

AMERICAN TAXPAYER AND WESTERN AREA POWER
ADMINISTRATION CUSTOMER PROTECTION ACT OF 2011

APRIL 16, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2915]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2915) to repeal the Western Area Power Administration borrowing authority, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2915 is to repeal the Western Area Power Administration borrowing authority.

BACKGROUND AND NEED FOR LEGISLATION

The American Taxpayer and Western Area Power Administration Customer Protection Act of 2011 (H.R. 2915) repeals a provision of the so-called 2009 “stimulus” law that could force taxpayers to bail out up to \$3.25 billion in failed federal government loans for questionable renewable energy ventures. In light of the Solyndra and Ener1 Inc.’s bankruptcies, similar taxpayer-funded bailouts and a troubling 2011 Department of Energy Inspector General Report on the program being repealed by this legislation, H.R. 2915 protects

American taxpayers and prevents the federal government from picking winners and losers in the energy market.

The loan program being repealed in this legislation is the product of a little debated, yet far-reaching provision quietly inserted into the conference report of the American Recovery and Reinvestment Act (Public Law 111-5), the so-called “stimulus” spending law. The loan program allows the Western Area Power Administration, a federal agency within the Department of Energy to borrow, up to \$3.25 billion from the U.S. Treasury for the sole purpose of investing in electricity transmission aimed at delivering renewable electricity generation to urban centers.

While there is little doubt that more electricity transmission for all generation sources is generally necessary, there are serious policy questions whether such transmission lines targeted only towards renewable energies are economically viable. Western’s borrowing authority itself seems to acknowledge this economic concern, specifically stating that, “If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.” This explicit bail-out provision does not even require a company like Solyndra to declare bankruptcy before American taxpayers foot the bill for an uneconomic transmission line to nowhere.

Critics of H.R. 2915 state that Western’s borrowing authority is necessary to build new transmission in the West. On the contrary, a witness representing the nation’s largest independent transmission company testified before the Natural Resources Water and Power Subcommittee in 2009 that, “Despite the current and recent turmoil in the credit markets . . . financing new transmission is not the problem than needs to be overcome in order to build transmission to provide greater market access for renewable resources.” Although it is clear from the witness’s expert testimony that access to credit is not the problem, the H.R. 2915’s opponents claim that jobs will be lost as a result of the bill. This argument assumes that these projects will not be constructed without Western’s borrowing authority. This assertion is not only contradicted by the testimony cited above, but ignores the fact that if renewable energy projects are economically viable, then private investment should and will finance the project. If a renewable energy project is not economically viable with private sector financing, then the federal government should not prop up a transmission line at potential taxpayer liability. Given the provision’s explicit bail-out provision and using the failed \$535 million Solyndra loan guarantee as an example, these projects and their jobs would only be temporary at best and come at a substantial cost to the American taxpayers who are forced to assume a stranded debt. When taxpayers are left to assume such failed loans, that money comes from the same capital pool that would otherwise have been available to invest in permanent, economically viable jobs.

To date, Western has committed funding or partial funding for three projects. H.R. 2915 intends to grandfather all three of these current commitments since they each involve contracts or other legal agreements signed between the federal government and non-federal parties. While two of these project commitments are relatively recent, the oldest commitment involving a \$161 million Western loan to a Canadian-based company has come under scru-

tiny from the Department of Energy's Office of Inspector General. In a "Management Alert" dated November 7, 2011, the Inspector General found that the agency has "significant financial exposure on the project" and that the project is "two years behind schedule and may be as much as \$70 million over budget." The Alert indicated that the agency's "lack of lending experience contributed" to these issues and that "certain Western officials indicated that they encountered pressure from the Department (of Energy) to spend Recovery Act funds expeditiously." The Alert also noted that the agency "is likely to experience a gap in funding to operate the Program, including activities such as project selection and oversight." To date, the Committee is not aware of any definitive corrective measures publicly taken by the Department of Energy or Western to address these matters. The findings of the Alert are very troubling in light of potential future loan disbursements for projects that will dwarf Western's current borrowing authority projects.

Despite ongoing problems with Western's borrowing authority program and the explicit bail-out provision, the Minority attempted to grandfather several additional potential projects into H.R. 2915 during Committee markup. The Majority found these amendments premature because many of the potential projects lack financial or engineering viability. For example, some of the projects did not have negotiated power customer contracts, failed to identify definitive power generation sources, lacked the necessary water rights or simply did not exist beyond a paper planning exercise. Even Western's May 17, 2011, Quarterly Report identified specific problems with these projects. Out of concern that taxpayers could be at risk for Western's potential investment in these projects that were clearly premature, the Majority defeated these amendments.

There have been misguided efforts to compare Western's borrowing authority to the Bonneville Power Administration's (BPA) longstanding borrowing authority. However, there are key differences. For example, Western's borrowing authority is solely focused on providing transmission for renewable generation for developers while BPA's borrowing authority can be used for integrating all generation sources for the benefit of its customers, as well as for fish and wildlife mitigation and conservation efforts mandated by federal law. The other major difference is that BPA's borrowing authority's costs are all borne by the agency's ratepayers, whereas Western's borrowing authority costs would mainly be absorbed by outside developers and, ultimately, the American taxpayer due to the loan forgiveness provision. Also, it should be noted that WAPA had no experience with this practice.

In conclusion, H.R. 2915 repeals a multi-billion dollar, federal government-knows-best program that explicitly envisions taxpayer bailouts. This bill allows projects to stand on their own merit in the private sector and protects American taxpayers from failed Solyndra-like investments.

COMMITTEE ACTION

H.R. 2915 was introduced on September 14, 2011, by Congressman Tom McClintock (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water and Power. On September 22, 2011, the Subcommittee on Water and Power held a hearing on the bill. On

October 5, 2011, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Water and Power was discharged by unanimous consent. Congressman Rush Holt (D–NJ) offered amendment designated .972 to the bill; the amendment was not adopted by a roll call vote of 16 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 5

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Holt.972 was **NOT AGREED TO** by a roll call vote of 16 yeas to 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>				Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	16	27	

Congressman Ben Lujan (D–NM) offered amendment designated .967 to the bill; the amendment was not adopted by a roll call vote of 16 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 6

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Lujan, 967 was NOT AGREED TO by a roll call vote of 16 yeas and 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>				Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	16	27	

Congressman Ben Lujan (D–NM) offered amendment designated .970 to the bill; the amendment was not adopted by a roll call vote of 16 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 7

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Lujan.970 was NOT AGREED TO by a roll call vote of 16 yeas and 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>				Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	16	27	

Congressman Grace Napolitano (D-CA) offered amendment designated .969 to the bill; the amendment was not adopted by a roll call vote of 16 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 9

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mrs. Napolitano.969 was NOT AGREED
TO by a roll call vote of 16 yeas to 27 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>				Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	16	27	

Congressman Grace Napolitano (D-CA) offered amendment designated .971 to the bill; the amendment was not adopted by a roll call vote of 17 to 26, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 8

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Ms. Napolitano.971 was **NOT AGREED**
TO by a roll call vote of 17 yeas to 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO				<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	17	26	

Congressman Ed Markey (D-MA) offered amendment designated .965 to the bill; the amendment was not adopted by a roll call vote of 17 to 26, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 10

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Markey.965 was NOT AGREED TO by a roll call vote of 17 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO				<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN		X	
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	17	26	

Congressman Raul Grijalva (D-AZ) offered amendment designated .974 to the bill; the amendment was not adopted by a roll call vote of 17 to 26, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 11

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Grijalva.974 was **NOT AGREED TO**
by a roll call vote of 17 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN			
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	17	26	

Congressman Ed Markey (D-MA) offered amendment designated .069 to the bill; the amendment was not adopted by a roll call vote of 17 to 26, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 12

Meeting on / Amendment: **H.R. 2915** – An amendment offered by Mr. Markey.069 was **NOT AGREED TO** by a roll call vote of 17 yeas and 26 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman		X		<i>Mr. Heinrich, NM</i>	X		
<i>Mr. Markey, MA Ranking</i>	X			Mr. Benishek, MI		X	
Mr. Young, AK		X		<i>Mr. Lujan, NM</i>	X		
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX		X		<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas, MA</i>	X		
<i>Mr. Pallone, NJ</i>	X			Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</i>	X		
<i>Mr. Grijalva, AZ</i>	X			Mr. Southerland, FL		X	
Mr. Fleming, LA		X		Mr. Flores, TX		X	
<i>Ms. Bordallo, GU</i>	X			Mr. Harris, TX		X	
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>	X			Mr. Fleischmann, TN			
Mr. McClintock, CA		X		Mr. Runyan, NJ		X	
<i>Mr. Boren, OK</i>				Mr. Johnson, OH		X	
Mr. Thompson, PA		X					
<i>Mr. Sablan, CNMI</i>	X						
Mr. Denham, CA		X					
				TOTALS	17	26	

The bill was then ordered favorably reported to the House of Representatives by a roll call vote of 26 to 17, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: October 5, 2011

Recorded Vote #: 13

Meeting on / Amendment: **H.R. 2915** – Favorably reported to the House of Representatives by a roll call vote of 26 yeas and 17 nays.

MEMBERS	Yea	Nay	Pres	MEMBERS	Yea	Nay	Pres
Mr. Hastings, WA Chairman	X			<i>Mr. Heinrich, NM</i>		X	
<i>Mr. Markey, MA Ranking</i>		X		Mr. Benishek, MI	X		
Mr. Young, AK	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Mr. Sarbanes, MD</i>		X	
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC	X		
Mr. Gohmert, TX	X			<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>		X		Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Ms. Tsongas, MA</i>		X	
<i>Mr. Pallone, NJ</i>		X		Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mr. Holt, NJ</i>		X		Ms. Noem, SD	X		
Mr. Broun, GA	X			<i>Ms. Hanabusa, HI</i>		X	
<i>Mr. Grijalva, AZ</i>		X		Mr. Southerland, FL	X		
Mr. Fleming, LA	X			Mr. Flores, TX	X		
<i>Ms. Bordallo, GU</i>		X		Mr. Harris, TX	X		
Mr. Coffman, CO	X			Mr. Landry, LA	X		
<i>Mr. Costa, CA</i>		X		Mr. Fleischmann, TN			
Mr. McClintock, CA	X			Mr. Runyan, NJ	X		
<i>Mr. Boren, OK</i>				Mr. Johnson, OH	X		
Mr. Thompson, PA	X						
<i>Mr. Sablan, CNMI</i>		X					
Mr. Denham, CA	X						
				TOTALS	26	17	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 2915—American Taxpayer and Western Area Power Administration Customer Protection Act of 2011

Summary: Under current law, the Western Area Power Administration (WAPA) may borrow funds from the Department of the Treasury to finance certain projects for transmitting electric power, subject to a \$3.25 billion limit on the amount of debt outstanding at any time. Projects are eligible for WAPA financing if they have at least one terminus in the geographic areas served by the agency and transmit electricity generated from renewable sources. H.R. 2915 would repeal this borrowing authority, which was provided in the American Recovery and Reinvestment Act of 2009 (Public Law 111-15).

CBO estimates that terminating WAPA's borrowing authority would reduce net direct spending by about \$3 billion over the 2012–2021 period. Pay-as-you-go procedures apply because enacting the legislation would affect direct spending. Enacting this legislation would not affect revenues.

H.R. 2915 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 2915 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

	By fiscal year, in millions of dollars—										
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2012–2021
	CHANGES IN DIRECT SPENDING										
Estimated Budget Authority	– 350	– 1,150	– 1,150	– 150	– 150	– 23	0	0	0	0	– 2,973
Estimated Outlays	– 20	– 145	– 465	– 770	– 715	– 455	– 260	– 110	– 25	– 8	– 2,973

Basis of estimate: Assuming that this legislation is enacted early in fiscal year 2012, CBO estimates that enacting H.R. 2915 would reduce net direct spending by about \$3 billion over the 2012–2021 period. That estimate reflects the agency’s estimate of the amount of borrowing authority expected to remain available at the time of enactment. The timing of the estimated savings is based on CBO’s projections of WAPA expenditures under current law. CBO expects that most of WAPA’s financing activities would occur after 2012 because of the long lead time necessary for planning and siting such projects.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

[illegible]

Intergovernmental and private-sector impact: H.R. 2915 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Kathleen Gramp; Impact on state, local, and tribal governments: Ryan Miller; Impact on the private sector: Vi Nguyen.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that terminating the Western Area Power Administration's borrowing authority would reduce net direct spending by about \$3 billion over the 2012–2021 period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to repeal the Western Area Power Administration borrowing authority.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

SECTION 301 OF THE HOOVER POWER PLANT ACT OF 1984

[SEC. 301. WESTERN AREA POWER ADMINISTRATION BORROWING AUTHORITY.

[(a) DEFINITIONS.—In this section:

[(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Western Area Power Administration.

[(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

[(b) AUTHORITY.—

[(1) IN GENERAL.—Notwithstanding any other provision of law, subject to paragraphs (2) through (5)—

[(A) the Western Area Power Administration may borrow funds from the Treasury; and

[(B) the Secretary shall, without further appropriation and without fiscal year limitation, loan to the Western Area Power Administration, on such terms as may be fixed by the Administrator and the Secretary, such sums (not to exceed, in the aggregate (including deferred interest), \$3,250,000,000 in outstanding repayable balances at any one time) as, in the judgment of the Administrator, are from time to time required for the purpose of—

[(i) constructing, financing, facilitating, planning, operating, maintaining, or studying construction of new or upgraded electric power transmission lines and related facilities with at least one terminus within the area served by the Western Area Power Administration; and

[(ii) delivering or facilitating the delivery of power generated by renewable energy resources constructed or reasonably expected to be constructed after the date of enactment of this section.

[(2) INTEREST.—The rate of interest to be charged in connection with any loan made pursuant to this subsection shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

[(3) REFINANCING.—The Western Area Power Administration may refinance loans taken pursuant to this section within the Treasury.

[(4) PARTICIPATION.—The Administrator may permit other entities to participate in the financing, construction and ownership projects financed under this section.

[(5) CONGRESSIONAL REVIEW OF DISBURSEMENT.—Effective upon the date of enactment of this section, the Administrator shall have the authority to have utilized \$1,750,000,000 at any one time. If the Administrator seeks to borrow funds above \$1,750,000,000, the funds will be disbursed unless there is enacted, within 90 calendar days of the first such request, a joint resolution that rescinds the remainder of the balance of the borrowing authority provided in this section.

[(c) TRANSMISSION LINE AND RELATED FACILITY PROJECTS.—

[(1) IN GENERAL.—For repayment purposes, each transmission line and related facility project in which the Western Area Power Administration participates pursuant to this section shall be treated as separate and distinct from—

[(A) each other such project; and

[(B) all other Western Area Power Administration power and transmission facilities.

[(2) PROCEEDS.—The Western Area Power Administration shall apply the proceeds from the use of the transmission capacity from an individual project under this section to the repayment of the principal and interest of the loan from the Treasury attributable to that project, after reserving such funds as the Western Area Power Administration determines are necessary—

[(A) to pay for any ancillary services that are provided;
and

[(B) to meet the costs of operating and maintaining the new project from which the revenues are derived.

[(3) SOURCE OF REVENUE.—Revenue from the use of projects under this section shall be the only source of revenue for—

[(A) repayment of the associated loan for the project;
and

[(B) payment of expenses for ancillary services and operation and maintenance.

[(4) LIMITATION ON AUTHORITY.—Nothing in this section confers on the Administrator any additional authority or obligation to provide ancillary services to users of transmission facilities developed under this section.

[(5) TREATMENT OF CERTAIN REVENUES.—Revenue from ancillary services provided by existing Federal power systems to users of transmission projects funded pursuant to this section shall be treated as revenue to the existing power system that provided the ancillary services.

[(d) CERTIFICATION.—

[(1) IN GENERAL.—For each project in which the Western Area Power Administration participates pursuant to this section, the Administrator shall certify, prior to committing funds for any such project, that—

[(A) the project is in the public interest;

[(B) the project will not adversely impact system reliability or operations, or other statutory obligations; and

[(C) it is reasonable to expect that the proceeds from the project shall be adequate to make repayment of the loan.

[(2) FORGIVENESS OF BALANCES.—

[(A) IN GENERAL.—If, at the end of the useful life of a project, there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

[(B) UNCONSTRUCTED PROJECTS.—Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

[(C) NOTIFICATION.—The Administrator shall notify the Secretary of such amounts as are to be forgiven under this paragraph.

[(e) PUBLIC PROCESSES.—

[(1) POLICIES AND PRACTICES.—Prior to requesting any loans under this section, the Administrator shall use a public process to develop practices and policies that implement the authority granted by this section.

[(2) REQUESTS FOR INTEREST.—In the course of selecting potential projects to be funded under this section, the Administrator shall seek Requests For Interest from entities interested in identifying potential projects through one or more notices published in the Federal Register.]

DISSENTING VIEWS

H.R. 2915, if enacted, would repeal the Western Area Power Administration's (Western) borrowing authority, as authorized by Section 402 American Recovery and Reinvestment Act. With this borrowing authority, Western can borrow funds from the Treasury to finance, facilitate, plan, construct, operate, maintain, and study the construction of new or upgraded transmission lines and related facilities for the delivery of power generated by renewable energy resources. The transmission line must have at least one terminus in Western's service area. Western created the Transmission Infrastructure Program (TIP) to implement the borrowing authority. Projects seeking to partner with Western to Utilize the borrowing authority must be certified through TIP. Similar borrowing authority was provided for the Bonneville Power Administration through the Recovery Act, which is not affected by this bill. The primary difference between that borrowing authority and Western's is that Western's is specifically intended to facilitate the transport of renewable energy to load centers.

Western is currently utilizing its borrowing authority for three projects, the Montana Alberta Transmission Line (MATL), the Electric District No. 5 Palo Verde Hub, and the Transwest Express (TWE) Project. These projects are exempted in H.R. 2915 and Western would be able to go forward with financing assistance at the current stage of these projects. However, all future stages of these projects would not be eligible to receive financing support from Western. Eight other projects, several of which have been under development for years, have not yet received financing and would not be eligible for Western financing under this bill.

H.R. 2915 would eliminate thousands of jobs across the West. For example, one of the projects currently under development is the 725-mile TransWest Express transmission line, which will deliver 3,000 megawatts of renewable energy from Wyoming to the Desert Southwest. The project would create 1,050 construction jobs during the three-year construction phase and another 1,300 more jobs from the renewable energy projects that would be developed along the transmission line. Including indirect and induced jobs, this single project is projected to support roughly 18,000 jobs.

While we support this program, we also believe that its management could be improved. On November 7, 2011, the Inspector General (IG) for the Department of Energy released a report regarding the Western Area Power Administration's (Western) use of the borrowing authority for financing transmission lines that was enacted as part of the American Recovery and Reinvestment Act in 2009. The report found that "Western had not implemented the necessary safeguards to ensure its commitment of funding was optimally protected" when Western utilized its funding for the Montana Alberta Transmission Line (MATL), the first project funded through West-

ern's borrowing authority. Western utilized \$161 million in stimulus funds to build the MATL line. When complete, Western will own 18 miles of the line.

While many of the delays in this project were the result of litigation and in Montana over the exercise of eminent domain authority to build the transmission line, the IG report also found that Western failed to establish a system to "adequately monitor the progress of the project." The IG released the report as a "management alert" in order for changes to be made before additional funds are utilized under the borrowing authority. DOE has accepted the IG recommendations and has indicated that Western is tightening up procedures for future loans in response to the IG's findings. No funds borrowed from the United States Treasury through Western's borrowing authority for the MATL project or the other projects have defaulted. While we believe that DOE needs to ensure that Western is properly managing this program and that DOE is conducting appropriate oversight, we do not believe that this important program to support transmission needed for other expansion of renewable energy projects should be abandoned, as H.R. 2915 would do.

We note that the International Brotherhood of Electrical Workers have issued a letter in opposition to H.R. 2915, stating that the repeal of Western's borrowing authority "counters efforts to stimulate the economy by creating jobs and toward improving and strengthening our nation's electric grid." The Committee also received letters in opposition to H.R. 2915 from the American Wind Energy Association and the Solar Energy Industry Association.

During full committee mark-up of this bill on October 5, 2011, Mr. Markey offered an amendment that specified that the repeal of borrowing authority would not go into effect until the Administrator of Western certified that doing so would not lead to the loss of 5,000 or more jobs. This amendment was defeated, with the all Republicans voting in opposition.

Also during the full committee mark-up of this bill, Mr. Markey, Mr. Holt, Mrs. Napolitano, Mr. Grijalva, and Mr. Luján offered similar amendments that would have exempted from the bill specific projects that have been in development for many months or years. The projects that would be grandfathered under these amendments include all phases of the TransWest Express project, the Sun Zia project, the South Slope Pumped Storage project, the Centennial West project, the Solar Express project, the Colorado Highlands project, and the Southline project. These amendments would still allow the borrowing authority repeal to occur, but without punitively pulling the rug out from under developers that had already been working on projects under the good faith assumption that Western financing would be available.

H.R. 2915, if enacted, would hinder the economic development of rural western communities and inject great uncertainty into transmission projects and renewable energy projects that have been in the planning stages for many months or years. It would hamper the expansion, modernization, and improved reliability of the electric grid. In the near term, the bill will destroy jobs, and in the long-term it will undermine the American companies and workers competing with China in the high-tech economic sectors of the

21st Century. This is as high price to pay for the Majority's apparent desire to politicize the Solyndra bankruptcy by launching a generalized assault on renewable energy infrastructure development, and one which we do not believe warrants passage by the House. For these reasons, we oppose H.R. 2915.

EDWARD J. MARKEY.
RUSH HOLT.
JOHN GARAMENDI.
DALE E. KILDEE.
GRACE F. NAPOLITANO.
NIKI TSONGAS.
RAÚL M. GRIJALVA.
BEN R. LUJÁN.

