INTERSTATE: NATURAL GAS

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Dear Colleague:

The House will soon be considering H.R. 12112, the Synthetic Fuels Loan Guarantee Program bill.

I am opposed to this legislation. After having had the opportunity to consider it twice -- once during a conference in late 1975, and again at great length over the past three months as original House legislation -- I believe this approach to our national energy situation makes as much sense as trying to push a car with the brakes on and the transmission in park.

Specifically, the bill:

(1) abandons any connection with normal market incentives. It accepts the current over-regulated, over-controlled energy situation. It tries to present an artificial solution to that artificial situation. And, in so doing, this bill may encourage further Federal involvement and controls in energy;

(2) does nothing to eliminate the disincentives that have disrupted the fossil energy industries and that have discouraged investment in alternate energy technologies;

(3) ignores the fact that current synthetic fuel prices, with the exception of geothermal, are not price competitive with the currently controlled prices of traditional energy sources. Thus, this bill raises the distinct future probability of price supports for synthetic energy. No witness denied this probability;

(4) further preempts debt capital available to borrowing citizens. It allocates Federally guaranteed debt capital to energy industries that cannot attract it, in turn, helping to bid up the interest rate price of money;

(5) discourages energy industry competition and gives a favored competitive position to program participants;

(6) interjects the Federal government directly into State and local affairs in a new and substantial way. For example, in the oil shale sections, the Federal government is obligated to make available funds for essential services of local governments;

(7) provides for such stringent compliance standards that it can only postpone or frustrate attempts to build and operate synthetic fuel plants;

(8) admits the failure of the Congress and the Federal government to come up with energy solutions that do away with the burdensome and restrictive disincentives;

(9) permits an oil share venture to receive as much as $1 billion in guarantees on a commitment of $25 million. That is like receiving a $100,000 loan on a $2,500 deposit.

We have not moved from the days of whale oil and kerosene to an era of diversified energy supplies because of the unresponsiveness of the American energy industry. Our energy industries, both existing and potential, will respond to the needs of the American people if we "take the brakes off", intelligently remove developmental disincentives and permit our proven ingenuity to operate effectively.

This legislation is an artificial solution to an artificial situation. It does not merit your support.

Sincerely yours,

Barry

BARRY M. GOLDWATER, JR., M.C.

DISSENTING VIEWS OF CONGRESSMAN BARRY M. GOLDWATER, JR.

The urgency and demand for development of synthetic fuels is well documented. Oil and gas are finite resources, and if America is to meet projected energy needs for the next hundred years, other sources of energy must be found.

The intent of this legislation is laudable. Most energy experts feel that the development of synthetic fuels could dramatically assist America in achieving energy independence by the year 2000, which is a goal we all seek.

But will this legislation really help to achieve that goal? I submit that it will not.

The bill is not difficult to analyze. It is a loan guarantee approach to encourage synthetic fuel demonstration and construction projects. Since federal loan guarantee programs are not subjected to normal budgetary impediments, the bill has the appearance of economic infallibility. In other words, this legislation, in an economically contrived fashion is made to appear as a panacea to the nation's energy problems while at the same time costing the taxpayer nothing.

The question begs, why do the producers of energy in this country need a loan guarantee program to develop synthetic fuels? Is it because the Federal Government dries up a disproportionate amount of available loan money? Is it because Congress and the regulatory agencies have frightened energy producers and banks with so many punitive rules and regulations that they are afraid to invest time, effort and money in the production of energy?

Perhaps these questions are rhetorical, but they have a direct bearing on this legislation, and during the entire course of hearings and markup of the bill, they were never answered—at least not effectively.

Any thorough and balanced historical examination of federal loan guarantee programs will reveal that contrary to popular belief, the extension of governmental credit usually results in great expense to the taxpayer and a loss of private lending money to business.

There is no effective guarantee in this bill that once a loan is made for a synthetic fuel project and in turn defaulted, that the government—hence, the taxpayer—will ever be reimbursed.

Government guaranteed loans are a little like a child's first experience with cotton candy. At first it looks and tastes awfully good, but it doesn't take long to realize that there's really nothing there.

When Congress creates a loan guarantee, or credit program, it is not increasing investment funds available to the private loan market. On the contrary, this "re-arrangement" of the money supply preempts the share of investment funds going to private borrowers. In turn, interest rates go up as investment money is bid away by the federal government.

As the noted economist, Dr. Henry Kaufman, pointed out: "Federal agency financing does not do anything directly to enlarge the supply of savings . . . in contrast, as agency financing bids for the limited supply of savings with other credit demanders, it helps to bid up the price of money."

The next time a constituent complains about a lack of home mortgage money and the exorbitant interest rates on the little money that is available, it might be a good idea to check with the Federal Reserve and see where the money is going. In 1960 the federal share of funds raised in private capital markets was 12.7 percent. Today it is in excess of 25 percent and growing dramatically. And, this is a salient defect of the bill. It goes straight to the heart of any federally sponsored loan program; namely, that the government will undertake high risk projects that private lending institutions won't touch.

Hearings on this bill proved conclusively that banks and other lending institutions feel that synthetic fuel demonstration and construction is a poor financial risk. But, the lenders only see the program in such a bad light because they are convinced that Congress, the federal government and even the courts, will continue to throw up shortsighted roadblocks to energy development. Ironically, the bill specifies that a loan may not be approved for synthetic projects in a case where the applicant does not meet the various financial and management requirements ordinarily required by private lenders. Does this tell us something? It should. Whether a private lending institution or the federal government makes a loan for energy development, bureaucratic red tape at all levels of government can delay an energy project indefinitely, and this is regardless of how much capital and practical experience in energy development the applicant may have.

Privately, most loan officers with experience in energy exploration and construction loans will say this bill is a risk. While I would not presume to impugn the motives of my friends in the lending business, I rather suspect that their acceptance of this piece of legislation was due in part to their desire to get the ball out of their court. If not, why does the Alaskan Pipeline project have little difficulty in getting private lending money, and the price tag for the Alaskan Pipeline is at least one billion dollars more than the amount authorized in this bill for synthetics.

Now, in addition to loan guarantees, we are being asked to authorize the expenditure of one-half billion dollars just to cover the loans. Why is this expenditure necessary? Unless, of course substantial losses under the program are expected to be charged to the budget.

In reality, what this bill does is admit the failure of Congress and the Federal Government to come up with a sensible solution to the nation's energy crisis. It's a "rob Peter to pay Paul" approach. Once more the American taxpayer is being asked to foot the bill with little hope of any tangible benefits. Not only is the taxpayer losing six to fourteen billion dollars in loan money stripped from the private lending market, but this pie-in-the-sky scheme is being perpetrated by the same Congress whose actions have discouraged energy production in the past.

The impact of synthetics on the total energy needs of the nation in the next 15 years will be less than four percent and this is assuming elimination of the usual bureaucratic roadblocks thrown up against coal production.

At the present time, fossil fuels—oil and gas—supply 76 percent of the country's energy demand. Yet, the reduction of the oil depletion allowance coupled with the continuance of price controls on domestic oil and gas has reduced the cash flow for expanding exploratory efforts aimed at achieving energy self-sufficiency.

It can be assumed that if this bill passes, bureaucratic impediments will also exist to discourage utilization of synthetics. In fact, the director of the Center for the Study of American Business at Washington University, Mr. Murray L. Weidenbaum, recited to the Science and Technology Committee the various steps, or constraints, that could postpone attempts to build and operate a synthetic fuels plant. They included the following:

1. Preparing an environmental impact statement, as required by the National Environmental Policy Act of 1969.

2. Meeting new source performance standards for air quality, under the Clean Air Act Amendments of 1970.

3. Meeting the hazardous pollutant emission standards, under the Clean Air Act Amendments of 1970.

4. Meeting the state air quality implementation plans required by the Clean Air Amendments of 1970.

5. Obtaining necessary point source discharge permits, under the Water Pollution Control Act Amendments of 1972.

6. Meeting state water quality standards and water quality management plans, as promulgated under the Water Pollution Control Act Amendments of 1972.

7. Complying with limitations applicable to "underground injections," under the Safe Drinking Water Act of 1974.

8. Complying with the regulation of interstate pipeline transmissions, under the Interstate Commerce Act.

9. Complying with the prohibition against a carrier transporting its own products, under the Interstate Commerce Act.

10. Complying with the allocation of railroad cars transporting coal, under the Interstate Commerce Act.

11. Complying with the regulation of interstate transmission of synthetic gas once mixed with natural gas, under the Natural Gas Act.

12. Obtaining necessary plant and mine leases, from the U.S. Bureau of Land Management.

13. Obtaining necessary water allocations, from the U.S. Bureau of Reclamation.

14. Complying with the Coal Mine Health and Safety Act of 1969.

The bill contains other deficiencies. For instance, the bill reported from committee would allow an oil shale venture to qualify for a $1 billion loan with only $25 million put up by the applicant in investment capital. In other words, this is like asking a private lending institution to accept $2,500 in security on a $100,000 loan.

Also, by definition, few proposals will be accepted. The great majority will stand at a severe competitive disadvantage. They will have to stand on the sidelines and wait until both government and private finance are satisfied.

Thus, at least three to five years in development and operational time will be expended, and there will be no skilled personnel on-line, ready to go.

Upon close examination of this bill, it becomes obvious that no reasonable guarantee exists that the market price of the energy produced will be competitive with the price of current energy sources. Thus, in voting for these loan guarantees, there is an acceptance of the distinct probabilty of price supports for the energy produced. No witness before the Science and Technology Committee denied this or ruled it out.

The Administration has clearly indicated that Syn-fuels loan guarantees are but the leading element in the Energy Independence Authority (EIA), the $100 billion wholly owned federal energy corporation. The rationale for the role, function and need of both is identical, as Administration and outside witnesses indicated. The FEA maintains that that EIA will need as much as $600 billion over the next 10 to 15 years. Thus, acceptance of the principle involved in this bill is economically beyond our wildest imagination.

In addition, it should be pointed out that under the guise of community impact aid assistance, the federal government is brought directly into the affairs of local areas. The bill provides for federal government guarantee of a locality's bonds for "essential" public services, or it could guarantee the amounts of anticipated tax returns from the energy demonstration facility. Such federal responsibility carries a potential cost liability of more than the anticipated costs of the energy loan guarantees.

Lastly, the federal government could wind up owning and operating commercial energy plants, regardless of whether they are wholly functional, and in turn, selling the products or energy produced, regardless of whether they are commercially viable. The government would be authorized to do so in case of default, although in reality, the taxpayer's investment will be dissipated anyhow.

Specific Provisions

In response to my basic philosophical opposition to H.R. 12112, I offered a series of amendments to the bill which were accepted by the Committee. At this point, it is appropriate for me to offer my sincere appreciation to the distinguished Chairman of our Committee for the totally fair and even handed way in which he dealt with every Member's amendments and motions. I, as several others, had my amendments and my motions protected by the Chairman during the several weeks of markup, at times when other responsibilities required me to be absent from a Committee meeting. Chairman Teague deserves only the highest of praise for the responsible manner with which he has handled this bill. While I continue to oppose the bill notwithstanding the amendments accepted by the Committee, I am most appreciative for the opportunity to offer and fully debate them.

As I stated, the acceptance of these amendments does not modify fundamental opposition. I would hope, however, that the added provisions will act to some degree to contain the damage which this bill does. At a minimum, they will ensure that Congress and the public will have notice of the overriding philosophical aspects of the program under the bill. Each of the amendments is responsive to the excellent testimony of Mr. Gerald Parsky, the Assistant Secretary of the Treasury and that of several other witnesses who also were concerned, as I am, with the impact of this bill on our free enterprise system.

Two of the amendments expand the direct responsibilities of the Secretary of the Treasury to ensure that Federal loan guarantees under this program are granted in a way to minimize the impact on the capital markets of the country. In doing so, Treasury should place particular emphasis on the protection of the economic sectors which may be negatively impacted as a result of this Federal redirection of capital. The potential impact of these guarantees, when added to existing Federal involvement in the capital market, and particularly if the program grows as is likely, could be serious. The following table from an OMB special analysis of the FY 76 Federal budget indicates the magnitude of this problem today.

SPECIAL ANALYSES

TABLE E-10. SUMMARY OF CREDIT ADVANCED AND CREDIT RAISED UNDER FEDERAL AUSPICES

[In billions of dollars]

	Net change			Outstanding		
	1974 actual	1975 estimate	1976 estimate	1974 actual	1975 estimate	1976 estimate
LENDING (CREDIT ADVANCED)						
Direct loans (from table E-4):						
On budget agencies	1.9	0.6	3.4	46.1	46.2	49.6
Off budget agencies	2.2	15.0	8.9	15.4	30.8	39.8
Loans by federally sponsored credit intermediaries (from E-9)	16.3	14.9	8.7	71.1	86.0	94.7
Total, credit advanced to the public under Federal auspices	26.6	31.3	28.7	285.7	317.1	345.7
Outside the budget	24.7	30.7	25.3			
BORROWING (CREDIT RAISED)						
Federal borrowing from the public (from table C-1)	3.0	43.5	63.5	346.1	389.6	453.1
Guaranteed borrowing (same as guaranteed loans, above)	6.2	.8	7.7	153.2	154.0	161.7
Borrowing by federally sponsored credit intermediaries (net, from table E-9)	14.8	13.6	7.7	65.6	79.2	87.0
Total, credit raised from the public under Federal auspices [1]	24.1	57.9	78.9	564.9	622.8	701.7
Net credit advanced	2.5	−26.6	−50.2			

[1] Excludes Federal Reserve credit.

The provisions we added to sections 18(b) (3) and 18(k) (2) will at least insure that full consideration is given to these impacts in granting the loans and, further, this action clearly places the Administration on notice that the Congress is seriously concerned about this aspect of the program. Assistant Secretary Parsky testified that the direct impact of the guarantees on the market would be minimal but finite. Mr. Parsky stated:

Minimizing the impact on capital markets

"Furthermore, as the proposed program is implemented, we must minimize the impact on our capital markets. Any type of Federal financial assistance resulting in the undertaking of energy projects which would not otherwise have been undertaken will lead to some redirection of resources in our capital markets. Such incentives increase the demand for capital while having little or no effect on the overall supply of capital. They tend to cause interest rates to rise and channel capital away from more economic to less economic uses. In short, the proposed program of Federal incentives will direct capital from other areas of our economy into synthetic fuels production.

"This diversion, however, is the intended objective of the incentives program which is specifically designed to attract capital into projects for the commercial demonstration of synthetic fuel technologies. The magnitude of the impact of such diversion, will, of course, depend on the amount of money involved and the length of time over which such money is raised. Between $8 and 9 billion in investment may be needed to develop the President's recommended 350,000 barrel-per-day oil equivalent synthetic fuels capacity. This amount would be on a phased basis over 5 to 10 years as plants are constructed. The incentives program designed to induce such investment should therefore, not cause a great disruption in the capital markets.

"Given the fact that the annual U.S. investment rate in 1975 was over $200 billion, the program is not likely to have a major impact on the general cost or availability of capital. In addition, FEA estimates that as much as $600 to 800 billion will be invested in the energy sector over the next ten years. When viewed in relation to this amount, the capital investment expected to be induced into the initial phase of the synfuels program is not large.

"However, almost 50 percent of the $200 billion net flow of funds in U.S. credit markets is already being taken to finance existing Federal, state and local programs. These heavy government borrowing pressures will continue. Therefore, in order to help minimize the impact of ERDA guarantees and price supports in our capital markets, we believe that it is essential that the Secretary of the Treasury have the authority to approve the timing and substantial terms and conditions of each loan and price guarantee and any other financial incentive that would have a similar impact. Loan and price guarantees result in new issues of bonds, notes or other government backed obligations in the capital markets which impinge upon Treasury and other Federal agency financings and which can have significant market impact. Prior approval of the timing and terms by the Treasury will ensure effective coordination with the management of the Federal debt and will help minimize the impact of such incentives on the capital markets."

These two amendments require that Treasury attempt to make that projection a reality.

Another amendment, adding section 18(b) (6), requires that, where possible, these loan guarantees shall be granted on the basis of some form of competitive bidding or competition. Treasury testimony suggested that competitive bidding is one way to keep the Federal loan guarantee assistance to minimum levels.

Two other amendments add the Secretary of the Treasury to the list of officials who will participate in the planning and annual review of the program. Treasury's direct participation, when coupled with the express responsibilities added by the earlier amendments, will insure that at least one member of the team will be an active advocate for minimizing impact on the market and maximizing the protection of those sectors which may be negatively impacted by the effective reallocation of capital resulting from this guarantee program.

The final amendment adds a new section 18(1)(B)(viii) to the requirements for the annual plan and update. The plan must include specific measures and procedures to insure that Federal assistance is minimized, that the impact on capital markets is minimized and finally, and perhaps in the long run most importantly, that this Federal assistance not impede progress toward totally private financing of any future synthetic fuel industry.

The annual update of the plan, per amendment to 18(l)(1), must include specific comments by the Secretary of the Treasury on these methods and procedures and their adequacy, as well as recommendations to improve them.

This amendment was in direct response to the following statement in Mr. Parsky's testimony.

". . . In carrying out the incentives program, we believe that special care should be taken to (1) keep the use of Federal assistance for commercial demonstration facilities to a minimum level necessary, (2) ensure that the impact of Federal incentives on the capital markets is minimized, and (3) ensure that the adoption of a Federal incentives program does not impede movement toward the fundamental actions needed to improve the climate for private investment in the energy sector—that is, regulatory reform, continued emphasis on research and development, and decontrol of energy prices. We believe that these more basic actions are the most cost effective long-run solutions to the problem of attracting private capital to develop synthetic fuels."

This added role for the Secretary should serve to insure that all of the aforementioned concerns are adequately considered throughout the life of the program as a result of the advocacy and direct responsibility of the Secretary, and that Congress and the American public can remain fully informed of Federal efforts to deal with those concerns. If Treasury discharges its responsibilities under these amendments, we can at least be assured that somebody will be "minding the store" as the program unfolds and will "blow the whistle" if the program starts to get out of control. We also can be assured by this statutory requirement that we can get direct and hopefully objective comments on these critical matters from a responsible official other than ERDA, the program manager.

While I strongly oppose the fundamental thrust of this bill, I am even more adamantly opposed to the special provisions for oil shale adopted by the Committee. If we must have a synthetic fuel loan guarantee program, we must at least ensure that that program is a balanced and equitable program, regardless of our fundamental views on the program. Section 18(b)(5) does serious violence to the principles of balance and equity. I can only characterize it as a pot of gold at the end of an oil shale rainbow.

The provision was offered by our colleague from Colorado, Mr. Wirth. I must commend him for the length and breadth of his reach on this provision. The pot was even sweeter in the original provision. It contained $200 million in authorized funds for direct grants to support the oil shale modular demonstrations in 18(b)(5)(A). Fortunately, the Committee struck that authorization, which now means that support is subject to annual authorization. Before getting into any further details, however, it is appropriate to explain the provision, since it is somewhat confused and ambiguous. A plain and simple explanation will clearly indicate the astounding magnitude of this giveaway to the oil shale industry, and also to the State of Colorado, in terms of Federal authority and funds.

The provision in the bill now requires that there must be a successful "modular" demonstration of an oil shale technology before it can qualify for a loan guarantee under this bill for a full size, commercial demonstration facility. It is not at all clear whether the same site must be used, whether success by one module is sufficient to allow others to apply for a guarantee for the same technology, whether, a different corporation can use the module for scale-up under a guarantee, etc. Nevertheless, this is the requirement. It is fair to say that certain corporations which are already well along in the preparation for a modular demonstration stand to benefit. Others who were preparing to proceed directly to a full size plant will probably be disadvantaged. Certainly the restriction will limit ERDA's flexibility in administering the program to achieve the informational objectives advertised for this program. Apparently, however, that is the way Colorado wants to go.

The next step in the provision is that, once having required that module demonstrations be built to qualify for a loan guarantee, subsection (5)(A) then authorizes Federal assistance of up to 75%, repeat 75%, for the total costs of building and operating the module demonstration. Fortunately, as mentioned, the Committee voted to strike the $200 million originally included for this assistance in the Wirth amendment, but that figure is very important in projecting where this provision might eventually lead. It also is important to note that normal ERDA cost sharing for such size demonstrations is 50% Federal, not 75%.

At this point, the State of Colorado gets its bite of the Federal apple. Unlike any other non-commercial size demonstrations under ERDA's programs, which are governed by Section 8 of the Federal Nonnuclear Energy Research and Development Act, these oil shale demonstrations, most if not all of which would be in Colorado, are covered by special Governor participation in the planning, by special Governor review of the project, including a veto, by a special provision for the application of state and local laws, even where the demonstration is on Federal land, and by a special socio-economic impact assistance provision. The special provisions are all included in this bill for the other commercal scale demonstrations, and by this amendment for this one type of smaller demonstration. Again, however, that apparently is the way Colorado wants it. Since my own State of California will probably be getting some non-commercial demonstrations in the ERDA geothermal program, I wonder why Colorado deserves this preference, assuming there is any justification for applying such provisions to non-commercial demonstrations. If there is such justification, and that was never offered, all demonstrations wherever located should be handled that way.

The next step is the real thrust of this marvelous rainbow. If a module under this subsection is successful, it then is "eligible" for a loan guarantee for a commercial demonstration. It isn't clear what "eligible" means, nor whether a module must have gone through the Federally assisted and special State provisions under subsection (5)(A). This confusion and the vagueness of many other details I am sure will lead to litigation. Under this bill, a successful applicant can obtain a Federal guarantee of his project financing for up to 90% through construction and operation, and 75% over the life of the demonstration. So the oil shale applicant, who has already received 75% of the module costs in Federal assistance, can ride the rainbow the rest of the way to his billion dollar plant. Since modules are estimated to cost about $80 to 100 million, and his exposure could be limited therefore to $20 to 25 million, his risk is $25 million.

In all fairness, our rainbow rider "may," but not "must" buy back the Federal share in his project. The statute is not at all clear as to the intent of this discretionary "may." But even if he does have to put up that share after he has become eligible for a Federal loan guarantee for a billion dollar plant, raising $75 million at that point should be of little difficulty. The point is that the Federal Government took the bulk of the risk to get him there and then is prepared to take the bulk of the rest of the risk to get him the rest of the way over the rainbow to the pot of gold.

I also have to wonder what this rainbow will do to competition in the oil shale industry. Obviously, the first winner of module assistance is in a preferential position by comparison to his competition. If he gets through all the special Colorado procedures successfully, he will obviously be in a preferred position to get the oil shale loan guarantee. Since his competitors must also meet the successful module demonstration, with or without Federal financing, his rainbow may not only be a financial pot of gold, but also a competitive pot of gold.

I genuinely hope that my interpretation of this provision is wrong. I hope that my colleague from Colorado, Mr. Wirth, can convince me and the rest of the House on the Floor that the interpretation is wrong. I offered an amendment to limit the oil shale industry to one bite of the apple . . . either assistance for the module or loan guarantee for the commercial demonstration, but not both. This seems to me the absolute minimum that must be done to clean up this provision. Striking it and returning oil shale to the same status as all of the other technologies in this bill would be a more satisfactory and equitable resolution. I urge my colleagues to support efforts on the Floor to deal with this provision.

There is no question that the United States must become energy independent. But this bill, when placed in the larger, contemporary economic, regulatory and legislative context that it must be judged in, holds out no real promise of enabling this nation to achieve that goal. This legislation abandons any connection with normal market incentives. It utilizes a strategy and mechanism that concedes current regulatory and statutory barriers to any other approach are here to stay. In so doing it may actually encourage the development of new bureaucratic barriers.

The ultimate price involved will be much higher than the $6-14 billion envisioned in loan risks.

I urge my colleagues to reject this bill. We have useable alternatives to make America energy self-sufficient. For starters, let's give the free market place a chance, and when we finally get around to it, it might not be a bad idea to curtail some of the bureaucracy we've created that impedes energy research and development.

BARRY M. GOLDWATER, Jr.

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