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GOVERNMENT LOAN GUARANTEES FOR DIRTY ENERGY: American Taxpayers at Risk

Both energy bills recently passed in the House and Senate include language that dramatically expands the scope of the Department of Energy's loan guarantee program. Inserted without debate and without the knowledge of many members of both houses, the short sections reduce congressional oversight and undermine Congress' authority to exclude dangerous and volatile energy categories. This language gives Big Energy a blank check and forces American taxpayers to assume the risk for uncertain energy ventures.

The Loan Guarantee Program

The Energy Policy Act of 2005 first authorized the Department of Energy to distribute government-backed loan guarantees to low emission technologies not already in commercial use. Categories under this title include "advanced nuclear energy facilities" and "advanced fossil fuel" technologies such as coal gasification projects. These loan guarantees are subject to congressional oversight under the Federal Credit Reform Act of 1990, which mandates that Congress appropriate funds or establish an aggregate cap for all government loan guarantees. The funds for such guarantees come directly from the U.S. Treasury.

Established to help jumpstart emerging energy technologies, loan guarantees work by shifting the risk of investing in unproven technologies from private investors to the government and ultimately to the taxpayers. Loan guarantees function like a type of insurance on debt—if the company is not able to pay back the loan to the private lenders, then the government steps in to settle the debt, using the taxpayers' pocketbook.

In February 2007, President Bush proposed a \$9 billion loan guarantee program for FY2008, \$4 billion of which would go toward nuclear and coal energy. Not satisfied with this funding level, the nuclear industry beseeched Congress for a staggering \$50 billion in loan guarantees over the next few years. The industry argued that without 100% government-backed loan guarantees, private investors would not assume the risk of loaning billions of dollars to an industry with a higher than 50% chance of defaulting on a loan.¹ In response, sympathetic members of Congress attached language to moving energy bills that would open the door for unlimited loan guarantees. This shift upsets the balance of administrative and congressional powers and forces taxpayers to bear the brunt of risky, expensive, and often dirty industries.

The Senate language:

- Removes congressional oversight by exempting the loan guarantees from the Federal Credit Reform Act of 1990. This change would allow the DOE to access an unlimited amount of U.S. treasury funds to guarantee loans;
- Expands the loan guarantees to cover up to 100% of the loan, increasing the likelihood that private companies will invest in the riskiest and most expensive technologies;
- Allows loan guarantees to be given to multiple projects using identical technology, thereby eliminating previous safeguards against unproven technology;
- Directs all collected loan administration fees into a dedicated fund to which DOE has unrestricted access.

The House language poses additional problems:

- Allows 100% of the loan to be guaranteed, again increasing the likelihood of capital investment in dangerous and expensive projects;
- Prevents members of Congress from restricting the program by excluding categories of eligible projects.

The changes in both the House and Senate bills would remove considerable power from Congress to oversee billions of dollars of tax-generated funds. Without oversight from elected officials, the DOE could distribute billions of dollars to cover the cost of defaulted loans without accountability.

Loan Guarantees Need Restrictions

The history of loan guarantee programs shows that they are plagued with problems, from poorly managed administration to misdirected funding. For example, a report issued by the Department of Energy found that “the agencies involved had not always exercised due diligence during critical phases of the loan guarantee process,” and acknowledged problems during the “origination, monitoring and performance stages” of the loan guarantee agreements.² Other agencies have identified similar concerns, including repeated examples of approving applications for projects that did not meet all of the requirements.

In addition to this poor track record, opening the door to unlimited loan guarantees is not financially responsible, especially given that the nuclear industry has already asked for \$50 billion in loan guarantees. The Bush administration agrees, and early this summer opposed the legislative modifications on the grounds that “certain provisions would remove appropriate controls over the size of the program and significantly increase potential taxpayer liability.” The statement went on to assert that certain provisions would “eliminate any incentive for due diligence by private lenders.”³

Given the facts, congressional oversight is necessary to prevent misappropriations and expansive loan defaults. The Department of Energy is already moving ahead with the administrative task of selecting and awarding loan guarantees and has sufficient flexibility to do so while following the laws and rules already on the books. Changing the language now to allow an unlimited amount of loans to risky and dangerous projects is simply a bad deal for the environment and American taxpayers.

¹ Public Citizen, *Congress Should Not Bow to Nuclear Industry Demands for More Than \$50 Billion in Loan Guarantees to Build Nuclear Reactors*. <<http://www.citizen.org/documents/LoanGuaranteeBackgrounder.pdf>>

² U.S. Department of Energy, *Loan Guarantees for Innovative Energy Technologies*. September 2007. <<http://www.ig.energy.gov/documents/IG-0777.pdf>>

³ Executive Office of the President, Statement of Administration Policy, *H.R. 6 – Creating Long-term Energy Alternatives for the Nation (CLEAN) Act*, June 12, 2007. <<http://www.whitehouse.gov/omb/legislative/sap/110-1/hr6sap-s.pdf>>