August 9, 2022

The Honorable Richard Neal
Chairman
Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

With the Senate having passed H.R. 5376 this past weekend, our industry again wishes to express our sincere concerns with several of the provisions included in the bill. These concerns are nothing new as we have been discussing various provisions in legislative initiatives since the beginning of the Congress.

We collectively represent most of the small and mid-sized exploration and production industry and the millions of workers in the United States. With that in mind, we request your consideration of the negative impacts this bill will have on the oil and gas industry as well as our consumers, the manufacturers who rely on us, the agriculture industry, and the transportation industry. In short – this bill will exacerbate supply concerns at a time of high crude and gasoline prices.

Impacts on Federal Oil and Gas programs:
Obtaining a federal lease is nothing more than a right to take a massive financial and regulatory risk. There is no guarantee of success.

The bill would hike costs for key steps in developing federal land in the western United States and will further discourage drilling in those areas, including such prolific areas as the Permian Basin which accounts for 40% of our nation's production.

Most of the initial exploration and production phases on federal lands are conducted by small companies, some with just a few employees. Were it not for these small businesses willing to take huge risks, most of the productive federal lands in New Mexico, Colorado or Wyoming for example would have never been developed.

Simply nominating federal land for potential lease sales would now come at a price of $5 per acre, whether the government ever brings that lease to auction or not, through a nonrefundable fee that would be adjusted for inflation every four years. The minimum price for bids at auction would rise to $10 per acre from $2 currently. This will have a disparate impact on federal production as it prices the very small companies who are willing to take enormous risks and nominate federal lands and likely price many of them out of the market particularly during low-price environments.

Increased Federal Royalties:
The bill would significantly increase the royalty rates for new oil and natural gas leases from 12.5% to a

range from 16.67% for onshore leases and 18.75% for offshore leases.

At the very core, the last remaining incentive for a producer to take the huge regulatory risk to develop a federal lease both onshore and offshore is a favorable royalty rate that helps absorb the massive legal and regulatory costs associated with developing the lease. This royalty rate increase will further disincentivize small producers from developing federal lands at a time when increased production is crucial to avoid future price shocks like the one, we are going through now.

Methane Emissions Fee:
The bill allows the EPA to impose a charge on methane emissions for oil and natural gas facilities that report more than 25,000 metric tons of carbon dioxide equivalent GHGs per year if they exceed the amount of oil or gas they produce by a certain threshold. The charge would be $900 for each metric ton above the threshold in 2024, rising to $1,500 in 2026.

There is very little clarity in how this fee will work. It applies to companies reporting greenhouse gas emissions under certain thresholds but provides an exemption for certain facilities in compliance not with EPA rules, but with a proposed rule that fails to even contain regulatory text as well as state implementation plans. However, these rules have yet to be finalized and in some cases yet to be even introduced with accompanying state plans possibly years away. In the meantime, EPA will begin collecting millions of dollars in accelerating fees adjusting upwards each year under reporting requirements that are murky at best.

Reinstated Tax on Crude and Imported Petroleum Products:
The bill also reinstates a 16.4 cents per barrel to fund Superfund cleanups of hazardous sites based on a program that was enacted almost 30 years ago. It would be adjusted for inflation beginning in 2023. This adds additional costs to refiners, manufacturers, transportation, agriculture, and consumers. Given the prolific spending on environmental justice programs already provided in prior spending bills this Congress, this fee is unnecessary but adds $12 billion in new costs to consumers.

Business Tax Provision – 1% excise tax on stock buybacks:
Stock buybacks are one way that corporations can return value to shareholders. Buybacks do not displace productive investments and do not come at the expense of workers—so they should not be targeted for a tax increase based on those misperceptions. Among the shareholders who benefit from stock buybacks are state and local government pension plans. Not only will the cost of the stock buyback tax be borne by households making far below $400,000, but it will also reduce pension plan returns for millions of retired state and local government workers.

Business Tax Provision – Book Minimum Tax:
It is our understanding that Book Minimum Tax provision applies to those companies averaging over a billion dollars in revenue on a three-year average. It remains unclear just how this would impact industry's approach to Intangible Drilling Costs (IDCs) which industry has used as an ordinary business expensing for decades within the current tax code. With so little time to fully vet the Senate language, there are many legitimate concerns being raised that should be addressed to give an assurance that IDCs will not be impacted.

Business Tax Provision – Pass Through Loss Limitations:
These provisions will have a real impact on the small producers and the hundreds of new LLCs that are created each year in our industry.

Many of our companies in their early stages are organized as various partnerships and/or were organized as pass-throughs entities. As these new companies struggle to take foot and become profitable with the goal to eventually employ hundreds or thousands of new employees, they will be hit with tens of billions of dollars in new taxes in their very early and most financially unstable stages. This will stifle the ability of

these companies to innovate and to adapt and will have a negative impact on new company capitalization.

The sum of all these parts is that the provisions in H.R. 5376 will have a cumulatively negative impact on the oil and gas industry at a time when stability is most needed.

Energy should not be a partisan issue. Unfortunately, in a race to meet a September 30th deadline, the Senate has made H.R. 5376 the most partisan energy legislation in our nation's history. This is not how things should be done.

We hope you will seriously consider your position on this legislation and vote against its passage.

Sincerely,

Leslie Beyer
CEO
Energy Workforce & Technology Council

Kathleen M. Sgamma
President
Western Energy Alliance

Tim Stewart
President
USOGA

Dan Naatz
Executive VP
IPAA

Jason McFarland
President
IADC

Identical letter sent to:
The Honorable Kevin Brady, Ranking Member, House Committee on Ways and Means

Cc: The Honorable Lizzie Fletcher
The Honorable Sylvia Garcia
The Honorable Henry Cuellar
The Honorable Vicente Gonzalez