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MARKUP OF H.R. 2689, H.R. 4092, AND H.R. 6

TUESDAY, APRIL 29, 2014

House of Representatives,
Committee on Energy and Commerce,
Washington, D.C.

The committee met, pursuant to call, at 4:05 p.m., in Room 2123, Rayburn House Office Building, Hon. Fred Upton [chairman of the committee] presiding.

Present: Representatives Blackburn, Latta, Harper, Olson, Gardner, Upton (ex-officio), Engel, Green, Welch, Waxman (ex-officio).

Staff Present: Nick Abraham, Legislative Clerk; Gary Andres, Staff Director; Mike Bloomquist, General Counsel; Sean Bonyun, Communications Director; Allison Busbee, Policy Coordinator, Energy & Power; Patrick Currier, Counsel, Energy & Power, Tom Hassenboehler, Chief Counsel, Energy & Power; Brittany Havens, Legislative Clerk;

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Peter Kielty, Deputy General Counsel; Jason Knox, Counsel, Energy & Power; Ben Lieberman, Counsel, Energy & Power; Jeff Baran, Senior Counsel; Jen Berenholz, Chief Clerk.

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The Chairman. It is my understanding Mr. Waxman is on his way. And with Mr. Engel here, I think we can get started.

I just want to make sure we know we are only doing opening statements today. As much as we would like to pass the bill and a quorum is present, we are not going to do that.

So the committee will come to order. The chair recognizes himself for an opening statement.

Today our pursuit of commonsense energy policies continues as we consider three bills that are going to lead to a better use of the Nation's energy resources.

It is also a good day for bipartisanship, as we have cooperated across the aisle on all three bills, and we are going to continue to do so. Two of the bills continue this committee's success with energy efficiency legislation.

Back on March 5, 191 Republicans and 184 Democrats joined together to pass H.R. 2126, the Energy Efficiency Improvement Act of 2014, and today we are going to look to build upon that success.

H.R. 2689, the Energy Savings Through the Public-Private Partnerships Act authored by Representatives Cory Gardner and Peter Welch facilitates the use of energy-saving contracts to encourage private-sector investment to upgrade the energy and water efficiencies of federal facilities.

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H.R. 4092, the Streamlining Energy Efficiency for Schools Act of 2014, will help our Nation's schools reduce energy costs and certainly save taxpayers money by establishing an online resource at DOE to disseminate information about available federal programs that can be used to save energy and costs.

The final bill that we are going to consider is H.R. 6, the Domestic Prosperity and Global Freedom Act. This bill is not just smart domestic energy policy that is going to help boost our economy. It is added benefit of helping many of our allies and trading partners all over the world, particularly, I think, in Eastern Europe.

I want to thank Mr. Gardner for sponsoring this bipartisan bill and for his efforts to work across the aisle as we work to move the bill forward.

Committee will consider a managers' amendment tomorrow morning that I am hopeful will gain significant bipartisan support.

Committee has conducted several hearings on the subject of LNG exports, and we also held a forum last October with officials from 11 of our allies.

At that forum, we heard directly from three Eastern European Governments dependant upon Russia for natural gas, and they told us that the very signal that America is serious about entering natural gas markets would immediately reduce Russia's negotiating leverage and pricing power.

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This bill would send the signal the moment that it is enacted and the benefits would grow as LNG exports increase in the years ahead.

DIA made clear that America does possess a surplus of natural gas above domestic demand, and DOE's study concluded that a market-based export policy such as embodied in H.R. 6 would have net benefits for the U.S. economy, including more jobs.

We have the opportunity to strengthen our economy by exporting our surplus of natural gas to our allies who need it, and the current Ukraine crisis further puts a spotlight on a policy that already makes good sense both here and abroad.

To conclude, the U.S. and the EU recently issued this joint statement: "The situation in Ukraine proves the need to reinforce energy security in Europe, and we are considering new collaborative efforts to achieve this goal. We welcome the prospect of U.S. LNG exports in the future, since additional global supplies will benefit Europe and other strategic partners."

This bill, H.R. 6, offers a solution to accomplish that goal, and I would urge my colleagues to support all three as we move forward.

[The prepared statement of The Chairman follows:]

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The Chairman. I now recognize my friend from California, Mr. Waxman, for 5 minutes for an opening statement.

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

Tomorrow we will consider Congressman Gardner's bill to change the approval process for liquefied natural gas exports.

The basic premise of the bill is that the Department of Energy has moved too slowly in approving applications to export LNG.

In fact, DOE has moved aggressively to authorize LNG exports. To date, DOE has approved seven export proposals and is continuing to evaluate additional applications.

The amounts already approved for export would transform the United States into the world's second largest exporter of LNG, just behind Qatar.

If just one more application is granted, we would go from exporting no LNG today to being the largest exporter in the world in just a few years.

Currently, DOE performs a public interest determination when reviewing export applications so that it can carefully consider the effect of LNG exports on natural gas prices and the impact of higher prices on American consumerism and manufacturers.

The public interest determination also provides DOE an opportunity to examine energy security, geopolitical and environmental

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considerations.

Like many of my colleagues who have an open mind about or even support LNG exports, I am concerned about the approach taken in this bill.

The bill would short-circuit the established review process for pending and future LNG export applications. It requires DOE to approve essentially unlimited LNG exports to all 159 World Trade Organization countries without any determination that such exports are in the public interest.

Major companies like Dow, Alcoa and Nucor oppose the bill on the grounds that it will increase domestic natural gas prices and place American manufacturing at risk. The United Steel Workers also urge defeat of the bill, arguing that American jobs will be lost.

The current process allows DOE the opportunity to examine these arguments and determine where the public interest lies. But under this bill, no one will be able to evaluate these concerns. The exports will just be automatically approved.

One of my major concerns is the climate impact of these decisions. If LNG exports reduce coal consumption in other nations, that is an environmental benefit.

But producing LNG takes a significant amount of energy, and LNG exports could lead to more coal consumption in the United States. We should understand the overall climate impact before we make energy

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policy decisions affecting infrastructure that will last for decades.

Proponents of unlimited LNG exports contend that we need to help Ukraine and our European allies resist Russian aggression. I agree that Russia's actions are a serious problem, but I am skeptical that this bill will assist our friends in Europe.

The bill will not result in LNG exports to Europe for several years, if at all. No LNG export facilities currently exist in the Continental United States. When the United States actually begins to export significant quantities of LNG 3 or 4 years from now, it may not even go to Europe.

The export terminals most likely to be constructed already signed contracts to send LNG to Asia where natural gas prices are higher than in Europe. So, obviously, the manufacturer is going to want to sell the product to those who will pay the highest price.

We are not telling them that to sell it in Ukraine. They can't even get into Ukraine. But when they can sell it, they are going to sell it to those who will pay the most. That is the capitalist system.

Our system is working. LNG projects are being approved through a process that weighs the public interest and provides for public participation. I don't think the case has been made for upending that system; so, I will not support this bill in its current form.

The committee will also be considering two other consensus energy bills. I think that those bills are thought through, and I urge my

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colleagues to support both of those bills.

And I yield back the balance of my time.

[The prepared statement of Mr. Waxman follows:]

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The Chairman. The gentleman yields back.

The chair will recognize for an opening statement the gentlelady from Tennessee, Ms. Blackburn.

Mrs. Blackburn. Thank you, Mr. Chairman. I appreciate the fact that you are giving us the opportunity to have our opening statements today.

And I could talk at length about the domestic benefits, the increasing energy production and efficiency. We know that that equates to jobs, jobs growth, higher wages and more economic output for the United States.

But, instead, let me talk about the geopolitical ramifications of natural gas and my support for Congressman Gardner's good work that we see before us, the Domestic Prosperity and Global Freedom Act, a well-named bill. And I congratulate him.

As we all know, Russia recently annexed Crimea. Vladimir Putin is now mobilizing troops, and he is going deeper into the Ukraine and into some of the surrounding countries there.

The Russian actions are troubling. We all know that it appears they felt the end of the Cold War was halftime, and they are back at it again. That should cause concern to every one of us. History has taught us that such aggression needs to be responded with a very strong response.

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And a March 5 article of the New York Times wrote -- and I am quoting -- "For Russia, energy supplies are as important to keeping a hold on Ukraine and the other former countries of the Soviet Union as is the Russian Army itself."

The same article also noted that the U.S. recently surpassed Russia to become the world's largest producer of natural gas. Well, one would think we would want to take advantage of being that world's largest producer.

While America has the better hand, President Obama continues to negotiate from a position of weakness. Sanctioning a few Russian officials is not the answer.

It is time that we begin flexing our American muscle. Unleashing natural gas exports into Eastern Europe could cripple the Russian economy and provide much needed relief to our allies.

I hope that Republicans and Democrats can come together to support the Domestic Prosperity and Global Freedom Act and begin sending Vladimir Putin a message.

I yield back my time.

[The prepared statement of Mrs. Blackburn follows:]

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The Chairman. Gentlelady yields back.

The chair would recognize the gentleman from Texas, Mr. Green, for an opening statement.

Mr. Green. Thank you, Mr. Chairman. And I want to thank the chair and ranking member for holding the markup.

Today's markup of H.R. 6 is an important step forward in evolution of U.S. energy. Shale gas has changed our future economically, environmentally and geopolitically.

Where once the U.S. faced huge shortfalls of natural gas, we now face huge surpluses. It is important to ensure that we balance the competing demands.

Domestic shale gas has given our manufacturers a competitive advantage over the world's competition, but as our production quickly outpaces our consumption, we have the opportunity to expand our influence globally via exports.

The decision whether or not to export has already been made. We recognize that the Department of Energy plays a critical role in the export debate.

The U.S. shale gas reserves are a public resource and should be handled with the public's interest in mind, but we are reaching a point where the DOE will start to affect what should be free-market decisions.

Currently, there are 20 applications residing at the Department

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of Energy awaiting any decision. Most of these applications are over 2 years old. How do we resolve these pending applications? How do we continue to allow the DOE to do its job?

The debate has been long and vigorous, and today, thanks to hard work on both sides, we are reaching a bipartisan solution. We will not deem any pending applications approved.

DOE will continue to lend its considerable expertise and protect the public interest, and we will not forego environmental protection.

The Federal Energy Regulatory Commission, FERC, will continue to ensure our environment is protected. We will provide businesses a certainty they need to invest tens of billions of dollars.

The Department of Energy has repeatedly stated exporting LNG is in our national interest. We now need to find out which projects are committed to moving forward.

Additional delay or inaction will force viable projects out of the competition. H.R. 6, as will be amended, will require the DOE to act responsibly on these 20 applications and make a decision.

And, Mr. Chairman, I want to thank my colleague from Colorado, Congressman Gardner, for working with us and on our side of the aisle, on both sides, for working on the issue.

And I will yield back.

[The prepared statement of Mr. Green follows:]

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The Chairman. Thank you. I just appreciate your hard work on this as well, for sure.

Next, the chair will recognize the gentleman from Mississippi, Mr. Harper.

And before he starts, I just want to say our thoughts and prayers are with you. We know that you are here at the start of the markup. We know that you are not likely going to be here at the end of the markup because you are going to go witness firsthand the damage with Senator Cochran.

And please share our concerns with your many constituents there. We know that you have lost some people in your State, including your district, and we are anxious to have you come back and give a first report.

And, with that, yield you 3 minutes for an opening statement.

Mr. Harper. Thank you, Mr. Chairman. And thank you for your compassion in that.

Mississippi was one of those States that was really hit very hard yesterday with the tornados. And so a lot of folks are hurting right now, loss of life and a lot of homes destroyed. So thank you for acknowledging that.

Mr. Chairman, I want to thank you for bringing these bills to the full committee for markup. These bills will help reduce federal energy

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costs and establish a one-stop shop for the coordination of promoting energy retrofitting in schools and higher education institutions.

A tentative good government should be that the government works to be as efficient with its resources as possible. Reducing federal energy costs and utilizing cost savings agreements can create jobs and reduce waste.

H.R. 2689 would create commonsense reform that does not burden Americans and ultimately saves money in the long run.

In the same vein, H.R. 4092 establishes a single entity to take charge of implementation of energy-efficient and renewable energy opportunities for schools across the country.

This bill provides less bureaucracy and simplifies the dissemination of information on existing federal programs and assistance that may be used to help initiate, develop and finance energy efficiency, renewable energy and energy retrofitting projects for schools.

I hope that my colleagues will join me in supporting these bills.

And I yield back.

[The prepared statement of Mr. Harper follows:]

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The Chairman. Thank you. Again, we wish you well tomorrow.

Chair will now recognize for an opening statement the gentleman from Vermont, and certainly a real player as we have worked together on these energy efficiency bills over the last year and a half, gentleman, Mr. Welch.

Mr. Welch. Well, thank you very much, Mr. Chairman. And, by the way, thanks for having it be a focus of this committee that we can do practical energy efficiency legislation.

And I am speaking in support of two bills, both the Gardner-Welch Energy Savings Through Public-Private Partnerships Act, H.R. 2689, and, also, the Cartwright-Welch Streamlining Energy Efficiency for Schools Act that we just heard about.

Energy-efficiency performance contracts and utility-savings performance contracts makes sense. It allows companies to bid to retrofit federal buildings at their expense.

They provide the up-front cost and then the taxpayer has no up-front expense, but gets the benefit of energy savings. And then those energy savings are used, in part, to pay for the contracted work that was done.

So you get a more efficient federal building, less expense to the taxpayer, and you create jobs. These contractors are putting people to work and doing a good job. So this just really makes sense.

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And it has been good to work with Mr. Gardner. And we have been at this for a couple years, really promoting this in all kinds of different ways. And my hope is that the committee will pass this.

And, likewise, Mr. Cartwright has a bill. His bill, 2689, is great. We have got all these schools, and there are programs in the schools -- in the Federal Government to try to help them make those buildings more energy efficient. And some of our schools are really in need of tightening up in the summer and in the winter.

And, again, this is a situation where it is going to, by streamlining this, make the programs that are available easier to use for the school districts, and the benefit is going to be to the property taxpayers, in large part, number one, but, number two, to the kids.

They are in schools and they are going to be tighter. They are going to be cooler in the summer. They are going to be warmer in the winter. And that actually affects instruction and learning.

So I congratulate Mr. Cartwright for his leadership on this and am delighted to be working with him and, also, with you, Mr. Upton, on both of these pieces of legislation.

And I yield back.

[The prepared statement of Mr. Welch follows:]

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The Chairman. Gentleman yields back.

Chair will recognize the gentleman from Colorado, sponsor of H.R. 6, Mr. Gardner, for an opening statement.

Mr. Gardner. Thank you, Mr. Chairman. Thank you for holding this markup today and giving us the opportunity to advance these critical pieces of legislation, including H.R. 6, the Domestic Prosperity and Global Freedom Act, and H.R. 2689, the Energy Saving Through Public-Private Partnerships Act.

And I would especially like to thank both Representative Tim Ryan and our colleague Peter Welch from Vermont for the great bipartisan work that has taken place on both of these pieces of legislation.

In particular, the energy efficiency bill represents a great bipartisan piece of legislation that is a strong pro-environment bill. And look forward to passing both through committee today and on to the House -- the full House.

First to address H.R. 6, I have said before that rarely do we get a chance to pass legislation that creates economic opportunity here in the United States, strengthens and helps out our allies abroad, weakens our enemies and does not spend the American taxpayers' dollars. H.R. 6 accomplishes all three of these.

While this committee began looking into the issue of energy exports long before the crisis in Ukraine, we can now use this

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legislation as a foreign policy success story and an economic success story, one which would provide jobs and growth here at home.

We have held four hearings on LNG exports. We have had a legislative hearing on H.R. 6 and a subcommittee markup. During these, many of the common misconceptions about LNG exports have been dispelled.

One example is that some say, since LNG exports won't begin right away, they can't do any good for quite some time, but representatives of Hungary, Lithuania and the Czech Republic have told the Energy and Power Subcommittee that the very signal that America is serious about entering the global natural gas market will immediately address and reduce Russia's negotiating leverage and pricing power. H.R. 6 can instantly change the dynamics in that region and the benefits will grow here at home.

Some have also asserted that extra demand from exports would cause a significant increase in domestic natural gas prices, but studies by the DOE have concluded that America has ample spare capacity in natural gas, and these studies have shown that that impact will simply not materialize. And I know that, in my home state of Colorado, we stand ready to increase production.

The majority of LNG export applications are waiting in a long line. We must break the logjam that is currently taking place at DOE and move toward construction of these LNG export facilities.

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Secretary Moniz recently hinted during his testimony before this committee that the G7 process could determine our energy policy, meaning an even longer delay before we ramp up natural gas output. I don't believe that is acceptable and shows the urgency of why we need to pass this bill.

But the committee will also consider H.R. 2689, the Energy Savings Through Public-Private Partnerships Act, which my partner, Peter Welch, and I introduced last year.

The legislation has a simple focus on promoting performance contracting through the use of energy savings, creating jobs, protecting the environment and saving the taxpayer dollars. And just in time for the Kentucky Derby, this bill hits the trifecta.

Now, it is a simple focus to make sure that we allow private companies to perform energy upgrades on federal buildings, letting them assume the risk, the cost, and receive payment only after the upgrades and the efficiencies are realized.

They receive tremendous benefit for the economy, creating private-sector jobs. And just look at the money that we can save the taxpayer when you think about the fact that the Federal Government has 3 billion square feet of office space.

And so we will be offering an amendment in the nature of a substitute tomorrow that will require a report to Congress in 2015, 2016 on agency usage of performance contracts and an explanation if

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goals are not met, make statutory changes to clarify the definition of a federal building, and clarifies that plug loads are allowing energy conservation measure.

The amendment requires a report on why -- life cycle cost analysis on water and energy-efficiency measures that have not been implemented under DOE guidelines. This bill will create jobs, save taxpayer money and reduce waste. I urge my colleagues to support both of these bills.

And I yield back.

[The prepared statement of Mr. Gardner follows:]

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The Chairman. The gentleman yields back.

Chair will now recognize gentleman from Ohio, Mr. Latta, for an opening statement.

Mr. Latta. Thank you very much, Mr. Chairman. And thank you for holding today's markup on H.R. 6.

Addressing unnecessary delays in the current LNG export approval process for non-FTA countries will lock in a host of domestic benefits and strengthen our strategic partnerships abroad.

Newfound access to our vast domestic energy resources due to advancements in drilling has put expansive growth in domestic energy markets and changed the international energy landscape.

In the demand-constrained natural gas market, we have heard from multiple experts that the industry needs to expand into larger markets in order to maintain an adequate investment flow.

Markets exist overseas with our friends and allies. The ongoing situation in Ukraine has exposed Europe's vulnerability and dangerous dependence on Russian natural gas.

These countries are looking to diversify their supply, and we will stand in an optimal position to provide them with a secure and affordable supply.

Bringing competition to the European market will bolster our place as a global energy leader and undermine the ability of traditional

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gas suppliers like Russia to use monopoly positions as political weapons.

This is why H.R. 6 is an important and necessary piece of legislation. This bill will clear the backlog of export applications at DOE and ensure exports to our allies are no longer subject to unnecessary delays.

Timeline approval of the U.S. LNG exports will also provide momentum for ongoing infrastructure developments throughout Eastern Europe and send a message of strategic reassurance to these increasingly unstable areas.

Beyond the international geopolitical benefits, LNG exports will expand the domestic economy and create American jobs. This is especially true in areas like my district where I have over 60,000 manufacturing jobs, many of which make component parts used in the energy development process.

Numerous studies have highlighted these positive impacts, including the DOE's macroeconomic study that found net positive impacts.

Other studies have estimated that the net effects on U.S. employment from LNG exports could create up to 452,000 jobs between 2013 and 2035. In my Home State of Ohio, we could see as many as 30,000 new jobs by 2035.

These jobs not only bring income security to employees and their

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families, but also generate billions of dollars and new revenue for Federal, State and local governments. The benefits of the U.S. LNG exports are clear.

I thank Mr. Gardner for his leadership on the issue and urge my colleagues' support.

Thank you, Mr. Chairman. And I yield back the balance of my time.

[The prepared statement of Mr. Latta follows:]

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The Chairman. Gentleman yields back.

Chair would recognize Mr. Olson from Texas for an opening statement.

Mr. Olson. I thank the chair.

I am happy to see H.R. 2689 and H.R. 4092 before us today. Energy efficiency is common sense. We are blessed to have affordable and reliable energy in this country, and squandering it hurts us all. The best part of both bills is they ask Washington to set examples, not mandates.

However, I am mostly looking forward to voting for Mr. Gardner's H.R. 6. Everyone in this room knows about the shale boom in America. This energy revolution kept the Great Recession from becoming the Great Depression. It has turned around the fate of entire nations.

Homeowners have seen their energy bills fall. It has helped spark a manufacturing boom as companies across America in-source jobs and use cheap feedstocks.

Shale gas will help America capture its destiny in the 21st century, and exporting some of that shale gas makes that future even brighter. Energy won't be a weapon for America. It will be an olive branch.

We can strengthen our alliances everywhere, from Budapest to New Delhi. Energy startup countries that are held hostage by hostile

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neighbors like Russia -- they can bully Europe. Iran can bully India.

If that spigot is turned off, a bully is brought to his knees. LNG exports and free trade has the potential to protect more democracy than boots on the ground in the 21st century.

The gas won't arrive overnight, but that is no excuse for even more delay. At the same time, the impact begins right here at home.

Study after study shows that the price impact we have measured in pennies. There is simply too much gas on the supply curve. Instead, H.R. 6 will create even more opportunities for drilling in America. This means high-paying jobs and new tax revenue.

And in terms of sales, we will be winners. These projects cost billions, and they actually are shovel-ready. If you don't believe me, go to Sabine Pass on the Texas and Louisiana border or do like I did last week and go to Freeport, Texas, and see the development going on there.

But all this growth depends upon permitting. The FERC needs to do its work on safety and design, but the process of DOE is still red tape. We have companies stuck in an arbitrary line losing their opportunity on the global states. Let's crack this open and pass H.R. 6.

I yield back.

[The prepared statement of Mr. Olson follows:]

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The Chairman. Gentleman yields back.

Chair reminds Members that, pursuant to the committee rules, all Members' opening statements will be made part of the record.

Are there further opening statements? Seeing none, the chair now calls up H.R. 2689 and asks the clerk to report.

The Clerk. H.R. 2689, to amend the National Energy Conservation Policy Act to encourage the increased use of performance contracting in federal facilities.

The Chairman. Without objection, the first reading of the bill is dispensed with. The bill will be open for amendment at any point. So ordered.

For the information to the members, we are now on H.R. 2689. The committee will reconvene at 10:00 tomorrow morning.

And I will remind members that the chair will give priority recognition to amendments offered on a bipartisan basis. I look forward to seeing you all tomorrow.

Without objection, the committee stands in recess.

[Whereupon, at 4:35 p.m., the committee was adjourned, to reconvene at 10:00 a.m., Wednesday, April 30, 2014.]