny, but I am a grandma. And I am proud to be a Californian, as I know you are, Mr. Radanovich. But I think blaming our State's fiscal problems on the cutting-edge green technology programs in California is palpably silly, and I do want the record to show that that is how I feel.

I am also aware of how some of the provisions in this bill did get drafted, at least with respect to outside help, which some of us sought because we may not have all the technical competence to know what a good glide path is, for example, to better outdoor lighting standards.

But there was a coalition involving environmental groups, something called the ACEE, which is the Coalition for Energy Efficiency, which is an industry group, and then the affected

businesses. And it really was a model process that reflects I think how we should develop a consensus on environmentally forward policies that also create standards that industries can meet.

And one of the priorities we had -- I have been involved in some of this, not the standards for bottled water dispensers, hot food cabinets, and Jacuzzis, which are the subject of this amendment. But I have been involved with Mr. Upton in the lighting standards, both indoor and outdoor.

I think that we all have tried to achieve something that can lead to increased manufacturing in the United States of the products we are regulating.

So this is a win-win. This is a more efficient technology made in the USA that will lower costs, energy costs for consumers.

So that is, in answer to your question, what the process was. And I think it was a good process. And the fact that California is inventing cutting-edge standards, which we then adopt nationally, I think is something our State should be proud of.

I would be happy to yield.

Mr. Radanovich. I thank the gentlelady from California. We both love our State. We both love the wine that is produced there.

Ms. Harman. Yes, we do. Thank you very much for that.

Mr. Radanovich. That is apparent. But California is the most expensive place to do business in the United States, and it is a fact that business is leaving California in droves.

Now, you may not be able to get away with blaming the global warming initiative in California solely, but it certainly is a part of the expensive business climate. And if you want to increase manufacturing in the United States, then you don't want to copy what is happening in California, because business is leaving. If you adopt --

Mr. Weiner. Would the gentleman yield?

Mr. Radanovich. No, I will not.

Mr. Weiner. The gentlelady controls the time.

Mr. Radanovich. If you adopt what is happening in California, business will leave the United States.

Mr. Weiner. Would the gentlelady yield?

Ms. Harman. I would be happy to yield.

Mr. Weiner. I think we have just heard in consecutive speakers from the Republican side someone who is lamenting the idea that the public interest groups that represent environmental concerns have written too much of the bill. And now the gentleman from California seems to be objecting to your answer that members of industry helped write this section.

The fact of the matter is there are enlightened members of the business community who I think understand their own self-interests, and I thought it was generally the Republican ethos to listen when business says this is the things we have need.

They have asked for these things. This is kind of one hand

clapping. You are standing up for a sector that has helped write this section and has expressed their desire to have it. Who are you defending at this point?

Mr. Walden. Would the gentlelady yield?

Ms. Harman. I would be happy to yield.

Mr. Walden. I will try to make this quick.

Maybe the best course of action here is for those who were in the room writing the bill to be disclosed so the rest of us know who it was. That was a huge issue when Dick Cheney had people in the room writing the energy bill. I am trying to figure out who was in the room writing this bill. Disclosure is a good thing --

Mr. Weiner. Would the gentlelady yield?

Mr. Walden. -- on the different segments of the bill.

Ms. Harman. Respond to that, and then yield.

Mr. Weiner. I think that is right. We should find out who in the insurance health care lobby wrote the Medicare Part D bill. I have been trying to learn that ever since that thing passed.

Mr. Walden. So disclosure is a good thing.

Mr. Weiner. Absolutely. Let's rock and roll. And I think the members of this committee have written this bill --

Ms. Harman. Reclaiming my time.

The Chairman. The time is controlled by the gentlelady from California.

Ms. Harman. Thank you, and I would just like to reclaim my time and respond to Mr. Walden.

I think I have disclosed and Mr. Upton has disclosed over the time we have debated these amendments exactly who was helpful in developing a consensus, a ground-breaking consensus between industry and environmental groups. And I would yield to Mr. Upton just to put on the record who has helped us with what.

Mr. Radanovich. And I have no problem with that. I think disclosure is a good thing.

Mr. Upton. We worked with many industry groups to get the standards that we adopted in the 2007 bill and, again, with the outdoor lighting on this one as well.

Ms. Harman. Thank you.

Mr. Upton. And debated the indoor amendments before this committee at some length and had strong supporters, including Former Speaker Hastert.

Ms. Harman. And bipartisan support on this committee.

Mr. Chairman, I yield back.

The Chairman. Time has been yielded back.

Are we ready for the vote?

The gentlelady from Tennessee, Mrs. Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman.

I just cannot resist, with all this discussion about disclosure and about making certain that people know who is participating in writing what bill and whose self-interest it is for. Last night, when we had the opportunity to disclose to the American people and the American taxpayer on their electric bills,

on their automobiles, at the fuel pump, on their food what this legislation is costing them, the majority side chose to vote "no." So I guess we want everybody to know everything about this except what it is going to cost. And the American taxpayer wants to know what this bill is going to cost.

With that, I yield back.

I reclaim my time and yield to Mr. Walden.

Mr. Walden. I thank you.

The Chairman. Let's hear about the forests.

Mr. Terry. That is Walden.

Mrs. Blackburn. I may reclaim my time on that.

Yield to the gentleman.

Mr. Terry. Greg wants to insert woody biomass into this discussion, and I just want to -- sorry.

I wanted to expand on the gentleman from New York City's comments. I do think there is times when you need the input from industry. The Council had stated that they were provided the information. I think all of us need to consult with people. But it was Mr. Weiner and others that had characterized any consultations that may have occurred with the bill that he referenced and then exaggerated it, too, that they wrote it.

So I think it is appropriate, especially under these circumstances, because, frankly, there has been signs that the National Defense Resources Council was in fact the author of the next title that we are going to get into. In fact, I know of one

instance where someone was sent to the National Defense Resources Council to talk about a change to title III. Not to staff. Now, maybe they were just seeing if the NDRC would talk to the chairman about changes, but there has certainly been a buzz about that. So I think it is a fair question.

And I yield back the balance of my time to the gentlelady from Tennessee.

Mr. Buyer. Would the gentlelady yield?

Mrs. Blackburn. I yield to Mr. Buyer.

Mr. Buyer. For purpose of open disclosure, there were five of us that created the Medicare drug discount card program and also created the health savings accounts. Three of us are sitting here in the room right now. John Shadegg, Joe Barton, and myself are the only three remaining out of the five. It was a very lonely moment when we put that together, because it was just the five of us and it was our staff. We wouldn't get any help -- I say to the gentleman from New York who is so inquisitive, we didn't get any help from anyone from the outside. So you know when you write --

The Chairman. If the gentleman would permit, are you going off track on the amendment that is before us?

Mr. Buyer. I am responding to an allegation. Actually, I am responding to an inquiry from the gentleman from New York that for years he has never known who was in the room. I just want him to know that there are three of us who are here that, when we put

together the drug discount card program and created health savings accounts, we did it ourselves.

The Chairman. Is this a disclosure or a confession?

Mr. Buyer. Well, I will accept responsibility, because it has been a good program to the benefit of seniors.

I yield back to the gentlelady.

The Chairman. The gentlelady still has a minute. Are you willing to yield it back?

Mrs. Blackburn. Mr. Chairman, I am grateful for the time; and I will yield back the remainder of my time.

The Chairman. I thank the gentlelady.

Are we ready to go forward and vote on this?

Then let's proceed to the vote. The clerk will call the roll. Those in favor of the Radanovich amendments en bloc, say aye. Those opposed will vote no.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

[No response.]

The Clerk. Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel.

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

[No response.]

The Clerk. Mr. Gonzalez.

[No response.]

The Clerk. Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon votes no.

Mr. Barrow.

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space votes no.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

[No response.]

The Clerk. Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

Mr. Hall. Aye.

The Clerk. Mr. Hall votes aye.

Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns.

[No response.]

The Clerk. Mr. Deal.

[No response.]

The Clerk. Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt votes aye.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Radanovich.

Mr. Radanovich. Aye.

The Clerk. Mr. Radanovich votes aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden votes aye.

Mr. Terry.

[No response.]

The Clerk. Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan votes aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Dr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Dr. Gingrey.

[No response.]

The Clerk. Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes nos.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal votes aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns votes aye.

Dr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Dr. Gingrey votes aye.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

The Chairman. Have all members responded to the call of the roll?

If no member seeks recognition, the Clerk will tally the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 22; and the nays were 34.

The Chairman. The ayes were --

The Clerk. Twenty-two. The noes were 34.

DCMN NORMAN

The Chairman. Twenty-two ayes, 34 noes. The amendment is not agreed to.

We have some votes on the House floor. We will recess to respond to those votes and return -- the Chair is mistaken, it is not a vote.

Mr. Space, you wish to be recognized?

Mr. Space. Yes, Mr. Chairman. I seek recognition in order to engage in a brief colloquy.

The Chairman. The gentleman is recognized for 5 minutes.

Mr. Space. Thank you, Mr. Chairman. I would like to engage in a brief colloquy with my friend from California, Ms. Harman, whose work has been tireless and effective in bringing to this bill some progressive and important efficiency measures regarding both indoor and outdoor lighting.

However, I do wish to note that my district in Ohio is one which still depends on manufacturing for thousands of jobs, and one of our larger manufacturers in the district makes luminaires for outdoor lighting. This company's representatives have told me that they are concerned that the outdoor lighting provisions and standards in this bill move too fast and too far, and potentially could force the company to close a major plant in my district.

Will you, Ms. Harman and the Chairman, agree to work with me to ensure that the outdoor lighting standards do not impose undue

burdens on U.S. manufacturing and help save American jobs?

Ms. Harman. Thank you for yielding to me, Mr. Space. I can assure you that the goal that I know Mr. Upton shares is to promote manufacturing of more efficient light bulbs and luminaires in the United States. That is the whole point behind our section 211, which follows closely on the consensus section we were able to draft for indoor lighting, that is now law, that was in the 2007 bill.

And discussions with key stakeholders, including the manufacturer in your district, are ongoing; and significant progress has been made. Many of the negotiators are the same people with whom we worked on the 2007 indoor lighting consensus, and I am sure that we will -- I am absolutely confident that we can address the problem that your manufacturer is facing, and hopefully lead to better jobs, manufacturing better products in your district.

Mr. Space. I thank the lady for her hard and good work and her assurances, and yield back.

Ms. Harman. If I could just make one other point, Mr. Space. And that is that the bill would save, as written, 58 billion kilowatt hours of electricity every year, a little more than 1 percent of all the electricity consumed in the United States. Put another way, it would be equal to the annual output of 16 typical coal-fired power plants. And there is an enormous range of groups that endorse section 211.

I do want to just state for the record, in response to an earlier question of Mr. Walden, that the bill is supported by the National Electrical Manufacturing Association NEMA, which represents the entire industry; and that a number of firms, especially Phillips, were very helpful as we prepared the bill, as was the NRDC. And these are consensus standards that the industry and environmental groups support.

And, of course, Mr. Space and others on this committee, a goal is to promote manufacturing in the U.S. and save American jobs.

Mr. Upton. Will the gentlelady yield?

Ms. Harman. It is Mr. Space's time.

Mr. Space. I yield.

Mr. Upton. I would just like to add to this brilliant colloquy, if I might. That is, that we noted that the standards that we changed in the 2007 bill, if they applied to the rest of the world, we would actually reduce carbon by 550 million tons from the indoor lighting changes. This is another step forward in that degree, and was a worthwhile separate bill that we introduced. I am glad that it is included.

Of course, we want to work with the gentleman from Ohio and all States to try and keep the jobs here but, more importantly, bring jobs back that have left, building these other light bulbs. And we have already seen that happen with the standards that we changed on indoor lighting that take effect in 2012.

Mr. Space. I thank the gentleman for his input and find it refreshing that we agree on something.

Mr. Upton. We don't agree on the Buckeyes, but other than that.

Mr. Walden. Would the gentleman yield?

Mr. Space. Certainly.

Mr. Walden. Because I concur and appreciate the input. And in fact, my home State of Oregon, I think, has installed on a per-capita basis more fluorescent lights than anybody else. And so we have had enormous energy savings. And these little things add up and they make a big difference, and I commend you all for your work on them.

Mr. Space. I thank the gentlemen. Yield back.

The Chairman. The gentleman yields back his time.

We are now looking to the Republican side of the aisle. And, Mr. Terry, I understand you have an amendment?

Mr. Terry. Yes. I have an amendment.

The Chairman. And that is to title II, and it meets the qualifications on the time period. So the clerk will report the amendment.

Mr. Terry. Yes, it does. And, by the way, it is Terry 044.

The Chairman. Let's have the amendment.

Mr. Terry. And it does comply. It has been here since yesterday. Sorry, wrong one. Changed up on you. Which one did you think I was offering? Because maybe I will. Just kidding.

The Clerk. 42.

Mr. Terry. I am going to stick with 44.

The Clerk. Amendment offered by Mr. Terry of Nebraska. In section 822 of the Clean Air Act, as added by section 223, at the end of subsection (a)(2) add "International indirect land use changes --

The Chairman. Without objection, the amendment will be considered as read. And we will wait a minute as it is being distributed.

[The information follows:]

***** INSERT 6A-1 *****

The Chair recognizes Mr. Terry for 5 minutes.

Mr. Terry. Thank you.

This is going to be even less lively and exciting as light bulbs and Jacuzzis, but I have got to educate some of my colleagues because they have probably never heard of the international indirect land exchange or land use.

This all derives from biofuels. This is a big package of not only energy independence but reducing carbon emissions.

What the EPA is doing right now with biofuels is taking a life cycle all the way from creation of the seed, and growing that plant to be used as seed, all the way from the then planting for the use of a biofuel to weed control, spraying, all of those type of things, transportation of harvest, transportation, all of that; and then saying that, because of the carbon that is part of this life cycle and that some -- whether it is soybeans for soy diesel or corn for ethanol or ostensibly even for cellulosic using algae and other things, they make a leap of logic that really defies logic, in that because part of corn or soy was used in the making of a biofuel, they leap to a logic saying that, therefore, somewhere in South America or Central America or Madagascar or wherever, that a similar acre of land has now been displaced from rain forests or prairie that absorbs, and now we have to offset that acre of land that has been mysteriously displaced because of an acre of corn that was used for biofuels in Nebraska.

First of all, it doesn't make a lot of sense. Let me go through why this is silly that the EPA even has a rule on this. In order to protect biofuels, we need to adopt this language to prevent them from doing the international indirect land use philosophy and rule here.

First of all, genetically modified organisms have increased the amount of starch that is used or that is inherent in a kernel of corn used for ethanol, meaning that --

Mr. Shimkus. Mr. Chairman, the committee is not in order. It is really too loud, and this is really specific stuff.

The Chairman. The committee will come to order.

Mr. Terry. And I can understand why, because this is not sexy stuff, accusing the bill of being written by outside environmental. This is more in-the-weeds stuff. But so to sit there and say acre for acre, when they don't even understand how a little bit of corn is used to create the gallon of ethanol or biodiesel, it doesn't take into account that even the residual, the distilled grains, still are sent to livestock operations for feed. So that isn't counted into the process here.

The ag industry anticipates that the volume of grain per acre is going to increase by 55 percent over the next 10 to 15 years, whereas EPA is saying that it is only going to go up something like 10 or 15 percent. And the whole point is that we are adapting and being much more efficient in the creation of biofuels to the point where it is not logical.

It is absurd to sit here and say that an acre of land of corn or soybeans is going to require a foreign country, then, to have to plow into the rain forest and create an acre to replace that acre of so-called food, which is, by the way, feed for livestock.

So, for example, are we going to say that if Brazil plows under some ground and eliminates an acre, that it is not because of the economy in Brazil, but because Nebraska used some of their corn for -- or Iowa or Indiana or Ohio or anywhere else, where some of their livestock feed may have gone into biofuel?

So this is important that we lay this to rest right now. And I would encourage my colleagues to support this important pro-farm, pro-ag amendment.

The Chairman. The gentleman's time has expired. Who seeks recognition on the amendment? The gentleman from Illinois is recognized.

Mr. Shadegg. This really isn't a very important amendment. In the history of renewable fuels, especially ethanol, is that ethanol got its market entry through the Clean Air Act Amendment of 1990. We then successfully moved to change the debate to move ethanol renewable fuels in the energy security debate. And that is why, under EAct in 2000, that we addressed an issue of doing the only thing that we have done in this country to decrease our reliance on important crude oil, and that is push for renewable fuels. So in EAct we passed 7.5 billion gallons requirement by 2012. Then the new Congress, the Democrats, in legislation last

cycle took 36 billion by 2022.

And the reason why -- my Democrat colleagues can join in. I think the reason why is because we knew we wanted to decrease our reliance on imported crude oil. We weren't willing to bring in more drilling of our own crude oil. We knew that we had to do something in the energy fuels debate, so the Democrat Majority, along with some of us, supported the increase to decrease our reliance on imported crude oil.

Now, it is important to remember that for electricity generation, we are an independent Nation if you consider North America. But for fuels, we are highly dependent upon energy. Our only response to the fuels debate has been renewable fuels. What this bill does is destroy renewable fuels, because of what Mr. Terry has addressed in this indirect land use in international arenas in foreign countries that we cannot control.

So if we want to decrease our reliance on imported crude oil, and if my colleagues in the past had been strong supporters of renewable fuels, especially ethanol, and really this segues into the cellulosic debate, then this provision on indirect land use will not accomplish the goal. In fact, it hurts and destroys it.

If we want to talk about the automobile industry, what has the automobile industry done to respond to our push to support renewable fuels? What they did is they have moved aggressively into producing flexible fuel vehicles. And we have told them to do this. This is a perfect example, my friend from Detroit, of

why they are so tired of us micromanaging their businesses; because here we say build these new cars, make them flexible fuel vehicles. And guess what? We are not going to have renewable fuels because of this bill in the indirect land use calculation that my colleague, through his amendment, is trying to change and perfect.

So here is a good amendment, especially if you have supported renewable fuels in the past. And the Democrat Majority did in the last Congress, aggressively expanding the renewable fuel use. Actually, expanding it further than a lot of us who have been championing this debate thought was fair and really wise. But the reason why I believe you did it was because you couldn't go anywhere else to say we are decreasing our reliance on imported crude oil.

Now, this bill attacks renewable fuels. This bill will make it more difficult. This will actually move to in essence bankrupt, really, in the Midwest, the people who put money in these ethanol refineries who are farmers in cooperative ventures that have risked a lot because of the signals that we have sent from Washington to say, hey, we need to reduce our reliance on imported crude oil.

So if you have supported renewable fuels in the past, especially in the last Congress with that great expansion, and you are from an agricultural sector that has in essence profited by the movement of this government, you really need to support this

amendment; because without this amendment, this destroys the renewable fuels market.

And I will yield my remaining 20 seconds to Mr. Terry.

Mr. Terry. I thank you. I can't stress enough, to put the responsibility on biofuels to have to now come up with the money to buy land in a foreign country is absurd. This is a way that you kill biofuels. So we need to settle this right now. This bill has several sections that embraces biofuels. Let's protect the work product that we have done here. I yield back.

The Chairman. The gentleman's time has expired.

The Chair recognizes himself in strong opposition to this amendment. It would take a law that we just passed, the Energy Independence and Security Act, that required renewable fuels that reduce greenhouse gas emissions be compared to the fuels they replace. So we set in effect that Congress required EPA to calculate the quantity of greenhouse gases produced by renewable fuels over its whole life cycle from initial production to final combustion. So the law specifies that this analysis must include direct emissions as well as significant indirect emissions.

Now, we want to do both, and EPA is processing now -- they have put out a proposed rule, they are getting reactions to it. They are trying to base it on the science to find out what is the best way of handling the matter. And while the EPA is doing what Congress directed it to do, this amendment would prevent any analysis based on the science.

If there are efforts that -- these efforts are underway to look at a scientific peer-review process. There is a growing body of peer-reviewed scientific literature on the subject that has already established that indirect emissions comprise a significant portion of the total life cycle of biofuels.

So if we don't include or address indirect emissions through the land use changes, it would ignore a large part of the greenhouse gas emissions associated with different fuels, and result in a greenhouse gas emission analysis that bears little relationship to the real world.

There are direct and indirect consequences in the life cycle, and I think that the EPA ought to be able to scientifically evaluate. This amendment would weaken the scientific credibility of the whole life cycle analysis. It would reduce a far less accurate life cycle greenhouse gas assessment and the EPA proposal, which is based on reasoned application of the best available science and data.

This amendment creates a new vague standard of, quote, inaccurate results, end quote; would overturn the current law if the standard is supposedly not met. This is not the way to produce valid and scientifically defensible amendment -- scientific defensible results. We ought to do it based on the science and not curtail the scientific evaluation by an amendment such as this.

I notice we have a vote on the House floor, and I expect

there will probably be more debate on the subject. I am going to yield back the balance of my time at this point and break so that we can respond to the votes on the House floor, and then we will come back and continue the debate on this amendment and proceed to a vote on it.

So we will now recess. Please return after the last vote for further deliberations.

[Recess.]

RPTS MERCHANT

DCMN HERZFELD

[6:30 p.m.]

The Chairman. The pending amendment is the amendment offered by the gentleman of Nebraska Mr. Terry. And I am wondering if Mr. Terry is within the sound of my voice.

Mr. Terry. Yes, I am.

The Chairman. You have a very good excuse.

Mr. Terry. So where are we?

The Chairman. Are you ready to talk some more?

Mr. Terry. I am ready to talk.

The Chairman. The Chair would like to recognize the gentleman from Nebraska if he wishes to be recognized. I think you have already spoken on your amendment, but to refresh people's memory, why don't you take some time.

Mr. Terry. I appreciate that.

This amendment eliminates part of a discussion that is occurring within the EPA right now; in essence, to add in international lands that have -- particularly rainforest lands that have been deforested, and add that into the lifecycle of ethanol under the assumption by the EPA that if you are taking an acre away from food or seed or corn or soybeans that would have been fed to animals, and you turn it into a biofuel, that that impacts other countries' decisions and, in essence, my cynical

view, but essentially correct, that that forces other countries to have to plow up, so to speak, the rainforests and then plant food in lieu of what was taken out of the food stream.

This is part of the carbon lifestyle -- carbon lifecycle of biofuels. I personally felt that the logic is more than fuzzy, it is beyond absurd even that somehow we have to reach the assumption that, let's say, Brazil plows over part of the rainforest, that it isn't something inherent to their economy, but something inherent to ours that forced them to do that. And so I want to eliminate that portion of the discussion in the EPA in their proposed rule about factoring in and then having to reforest lands by blaming it on ethanol, in essence.

So that is the synopsis. I think this lacks common sense to add in international land use into the lifecycle of ethanol and biofuels. So that is the summary. I am just waiting for anyone to ask me to yield.

The Chairman. Would you yield to me?

Mr. Terry. I would be glad to yield.

The Chairman. The reason I, with all due respect and admiration for the gentleman, I oppose his amendment, is that the lifecycle is important to take into consideration both on the direct and the indirect results -- direct and indirect emissions. And what we fear is that we are going to encourage more devastation in forests and other areas. I know Mr. Markey is much better versed on this, and I would like, if you would, to yield to

him.

Mr. Terry. I would yield to Mr. Markey.

The Chairman. Because I know I am against it, but I think he could really articulate why we are both against it much better.

Mr. Markey. I thank the gentleman very much.

The Chairman. I tell you what. Why don't you yield back your time.

Mr. Terry. I will yield back my time, and that way he will get his 5 minutes.

The Chairman. The gentleman yields back his time, and Mr. Markey is recognized.

Mr. Markey. I thank the gentleman very much.

The gentleman's amendment would prohibit taking into account international indirect land use changes in the carbon accounting for the Smart Way Transportation Efficiency program in the underlying bill. But what, as we have heard, is real concern is the impact on the renewable fuels standard of the methodology that the EPA is developing to count carbon in biofuels.

The 2007 energy bill included a huge increase in the use of biofuels, but also a commitment to expand the use of advanced cellulosic biofuels and, as part of that, biofuels that reduce global warming pollution the most. Accurately counting the global warming pollution from the use of biofuels is difficult, no question. The experts at EPA have put forward a proposed methodology. They are already receiving a vigorous response from

stakeholders on the EPA proposal. This amendment would short-circuit that process.

We need to give the experts time to work through this difficult problem. The renewable fuels standard in the 2007 energy bill and the bill before us today were designed to enhance our energy security and reduce global warming pollution simultaneously. The gentleman's amendment would hamstring a crucial tool for ensuring that biofuels can reach their full potential to reduce foreign oil imports and global warming pollution.

I urge my colleagues to let the EPA work through their process. I think that ultimately we should make our judgment based upon the facts as they are developed in this proposal. But make no bones about it, the EPA is going to hear from the ag community. The EPA is going to hear from every part of American society, and they should. This is a complicated answer to obtain. But I do not think that the gentleman's amendment intends to allow that process to continue.

I think that we should, rather than short-circuit that process, allow for that process to continue, and then, then if it is within the judgment of the gentleman to act, well, that will be the correct time. But I don't think acting now we are going to intelligently understand what the impact is of this massive increase in ethanol production not only here, but around the world, and, as a result, understanding whether or not the law of

unintended consequences is being invoked as more forests, more area is being plowed up than the benefits that are being derived from the ethanol production itself in reducing greenhouse gases.

That is something that we should know. Then we are acting intelligently. To deny ourselves the information which the EPA seeks to develop, in my opinion, will ultimately come back to haunt us. So I urge a no vote on this.

No decision has been made. The EPA is in a fact-gathering mode at this time, and at the point where there is a decision, then we could act. But until then I suggest we should at least learn what the facts are and then make a decision. So I urge a no vote, and I yield back the balance of my time.

The Chairman. The gentleman's time is expired.

The gentleman from Michigan is recognized.

Mr. Upton. And I yield to my friend from Illinois
Mr. Shimkus.

Mr. Shimkus. Thank you. I would like to thank my colleague, the Ranking Member of the energy subcommittee Mr. Upton, for yielding his time to me.

This a great debate. This stems from years of public policy here in Washington to decrease our reliance on imported crude oil. As I said in my original 5 minutes, the ethanol provisions, what is enacted by this body, in the Clean Air Act amendments of 1990 -- now, I have been pretty accusatory about the job losses of the Clean Air Act amendments of 1990, for those who have followed me

for many, many years, but I have always also said good public policy was done because it incentivized ethanol for the particular purpose originally for clean air. Ethanol was an oxygenate that originally was given market entry for clean air, which my colleagues on the other side supported. All right?

Then we moved to the 2005 Energy and Policy Act amendments where we changed the debate and said, let's decrease our reliance on imported crude oil. This is the only thing we have done in Washington, D.C., in the Federal Government to decrease our reliance on imported crude oil. In fact, for many years I have been trying to get coal-to-liquid technologies. We have been trying to get natural gas to liquid fuels. There is only one thing we have done, one thing, to decrease our reliance on imported crude oil, and that is renewable fuels, and that is ethanol.

So now we come to the last Congress where the Democrats agree. And it was a Democratic Congress that said we need to push the renewable fuel standard further. And why did my Democrats do that? Well, because they didn't want to drill in the Outer Continental Shelf, they didn't want to go to coal-to-liquid technologies. The only place they could go was renewable fuels. So they increased the renewable fuel standard. Investors started going, and some big companies, a lot of little farmers who developed refinery capabilities through cooperatives.

And now we come to today, we have come to this bill. And

what this bill does is destroy what this Congress has been doing for over a decade to decrease our reliance on imported crude oil by this indirect land use. There is no way that the EPA is going to be able to calculate how a gallon of ethanol made here will impact a forest in Indonesia, and that is what Mr. Terry's amendment is seeking to strike. How does a gallon of ethanol produced here, how does that affect a rainforest in Indonesia?

Mr. Terry is correct. In fact, we have all listed ag or industries that support this bill, where here are some who don't support the bill. American Farm Bureau Federation does not support this bill. The Fertilizer Institute does not support this bill. The corn growers do not support this bill. Why? Because they have been deceived by this Congress that we are going to move to decrease our reliance on imported crude oil by moving to a renewable fuel standard. So the corn growers do not support this bill. And the last one is the Illinois corn growers.

Now, you all know me as supporting coal. The great thing about my congressional district is if you want energy security in this country, you want more supply, look to southern Illinois. We have got corn, we have got soybeans, we have got marginal oil wells that are still producing crude oil. We have got 250 years of recoverable coal that can decrease our reliance on imported crude oil, but it also can be moved and used in, of course, low-cost electricity distribution systems.

1990, Clean Air Act amendments, renewable fuels and ethanol

is good. 1995, the EPACT, renewable fuels is good. Last Congress, renewable fuels is good. Now through this bill, renewable fuels is bad. Support the Terry amendment.

I yield back the 9 seconds remaining of my time.

The Chairman. The gentleman yields back his time.

We have debated this at length, but there are Members who have strong feelings about this on both sides of the aisle who are not going to be here if we go right to a vote. And so what I will suggest we do is to put this amendment aside until, I think, 8:30 or sometime shortly after that when the Members are scheduled to return. We will have debate, 2 minutes on each side, and then go to the vote.

Mr. Terry. On this amendment.

The Chairman. On this amendment yes.

Mr. Pitts, for what purpose do you seek recognition?

Mr. Pitts. Strike the last word.

The Chairman. The gentleman is recognized.

Mr. Pitts. I would like to ask the gentleman Mr. Terry, in your opinion, is this going to lead to income transfers to foreign governments to rebuild the rainforest?

Mr. Terry. Well, there is already within this bill I have read, and I don't remember what sections, but programs that allow dollars to be transferred to help reforest. But to answer directly is that the EPA is developing this rule on the carbon lifecycle. I believe that is the ultimate goal. Although under

the bill, if it is passed, what happens is if indirect international land use becomes part of the lifecycle, the carbon lifecycle, of a biofuel, that under this bill all biofuels will just -- you can't use them. If we continue to produce that under the Clean Air Act, consumer or environmental groups could sue and actually stop the production of biofuels.

Mr. Pitts. I yield to Mr. Terry.

Mr. Terry. Okay. Thank you.

Mr. Pitts. I yield. Go ahead.

Mr. Terry. And the point that Mr. Shimkus was making about the indirect international land use is right. To me, it is just scientifically absurd to connect a gallon of ethanol to the destruction of some trees somewhere else in the international world. And so I want there to be a scientific study on carbon emissions of biofuels from the seed to the tank. But once you put in this nebulous, extremely vague aspect into the EPA rule defining the lifecycle and carbon emissions of biofuels, then it only leads you to one conclusion. And so that is why we need to stop this rule or this aspect.

I am not saying stop the study on lifecycle of carbon, or the carbon lifecycle of a biofuel, or ethanol specifically, or biodiesel specifically. What I am saying is don't use the international land use aspect of this, because, frankly, there is no way you can reasonably say that any destruction of a forest in South America or Indonesia or anywhere else is directly related.

So let's end this absurdity.

And frankly, I don't trust the EPA in their rulemaking because I have seen examples where they develop science to match what they ordered in the first place. So this is a way to just say this is absurd, let us not go there.

Joe, do you want any more time back? I am done.

Mr. Pitts. No.

Mr. Markey. Would the gentleman yield?

Mr. Terry. Yes. Oh, wait I can't.

Mr. Pitts. I will yield.

Mr. Markey. I thank the gentleman for yielding.

And I understand the gentleman's attitude, but I don't think that any of us are in a position to say it is absurd. I just don't think that we know. And that is the point of this wide open process that is taking place at the EPA with experts from all sectors now fighting at a table over what, in fact, are the consequences of the indirect impact here.

And I -- no one holds our profession in a higher regard than I do, and I think that we have a big role to play, obviously, in all public policy decisions. On the other hand, "congressional expert" is an oxymoron like "jumbo shrimp" or "Salt Lake City nightlife." Compared to real experts, compared to real -- Louisiana, you know what I mean in Louisiana about that. The Utah Jazz, what is that? That is an oxymoron.

The Chairman. When you dig a hole, stop.

Mr. Pitts. Reclaiming my time.

We do have a section later in the bill that talks about international climate change adaptation programs, and the opportunity to reply to the countries that are underdeveloped that spoke in Bali and the climate change adaptations programs they make, the possibility for income transfers, and that is why I raised the issue, and I yield back.

Mr. Terry. Thank you.

Joe, if you could yield.

Mr. Pitts. I will yield.

Mr. Terry. Can I ask unanimous consent to put the National Corn Growers and the Fertilizer Institute's letters into the record, and the Illinois Corn Growers?

The Chairman. Without objection, that will be the order.

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. Now, I would like to put this aside, without objection, and we will take it up when Members return who are attending the White House dinner at sometime around 8:30. And we will then call on the proponent of the amendment for 2 minutes and an opponent of the amendment for 2 minutes, and then proceed to the vote.

In the meantime, I would like us to proceed to Title III. I understand that there are some Members who have extensive questions they want to ask counsel and issues they want to discuss in Title III. I know that Mr. Barton was particularly interested in doing this. But I would like to now recognize any Member who wishes to go to Title III.

Oh, Mr. Barton is here. Good.

Mr. Barton. Yes, sir, Mr. Chairman.

The Chairman. I would like to now recognize Mr. Barton to ask questions of counsel in Title III, if you are ready to do that.

Mr. Barton. I am ready to do it. I am ready to do it.

The Chairman. The gentleman will be recognized. I know he has extensive questions. Well, I will recognize you 5 minutes, and if you want more time, we will give you even more time than that.

Mr. Barton. Mr. Chairman, I can ask questions for probably the next hour if that is the will of the committee, or I can ask

questions for such time as you wish me to.

The Chairman. Let us start off with a 5-minute increment. The gentleman is recognized for 5 minutes.

Mr. Barton. Well, my first question is on page 379, in line 5 it says, the quantity of the United States greenhouse gas emissions does not exceed 80 percent.

The Chairman. Would you excuse me? Just for the Members' information, we are not going to have any votes before 8:30. When the Members come back from the White House, then we will proceed to the last debate on the pending amendment by Mr. Terry and then go on to other amendments that may be ready to be considered at that time.

So just so Members know what the situation is; further, to inform the Members we have provided dinner on both sides of the aisle again. And for this evening I have been informed of selected Lebanese food. Some people call it Lebanese food, some people call it Turkish food, some people call it Israeli food, some people call it Greek food. It is the food of the Mediterranean. And if only the people in the Middle East could understand they share many things, including their food and cultures, they ought to learn to live in peace, just like this committee is going to be able to do at some point.

Mr. Barton. At some point.

The Chairman. Okay. I am going give the gentleman his full 5 minutes. Thank you for allowing me to make that announcement.

Mr. Barton. On page 379, line 5, the quantity, the goal for greenhouse gas emission reduction in 2020 is not to exceed 80 percent of the emissions target in 2005. But in the very next page, on page 380, line 1, the quantity of greenhouse gas emissions from capped sources does not exceed 83 percent. You have got a 3 percent discrepancy. Why is that?

Counsel. Section 702, which has the 80 percent on page 379, applies -- is an overall goal that applies to the quantity of U.S. greenhouse gas emissions. Section 703 applies only to cap the greenhouse gas emissions of capped sources.

Mr. Barton. Then why on page 379 are the percentages for 2012, which is 97 percent, and 2030, which is 58 percent, and 2050, which is 17 percent, why are they identical in Section 703, and the only difference between 703 and 702 is in 2020?

Counsel. That is because the bill is written so that the targets and the goals are identical for 3 of the 4 years that are specified. But for 2020 they are different.

Mr. Barton. Is counsel aware of the policy reason for that?

Counsel. The statute is that they are the same for 3 of the 4 years, and that they are different for the 2020 target.

Mr. Barton. Would Mr. Markey care to comment on that?

Mr. Markey. [Presiding.] Could the gentleman restate his inquiry?

Mr. Barton. Well, there has been much gnashing of teeth on your side on section 703. Mr. Boucher, among others, labored long

and hard to get the amount of capped sources down to 17 percent instead of 20 percent. But the goal didn't change for 2020. The goals don't change for any of the other targeted years except that year.

I am curious as to why there is a difference on that one targeted year between the goals and the capped emission sources.

Mr. Markey. If the gentleman would yield, the 20 percent is an aspirational goal; the 17 percent is the goal set for regulatory purposes in terms of what reductions in greenhouse gases would be.

Mr. Barton. Why the difference in aspirational goals? That is the only year there is a difference between aspiration and requirement.

Mr. Markey. It is a goal that is established so that the economy as a whole can try to do better. But in terms of the regulatory benchmarks that are established in the legislation, the 17 percent number is the operative number.

Mr. Barton. Well, let us go to Section 704: Supplemental Pollution Reductions. First of all, what is a supplemental pollution reduction?

Counsel. I don't believe that term is defined in the statute.

Mr. Barton. We just have it hanging out begging for definition.

Counsel. The statute provides that a specified number of

allowances will be used to get the supplemental pollution reductions. And then on to page 381, it says that that shall provide greenhouse gas reductions in an amount equal to an additional 10 percentage points of reductions from U.S. greenhouse gas emissions in 2005.

Mr. Barton. Okay. What does this mean, activities supported under parties shall provide greenhouse gas reductions in an amount equal to an additional 10 percentage points of reductions from the United States greenhouse gas emissions in 2005?

Counsel. Sir, it cross-references part E. And if you look on page 515, it does define supplemental emission reductions there to mean greenhouse gas emission reductions achieved from reduced or avoided deforestation under this part.

Mr. Barton. Well, I can read, but I don't understand the -- again, this might be a question to one of the authors. What is the intent of this? Are we trying to get an additional 10 percent CO2 or greenhouse gas reductions in addition to the capped target on page 420 for that particular year?

Mr. Markey. The goal -- are you back in the supplemental pollution reduction section?

Mr. Barton. Yes.

Mr. Markey. Twenty percent of all greenhouse gases internationally are released because of deforestation. This section is intended to create the incentives for a huge percentage of gains to be reached by preventing deforestation in a very

cost-effective way that, in fact, reduces the need to reach other parts of our economy to ask in the near term for reductions to come from our economic engine. So this program is intended to create the incentives for that to be accomplished.

Mr. Barton. You want an additional 10 percentage points in CO2 reductions from the United States. I don't see how you are going to do that.

Counsel. It is equal to an additional 10 percentage points. It is an amount equal to.

Mr. Barton. Okay. So that is going to happen overseas.

Mr. Markey. That is correct.

Mr. Barton. You hope it does.

Mr. Markey. We hope it does. And we will ensure that there is a monitoring program put in place that reflects the importance of ensuring that the program does work.

Mr. Barton. Okay. Let us go to section 705.

Mr. Markey. Let me say that the gentleman's time has expired.

Mr. Barton. I admit it has.

Mr. Markey. He is at 8 minutes right now.

Mr. Barton. I am just getting started, though.

Mr. Markey. Oh, I know that, but I think that we should go to the other side briefly and see if there are any Members on the Majority side that would seek recognition at this time.

The gentlelady from California Ms. Eshoo is recognized for

that purpose.

Ms. Eshoo. Thank you, Mr. Chairman. Is it appropriate to offer an amendment now since you have come over to this side on Title III?

Mr. Barton. May I be recognized, Mr. Chairman.

Ms. Eshoo. I would be happy to yield.

Mr. Markey. If the gentlelady would like to yield to the gentleman from Texas, yes.

Mr. Barton. It was my understanding that this time was going to be used asking questions on Title III, and that we wouldn't go to amendments.

Mr. Markey. I think that the agreement that Mr. Waxman reached and announced was that amendments could be considered during this period of time, but there would be no roll calls.

Mr. Barton. I didn't agree to that.

Mr. Markey. No recorded votes until --

Mr. Barton. I did not agree to that.

Mr. Markey. All right. Then let us --

Ms. Eshoo. So reclaiming my time, if there isn't anyone on our side that has questions, then what are we going to do until 8:30; have Mr. Barton keep asking questions?

Mr. Markey. We are going to take a brief -- we are going to suspend here for 2 minutes.

Ms. Eshoo. Good idea. Thank you, Mr. Chairman.

[Discussion off the record.]

Mr. Markey. We will -- the committee will recommence. And I want to continue to recognize the gentlelady from California and ask if she has any additional points which you would like to make.

Ms. Eshoo. Other than my amendment, I don't.

Mr. Markey. I thank the gentlelady.

We have an agreement that we have reached that will allow any Member who wishes to ask questions with regard to the contents of the legislation to do so. And then we will proceed to an amendment made by the Minority, which, in the opinion of the Minority, will last some time because of the importance of that amendment, which would then take us up to the period of time that is 8:30 that we expect the Members who have been invited to the White House for dinner to return. And at that point the debate could continue, but yet with the Members here, that would allow us to have a roll call that they could participate in.

So we won't be rolling any -- we will not be rolling any additional roll calls. We will only be having a vote on that one roll call that we all agreed that we would vote on. But any subsequent amendments which we debate will be voted upon without having been rolled.

Ms. Eshoo. So only questions, Mr. Chairman, about the entire bill, and no amendments being offered with votes held.

Mr. Markey. No, there could be an amendment which is offered, but it will be an amendment which the Minority, in its opinion, will be -- our Majority amendment, but it will be a

Minority amendment, I think, that will spur such significant interest that it would clearly not be completed, that is the debate portion of that amendment, until after 8:30. I thank the gentlelady.

Are there other Members seeking recognition for discussion about the legislation pending before us?

The Chair recognizes the gentleman from Texas Mr. Barton.

Mr. Barton. Thank you, Mr. Chairman.

Let us go back to section 704 -- I mean, 705, excuse me Mr. Chairman. This is a requirement that the Administrator do a series of analysis and issue reports. Paragraph 3 of subsection (a) requires an analysis of the status of worldwide greenhouse gas reductions efforts, including the implementation of this act and other acts. But then in the very next paragraph, paragraph (b), it says, except that paragraph 3 of subsection (a) shall not apply.

Now, my question is why do you require in the paragraph above that we do this analysis and have this report, and in the very next section say, but you really don't have to do it? That makes no sense to me.

Counsel. It is required in subsequent reports. The statute provides that paragraph 3 only does not apply to the first report.

Mr. Barton. But my question is why; why require a report but then not require it the first time?

Mr. Markey. This program starts in 2012. There are

quadrennial reports under this section which are required, and that is why that first report is not required. That is, as you refer back to subsection (b), the exception, because a study could not be completed by 2013 since the program starts in 2012, and the section calls for a report to be --

Mr. Barton. It says an analysis of the status of worldwide greenhouse gas reduction efforts, including implementation.

It is a minor point. It just seems ludicrous to require a report and then not require it, but I didn't write the bill.

So let us go on to the next page, on page 383, where we are talking about trying to get the latest scientific information, which I think is a good thing. I will point out that you have to do it. This is a report that the United States EPA is going to prepare, and it is by country. So it is a worldwide report, including the annual total of CO₂, the annual per capita, the cumulative anthropogenic emissions for the top 50 emitting nations. That is no small feat. And then paragraph (b) on line 11 uses the term "has to report on significant changes both globally and region in annual net nonanthropogenic," which means made by God, "greenhouse gas emissions from natural sources."

My question on 11, on line 11, is what is significant; what is the definition of what constitutes a significant change globally and region in annual net nonanthropogenic greenhouse gas emissions? That is a fairly significant requirement.

Counsel. Significant on this -- for this paragraph is not

defined in the statute. It would be left to the Administrator to determine as part of the analysis.

Mr. Barton. Does my esteemed friend from Massachusetts care to comment? I mean, that is a fairly large requirement to comment on. I mean, it is undefined.

Mr. Markey. Well, I think the EPA Administrator in her or his discretion will be able to make that determination.

Mr. Barton. It is going to be their call.

Mr. Markey. Yes.

Mr. Barton. All right. Let us move over to page 386. This is, again, a reporting requirement. In assessing risk and impacts, use a risk management framework including both qualitative and quantitative measures to assess the observed and projected impacts of current and future climate change, accounting for both monetized and nonmonetized losses.

What is a nonmonetized loss?

Counsel. A loss that has not been converted into dollar terms.

Mr. Barton. That is not an answer. What is an example of a nonmonetized loss?

Counsel. Species extinction.

Mr. Markey. So it would be a species loss, it could be a vast ecological loss that is related to greenhouse gas emissions or other impacts.

Mr. Shimkus. Would the gentleman yield for just a second?

Mr. Barton. Yes.

Mr. Shimkus. This brings up a great debate when I read through the draft, the initial draft. And everywhere in this provision there is quite a few places where we talk about the damaging effects of global warming. But in the draft -- now, I haven't read the manager's amendment -- but there is nowhere that I remember reading of listing or having the EPA Director list and account for any of the positive effects of global warming.

Would the Chairman -- can the Chairman comment if there are positive effects of global warming, should they not also be accounted for by the Environmental Protection Agency?

Mr. Markey. Under the language on page 386, lines 10 to 14, it says, in assessing risks and impacts, use a risk management framework including both qualitative and quantitative measures to assess the observed and projected impacts of current and future climate change.

So those impacts, of course, will lead, if what the gentleman is saying is in certain areas, perhaps, there is a warming climate, then those impacts could be noted if there were --

Mr. Shimkus. So the positive impacts of global warming will be addressed by the Administrator in this process.

Mr. Markey. Impacts.

Mr. Shimkus. You mean negative impacts and positive impacts.

Mr. Markey. Well, I suppose under that, you know, using that definition, I don't think we are going to put in negative and

positive; but yes, impacts, and under that would be all impacts.

Mr. Shimkus. So I appreciate that.

Thank you, Mr. Chairman.

Mr. Barton. I could ask you a question about nonlinear, but I am not going to.

I am going to go to page 387, and this one is a little more important. On line 6, describe the increased risk to natural systems in society that would result from an increase in global average temperatures of 3.6 degrees Fahrenheit, which is 2 degrees Celsius, above the preindustrial average, or an increase in atmospheric greenhouse gas concentrations above 450 parts per million of carbon dioxide equivalent.

My first question is why those numbers? Why 3.6 degrees Fahrenheit and 450 parts per million of CO2 equivalent? And then my second question is, what is the preindustrial average?

Mr. Markey. Those are the numbers that were identified by the Intergovernmental Panel on Climate Change at the United Nations as triggering points for more severe consequences as a result of a warming planet.

Mr. Barton. Well, what is the preindustrial average that you refer to?

Mr. Markey. The preindustrial average is 280 parts per million. It has now increased to a range of 360 to 380 parts per million. So essentially what they are referring to --

Mr. Barton. The preindustrial average of temperature. I

will stipulate that you are right on your CO2 number. That is good. You have been doing your homework.

Mr. Markey. Thank you.

Mr. Barton. The number I had was 250 and 1850. And the number I have today is 380. So we are in the ballpark on that. But this 3.6 degree Fahrenheit number I am not familiar with. And I honestly don't know what the preindustrial temperature average they refer to is.

Mr. Markey. Well, I think what you would do is you would just -- let us just do some subtraction here then. It would be once it goes 3.6 degrees Fahrenheit above preindustrial average. Now, the problem, off the top of my head I don't know what that number is. I do know, however, that the National Academies of Science, represented from all the countries of the world in the Intergovernmental Panel on Climate Change, have come to that conclusion. And so it is a number which is the consensus number of the scientists of the world who won the Nobel Prize on this subject 2 years ago, and I think it is a good number, and I am not willing to second-guess it. I think it is a number we should be working from.

Mr. Barton. Well, I think it is a number the American people deserve to know. And let me tell you why I think that. My information is that since 1850, I don't know what the preindustrial average for temperature is, I don't know, but I am led to believe that the average temperature in the United States

since 1850 has gone up about 1 degree Fahrenheit, 1 degree. And I am told by scientists that are much smarter than I am that if we implement fully this 83 percent reduction in CO2 by the year 2050, which is the target in the bill, and it has the amount of carbon or carbon equivalent, CO2 equivalent, over on page 421 of this bill, that the measurable temperature change is going to be less than 1/10th of 1 degree Fahrenheit.

Now, this is a political question more than a question to counsel. Why in the world do we put the U.S. economy through an economic wringer like we are probably going to do if this bill were to become law when the temperature between 1850 and today has gone up about 1 degree Fahrenheit, and regardless, even if we meet these targets for CO2 reduction, the measurable temperature change between now and 2050 is about 1/10th of 1 degree Fahrenheit?

So this, on page 387, this 3.6 degree Fahrenheit, this preindustrial average are nontrivial inflection points. I don't dispute what the Chairman just said that that 3.6 degree number is mentioned in the IPCC. You are right about that. But I don't know what the preindustrial number is. And if I am right that the temperature increase in the last 150 or 160 years is about 1 degree, and the next 40 years, even if you go to these great reductions that you are talking about in your bill, you get at most 1/10th of 1 degree in Fahrenheit temperature change to the negative, is that worth the pain and suffering we are going to put the U.S. economy through? And that is a political question.

Mr. Markey. And I appreciate that, and I thank the gentleman for asking the question.

We are working off of the best science that can be provided. And that is the collective judgment of the scientists of every country in the world which came to a consensus in a series of four reports which they issued back in 2007, which has become the undisputed working -- well, I can't say undisputed. There are some that still dispute these numbers. However, the numbers for the most part are those adopted now by every country in the world in terms of what does constitute an increased level of CO2 admitted to the atmosphere in terms of an association with dangerous climate change.

So that is the working premise that we are using. That is the premise which the European Community is using. And that is the premise that we are going to ask the Chinese and Indians to use as well. In fact, the head of this group, the IPCC, Dr. Pachauri was an Indian. And so this is a consensus that not only American scientists, but Indian and Chinese and other scientists accepted. In fact, however, there have been scientific reports since then that indicate that there has been an even more rapid increase in the danger to the planet. But for the purposes of what we are discussing right now, we are using the IPCC numbers, and we believe that that is the best scientific information available.

So our bill is science-based, it is technology-driven, it is

market-oriented and it is consumer-focused. But ultimately it is science-driven, okay. We are relying upon the science as it has been developed by the best people in the world.

Now, the gentleman again is at 11 minutes right now, and I will come right back to him, if you don't mind, after I seek recognition of any Member on the Democratic side that wishes to be recognized for any purpose.

The Chair recognizes the gentleman from Washington State Mr. Inslee.

Mr. Inslee. I think Mr. Barton raised an interesting point. I thought it was worth responding to.

One of the things that people argue is that if the United States reduces its carbon emissions by 80 percent, it is meaningless, because essentially the world could continue to warm regardless. And I don't agree with the numbers that Mr. Barton has thrown out of the relatively de minimis change, because I have seen estimates that are much higher as far as how much we would vary the temperature just by United States action. But I want to note that all of us, I think, Democrats and Republicans alike, agree that if we achieve this 80 percent reduction, it is not going to save the planet alone. It is going to require the rest of the world becoming engaged in this effort.

Now, the number that Mr. Barton threw out is if the United States achieves an 80 percent reduction, it might have a relatively modest result, at least as a number. But if it allows

the rest of the world to move forward, encourages, aspires and in some sense requires the rest of the world to move forward, we can't, in fact -- and the IPCC report makes clear -- stabilize, stabilize the Earth's temperature at about 2 degrees increase above the time -- the situation we have today.

Now, this is the consensus product of the world's scientific community. They have said in rather confident terms if we reduce global -- global CO2 emissions by 50 to 60 percent, we can stabilize the climate. If we do not, we have the potential of runaway global warming. And I want to refer you to an MIT study that was just published yesterday in -- and this is why this a very timely debate, and I am just looking for the name of the publication. It was in Science Daily, published yesterday. And the title was "Climate Change Odds Much Worse Than Thought." This was an MIT study using a new, sophisticated computer analysis.

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[7:28 p.m.]

Mr. Inslee. That basically has concluded that. The median probability of surface warming is 5.2 degrees Celsius by 2100 in the business-as-usual case. The 90 percent probability range of 3.5 to 7.4 degrees. That is compared to a median projected increase in 2003 of 2.4 degrees. The point I want to make is that the science is now rapidly leading to the conclusion that this problem is greater and faster than we thought than just a few years ago and that this is a consensus of world scientific opinion. So I guess, the fundamental point I would make is even if we conclude that American reductions will not save the planet singularly. We know it is imperative to get the world to act jointly to in fact we can save the planet.

And for those who argue that we should not take this action, it is kind of like when you try to get your kids not to throw their junk out of the window of the car and they say, well, gee, dad, somebody else will just throw stuff out the car and if I refrain from throwing my junk out the car, it will only reduce the total impact of refuse by .15 percent. We still don't throw the stuff out the car window. And I know that sounds maybe simplistic as an analogy globally, but I think it is a real one. So I would suggest we are on the right track here and hope we succeed.

Mr. Markey. The gentleman's time has expired. The Chair recognizes the gentleman from Michigan.

Mr. Upton. I have a couple of questions for the counsel. I thank the chairman. On Page 381, I have a question for the counsel regarding the administrator's review of the program in the bill. As you know, China and other developing nations refuse to provide emissions data to the U.N. with the same frequency and accuracy as the U.S. And the date of emissions for China's most recent submission I am told is for the year 1995, 14 years ago. So I notice here that the administrator shall, in consultation with the appropriate Federal agencies, submit to Congress a report not later than July 1, 2013 and every 4 years there after. Are there any provisions in this substitute or in this bill regarding enforcement or data from international emissions that would be of the same type of quality? Is there any reference that I may look at or not?

In other words, we are required to submit this information or make it public to the Congress. Is there a similar standard for China, for India for other nations within this bill, something that we can compare apples to apples with?

Counsel. Sir, are you asking if there is a requirement --

Mr. Upton. Is there something that we are aware of and maybe I can relay that to the chairman, Mr. Markey. I don't know if there is some international data that we can compare this to. I just know, as I said, that the last emission data we had was 1994.

I don't know if it has been updated. I don't know what requirement that there is --

Mr. Markey. I thank the gentleman. As a matter of American domestic policy we cannot mandate that the Indians or Chinese do anything. However, if you turn to Page 381, line 19, there is a requirement that the administrator of the EPA conduct -- now move down to line 19, an analysis of capabilities to monitor and verify greenhouse gas reductions on a worldwide basis, including for the United States as required under the Safe Climate Act.

Mr. Upton. So we are going to do this for them?

Mr. Markey. Again, there is a cumulative impact of CO2 on the planet as a whole. So it is in our interest to try as best we can to identify where the sources of greenhouse gases on the planet are emanating from.

Mr. Upton. Has anyone talked to the Chinese to see if they will be cooperative.

Mr. Markey. If the gentleman will yield. The point of our moving forward is that the President can have a meaningful negotiation with the Chinese, Indians and others in Copenhagen this December. That is why we have constructed this legislation with long transition protections for our trade sensitive industries so that there cannot be action taken by China or other nations in the near term so that there can be a regulatory scheme put in place on a global or at least sectoral basis, depending upon the industry, that those lead to monitored greenhouse gas

emissions and reductions from those sectors.

Mr. Upton. Well, later on I intend to offer an amendment that would require all of this to be WTO compliant and maybe that stick will help the Chinese if that amendment is adopted. Maybe I could make it a bipartisan amendment.

Mr. Markey. Again, the gentleman should understand that our legislation does, in fact, give the President the authority to put in place tariffs. Ultimately, that construct will be made by the Ways and Means Committee in the event that there is noncompliance by the Chinese or other countries.

Mr. Upton. I might ask the counsel whether there is someplace in this bill that offsets from China are allowed under the bill.

Counsel. Just a minute.

Mr. Markey. Any country, if the gentleman will yield -- any country that is a signatory to the treaty -- to a treaty and that is -- and that is compliant with the standards established for offsets would qualify.

Mr. Upton. My time has expired. Let me yield back.

Mr. Markey. Let me note the gentleman's time has expired. The Chair recognizes the gentlelady from California, Ms. Eshoo.

Ms. Eshoo. Thank you, Mr. Chairman. Since this is an unusual amount of time that we have just to ask some questions, pose some question, I don't have questions of the counsel, I have questions of the ranking member of the committee.

Mr. Barton. We welcome our former colleague and Senator from Ohio, Mr. Brown.

Ms. Eshoo. He is making noise in front of me, but welcome.

Mr. Barton. He is having a chuckle.

Ms. Eshoo. He is. And it is great to see him back here. In listening to the debate and certainly the ranking member is the leader of it, for the most part obviously --

Mr. Barton. I wish we were winning the debate.

Ms. Eshoo. To the legislation. I just have one question that I would like to ask you.

Mr. Barton. All right.

Ms. Eshoo. Do you believe in the accumulated science that the -- that there is indeed global warming?

Mr. Barton. I accept that CO2 concentrations have gone up since 1850. I accept the scientific consensus that about where they are now. I accept the probability that in the next 100 year, they are going to go up into the neighborhood of 500 parts per million. I accept that. I do not accept that the -- it has been proven that CO2 drives temperature. I think it is just as possible that temperature drives CO2. That was the prevailing theory until about 25 years ago, that CO2 was a deep ended variable and that it rose as a result of temperature increases. That is what the ice ring data and all that appears to show.

I do accept that there has been some warming, but the models that predict the catastrophic warming are not proving very

reliable in predicting what is happening on an annual basis. The average world temperature has gone down the last 7 years in a row. It has not gone up. And so I think it is unwise to adopt a radical regime like is posed in this bill that will have significant costs to our economy without any significant verifiable change in what appears to be the emerging temperature patterns. I mean, there are a large number of scientist, not just a few, but a large number of scientists that would come before this committee and testify under oath that the temperature gradient differential, 50 to 100 years from now, is not going to be measurably different if we adopt and implement successfully these radical CO2 and other greenhouse gas emission reductions.

Ms. Eshoo. Well, I appreciate the gentleman's response and I think anyone listening is, A, struck with your sincerity. And I do believe that you are sincere. You are sincere in your belief that what so many on this side believes is one of the great challenges of the 21st century, that you are sincerely held beliefs are different than the body of science that has instructed us and why we are embarking on this bill. This obviously was not a trick question. But I think that since I never would have brought it up unless we had this time while we are waiting for members to come back. But I really wanted this to be part of the record because you most sincerely see this the way you do.

Mr. Barton. Well, it is not --

Ms. Eshoo. I respect that. I respect that.

Mr. Barton. It is not just me.

Ms. Eshoo. I don't agree.

Mr. Barton. It is not just me, though. There are a large, large number of very well informed scientific climatologist that agree with what I have stipulated. So it is not just a personal held belief.

Ms. Eshoo. I thank the gentleman. You have always been my friend. We have done other bills together. It doesn't look like we are doing this one together. But did you want me to yield?

Mr. Markey. Will the gentlelady yield?

Ms. Eshoo. I would be glad to. Thank you, Mr. Barton.

Mr. Markey. Again, that is the essence of the debate, and I think this is not a bad period of time to have. Maybe this is like the half-time analysis, update of where we are right now. We believe on our side that the science is sound, that the planet is running a fever, that there are no emergency rooms for planets, that we have to act in a preventive way in order to ensure that we avoid the worst consequences of climate change. We also, on our side, believe that there will not be a severe economic impact that our country suffers from if we act. In fact, we believe just the opposite. We believe that we can unleash a green jobs revolution in our country and that it will provide a brand new manufacturing sector for us.

So there are big differences in how we view the science and the opportunity. All right? And that is what this debate is

going to be all about for the rest of this evening and all day tomorrow and into the night. The gentlelady's time has expired. Are there any members on the minority side that seek recognition? The gentleman from Texas, Mr. Barton, is recognized.

Mr. Barton. Thank you. I know you looked everywhere. I want to go to Page 397. And this is where they have to designate greenhouse gases for control purposes. I would point out for the record that it is not just CO₂, it is also methane, nitrous oxide, sulfur, hexafluoride, hydrofluorocarbons, any per fluorocarbon, nitrogen trifluoride and up at the top of Page 397 any other anthropogenic gas designated as a greenhouse gas by the administrator. My question. On Line 6, it talks about in determining whether the administrator designates this as a greenhouse gas, it says determine whether one metric ton of another anthropogenic gas makes the same or greater contribution to global warming over 100 years as 1 metric ton of carbon dioxide.

My question to counsel is, what is the contribution to global warming over a 100 years of 1 metric ton of CO₂. I think it is zero. What does one metric ton of CO₂ over 100 years make to global warming. That is the standard in the act to designate a man made gas as a greenhouse gas and subject to regulation, it would seem to be that we would know the answer to that question.

Mr. Markey. Would counsel answer that question?

Mr. Barton. I doubt that she would have the answer to that.

Counsel. The statute provides that everything is compared to the CO2 and there are -- later on in the bill in Section 712, we give the comparisons for --

Mr. Barton. I understand that. But nowhere -- and I have read it. Nowhere in this Act does it say what that standard is. Now, again, let us put some math on the table. The United States generates about 7.2 billion metric tons of CO2 manmade a year. 7.2. All from natural occurrences we get about 15 billion. So the total creation of CO2 in the United States on an annual basis is approaching 20 billion metric tons. 20 billion metric tons. One metric ton of CO2 over 100 years is 100 metric tons. In the overall scheme of things, that is not a lot of CO2. That has got to be -- so if there is a metric that says how much that contributes to global warming, I have never seen it. And everything in this Act is based on that metric. So we should be able to call down to -- I don't expect the down know that. She is not a climatologist. I don't expect Chairman Waxman or Chairman Markey.

The Chairman. [Presiding.] I know it.

Mr. Barton. Do you know it? What is it?

The Chairman. What is the question?

Mr. Barton. All right. What is the contribution to global warming over 100 years of 1 metric ton of carbon dioxide? Everything in this act is based on that standard.

The Chairman. May I ask the counsel; is that true? Is

everything in the act based on that standard?

Mr. Barton. Your regulatory regime is.

Counsel. The annual tonnage limit and the allowances are based on the comparing other gases to the amount of global warming that is caused by 1 metric ton of carbon dioxide and that the statute does on Page 405 reference the global warming potentials that are given in the intergovernmental panel on climate change for --

Mr. Barton. And I accept those. I have reviewed those. I don't have -- they are scientifically correct. I am not questioning that. But I am questioning this because it has never appeared in print. I am not --

The Chairman. What is your question?

Mr. Barton. Is the -- the act gives the director of the EPA, the administrator of the EPA or any other citizen, any person may petition the administrator to designate as a greenhouse gas any anthropogenic gas, one metric ton of which makes the same or greater contribution to global warming over 100 years as one metric ton of CO₂.

The Chairman. That is a scientific question. It ought to be determined by the scientists at EPA.

Mr. Barton. Well, that is what I am asking.

The Chairman. We know that other gases contribute to the greenhouse emissions just as we know about CO₂. Methane for example, is a contributor and there are others. And so

identifying a greenhouse gas under this title, the environmental protection agency is supposed to determine the science.

Mr. Barton. Mr. Chairman, can we get an answer? I mean, I understand we don't have a trained climatologist on the staff that I am aware of. But that is something I would like to see, what that number is. Because everything in this act is based on -- whether you regulate or not, it is based on that standard.

The Chairman. Well, I think you can contact EPA. We certainly had hearings and that could have been brought up at the hearings.

Mr. Barton. We have not had a hearing on this part of the bill as you well know.

The Chairman. We didn't have a hearing on the allocations in Title IV, but we had our draft out in time.

Mr. Barton. This is Title III.

The Chairman. I know. We had a draft out that included Title III before the April recess. And after that, Mr. Markey held extensive hearings. He had hearings that I think went on a whole 4 or 5 days with hundreds of witnesses. The GWP values and the sources for the calculation are contained in the IPCC reports. That is the basis for it. We incorporate that in Title III, we leave it up to EPA to see whether -- and to measure whether a gas is a contributor to greenhouse consequences based on the science.

Mr. Barton. Before I ask the question of counsel, did you know that was in this bill?

The Chairman. You are asking me?

Mr. Barton. Yes, sir.

The Chairman. Well, I certainly don't claim to know everything that is in this bill. I know we left it to -- we relied very heavily on the scientists, the IPCC and the others and the consensus that they have that there is a problem of global warming, it is having an impact and that we need to try to reduce it by the amounts that they think we need to achieve in order to avoid some of the consequences. That is what I know. But I don't know the details.

Mr. Barton. I am asking a question.

The Chairman. I rely on the scientists.

Mr. Barton. I am asking a question, Mr. Chairman, that I don't know the answer to. But that does appear to me to be a very, very low standard. What little I do know is that when you are generating billions of tons, billions of tons on an annual basis and those billions of tons at most are going to have a very minor impact on temperature in the next 50 to 100 years to have in the law a standard that you can regulate a greenhouse or a man made gas based on one metric ton over 100 years I believe is -- I don't know this, but I think that is a very, very low threshold. And I would like -- I mean, I would be happy to write the letter myself to the EPA and find out what that is.

Counsel. That is in there not as the threshold for which regulation is required it is in there as a threshold for

determining whether a substance is a greenhouse gas. The thresholds are actually given later on. There has to be over 25,000 tons of greenhouse gas emissions before they are covered. In the chart on 712, the carbon dioxide equivalence are a way of comparing different gases.

Mr. Barton. Now that you brought that up, I will ask --

The Chairman. Let me ask the gentlelady. You are already over 4 --

Mr. Barton. I have had a lot of time, Mr. Chairman. If there is other people, I am not trying to be the only one.

The Chairman. Anybody on the Democratic side? Mr. Roger, you seek recognition? He will have another chance. He will have another chance.

Mr. Barton. I don't want to be a microphone hog.

Mr. Rogers. I will join the dialogue, Mr. Chairman. I was a little concerned that the chairman said he didn't know everything that was in the bill when it is the single largest energy tax that we have ever applied to the United States of America. That scares me a little bit. I am not going to kid you. For counsel, if I could, on Page 423, could you describe to me what an international offset credit is?

Counsel. I am sorry, sir, could you give me the line number? I am not --

Mr. Rogers. It is down in Line 20 on page 423.

Counsel. 423, Line 20.

Mr. Rogers. International offset credits. It says --

Counsel. Are you working off the bill or the substitute?

Mr. Rogers. Well, then you may have me there.

Counsel. If it is the printed version, that would be the bill, not the substitute. That would be the bill.

Mr. Rogers. While you are getting there, I will read it. A covered entity may use one international offset credit in lieu of an emission allowance up to the amount permitted. And the President may apparently waive that to 2 billion specified in other paragraphs. Could you explain that to me?

Counsel. I am sorry, sir. I am trying to get a copy of the bill as introduced.

Mr. Rogers. I will apologize. I don't know what it is under the copy of which you are working under. Or I would give you that one as well.

Mr. Rogers. Would you like to borrow this one? Here you go.

Counsel. We have got it. Thank you. International offset credits are credits that are issued pursuant to Section 743 of the Clean Air Act.

Mr. Rogers. I understand that. But for us laymen, what does that mean? What is an international credit. Is that a credit that is obtained by emissions?

Counsel. That are reduced overseas for a project that is -- an overseas project that reduces emissions or that sequesters carbon.

Mr. Rogers. So if I build a plant, if I am, say, Nike that has plants in Thailand or China or Bangladesh as they do and supports this bill and they build the plant there, and they can use credits for a plant that they build there? Is that correct? Help me understand that. I am -- just basically under the international credit. I use Nike as an example. We will call it Company A.

Counsel. There are detailed requirements under Section 743 that explain what is necessary for it to ban international offset credit. All of those requirements --

Mr. Rogers. Just so I understand it -- that is why we are asking counsel, is that if I am a company, Company A, I build a facility outside of the continental United States, I can use any credit from that to apply back to the United States for my emissions? That is the way I read this.

Counsel. No, it needs to meet specific requirements and --

Mr. Rogers. Let me ask you. Where would the international company be if it were not outside the United States or international offset?

Counsel. Could you repeat the question, please?

Mr. Rogers. I was trying to understand what an international offset is.

Counsel. An international offset credit is a credit that companies in the United States can use in lieu of an emission allowance to cover their greenhouse gas emissions. It is

generated by an action that is taken outside the United States to reduce greenhouse gas emissions outside of the United States that can then be sold to the company inside the United States.

Mr. Rogers. So could that include a company that is doing carbon sequestration overseas?

Counsel. The generator of the offset credit?

Mr. Rogers. I am just trying to understand how this works. It is obviously fairly complicated. How am I going to get a credit if I am a company in Detroit, Michigan? How do I qualify for that? What does that mean?

The Chairman. Without objection, the gentleman will be given 2 additional minutes.

Counsel. Currently there are U.S. companies that go out and develop what are called offset projects where they undertake sequestration projects in other countries. These would apply only in developing countries. In a developing country, they might go in and replant forests for example, and generate carbon reductions.

Mr. Rogers. Can they make improvements to facility overseas in a developing country?

Counsel. That would be determined under the rules that EPA set out.

Mr. Rogers. It is possible that they could make the rule that a company that has no carbon sequestration goes for that, that would qualify for an international credit, right, because

they improved --

Counsel. Potentially -- however -- EPA would have to develop the rules first. There is extensive set of criteria in the statute for what EPA would require in addition to an agreement with the developing country.

Mr. Rogers. As the bill stands today, there is nothing in this law that would prohibit that, is there?

Counsel. No.

Mr. Rogers. There is nothing in there to prohibit it. So -- wow. So if General Motors which now has been told by the administration can import more cars from China in 2011, they could use this provision to make an improvement on a plant in China and then use the credit back here as well? Is that correct? If they meet the EPA rules. It is not prohibited that would not be prohibited under this law; is that correct? It is not prohibited?

Counsel. It would have to be an international agreement between the U.S. and the host country first that would establish the criteria for judging whether an emissions reduction had occurred.

Mr. Rogers. Is that in the bill?

Counsel. Yes.

Mr. Rogers. Where is that?

Counsel. That is working off the substitute --

Mr. Rogers. If China would want to increase its production and I come up with this agreement, I would clearly set up a

regime, alls I have to do is have an agreement with the United States that meets certain criteria?

Counsel. I am sorry.

Mr. Rogers. That is a little scary. Mr. Chairman. Did you know that was in there?

The Chairman. I am sorry. I wasn't listening, what was your concern?

Mr. Rogers. Part of the agreement that has been proffered by the car committee and this administration is that we will import more cars starting in 2011 from China and South Korea. The international offset credit would allow them under some agreement that they could agree to. It is not prohibited under this, to actually make no improvements here, but increase their reduction overseas and send it back to --

The Chairman. Will the gentleman yield? Are you speculating that it could happen?

Mr. Rogers. It is not prohibited, yes. Would you have believed that this administration would have pushed car companies to import more cars?

The Chairman. I don't believe they have.

Mr. Rogers. Absolutely they have, Mr. Chairman. I would encourage you to read the language. As a matter of fact, the UAW believes it to. The UAW is circulating a letter today. Are you disagreeing, Mr. Chairman, with the United Auto Workers?

The Chairman. It won't be the first time.

Mr. Rogers. That is an interesting position for you to be in, Mr. Chairman. They certainly believe it. It is kind of funny. You and I don't agree --

The Chairman. The gentleman's time has expired. But let me just indicate you are very much more attuned to this than I would, but I have never heard from any source that this administration is trying to encourage the importation of cars from Asia at the expense of the cars that are produced here in the United States. As I understand it, you asked counsel whether something could be done and --

Mr. Rogers. I would be happy to work on an amendment together, Mr. Chairman, to prohibit that, including these international offsets overseas. And I will get you the letter from the UAW today.

The Chairman. I would be happy to receive it and you may well convince me they took that position. But that doesn't mean it is going to convince me that the Obama administration has taken that position. Maybe a preemptive letter by the UAW, or you can't convince me that I should react to something that hasn't happened. The gentleman's time has expired.

Mr. Rogers. Mr. Chairman, shouldn't we prevent it before it happens?

The Chairman. Let us see what you want to come up with and I will look at it.

Mr. Rogers. So you will work with me on some prohibitive --

The Chairman. I will be to see what letter you want to draft and I would like to get more information about it.

Mr. Rogers. And this is what worries me, Mr. Chairman, when we don't really know what is in the bill and what is at stake.

The Chairman. If I can reclaim my time now, because I am going to recognize myself. I don't want questions to be asked like isn't it possible that something could happen to which no lawyer would say it is not possible. And then if you can't stay is impossible, you jump to the conclusion it is going to happen. That just seems to me --

Mr. Rogers. In fairness, Mr. Chairman --

The Chairman. I haven't yielded to the gentleman. You have had your time. I haven't yielded. That is what I fear may be happening and suspect may be happening. But I will be glad to look at it with the gentleman because if there is a concern and there is an effort to try to head off an attempt by anybody in the Bush administration to take a strategy to bring in more foreign cars, if anything, this administration has been working with the auto industry to promote the sale of cars. The Sutton amendment was supported by the Obama Administration to get more cars purchased in the United States. The Obama administration has been working with the auto industry to try to figure out their viability for the future. And I wouldn't want people to start hearing things said at a hearing that is going to make them fear something that isn't happening. But if there is an attempt to

prevent somebody from doing something at the administration by urging them not to do it, I will be glad to look at it. I want to now recognize Mr. Barton for 5 minutes more. He had some questions and then I am going to recognize Ms. Eshoo to offer her amendment.

Mr. Barton. Thank you, Mr. Chairman. I will try to be very concise here. I want to first bring members' attention to Page 422 on line 9. It says United States greenhouse gas emissions were other than 7.2 or 7,206 million metric tons. That is an requirement that the administrator -- that is apparently the baseline of anthropogenic CO2 emissions in the United States in 2005; is that correct?

Counsel. Yes, that is correct.

Mr. Barton. My question to counsel, if that is what the baseline is, where do we get the 4,627 emission allowance baseline in 2012? Why is that number not identical to 7,206?

Counsel. It reflects a number of things. One, there is a 3 percent reduction that the target that comes from Section 703 and second this only applies to capped sectors or capped sources and that is less than total U.S. greenhouse gas --

Mr. Barton. What are the uncapped sources? Because it is about 2,600 minus 3 percent tons?

Counsel. In 2012, the uncapped sectors would include -- actually the statute goes through and lists the capped sectors or the capped sources which would be easier and in 2016 that is

electricity generator, it is refiners and importers of fuel and fluorinated gas manufacturers and nitrogen trifluoride emitters.

Mr. Barton. Is it true that all of the agriculture is exempt?

Counsel. Agriculture is not listed as a covered entity.

Mr. Barton. So it is exempt?

Counsel. Covered entities are defined in Section 713 on Page 535. It is an electricity source, stationary source that produces for sale or distribution petroleum based or coal based liquid fuel, a stationary source that produces for sale in bulk fluorinated gases and other industrial gases, stationary sources that emit nitrogen trifluoride, a geologic sequestration site.

Mr. Barton. I have read the things that are covered. I just want to make sure there are large sectors that are specifically exempt from this act.

The Chairman. Would you yield to me?

Mr. Barton. Sure.

The Chairman. If an entity is not covered. Does that mean it is exempt?

Counsel. A covered entity would not have to comply with the requirements -- something that is not a covered --

The Chairman. An uncovered entity would not have to comply.

Counsel. Wouldn't have to comply.

Mr. Barton. This Act doesn't -- to use the chairman's terminology, doesn't cover 2,600 man made tons of CO2 in the

United States in.

Counsel. I am sorry. Could you give me the --

Mr. Barton. I am just subtracting the first line -- the first number on 2012, 4,627 from 7,206. And I will agree that you have got to reduce that number by 3 percent because the chairman and the people that support the bill want reductions 3 percent below that base -- the 2005 baseline.

Counsel. There are covered entities that are covered under the -- under Title 7 later that are not covered in 2012.

Mr. Barton. I am about out of time. So I would like -- any entity that is covered that has an emission of 25,000 tons of CO2 a year, if it is listed as a covered entity and it is that much CO2, it has to comply. What is an example of 25,000 tons of CO2? What would -- does a truck stop emit 25,000 tons of CO2? Does a --

Counsel. A truck stop would not be a covered entity under the definitions of covered entities.

Mr. Barton. Because it doesn't -- it is not one of these specific listed --

Counsel. It is only things that are specifically listed or that fall into those categories that are covered.

Mr. Barton. Okay. All right.

The Chairman. All others would be uncovered?

Counsel. Correct.

Mr. Barton. My last -- because I am at the zero limit. On

Page 450, the Act sets up a strategic reserve --

The Chairman. Without objection, the gentleman will be given 1 additional minute.

Mr. Barton. Sets up a strategic reserve where depending on the year, a certain percentage of the allowances listed on Page 420 is set aside to be auctioned off for those entities that need to purchase allowances, but it sets a minimum strategic auction price of \$28 in 2009 dollars. And then it goes up 5 percent a year plus inflation, and then beginning in 2015, the price, the minimum price goes up to 60 percent above a rolling 36-month average. Now, \$28 is a much higher number than \$10 or \$12 or \$17.

So my question, and this is really more to the chairman than to the counsel, is it not true that the minimum cost of this bill is going to be that \$28 times the number of allowances that have to be auctioned which even in year one is over 1,000 tons?

The Chairman. I don't think that is a correct assumption because -- maybe counsel can explain this further. But we don't look at it as just the allowances. There are a lot of other things in play. And a lot of the reductions will be achieved by other means than the allowances themselves. In fact, it would be in the interest of any covered entity to look for the least -- least costly way to achieve the reductions required in that period of time and not have to use the allowances that they have at their disposal. Is that correct, counsel?

Counsel. That is correct, sir. There are -- sources will

have -- some sources will have reduction, they can make that will be cheaper than \$28 a ton. Some sources will either be given allowances or will have allowances that they can buy that should be EPA modeling says would be less than \$28 a ton. They can also buy international and domestic offsets and use those for -- use those for compliance as well. And this is -- the strategic reserve is there more as a safety measure than as an expected --

The Chairman. If the gentleman will yield to me further. The compliance does not come only through the use of the allotments in the market. It can come from other ways of achieving the reductions. But as I also want to point out, in 2012, the cap is going to cover only the electricity sector, transportation and the fuels and fluorinated gases. In 2014, industrial sources come in. In 2016, natural gas, local distribution companies come in.

So I think we have to recognize there is a progression. By 2016, the draft covers 84.5 percent of U.S. emissions. So there is a phase in of the covered entities and what goals will be achieved by them. The gentleman's time has expired. The gentlelady from California, Mrs. Bono, requested an opportunity to engage in some questions. And I wanted to recognize her before I call on Ms. Eshoo to offer her amendment.

Mrs. Bono Mack. I thank the Chair and want to take this opportunity to thank counsel for your hard work and the chairman and ranking member for feeding us for a couple of days. So a

question for counsel is, the RES in this legislation takes a step in the right direction, in my opinion, to include waste energy facilities but they are qualified in the bill. Now, I have toured a facility in my district, and I am very excited about the potential this technology has to remove matter from our landfills to produce clean energy. So I just wanted to ask counsel a few questions on portions of how this energy source is qualified. On Page 15, line 14 begins the definition of qualified waste to energy. Included in that definition, the following requirements it says such terms shall include only the energy derived from the none fossil biogenic portion of such waste or debris. But can you explain why we only count the biogenic portion of the waste from waste to energy?

Counsel. Is your question about the intent?

Mrs. Bono Mack. The question just seems -- it doesn't make sense. Why you are incentivizing landfill gases at full -- at a full credit but waste energy gets a partial credit and it is 10 times more efficient than landfill gas but we are definitely picking and choosing winners here and I am wondering why you are qualifying it and then just counting the biogenic portion of what is actually generated, why you are separating out the electricity that is created from one of these facilities?

Counsel. I can't speak to the rationale behind that.

Mrs. Bono Mack. All right. Then looking at section C-1 on the next page, moving on from that, but still concerning waste to

energy facilities. If the concern is that these facilities will go on line without the necessary permitting and be either dangerous or in some way negatively impact the environment, why wouldn't we extend these requirements to all sources of renewable energy? Are we less concerned about wind or geothermal plants having the legally required permits? Why are we treating waste to energy differently than other sources?

The Chairman. Will the gentlelady yield to me?

Mrs. Bono Mack. Yes, Mr. Chairman. Thank you.

The Chairman. The renewable portion of the municipal solid waste is the biogenic portion and paper, food waste and coal board, et cetera. So that is what we talk about when we are talking about the renewable portion of the solid waste. I hope that helps.

Mrs. Bono Mack. It helps, Mr. Chairman. But it is just sort of commonsense that if you put it in a landfill, it is going to create gas and you are going to use that gas but you are going to -- it is one-tenth as efficient as if you burn it and put it towards the waste to energy credits. It doesn't make sense that you are picking and choosing on where you are going to dispose of that product and actually do it in a much less efficient manner. Would you --

The Chairman. If you yield to me. The part that -- the biogenic part is the part that becomes the gas. The rest of it is a solid waste. And would not produce the gas.

Mrs. Bono Mack. All right. Well, you know, when I toured this, I was just sort of a little bit stymied by some of the environmental positions that it is bad and less than favorable and I first of all I appreciate your including it in the bill. But these facilities are very complex projects with enormous sophisticated equipment. How would a facility be treated in cases where it malfunctions or equipment failures caused the facility to be temporarily noncompliant?

The Chairman. Counsel answer that question.

Mrs. Bono Mack. Counsel, chairman, anybody.

Counsel. This section would be implemented by the Federal Energy Regulatory Commission and they would interpret the language here in their implementation.

Mrs. Bono Mack. Do you believe that that would have some sort of impact on the facility's annual certification?

The Chairman. Will the gentlelady yield to me?

Mrs. Bono Mack. Yes, Mr. Chairman.

The Chairman. You are raising some serious questions that I would like to review with you to see if we are doing exactly what we ought to be doing in this regard. And so if you would permit, why don't we set aside these questions and go over it in more detail because maybe we should look for some further refinement of the language.

Mrs. Bono Mack. I appreciate that, Mr. Chairman. Again, I just want to thank you for including it in the bill to begin with

and I appreciate the time. I yield back.

The Chairman. Thank you. Ms. Eshoo is ready to go, but Mr. Pitts wants to ask some questions. Let me ask Ms. Eshoo, because we really should go back and forth, Mr. Barton made quite a point of that on our first day of the markup that we need to go by tradition back and forth for recognition. Would it be acceptable to you if Mr. Pitts asked his questions.

Ms. Eshoo. That is fine.

The Chairman. Mr. Pitts, I would like to yield to you 5 minutes. Mr. Pitts, I don't know if you realized, I called on you. You are recognized for 5 minutes to pursue --

Mr. Pitts. Thank you, Mr. Chairman. I am just going to follow up on the line of questioning if you can clarify.

The Chairman. Hold on a second let me set the timer again. I thought you were about to ask questions and I want you to be able to have the full opportunity. Yes.

Mr. Pitts. Thank you, Mr. Chairman. If I can continue on the line of questioning. I have a waste to steam energy plant in my district and I visit it. It is municipal waste. They take out the metal and the plastic and burn the rest. Now, under this bill, would that be considered a renewable energy source in because they otherwise would landfill it and it would produce a lot of methane.

The Chairman. Yes.

Mr. Pitts. The logic that Mrs. Bono Mack was making. Under

this bill, you said the biogenic portion would be renewable. Well, it is mixed municipal waste. Would that be a renewable resource?

The Chairman. Can counsel respond to that question? I think it is a good one.

Counsel. It sounds like in this case, the plastics and the metals, the nonbiogenic material is removed. If what is left is the biogenic material --

Mr. Pitts. Well, everything but plastic and metal is left. Now, is that biogenic? Is that renewable?

Counsel. I can't speak to the specific facility, but the biogenic portion under the legislation would produce --

Mr. Pitts. How do you determine the biogenic portion of municipal waste?

Counsel. I am sorry. Could you repeat that question.

Mr. Pitts. How do you determine the biogenic portion of municipal waste?

Counsel. This definition and the overall section would be implemented by the Federal Energy Regulatory Commission. They would have to look at this definition and implement it.

Mr. Pitts. The question I have is do waste to steam energy plants, which are quite efficient and I visited and it is quite clean. You can look at the stack and not even see anything being emitted. It does seem to be a renewable resource, should be considered renewable and that is the question, Mr. Chairman, that

I am asking.

The Chairman. The renewables is a biogenic portion that comes from the paper, the food, waste, the coal board, things like that. But the rest of it is not going to be --

Mr. Pitts. It burns, so I don't know if it is biogenic or not. But it produced a lot of electricity in our area. And it is clean when it is done there is a little bit of ash left that is put over the landfill as a cap.

The Chairman. Well, let us take a further look at that. I think that was the point of coming back.

Mr. Pitts. Mr. Chairman, if I can continue. I have a couple of minutes. We were talking earlier about international offset credits and the international climate change adoption program. That sounds a little bit to me like the global fund that we voted on last week. And I am wondering, who would administer this program? And are there any oversight protections? Because there is not a lot of oversight on the global fund.

The Chairman. Will the gentleman yield to me? It would be administered by EPA. There would be oversight within EPA and by the Congress. Maybe counsel wants to give any further explanation than that. But that is my understanding. They were to determine whether the offset is a genuine offset and whether it would be considered as an offset for the purposes of this act.

Counsel. The rules --

The Chairman. Is your mic on?

Counsel. The rules setting up the criteria for offsets would be established by EPA. EPA would have to require for each project a third party verification. They would have to require that the emissions removal reduction or sequestration had already occurred prior to the granting of the offset credit and there are provisions for audits on a periodic basis.

Mr. Pitts. And who would oversee or administer the international climate change and adaptation program? That is in Title IV? Would that -- is there any oversight from an international body is another question?

The Chairman. Yes, as I understand it, it would be the State Department and the USAID, our government agencies.

Mr. Pitts. And are there protections to ensure against waste, fraud and abuse is a question I would have.

The Chairman. Well, that is the job of the people within the administration to watch out for that and it is the job of Congress to pursue it through oversight.

Counsel. Section 494, subsection C provides for oversight and designates the --

Mr. Pitts. What page is that?

Counsel. Sorry. It is Page 937 of the substitute. The Secretary of State or such other Federal agency head as the President may designate in consultation with the administrator of USAID shall oversee the distribution of allowances available to carry out the program to a multilateral fund or international

institution.

Mr. Pitts. Thank you, Mr. Chairman.

The Chairman. Thank you, Mr. Pitts. Ms. Eshoo, I don't know what to do. Mr. Barton said he didn't think he could support your amendment. That would mean after debate, we would go to a vote on your amendment. But we are waiting for members to return. We indicated there would be no votes before 8:30, but that is only 7 minutes away. There are people at the White House who want to be here and we want to have here on both sides of the aisle to respond to any vote because to be fair. And so we are waiting for them to return. But I think that we ought to have a Republican amendment to Title III, and I was informed that Mr. Murphy has an amendment to Title III that would engender a great deal of debate. I don't know if yours would engender that much debate.

It seems to me yours would be a pretty straightforward one. I don't know why it wouldn't be accepted on a voice vote. But on the other hand, the rules that the Republican leader on the committee have set for us is if there is an amendment that they don't find acceptable, they want to have a roll call vote. And we are not ready to go to a roll call vote. So what I am saying is that I wish Mr. Murphy would arrive. He is on his way. So let us sit tight for a minute and the gentleman has some questions he wishes to ask? Well, then why don't I recognize you for 5 minutes.

Mr. Rogers. Thank you, Mr. Chairman. Counsel, again I just

want to try to understand. This is again the bill form on Page 437, Line 8. Entitled the minimum strategic reserve auction price in subsequent years. First of all, could you describe what the minimum strategic reserve auction price -- excuse me -- the strategic reserve auction is?

Counsel. The bill would set aside a number of allowances in the strategic reserve. It specifies the percentage that will be drawn -- the number and the percentage that will be put into the strategic reserve. And then quarterly there is an auction of a specified number of allowances from the reserve.

Mr. Rogers. What might an allowance be? What might go into this strategic reserve? What is it? Is it a metric ton of something? Is it -- it is some quantity of some --

Counsel. It is allowances that go into the reserve.

Mr. Rogers. Who establishes what that allowance is?

Counsel. Section 720 -- section 721 establishes what the allowances are.

Mr. Rogers. Okay. And those allowances are things that have been established by the government as some entity that would qualify for an allowance, is that correct, under the law?

Counsel. I am sorry. I couldn't hear what you were saying.

Mr. Rogers. That the panel, the government decides what quantity or what is -- would qualify as a quantity to relate to an allowance that could be put into the reserve? So it establishes what that quantity or whatever it is?

Counsel. An allowance is the authorization to emit 1 ton of carbon dioxide.

Mr. Rogers. That was the point I was getting to? It says the auction price will be 60 percent above a rolling 36-month average. Help me understand what that means.

Counsel. That means the administrator would look at what the average price of allowances had been over the 3-year period or 36-month period leading up to the auction. And then the average of that price would be the minimum floor price or the reserve price for the auction.

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[8:28 p.m.]

Mr. Rogers. Plus 60 percent.

Counsel. Yes, sir.

Mr. Rogers. Why 60 percent?

Counsel. The statute set 60 percent above the average price as the floor price for the reserve.

Mr. Rogers. And the average price would be determined by the auction, or is it determined by trading of that particular --

Counsel. It is the 36-month average of the daily closing price for that year's emission allowance vintage as reported in unregistered carbon-trading facilities, calculated using common --

Mr. Rogers. So this is now a commodity trade. So Wall Street is trading the value of this metric ton; is that correct? That is how that would work?

Counsel. The allowances may be traded.

Mr. Rogers. So some financial market, I will say Wall Street, trades this metric ton. And over 36 months they fix a value to that by average. So one day it is \$100, the next day it is \$90. And after that is over, then they say, we are going to put more into the market, but they have to be sold for 60 percent. So who buys them at that 60 percent rate?

Counsel. The Strategic Reserve auctions can only be accessed

by covered entities.

Mr. Rogers. So a company who, say, for whatever reason needs to by these credits, means they could grow. They hire 100 new employees, they are growing, they are outside their emissions. They have to go to their Strategic Reserve.

Counsel. They have other places that they can go. They can -- some of them may be given allowances for free under section 782.

Mr. Rogers. I understand.

Counsel. Some may buy --

Mr. Rogers. So who would buy the 60 percent? That is what I don't understand.

The Chairman. Would the gentleman yield to me?

Mr. Rogers. Yes.

The Chairman. This is a safety valve in the market, because if the value of an allowance went too high, there could be an increase in the supply by the release of the allowances or the offsets that would then be made available.

This is an interesting and, I thought, quite innovative approach. As you may know, the U.S. Climate Action Partnership worked for over 2-1/2 years in developing the idea of how this would work. These are the people who have to live with it, and they wanted to be sure that they weren't put in a situation where there could be any manipulation of the market since they are the ones who have to buy the allotments, so they established a

mechanism for an increase of supply when the demand is high enough so that otherwise it would drive up the price.

Now, in addition to that, we adopted and put into the base bill language offered by Mr. Bart Stupak, our colleague who has done a great deal of work on market manipulation, and he put in provisions -- recommended that we put in provisions that have even stronger enforcement powers to make sure that there is no manipulation in the market.

But your question was why the extra offsets would be added to the allowances, and that is a way to hold down the costs. The whole system is to provide a mechanism for achieving the reductions in carbon emissions at the lowest possible price, and to avoid any manipulation of the market. The structure was calibrated to provide an equilibrium.

So when you talk about a 30-month average of the price over a period of time, you are not dealing with any aberration, you are balancing it out. But then if it indicates a trend, the demand could be met with a greater supply.

Mr. Rogers. And, Mr. Chairman, I appreciate that, and maybe you can help me further understand it. It says, a minimum Strategic Reserve auction price. So if you are that person who has to buy in that particular year, you have lost all the advantage of the market that you say has, and now I pay 60 percent higher than the market says is that commodity is --

The Chairman. The gentleman's time has expired. But I do

think that there are protections that are written in so that people can be -- there is a banking system where they can use allotments that they save for this kind of purpose. You know, you get an allotment, you don't use it unless you have to. And you don't have to use it because there are other ways of achieving the reductions that are going to be cost-effective.

Mr. Rogers. Unintended consequences may be this punishes those companies who are growing and now have to pay a higher price for the same commodity.

The Chairman. I beg to differ.

Mr. Rogers. It says right here on page 437.

The Chairman. It says that it punishes companies?

Mr. Rogers. Absolutely. The minimum Strategic Reserve auction price shall be -- shall be 60 percent above a rolling 36-month average.

The Chairman. Yes.

Mr. Rogers. They have lost all the benefit of the 3-year price.

The Chairman. I disagree with you. I don't think that is what it means at all.

But you have exceeded the time by almost 2-1/2 minutes. And Mr. Murphy has arrived, so I want to recognize him at this point to be able to offer his amendment, and we can get into amendments and get moving on this markup process so that we can consider a different alternative.

But thank you for your questions. I think they were very provocative.

Mr. Murphy, you have an amendment at the desk?

Mr. Murphy of Pennsylvania. I have an amendment at the desk which meets all of your requirements, sir.

The Chairman. The clerk will report the amendment.

The Clerk. Amendment offered by Mr. Murphy of Pennsylvania. Page 732, after line 17, insert the following new section and make the necessary conforming changes --

The Chairman. Without objection, the amendment will be considered as read.

[The information follows:]

***** INSERT 9-1 *****

The Chairman. The gentleman will be recognized for 5 minutes.

Mr. Murphy of Pennsylvania. Thank you, Mr. Chairman. And, Mr. Chairman, in this, in the final sentence there is a typo. It has the word "Secretary." It should be Administrator, referring to the Administrator of the EPA.

The Chairman. Do you wish to ask unanimous consent?

Mr. Murphy of Pennsylvania. Ask unanimous consent that that be corrected.

The Chairman. Without objection, that will be the order.

Mr. Murphy of Pennsylvania. Thank you, Mr. Chairman.

Under this bill we reviewed has been -- some of the people have debated whether it is going to cost more in energy taxes or groceries or clothes or their cars. Now, if we can't guarantee we won't see higher energy prices or higher gasoline prices or higher home electricity costs, let us at least guarantee we are not going to lose jobs.

We have seen the ads on TV lately saying that we are going to see some growth in green jobs, and that is good, but let us not lose sight or concern for the jobs that have been so important to our Nation for so long; in particular, steel.

Now, we are proud of the steel in Pittsburgh. We are proud that our steel has built the skyscrapers of New York City, that magnificent Gateway Arch in St. Louis, and the picturesque Golden

Gate Bridge, all made by steelworkers. But throughout America, American steel has been the arsenal of democracy and the foundation of our Nation's strength.

But in the 1970s and 1980s, we saw steel jobs decline. Tens of thousands of jobs left the United States not because the world no longer needed steel, but because the world wanted less expensive steel. And since 1974, America has lost 367,000 steel jobs.

So steel mills opened up all around the world where countries made steel and steel products with lower wages, low benefits, lower and nonexistent pollution standards, and lots of government subsidies from foreign governments. Over and over we fought for American-made steel, and over and over we all went to rallies and stood up for steel. I am sure many in this room spoke up at those rallies and told the crowds we were with them. We pledged to all those worried workers we would no longer stand by and watch other nations take our jobs. We promised. We promised we would never let them down. We promised we would not let U.S. policy weaken our own competitiveness.

Many of us introduced bills to impose tariffs against companies that illegally dumped steel in the United States. Many of us spoke out against inferior products made in other nations and sent to our shores. Many have signed on as cosponsors to legislation recently introduced by Congressman Tim Ryan and myself to stop any nation from illegal currency manipulation so we could

level the playing field for steel and protect American workers. We all spoke out in church halls and fire halls and labor halls that we would push for fair trade and oppose any and all policies by the United States or other countries to put us, our families, our workers at a competitive disadvantage.

Now it is time to put our promises to work, and it is time to make good on our pledges. We have lost too many jobs in America to even risk losing more, and the bleeding must stop.

Back when thousands of those steel jobs were disappearing in the United States, I remember working as a psychologist in Pittsburgh and having counseled so many of those families, families that were so stressed by difficulty paying bills, threatened marriages, kids having trouble in school. I remember telling one family they didn't need a doctor, they needed jobs.

Now, we are all for doing many things to clean up our air. And we have to conserve, not waste energy. We have to use every ounce of innovation and creativity to maximize our energy efficiency and alternative energy development. But we must also explore those resources we have now, such as oil and coal, and put them to work. We must crack the scientific codes to solve our problems of pollution and emissions; solve our problems with real science, not political science.

We can do this as Republicans and Democrats standing together. That is why Representatives Neil Abercrombie, Lee Terry, Jim Costa, Joe Wilson, Tim Walz, Shelley Moore Capito and I

wrote and introduced a bill, H.R. 2227, the American Conservation and Clean Energy Independence Act, to cut our dependence on foreign oil, explore our own resources, but to dedicate the revenues to build clean-coal plants, nuclear power plants, clean up our Nation's water pollution, our broken sewer systems, our streams, our rivers, and our coasts.

By contrast, the bill before us doesn't put much money into clean coal, not even enough to build a fraction of a plant. Our current plants are old, built at a time when they used slide rules, not computers. We can't rebuild America by a complicated system of taxes, trades, rebates, and exemptions to special interests, but we can embark on the largest building of our infrastructure in our history by using resources from oil and gas and coal to clean our air, land, and water. We can create jobs to raise families comfortably, jobs here in the U.S.A., jobs that don't send money to foreign companies.

I want everyone to stop and think about those rallies for jobs that we have all been to, looked into the eyes of American workers. Think about the rough hands and broad shoulders of America's makers of steel, and say to them: When you needed us, we were here for you.

Let us tell them we weren't just putting a cap on emissions; we were willing to put a cap on American job losses. Let us stand up for American steel. Let us say that, at this time, this important, essential, pivotal time in our history, that when

America was worried about jobs to feed their families, clothe their kids, and send their sons and daughters off to school, we stood by their sides and said: America, we are here to ensure we will not abandon our workers again. We are here to stand up for steel, cap the job losses, and keep America strong.

I yield back.

The Chairman. The gentleman's time has expired.

The Chair recognizes Mr. Doyle to speak on the amendment.

Mr. Doyle. Thank you, Mr. Chairman. Is this for comment on the Murphy amendment?

The Chairman. Yes. We are debating the Murphy amendment that has been presented to us.

Mr. Doyle. Thank you, Mr. Chairman.

I would just like to make some comments about what we have tried to do in this bill to make sure that we don't lose jobs in the steel industry. And I would like to start by quoting a letter that was sent to us by the International President of the United Steelworkers Union, Leo Girard, who represents all of the steelworkers who Mr. Murphy talks about and that mostly reside in the 14th Congressional District where we have U.S. Steel's two active steel plants, Edgar Thomson and Braddock, and Mon Valley Works in West Smithland. This is from the International President of the Steel Workers.

Leo Girard, International President of the United Steelworkers Union, today praised the progress made by the U.S.

House Energy and Commerce Committee in its work to pass comprehensive climate change legislation with the following statement:

The USW has been working to ensure that the new products and processes which will build the clean-energy economy and solve the challenge of climate change are created here in the United States and built by American workers. We believe that addressing climate change and ensuring the strength of our Nation's manufacturing sector can be compatible goals. We are grateful for the leadership shown on this critical issue by the members of the House Energy and Commerce Committee, particularly Chairmen Waxman and Markey and Representatives Doyle and Inslee. I am pleased that they, along with many stakeholders in the labor, business, and environmental communities, have reached consensus on a way forward that balances the need to address climate change with the need to ensure that U.S. workers and industries are not unfairly hurt in the process. By providing rebates to energy-intensive manufacturers based on their output and efficiency, the House has created a strong incentive to maintain or increase domestic production, and to improve efficiency in the process. These rebates ensure that all of those producers at or above the industry average efficiency are not penalized. Also, the rebates will remain in place at their full level until either a strong and enforceable global agreement has been reached, or until the U.S. implements a program to equalize carbon costs between domestic and

foreign producers. The combination of rebates and international programs will ensure continued domestic competitiveness, and reduce the potential that our efforts in the U.S. to combat greenhouse gases will be more than offset by the increases elsewhere in the world. Preventing this carbon emission leakage is critical if the goal of stopping climate change is to be met. Congressmen Waxman and Markey, Congressmen Doyle and Inslee, and the rest of the Energy and Commerce Committee realize this fundamental fact and have crafted a strong and flexible policy to prevent it.

This, Mr. Chairman, from the International President of the United Steelworkers Union.

I think it is quite clear in this bill that the members of this committee have worked hard to ensure that no harm is done to our carbon-intensive industries that have trade competition, that this is a bill that will create jobs.

Every wind turbine that we build in the United States uses 200 tons of steel. I can tell you the steel workers that reside in my district -- and they all reside in my district -- are looking forward to building those wind turbines using that 200 tons of steel. The grid, the transmission grid, that is going to have to be built to transmit the solar energy and the wind energy all across this country is going to be built by U.S. workers in the steel industry.

Mr. Chairman, I think it is pretty clear from this letter

from the United Steelworkers Union that the people who work in steel and the people who represent those that work in steel think that we have done a pretty good job in protecting their interests and protecting their jobs here in America. And I yield back the balance of my time.

Mr. Gingrey. Will the gentleman yield?

Mr. Doyle. Yes, I will, Mr. Gingrey.

Mr. Gingrey. I appreciate the gentleman yielding. And I know that the gentleman certainly has done a fantastic job of trying to preserve jobs and mitigate the losses in his district, and he talks about that letter, and they are duly praising him.

But, Mr. Chairman, I have here a report from the Heritage Foundation talking about some of the job losses in specific districts of members of the Energy and Commerce Committee. And, Mr. Doyle, in your 14th of Pennsylvania, the Heritage Foundation estimates 4,977 jobs lost in the year 2011 --

Mr. Doyle. Reclaiming my time, Mr. Gingrey. In Pittsburgh, we don't care much what the Heritage Foundation says. We care about what the Steelworkers Union president says, because we know who has the interest of workers in Pittsburgh, and it is not the Heritage Foundation.

The Chairman. The gentleman's time has expired.

Who seeks recognition on the Murphy amendment?

The gentleman from Illinois.

Mr. Shimkus. Thank you, Mr. Chairman.

Actually, I do have great respect for Mike Doyle, and I know he has worked hard to craft this. I would just ask Mike one question. What if the general secretary of the United Steelworkers is wrong? I mean, what if he is wrong? What if there is great job loss?

Mr. Doyle. Well, I would say to my friend that any time you embark on something new and bold and challenging from the future -- you know, when the President said that we are going to put a man on the moon, and nobody knew how to do that, a lot of people thought maybe he was crazy at the time, or maybe he was wrong.

There are no guarantees in life, John. What I am saying is that we crafted a bill to deal with these situations.

Mr. Shimkus. And I am just saying it is still patriotic to not believe in the product advertising of a bill that is going to raise the price of electricity and energy because you are monetizing carbon.

So what we have been trying to do is say when you are going to raise energy costs, manufacturing is going to be harmed. You have negotiated diligently to try to offset that. Now, we are going to find out -- if this bill ever becomes law, we will find out who is right and who is wrong. I hope you are right; I fear you are wrong. And if you are wrong, all we are saying is there ought to be an insurance policy. So all these amendments are trying to say that if we have great job leakage, which means job loss, we had better stop. As Chairman Waxman has said to Mr.

Scalise, we had better stop digging the hole. And that is why we are never going to come to agreement.

But I think our votes are always going to be, for the most part, to say if you have bet wrong, our insurance policy is we are going to have an opportunity with our votes to say \$5 gas is too high; we had better change course. This amount of job loss is too much; we had better change course.

There is no insurance policy in this bill unless through the process we amend it and perfect it. I mean, you know, we have great respect for you and your work.

Mr. Doyle. Would my friend yield?

Mr. Shimkus. I would.

Mr. Doyle. And I hear what you are saying, but if I am wrong, or if you are wrong, John, we don't suffer too much. If Leo is wrong -- this is his membership. This is his life. These are his brothers and sisters. I think that he has thought very long and hard, and he asked very tough questions as we sat down and talked about how do we craft this bill in a way that helps them. He has a lot to lose if he is wrong. The fact that he has faith in what we are trying to do, I think, gives this the credibility that you and I could never give it.

Mr. Shimkus. But I will tell you, going back to the experience that I saw in southern Illinois with the mine workers; the mine workers, after the last Clean Air Act amendments, the politicians were there fighting for their jobs, the mine was still

closed. And we will have a chance to talk about mine worker jobs. So I have a great fear that --

Mr. Doyle. This is for you.

Mr. Shimkus. I know the Harvard-educated, Wall Street trader who is the mayor of that town.

Mr. Doyle. I know that you like to put your mine workers up here. These are my steelworkers, and they are some of the best in the world.

Mr. Shimkus. I know the Harvard-educated mayor who looks like a steel mill worker who is the mayor.

I would like to yield to my colleague and friend Mr. Murphy of Pennsylvania.

Mr. Barton. I thought that was your baseball team this year.

Mr. Murphy of Pennsylvania. Many of these steelworkers also live in the 18th Congressional District. And I want to point out this chart here, if I could. This has to do with the amount of emissions that come from different countries, China, European Union, Japan, and the United States. The U.S. makes steel efficiently and also makes the least amount of emissions compared to these others.

Now, I want to say that this is not just the blast furnaces, which is here in this purple color, but also electric arc furnaces, which use massive amounts of electricity to melt their steel. And we do know electric costs are going to go up.

I also want to note that the Steel Manufacturers Association

are also deeply concerned about this bill. We all are. Look, in 1974, we had 521,000 jobs in steel. We have 150-some thousand now or less. And our steel production has been there.

Let us give a guarantee to these steelworkers. I think the world of Leo Girard, too. He is a good man, and the steelworkers are good people. Why not give them an insurance policy?

The Chairman. The time has expired. The Chairman would like to recognize himself for 5 minutes.

I think that when we ask each other do we know whether we are going to be right or wrong and what we are trying to accomplish, I think we ought to ask ourselves: Are we better off now? We have an 8.9 unemployment rate right now, 13.7 million Americans unemployed last month. Steelworkers have been losing their jobs for years. And for those who want to question whether the bill that the steelworkers union and the steel industry are supporting are wrong, I think they have to answer back to you: Were you right in backing the Bush administration in allowing so many of these jobs to leave? Were you right in backing the Bush administration not to regulate the markets so we wouldn't see the abuses that we now see?

Mr. Shimkus. Would the Chairman yield?

The Chairman. I am not going yield yet.

Mr. Shimkus. NAFTA.

The Chairman. I voted against NAFTA. How did you vote?

Mr. Shimkus. I wasn't here. But President Clinton signed it

into law.

The Chairman. Well, I must tell you this: Most of the votes for NAFTA were Republican votes. Most of the votes for NAFTA were Republican votes. There are a lot of people, especially Republicans, some Democrats as well, believe that the doctrine of free trade would work out for everybody's benefit. There might be some steelworkers who would lose their jobs, but they are going to have other jobs they can turn to. And nobody has ever admitted that was not in the interests of the steelworkers.

So when you ask, is this worth trying out, this legislation that we are now reviewing? Well, is the alternative to go back to where we are now, to where we have been, to have the kind of policies we have had in this country not just in trade, but policies that eviscerated the regulatory agencies to protect workers and job safety, to even increase the minimum wage, which we had a very difficult time because President Bush would not accept it for such a very long period of time?

The amendment that is being offered says if it doesn't work out for the steelworkers, if there are more job losses -- well, specifically more than 10,000 jobs been lost in the steel industry -- that the title will no longer cease to have any force and effect. If that happens, you are back to where we are today. Is that a successful place to be? I don't think that that would be the right answer. If the policy is not working out, then we are going to have to come up with another policy, not the failed

policies that we have seen that have cost so many steelworkers jobs, have moved so many industries overseas.

So I know you are sincere. On the other hand, it is hard to not recognize a pattern. If this happens, the bill is gone. If this happens, the bill is gone. And you say it is an insurance policy. It sounds to me like a political way of trying to raise people's concerns and fears. And maybe it won't work, but what we have had has not worked. It hasn't worked for American jobs. It certainly hasn't worked for the steel industry. It hasn't worked for the workers there. Go tell them they are better off with no law. And I think they have looked at it and said, maybe there is a chance in this legislation to really transform our economy, that we can restructure our economy and create more jobs.

We have already given up the idea that we don't manufacture things in the United States. Let us rethink that. Let us bring manufacturing back here. We want to kick-start our economy with clean-energy jobs. We will go on to reestablish American leadership in clean-technology industries. If we develop these clean technologies, people around the world are going to be waiting to buy it. And I would rather they buy it from us than to buy it from China or some other country that won't even be attempting to do what we are trying to do here in the United States.

So I would urge rejection of the amendment, and -- I yield the last 30 seconds.

Ms. Eshoo. Thank you, Mr. Chairman.

You all know that I represent Silicon Valley, and it is a place that really offers a great deal of hope to the country, entrepreneurs, risk takers not afraid to take on the big questions. Many of you have traveled through and visited with many of the places there, the small companies, the medium-sized, and even the large.

The Chairman. Without objection, I would like another 2 minutes so I can yield to the gentlelady. No objection being heard, the gentlelady has 2 additional minutes.

Ms. Eshoo. Thank you, Mr. Chairman.

The reason I am raising this is because there is such skepticism and underlying fear, as if we are going to go off the edge of a precipice.

Let me tell you that the entrepreneurs in Silicon Valley are chomping at the bit, chomping at the bit, excited, can't wait to see the results of this bill in order to grow and to build and to manufacture all that will be part of a new -- a part of our national economy.

Now, I mean, the people that I am speaking of don't change their party registration simply because I represent them. I mean, they are known around the world for what they have built, how they think, and what they do. And there are many of them that are your persuasion of party registration rather than mine. But they are highly, highly confident in what we are doing and why we need to

do it.

And I share this with you now, hopefully giving you a little inoculation, kind of a vitamin B shot. I mean, we are Americans, for Heaven sakes. Where is it written that we can't do? That we don't know how? That we are afraid?

So, Mr. Chairman, thank you for allowing me to say something, but I think maybe that is why I stayed here all the time everybody else was gone. I listened to the skepticism, but I want to share the optimism that is there by some of the best minds and some of the best leaders in our country. Thank you.

The Chairman. I am going to reclaim my time.

You come from an area of the country where they didn't sit around and say, nothing can be done. They created whole new enterprises using their minds, using some of the resources that came about from government investments. And I think we have to recognize not that we can't do this, we can't do that, because the status quo is no great bargain, but that we can do a lot more than we have been doing, and we have got to do more than we have been doing because our whole independence as a country and our need for new jobs demands it.

Mr. Barton.

Mr. Barton. Thank you, Mr. Chairman.

I want to speak in support of the Murphy amendment. I have been relatively quiet on some of these specific protection amendments, but I do want the record to show I don't have a

steel-manufacturing capability in my district where you start from iron ore and coke, and it creates the steel, but I do have two of the most efficient, if not the most efficient, in the world minimills in my congressional district, one located in Jewett, Texas, and the other in Midlothian, Texas, that takes scrap, cars, and metal and melt it down in an electric arc furnace. They are the two largest users of electricity in the State of Texas.

Those two facilities plus a fabrication facility in Grapeland, Texas, between them employ between 1,500 and 2,000 what we call steelworkers. Now, they are not the kind of steelworkers that Mr. Doyle has where they create the steel from raw materials, but they do recycle steel, and they do fabricate steel. Until this last year where we have had this recession, those facilities were working overtime and were very profitable.

They have not been negatively impacted by NAFTA. I would point out that Mexico makes very little steel. We may have had job losses to Mexico because of NAFTA in other areas, but not in steel. Our competitors in steel are China and India, and to some extent Great Britain and Japan. It is not Mexico. And I voted for NAFTA, and NAFTA has quadrupled the trade between Mexico, Canada, and the United States. It doesn't mean there haven't been some job losses, but on a net basis there have been jobs created in the United States, jobs created in Canada, and jobs created in Texas.

But back on the steel, which is the focus of this amendment.

What Mr. Murphy is saying here is that if, in fact, the proponents of this legislation are wrong, and 10,000 jobs in the steel sector do disappear, then this title -- not the whole bill, this title -- shall cease.

Now, if you think about it, one of the largest components in the cost of steel is the price of energy. And all your offsets and all your allowances and all of your rebates doesn't detract from the fact that electricity prices are going to go up, not down. Now, you may get some rebates, and you may get -- but electricity prices are going to go up. And I know for a fact that a \$500 million steel improvement project which was designed to go to Grapeland, Texas, at the existing new core facility did not go there because the price differential in electricity in Texas and some States that I am not going to name -- Texas was 3 cents above the price of electricity than the State that that project went to.

You cannot sit here and tell us that if prices go up for electricity in this country because of this bill, that some steel jobs are not going to be lost, because electricity is a huge component.

So all this amendment says is if we lose 10,000 jobs, the thing that caused the price to go up, we are going to stop implementing it. If you don't think prices are going to go up in electricity, you are not going to lose anything by voting for this amendment. But if Mr. Shimkus and Mr. Murphy are right, it is a protector.

We don't want Mike Doyle to lose one job. We don't want Tim Murphy or John Shimkus to lose one job in their district because of this bill. Mr. Waxman doesn't want anybody to lose a job. But it is at least theoretically possible, and I would say it is an absolutely economic fact of life, that people are going to lose jobs when electricity prices go up, because jobs are going to migrate. And they are not going to migrate somewhere else in the United States, because this act applies to every covered entity in the United States. So I would hypothesize that we should vote for this amendment.

Thank you, Mr. Chairman.

The Chairman. If I ask unanimous consent for you to be given an additional minute, would you yield it to me?

Mr. Barton. I will.

The Chairman. Without objection, the gentleman has an additional minute. And I thank him for yielding to me.

But I remember when we did the Clean Air Act, and people said we are going to lose all sorts of jobs. The cost of the economy was going to be -- it was going to be so exorbitant that we wouldn't be able to sustain it. And they were wrong. We heard those predictions, and they were wrong.

I would think that I have more confidence in the plan that Congressman Boucher developed and urged us to adopt, which we accepted, to allow the utilities to get the free allowances on condition that those free allowances be used to protect the

ratepayers. I believe that is going to work. I believe it. And I think that in doing that, we won't have the loss of jobs because of the cost of electricity. And during that period of time, we are going to be able to figure out ways to get our reductions from the carbon emissions not by raising electricity prices, but by using the offsets, developing the technology, and moving toward a place where we can be more efficient and use renewables.

I thank the gentleman. I exceeded the 1 minute.

Yes, Mr. McNerney.

Mr. McNerney. I move to strike the last word.

The Chairman. The gentleman is recognized.

Mr. McNerney. You know, I certainly appreciate the concern about jobs. And we have heard over and over that this bill is going to cost jobs, as if saying it over and over would make it true. But the opposite is true. We are going to lose jobs if we don't pass this bill.

In my mind, history is clear. I have lived it. I worked in the wind industry. American money was spent creating wind turbine technology right here in this country, and because renewable energy wasn't supported, those jobs went overseas. Most wind turbines are manufactured in Europe right now. We need to bring those home. Today they are being manufactured in India, in Europe, and all the other countries.

Just the other week, just last week, there was an article in the New York Times showing that China now leads us in the

production of clean coal. We needed -- this process is happening again. We need to stop that. We need to allow innovation to return to this country and create jobs here.

Moreover, other countries are going to start putting roadblocks in the way of our companies if we don't adopt greenhouse gas capping in this country. Europeans are going to do it if we don't participate in Copenhagen.

So, again, I certainly appreciate the desire of our colleagues to protect jobs; however, it seems to me that our colleagues on the other sides of this aisle are more determined to stop the bill and to kill any chance we have of limiting carbon.

But we haven't said a single word about the big elephant in this room, and that is global warming. It appears that the Republicans in this room, in this House, don't believe that global warming is a serious threat. Either they think it is not happening, or they think that if it is happening, humans aren't causing it; or, if humans are causing it, it is too expensive for us to do anything about. In other words, let us keep our heads in the sand and hope for the best.

That is defeatist. The scientific evidence is overwhelming that global warming is happening. The situation is urgent. We are dangerously close to tipping points. Do you want to go over and tell the next generation of children that we heard about last night and explain to them why we didn't take action while we had a chance? Well, we are in an emergency, and we need to take action.

This amendment, the worst thing right now, will allow global warming to proceed. I urge all of my colleagues to vote against it.

I yield back the balance of my time.

The Chairman. The gentleman yields back the balance of his time.

I would like to move to the vote on this amendment. Are Members ready to proceed to the vote? Let us get a roll call vote. Who is seeking recognition?

For what purpose does the gentleman seek recognition?

Mr. Shadegg. Strike the requisite number of words.

The Chairman. Would the gentleman be willing to do it in 2 minutes?

Mr. Shadegg. I would be willing to do it in 5. I would be willing to do it in 2.

The Chairman. How many other Members are going to ask for recognition on this amendment?

Mr. Shadegg. Mrs. Blackburn.

The Chairman. The gentleman is recognized for 2 minutes, and then we are going to go to the vote. I am willing to yield 2 minutes to the gentleman from Arizona and 2 minutes to the gentlewoman from Tennessee Mrs. Blackburn, and I would like to then go to the vote. I hope Members will cooperate; otherwise I think we are going to have to vote on it.

Mr. Shadegg. Thank you, Mr. Chairman. And I am thrilled to

take 2 minutes.

I want to respond and point out that in this debate, that the reality has been very different than we just heard. Not a single amendment has been offered on this side to repeal the bill instantaneously. Not a single amendment has been offered on this side to say the bill would never go into effect. Not a single amendment has been offered on this side to say we would have no cap-and-trade or no greenhouse gas program whatsoever.

What we have said and said repeatedly is that we want there to be tests, we want there to be checkpoints. We want there to be, quite frankly, to use the language of the former Chairman of the Subcommittee on Energy, off-ramps, off-ramps that protect not ourselves, not us personally, but our constituents, working men and women across America. We said one of those off-ramps ought to be if overall unemployment across the Nation goes up, there ought to be an off-ramp. We said if gas prices go up dramatically, there ought to be an off-ramp. We said that if electricity prices go up beyond an acceptable limit, there ought to be an off-ramp.

This particular amendment says that if there are increases, unacceptable increases, in the employment of steelworkers, there ought to be an off-ramp. And yet, we get rejected and rejected and rejected. But the argument that is made to reject us is bizarre. It is, we absolutely know on our side of the aisle -- referring to the Majority side of the aisle -- that none of the things you are talking about, the increase in unemployment

nationally, won't ever happen, so we don't want an off-ramp; the gas prices that you are concerned about increases won't ever happen, so we don't want an off-ramp; the increases in electric prices won't ever happen, so we don't want an off-ramp.

I would suggest that your conduct proves you don't have any faith that those things won't happen, because if you actually believe they would never happen, you would agree to allow each of these on-ramps, because you would say, yep, you are right, those are never going to happen, so we will allow the suspension of this act if they ever do happen. And I think your conduct impeaches your words.

I yield back the balance of my time.

The Chairman. The gentleman's time has expired. The Chair now recognizes the gentlelady from Tennessee Mrs. Blackburn.

Mrs. Blackburn. I thank you, Mr. Chairman, and I will be brief. Just a couple of points.

The gentleman from California just mentioned that the global warming, this is irrefutable. The science is out there. I think he will be happy to know that this week in Nashville, Tennessee, we had a frost warning. Now, we have already been through blackberry winter, strawberry winter, dogwood winter, redbud winter, all those things that come in the spring when the weather starts to warm up and you are going through spring. Well, this week we had a major cooling trend. We have had the coldest winter in 113 years.

So there is much debate about whether or not global warming does really exist. Scientists refute this.

When you talk about jobs and the future and children, I will tell you we are very concerned about jobs. And when I have a letter from Caterpillar put on my desk, and they are talking about losing jobs if we pass this legislation, it causes me to be very concerned for future generations, for children like my grandson, who is 1 year old this week, and another grandchild that is going to arrive in June. What are we doing to the opportunities for them if we limit their opportunity for jobs and jobs growth?

Last night or night before last, I asked if anybody had a copy of the study that could show that there were net job gains because of a country implementing cap-and-trade practices. What I have is the study from Spain that shows there are net job losses. We know the same thing happened in England, also in Germany, also in Denmark. I am still waiting to see if there is any study from any country that shows they actually had a net jobs gain.

So this is why we are saying let us put some checks and balances in here. Let us have some time to revisit this if we need to revisit.

I yield back.

The Chairman. Thank you for yielding back.

We will now proceed to a vote on the Murphy amendment. The clerk will please call the roll.

The Clerk. Mr. Waxman.

Mr. Waxman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

[No response.]

The Clerk. Mr. Markey.

[No response.]

The Clerk. Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel.

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

[No response.]

The Clerk. Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield, no.

Mr. Melancon.

[No response.]

The Clerk. Mr. Barrow.

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill, no.

The Clerk. Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui, no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes, no.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy, no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space, no.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch, no.

Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

Mr. Hall. Aye.

The Clerk. Mr. Hall, aye.

Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton, aye.

Mr. Stearns.

[No response.]

The Clerk. Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal, aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield, aye.

Mr. Shimkus.

[No response.]

The Clerk. Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt, aye.

Mr. Buyer.

[No response.]

The Clerk. Mr. Radanovich.

[No response.]

The Clerk. Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts, aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden, aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry, aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers, aye.

Mrs. Myrick.

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick, aye.

Mr. Sullivan.

[No response.]

The Clerk. Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania, aye.

Mr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess, aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn, aye.

Mr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Mr. Gingrey, aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise, aye.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher, no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon, no.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross, no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey, no.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

The Chairman. All Members respond to the vote? Anybody want to change their response to their vote?

The clerk will report the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 20, the nays were 35.

The Chairman. The yeas were 20?

The Clerk. The yeas were 20.

The Chairman. Twenty ayes, thirty-five noes. The amendment

is not agreed to.

The amendment that we were debating and we are going to vote on in a minute is the Terry amendment. And I would like to have a summary of the arguments in 2 minutes on each side.

Mr. Terry, are you ready?

Mr. Terry. I am prepared.

The Chairman. The gentleman is recognized.

Mr. Terry. Thank you, Mr. Chairman.

Very quickly, the EPA is touting a new lifecycle, carbon lifecycle, for biofuels, which would include an assumption that --

Mr. Upton. Mr. Chairman, the committee is not in order.

The Chairman. The committee will be in order. I want to restore the gentleman's time.

Mr. Terry. Thank you.

The lifecycle would also include any rainforests that have been destroyed somewhere else in the world under the assumption that if you have used, let us say, feed corn, instead of feeding cattle you gave it to the co-op that was sent to the ethanol maker, that that then made or forced Indonesia to have to deforest some of the rainforest, and, therefore, there is not as many trees to suck up the carbon dioxide, and that has to be counted into the lifecycle. That is an actual rule. I am not being preposterous or absurd here. This is being proposed by the EPA.

I think it is beyond silly that you calculate in the deforestation of a rainforest in some other place in the world and

somehow make an assumption that whatever that country's decision was on that rainforest should count against biofuels. This is A. It is just absurd.

B, what this does then, it gives full power to the EPA to, in essence, ban biofuels. If they don't ban it under this lifecycle calculation, you are going to get lawsuits from the environmental groups that will force the end to biofuels.

I think it is unfair to count the destruction of any rainforest. There is parts of this bill that will allow the reforestation through funding from this bill, but don't blame it on our farmers who are producing grain that goes to biofuels.

And I think that is a pretty good, accurate summary, Mr. Chairman. And I will yield back my last 10 seconds.

The Chairman. I thank the gentleman for yielding back and for his comments.

I now wish to recognize Mr. Markey for 2 minutes.

Mr. Markey. I thank the Chair.

The Chairman. In opposition.

Mr. Markey. I thank the Chair.

I oppose the gentleman from Nebraska's amendment. Accurately counting the global warming pollution from the use of biofuels is difficult. The experts at the EPA have put forth a proposal to create a methodology to deal with it; however, they are now receiving vigorous responses from stakeholders all across the America. That is good. These are the experts.

Our goals here in the 2007 energy bill, as our goals are here today, are to reduce our dependence on imported oil and to reduce the amount of greenhouse gases that go up into the atmosphere. We ought to ensure as we move forward on biofuels that we accomplish that goal. That is what this study is all about. We must have the facts before us. This proposal by the gentleman from Nebraska would short-circuit that process. That would be a huge mistake.

Let me turn and recognize the gentleman from Washington State to conclude.

Mr. Inslee. This is a hard issue, but willful ignorance is not a path for this country. And we cannot afford -- we cannot afford to ignore the fact that 20 percent of all the greenhouse gas emissions come from land conversion.

I am a big backer, I am bullish on biofuels. But I want to point out two things. Number one, all of the green that is going to ethanol today is grandfathered. It is not affected by this provision. All of the green going to ethanol today is grandfathered. It is not affected by this provision.

Number two, when we convert property and land use to these purposes from jungle to some other system, we emit 30 to 60 percent of the emissions you do in a gallon of gasoline. We cannot recreate that. We have to base this on science. We can't turn our backs on science, and we would be doing that if we passed this amendment.

The Chairman. The gentleman's time has expired. We will now

proceed to a roll call vote. The Clerk will please call the roll.

The Clerk. Mr. Waxman.

Mr. Waxman. No.

The Clerk. Mr. Waxman, no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey, no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone, no.

Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush, no.

Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo, no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak, no.
Mr. Engel.
Mr. Engel. No.
The Clerk. Mr. Engel, no.
Mr. Green.
Mr. Green. No.
The Clerk. Mr. Green, no.
Ms. DeGette.
Ms. DeGette. No.
The Clerk. Ms. DeGette, no.
Mrs. Capps.
Mrs. Capps. No.
The Clerk. Mrs. Capps votes no.
Mr. Doyle.
Mr. Doyle. No.
The Clerk. Mr. Doyle, no.
Ms. Harman.
Ms. Harman. No.
The Clerk. Ms. Harman, no.
Ms. Schakowsky.
Ms. Schakowsky. No.
The Clerk. Ms. Schakowsky votes no.
Mr. Gonzalez.
Mr. Gonzalez. No.
The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee, no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson, no.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield, no.

Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon, no.

Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow, aye.

Mr. Hill.

Mr. Hill. Aye.

The Clerk. Mr. Hill votes aye.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Matsui, no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen, no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes, no.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy, no.

Mr. Space.

Mr. Space. Aye.

The Clerk. Mr. Space votes aye.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney, no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton, no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch, no.

Mr. Barton.

Mr. Barton. Present.

The Clerk. Mr. Barton votes present.

Mr. Hall.

[No response.]

The Clerk. Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton, aye.

Mr. Stearns.

[No response.]

The Clerk. Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal, aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield, aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus, aye.

Mr. Shadegg.

Mr. Shadegg. No.

The Clerk. Mr. Shadegg, no.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt votes aye.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer, aye.

Mr. Radanovich.

Mr. Radanovich. No.

The Clerk. Mr. Radanovich, no.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack votes no.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden, aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry, aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers, aye.

Mrs. Myrick.

Mrs. Myrick. Aye.

The Clerk. Mrs. Myrick votes aye.

Mr. Sullivan.

Mr. Sullivan. No.

The Clerk. Mr. Sullivan votes no.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Mr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess, aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Mr. Gingrey, aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

Mr. Ross.

Mr. Ross. Aye.

The Clerk. Mr. Ross votes aye.

RPTS MERCHANT

DCMN MAYER

[9:30 p.m.]

The Chairman. Have all members responded to the call of the roll? Does any member wish to change his or her vote.

Mr. Barton. Mr. Chairman, how am I recorded?

The Clerk. Mr. Chairman, Mr. Barton is recorded as "present."

Mr. Barton. I would vote "no."

The Clerk. Mr. Chairman, Mr. Barton is off "present" and on "no."

The Chairman. Is the clerk ready to report the vote?

The Clerk. On that vote, Mr. Chairman, the ayes were 20 and the nays were 36.

The Chairman. Twenty ayes, 36 noes; the amendment is not agreed to.

Mr. Inslee. Mr. Chairman, for a note of personal privilege, just briefly.

The Chairman. The gentleman is recognized briefly.

Mr. Inslee. I just want to note, during that last debate, I used the comment of "willful ignorance," and I want my colleagues on the other side of the aisle to know I was not referring to them. Mr. Terry brought up a serious issue.

Mr. Shimkus. I thought you were referring to the EPA, and it

was okay with us.

Mr. Inslee. I just wanted to make sure. I didn't mean Mr. Terry or anybody else. Thank you very much.

The Chairman. What a gentleman.

For what purpose -- Ms. Eshoo, have we done your amendment? You have been sitting here all this time. The gentlelady is recognized for amendment. The clerk will report it.

The Clerk. The amendment offered by Ms. Eshoo --

[The information follows:]

***** COMMITTEE INSERT *****

The Chairman. Without objection, the amendment is considered as read. The gentlelady is recognized to speak on her behalf.

Ms. Eshoo. Thank you, Mr. Chairman. The amendment was submitted in a timely fashion and is part of this title. I will be brief.

This amendment will ensure that the EPA is provided with the flexibility needed to make the best judgments regarding how one class of greenhouse gases, fluorinated gases, are regulated under the cap.

Fluorinated gases are critical in the manufacture of high technology devices such as semiconductors and solar photovoltaic materials. Many of these gases are never admitted after being sold to the users and so they never contribute to global warming. The gases are frequently destroyed by companies that use them, such as large semiconductor manufacturers.

So this amendment in no way removes these high global warming potential gases from regulation; instead, it requires the EPA to assess whether the way in which such gases are regulated under the cap is appropriate. If the EPA determines that industrial users of the fluorinated gases should be responsible for holding allowances rather than the producers, then the EPA would have the ability to change this point of regulation.

My amendment does not address hydrofluorocarbons, or HFCs, which are treated separately in the bill, Mr. Chairman. And

again, I think this will provide the EPA with the flexibility that it needs for some of our Nation's most important high-technology businesses, and that they be regulated in the most appropriate way.

The Chairman. Will the gentlelady yield?

Ms. Eshoo. I will be glad to.

The Chairman. I support this amendment. We aim to reduce greenhouse gas emissions in the most cost-effective and administratively simple way. And what you are suggesting is that we have an EPA study to determine the best point of regulation for the fluorinated gases other than hydrocarbons, hydrofluorocarbons used by the semiconductor industry and other industries.

I think this makes a lot of good sense and I would hope members would support it.

I yield back the time.

Ms. Eshoo. Thank you, Mr. Chairman, and I yield back.

The Chairman. You yield back your time.

Mr. Barton.

Mr. Barton. Mr. Chairman, I rise in opposition to the amendment, and I want to refer members to a couple of sentences in the amendment.

On line 6, it says, "are at the source of emissions downstream," "at the source of the emissions downstream"; and then down on line 11 and 12, "can best be regulated by designating downstream emission sources as covered entities."

Now, I know it is not the gentlelady's intention, but this study could have the result of giving EPA the authority to regulate consumer goods in people's homes, like refrigerators, air-conditioners, fire extinguishers. I am not saying it will; and the fact that she puts cost effectiveness in there which would be one area that might preclude that.

But given the reach of this EPA, it is certainly feasible that they might decide to go that route. I personally don't want the EPA in my kitchen or looking at the fire extinguisher in the trunk of my car. And this could be the result of this amendment.

So I would respectfully oppose it.

Ms. Eshoo. Would the gentleman yield?

Mr. Barton. I would be happy to yield.

Ms. Eshoo. I know the gentleman is into privacy, so that is why you don't want anyone in your kitchen or car trunk, but --

Mr. Barton. I haven't cleaned up my kitchen in the last 6 months.

Ms. Eshoo. You have got to get your wife to town so you can do some cleaning before she arrives.

On a serious note, on the use of the word "downstream," Mr. Barton and colleagues, that really is for industrial users. And where we have used the word "upstream," they are producers. So this is not a back-handed way to do refrigerators or anything else.

Most frankly, if that is what I wanted to do, I would have

had a separate amendment on it, whether it would be supported or not by some members of the committee. But I have no reason to mix in the regulation of energy efficiency of refrigerators and mix it in with the semiconductor industry.

Mr. Markey. Would the gentlelady yield?

Ms. Eshoo. It is his time.

Mr. Markey. Would the gentleman yield?

Mr. Barton. Yes.

Mr. Markey. I thank the gentleman.

If you look down to line 12 and 13, you can see that the phrase up on line 6 and 7 at "the source of emissions downstream," meaning the semiconductor factory; and down on line 12 and 13, "as covered entities." So the factory is covered, but individual's homes are not under -- that is, as covered entities in the statute.

So what the combination of those two makes clear is that what this amendment would refer to are the semiconductor factories as the point where the regulation would, in fact, take place.

And I thank the gentleman for yielding.

Mr. Barton. I yield back the balance of my time.

The Chairman. Let's proceed to a vote on this amendment.

Those who are supporting this amendment, please raise your hand.

We will do this just on a show of hands.

Those opposed, please raise your hand. Just one hand.

The clerk will inform us of the tally.

The Clerk. Mr. Chairman, that division vote there were 26 ayes and 10 noes.

The Chairman. Twenty-six ayes, 10 noes; the amendment is agreed to.

I have been talking to Mr. Barton, and we think that we could get a lot of work done if we limit the debate. We will allow 10 minutes on each side, but I would encourage people to take even less time. So this will put people on notice that we will probably move through and get a bunch of votes, so don't go too far away.

Mr. Barton.

Mr. Barton. I have agreed to that with one proviso. There may be a few amendments that require slightly more time. But, in general, I think that is a fair way to do business for the rest of the evening.

The Chairman. Thank you very much.

We are now recognizing members who have amendments to Title III. And I look to the Republican side of the aisle.

Mr. Burgess. Mr. Chairman, over here.

The Chairman. Mr. Burgess. Way, way over there I see Mr. Burgess.

I want to recognize you. Do you have an amendment?

Mr. Burgess. Yes. The amendment is Burgess 029 XML. I took a picture of it with my iPhone and the clock in the background yesterday, but I didn't have the date stamped on it.

The Chairman. Without objection, the amendment will be considered as read. And I would like to recognize the gentleman to speak on his amendment for 5 minutes.

[The information follows:]

***** INSERT 10-1 *****

Mr. Burgess. I thank the chairman.

The manager's amendment, the amendment in the nature of a substitute before us, ensures a price for carbon credits and a market for trading those carbon credits.

Now, these may be the ingredients for a very interesting recipe in creating Wall Street's newest, hottest, exotic financial instrument. We are all aware that if something has a price, the wizards on Wall Street will find a way to derive new and fascinating financial instruments to option, hedge, and swap; and create fees for trading these new instruments that derive their value from the price of the underlying asset. If you don't think this can happen, we don't have to think too far back to remember Bear Stearns, Lehman Brothers, AIG. And what about the currency manipulation by George Soros?

The current financial crisis has heightened our awareness of the use of financial derivatives like mortgage-backed securities and credit default swaps and the effect they have on the value of the tangible asset of the marketplace.

This committee a year ago held hearings on dark markets and the off market commodity trading on the intercontinental exchange. We can ill afford to set up this type of system without adequate protections in place.

Mr. Chairman, the best medicine is preventive medicine, not after-the-fact radical surgery, the type of radical surgery that

we have seen in our financial markets this past year.

Now, Thomas Friedman, writing in the New York Times on April 8, 2009, in an op-ed column, stated that "Americans will be willing to pay a tax, but they are much less likely to support a firm in London trading offsets from an electric bill in Boston with a derivatives firm in New York in order to help fund an aluminum smelter in Beijing, which is what cap and trade is all about. People won't support what they can't explain," end of quote.

Mr. Chairman, this amendment very simply prohibits the transfer or receipt of carbon credit derivatives. It is a simple amendment. It is preventive medicine at its best, and I urge members to support its passage.

And I will yield back.

The Chairman. The gentleman yields back his time.

The Chair would now like to recognize Mr. Stupak.

Mr. Stupak. Well, thank you, Mr. Chairman.

As most of you know, for the last 3 years I have worked in this area, trying to regulate these markets. And I think the Burgess amendment is well intended. However, when I take a look at it and, actually, this legislation -- because of the work I have done with the chairman and Mr. Markey and others, we have the PUMP Act; the act I have worked on for the last 3 years, Prevent the Unfair Manipulation of Prices, is in this legislation. And not just to oil and gas energy, but also to the carbon assurance

market that we have set up in this legislation. And my only concern, the Burgess amendment, it would completely ban the trading of carbon allowance futures and other derivatives; and I think this could be a bad idea.

The most important reason for trading in these futures is to give regulated entities some certainty about future costs. We have heard so much about costs and anticipation. In a regulatory scheme that is in this legislation that we have put in in the last few days, we are giving the entities some certainty about what their costs will be. If a regulated utility knows it will need carbon credits or carbon allowances a decade from now, it can lock in those allowances at a specific price and not have to worry about unexpected changes in price.

Derivative trading isn't about helping out Wall Street; it is really about reducing a market unpredictability and really helping the utilities and the affected industries here to plan to gain some certainty so they will be more easily able to plan and budget for the future.

I am also concerned that the amendment would do nothing to prevent trading of carbon derivatives on foreign markets by overseas agents, as we see with ICE, the Intercontinental Exchange, which is all traded here but closes in London. And CFTC says we have no control over that.

We change all that in this legislation. The most aggressive, most comprehensive regulation of these markets, the dark markets,

the exchanges is now found in this legislation that we have been able to put in. So I am very concerned that the foreign market loophole would continue underneath the Burgess amendment.

The Waxman-Markey bill, as written, will tightly control and effectively regulate carbon allowance derivatives. This amendment would drive these trades to -- the Burgess amendment, I believe, would drive these trades to unregulated markets overseas. The net effect of the Burgess amendment -- and Mike has been on the Oversight Committee with me for sometime; I know it is well intended -- I just think would actually increase the risk of fraud and market manipulation.

So at this point in time I would urge my colleagues not to support this amendment. I will be offering an amendment next granting a cease-and-desist order, because one of the problems we see in this area, even though we find speculation, we find increased prices, we find market manipulation, FERC, the Federal Energy Regulatory Committee, has no authority to say, "Stop," and freeze the assets. So that will be the next amendment we have got following up just to tighten the Waxman-Markey bill even tighter.

So all this area we have worked on for the last couple of years, on market regulation, manipulation, speculators in the market, we have very tightly controlled in this bill. And we actually closed the foreign loophole. We do away with most of the derivatives.

So our bill is much more comprehensive than what Mr. Burgess

is trying to do. Again --

Mr. Markey. Would the gentleman yield?

Mr. Stupak. -- I just think it doesn't go far enough. And I yield to Mr. Markey.

Mr. Markey. There is no question, derivatives must be regulated. They weren't regulated largely.

The language which the gentleman from Michigan, Mr. Stupak, after his 3 years working on this issue here and in other areas, to make sure that there is very strong regulation, is central to ensuring not just that this market, but that any market can work.

And Mr. Stupak has been the leader in Congress over the last 3 years in insisting that that be the case. And the language here is as tight a set of regulations as has ever been imposed on derivatives. And I just wanted to thank Mr. Stupak for all of his work.

Mr. Burgess. Will the gentleman yield for a question?

Mr. Stupak. Sure.

Mr. Burgess. Mr. Stupak, perhaps we could shed some light on this. We will just ask a question of counsel as to whether or not -- I presume you are talking about subtitle (e) on page 702 and 703 in the amendment in the nature of a substitute; is that correct?

Mr. Stupak. That is part of it, yes. It is found throughout the bill.

Mr. Burgess. Can we ask counsel if that subtitle that has

been added to the amendment, if that prohibits trading speculation in the derivatives market?

It is subtitle (e) that begins on page 701. Could I ask that question of counsel?

The Chairman. Will counsel respond?

Counsel. Regulated allowance derivatives are addressed in both subtitle (d) and subtitle (e). Subtitle (d) includes several provisions related to regulated allowance derivatives, including default rules.

You will see on page 695, paragraph 4(B), all contracts for the purchase or sale of any regulated allowance derivative shall be executed on or through abortive trade, designated as a contract market under the Commodity Exchange Act.

Mr. Burgess. May I further ask, does this cover the price of carbon credits.

Counsel. Could you clarify your question.

Mr. Burgess. No. Could you clarify your answer.

Counsel. This provision here essentially is a default rule against over-the-counter trading of regulated allowance derivatives.

Mr. Burgess. But does this prohibit trading on the price of carbon derivatives.

Counsel. It does not prohibit trading of derivatives.

Mr. Burgess. Mr. Chairman, if I may, therein is the problem. Commodities Futures Trading commissioners -- we heard the

testimony in our subcommittee a year ago in this very room -- refused to take any action when they saw -- when the whole world could see that there was a problem.

All I am saying is, let's not wait for those conditions to exist again, bubble up and boil over. Let's prevent it at the source.

This market doesn't need liquidity. I don't really know what a ton of carbon dioxide looks like. I doubt that anyone would ever actually take receipt of a ton of carbon dioxide. But the fact of the matter remains, you are going to have a lot of people playing in this market who really do not have an ownership stake in that carbon dioxide, and as a consequence, are only doing it for the financial aspect.

We saw where that led us last summer. It is a dangerous road. We shouldn't go down it with this cap-and-trade legislation.

The Chairman. I think we have had a good debate. Now let's proceed to a vote.

Mr. Rogers --

Mr. Burgess. Well, Mr. Chairman, I would stipulate that counsel actually agreed with me that subtitles (b), (d) and (e) do not prohibit the trading of the carbon derivatives.

The Chairman. Well, the gentleman is correct, it does not prohibit the trading, but it does limit it very severely. And with the penalties that are in the bill, I believe Mr. Stupak

would argue that we have made sure that we have learned the lessons and we are going to prohibit these abuses.

Mr. Burgess. Mr. Chairman, with all due respect, you cannot make a rule that some clever criminal will not run rings around this committee.

And I will yield back.

The Chairman. Mr. Rogers, how much time do you want?

Mr. Rogers. Two minutes.

The Chairman. Two minutes, and then we are going to go to a vote. The gentleman is recognized.

Mr. Rogers. Thank you Mr. Chairman. This is an opportunity to stop the vultures who are flying around this issue right now. People who came in front of this committee to testify and say what a great bill this is will make billions of dollars off of average Americans struggling to pay their light bills. That is what will happen, even if you get it right.

And as a former FBI guy, I will tell you, we won't get it exactly right. There will be somebody who scams this system, because there is never any time you can take delivery of anything. This is a scam. And when you get people who probably wrote big chunks of this bill who will go out and make as much money as they will by taking it away from honest, good, old-fashioned Americans who are trying to make it, it is just dead wrong.

This is the only way we can guarantee that those families are not going to get ripped off by a system where Wall Street and

derivatives are going to help them improve the environment.

Mr. Stupak. Will the gentleman yield?

Mr. Rogers. I don't have much time, but yes, I will yield.

Mr. Stupak. Look at the legislation. We have put in the rules of the PUMP Act of 2009. We banned naked credit default swaps. We include only bona fide hedging.

We have an advisory committee with CFTC that tells you and sets energy limit positions, including carbon. We included a CFTC inspector general. We eliminate the swaps loophole. We exclude FERC from financial transaction rights.

Mr. Rogers. I reclaim my 30 seconds. And I appreciate the gentleman's point, he has tried to put in any protections.

Mr. Stupak. We didn't try it. It is in the bill.

Mr. Rogers. This is the difference here. You are either going to side with the people who are trying to pay these electric bills or you are going to side with Wall Street.

Mr. Stupak. For the first time ever, we are going to regulate Wall Street, which we are not doing right now.

Mr. Rogers. No, you are not regulating a market. You are selling something that doesn't exist in order to influence a market that you can't see and you can't take delivery of. That is why Europe had fraud problems with this. You can't control it.

It is wrong to do it this way. There is a much better way to get a control on carbon, and it won't cost jobs and it won't be the single largest energy tax in the history of the United States.

I yield back.

The Chairman. The gentleman's time has expired. Those in favor of the amendment please raise your hand. What is it? Speak in your mic; I am sorry, I can't hear you.

Mr. Burgess. I will ask for the yeas and nays on this, please.

The Chairman. You ask for the yeas and nays. We will proceed to a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk.

Mr. Dingell votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Ms. Eshoo.

[No response.]

The Clerk. Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

[No response.]

The Clerk. Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

Ms. Schakowsky. No.
The Clerk. Ms. Schakowsky votes no.
Mr. Gonzalez.
Mr. Gonzalez. No.
The Clerk. Mr. Gonzalez votes no.
Mr. Inslee.
Mr. Inslee. No.
The Clerk. Mr. Inslee votes no.
Ms. Baldwin.
Ms. Baldwin. No.
The Clerk. Ms. Baldwin votes no.
Mr. Ross.
Mr. Ross. No.
The Clerk. Mr. Ross votes no.
Mr. Weiner.
Mr. Weiner. No.
The Clerk. Mr. Weiner votes no.
Mr. Matheson.
Mr. Matheson. No.
The Clerk. Mr. Matheson votes no.
Mr. Butterfield.
Mr. Butterfield. No.
The Clerk. Mr. Butterfield votes no.
Mr. Melancon.
Mr. Melancon. No.

The Clerk. Mr. Melancon votes no.

Mr. Barrow.

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space votes no.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

Mr. Hall. Aye.

The Clerk. Mr. Hall votes aye.

Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns votes aye.

Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal votes aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt votes aye.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Radanovich.

Mr. Radanovich. Aye.

The Clerk. Mr. Radanovich votes aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden votes aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan votes aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Mr. Burgess.

Mr. Burgess. Aye.

The Clerk. Mr. Burgess votes aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Mr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Mr. Gingrey votes aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Engel.

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

The Chairman. Have all members responded to the call of the roll?

The clerk will announce the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 22, the nays were 35.

The Chairman. Twenty-two ayes, 35 noes, the amendment is not

agreed to.

Mr. Stupak, do you have an amendment?

Mr. Stupak. Yes, Mr. Chairman, amendment No. 068.

The Chairman. Without objection the amendment will be considered as read. The gentleman will be recognized for 5 minutes.

[The information follows:]

***** INSERT 10-2 *****

Mr. Barton. Can I reserve a point of order?

The Chairman. A point of order is reserved. And the gentleman will be recognized for 5 minutes.

I hope we can move this along expeditiously.

Mr. Stupak. Thank you, Mr. Chairman.

We have been talking about speculators in the market, and thanks to you and Mr. Markey and others we have been able to work to put the PUMP Act back, Prevent the Unfair Manipulation of Prices, in this legislation. It is the most comprehensive legislation to try crack down on market speculators.

Now, what people say is that there is no speculation in the market. Some people will say that. But if you take a look at it right now -- and these are not my figures; this is the Energy Information Administration. If you take a look at our supplies, our supplies are at the highest in 20 years. If you take a look at demand, the demand is the highest it has been in 10 years.

Supply is up, demand is down. But yet since the first of the year, if you go to the first of the year, oil has gone up 70 percent -- and this is through May, May 7th. I don't know about you, but back in my district this weekend it was like \$2.38, \$2.39 a gallon. So it is even higher. It is probably about a 75 percent increase since the first of the year.

Where is that money going? Where is the manipulation? If you take a look at the market, you see the fiscal hedgers of

people who actually rely upon oil and energy -- or in this case, since we are creating a new market of carbon credits, utility companies, others -- will be trying to get their hands and buy these credits.

But what we find is, the nonhedgers, the people who are in the market merely to make money -- not to produce a product, not to reduce carbon credits; they are going to be in this market only to profit. In fact, when we come to oil, 99.9 percent of the people who are buying these contracts never have intent of ever taking possession of a barrel of oil. Oil has been used, carbon fossil fuels have been used for profit not for a product.

So what we have done, we have put very tight regulations. As we were going through this legislation and finalized everything, we realized the cease-and-desist order was not there.

FERC, Federal Energy Regulatory Committee, has repeatedly asked for a cease-and-desist order. They do not have that right now. Even under the Bush administration -- even under the Bush administration they came to our committee, the Energy and Commerce Committee and other committees, and asked that they be given the cease-and-desist order. And this is the same cease-and-desist authority that is found under the Commodity Futures Trading Commission and the SEC.

Why do we need cease and desist? Natural gas, the Tamworth case, which we all know about: In 2005-2006, Tamworth started to corner the market on natural gas on the futures of natural gas.

They are trading on NYMEX. NYMEX says, You are getting too big, your positions are too large; you can't do that, you are controlling too much in the market. They said, Fine, thank you, we will leave NYMEX.

We went to ICE, the Intercontinental Exchange, which is a dark market where there is no reporting, there is no transparency. They actually cornered 75 percent of the futures. They were betting in the winter of 2006 -- actually, February of 2007 -- it would be very cold and people would need more natural gas.

We had a warm front. They lost \$6 billion. They imploded because they controlled so much of the market.

What did the government do? The government said, You violated all of our laws; your fine is \$291 million. And Tamworth said, Fine, we don't have any cease-and-desist order.

The Federal Government could never collect, and Tamworth sold off the little bit of assets they had left. We got nothing. The consumers were left with a \$6 billion pay. We had to pay \$6 billion more in natural gas because of the false up-run of prices that Tamworth did.

Cease and desist says, Once we make a claim, stop what you are doing; we can seize and freeze your assets. So this amendment basically says, Whether you are in the natural gas business or you are going to be in the carbon market, if you manipulate the market and CFTC, SEC, or the others come down and crack down on you, we can cease and desist, freeze your assets until the case is

resolved.

And that is a long amendment, 13 pages, because there are appeal rights and everything. We preserve every right there is, once we bring an action, cease and desist, selling off your assets until it is reserved. And if you think the SEC or the CFTC has done it wrong, you have a right to go to court to appeal that cease-and-desist order.

That is the extent of my amendment in 4 minutes and 30 seconds. I yield back the balance of my time, Mr. Chairman.

The Chairman. The gentleman yields back the balance of his time.

Does anybody wish to speak in opposition?

Mr. Barton. Mr. Chairman.

The Chairman. Mr. Barton.

Mr. Barton. First, I want to ask the counsel on my point of order.

Mr. Chairman, may I be recognized on that?

The Chairman. Yes, the gentleman is recognized for 5 minutes. Do you want to assert your point of order?

Mr. Barton. Well, I want to ask counsel --

The Chairman. The gentleman is recognized.

Mr. Barton. I am trying to figure out what the Natural Gas Act and FERC has to do with the Clean Air Act and CO2 cap and trade. What is the tie-in? Where is the nexus here? How is this germane to CO2 and the Clean Air Act and the EPA and all of the

new entities that this act is creating?

Counsel. This refers to three acts -- the Natural Gas Act, the Natural Gas Policy Act, and then makes a direct amendment to one of the provisions in the legislation which refers to the Federal Power Act.

Mr. Barton. Mr. Chairman, I can debate the substance of the amendment, but I honestly don't see the germaneness.

What does this -- I guess I would make a point of order that it is not germane to the Clean Air Act and EPA and CO2 and the other greenhouse gases.

Does this amendment give the FERC the authority to regulate those commodities?

I guess I can just assert a point of order that it is not germane.

Mr. Stupak. Mr. Chairman, if you take a look at the last page, page 10, we refer to section 401(b)(3)(C)(3) of the Federal Power Act by adding section 341. And we struck out the part, insert the act, therefore the Federal Power Act, which is the controlling act along with the Clean Air Act in this whole legislation, that is the germaneness to this legislation and that is our germaneness on this deal.

The Chairman. Well, the Chair is trying to get a parliamentary opinion on the matter before I make any ruling.

Mr. Stupak. I am just trying to assist the Chair.

The Chairman. That was very helpful.

It seems to me we have several different acts referred to in the legislation before us, and when you have a number of laws that are under consideration, it does bring in additional policies that could be germane because of that fact.

But I don't want to make a ruling without getting a parliamentary interpretation.

Would the -- so let's just wait a minute and let me see what I can find out.

Mr. Stupak. Mr. Chairman, if I may also, underneath this bill we have given FERC, in the language, even before I amended it, the right to regulate the carbon markets. So what this amendment is doing is really making a uniform standard for all parts and all regulations of FERC, whether it is natural gas or the carbon markets. So we had already given FERC the authority to regulate carbon markets in the legislation.

The cease-and-desist order is making sure we are applying a uniform standard, whether it is natural gas, whether it is the Federal Power Act, or whether it is the carbon markets on cease and desist, an authority the FERC did not have, but have repeatedly asked for even going back to the last administration.

The Chairman. I tend to think you are right, but I would like to get a ruling by the parliamentarian, and I am not sure we if we can do that right now.

If there is no objection, I just would like to put aside this amendment until we get that ruling.

Mr. Stupak. That would be appropriate with me.

The Chairman. Mr. Green.

Mr. Green. Mr. Chairman I would just like to make sure when we take it up again that we have adequate debate time after ruling on this.

Mr. Barton. If it is real germane, I will give you some of my time if I have to. I am assuming you and I are on the same side on this.

The Chairman. We wouldn't want to deprive members of making their arguments, so we will have the debate continue.

The Chair calls for another amendment to Title III on the Democratic side.

If not, we will go to the Republican side. Mrs. Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman.

The Chairman. The gentlelady has an amendment at the desk, and without objection, the amendment will be considered as read and distributed.

If you will wait a minute before I call on you, Mrs. Blackburn --

Mrs. Blackburn. Thank you, Mr. Chairman.

The Chairman. -- so that members can have a chance to see the amendment.

[The information follows:]

***** INSERT 10-3 *****

The Chairman. I would like to recognize the gentlelady from Texas at this time for 5 minutes -- the gentlelady from Tennessee.

Mrs. Blackburn. That is perfectly fine. You said Texas, and my husband is a Texan.

The Chairman. I must have known that and got confused because of that.

Mrs. Blackburn. And that is fine.

The Chairman. Not because of the lateness of the hour. We are going to be here much later.

But you will get the full 5 minutes.

Mrs. Blackburn. Thank you, Mr. Chairman.

You know, I know that we all have going to disagree on parts of this bill. And we are going to have a wonderful debate as we go through the next day. But I believe we can all agree that the EPA should not be allowed to move forward in regulating greenhouse gases under the Clean Air Act. It was never designed to address greenhouse gases, contrary to what the Supreme Court has said in the past.

Now, your bill partially addresses this issue, beginning on page 609, there at section 331. And while this is a good first step towards preempting the EPA -- and then it continues over on page 616, again in part C, with more preemption -- this bill needs a provision that provides a very clear guidance to the EPA on this issue. My amendment does this by adding the language of what was

H.R. 391 to section 331.

The amendment clearly states that greenhouse gases such as carbon dioxide, water vapor, and methane are not air pollutants. It also clarifies that the Clean Air Act does not authorize the EPA to regulate climate change or global warming. And there are some reasons that I think we should bring this back and make certain that it comes through Congress, whatever happens, that Congress has the authority over this.

We have heard from the EPA Administrator in hearings here in this room. We know that they are laying forth guidance to move forward on regulating CO2 if Congress does not pass a bill. We also know that this is a major policy shift. It is monumental for our country, and it should come to Congress for the stamp of the people's Representatives.

Now, the reason this is important to me is, in Tennessee, we have a great example of what happens when you have a program that is done by executive order and done without the supervision of your State legislative bodies. And we find that example in the program called TennCare, which is our Medicaid delivery system, which was put in place the beginning of 1995 by executive order under an 1115 waiver from CMS.

The program has grown, it has expanded; it now gobbles over -- over 33 percent of the State budget. And the legislature cannot affect the program; it has to pay the bill.

We do not want that to happen with cap-and-trade regulation.

We know we are dealing with technologies that are unproven; they haven't been used. We are dealing with methodologies, as have been laid forth in the bill, that have never been used before because it is a premise that we have not approached.

We have heard many on the other side of the aisle express concern about mandates and bureaucracies, and we appreciate your concern on what that would have on the cost of energy and the cost of products. We welcome that. But we know, if it does not come to Congress for oversight, that we may lose the opportunity to effect that change.

The legislation has been supported -- my legislation, H.R. 391 -- has been supported by the American Farm Bureau, the American Forest and Paper Association, the American Gas Association, the American Petroleum Institute, the Agricultural Retailers Association, Corn Refiners Association, the Florida Chamber, National Automobile Dealers Association, National Association of Manufacturers, National Oilseed Processors Association, National Cattlemen's Beef Association, Small Business and Entrepreneurship Council, Tennessee Chamber and the U.S. Chamber of Congress. Also some think tanks: the American Conservative Union, Americans for Tax Reform, Competitive Enterprise Institute, Cooler Heads Coalition, National Center for Policy, Public Policy Research, Human Events, Tennessee Center for Policy Research.

Mr. Chairman, this is a provision that needs to come before

us and Congress; it does not need to go to the EPA. And I would encourage my colleagues to support this amendment, and I yield back the balance of my time.

The Chairman. The gentlelady yields back the balance of her time.

The Chair recognizes Mr. Markey.

Mr. Markey. I thank the gentleman very much.

I rise in opposition to this amendment. Essentially what this amendment will do is to repeal the most important environmental decision ever made by the Supreme Court of the United States. That decision was rendered in April of 2007. The case was Massachusetts v. EPA. In that decision, the Supreme Court ruled that carbon dioxide is a pollutant under the Clean Air Act -- the Supreme Court of the United States.

This amendment would essentially repeal that Supreme Court decision. This amendment proposes that we would repeal that even though the United Nations Intergovernmental Panel on Climate Change, every national academy of science of every nation in the world has determined that carbon and the other listed pollutants in this amendment are, in fact, a danger to the planet; and there is no credible debate which now exists in terms of the relationship of those dangerous greenhouse gases and the warming of the planet.

So as we sit and deliberate on this amendment that is essentially saying that carbon is not a pollutant, we could

consider other laws of nature that we could repeal as well. But that would not be a useful exercise. Our committee should be guided by the science. We should be guided by what the experts tell us is a pathology which has beset our planet.

For this amendment to be considered successfully in this committee, we would have to disregard all scientific evidence; and I do not think that would be wise.

The premise of this entire legislation is that carbon is a danger to the planet as determined, one, by the Intergovernmental Panel on Climate Change, and two, by the Supreme Court of the United States of America in April of 2007. We might as well say that the sun revolves around the Earth or that dinosaurs never existed as to say that carbon is not a pollutant.

I do not believe this is the correct course to take, and I will yield to the gentleman from California.

The Chairman. Thank you very much for yielding to me.

The amendment would declare that carbon dioxide is not an air pollutant. Well, that is a scientific and a finding, and it would eliminate any EPA authority to address the problem of global warming.

The Clean Air Act protects all Americans against harm from air pollution. The law gives EPA tools to reduce pollution that threatens public health and the environment.

Now, I agree with the idea that the Clean Air Act tools for reducing carbon dioxide from power plants and industrial sources,

while often are good tools, they are somewhat cumbersome; and that is why I believe that we ought to pass this legislation.

The solution is not to pretend that carbon dioxide isn't an air pollutant; it is to do something about it. And this bill gives EPA the authority to set a pollution limit or cap that applies to all covered sources and allows the sources the flexibility to achieve that limit at the lowest possible cost. That is not what the Clean Air Act says; that is what this bill would say.

The bill would also amend the Clean Air Act surgically, removing authority to regulate greenhouse gases in the areas where it wouldn't make sense. But this amendment would eliminate any authority to address the problem of global warming. And that is no response to the gravest environmental threat we have seen.

So I join my colleague, the chairman of the subcommittee, in urging defeat of the Blackburn amendment.

I yield my time back to him.

Mr. Markey. And I thank the gentleman, and I yield back the balance of my time.

The Chairman. Mr. Barton.

Mr. Barton. Mr. Chairman, I rise in support of the Blackburn amendment. And I want all the members, especially on the majority side, who have worked so hard to try to create allowances and specific offsets and credits for specific industries, to listen very carefully.

This amendment doesn't change anything in the pending bill except it clarifies that under the Clean Air Act, under the Clean Air Act, CO2 and these other hydrofluorocarbons are not pollutants under the definition of that act.

Massachusetts v. EPA was a decision, 5-to-4, in which the Supreme Court looked at the Clean Air Act and its amendments and said the following. Since the Clean Air Act and its amendments do not specifically state that CO2 is not a pollutant, a criteria pollutant under the terms of that act, it might be; and it directed the EPA to make a finding, to make a decision, on whether, in fact, CO2 was an air pollutant under the terms of the Clean Air Act, and if so, should it be regulated.

The Blackburn amendment clarifies that under the regulatory authority granted to EPA under the Clean Air Act, it is not a criteria pollutant. If you don't accept this, since the pending bill, as far as we can tell, is silent, this entire apparatus that has been created -- Mr. Doyle's allowances for the steel industry and Mr. Green's allowances for the refinery industry and these various other free allowances for the utility sector and the phase-in periods -- all of that could be rendered absolutely moot because the EPA under Massachusetts v. EPA could move ahead with its regulatory regime and overrule this act of Congress.

The Chairman. Will the gentleman yield to me?

Mr. Barton. In a second I will yield.

So if all of the proponents of this legislation that have

worked so hard to perfect it, as they put it, if they really, really think that is the way to go, they should be advocates of this. Because all the Blackburn amendment does is specifically say that because of Massachusetts v. EPA, since they said the Clean Air Act is silent on CO2, it might be a criteria pollutant and the EPA had to decide.

This says -- this does exactly what Massachusetts v. EPA was trying to clarify by saying it is not. If we had put this language in the Clean Air Act amendment back in 1990 or 1991, when it was before this very committee, we might not be having this legislation today.

So I tell my friends on the Democratic side, do you want a dual track, do you want to do all that you are doing legislatively and then have the EPA second-guessing you if they don't think what you did makes sense? Do you want them to come in and overrule it by regulation?

If that is what you want, vote against Blackburn. If, on the other hand, you want the Congress to make the decision, then you should vote for it because all that does is say, whatever the Congress decides in this bill, if anything, is going to be dominant.

The Chairman. Will the gentleman yield?

Mr. Barton. I will now yield.

The Chairman. This bill is an amendment to the Clean Air Act. The bill before us amends the Clean Air Act. And what the

Blackburn amendment would do is say that a carbon emission is not a pollutant.

Well, EPA has a rule-out, proposed rule-out, saying it is a criteria pollutant. That is the status of things now. If our bill passes without this amendment, we reshape how carbon emissions will be dealt with under the Clean Air Act.

And I don't think we ought to pass this amendment because I believe this amendment would negate the entire bill. It would say that carbon is not a pollutant and therefore need not be regulated.

Mr. Barton. Reclaiming my last 9 seconds, with all due respect, Mr. Chairman, I strongly disagree with your interpretation of this amendment. This amendment would give precedent, it would give authority to the legislation.

This is simply clarifying and amending the definitional section of the Clean Air Act that does specifically say the other criteria pollutant that it regulates are pollutants. This simply says that CO2 is not one of those. It does not in any way negate the definitions and the control authority that your pending legislation would grant.

With that, I strongly urge a "yes" vote and yield back the balance of my time.

The Chairman. The gentleman's time has expired. We have had 5 minutes by Mrs. Blackburn and 5 minutes by Mr. Barton, 5 minutes by Mr. Markey; and we agreed that we would go 10-10.

But Mr. Markey said he only needs 2 minutes, so I am going to yield him 2 minutes; and then I would like to proceed to the vote.

Mr. Barton. With all due respect, if we are going to give Mr. Markey 2 minutes, we should yield the author of the amendment, Mrs. Blackburn, 2 minutes to close.

The Chairman. I have no problem with that. We will yield 2 minutes to Mr. Markey and then 2 minutes to the author to close, and then we will proceed to the vote.

RPTS KESTERSON

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[10:28 p.m.]

Mr. Markey. Thank you, Mr. Chairman.

I just want to list for everyone what our bill does. Here is what our bill does:

It removes EPA's Clean Air Act authority for just about every scary regulatory problem that this amendment purports to be solving.

We remove EPA's authority to set new source performance standards for greenhouse gas emissions from station sources that will be under the cap.

We remove EPA's authority to list greenhouse gases as criteria air pollutants or hazardous air pollutants on the basis of their effect on climate change.

We remove EPA's authority to apply new source review rules to greenhouse gas emissions.

We remove EPA's authority to consider greenhouse gas emissions when determining whether a stationary source needs a permit to operate.

And we make sure that any ongoing proceedings, litigation, and appeals under the Clean Air Act are unaffected by this legislation.

Even with all of the substantial exemptions, however, the

existing Clean Air Act authorities will continue to have an important role to play with regard to automobiles and other mobile sources. You saw that deal announced on the White House lawn yesterday. Under that deal, that authority continues. It should not be preempted. And also emission sources outside of the cap that we are imposing on the covered entities inside of this statute like landfills and wastewater treatment plants.

But, on balance, if you don't like the way in which the Clean Air Act has been administered, you should be happy. Because in this legislation we make sure that the EPA is preempted in all those areas with exemptions.

With that, my time has expired; and the gentlelady will have 2 minutes to close.

The Chairman. The gentlelady lady from Tennessee is recognized for 2 minutes to close.

Mrs. Blackburn. I thank the chairman for yielding.

I fully believe that Congress should have the prerogative to come in and define the parameters of the Clean Air Act. It should be the prerogative of Congress to decide what happens with CO2 emissions. It should not be done through the EPA and done administratively and administered without the guidance and the oversight and without Congress having the legislative authority to affect how that is carried out.

It is a good amendment. It can be easily accomplished by inserting after Section 331, placing the amendment that is before

you. It would create a section 2, and it would define greenhouse gas regulation and certainly would give us the guidance that Congress has the authority to carry that out.

With that, I will gladly yield to the gentleman from Arizona the balance of my time.

Mr. Shadegg. I thank the gentlelady for yielding, and I just want to make it very clear what Mr. Markey said.

What Mr. Markey said is that, by and large, carbon dioxide and the other pollutants or the other materials listed, greenhouse gases listed in Mrs. Blackburn's amendment, by and large, they are regulated by the bill we are debating today. But he acknowledged openly and clearly and candidly, and I appreciate that important fact, those same greenhouse gases are not completely regulated under this bill. And to the extent they are not regulated under this bill -- and he cited as an example automobile emissions of carbon dioxide -- those are regulated separately by the EPA under the Clean Air Act.

What we are doing is demonstrating that this isn't a comprehensive regulatory scheme. We are giving new authority to the EPA under this bill, but we are leaving otherwise exigent authority there. I think that demonstrates a stunning lack of confidence in this bill and creates the potential for conflicting regulations between what is done under this bill and what is done under the Clean Air Act.

I yield back the balance of my time.

The Chairman. Your time is expired.

May the Chair inquire from the author of the amendment? We can voice vote. We can have a show of hands or go to roll call. What would you prefer?

Mrs. Blackburn. Roll call.

The Chairman. Let us go to roll call.

Mr. Barton. Mr. Chairman, we are going to want a roll call vote.

The Clerk. Mr. Waxman.

The Chairman. No.

The Clerk. Mr. Waxman votes no.

Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.
Ms. Eshoo. No.
The Clerk. Ms. Eshoo votes no.
Mr. Stupak.
Mr. Stupak. No.
The Clerk. Mr. Stupak votes no.
Mr. Engel.
Mr. Engel. No.
The Clerk. Mr. Engel votes no.
Mr. Green.
Mr. Green. No.
The Clerk. Mr. Green votes no.
Ms. DeGette.
Ms. DeGette. No.
The Clerk. Ms. DeGette votes no.
Mrs. Capps.
Mrs. Capps. No.
The Clerk. Mrs. Capps votes no.
Mr. Doyle.
Mr. Doyle. No.
The Clerk. Mr. Doyle votes no.
Ms. Harman.
Ms. Harman. No.
The Clerk. Ms. Harman votes no.
Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon votes no.

Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow votes aye.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes no.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space.

[No response.]

The Clerk. Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

Mr. Hall. Aye.

The Clerk. Mr. Hall votes aye.

Mr. Upton.

Mr. Upton. Aye.

The Clerk. Mr. Upton votes aye.

Mr. Stearns.

Mr. Stearns. Aye.

The Clerk. Mr. Stearns votes aye.

Mr. Deal.

Mr. Deal. Aye.

The Clerk. Mr. Deal votes aye.

Mr. Whitfield.

Mr. Whitfield. Aye.

The Clerk. Mr. Whitfield votes aye.

Mr. Shimkus.

Mr. Shimkus. Aye.

The Clerk. Mr. Shimkus votes aye.

Mr. Shadegg.

Mr. Shadegg. Aye.

The Clerk. Mr. Shadegg votes aye.

Mr. Blunt.

Mr. Blunt. Aye.

The Clerk. Mr. Blunt votes aye.

Mr. Buyer.

Mr. Buyer. Aye.

The Clerk. Mr. Buyer votes aye.

Mr. Radanovich.

Mr. Radanovich. Aye.

The Clerk. Mr. Radanovich votes aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. Aye.

The Clerk. Mr. Walden votes aye.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

Mr. Sullivan. Aye.

The Clerk. Mr. Sullivan votes aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Dr. Burgess.

Mr. Burgess. Aye.

The Clerk. Dr. Burgess votes aye.

Mrs. Blackburn.

Mrs. Blackburn. Aye.

The Clerk. Mrs. Blackburn votes aye.

Dr. Gingrey.

Mr. Gingrey. Aye.

The Clerk. Dr. Gingrey votes aye.

Mr. Scalise.

Mr. Scalise. Aye.

The Clerk. Mr. Scalise votes aye.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space votes no.

The Chairman. Have all members responded to the call of the
role?

The clerk will tally the vote.

The Clerk. On the vote, Mr. Chairman, there were 23 ayes and
33 noes.

The Chairman. Twenty-three ayes, 33 noes. The amendment is not agreed to.

Amendments now on the Democratic side. Mr. Hill, do you have an amendment?

Mr. Hill. I have an amendment, yes, Mr. Chairman.

The Chairman. Without objection, the amendment will be considered as read and let us pass out the amendment before I call on Mr. Hill to speak on his amendment.

The Clerk. Is there a number identifying that amendment?

Mr. Hill. 002.

The Clerk. Hill 002? This is for title IV, Mr. Chairman; is that not correct?

The Chairman. What is the question?

Mr. Hill. It is supposed to be title III.

The Clerk. They wrote title IV in here. It was in the wrong box.

The Chairman. But you found it?

The Clerk. Yeah.

The Chairman. Do we have that amendment distributed?

The Clerk. Yes, they are pulling it right now.

[The information follows:]

***** INSERT 11-1 *****

The Chairman. Mr. Hill is recognized for 5 minutes.

Mr. Hill. Thank you, Mr. Chairman.

This won't take long, and I think perhaps it will not be controversial. Because I believe most of us believe that when we are trying to determine what is a greenhouse gas that good science should be the method we use to make that determination, and this amendment does that very thing.

My amendment would direct the Science Advisory Board within the EPA to conduct a peer review to determine if a gas is in fact a pollutant, following notification by the EPA Administrator that he or she will be making such a determination on that gas.

It further instructs that the Science Advisory Board to submit a written recommendation on that issue and directs the Administrator to consider the written recommendation and consult the Science Advisory Board before making that determination.

That is all it does. There has been some controversy here in the previous amendment about how we should be classifying greenhouse gases. But I don't think anybody can argue with the fact that science and good science needs to be used in order to make that determination.

So that is my amendment. We are still passing out my amendment. And I yield back.

The Chairman. Rather than yield back, while members are looking at it, if you will yield to me.

I agree with you. This should be uncontroversial. It clarifies the process by which EPA will consult with its Science Advisory Board when designating new greenhouse gases. The Science Advisory Board is a well-respected expert panel that reviews, consults with and advises the agency on technical and scientific matters; and this amendment ensures that when EPA determines that a substance is a greenhouse gas that the decision is well-founded and indisputable.

So I would join with you in support of this amendment.

Mr. Barton. Mr. Chairman.

The Chairman. Mr. Barton.

Mr. Barton. I hate to actually enthusiastically support an amendment, because that probably poisons it in the eyes of the majority, but in this case I enthusiastically support it because I think it is a much-improved substitution for that which it strikes. So I am very proud to say that I enthusiastically support it, and I hope that doesn't spoil the deal for you.

The Chairman. Are we ready for the question on the amendment?

All those in favor of the Hill amendment, say aye. Opposed, no.

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

We had pending the Stupak amendment to title III, and we asked that be pulled back until we can get a ruling from the Parliamentarian as to whether it is germane to the bill. The

Parliamentarian advises us that, because of the breadth of the bill encompassing so many different titles, that this amendment would be germane. So, therefore, the point of order is overruled.

The amendment is pending before us, and Mr. Stupak has given it an argument in favor of the amendment. Do we -- does anyone seek to be recognized in opposition?

We will go to Mr. Barton first, and then others will have a chance to speak.

Mr. Barton. First of all, Mr. Chairman, before I speak in opposition, I do want to compliment you on actually checking with the Parliamentarian. I appreciate that. Because of the scope of this bill, apparently, if the EPA wanted to regulate ham sandwiches, that would also be germane to this bill. But, having said that, let me get to the heart of this.

First I want to ask a question to the author, Mr. Stupak, because I know how hard he works as oversight chairman. This section 359, do you intend it to apply to the CO2 market that this bill sets up? Or are you simply trying to get more authority for the natural gas market that the FERC definitely has authority in currently?

Mr. Stupak. The intent was to get to the carbon credit market because that was a -- basically, it goes to carbon credit. It is both. We make it uniform across everything.

Mr. Barton. So how would you blend FERC's authority versus the EPA's authority?

Mr. Stupak. Because we have come to regulating the exchanges. It is going to be the commodity's future trade commission and FERC to Federal energy --

Mr. Barton. So you are not worried about creating a conflicting regulatory entity problem?

Mr. Stupak. No, because I don't see EPA trading on the markets for carbon credits.

Mr. Barton. Okay.

Mr. Stupak. And underneath the bill, FERC and them will set what allowances are allowed. We can release allowances in case there are spikes. So that is where FERC, again, would have to play a role, along with --

Mr. Barton. I am reclaiming -- thank you for answering my question, Mr. Stupak.

I am troubled that we are going to give new authority to an entity that has normally been in the wholesale market and the pipeline siting market and the electricity transmission siting market in interstate commerce.

But, setting that aside, I would call members' attention to lines 9 and 10. It gives FERC the authority if they see that an entity may be violating, which would be present tense, may have violated, past tense, or may be about to violate, future tense, any provision of this Act. This may be about to violate -- if you take that to a common example, if a police officer thought we might be about to go past the speed limit, they could give us a

ticket.

That is very troubling, that we are about to give the FERC the authority to go in and give the cease and desist orders based on their judgment or their intuition that somebody might be about to violate a provision of this Act. So I am very troubled by this, and I would hope that we would, if not defeat the amendment, encourage the author to at least delete that phrase "may be about to violate". Because that to me is a very troubling --

Mr. Stupak. Would the gentleman yield on that point?

Mr. Barton. I would be happy to.

Mr. Stupak. On 9 and 10, that is the same authority that the Commodities Future Trade Commission has now and the Security Exchange Commission. That is what happened in Amaranth. If you have to go prove your case in court, which takes a lot of time, then the assets they may have, like the \$291 million fine that was levied on Amaranth, they sold their assets off. There is nothing left. By the time the case is adjudicated, there is no assets to go after.

So if you believe there is a violation and you go and get a cease and desist, it is no different than any other court proceeding where you go in and get an injunction that you do not dispose of the assets until the case is resolved. So there is a due process clause in here. Because after that order is put forth, you have 10 days to get to a judicial court, U.S. district court, to lift that order if it is erroneously done. So there is

due process there all the way along, and it is no different than what we have been doing for years under SEC and the CFDC.

FERC never had this power. This is the power they asked for even when President Bush was -- Mr. Kelliher, I think his name was. You know him pretty well, Mr. Barton. He is the guy that came and asked for --

Mr. Barton. I don't believe he asked for may be about to violate. But I could be wrong. I don't want a police officer coming in my home and arresting me because that officer thinks I may be about to violate some statute.

Mr. Stupak. But in order to arrest you, he has to have a warrant or some kind of review; and even in this case there is a review provided.

Mr. Barton. My time has expired.

Mr. Markey. [Presiding.] The gentleman's time has expired. The Chair recognizes the gentleman from Texas, Mr. Green.

Mr. Green. Thank you, Mr. Chairman.

And I think that my good friend -- really good friend from Michigan, what he is trying to accomplish is a great goal. He wants to prevent market manipulation in the energy commodities market, and that is laudable, and I agree.

My concern is the solution is too broad and gives much unchecked authority to the Federal Energy Regulatory Commission that we don't know that they have the capacity to do it.

Briefly, the Stupak amendment would greatly expand the

authority of FERC to issue a cease and desist order for any violation or threatened violation of any provision, Natural Gas Act, Natural Gas Policy Act of 1978, and the Federal Power Act on its own motion without notice or a hearing, without direct or immediate judicial review.

FERC has existing authority for injunction authority that I would hope that we would at least let's see how they do that with this expanded authority we are giving them in this bill before we give them this authority.

The amendment also would empower FERC to freeze the assets of a company under investigation for violations of market manipulation rules also without notice or hearing or without direct immediate judicial review. For example, the amendment would allow FERC to issue a cease and desist order without notice and opportunity for hearing unless the Commission determines that notice and hearing prior to entry would be impractical or contrary to public interest. The problem is the Commission itself makes that determination on when to waive the notice and opportunity for a hearing requirement.

The amendment limits the opportunity for immediate judicial review of the Commission action, which suggests that FERC could act without adequate judicial oversight. FERC has existing authority to ask a district judge for a TRO, or temporary restraining order, in situations; and I haven't heard anybody complain about their current authorities as insufficient.

I don't disagree with the concept, and we tried to work out some language in the last 30 minutes, but we haven't been able to, and that is why I think this amendment is way overbroad for what we may be looking at. We are literally shooting in the dark. And those folk who don't understand it, you don't know what you are going to hit, and that is my concern about this amendment.

And I would like to continue working -- in fact, I would yield to my great friend from the Upper Peninsula.

Mr. Stupak. I thank the gentleman. You have always been supportive of the PUMP Act, and you have helped us with it, and you have been involved in all the hearings.

The insufficiency -- it is not insufficient. Because, again, the Commodities Future Trade Commission has this authority, the SEC has this authority. The reason why it is insufficient is because FERC never had the authority. We are giving FERC the authority not only to do natural gas but because we are creating a whole new market, the carbon credit market. I would rather, if we are going to create this whole new market, let us do it where we have robust regulation, not let the horse out of the barn and try to put it back in after.

And for judicial review, if you go to page 4, 10 days after a respondent was served a temporary cease and desist, they can go to a U.S. district court and do it. So judicial review is there. Same authority CFTC has, SEC has, FERC has never had it. They asked for it. We are creating a new market. Let us have

regulation and oversight over the new market so we don't create a nightmare like we have seen in the financial markets with energy.

And that is the reason why we need this amendment, and I will continue to work with the gentleman if there is some accommodating language we can find in looking at CFTC and also SEC language. I am happy to do so. But this is pretty much patterned after it.

Mr. Barton. I will reclaim my time.

And FERC has existing injunctive relief authority under section 20 of the NGA, Natural Gas Act section, 504 of the NGPA, and section 314 of the Federal Power Act for all violations of these statutes. And there is no reason why this existing authority, which the Commission has rarely used, is inadequate now. That is my concern about the amendment. And, again, I will --

Mr. Stupak. If you will yield.

I don't disagree with you. But after the fact. You have to go through the litigation. You have to find a violation. Then you can go after it.

What we are saying is, if there a violation, stop it, freeze it, stop the action, so we can protect the ratepayers and the U.S. taxpayers. Then if there is violations, then at least we have some assets to go after. Amaranth, \$6 billion. What do we get for it? \$291 million fine. What do we get? Nothing. They just disposed of all the assets during litigation.

Mr. Green. I have run out of time, Mr. Chairman, but if my

colleague -- well, he has already used his time.

But, again, the person who is violating or has violated any provision of the Act, there is already current statute on that.

Mr. Markey. The gentleman's time has expired.

Are there any other members seeking recognition?

The Chair recognizes the gentleman from Florida, Mr. Stearns.

Mr. Stearns. Thank you, Mr. Chairman, and strike the last word.

I sort of feel like Mr. Green from Texas, what he indicated. He has some apprehension about this because it is so comprehensive.

Mr. Chairman, this is an example where we should have had a hearing on this. Mr. Stupak and I have talked before about the lack of regulation and the worrying about this new market and what this means and the possibility that there will be no regulation of this new market which will have the same problem we have seen in other markets, weak.

But I think what the gentleman from Texas is saying, it is so encompassing, and here we are in a hearing at 11:00 at night trying to put in place a structure which is so encompassing that a lot of us are a little concerned; and I think it would be worthwhile to have a hearing to get it right.

Because this new market, Mr. Stupak, you are talking about, it says if the Commission finds that any entity may be violating, may have violated, or may be about to violate -- about to

violate -- any provisions of this Act. Now, this Act is 1,000 pages. Well, I guess this applies to the Natural Gas Act -- to violate any provision of this Act or any rule, any regulation, any restriction, any condition.

So if you violate any condition, I mean, that seems -- I don't know where you got this language. Maybe this is standard legal language that is used in this kind of thing. But for them to come after you, a cease and desist order based upon any condition, any regulation, or any restriction and order imposed a cease and desist, it is just a little bit overwhelming I think for a person to just suddenly get this and to read it.

The question I might have to ask you, describe to me if a person is violating this Natural Gas Act through a restriction or a condition. What is the process for him to get a hearing on this?

Now, I see in here that there is a hearing, but is this hearing after the cease and desist order so that the guy is hanging out there, losing money, going into bankruptcy while he is trying to put himself forward to fight this cease and desist order?

So I guess just take me briefly through, Bart, how a person -- if my corporation violated a condition of the Act, how would I suddenly stop and have a hearing so that I would not go into bankruptcy?

Mr. Stupak. Sure. Let us take Amaranth. Amaranth was

trading on the New York Exchange, Mercantile Exchange. They got too big. They exceeded their position limits, okay? So NYMEX went to them and said, you are too big. You have got too much position. You can manipulate this market. And they said, fine, we will leave your market. We are going to ICE. You are not -- Intercontinental Exchange -- because you can't see what we are doing.

Right then and there, they knew Amaranth was violating the law, and they asked them not to do it. So they said, we are going to do it anyway. We will take our marbles and go elsewhere, and they cornered 75 percent of the market.

Here is what you could have done if you had cease and desist, but FERC doesn't have that authority. They could have said to Amaranth, here is your cease and desist order. You are too big. Draw down. And now you have 10 days. This is a temporary cease and desist order.

We go to court. Do I have merit as NYMEX to enforce the position limit on NYMEX -- on Amaranth because you have gotten too big? You have 10 days in which you go to court and lift that order if it is not there.

If I put in an order, I slap an order on you saying cease and desist, stop trading, you are too big, you are violating the exchange rules, and therefore you then have a judicial review, it is no different than what Commodities Future Trade Commission had, Securities Exchange Commission had for years. FERC has asked for

this authority. I have not created something new or different.

Mr. Stearns. What you are saying is you took then what the Commodities Future Trading has --

Mr. Stupak. Commodities Futures Trade Commission has.

Mr. Stearns. And the SEC has.

Mr. Stupak. Right. That is regulated exchanges. We have created these dark markets, ICE, Dubai. They are dark markets.

Mr. Stearns. You are just taking that language that these two agencies has and overlaid it for the Natural Gas Act?

Mr. Stupak. Correct. And to the carbon markets. A new emerging market that we don't know yet about.

Mr. Stearns. Is this identical to what is in the Commodities Exchange and the SEC?

Mr. Stupak. Pretty much so, yes. We have worked with FERC. This is language they wanted.

Mr. Stearns. Can I ask counsel to confirm that?

This might be a little difficult question for you. But Mr. Stupak is saying that the language he has in this bill is almost identical to what the SEC has in dealing with stocks and equities and what the Commodities Future has.

Mr. Stupak. It is closer to SEC than to CFTC. It is closer to SEC.

Mr. Markey. The gentleman's time has expired. The counsel will answer the gentleman's question.

Counsel. With respect to the Commodity Exchange Act, there

is a provision, Section 6(c), which reads, whenever it shall appear to the Commission that any registered entity or other person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order they are under or is restraining trading in any commodity for future delivery, the Commission may bring an action in the proper district court.

And it continues.

Mr. Markey. The gentleman's -- maybe you could get another member to yield. But the gentleman's time has expired.

The Chair recognizes the gentleman from Michigan, Mr. Dingell.

Mr. Dingell. Thank you, Mr. Chairman.

I very much enjoyed the discussion between my two good friends and colleagues here, and there is a measure of right in each.

I would like the attention of counsel. First of all, cease and desist orders are not new, are they?

Counsel. I don't believe so, sir.

Mr. Dingell. And cease and desist orders may be issued before a hearing, but they must be followed by a hearing before the agency issuing them at the earliest time, isn't that so?

Counsel. Give me one moment to consult the language.

Mr. Dingell. Well, supposing you take my word for it. Because under the Federal rules that has to be done.

Now, having said that, if you don't have authority to issue cease and desist, you have to go the injunctive route. Now, the injunctive route requires the agency to go to court. That can take a significant amount of time. Isn't that right?

Counsel. Yes. They are going to court.

Mr. Dingell. So now we have got this problem. It takes a goodly while if you don't have the authority to issue the cease and desist. A cease and desist order can be issued by the agency, but it has got to be followed by a hearing at the earliest moment. If the issuance was improper, it can be lifted on application to the Commission; isn't that right?

Counsel. That is correct.

Mr. Dingell. And so when that happens, they have got to do that; and the person who feels he has been wronged by the wrongful issuance of the order has a right to get an hearing at that point, doesn't he?

Counsel. Yes, either before the Commission or there is also a judicial review provision.

Mr. Dingell. Now, one of the reasons for the cease and desist order is that in this wonderful new world of ours money can move with the speed of light. With electronic transfers, all of a sudden the account is emptied; and Mr. Madoff, or whoever the rascal might happen to be, is headed for some interesting place with whom we don't have a treaty enabling us to get him back. No extradition treaty.

So the argument for the cease and desist is that it gives you a quick way of getting at him. But it is a way of getting at the wrongdoer without doing it in a way which denies that wrongdoer, if he in fact is a wrongdoer, the opportunity to go into court or to go to the agency and say this is wrong; isn't that right?

Counsel. I am not sure I can speak to the intent of the provision, but --

Mr. Dingell. Okay. And so if he doesn't like what the agency does, he can get into court very quickly for a TRO, a temporary restraining order; isn't that right?

Counsel. Yes.

Mr. Dingell. So we don't need to be worried about the fact that, by the issuance of the cease and desist, there is going to be any immediate calamity befalling the alleged wrongdoer who is the victim -- if, in fact, he is a victim -- or the defendant of the cease and desist order. He can go into court if he needs to to get that done even if the agency won't do it.

So he has two options to address. One is to go to court to get the -- rather, one is to go to the agency to get the cease and desist lifted, and one of which is to go to a court if they have not done so; isn't that right?

Counsel. That is correct, sir.

Mr. Dingell. So you have here then the responsibility of evaluating how you protect the interests of a person who might be hurt. The recipient of the cease and desist order can go either

back to the agency or he can go to court and get it lifted. The cease and desist order is a much more expeditious way of addressing the matter than going into court for an injunction; isn't that right?

Counsel. I don't have specific information about the relative timing of those two proceedings.

Mr. Dingell. Now we have ourselves in a situation where it becomes useful to afford the agency the right to do this. Because they can't do it without a hearing; and if they play games with it, they are going to wind up in court. Isn't that right?

Counsel. Could you repeat the question?

Mr. Dingell. Well, I am running out of time here. If the agency is careless with the issuance of the cease and desist, first of all, they can't do it without giving a hearing; and, second of all, they are subject to judicial review. Isn't that right?

Counsel. That is correct, sir.

Mr. Dingell. Thank you, Mr. Chairman.

Mr. Markey. The gentleman's time has expired.

Mr. Stearns. Will the gentleman yield just the rest of his time?

Mr. Markey. The gentleman's time has expired.

The gentleman from Texas, the ranking member, has indicated that he believes it is time for us to have a vote. And I know that there are members on both sides that seek to be recognized,

but I think that the gentleman is giving us good advice. There are other amendments that are pending, and the next one comes from the minority side.

I apologize to all of the members who are here who I know want to speak on this amendment, but I think it is time for us to go to the vote.

All those in favor of the Stupak amendment, signify by the sign of aye. All those opposed, nay.

The ayes have it.

Mr. Barton. Mr. Chairman, I would like a roll call vote.

Mr. Markey. A roll call is called. The clerk will call the roll.

The Clerk. Mr. Waxman.

The Chairman. Aye.

The Clerk. Mr. Waxman votes aye.

Mr. Dingell.

Mr. Dingell. Aye.

The Clerk. Mr. Dingell votes aye.

Mr. Markey.

Mr. Markey. Aye.

The Clerk. Mr. Markey votes aye.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

[No response.]

The Clerk. Mr. Rush.

[No response.]

The Clerk. Ms. Eshoo.

Ms. Eshoo. Aye.

The Clerk. Ms. Eshoo votes aye.

Mr. Stupak.

Mr. Stupak. Yes.

The Clerk. Mr. Stupak votes aye.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette.

Ms. DeGette. Aye.

The Clerk. Ms. DeGette votes aye.

Mrs. Capps.

Mrs. Capps. Aye.

The Clerk. Mrs. Capps votes aye.

Mr. Doyle.

[No response.]

The Clerk. Ms. Harman.

Ms. Harman. Aye.

The Clerk. Ms. Harman votes aye.

Ms. Schakowsky.

Ms. Schakowsky. Aye.

The Clerk. Ms. Schakowsky votes aye.

Mr. Gonzalez.

Mr. Gonzalez. Aye.

The Clerk. Mr. Gonzalez votes aye.

Mr. Inslee.

Mr. Inslee. Aye.

The Clerk. Mr. Inslee votes aye.

Ms. Baldwin.

Ms. Baldwin. Aye.

The Clerk. Ms. Baldwin votes aye.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Weiner.

Mr. Weiner. Aye.

The Clerk. Mr. Weiner votes aye.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield.

Mr. Butterfield. Aye.

The Clerk. Mr. Butterfield votes aye.

Mr. Melancon.

[No response.]

The Clerk. Mr. Barrow.

Mr. Barrow. Aye.

The Clerk. Mr. Barrow votes aye.

Mr. Hill.

Mr. Hill. Aye.

The Clerk. Mr. Hill votes aye.

Ms. Matsui.

Ms. Matsui. Aye.

The Clerk. Ms. Matsui votes aye.

Mrs. Christensen.

Mrs. Christensen. Aye.

The Clerk. Mrs. Christensen votes aye.

Ms. Castor.

Ms. Castor. Aye.

The Clerk. Ms. Castor votes aye.

Mr. Sarbanes.

Mr. Sarbanes. Aye.

The Clerk. Mr. Sarbanes votes aye.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. Aye.

The Clerk. Mr. Murphy of Connecticut votes aye.

Mr. Space.

Mr. Space. Aye.

The Clerk. Mr. Space votes aye.

Mr. McNerney.

Mr. McNerney. Aye.

The Clerk. Mr. McNerney votes aye.

Ms. Sutton.

Ms. Sutton. Aye.

The Clerk. Ms. Sutton votes aye.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. Aye.

The Clerk. Mr. Welch votes aye.

Mr. Barton.

[No response.]

The Clerk. Mr. Hall.

Mr. Hall. No.

The Clerk. Mr. Hall votes no.

Mr. Upton.

Mr. Upton. No.

The Clerk. Mr. Upton votes no.

Mr. Stearns.

Mr. Stearns. No.

The Clerk. Mr. Stearns votes no.

Mr. Deal.

[No response.]

The Clerk. Mr. Whitfield.

Mr. Whitfield. No.

The Clerk. Mr. Whitfield votes no.

Mr. Shimkus.

Mr. Shimkus. No.

The Clerk. Mr. Shimkus votes no.

Mr. Shadegg.

Mr. Shadegg. No.

The Clerk. Mr. Shadegg votes no.

Mr. Blunt.

Mr. Blunt. No.

The Clerk. Mr. Blunt votes no.

Mr. Buyer.

Mr. Buyer. No.

The Clerk. Mr. Buyer votes no.

Mr. Radanovich.

Mr. Radanovich. No.

The Clerk. Mr. Radanovich votes no.

Mr. Pitts.

Mr. Pitts. No.

The Clerk. Mr. Pitts votes no.

Mrs. Bono Mack.

Mrs. Bono Mack. Aye.

The Clerk. Mrs. Bono Mack, aye.

Mr. Walden.

Mr. Walden. No.

The Clerk. Mr. Walden votes no.

Mr. Terry.

Mr. Terry. Aye.

The Clerk. Mr. Terry votes aye.

Mr. Rogers.

Mr. Rogers. Aye.

The Clerk. Mr. Rogers votes aye.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

[No response.]

The Clerk. Mr. Murphy of Pennsylvania.

[No response.]

The Clerk. Dr. Burgess.

Mr. Burgess. No.

The Clerk. Dr. Burgess votes no.

Mrs. Blackburn.

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn votes no.

Dr. Gingrey.

Mr. Gingrey. No.

The Clerk. Dr. Gingrey votes no.

Mr. Scalise.

Mr. Scalise. No.

The Clerk. Mr. Scalise votes no.

Mr. Rush.

Mr. Rush. Aye.

The Clerk. Mr. Rush votes aye.

Mr. Doyle.

Mr. Doyle. Yes.

The Clerk. Mr. Doyle votes aye.

Mr. Engel.

Mr. Engel. Aye.

The Clerk. Mr. Engel votes aye.

Mr. Pallone.

Mr. Pallone. Aye.

The Clerk. Mr. Pallone votes aye.

Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. Aye.

The Clerk. Mr. Murphy of Pennsylvania votes aye.

Mr. Markey. Have all members --

The Clerk. Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon votes no.

Mr. Markey. Have all members been recorded?

Mr. Upton. I just might ask that Mr. Barton is conferring with Mr. Waxman and I don't know what the margin of the vote is, but if it is within one or two, he may want to escape that back room where you have him kidnapped, bound, and gagged. Mr. Barton

is on your side over there.

Mr. Green. It is not the first time.

Mr. Stearns. Can you get Mr. Barton to vote?

Mr. Green. I am trying to find him.

Mr. Upton. Is there another allocation over there that they are still working --

Mr. Markey. Was Mr. --

The Clerk. Not recorded, Mr. Chairman.

Mr. Markey. In that case -- in that case --

The Clerk. I apologize. He is. He must have ducked in when I --

The Clerk. Mr. Barton.

Mr. Barton. I will vote no.

The Clerk. Mr. Barton votes no.

Mr. Markey. Are there any other members seeking recognition for the -- if not, the clerk will report the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 33 and the nays were 20.

Mr. Markey. The Stupak amendment is adopted.

Are there any other amendments? The Chair recognizes the gentleman from Georgia, Mr. Gingrey.

Mr. Gingrey. Mr. Chairman, I have an amendment at the desk.

The Clerk. Congressman, is it number 5 or 8?

Mr. Gingrey. It is number 8.

The Clerk. Thank you.

Mr. Gingrey. Thank you.

Mr. Markey. The Chair asks the clerk to report the amendment.

The Clerk. Amendment offered by Mr. Gingrey.

In Section 321, Section 782 is amended to read as follows:

Section 782. Proceeds from auctions of allowances.

[The information follows:]

***** INSERT 11-2 *****

Mr. Markey. The Chair recognizes the gentleman from Georgia to explain his amendment.

Mr. Gingrey. Mr. Chairman, thank you.

Today, our economic prospects are grim. The United States jobless rate is currently at 8.9 percent and rising. State budgets are reeling as more and more Americans seek government assistance programs. Unfortunately, Mr. Chairman, the underlying legislation will only further complicate our economic trouble, particularly with the enactment of such a confusing and inequitable allowance allocation. This allowance scheme will essentially take money out of the pockets of every single energy consumer and redistribute those dollars in the form of allowances to businesses.

Accordingly, my amendment requires that 100 percent of emission allowances be auctioned off by the Administrator and that the proceeds be returned to the State in which the coveted entity is located. Mr. Chairman, governors then would be able to use the funds to assist consumers, workers, and businesses in their own States to help fund research and development. And, most importantly, the amendment ensures that there are no free allowances for Federal Government bureaucrats to squander on backroom deals.

Mr. Chairman, auctioning emission allowances is the most efficient way to set market prices, and it bars the giving of

handouts to those that were first to beat a path to Congress.

Testifying before the Budget Committee in March, even Budget Director Peter Orszag supported auctioning emission allowance when he said this: If you don't auction the permit, it would represent the largest corporate welfare program that has ever been enacted in the history of the United States.

Mr. Chairman, the approach outlined in this amendment is consistent with what President Obama proposed in his own budget. It is with this spirit of true bipartisanship that I ask my colleagues to support the amendment before them.

And I yield back my time.

Mr. Markey. The gentleman's time has expired.

Does anyone seek recognition?

The Chair recognizes the gentleman from Texas.

Mr. Gonzalez. Thank you very much.

And that is exactly the point. I am from Texas. The only question I have is if Texas accepted the money and then we seceded, would we be able to keep it? We would double it.

I yield back.

Mr. Markey. The gentleman's time has expired.

Are there any other members seeking recognition?

The Chair recognizes the gentleman from Texas, Mr. Barton.

Mr. Barton. Briefly, in support of the Gingrey amendment.

I am not sure what he said. So I don't want to repeat -- I hope I don't repeat it. But the Obama administration's initial

proposal on climate change was 100 percent auction; and those of you that most believe that this is a serious, serious problem -- and I am a noted skeptic in that arena -- but if you think it is, the best way to quickly address it is to require that every allowance be auctioned. That is fair. It treats everybody in the economy that uses products that create CO2 the same.

If you want to try to rebate the proceeds in various ways to alleviate the obvious pain that those on our side believe you are going to have if you go into this arena, you might want to -- I am not sure how Mr. Gingrey's amendment handles the proceeds of the auction. At one time, it was all rebated back to the State.

Mr. Gingrey. If the gentleman will yield. That is exactly right. It would -- wherever the money came from, it would go back to those States, and the Governor would decide how it would be --

Mr. Barton. We have set it up to be revenue neutral. But at least in the initial stage you would get a fair distribution based on the market of who most valued the allowances for CO2. So I believe that this would be -- if you are the truest of true believers, then you should support the Gingrey amendment.

And, with that, I would yield back the balance of my time.

Mr. Markey. Great. The gentleman's time has expired.

Are there other members seeking recognition?

The Chair will recognize himself.

I rise in opposition to the Gingrey amendment, and I understand the intent of the gentleman, and eventually I think we

will reach a point where 100 percent of the allowances are auctioned.

But, as we have discussed throughout the course of this week, there have been negotiations that have taken place that deal with the transition from the era in which we are living to the era which will occur when we are fully within the no-carbon, low-carbon era. And towards that goal, 15 percent of the allowances have been apportioned for the trade-sensitive, energy-intensive industries in our country such as steel and aluminum and cement and paper so that they are not exploited by the Chinese or the Indians or others in a global competitive marketplace. We think that is necessary, and we have worked with those industries to ensure that they are given the tools that are necessary to be able to make a successful transition.

In addition, 35 percent of the allowances are set aside so that we can deal with the impact of higher electricity rates upon the consumers in our country; and that formula is in place as well during a transition period in order to make sure that the utility industry can make the transition but, at the same time, the consumers are protected from severe adverse consequences.

Now, the same is also true for natural gas and for home heating oil. So that in each one of those areas, we have thought through ways in which ordinary families are protected.

So while I understand the intent of the gentleman and I think eventually we will reach that point where 100 percent are

auctioned off, at this time, it just would be too disruptive to the trade-affected industries and to the consumers in the United States. I urge an --

Mr. Gingrey. Will the chairman yield?

Mr. Markey. I will be glad to yield.

Mr. Gingrey. I appreciate the gentleman yielding.

Let me just say briefly that all of the machinations that have gone on in the last several weeks in regard to these allowances, Mr. Chairman, it smacks a lot of the earmark process. And I know how we, on both sides of the aisle, would like to see a fairer approach to that and realize that there is real opportunities for mischief in that process.

The same thing here. I think this amendment, like Ranking Member Barton was saying, would guarantee absolute fairness and everybody would have an equal bite at the apple and it wouldn't be just those who maybe have an opportunity to be a little bit more accessible to Members of Congress.

So, with that, I will yield back, Mr. Chairman. I thank you for yielding me the time.

Mr. Markey. I thank the gentleman.

Again, Mr. Doyle and Mr. Inslee did an excellent job in negotiating with the steel and other industries. Mr. Boucher did an excellent job in negotiating with the utility industry.

These benefits are less earmarks than they are more generic protections for industries across our economy, as they are for

consumers across our economy. And that is really the intent. But over time we have as the full intention of the legislation that we move to a market-based system in its entirety. But it will take some time.

So, in conclusion, I urge a no vote on the Gingrey amendment. It would unbalance something that has been very carefully constructed.

And I yield back the balance of my time.

Are there other members seeking recognition on the Gingrey amendment?

Seeing none, the vote then comes on that amendment. All those in favor, signify by the sign of aye.

Mr. Gingrey. Mr. Chairman, I would like a recorded vote.

Mr. Markey. The gentleman has asked for a recorded vote.

The clerk will call the roll.

The Clerk. Mr. Waxman.

[No response.]

The Clerk. Mr. Dingell.

Mr. Dingell. No.

The Clerk. Mr. Dingell votes no.

Mr. Markey.

Mr. Markey. No.

The Clerk. Mr. Markey votes no.

Mr. Boucher.

[No response.]

The Clerk. Mr. Pallone.

[No response.]

The Clerk. Mr. Gordon.

Mr. Gordon. No.

The Clerk. Mr. Gordon votes no.

The Clerk. Ms. Eshoo.

Ms. Eshoo. No.

The Clerk. Ms. Eshoo votes no.

Mr. Rush.

Mr. Rush. No.

The Clerk. Mr. Rush votes no.

Mr. Stupak.

Mr. Stupak. No.

The Clerk. Mr. Stupak votes no.

Mr. Engel.

[No response.]

The Clerk. Mr. Green.

Mr. Green. No.

The Clerk. Mr. Green votes no.

Ms. DeGette.

Ms. DeGette. No.

The Clerk. Ms. DeGette votes no.

Mrs. Capps.

Mrs. Capps. No.

The Clerk. Mrs. Capps votes no.

Mr. Doyle.

Mr. Doyle. No.

The Clerk. Mr. Doyle votes no.

Ms. Harman.

Ms. Harman. No.

The Clerk. Ms. Harman votes no.

Ms. Schakowsky.

Ms. Schakowsky. No.

The Clerk. Ms. Schakowsky votes no.

Mr. Gonzalez.

Mr. Gonzalez. No.

The Clerk. Mr. Gonzalez votes no.

Mr. Inslee.

Mr. Inslee. No.

The Clerk. Mr. Inslee votes no.

Ms. Baldwin.

Ms. Baldwin. No.

The Clerk. Ms. Baldwin votes no.

Mr. Ross.

[No response.]

The Clerk. Mr. Weiner.

Mr. Weiner. No.

The Clerk. Mr. Weiner votes no.

Mr. Matheson.

Mr. Matheson. No.

The Clerk. Mr. Matheson votes no.

Mr. Butterfield.

Mr. Butterfield. No.

The Clerk. Mr. Butterfield votes no.

Mr. Melancon.

Mr. Melancon. No.

The Clerk. Mr. Melancon votes no.

Mr. Barrow.

Mr. Barrow. No.

The Clerk. Mr. Barrow votes no.

Mr. Hill.

Mr. Hill. No.

The Clerk. Mr. Hill votes no.

Ms. Matsui.

Ms. Matsui. No.

The Clerk. Ms. Matsui votes no.

Mrs. Christensen.

Mrs. Christensen. No.

The Clerk. Mrs. Christensen votes no.

Ms. Castor.

Ms. Castor. No.

The Clerk. Ms. Castor votes no.

Mr. Sarbanes.

Mr. Sarbanes. No.

The Clerk. Mr. Sarbanes votes so.

Mr. Murphy of Connecticut.

Mr. Murphy of Connecticut. No.

The Clerk. Mr. Murphy of Connecticut votes no.

Mr. Space.

Mr. Space. No.

The Clerk. Mr. Space votes no.

Mr. McNerney.

Mr. McNerney. No.

The Clerk. Mr. McNerney votes no.

Ms. Sutton.

Ms. Sutton. No.

The Clerk. Ms. Sutton votes no.

Mr. Braley.

[No response.]

The Clerk. Mr. Welch.

Mr. Welch. No.

The Clerk. Mr. Welch votes no.

Mr. Barton.

Mr. Barton. Aye.

The Clerk. Mr. Barton votes aye.

Mr. Hall.

Mr. Hall. No.

The Clerk. Mr. Hall votes no.

Mr. Upton.

Mr. Upton. No.

The Clerk. Mr. Upton votes no.

Mr. Stearns.

Mr. Stearns. No.

The Clerk. Mr. Stearns votes no.

Mr. Deal.

[No response.]

The Clerk. Mr. Whitfield.

Mr. Whitfield. No.

The Clerk. Mr. Whitfield votes no.

Mr. Shimkus.

Mr. Shimkus. No.

The Clerk. Mr. Shimkus votes no.

Mr. Shadegg.

Mr. Shadegg. No.

The Clerk. Mr. Shadegg votes no.

Mr. Blunt.

Mr. Blunt. No.

The Clerk. Mr. Blunt votes no.

Mr. Buyer.

Mr. Buyer. Pass.

The Clerk. Mr. Buyer votes passes.

Mr. Radanovich.

Mr. Radanovich. Yes.

The Clerk. Mr. Radanovich votes aye.

Mr. Pitts.

Mr. Pitts. Aye.

The Clerk. Mr. Pitts votes aye.

Mrs. Bono Mack.

Mrs. Bono Mack. No.

The Clerk. Mrs. Bono Mack, no.

Mr. Walden.

Mr. Walden. No.

The Clerk. Mr. Walden votes no.

Mr. Terry.

Mr. Terry. No.

The Clerk. Mr. Terry votes no.

Mr. Rogers.

Mr. Rogers. No.

The Clerk. Mr. Rogers votes no.

Mrs. Myrick.

[No response.]

The Clerk. Mr. Sullivan.

[No response.]

The Clerk. Mr. Murphy of Pennsylvania.

Mr. Murphy of Pennsylvania. No.

The Clerk. Mr. Murphy of Pennsylvania votes no.

Dr. Burgess.

[No response.]

The Clerk. Mrs. Blackburn.

Mrs. Blackburn. No.

The Clerk. Mrs. Blackburn votes no.

Dr. Gingrey.

Mr. Gingrey. Yes.

The Clerk. Dr. Gingrey votes aye.

Mr. Scalise.

Mr. Scalise. No.

The Clerk. Mr. Scalise votes no.

Mr. Boucher.

Mr. Boucher. No.

The Clerk. Mr. Boucher votes no.

Mr. Pallone.

Mr. Pallone. No.

The Clerk. Mr. Pallone votes no.

Mr. Engel.

Mr. Engel. No.

The Clerk. Mr. Engel votes no.

Mr. Ross.

Mr. Ross. No.

The Clerk. Mr. Ross votes no.

Mr. Buyer votes off on pass and on aye.

Mr. Waxman.

The Chairman. I vote no.

Mr. Radanovich. How am I recorded? I want to change from yes to no, please.

The Clerk. Mr. Radanovich is recorded as voting aye. Off

aye and on no.

Mr. Radanovich. Votes no. Thank you.

The Clerk. Mr. Burgess, no. Mr. Burgess votes no.

Mr. Barton. Mr. Chairman, as soon as the vote is announced, could I be recognized to make an announcement?

The Chairman. [Presiding.] Yes.

Have all members responded to the call of the roll? The clerk will tally the vote.

Is Mr. Sullivan recorded?

The Clerk. Mr. Sullivan votes no.

The Chairman. The clerk will announce the vote.

The Clerk. On that vote, Mr. Chairman, the yeas were 4, the nays were 52.

The Chairman. Four ayes and 52 --

The Clerk. Four ayes and 52 noes.

The Chairman. And that was a roll call vote. The noes have it.

RPTS JURA

DCMN ROSEN

[11:30 p.m.]

Mr. Barton. The ayes got creamed. There was no question. Mr. Chairman, could I be recognized.

The Chairman. Mr. Barton is recognized.

Mr. Barton. Mr. Chairman, I would ask all Republican members to convene immediately in the Republican lounge for a caucus about tomorrow's schedule.

The Chairman. The Republican members are going into a meeting, and we are going to adjourn for the evening. We will come back tomorrow at 10:00. The House is going to be finished with its business in late afternoon, and it would be my hope and expectation that we will get to the end of this bill an hour after the House is finished with its business tomorrow. So that, with that information, I want to wish you all a good evening, a restful sleep, and we will see everybody tomorrow morning at 10:00. I would like to ask everybody to get here on time so if we have a lot of work to do we can process that work.

[Whereupon, at 11:35 p.m., the committee was adjourned.]