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POST TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON TAX POLICY

OF THE

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

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POST TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS

WEDNESDAY, MARCH 14, 2018

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON TAX POLICY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:02 a.m., in Room 1100, Longworth House Office Building, the Honorable Vern Buchanan [Chairman of the Subcommittee] presiding.

[The advisory announcing the hearing follows:]

WAYS AND MEANS
CHAIRMAN KEVIN BRADY

Chairman Buchanan Announces Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

House Ways and Means Tax Policy Subcommittee Chairman Vern Buchanan (R-FL) announced today that the Subcommittee will hold a hearing entitled "Post Tax Reform Evaluation of Recently Expired Tax Provisions." **The hearing will take place on Wednesday, March 14, 2018 in 1100 Longworth House Office Building, beginning at 10:00 AM.**

Any individual or organization interested in providing oral testimony at this hearing with respect to one or more tax provisions that are effective through tax year 2017 and now are expired should contact the Subcommittee's office to submit a request pursuant to the procedures set forth below. (See "Details for Submission of Request to Provide Oral Testimony.") Any individual or organization may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF REQUEST TO PROVIDE ORAL TESTIMONY:

Requests to provide oral testimony at the hearing must be made to the Tax Policy Subcommittee either by telephone at (202) 225-5522 or by email at expired.provisions@mail.house.gov. Please submit the request no later than the close of business, Thursday, March 8, 2018. The request should include a brief summary or outline of the proposed testimony.

Submissions of requests to provide oral testimony will only be considered if related to one or more tax provisions that are effective through tax year 2017 and now are expired.

In view of the limited time available to hear witnesses, the Subcommittee may not be able to accommodate all requests to provide oral testimony. Persons and organizations not scheduled to give oral testimony are encouraged to submit written statements for the record of the hearing. All persons requesting to provide oral testimony, whether they are scheduled for oral testimony or not, will be notified as soon as possible after the deadline for submitting requests.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, http://waysandmeans.house.gov, select "Hearings." Select the hearing for which you would like to make a submission, and click on the link entitled, "Click here to provide a submission for the record." Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word document, in compliance with the submission requirements listed below, **by the close of business on March 28, 2018**. For questions, or if you encounter technical problems, please call (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions of written comments for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the submission requirements may result in the exclusion of a submission. All submissions for the record are final.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available at http://www.waysandmeans.house.gov/

Chairman BUCHANAN. The Subcommittee will come to order. Welcome to the Ways and Means Subcommittee on Tax Policy hearing on Post Tax Evaluation of Recently Expired Tax Provisions.

Before we get started, I would like to yield to the chairman of the Ways and Means Committee, Kevin Brady, for the purposes of an opening statement. Mr. Chairman?

Chairman BRADY. Thank you, Chairman Buchanan, for holding this important hearing and for your leadership of the Tax Policy Subcommittee. And thank you to all the witnesses for being here as well.

We are here today to begin charting a new path forward on temporary tax provisions. Washington may call them tax extenders. For too many years before our historic tax reform, the approach to handling these provisions has centered around what works for Washington, not what works for the American people.

In many cases, these tax extenders were a symptom of a much larger problem, our Nation's outdated and uncompetitive Tax Code. High tax rates often drove both the supply and the demand of these short-term provisions. So rather than allowing the families of our job creators to keep more of their income up front and Washington forced to rely on these credits, these exclusions and examples for short-lived relief, meanwhile the real problem is our Nation's broken Tax Code went unaddressed and grew worse.

That is no longer the case. Today we have a new Tax Code that is modern, competitive, and built for growth. We have lower tax rates for Americans of all income levels and businesses of all sizes. We have taken unprecedented action to encourage and reward investment throughout our economy, not just for a few industries but for all. We delivered one of the most competitive tax systems in the world, leveling the playing field for our businesses and workers across the globe and, more importantly, here at home.

So the question now is: With all the outstanding features of our new Tax Code, do we need to keep temporary provisions that are a relic of the old, broken system? That is the question we are going to begin answering today as we move ahead with the new forward-looking approach on tax extenders that aligns with the principles and priorities of America's new pro-growth Tax Code.

So starting right now, we are going to apply a rigorous test to these temporary provisions. We are going to take a close look at each of them, asking ourselves and our witnesses, are these provisions truly needed in the modern Tax Code? Do they amplify and complement the growth and competitiveness provided by our new tax system? And if the answer is yes, what other tax provisions are stakeholders willing to give up to make the extenders a permanent or a long-term part of our Tax Code?

We built a new Tax Code for the long-term. Temporary measures are rarely good tax policies. Those that do not pass these tests should be eliminated so we can continue our ongoing work to improve America's Tax Code, making it even more pro-growth and even simpler.

This is Congress' opportunity to end business as usual with these tax extenders and find the way forward for permanence and long-term status for those that remain. I challenge Committee Members

on both sides of the aisle to view these with fresh eyes. Let's work together to continue to craft the fairest and most competitive Tax Code in the world.

Once again I thank you, Chairman Buchanan, for calling this important hearing today, and I look forward to working together with all of you to continue our work of delivering a fair, simpler Tax Code. With that, I yield back.

Chairman BUCHANAN. Thank you, Mr. Chairman. Last year Congress enacted the most comprehensive and sweeping rewrite of the tax laws in over three decades. For our modern, pro-growth Tax Code now in place, we need to turn our focus to maintaining it and making further refinements and enhancements.

We do not want to wait another 30 years for the next tax reform. Instead, our ongoing focus will be on continuing to make improvements to the Tax Code to promote growth, promote fairness and simplicity for all taxpayers.

Today we take an important step in that process by beginning to evaluate the set of provisions which have been renewed so frequently that they are most often called tax extenders. Contrary to our focus in tax reform on providing broad tax benefits for all taxpayers, like rate reduction, full expensing, many of these expired provisions are targeted very narrowly to encourage certain activity for certain industries.

Following our historic reforms, it should not be business as usual with respect to tax extenders. Now is the time to examine each one of these provisions one by one to determine whether now they fit into the next Tax Code. That means taking a hard look at whether each provision provides value to the American taxpayer.

For each provision, we will ask what role does this provision play in the new Tax Code? If it is no longer needed because of the reforms that have been enacted, the provision should be eliminated. If the provision continues to play an important role in enhanced pro-growth tax reform, we should consider making it permanent. And in that case, we will ask those who benefit from the provision to consider what other tax benefits they would be willing to forgo in favor of having this provision made a permanent part of the Tax Code.

To that end, we open the door on the Subcommittee on Tax Policy to all stakeholders or groups interested in testifying on these provisions that were in effect through 2017 and are now expired. Over 20 individuals and groups have taken us up on the offer. We are now looking forward to hearing from four panels of witnesses testifying today about this provision and their roles in the new Tax Code in order to help us answer the key question I have laid out.

Without further ado, let's get to it. I now yield to the distinguished Ranking Member, Mr. Doggett, for the purposes of an opening statement.

Mr. DOGGETT. Thank you very much, and I look forward to working with you on getting a rigorous review of all of these provisions. This is a rather unusual hearing. Indeed, I suppose any hearing on taxes in this Committee is unusual since we went through a period over the last year plus where it was deemed easier to pass bills without public hearings than with them, and to minimize public participation, including the participation of those

who are affected most directly by various tax provisions and, of course, to never hold the Administration accountable by having any of its officials come and testify about their position on these measures.

As Mr. Brady alluded to in his opening remarks, he actually told us that the enactment of the Republican tax law would make extenders unnecessary. He said he would be "ensuring that we will no longer have to spend months each year debating temporary tax extensions."

Of course, in prior years we have not really spent months debating them; often, they have been included with must-pass legislation at the end of the year, really questioning whether they provided very much incentive, and certainly without very much oversight.

In 2009 I was successful in getting provisions added to the extender bill that year requiring careful cost/benefit analysis of each extender. It never was implemented in fact.

Today's hearing really seems to be focusing mainly on the leftovers and the left outs, what was not deemed of sufficient value to include in the new tax law. We know that while we have the kind of open hearing process that should have been the process used during consideration of the tax law, that if we extended all 26 provisions that are the subject of the hearing, the cost over a decade would be a little over $90 billion dollars. While that is nothing to ignore, it pales in comparison with the more than $2 trillion involved in the original tax law adopted without specific hearings.

I hope that what we will see out of this hearing and the resulting process is that we either include tax provisions in permanent law or we eliminate them. The idea of leaving people, year to year, not only questioning whether they are extended but suspended is really not fair. And it also reduces any incentive value that any of these provisions may have. Certainly there is little incentive associated with retroactively applying a tax extender.

I am particularly interested in hearing this afternoon from a number of witnesses in Panel 3. I am interested in hearing all the witnesses, but in Panel 3, it will focus on the broader impact of these provisions and how they tie in with the tax law we have already passed.

I think some are obvious for elimination, such as the racehorse provision. Some present closer questions. Indeed, there is the energy panel we are about to hear from. What a contrast between the way tax breaks were handled for fossil fuels, none of which were touched one of which was actually expanded so that multinational oil companies would pay even less tax on income they earn abroad than other multinationals.

But it has been many of the renewable energy provisions that have been left with uncertainty. If these merit inclusion or extension—if they merit extension, they merit inclusion on a permanent basis in the Tax Code.

So I look forward to working with you, Mr. Chairman, as we evaluate all of these provisions, consider their overall impact, and I hope that this hearing will not be the last in looking at the implications of tax policy for our economy and the impact of what in fact happened as a result of last year's legislation. Thank you very much.

Chairman BUCHANAN. Thank you, Mr. Doggett.

Now it is my pleasure to welcome our first panel of the day. Our first panel is focused on expired tax incentives pertaining to energy efficiency.

First we will hear from the Honorable Rick Lazio, senior vice president of Alliantgroup. Mr. Lazio served in Congress 1993 to 2000. Welcome back.

Mr. LAZIO. Thank you, Mr. Chairman.

Chairman BUCHANAN. We are delighted to have him appearing before us today.

Secondly we will hear from Henry Chamberlain, president and chief operating officer of the Building Owners and Managers Association International.

Thirdly we will hear from Daniel Bresette, vice president for policy and research at Alliance to Save Energy.

Fourthly we will hear from Lisa Jacobson, president of the Business Council for Sustainable Energy.

Finally, we welcome Sam Paschel, Chief Executive Officer of Zero Motorcycles, Inc.

Thank you again for being here today and taking the time. The Committee has received each of your written statements and they will be made part of the formal hearing reported. Each of you will be recognized for three minutes for all remarks.

Mr. Lazio, you are recognized for three minutes.

STATEMENT OF THE HONORABLE RICK LAZIO, SENIOR VICE PRESIDENT, ALLIANTGROUP

Mr. LAZIO. Thank you, Mr. Chairman. I want to thank you and Ranking Member Doggett. Good to see so many old friends and colleagues. And I also recognize Mr. Brady, who was here earlier.

I am going to try to get right to the point here. The provision that I address today encourages the building of energy-efficient commercial and government buildings. It is referenced in Section 179D of the Tax Code.

I would like to recognize the strong support of Congressman Reed of the Committee and Congressman Reichert, as well as Congressman Blumenauer; and on the Senate side, Senators Cardin and Portman have been doing yeoman's work on this area of legislation.

According to the Department of Energy, about 36 percent of all electricity—that is $4 out of every $10, just about, in this country—and one-fifth of all energy is consumed by commercial buildings. The cost of electricity is a significant and a growing burden on both businesses and government, also known as the taxpayer, with taxpayers now shouldering about $10 billion a year for state and local government energy usage. That is the operating costs that are built in as a result of, in many cases, excess energy usage.

In short, encouraging energy-efficient buildings significantly supports the policy goals of energy independence while at the same time reducing costs for both businesses and for taxpayers.

Mr. Chairman, I speak to you today as the senior vice president of Alliantgroup. This is a national tax services firm that helps businesses qualify for 179D. I am sharing my perspective on behalf of

the company, which has a national perspective, working with thousands of companies across the Nation. In fact, many entities speaking today as members of the 179D Coalition, of which Alliantgroup is a proud member.

My answer to those ask, fairly, why do we need a tax break to encourage the building of energy-efficient buildings, is the following four things.

One, the benefits from energy efficiency have a long horizon. They are often not captured in making decisions about costs and funding for buildings, and rarely are they part of underwriting, or fairly reflected in underwriting, in terms of financing.

Secondly, a recognition that energy-efficient design leads to greater energy independence.

Thirdly, our need to continue to encourage energy-efficient design and maintain our leadership in this field.

And fourthly, this incentive helps provide and encourage designers, whether it is architects, engineers, or other contractors, to spend time, unbillable time, to develop cutting-edge technologies that lead to lower operating costs, ultimately leading to savings for taxpayers.

There are five specific points I would like to encourage the Committee to consider based on Alliantgroup's years of experience with the incentive. These are recommendations for the Committee.

Number one, raise the benchmark ASHRAE standard every time, on a regular basis. Make it a reoccurring upgrade of that standard. Push designers to continue to innovative, to do better, and to do more. My company, Alliantgroup, worked with Congress in 2015 when we did the PATH Act to upgrade it. It needs to continue to be upgraded.

Quickly, if I can move through this, in small businesses

Chairman BUCHANAN. We are going to have to hold to three minutes because we have got 20 some witnesses today.

Mr. LAZIO. Sure, Mr. Chairman.

Chairman BUCHANAN. So if you could just wrap up in five seconds or so, if there is anything——

Mr. LAZIO. Sure, sure. The other recommendations that I have I am going to submit for the record, Mr. Chairman. There are things I think we can positively do to improve this provision. It saves taxpayers money. It makes the country more competitive. And I believe that it is worthy of the Committee's support.

Chairman BUCHANAN. Thank you, Mr. Lazio.

[The prepared statement of Mr. Lazio follows:]

Ways and Means Committee

Tax Policy Subcommittee

"Post Tax Reform Evaluation of Recently Expired Tax Provisions."

Testimony Of

Rick Lazio, Senior Vice President of alliantgroup, L.P.

March 14, 2018

Mr. Chairman:

I thank you and Ranking Member Doggett for calling this hearing on tax extenders. It is important for Congress to review those tax provisions that are subject to expiration – to understand better those provisions and to make informed judgments going forward.

The provision that I address today encourages the building of energy efficient commercial and government buildings. The language is found in Section 179D of the tax code and was first included with bipartisan support in the Energy Policy Act of 2005. Section 179D has since been continuously extended – most recently for 2017 in the recently enacted budget bill. I especially want to note the strong support from Congressmen Reed (R-NY), Reichert (R-WA), and Blumenauer (D-OR) in the House for this commonsense provision – and I also thank Senators Cardin (D-MD) especially Portman (R-OH) for their work.

Why the focus by Congress in the Energy Policy Act of 2005 on encouraging energy efficient buildings? Simple. The Department of Energy found that 36% of all electricity in this country and one-fifth of all energy is consumed by commercial buildings. In addition, costs of electricity are a significant and growing burden on both businesses and government.

Who is the largest landlord in America? Government. And with government, taxpayers are footing the bill. The cost to taxpayers for state and local government energy use is over $10 billion dollars a year. School districts spend over $6 billion a year on energy costs.

In short, encouraging energy efficient buildings significantly supports the policy goals of Congress of energy independence and energy efficiency for our nation while at the same time reducing costs for both businesses and taxpayers. Incentivizing the design of energy efficient buildings relieves the burden placed on the environment. And it opens up precious resources for the public sector through lower operating costs for governments that own these buildings, which in turn allows them to invest more in their core missions.

Mr. Chairman, as background, I speak to you today as Senior Vice President of alliantgroup – a tax services firm based in Houston, Texas with 800 professionals. We work nationwide helping businesses qualify for 179D. I'm sharing with you the perspective alliantgroup sees first-hand of the benefits this provision has provided – to businesses, to governments as well as the thousands of architects, engineers and construction firms that design energy efficient commercial buildings. Many of these entities are members of the 179D coalition also speaking today – of which alliantgroup is a member. alliantgroup certainly associates itself with the comments to be made by the179D coalition and believes that the Committee will benefit from our experience as a tax services provider – seeing first-hand the challenges and opportunities in the tax administration of this part of the tax code.

As a brief background, Section 179D provides a $1.80 per square foot tax deduction to the owner of a building for an energy efficient building (or retrofit) that surpasses 2007 ASHRAE standards by 50% (Congress recently increased this from 2001 ASHRAE standards which were part of the original 2006 statute). There are three components considered for measuring energy efficiency – building envelope, lighting and HVAC. It is possible for a building to partially qualify – for example, if one of the components individually causes the building to surpass ASHRAE standards by a lower amount.

Important for tax administration, the statute has a "trust-but-verify" element to it – requiring an independent firm with state-licensed professional engineers to model the building as well as conduct an on-site study to confirm the energy savings. This is the work that alliantgroup and a number of other companies conduct – as required by statute – to affirm that a

business is eligible for the 179D deduction. This independent verification protects the fisc and ensures the energy savings are real.

For federal, state and local government buildings (including public schools and colleges) the Congress provided that the tax benefit goes to the designer of the building (the architect, engineer or contractor) – reflecting that the government entity doesn't pay taxes and to encourage the designer to employ cutting-edge energy efficient designs. Congress recognized that the benefit to the government (and ultimately, the taxpayers) from 179D is the significant cost-savings realized from energy savings over the life of the building.

Two key aspects I would highlight to the Committee is that:

First, Section 179D is technology neutral. The provision doesn't dictate how energy efficiency should be realized. There are no bureaucrats dictating or deciding how energy efficiency is to be achieved. Instead, the statute – wisely – adopts a policy of letting designers choose their own path to energy efficiency. We have seen first-hand the positive impact this open policy has had of unleashing the creativity of engineers and designers in providing new and innovative ways to achieve energy efficiency – helping to keep America a leader in the field of energy efficient design.

Second, Section 179D has been of real benefit to the construction sector – a vital part of our nation's economy. There is a reason that the Real Estate Roundtable, the American Institute of Architects, the American Council of Engineering Companies and the Association of General Contractors are all strong supporters of Section 179D. As my colleagues know, I have spent a great deal of my time and energy in the area of housing and construction – Section 179D has been a difference maker for many businesses in this key part of our economy – keeping doors open and creating jobs.

My answer to those who may fairly ask – why do we need a tax break to encourage the building of energy efficienct buildings? The answer is threefold: One – the benefits from energy efficiency are a long horizon (often thirty years) that are often not fully captured in making decisions today about costs and funding for buildings. Second – is a recognition that energy efficient design is a benefit to all of us – our nation benefits from greater energy independence and efficiency. This external benefit isn't reflected in the costs of an energy efficient building. Finally, we need to continue to

reward and encourage energy efficient design and maintain our leadership in this field.

Here are the recommendations I would encourage the Committee to consider based on alliantgroup's years of experience and work in this field – and benefitting from the discussions with our partners in this area:

One.

Small businesses – especially architects and engineering firms that are designers of government buildings are too often unable to utilize the benefits of 179D because of basis issues. The statute should be changed to address the basis issues and allow these small business owners to fully benefit from the 179D deduction – this could be accomplished by having the current 179D deduction treated as a credit of equal value as the current deduction. Modifying 179D to be a credit – of the same value as the current deduction – would also encourage for-profit business to further benefit from this incentive.

Two.

An improved benefit for building retrofits. While retrofits are covered under the statute – it can be frustrating that a retrofit of a very old/historic building that significantly improves energy efficiency doesn't see a tax benefit under 179D because it doesn't surpass the 2007 ASHRAE standards. The committee should consider an allowance for a deduction if a retrofit markedly surpasses the prior baseline of energy efficiency for an older building. I would note to the Committee that while the natural focus is on new buildings – the surprising reality is over 50% of construction is actually retrofits. We need to encourage and reward the significant energy efficiency gains of retrofits.

Three.

Expand the provision to benefit designers for charitable buildings and Indian tribes. Currently, designers of government buildings can benefit – but designers of a building for a charity cannot. For example, the designer of a state university building receives the 179D benefit – but a designer for a private college building does not see any benefit. In addition, Indian tribes are not covered within the definition of a government building owner. The

statute should be expanded to allow designers of buildings of charities and Indian government buildings to also receive the benefit.

Four.

Permanency. Permanency will allow businesses to better plan and incorporate the benefits of 179D in their business decisions. Further, permanency will allow government agencies to better incorporate the tax benefits to designers of 179D in their bid-and-acceptance process. Finally, permanency will reinforce to designers that they will be rewarded for continuing to pursue efforts and devote time, energy and resources into ever-improving energy efficient buildings.

Five.

Raise the ASHRAE energy efficiency standards over time. I recognize that the Committee has a never ending stream of asks – but I also put forward today a proposal that will ensure that the goals of energy efficiency continue to be realized and also helps address the issue of costs. The original statute measured energy efficiency based on the ASHRAE 2001 standard. alliantgroup worked with Congress to raise that standard to 2007 in the PATH Act. The Committee should revisit the 2007 standard, and I would suggest to add in a continuing escalation clause that raises ASHRAE standards year-by-year to ensure that we have in place a policy that is always challenging and rewarding designers to do better.

I realize that these discussions of taxes can often be dry – so I have provided you, Mr. Chairman and the Committee, a few examples alliantgroup has seen first-hand working this field of the benefits to everyone involved – the owners of the building as well as the designers:

- For example, as a result of the 179D deduction, a small, Texas-based engineering firm was able to save enough in taxes to hire additional licensed engineers into their practice.
- As more companies face competition in the marketplace from foreign corporations, the 179D incentive also allowed an upstate New York architecture firm to more competitively bid and win work with a school district over several foreign competitors. Further, the 179D incentive empowered this architecture firm to implement a new energy efficient geothermal system in the school district and enabled the school district

to save an estimated $450,000 over the next decade. Using the 179D incentive, the private company was able to implement high efficiency equipment, including: variable frequency drives, thermal storage, and LED lighting.

In the private sector, alliantgroup has worked with many American businesses that upgrade and construct their own facilities – and the179D deduction has allowed these companies to expand operations, hire new employees, and take on new markets. This incentive is not only sound energy policy, but is vital to the innovative designers, engineers, and contractors that help drive our economy.

Thank you Mr. Chairman and Ranking Member Doggett. I am happy to answer any questions the Committee may have and to assist the Committee in its work.

Chairman BUCHANAN. Mr. Chamberlain, you are recognized.

STATEMENT OF HENRY CHAMBERLAIN, PRESIDENT AND CHIEF OPERATING OFFICER, BUILDING OWNERS AND MANAGERS ASSOCIATION INTERNATIONAL

Mr. CHAMBERLAIN. Yes. Chairman Buchanan, Ranking Member Doggett, and Members of the Committee, I would like to thank you for this opportunity to testify today on the importance of extending and ultimately making permanent the commercial building energy-efficient tax deduction, commonly referred to as 179D.

I am speaking today on behalf of the Building Owners and Managers Association International, where I serve as president and chief operating officer. BOMA International is a federation of 88 U.S. local associations and 18 international affiliates. We represent the owners and managers of all commercial property types.

BOMA is a long-term supporter of 179D, and we have been actively working with Members of Congress to extend this incentive since its original enactment in 2005. 179D offers building owners a deduction of up to $1.80 a square foot for energy-efficient improvements made to certain building systems. Buildings must be independently certified to receive this deduction.

By providing a financial incentive, the tax deduction helps real estate owners who might not otherwise have the necessary capital to make the decision to design, retrofit, and operate energy-efficient structures. These upgrades are particularly necessarily for older building stock.

179D promotes private sector solutions to improve energy efficiency and modernize the built environment. We continue to applaud these efforts, but more can be done. Currently, 179D is the only federal tax incentive for office and industrial buildings to enhance their energy efficiency.

A recent study commissioned by BOMA, along with other members of the coalition, to extend and improve the 179D tax deduction highlights the costs and benefits of extending and modernizing the incentive. The study estimates that as many as 77,000 jobs will be created and $7.4 billion will be added annually to the national GDP with a long-term extension.

The biggest barrier for our members in utilizing this incentive is the historical short-term nature of its extension. The recent short-term or retroactive extensions do not account for real estate's planning horizons, which are generally three to five years for a capital investment. Even when the deduction was extended for five years between 2009 and 2013 by the Emergency Economic Stabilization Act of 2008, the recession made these investments very difficult, and by the time the industry found itself on a stronger financial footing, the incentive was set to expire again.

BOMA's members are committed to making sound energy efficiency investments that not only make business sense but also help improve sustainability efforts. 179D has the potential to do just that. We believe that 179D will be fully utilized if the incentive is made permanent and coupled with moderate reforms that would increase the incentive amount. This will result in more energy-efficient commercial properties across the country.

Thank you for this opportunity to testify.
Chairman BUCHANAN. Thank you, Mr. Chamberlain
[The prepared statement of Mr. Chamberlain follows:]

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San Antonio, TX

Testimony of Henry H. Chamberlain, APR, FASAE, CAE
President and Chief Operating Officer, Building Owners and Managers Association (BOMA) International

Before the United States House of Representatives, Ways and Means Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 14, 2018

Chairman Buchanan, Ranking Member Doggett and members of the committee:

The Building Owners and Managers Association (BOMA) International appreciates the opportunity to offer its testimony in support of 26 § U.S. Code Section 179D, the Energy Efficient Commercial Building Tax Deduction. BOMA International is a federation of 89 U.S. local associations and 18 international affiliates. Founded in 1907, BOMA represents the owners and managers of all commercial property types, including nearly 10.5 billion square feet of U.S. office space that supports 1.7 million jobs and contributes $234.9 billion to the U.S. gross domestic product (GDP). BOMA, as a ten-time recipient of the U.S. Environmental Protection Agency's ENERGY STAR® awards, has been helping push the industry towards greater efficiency for decades.

BOMA is a long-time supporter of 179D, and we have been actively working with members of Congress to extend this important incentive since its original enactment in 2005. 179D offers building owners a deduction of up to $1.80 per square foot for energy-efficient improvements made to heating, ventilation and air conditioning (HVAC) systems; the building envelope, including windows; and lighting upgrades that exceed ASHRAE Standard 90.1 by 50 percent. Buildings must be independently certified to receive this deduction. By providing a financial incentive, the tax deduction helps real estate owners who might not otherwise have the necessary capital make the decision to design, retrofit and operate energy-efficient structures. We continue to applaud these efforts, but more can be done.

According to the U.S. Energy Information Administration's Commercial Buildings Energy Consumption Survey (CBECS), the commercial building sector accounts for nearly 30 percent of all U.S. energy usage. On average, a U.S. office building spends nearly 29 percent of its operating expenses on energy.

The financial savings from energy efficient upgrades is compelling, but the return on investment is not always sufficient to justify the initial costs, and many owners simply do not have the necessary capital to launch such projects. A recent study commissioned by BOMA International, along with other members of the Coalition to Extend and

Improve the 179D Tax deduction, highlights the costs and benefits of extending and modernizing the incentive. The study estimates that as many as 77,000 jobs will be created and $7.4 billion will be added annually to the GDP if Congress passes a long-term extension and modification of 179D. Strengthening and modernizing 179D would come with huge benefits, such as adding $5.7 billion in personal income for the first 10 years after enactment. Additionally, it would lead to an estimated average annual gain of 39,388 jobs, $3.7 billion in GDP and $3 billion in personal income for the first ten years after enactment.

The biggest impediment for our members in utilizing this incentive is the historical short-term nature of its extension. The recent short-term or retroactive extensions don't account for real estate's planning horizons, which are generally three to five years for a capital investment. Even when the deduction was extended for five years between 2009 and 2013 by the Emergency Economic Stabilization Act of 2008, the recession made these investments very difficult, and by the time the industry found itself on stronger financial footing, the extension was set to expire again.

Additionally, certain real estate entities have not been able to utilize 179D in its current form. Real estate investment trusts (REITs), which account for more than $1 trillion in equity market capitalization, cannot take advantage of 179D because of the way their profits are distributed as dividends to their shareholders. If the deduction was made a transferable tax credit, the problem would be resolved. As far back as 2012, Congress has recognized this problem and introduced the Commercial Building Modernization Act (S. 3591, 112th), co-sponsored by Senators Olympia Snowe (R-Maine) and Jeff Bingaman (D-N.M.), which enhanced the deduction to $3.00 per square foot and made it feasible for REITs to use it. Snowe and Bingaman also sought to address this by allowing a building to measure its performance against its own pre-retrofit baseline, which would illustrate real-world improvements while also making the deduction achievable by buildings that otherwise could never afford the cost of the upgrades. Unfortunately, this legislation was never enacted.

While it is generally easier for new construction to consider energy efficiency from the start, it accounts for only 2 percent of buildings at a given time. For the remaining 98 percent of the existing commercial building stock, exceeding ASHRAE 90.1 (2007) is an incredibly difficult and costly task. Not all buildings are trophy or Class A properties, nor do they have the tenant income stream to justify the expense of a major building system overhaul. Class B and C buildings have long been missing from the energy efficiency equation, and cash flow is the reason. Since most commercial leases are triple net and energy costs are also borne in part by the tenant, this means that smaller businesses that lease space in non-trophy buildings also could see the benefit of reduced costs and higher efficiency.

Legislation was introduced in this session of Congress by Representatives Dave Reichert (R-Wash.), Earl Blumenauer (D-Ore.) and Tom Reed (R-N.Y.) to make 179D permanent and give our members the confidence and stability they need to plan for major

efficiency improvements and retrofits. We applaud them for their leadership on this issue, and we hope the committee will move forward on their bill.

The most effective way for the federal government to enact change and encourage and incentivize increased energy efficiency in commercial buildings is to provide a permanent extension of 179D. We look forward to working with this committee to continue providing input as you evaluate this important tax incentive in a post-tax reform environment.

Chairman BUCHANAN. Mr. Bresette, you are recognized for three minutes.

STATEMENT OF DANIEL BRESETTE, VICE PRESIDENT FOR POLICY AND RESEARCH, ALLIANCE TO SAVE ENERGY

Mr. BRESETTE. Thank you, Mr. Chairman, Ranking Member Doggett, and Members of the subcommittee.

The Alliance to Save Energy is a nonprofit, bipartisan coalition of business, government, environmental, and consumer interest leaders that advocates for policies that grow the economy while reducing energy consumption. The Alliance enjoys the support of more than 120 businesses and organizations, as well as 15 Members of Congress who serve as honorary advisors, including Representative Reichert.

Today the United States realizes twice as much GDP per unit of energy consumed when compared to 1980. That is tremendous progress, and tax incentives aligned with critical energy efficiency policies have played an important part in getting us there.

But now is not the time to stop. The United States still fails to capture about two-thirds of the energy we produce, which means more waste and higher costs for homeowners and businesses. Three tax incentives that help reduce that waste and lower energy costs have expired. The Alliance supports immediate, forward-looking extensions of these incentives, that were extended through the end of last year.

Section 25C the non-business energy property credit for existing homes, provides an incentive for homeowners to choose more energy-efficient products. The Energy Department has estimated that if this credit were extended for 10 years, household energy bills would be reduced by more than $13 billion.

Section 45L, the energy efficient home credit, provides an incentive to home builders to construct more energy-efficient homes. Home buyers realize savings from lower energy bills that pay off in just a few years. This tax credit has had a marked transformational effect. When it was enacted, less than 1 percent of new homes qualified, but now that proportion is about 10 percent.

Section 179D, the commercial building tax deduction, provides an incentive for energy efficiency improvements in commercial multifamily buildings. One recent analysis estimates that renewing 179D with certain modifications would create up to 77,000 jobs and contribute over $7 billion to U.S. GDP.

In the longer term, the alliance urges Congress to consider improvements to the provisions to drive investment and deliver even greater savings. In principle, the alliance supports the enactment of improved tax incentives that are simple and straightforward to understand and access, strong enough to drive investments and affect behavior, minimize free ridership, and are reasonable in terms of cost when compared to the potential for savings.

Two bills are representative of modifications that would deliver even greater energy cost savings to homeowners and businesses. H.R. 3507, introduced by Representative Reichert, proposes to permanently extend 179D, and require the Treasury Department to issue regulations to encourage greater use by governmental and nonprofit entities.

And S. 1068, the Clean Energy for America Act, introduced by Senator Ron Wyden, would go further and address new and existing homes as well. It also proposes an alternative performance-based approach to encourage deeper retrofits and greater savings.

Other modifications beyond those proposed in these two bills might also be necessary. The alliance standards ready to support the Subcommittee in its efforts to move energy efficiency tax incentives forward.

Thank you for your consideration. I would be glad to answer any questions today or later for the record.

Chairman BUCHANAN. Thank you, Mr. Bresette.

[The prepared statement of Mr. Bresette follows:]

Testimony of

Daniel Bresette
Vice President for Policy and Research
Alliance to Save Energy

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
Wednesday, March 14, 2018

Introduction

The Alliance to Save Energy is a non-profit, bipartisan coalition of business, government, environmental, and consumer-interest leaders that advocates for enhanced U.S. energy productivity to achieve economic growth; a cleaner environment; and greater energy security, affordability, and reliability. The Alliance enjoys the participation of nearly 130 businesses and organizations that collectively represent more than $870 billion in market capital. The Alliance was founded in 1977 by U.S. Sens. Charles Percy (R-Ill.) and Hubert Humphrey (D-Minn.), and today has 15 members of Congress serving as Honorary Advisors, including Rep. Dave Reichert (R-Wash.), a member of this subcommittee.

The Alliance appreciates the opportunity to testify about the importance of energy efficiency tax incentives. Energy efficiency is our country's greatest energy resource that, when strategically promoted in the tax code, can create jobs and economic activity, enhance energy security, lower harmful emissions, and improve U.S. competitiveness in global markets. Energy efficiency gains made since 1973 have cut energy waste dramatically to fuel the U.S. economy more productively. Thanks in part to federal energy efficiency policy, the U.S. today extracts twice as much gross domestic product (GDP) from each unit of energy we consume when compared to 1980.[1] As energy efficiency has increased, so have stable, good paying jobs. Currently, 2.2 million workers across construction, manufacturing, wholesale trade, and professional and business service industries are employed, in whole or in part, in the energy efficiency sector (see Table 1).[2] Thoughtful, forward-looking energy efficiency incentives in the tax code will continue to drive job creation and economic growth for families and businesses across the country.

[1] In 1980, the U.S. consumed 78 quads (quadrillion British thermal units (BTUs)) while GDP was $6.4 trillion, which produces an energy productivity ratio of 82.6. This compares to energy productivity of 176.4 in 2017 (i.e., 96.8 quads and GDP of $17 trillion). Energy consumption data is from the Energy Information Administration. GDP (real dollars, 2009) is provided by the Bureau of Economic Analysis.
[2] Environmental Entrepreneurs (E2) and E4TheFuture, "Energy Efficiency Jobs in America," December 2016, https://www.e2.org/energyefficiencyjobs/. Last accessed March 12, 2018.

Table 1. Energy Efficiency Jobs by Tax Policy Subcommittee Member District

Member	District	Jobs	Member	District	Jobs
Rep. Vern Buchanan Chairman	FL-16	4,602	Rep. Lloyd Doggett Ranking Member	TX-35	191
Rep. Peter Roskam	IL-6	8,707	Rep. John Larson	CT-1	2,939
Rep. Dave Reichert	WA-8	3,441	Rep. Linda Sanchez	CA-38	9,974
Rep. Jim Renacci	OH-16	1,506	Rep. Mike Thompson	CA-5	9,011
Rep. Kristi Noem	SD-AL	5,464	Rep. Suzan DelBene	WA-1	5,489
Rep. Mike Kelly	PA-3	3,308	Rep. Earl Blumenauer	OR-3	6,801
Rep. George Holding	NC-2	3,574			
Rep. Pat Meehan	PA-7	3,894			
Rep. Jason Smith	MO-8	3,824			
Rep. Tom Rice	SC-7	2,791			
Rep. Kevin Brady *Ex Officio*	TX-8	2,480	Rep. Richard Neal *Ex Officio*	MA-1	12,610
Total Energy Efficiency Sector Jobs: 90,606					

Unfortunately, even after passage of H.R. 1, the "Tax Cuts and Jobs Act," there are currently no provisions in the U.S. tax code designed to encourage investments in energy efficiency. This is a glaring omission. Energy efficiency delivers benefits to homeowners in every state and businesses across all sectors of the economy. Promoting the adoption and deployment of energy efficiency is the smartest energy policy option of all, and the tax code is an ideal vehicle for accomplishing it.

Of specific relevance to today's proceedings are three tax incentives that were retroactively "extended" through December 31, 2017, but are now expired. These include two residential sector tax credits: Sec. 25C, the Nonbusiness Energy Property Credit for Existing Homes, and Sec. 45L, the Energy Efficient Home Credit. The third, Sec. 179D, the Commercial Building Tax Deduction, promotes energy efficiency in commercial and multifamily buildings. The Alliance strongly supports immediate, forward-looking extensions of these three tax incentives so homeowners and businesses can fully realize the benefits of offset upfront costs and lower energy bills over time. The Alliance also supports modifications in the longer-term to enhance the effectiveness of the provisions in response to improvements in products and technologies, and improve the accessibility for homeowners and businesses.

Summary of Expired Energy Efficiency Tax Incentives

Sec. 25C—Nonbusiness Energy Property Credit for Existing Homes. This provision provides a 10 percent tax credit for the purchase of certain nonbusiness energy-efficient materials up to $500, providing an incentive for homeowners to choose energy-efficient products over less efficient alternatives. According to a recent U.S. Department of Energy analysis, the national impact of extending this tax credit for 10 years would result in an average increase of sales for eligible equipment by 54 percent and an overall reduction in household energy bills by $13.1

billion.[3] The full impact of the incentive is likely higher because the analysis looked only at five categories of equipment such as central air conditioners, water heaters, furnaces, and heat pumps.

Sec. 45L—Energy Efficient Home Credit. The Sec. 45L incentive provides a credit of $2,000 for builders of homes that use 50 percent less energy for space heating and cooling and a $1,000 tax credit to the builder of a new manufactured home achieving 30 percent energy savings for heating and cooling or a manufactured home meeting the ENERGY STAR requirements. The Sec. 45L tax credit has been successful in transforming the new homes market toward more energy-efficient homes. When the credit was enacted less than one percent of new homes met the qualification levels. In recent years the number of homes certified as complying with the tax credit rose to about 10 percent of new homes sold; this growing market share is attributable in substantial part to the new and manufactured homes tax incentive.

Sec. 179D—Commercial Building Tax Deduction. Sec. 179D provides a tax deduction of up to $1.80 per square foot to help offset some of the high costs of energy efficient components and systems for commercial and larger multifamily buildings. The Sec. 179D deduction has leveraged billions of dollars in private capital, resulted in the energy-efficient construction of thousands of buildings, and created and preserved hundreds of thousands of jobs. It has lowered demands on the power grid and reduced carbon emissions. A recent analysis by Regional Economics Models, Inc., estimates that renewing the tax deduction would create 40,000 to 77,000 new design and construction jobs annually along with nearly $7.4 billion in annual GDP.[4]

Recommendations for Extension and Modifications

While these three tax incentives have been a remarkable success, the Alliance recommends a series of modifications to enhance the effectiveness and improve the accessibility of the provisions moving forward. The Alliance respectfully encourages the subcommittee to consider adopting changes to the incentives that could deliver greater benefits to America homeowners and businesses. This includes lengthening the period of reinstatement to provide a more consistent, long-term incentive structure and updating eligibility requirements—such as references to updated building energy codes and standards—to reflect the state of the market and improvements in energy efficiency products.[5]

A forward-looking extension of the Secs. 25C and 45L credits and Sec. 179D deduction is a near-term solution to the absence of energy efficiency incentives in the tax code. The Alliance also recommends a parallel effort, undertaken while the extensions are in effect, to reconsider the

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[3] Alliance to Save Energy, "This New Study Shows How an Energy Efficiency Tax Incentive Would Save U.S. Households a Billion Dollars Each Year," December 13, 2017, http://ase.org/blog/new-study-shows-how-energy-efficiency-tax-incentive-would-save-us-households-billion-dollars. Last accessed March 12, 2018.

[4] REMI (Regional Economic Models, Inc.), "Analysis of Proposals to Enhance and Extend the Section 179D Energy Efficiency Commercial Buildings Tax Deduction, May 2017, http://aiad8.prod.acquia-sites.com/sites/default/files/2017-05/Section179DAnalysis-051817.pdf. Last accessed March 12, 2018.

[5] Congress updated a reference to an energy efficiency standard—now ASHRAE Standard 90.1-2007—that increased the threshold for eligible projects, when it previously extended 179D through December 31, 2016. Consolidated Appropriations Act, 2016; Pub. L. 114-113, Title III, Sec. 341; 129 Stat. 3113 (2015).

approach of energy efficiency tax incentives. In principle, the Alliance supports the enactment of tax incentives that are:

- simple and straightforward, easy to explain, simple to understand, and devoid of overly-complex market mechanisms;
- strong enough to drive investments and affect homeowner and business behavior;
- carefully designed to minimize "free-ridership;" and
- reasonable in terms of cost to the government when compared to the potential for savings.

By way of example, the Alliance proposes consideration of two bills—one pending in the House and another in the Senate—that are representative of the sort of modifications needed to better leverage the tax code to encourage investments in energy efficiency. The first bill, H.R. 3507, a bill to amend and strengthen Sec. 179D, was introduced by Rep. Reichert on July 27, 2017. H.R. 3507 includes a series of important modifications to 179D, including a permanent extension and direction to the Treasury Department to issue regulations to encourage more governmental and non-profit entities to make energy efficiency investments by allowing the deduction to be allocated to the designer or service provider. The increased certainty of the long-term availability of Sec. 179D, and new clarity around the benefit of the deduction, would likely lead to more commercial and multifamily building retrofits and greater savings.

A second bill, S. 1068, the "Clean Energy for America Act," was introduced by Sen. Ron Wyden (D-Ore.) on May 8, 2017. S. 1068 also includes a provision addressing the allocation of Sec. 179D deductions when projects involve non-tax-paying entities. But this bill goes further, and would address existing and new homes (i.e., Secs. 25C and 45L, respectively) as well. S. 1068 provides for an alternative, performance-based approach to residential and commercial tax incentives that is designed to encourage the installation of high-efficiency measures and "deeper" energy efficiency retrofits that deliver even greater savings.

The Alliance acknowledges that any effort on the part of the subcommittee to revisit the design of Secs. 25C, 45L, and 179D will invite new ideas and a range of opinions. This would be a positive sign and indicative of the diversity of the energy efficiency sector. The Alliance is already engaged, working to find common ground consistent with the four principles outlined, and focused on a policy outcome that delivers savings for as many homeowners and businesses as possible within existing fiscal constraints.

Conclusion

The Alliance applauds the subcommittee for accepting testimony about the need for forward-looking extensions of Secs. 25C, 45L, and 179, as well as modifications to ensure these provisions deliver maximum savings to homeowners and businesses. In the wake of H.R. 1, a void exists in the tax code that should be filled by immediate extensions of the three energy efficiency tax incentives. And, in the longer-term, the Alliance supports modifications to improve the current provisions and deliver greater savings to homeowners and businesses.

The Alliance thanks the subcommittee and the members of the Committee on Ways and Means for its consideration.

Chairman BUCHANAN. Ms. Jacobson, you are recognized for three minutes.

STATEMENT OF LISA JACOBSON, PRESIDENT, BUSINESS COUNCIL FOR SUSTAINABLE ENERGY

Ms. JACOBSON. Thank you very much, Mr. Chairman, Ranking Member, and Members of the Committee.

The Business Council for Sustainable Energy is a coalition of companies and trade associations representing the energy efficiency, natural gas, and renewable energy sectors. On behalf of the council, I would like to express our appreciation for the steps Congress has taken to enact the Tax Cuts and Jobs Act, the Bipartisan Budget Act of 2018. Of note, the Bipartisan Budget Act included the extension of a number of clean energy tax measures that the coalition has long supported. We thank you victim.

And while these actions have been very positive for many of our industry members, I need to highlight that there are still some technologies from industry sectors that are now at an even larger competitive disadvantage. Tax incentives in the energy sector should be structured such that the benefits are provided to all qualifying technologies in accordance with their energy, environmental, and other public benefits.

Additionally, it is important that tax policies are established over a sufficient duration to provide investors with the confidence they need to proceed with major investments. The recent market dynamism in the U.S. energy sector is partly credited to tax policy frameworks that have benefitted some, but not all, clean energy technologies.

Importantly, the Bipartisan Budget Act provided a long-term extension for the non-solar investment tax credit technologies, which include fuel cells, combined heat and power, small wind, and geothermal. The council commends the Committee for this action.

However, other technologies have not benefitted from the same long-term tax policies. In the renewable energy sector, these technologies include biomass, geothermal, landfill gas, waste-to-energy, hydropower marine, and hydrokinetic. While these technologies provide valuable renewable energy 24/7, they also take longer to reach construction. Consequently, these non-wind PTC Section 45 technologies cannot take advantage of the tax credits that are only extended for a few weeks or a year at a time. This uncertainty has created adverse market conditions.

It is more difficult for projects of expired technologies to secure financing because banks value the security of investing in projects with a long-term tax credit. It also can be difficult for new and existing projects of expired technologies to secure power purchase agreements. This is because the extended technologies can offer better value. Represent Stefanik has introduced H.R. 4137, the Renewable Electricity Tax Credit Equalization Act, which would address this inequity.

I am pleased to associate myself and the coalition with the Alliance to Save Energy's remarks on energy efficiency. We strongly support modifications and extension to 179D, 25C, 45L. In the transportation sector, 30B fuel cell elect vehicle credit and 30C, al-

ternative fuel vehicle infrastructure credit, should also be considered.

And then finally, energy storage should receive consideration. The Energy Storage Incentive and Deployment Act, H.R. 4649, should be consider by this Committee.

Thank you very much.

Chairman BUCHANAN. Thank you.

[The prepared statement of Ms. Jacobson follows:]

Testimony of

Lisa Jacobson, President
Business Council for Sustainable Energy

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, thank you for the opportunity to testify and to share the Business Council for Sustainable Energy's views on federal tax policy issues at today's hearing to evaluate recently expired tax provisions.

My name is Lisa Jacobson, and I serve as the President of the Business Council for Sustainable Energy, or BCSE. On behalf of the Council, I would like to express our appreciation for the steps Congress has taken to enact the Tax Cuts and Jobs Act and the Bipartisan Budget Act of 2018. Of note, the Bipartisan Budget Act included some important measures that have been long-supported by the Council and our members, including the extension of a number of clean energy tax measures. Thank you. And while these actions have been very positive for many of our industry members, I need to highlight that there are still some technologies from industry sectors that are now at an even larger competitive disadvantage. As Congress continues its work on budget and tax issues, perhaps as early as this week, the Council encourages you to maintain the positive momentum that has been achieved recently and use it to achieve parity for the other clean energy industries our country needs.

BCSE is a coalition of companies and trade associations representing the energy efficiency, natural gas and renewable energy sectors. Its membership includes project developers, equipment manufacturers, independent electric power producers, investor-owned utilities, public power and energy and environmental service providers. Founded in 1992, the Council advocates for policies that expand the use of commercially-available clean energy technologies, products and services. These industries together support over 3 million jobs spread across every state and congressional district in the United States. The coalition is united around the revitalization of the economy and the creation of a secure and reliable energy future in America.

BCSE members have a wide range of tax policy interests. As a broad-based coalition of business interests, not all Council members take a position or endorse the views offered in this testimony.

It is critical that Congress formulate and enact stable, long-term tax policy frameworks that will support investment and job creation. Tax incentives in the energy sector should be structured such that benefits are provided to all qualifying technologies in accordance with the energy, environmental and other public benefits they generate. Additionally, it is important that tax policies are established over a sufficient duration to provide investors with the confidence they need to proceed with major investments.

As such, BCSE urges Congress to support legislation that provides durable tax policy that is equitable across eligible technologies. Current law provides a mix of tax incentives for the production of energy and for investment in plant property for a range of technologies. It also includes incentives in the areas of sustainable transportation and energy efficiency. While Congress has made significant inroads on tax policy, much remains to be done in these important sectors.

Renewable energy, energy efficiency and natural gas deliver jobs, increased economic growth, greater energy productivity and fewer emissions for the United States. Statistics from the 2018 edition of the *Sustainable Energy in America Factbook*[1] recently released by BCSE and Bloomberg New Energy Finance document these trends:

- Consumers devoted a smaller share of their spending in 2017 towards electricity than at any time ever recorded, and the total share of household expenses dedicated to energy costs also hovered near an all-time low;
- Electricity off-takers secured renewable energy at ever cheaper price points;
- Renewable energy generation now accounts for 18 percent of U.S. electricity generation, nearly on par with the nation's nuclear fleet;
- Natural gas accounts for another 32 percent of electricity generation, making it the number one source of U.S. electric power;
- American economic growth is picking up steam without a parallel jump in energy consumption, and the United States remains competitive globally for energy-intensive industries thanks to low industrial power prices;
- The renewable energy, energy efficiency and natural gas sectors employed approximately 3 million Americans in 2016.

This market dynamism and success is partly credited to tax policy frameworks that have benefitted some, but not all, clean energy technologies. For example, the FY16 Omnibus Appropriations bill enacted at the end of 2015 included a five-year extension of the Production Tax Credit (PTC) for wind power and a five-year extension of the Investment Tax Credit (ITC) for solar, with gradual ramp-down of these credits, as well as language that permitted them to be used when construction is started on projects. Having stable tax policy for these industries has helped to provide predictable market conditions that has enabled them to deploy at a significant rate, reduce costs, attract investment and create jobs.

Importantly, the Bipartisan Budget Act provided a long-term extension for the non-solar ITC technologies, which includes fuel cells, combined heat and power, small wind, and geothermal. The Council commends the Committee for this action.

However, other technologies have not benefitted from the same long-term tax policies. Thus, the tax code is currently structured in a manner that puts otherwise competitive technologies at a

[1] Please see: http://www.bcse.org/sustainableenergyfactbook/

disadvantage in the marketplace. In the renewable energy sector, these technologies include: biomass, geothermal, landfill gas, waste to energy, hydropower, marine and hydrokinetic.

While these technologies provide valuable renewable energy 24/7, they also take longer to reach construction, typically three to seven years or more. Consequently, these non-wind PTC (Section 45) technologies cannot take advantage of tax credits that are only extended for a few weeks or a year at a time. This uncertainty has created adverse market conditions. It is much more difficult for projects of expired technologies to secure financing because banks value the security of investing in projects with a long-term tax credit. It can also be difficult for new and existing projects of expired technologies to secure power purchase agreements when the extended technologies can offer a better value. The issue isn't that these projects aren't attractive to build without the tax credit. This has to do with equal access to financing and being able to sell renewable energy competitively.

Representative Stefanik has introduced H.R. 4137, the Renewable Electricity Tax Credit Equalization, which would address the inequity for these non-wind PTC technologies: biomass, geothermal, landfill gas, waste to energy, hydropower, marine and hydrokinetic.

A range of energy efficiency credits and several alternative fuel vehicle credits were similarly extended only through the end of 2017 and should be granted an extension. In the transportation sector the §30B Fuel Cell Electric Vehicle Credit and the §30C Alternative Fuel Vehicle Infrastructure Credit both provide important incentives for deployment of electric drive vehicles and should be extended. These incentives contribute to U.S. leadership in EV technology, which is critical to our global competitiveness, and job creation. China and other nations see the future of transportation and are pursuing dominance in electrification. Promoting investment in electric drive helps ensure that the U.S. does not lose its competitiveness in a market that we built. Businesses large and small have made investments based on these policies, as have their competitors around the world. Allowing them to achieve their intended goals is vital to maintaining U.S. leadership in the transportation sector and securing the attendant job creation.

Extensions and modifications should also be considered to update energy efficiency credits including §179D Energy Efficient Commercial Building Tax Deduction, which promotes energy efficiency in commercial and multifamily buildings. Last congress, Congressman Reichert introduced H.R.3507 which would extend and make refinements to the existing 179D tax deduction. Enhancing 179D legislation along the lines of H.R. 3507 would be a helpful addition to the code.

Additionally, extension and modification should be made to §25C Nonbusiness Energy Property Credit that incentivizes homeowners for efficiency upgrades and equipment purchases such as weatherizing or installing new windows or more efficient heating and cooling equipment, and §45L Energy Efficient Home Credit.

Furthermore, modifications to the tax code are needed to clarify that the entire portfolio of energy storage (i.e., grid batteries, pumped hydro, compressed air/liquids) qualifies for a §48 tax credit as a stand-alone, eligible clean energy technology. Energy storage eligibility for §48 tax credits is presently contingent on its pairing with solar energy projects. Natural gas plants, wind power, and other resources should have equal opportunity to benefit from pairing with storage.

The "Energy Storage Tax Incentive and Deployment Act" H.R. 4649 sponsored by Congressman Costello (PA) and Congressman Doyle (PA) has been introduced to address this issue.

Similarly, legislation has been introduced that would allow commercial geothermal to qualify for the same §48 tax credit commercial solar can utilize. Absent this change, it is unlikely commercial geothermal will be able to compete. S. 1409, the "Technologies for Energy Security Act" (and its companion H.R. 1090), specifically Sections 3(a) and (c), as well as S.2256, the "Tax Extenders Act of 2017," specifically Sections 311(a) and (c), included this modification.

To maintain a diverse portfolio of beneficial energy technologies it is critical that Congress formulate and enact the stable, long-term tax policy framework that will support the deployment of the full scope of clean energy technologies in a meaningful way. These measures span power generation, building efficiency and transportation and can provide significant public benefits in the areas of energy reliability and security as well environmental, economic and jobs benefits.

BCSE looks forward to working with you to achieve these objectives. For questions or further information, please contact Ruth McCormick on the Council's staff at rmccormick@bcse.org.

Chairman BUCHANAN. Mr. Paschel, you are recognized for three minutes.

STATEMENT OF SAM PASCHEL, CHIEF EXECUTIVE OFFICER, ZERO MOTORCYCLES INC.

Mr. PASCHEL. Distinguished Members of the Committee, thank you for the opportunity to testify today. I am here to ask you to extend the Section 30D provisions for consumer tax credits for two- and three wheel plug-in vehicles. My name is Sam Paschel and I am the Chief Executive Officer of Zero Motorcycles.

In the past 11 years, we have grown from a garage startup to the largest manufacturer of performance two-wheel plug-in vehicles in the United States and an internationally respected brand. We manufacture and assemble all of our motorcycles in our offices in Santa Cruz, California, where we employ 150 people directly, and rely on more than 70 domestic suppliers in 25 States across the United States.

I am also testifying on behalf of a coalition of manufacturers in our industry. Arcimoto is a member of our coalition, and following their NASDAQ listing this last August, this startup three-wheel manufacturer built a new facility creating a variety of new jobs to fill their 2,000-unit back order.

In addition, Zero's approximately 100 dealers have businesses in districts that overlap with nearly every Member of this Subcommittee, including Hap's Cycles in Congressman Buchanan's District and AAT Power Sports in Congressman Brady's district.

I would like to convey four key points regarding this tax credit.

Number one, the credit gets us and U.S. consumers over a key hurdle. Consumers are consistently measuring the balance of performance and price, and over the past eight years we have dramatically increased all of the performance metrics of the vehicle while holding the price relatively constant. The price-value gap between plug-in and internal combustion is the final hurdle, and this credit helps us and American consumers to clear it.

Number two, this is a critical time. The success of Tesla in the four-wheel space has brought visibility, but sales in the two and three wheel industry space have been slower. At the same time, we are seeing an expansion of entrance from countries with significant subsidies for plug-in vehicles in the EU and China and India.

In the next few years will be when the market dynamics will solidify, and international leaders in this specific industry will emerge. Because of the timing, this credit will not only create new jobs, it can set the foundations for a new American industry.

And number three, we are not a powerful or well-connected special interest. We are just a coalition of small American businesses. Because we are subscale and have not yet reached profitability, we are unfortunately not able to benefit from the recently passed and incredibly beneficial corporate tax cuts that are driving most American businesses forward.

And four, it is an incredibly efficient spend. The fact that we are small businesses and we currently have small volumes means that the cost to the government and the taxpayers remains small, while the impact on thousands of American jobs in an emerging American industry can be massive.

For us, the clock is ticking. Our peak season is around the corner, and because of this, we respectfully urge you to act quickly to extend this within your deliberations. I can tell you firsthand you have an opportunity here to do something that will change the lives of the Americans that are trying to build the next generation of two- and three-wheel vehicles that are built here in the United States, Republicans and Democrats who devote themselves every day to the hard work of building a business and building the foundations of a new American industry.

We would truly appreciate your support. Thank you.

[The prepared statement of Mr. Paschel follows:]

Testimony of Sam Paschel, CEO, Zero Motorcycles
Post Tax Reform Evaluation of Recently Expired Tax Provisions
Subcommittee on Tax Policy
Committee on Ways and Mean
US House of Representatives

Mr. Chairman, members of the Committee, thank you for the opportunity to testify about the section 30D provisions for consumer tax credits for certain 2 and 3-wheel plug-in vehicles. This credit began in 2009 and has been on again and off again for the past several years. It was extended recently, but only retroactively for 2017, on February 9, 2018 in the last continuing resolution. Renewing this tax credit creates American engineering, manufacturing, supply chain and sales jobs in a proud American powersports industry that is continuing to recover and an emerging technology industry that is poised to grow rapidly.

I am the CEO of Zero Motorcycles Inc., and I'm coming to you at a critical time in our company's development and the development of an emerging American industry. The recent momentum in the 4-wheel space is encouraging but, domestic sales and growth in the 2 and 3-wheel spaces are trailing the progress seen in 4-wheel vehicles. There is a rapid and massive expansion of the number of international competitors on a weekly basis that is threatening our current foothold. A federal tax credit that helps us here at home and encourages an acceleration of sales volume now will have the long-lasting effect of scaling an American industry and creating American jobs and will help to establish a long-term, global leadership position.

Zero is the only company still producing high-performance American motorcycles that qualified for the consumer tax credit at the credit's inception. We are an inspiring story of American ingenuity and entrepreneurship. In our eleven years, we have grown from a startup in a Santa Cruz garage to an internationally respected brand that is revolutionizing the motorcycle industry and leading a revolution in powersports. However, I'm also testifying today on behalf of a coalition of other manufacturers in this ever-evolving industry. Arcimoto, a three-wheel vehicle manufacturer, is one such start-up in Oregon. This company, like Zero, used private capital for vehicle development. Subsequent to Arcimoto's public listing in August of last year, it built a manufacturing facility that is now beginning to fill the backlog of orders for its fully electric 200+ MPG equivalent vehicles for commuters.

There has been a shakeout and rebirth in our space over the past 10 years. Some major manufacturers, such as Brammo, Vectrix, and Polaris dropped plans for electric motorcycles. More recently, others like Harley Davidson are moving forward with new product announcements. In addition, other members of our group of companies include another new three-wheel sport vehicle manufacturer in Utah, Vanderhall Motor Works, which is expanding production this year to offer plug-in vehicles in addition to their traditional gas-powered models. At least a dozen companies are shipping or plan to ship products soon.

The recent introductions and resurgence has finally put us back where we were 10 years ago, before the 2009 US economic downturn so dramatically impacted the powersports industry. We estimate that the renewed growth of this industry will create thousands of new well-paying American jobs over the next five years.

Zero has produced our plug-in motorcycles for individual American consumers, local municipal police forces, international consumers and even the US Navy. Our company now employs 150 people directly and relies on more than 70 suppliers in 25 states. On the distribution side, we sell our motorcycles through nearly 100 dealers in 30 states, including Hap's Cycle Sales in Sarasota, in the subcommittee Chairman's district and AAT Powersports in Willis, TX in Chairman Brady's district. Our dealers have businesses in districts that overlap with nearly every member of this subcommittee and the impact of the proposed credit will be felt on those sales floors in each of your districts.

I have five major points for the consideration of the subcommittee today.

First, this is a critical time for the implementation of the tax credit, which will help with consumer demand to build strength in an emerging American industry. The economy is again conducive to growth and there are enough players entering the marketplace to advance our industry with the consumer tax credit in place. Our experience on the showroom floor is that a renewed, forward-facing credit helps domestic sales grow more rapidly. This will help American participants in our industry build and cement their competitive advantage by enabling faster scaling. The credit goes to the consumer so it helps a manufacturer only indirectly, but it makes a significant difference in closing the final sale at a critical time for the industry.

This leads to my second point. While the 2 and 3-wheel electric vehicle industry has evolved over the past 10 years or so, it is still nascent. Battery technology still creates a cost barrier to plug-in vehicle adoption, even though technology and costs continue to improve, and this is what the consumer tax credit addresses. It closes the price/value gap with gas motorcycles, enables quicker scaling and makes electric equivalents a real consideration for many new consumers. It is a win for consumers, dealers, and manufacturers that create jobs all across our country.

My third point is the 2 and 3-wheel consumer tax credit has not been a significant cost or burden to the federal government or American taxpayers. As a coalition of sub-scale vehicle manufacturers, incremental unit volume increases have a massive impact on our profitability, stability and ability to further build and defend our leadership position. We estimate that perhaps 3,000 Zero consumers have been eligible for the credit over the past 8 years, and we are the largest manufacturer in the category today. There are other small producers as well but the entire cost to the government of the program remains small while the potential impact in securing the future of an emerging American industry and American jobs can be massive. Finally, the companies in this industry are mostly entrepreneurial start-ups which are not yet profitable, so they cannot take advantage of the recently passed corporate tax cut which makes the extension of this particular tax credit all the more important.

My fourth point is that good federal public policy ensures a diversity of fuel choices for transportation. We should promote alternative fuel options at a time when there is not an oil crisis, so we are ready when the next one arrives. Current 2 and 3-wheel plug-ins also have barriers that liquid fuel vehicles do not. The three primary of which are still range, charge time and potential lack of fueling infrastructure. Our sales history has shown that the tax credit is a huge benefit in overcoming these hurdles at the critical moment of final sale. These 2 and 3-

wheeled vehicles are also excellent platforms to develop, test, and continue to improve systems that are pushing the fuel economy envelope to new extremes and lowering transportation cost for everyone but, we need all the help we can get while we continue to push American driven innovation.

Soon we will have more competition from China and Europe who have been instituting more aggressive credits to strengthen this segment, so the timing of the tax credit is critical to help a coalition of American companies secure their competitive advantage.

In addition, in the face of this competition, the past and future benefits to the nation (should the credit be extended) have and will continue to be multifaceted with the credit.

- Helping the resurgence of American manufacturing and jobs
- More direct and indirect jobs in the supply chain and distribution channel
- Increased exports of American products
- More consumer choices for alternatively fueled vehicles
- Advancements in American-engineered new vehicle technology with improving efficiency
- Zero-tailpipe emission vehicles that are important in Clean Air Act non-attainment areas and for the air our children breathe
- A more diverse manufacturing base

My fifth point is that regardless of where each member of this subcommittee is personally or politically on the global climate change issue, efficiency is something almost everyone can agree on as a goal. We should not squander energy resources and federal public policy should promote and incentivize efficient transportation. Every one of the motorcycles that receives the tax credit is powered by American electrons and will represent one of the most efficient vehicles on the road.

For someone new to Washington, I understand that political dynamics can have an impact on proceedings and measures like this one. Yet I trust that the members of this subcommittee will remember the sensible public policy basis for continuing this credit. Congress has a chance to do something here that will matter a great deal in the lives of the Americans who are designing, building and using the next generation of 2 and 3-wheel energy efficient transportation. We are not a powerful or well-connected special interest but, a coalition of small American businesses. The people who you will help are Republicans and Democrats who devote themselves every day to the hard work required to lead transportation innovation to try to make many the lives of Americans easier, more efficient, and cleaner.

For us, the clock is ticking and this is a critical time for our industry. Spring is here and the riding and purchasing season is about to hit its stride. I urge you to extend this key tax credit and, if possible to make that decision quickly in the context of your deliberations.

Thank you.

Chairman BUCHANAN. I want to thank all of you for your testimony. We will now proceed to a question-and-answer session. Due to the high volume of witnesses today at this hearing, we have agreed that each Member will have three minutes to question the witness on each panel. I will defer my question to the end of the question period.

I now recognize Mr. Roskam. You may proceed.

Mr. ROSKAM. Thank you, Mr. Chairman.

Ms. Jacobson, I appreciated your kind words about the clean energy initiatives in the Tax Cuts and Jobs Act and the Bipartisan Budget Act. I wanted to pick up something that you mentioned at the very end of your oral remarks, and those were about the waste-to-energy credits.

So I represent a constituency in suburban Chicago. There is a company called Graphic Packaging that does a great job in terms of recycling, and everybody knows intuitively that incentivizing recycling is a good thing. There is no argument about that. And they employ 300 people.

Here is an observation about what has been happening, though, in that there could be some elements of the—if left unattended, Section 45 can create an incentive that instead of recycling being diverted, recyclables being diverted to recycling facilities, recycling can be mixed in with garbage and then burned and so forth, which there is nobody with a straight face—you, me, nobody—is interested in seeing that.

Can you speak to how it is that we can be wise about this to make sure that recycling is being set aside for a recycling stream and not inadvertently being burned for energy?

Ms. JACOBSON. Well, first of all, thank you very much for the question. I mean, I think the tax issues related to waste-to-energy I am going to answer just very briefly separately.

But the first part, I have had the pleasure to work with this industry for a good number of years. I can only share my assessment and what I have heard from the industry. But I know for a number of the companies we work with, they have very strong data to show that in waste-to-energy facilities, they do very well with regard to percentages of recycling; in fact, improved percentages in areas where they do not have waste-to-energy facilities. I am happy to get you data on that.

Mr. ROSKAM. Great.

Ms. JACOBSON. The Energy Recovery Council is an excellent resource. They are one of our members, and they represent the industry.

I think in terms of the tax issues to waste-to-energy and the other 45 technologies, as I mentioned, the way the tax credit has been structured does not fit their business cycle. For waste-to-energy, many of them are owned by municipal organizations.

I mean, these are basically local governments, and they operate on a very different timeline than these credits have been in place. So we need a long-term extension so local governments can really do what their communities want. And with regard to waste-to-energy facilities, right now that has not been on the table because we have not had a workable credit.

So we certainly hope for all the 45 technologies that the Committee will consider a long-term extension that is mindful of their business cycle. So thank you very much for the question, and again, I am happy to follow up with more specific information from the Energy Recovery Council, and for others.

Mr. ROSKAM. Okay. That is great. Thank you for your insight. I yield back.

Chairman BUCHANAN. Thank you, Mr. Roskam.

I now recognize the distinguished Ranking Member, Mr. Doggett, for a question he might have.

Mr. DOGGETT. Thank you very much.

Mr. Chamberlain, you described some improvements that you would like to see in 179D. The estimate we have is that simply renewing it in its current form would cost about $69 million for last year. Are the improvements that you are seeking going to increase the cost of the credit, of the provision, or will it be the same? And if so, about how much more will it cost to do your version?

Mr. CHAMBERLAIN. Thank you for the question. Number one, what we would like to see is the—we would like it to be permanent. We think that 179D should be made permanent so we can plan with our business cycles and all the rest.

The $1.80 is a lower level than we think is the threshold to get these projects really going, so we would ask for it to be increased to $3 a foot going forward, and that is part of a permanency.

We would also like to see, if possible, that it be made a transferable tax credit so all the businesses can use it, including the REITs. I do not have the specific financial impact on that, but those would be the three things that we would like to see addressed.

Mr. DOGGETT. Can you get us that impact?

Mr. CHAMBERLAIN. We can certainly get data for you.

Mr. DOGGETT. And I believe both you and Mr. Lazio tied this to the standards of the American Society of Heating, Refrigeration, and Air Conditioning, that the goal here is to continue to up the standard over time. Do you both believe that it is important if this provision is continued in permanent law, that that be part of it?

Mr. LAZIO. I would say, Congressman, absolutely, that we want to challenge designers to push themselves to continue to improve these designs and improve the efficiency of these buildings and lower operating costs.

Originally the bill had a 2001 ASHRAE standard. Then it was revised to 2007 in the PATH Act. And we believe not only should it be upgraded and revised regularly, but there ought to be something in the legislation that continually upgrades and raises the bar in terms of energy efficiency, which would raise efficiency level, lower costs for governments, and that of course gets passed through to the taxpayer. So it ultimately saves taxpayers' dollars.

Mr. DOGGETT. I do not see that in the legislation that you endorsed, any steady increase in the standard. But you believe it should be part of anything that we approve?

Mr. LAZIO. Yes, Congressman. It is in my submitted testimony, my written testimony.

Mr. DOGGETT. Yes.

Mr. LAZIO. And I would be happy to expand on that.

Mr. DOGGETT. I have a number of businesses, perhaps members of your association, in San Antonio and Austin that are part of a group called 2030 that is seeking to achieve zero carbon emissions by 2030. Should that be a consideration in this credit?

Mr. CHAMBERLAIN. I think energy efficiency should absolutely be a consideration, and we should be setting goals, such as carbon-neutral, if we can and all the rest. But I think we need to realize that those are goals, and for an existing building stock, back to ASHRAE 90.1, it is already difficult to achieve that for existing buildings.

When you go from 2001 to 2007, the efficiency went up 15 percent. So when you look at the deductions, the partial deductions, of the 60 cents a foot that is in the current 179D provision, people target that on lighting and some of the other things, and there is value in that.

But I think we should realize that for an existing building, ASHRAE is a good benchmark, but it is already difficult to achieve in a lot of buildings.

Mr. DOGGETT. So do you support including the goal of going—is it from 2001 to 2007 standard?

Mr. CHAMBERLAIN. I think ASHRAE is a good benchmark for us to use as a target. We just realize that it is difficult for many buildings to achieve that, and the partial deductions we think are important as part of that, once again.

Mr. DOGGETT. As you both get us some cost figures on what additional costs there would be, it would be useful to know exactly what increased standards you think would be most appropriate.

Mr. DOGGETT. Thank you.

Mr. LAZIO. Thank you.

Mr. DOGGETT. Thanks to all of you for your testimony.

Chairman BUCHANAN. Mr. Reichert, you are recognized.

Mr. REICHERT. Thank you, Mr. Chairman. Thank you all for being here today.

Section 179 has put money back into the hands of businesses to reinvest in the economy by providing a deduction to offset the cost of energy-efficient improvements to commercial and multi-family residential buildings. It has also helped building owners realize substantial savings on energy costs and created incentives for the research and development of new energy efficiency technologies.

Mr. Bresette, can you discuss how 179 fits into the new Tax Code, please?

Mr. BRESETTE. Could you say the last few words again?

Mr. REICHERT. Could you discuss how Section 179 fits into the new Tax Code?

Mr. BRESETTE. Oh, sure. So most of what we have talked about today involves Section 179D. But Section 179 also had some expensing. The tax bill changed the way some pieces of equipment can be expensed, and what that does is it encourages replacements of pieces of equipment rather than just keeping older, less efficient equipment in place by using repairs.

Generally speaking, over time pieces of equipment become more efficient because of the Department of Energy's appliance and equipment standards program. So equipment that is being installed

today will be more efficient, almost by default, when compared to previous equipment.

Mr. REICHERT. Could you just expand a little bit on the figures that you gave? 77,000 jobs, and the increase in GDP and how that

Mr. BRESETTE. Yes.

Mr. REICHERT. How does that happen?

Mr. BRESETTE. Sure.

Mr. REICHERT. It is obvious, but I would like to get it on record.

Mr. REICHERT. Sure. My written testimony, in footnote number 4, includes the full citation to that analysis.

The analysis was performed by the Regional Economic Models, Incorporated, and it was published last May. The premise of those savings, REMI produced sort of three scenarios, 179D sort of, as it currently standards, and then 179D with certain modifications, including some of those that are part of H.R. 3507.

The increase in GDP and the increase in jobs, I think, is tied to the increased economic activity around retrofitting buildings. 179D is a very powerful incentive. And so to the extent that you are providing—that you are doing more of these commercial retrofits, you are building sort of to higher standards, which was just discussed with ASHRAE reference.

You are doing more energy efficiency, and more energy efficiency is more jobs because those are jobs that are generally local. They cannot be outsourced quite as much. And the energy efficiency sector is really quite diverse. My written testimony also includes district-by-district energy efficiency jobs for each of the Members of the Subcommittee today.

Mr. REICHERT. Great. Thank you for your answer. I yield back.

Chairman BUCHANAN. Mr. Larson, you are recognized.

Mr. LARSON. Thank you. Thank you, Mr. Chairman, and thank you for this hearing as well. I think this is a great opportunity to hear from so many impacted industries. But as Mr. Doggett was saying at the outset, I think it is the cart before the horse, so to speak.

We have already passed the bill, unfortunately. And I think any time we do things in haste without public hearings and without the kind of testimony that is required. And whether it is the Affordable Care Act, which I would argue we had a great deal of testimony on, or whether it is our most recent tax bill, it leaves an awful lot of unanswered questions.

And so then we call a panel before us and ask you to decide whether or not credits should remain permanent or whether or not the tax relief that you received was bountiful enough so that you can get along on your own.

And so I would just go down the panel, and I will start with a former colleague, Mr. Lazio, to ask if he thinks that we need to consider extending more tax credits, or has this tax bill been sufficient in and of itself to deal with that?

Mr. LAZIO. Thank you, Congressman. Well, I guess the reason I am here is to say yes, there are some needs to extend these temporary provisions and to provide, if possible, some permanency or some visibility. You will get the best behavioral changes if you have

the longer horizon, which I think was one of the guiding philosophies of the tax bill signed into law.

In this case, these provisions would not

Mr. LARSON. Well, especially with energy, the longer horizon view and the inconsistency with how we award or punish people, I think, needs to be always reviewed with regard to the long horizon.

Mr. Chamberlain, what would you add to that?

Mr. CHAMBERLAIN. We started this effort back in 2006. We are looking at energy independence. We are also looking at good business. I think it is—if you make it——

Mr. LARSON. Are we any closer to energy independence?

Mr. CHAMBERLAIN. No. But the energy efficiency goals—we talk about ASHRAE 90.1 and the rest. It is important for us to keep pushing energy efficiency as part of this space.

Mr. LARSON. Why if their permanency important?

Mr. CHAMBERLAIN. Businesses need to plan on certainty. They are going to go three to five years and longer. This allows us to bridge the gap between short-term investments around energy efficiency and then the owner's goals, which can be longer term.

Mr. LARSON. So as Mr. Doggett pointed out earlier, do you feel left out or left over?

Mr. CHAMBERLAIN. We feel left out. We would like to see this made permanent, and we would like to see it improved a little bit so that people can really leverage it up and take advantage.

Mr. LARSON. Well, so would we. And I see my time is expired. But Mr. Bresette?

Mr. BRESETTE. Sure. I will add two points. One, the Federal Government already implements a number of federal energy efficiency policies, including codes and standards. And it is helpful to have incentives in the Tax Code that are complimentary to those, encouraging more efficient products and equipment to be installed, encouraging more efficient buildings to be built.

The other thing that I will add is energy efficiency generally supports affordably, resilience, and reliability across the energy sector. And I think those are important attributes as well.

Mr. LARSON. Thank you. Thank you, Mr. Chairman.

Chairman BUCHANAN. Mr. Rice, you are recognized.

Mr. RICE. Mr. Lazio, the particular improvements that you are talking about under 179D, it deals with heating and air conditioning units, water heaters, that type of thing, right? And lighting, that type of thing?

Mr. LAZIO. Correct, Congressman.

Mr. RICE. And it encourages what? Less energy use?

Mr. LAZIO. Less energy use. It is the building envelope, so it could be the coating on the windows. It could be a different technology affecting, as you said, heating, air conditioning, the HVAC units. So it could be the skin, the air conditioning, or it could be the lighting. It could be more efficient lighting.

And any of those—and a designer who is involved in providing specifications for those particular improvements. And it could be a new building or a retrofit. As my colleagues were saying, a lot of the work involves retrofits that whatever they do has to meet or exceed ASHRAE standards, usually 50 percent more than the cur-

rent ASHRAE standard or the benchmark in order to get the full benefit of the $1.80 per square foot.

Mr. RICE. So—and this is not a credit? It is a deduction?

Mr. LAZIO. It is a deduction. Correct.

Mr. RICE. And might these same things be deductible under some other Section of the code?

Mr. LAZIO. Well, they could potentially be, with a longer horizon. But it is—the designer in this case, when we are talking about public buildings, yes, for commercial buildings the owner can do it.

In the case of Section 4 of 179D, which deals only with allowing designers who improve public buildings—of course, public buildings, there is no tax basis and there is no tax paid, so there is no value to the deduction of the credit. And so the law allows them to allocate that to the designer to incentivize them to improve their techniques in this space.

Mr. RICE. And have—Mr. Chamberlain? Is that what—I cannot read your nametag.

Mr. CHAMBERLAIN. Yes, Congressman.

Mr. RICE. Have you looked at the cost-benefit analysis of these? Ignoring the credit, these various high standard improvements, do they pay for themselves?

Mr. CHAMBERLAIN. They absolutely do over time. What we are trying to bridge is the short-term return that people are looking for with the actual long-term return on the investments in a lighting system or something else. This allows us to get that capital invested.

Mr. RICE. But with reduced energy cost——

Mr. CHAMBERLAIN. Yes.

Mr. RICE [continuing]. Ignoring the credit, they pay for themselves?

Mr. CHAMBERLAIN. Over time. What we are trying to do is bridge the gap between a short-term return on investment that gets an owner to invest in that property and a longer term horizon on the return on that investment.

Mr. RICE. So governments are generally going to build energy efficiency buildings anyway. Private +investors, if they get a return on it, they are going to invest in it anyway. Really, what we need to do with these preferences in the code is incentivize behavior that people would not already do.

Where I struggle here is are people not going to invest in these things anyway if they get a valid return, and are not many of these things deductible anyway under other areas of the code?

Mr. CHAMBERLAIN. Well, Congressman, the average private sector building in the U.S. is over 30 years old now, so there is a huge existing building stock out there that has another 34 years of useful life. And this deduction really goes to the ability to retrofit those buildings for really efficient and profitable futures.

Mr. RICE. Thank you, sir.

Chairman BUCHANAN. Ms. DelBene, you are recognized.

Ms. DELBENE. Thank you, Mr. Chair. And thanks to all of you for your testimony and for being here with us this morning.

As a former startup Chief Executive Officer and now as a Member of Congress who has the honor of representing a very vibrant community of innovators and entrepreneurs, I had high hopes

when we went into tax reform that we would be having serious conversations about getting our fiscal house in order and reforming the Tax Code so we could support economic growth that is built to last, a Tax Code where skilled workers and innovative ideas can thrive in a stable business climate where modern infrastructure and a world-class higher education system help students to succeed, and where cutting-edge research creates breakthroughs and successful businesses.

Accomplishing those things would have put our country on a path to long-term success and given every American that has been left behind the opportunity to make life better for themselves and for their families. But that is tough work that requires a sustained and bipartisan effort.

Unfortunately, that is not what happened at all at the end of last year. Instead, my friends on the other side of the aisle rushed a bill to President Trump's desk for signature without meaningful public debate or analysis.

And now here we are with open questions left about tax extenders as well as all the unclear, hastily drafted provisions in the final law that our constituents and U.S. businesses are now struggling to understand, in many cases coming to us asking for corrections where the rushed process resulted in mistakes.

We were promised jobs and growth, but we have seen layoffs across the country, including from some of the Republican tax giveaway's most touted beneficiaries, companies like Carrier or Kimberly-Clark, just to name a few. Congress should not pick winners and losers in the economy, and we should strive for a code that provides certainty to taxpayers, certainty that many of you have talked about today.

We should put an end to the cycle of retroactive extensions and jockeying over uncertain tax policies that make it impossible for hard-working families and small businesses to plan for the future.

Many of you have brought up this concept of certainty and stability and return on investment. I think these are very important. When we talk about certainty and return, what is the time frame? I know, Ms. Jacobson, you talked about this as well. What is the time frame from starting with new technologies to getting through to having a sustainable business that you see for your companies?

Ms. JACOBSON. Thank you very much for the question. I think one thing to understand is all of these industries are distinct businesses, and you know, and they have different business cycles. So some technologies can be implemented very quickly, in, say, a one or two or three year timeline. But there are others where it could take 10 years to go from the original origination of that project to construction and then actually fulfilling its ultimate objective.

So I think the challenge with this conversation is that we cannot look for an one-size-fits-all solution. I am speaking now from the energy and the sustainable transportation sectors. They all are distinct. But what we do know is the tax policy needs to be distributed in an equitable manner. We do not want Congress or other policymakers putting the thumb on the scale for any particular technology. So they need to be equitable.

And they need to be consistent with the project cycles. So the longest opportunity, permanent or certainly multi-year extensions, are very welcome.

Ms. DELBENE. Thank you very much. I yield back.

Chairman BUCHANAN. Mr. Meehan, you are recognized.

Mr. MEEHAN. Thank you, Mr. Chairman. And Representative Lazio, welcome back.

I am particularly focused on the issue of 179D, your emphasis on the decisions that are made economically. But I look at what is the impact of these kinds of credits. And can you give me your assessment of what a difference it makes, not in the shining, gleaming class A towers that are coming up that everybody likes to see, but the recognition that in many areas, urban areas particularly, we see an aging housing stock.

And the ability to get them back into a manner in which they can be utilized to keep the vibrancy of regions together is critical. And to the extent to which you can tell me that these kinds of incentives actually can make a difference in having that housing stock be retrofitted, and once again contribute in a very competitive—a business environment, which helps the sustenance of areas. And these are not exclusively big city areas. It can be small urban areas, like Scranton, Pennsylvania, as an example.

Also, would you speak to the question of things like school districts, who are struggling to find dollars, who may look at the necessity to say, if we are going to save taxpayer dollars, are we going to build a gleaming new high school, or are we going to go back and retrofit the one we have, and the extent to which those hundreds of thousands of dollars that could be saved will make not only an energy-efficient building but also the potential that those dollars can be reinvested in other kinds of things which are being shorted in education.

Those are examples of why I think this thing is in place. Am I missing anything on that, or is this what we are looking for?

Mr. LAZIO. Congressman, you are absolutely right, and you are making the right points. For example, recently we worked with a school district and a designer for an upgrade, a retrofit, that placed an geothermal energy plant in that school, saving it about $450,000 dollars a year. That is $450,000 a year that is less of a tax burden for the constituents. That is $450,000 more that potentially can be used to help with innovative teaching solutions in that school.

And you are also right about housing across America. There are five million Americans that live in assisted housing in one form or another. The 3400 public housing authorities throughout the country, those are all public agencies.

There is probably a $20 billion backlog in terms of capital expenses for the million two or so people that live in public housing, for example. This will allow for lower operating costs, more money freed up, and less pressure on the Federal Government, candidly, to come to the Federal Government to ask for more subsidy.

So the idea is to make our housing stock more efficient, more productive, better cash flows, less burden on the taxpayer, less burden on the Federal Government. And we are finding and I find as I criss-cross the country—we work in virtually every state in the country in helping small and mid-size architects and engineers and

contractors in this space—to be able to use their talents to provide for this efficiency, lowering operating costs, and lowering overall energy dependence, and saving taxpayers' dollars. And it is a win all the way around.

Mr. MEEHAN. Thank you, Mr. Chairman. I yield back.

Chairman BUCHANAN. Mr. Blumenauer, you are recognized.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I appreciate this discussion. I am a little frustrated that we had about one day to jam through the largest transfer of wealth in our Nation's history. I made the point repeatedly during that hearing that people did not know what they were doing and we were going to find all sorts of surprises.

And sadly, that has been the case. Tax-free farming, we are finding out, buried in the bill. But this is a serious conversation. It is the type of prioritization we should have been doing all along, as Mr. Lazio mentioned. I have been deeply involved with the provisions here of 179D. It makes sense. And in part, Mr. Rice's point about does this, in the long run, pay for itself, it is true.

But unfortunately, in terms of business ownership of these facilities, they typically turn over seven, eight, nine years, and there are requirements they have for a rate of return, which is good or bad, depending on your perspective. But lost in this is the fact that it does not pencil for their business model, and they are not going to make steps that would benefit society.

It would deal with greenhouse gases. It would help make us stronger economically. And it would help with the evolution of these techniques and products that make us more energy-efficient and that ultimately add to the productivity of this country.

We should have had a discussion like that before the Committee before we made some things permanent, at massive cost, and something like this, which I am convinced actually pays for itself over time if we look at the big picture. I hope that we are able to have that type of conversation going forward because clearly, we have got to go back and do lots of fixing of a fatally flawed piece of legislation. We will be dealing with that for the next Congress and beyond.

But this is an area that should not be lost. We ought to understand the realities of commercial businesses, of government business, and be able to weigh the costs and benefits not just to the owner but to society generally.

I appreciate your putting it before us. I appreciate the notion of having a continuous process of upgrading the standards, which I think makes a lot of sense. Working together, we can get more out of this process and be able to attach the appropriate priority as we go forward.

I am sorry we did not do that with this massive, multi-trillion-dollar bill and all its warts and running sores that we will be looking at. But this is one that ought not to be punished. I hope we can take the time to understand it, to be able to weave it into a broader context as we spend a significant amount of time over the next two Congresses trying to fix this flawed bill.

Thank you, Mr. Chairman, and I yield back.

Chairman BUCHANAN. Mr. Renacci, you are recognized.

Mr. RENACCI. Thank you, Mr. Chairman. And I am actually very appreciative of the panel being here and us discussing some of these credits and issues, even after we have passed the tax bill. I think it is important. I was a businessman. I am a CPA. Many times you make decisions and then you look and continue to evaluate it.

I wish we would have done that more on the Affordable Care Act, and evaluated many of the decisions made there and learned from panels like this. So I appreciate you being here. I am a strong opponent of the all above approach when it comes to energy policy. I also support exploring developing and producing domestic energy in an environmentally responsible manner.

But I do want to focus on one bunch of credits. Ms. Jacobson, I agree that our Tax Code is currently structured in a manner that puts otherwise competitive technology at a disadvantage in the marketplace. I will never believe a government should be picking winners and losers.

With technologies like fuel cells, small wind, and geothermal already having an extension through 2021, technologies like biogas, biomass, hydropower, and waste-to-energy are not currently competing on a level playing field. We need to do something to put these competing technologies on an even plane with each other.

I also understand that the credits at issue are configured differently and may need some reconciliation so these competing technologies are treated similarly as the credits are ultimately phased out. Can you kind of talk a little bit about that and my concerns, and maybe what we can do to address that?

Ms. JACOBSON. Thank you very much, Congressman. And I very much appreciate you understanding the broader dynamics and the differentiation in the treatment of different technologies and industries within the Tax Code and the energy sector.

I think I would start by speaking a little bit about Representative Stefanik's legislation, which aims at addressing what you just described. Again, it is H.R. 4137, the Renewable Electricity Tax Credit Equalization Act, and it aims to kind of bring more equity and address the technologies that right now basically are at a competitive disadvantage.

So we have seen what stable long-term policy in the energy sector can do. Just in the last year, at the end of 2017, we 18 gigawatts of renewable energy generation come online in this country, which is—now we are 18 percent total generation for the renewable energy sectors. That includes hydropower, of course.

So we are now almost on par with our national nuclear fleet. I mean, that is an astonishing accomplishment. And what drove the last several years of growth in renewable energy has largely been in the areas of wind and solar because of the enactment of the PATH Act at the end of 2015, which gave a long-term extension.

So those industries have been able to create jobs, attract investment, scale at a very significant rate, and it is because investors had a long runway consistent with their business cycles. And that is all we would like to see for all renewable technologies.

Mr. RENACCI. Sure. Well, the one thing in closing—and I know my time is up—I do like to see a simplification and phasing out of

all of these. But at the same time, they have to be able to compete as they do phase out. So thank you. I yield back.

Chairman BUCHANAN. Mr. Curbelo, you are recognized.

Mr. CURBELO. Thank you very much, Mr. Chairman. And I thank all of the witnesses for being here today.

Energy efficiency is the quickest, most affordable, and easiest way to extend energy supplies, reduce carbon emissions, while simultaneously improving the bottom line for businesses. When you waste less energy, you consume less of it. This helps the environment and operating margins. It is estimated that without the gains in energy efficiency made since 1973, today's U.S. economy would consume 60 percent more energy than we currently do.

Mr. Lazio, you know a little bit about politics. And I want to ask you to expand somewhat on the point made by my colleague, Mr. Blumenauer, on the multiplier effect, the big picture, and perhaps the ability of this provision and this concept to really bring Republicans and Democrats together because I do see major gains and advantages that both sides really support when it comes to this provision that promotes energy efficiency. I would like to give you the opportunity to take a wide lens here and give us your perspective.

Mr. LAZIO. Thank you, Congressman. Yes. I do believe this is one of those provisions where Republicans and Democrats can address their core values and find an area where they come together. We are lowering the costs for government. We are helping taxpayers. We are providing for energy efficiency.

For those who believe in the threat of carbon, one of the best ways of doing that is to reduce (sic) the energy efficiency in commercial buildings, which I mentioned before. Thirty-six percent of all electricity consumed in America flows through commercial buildings, twenty percent of all energy.

So on so many different fronts, this is a win for whether you are a Republican or a Democrat, whether you are a conservative or a liberal. The issues that are addressed through 179D, particularly this provision Section 4, which deals with public buildings, is a huge win.

It is helping people that are underserved. It is helping school districts. It is helping businesses grow America. The lower the operating costs for a particular business or for a school district or for a government building, the more money that you have to invest in a more productive, more competitive way. And that is what we all want.

We want a more competitive America. We want more and better jobs. We want better schools. We want our children to get better access to better cutting-edge technologies. We want our energy lower and our dollars greater. And that is exactly what 179D does.

Mr. CURBELO. Thank you, Mr. Lazio, and I agree with you. I think that this is a very narrow provision that has broad benefits for our country and for our society. So I thank, again, the chairman and the Committee for shining a light on this. I yield back.

Chairman BUCHANAN. Thank you. Let me just say a lot of us have a different background. I have been in business 30 years, so this whole concept of extenders makes no sense—I mean, because of the uncertainty that it creates.

So our goal here—the bill that we passed, I think, does a lot of good things, personally. But the other side, we are going to continue to work on it, improve it. That is why we have got this process going today.

I think we would like to get as many of these extenders as we can either permanent in law or get them out, frankly. I think that is on both sides of the aisle here. But I have got to ask the panel this question.

Corporate tax cuts for 43 percent. Pass throughs when you add it up are 25. You got full expensing, not permanent, but that is something for the next four or five years, very, very significant. Why do you need this extender based on the new tax law?

And I would like to have you take a few seconds each, or if someone wants to answer it, a couple of you. So the question I am trying to think, as a business guy for a long time, I think it has been more than generous. I mean, our goal was to try to grow the economy from 1, 1½ percent to, ideally, 3 percent and create more jobs.

But I have to ask all of you, why is it, when you get these kind of deductions, do you need more?

Mr. LAZIO. If I can, Mr. Chairman?

Chairman BUCHANAN. Go ahead.

Mr. LAZIO. Thank you. Well, in the case of 179D and that Sub-Section 4 that I am talking about, as positive as the outcomes were with respect to the tax bill that was recently signed by the President, and you have just outlined some of them, that did not help public entities, right? So public entities continue to have the issue of finding the way to lower their operating costs to become more energy-efficient.

The best way to do that is to help designers, who often cannot bill this out, so this is an unbillable cost

Chairman BUCHANAN. When you say a public entity, just so we are clear, are you talking about a C corporation?

Mr. LAZIO. No. I am talking about a government. So I am talking about a State——

Chairman BUCHANAN. Okay. I just wanted to make sure.

Mr. LAZIO [continuing]. State, local, or federal building. So those buildings that are energy-inefficient, the best way to get them more efficient and to improve the operating costs that ultimately helps the taxpayer and the Federal Government in terms of subsidiaries, as they outlined before, is really to provide these incentives for designers to focus their time on these bids.

Chairman BUCHANAN. So the companies are getting the benefits, right?

Mr. LAZIO. Pardon me?

Chairman BUCHANAN. The companies are getting the tax benefits, right?

Mr. LAZIO. The private designers are getting the benefits.

Chairman BUCHANAN. Okay. Are they making money?

Mr. LAZIO. Well, on government buildings, they are often making less. When they are competing for RFPs, many of them have lower margins than they would on some of the commercial buildings.

Chairman BUCHANAN. My point is if they are making money and they are successful—and sometimes you do not make money

right away if it is a startup or something; we all know that it takes a couple of years or whatever—but if they are profitable and they are making money, I do not know why they need the additional incentive.

And I would say that to anybody on the panel here, especially if you look at big public companies or others. If they have got such a big tax cut or if they are a pass-through or something, they are getting a lot of consideration on the new tax reform.

We have to pay the bills up here, too, and we are going to have a panel later to talk about deficit spending, which we have created $10 trillion in the last 10 years. So we have to take a hard look at all this stuff.

Would anyone else like to—Mr. Paschel.

Mr. PASCHEL. For us, we sit in that other category as a coalition. The tax bill that passed was——

Chairman BUCHANAN. Can you speak up a little bit, please?

Mr. PASCHEL. All right. We sit in a different place as members of our coalition. The tax bill that was passed was incredible for American businesses and industry, but as a group of American businesses that are still subscale in an emerging industry, nobody in our coalition is profitable yet as we continue to build sort of this next generation of two- and three wheeled——

Chairman BUCHANAN. You are kind of a new industry, right?

Mr. PASCHEL. Yes. So for us, a fantastic tax bill that was passed, but we are not seeing the benefits yet. And there is an opportunity to help us create the next great American industry.

Chairman BUCHANAN. Okay. Yes. Ms. Jacobson.

Ms. JACOBSON. Thank you. I mean, from what I was describing, really there are a number of industries that are at a competitive disadvantage, given the patchwork of energy-related tax measures in the code right now.

Chairman BUCHANAN. Okay. But folks that you work with, if they are making $10 million a year or something, I do not see——

Ms. JACOBSON. Well, they are inhibited in the marketplace.

Chairman BUCHANAN. I am not saying they are. But

Ms. JACOBSON. Because they cannot get their projects financed. I mean, as I described, they cannot get PPAs. They are not as competitive to banks. I mean, we can get you more information. But there are significant competitive disadvantages here so we have an inequitable system. They are not able to compete on a level playing field.

Chairman BUCHANAN. Okay. Mr. Bresette.

Mr. BRESETTE. Thank you, sir. Two of the tax credits I mentioned do not flow to businesses. They flow to homeowners, 25C and 45L. Those tax credits encourage the installation of high-efficiency equipment and other measures, and that helps lower homeowner utility bills, which I think is important and is one of the higher costs of home ownership over time.

These tax credits also provide certainty, but this time it is to the contractors, which are the local workforces that incorporate the availability of credits into their sales strategies, which is important. If the credits are available or not available on a year-to-year basis, it just makes it harder to sort of close the sale at the kitchen table, which is kind of the anecdote.

And then finally, I mentioned S. 1068, which is Senator Wyden's bill. That also proposes this performance-based approach, and what that does is it encourages a more holistic approach to energy efficiency because when you make heating and cooling as well as thermal envelopes improvements and structural improvements, you actually compound the benefits in savings.

Chairman BUCHANAN. Mr. Chamberlain.

Mr. CHAMBERLAIN. And Congressman, I would say even with increased capital, when you have a long-term payback, it is hard to get owners to focus their capital on energy efficiency projects. When you have the capital and we were able to bridge it like this, we are going to do good business. There is a long-term return to the owner, but there is also great return to the communities in terms of efficiency dealing with peak loads and all the rest.

Chairman BUCHANAN. Myself, I am going to be looking at, if you are getting substantial benefit, I do not know that you are. Startup industries might be a little different. But I have got to question—I am going to be questioning if someone is making a lot of money and taking advantage of the current code, the new Tax Code, I have got to ask that question.

The other question—we do not have enough time—I want you to think about, maybe send me a note or something: What are you willing to give up, if anything, to get the consideration that you are looking for? And so we do not have enough time to get into that, but I do want to just—something I want you to think about. And if you could let me know, if anything, what would your industry or yourself be willing to give up to get the consideration and make it permanent?

And so just in closing, thank you for your chance to come and visit today. We appreciate the opportunity, especially you, Congressman. So again, thank you, and we will move on to the next panel.

[Recess]

Chairman BUCHANAN. I would like to welcome our second panel as we turn to expired tax incentives for alternative fuel in vehicles.

First, we will hear from Drew West, founder and Chief Executive Officer of American Natural Gas, LLC. Secondly, we will hear from Dan Gage, president, NGVAmerica. Thirdly we will hear from Stuart Weidie, president and Chief Executive Officer of the Blossman Companies.

Fourthly we will hear from Michael Dungan, the director of sales and marketing for RES Polyflow. Fifthly we will hear from Robbie Diamond, president and Chief Executive Officer of Securing America's Futures. Finally, we will hear from Morry Markowitz, president of Fuel Cells and Hydrogen Energy Association.

Thanks again for being here today with us. The Committee has received your written statements and they will be made part of the formal hearing reported. Each of you will be recognized for three minutes for your oral remarks; we are trying to keep this moving along.

Mr. West, you are recognized for three minutes.

STATEMENT OF ANDREW WEST, FOUNDER AND CHIEF EXECUTIVE OFFICER, AMERICAN NATURAL GAS, LLC

Mr. WEST. Thank you. Every time we take a diesel truck and convert it to natural gas, we are taking the equivalent of removing 350 cars from our roads from an emissions perspective. That is tremendous impact.

I drove down here from Upstate New York, Saratoga Springs. I am the founder and Chief Executive Officer of American Natural Gas. We design, build, own, and operate CNG stations around the country; we currently have 40 stations in 13 states. I drove a compressed natural gas because I was inspired in 2011 when I first saw a Honda Civic with 80,000 miles. And I looked at the tailpipe, and not only was it clean to the touch, it was clean to the eye.

When we think about the issues plaguing our country, its healthcare, emissions are a big contributor of that, the particulates as well as the environment. Compressed natural gas vehicles are a technology that are here today, and we are very different than a lot of other tax credits. Our tax credits benefit our customer base. We pass those on in the forms of reduced fueling costs and direct benefits to those customers.

So I am here on behalf of those customers that are ready to make the commitment with parity, with hydrogen, electric, and other alternative fuels that have long-term credits in place. I have commitments from the best fleets around the country, small and large, that are willing to make that commitment.

We believe that this is also a sustainable industry. When we reach scale, this industry can operate with the five-year extension of an AFETC. We can operate without further subsidiaries. We have come a long way; if you look at the transition from diesel to compressed natural gas, or from gasoline to diesel, it was a multidecade process. We are in the—it took 20 years.

We are here today. We have made so much progress, given the support since 2006, But it was not until 2013 that we had a dedicated engine that met the need for the over-the-road class 8 vehicles. And that was a critical timing point for us.

So we are ripe today. We are at a tipping point. And we cannot forget our drivers. Let's not let them go back smelling like refiners. During Hurricane Harvey, our station was up and running.

We were fueling the first relief vehicles providing food and water for those in need. This technology relies on transportation of fuel like to your house so you do not impact the roadways with 120,000-pound gross vehicle weight destroying our roadways, which are much in need of improvement.

The other thing is this is safe, domestic, and here today. There are a lot of other things being proposed out there, but no one else in class 8 is hauling freight like we are today. It is here. There are challenges with electrification and other technologies. We do not have Elon Musk, and I think it is very clear that with parity, certainty—and our industry does not benefit from some of the tax reform, and I will get into that later. Thank you.

Chairman BUCHANAN. Thank you, Mr. West.

[The prepared statement of Mr. West follows:]

Written Testimony of

Drew West

Founder & CEO

American Natural Gas, LLC

Hearing On Post Tax Reform Evaluation of Recently Expired Tax Provisions

Before the

Subcommittee on Tax Policy

Ways and Means Committee

U.S. House of Representatives

March 14, 2018

Chairman Buchanan, Ranking Member Doggett and distinguished Members of the Subcommittee:

Thank you for inviting me to testify today about the Alternative Fuel Excise Tax Credit (AFETC). The AFETC is a credit of $0.50 per gasoline gallon equivalent (GGE) of certain transportation fuels, including natural gas. This tax provision impacts sectors that are vital to the U.S. economy and help support thousands of jobs across the country. An extension of the AFETC for five years would allow natural gas technology adopters and fleet customers to plan investment strategies, provide business certainty and advance critical adoption, lowering the costs of natural gas vehicles and achieving economies of scale. Still

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an emerging technology, this is not the time to divest in natural gas for transportation. What makes this technology so great is that it has proven through commercialization that it is viable and here to make a difference today. Since the late part of 2013 when Cummins Westport starting domestically manufacturing the 12L dedicated CNG engine for over the road class 8 trucks, CNG has proven to be the cleanest and most dependable alternative energy available today. This, coupled with renewable natural gas supplies, gives a CNG class 8 truck a 115% reduction in emissions over a diesel equivalent vehicle. As of this spring, all Cummins Westport 12L engines will be zero emissions!

One of the greatest benefits in supporting CNG is that we can make economic sense as an industry with economies of scale through a 5 year AFETC. Our customers throughout the country have made it clear that with a meaningful window of tax credit support, they would make moves to convert their entire fleets. With a level playing field we will reach economies of scale as an industry in five years.

As a second time entrepreneur, I fell in love with CNG when I saw my first CNG Honda Civic with approximately 80,000 miles and a perfectly clean tailpipe; even to the touch! I knew I wanted to be involved with something that could truly change the world. Given that air quality is a leading cause of so many diseases, I knew that this was the technology I was going to sink my teeth into.

American Natural Gas, LLC (ANG) headquartered in Saratoga Springs, New York is a premier retailer of compressed natural gas who designs, builds, owns, operates and maintains natural gas fueling stations for transportation throughout the country. An entrepreneur at heart, I founded ANG in 2011 because I saw the importance of natural gas as a viable alternative energy and the opportunity it has to make a serious difference on our economy and environment. Through dedication and pure hard work ANG has expanded operations from one station in upstate New York to 40 stations in 13 states across the country.

Renewal of the AFETC will change air quality immensely, given that a CNG class 8 truck fueling with RNG offers a 115% reduction in overall emissions! Environmental benefits associated just with natural gas vehicles alone, include the reduction of 200.6 million

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metric tons of greenhouse gas emissions, 82,300 fewer metric tons of NOx emissions, and $1.0 billion in avoided public health costs.* Natural gas is used most in heavy-duty applications. Furthermore, unlike many other alternative energies, we can reach scale with the 5 year implementation of the AFETC without technology risks and many of the unknown safety, manufacturing and geopolitical concerns that other emerging technologies pose.

Extending the AFETC promotes increased private-sector investment in infrastructure and equipment, which leads to more jobs and economic output. Specifically, extending the AFETC for a five-year period for natural gas will spur $9.9 billion in economic growth, $5.8 billion in additional private sector investment in infrastructure and equipment, and will create 62,000 new middle-class jobs over a 10-year period.*

As you are aware, natural gas is a clean, abundant, domestic fuel source. Utilizing natural gas as a transportation fuel provides numerous economic, national security, and environmental benefits.

Thank you again for the opportunity to provide testimony today. You have a tremendous opportunity to reduce our dependence on foreign oil, utilize an abundant domestic energy source, create good paying jobs, significantly reduce harmful greenhouse emissions and minimize the impact on our nations critical infrastructure.

I appreciate your past support of natural gas and ask that you extend the AFETC for five years.

Sincerely,

*https://static1.squarespace.com/static/54df8befe4b0419b74c936c2/t/5a46bdda8165f549188a52bf/1514585563095/NGVAmerica+Economic+Analysis-+Benefits+of+AFTC+5-Year+Extension.pdf

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Chairman BUCHANAN. Mr. Gage, you are recognized for three minutes.

STATEMENT OF DANIEL GAGE, PRESIDENT, NGVAMERICA

Mr. GAGE. Chairman Buchanan and Ranking Member Doggett, distinguished Members of the Committee, thank you very much for the opportunity today. I am Dan Gage, representing Natural Gas Vehicles for America. We are a 200 plus member organization dedicated to the development of growing a profitable and sustainable marketplace for vehicles powered by natural gas, but also using more natural gas in off- and on-road transportation.

Like Mr. West, we are in support of a five-year extension of the alternative fuel credit found in IRC 664.26, 664.27, and also the alternative fueling infrastructure credit found in IRC 30C.

Seventy-four percent of heavy duty trucks on America's roads today are not certified to the latest EPA emissions standard. Seventy-four percent. Let heavy duty vehicles like short and long-haul trucks, refuse trucks, school transit buses, they are the fastest-growing segment of U.S. transportation in terms of energy use and emissions.

They are major emitters of diesel particulate matter, greenhouse gases, and smog-forming pollutants like nitrogen oxide, or NO_X. Anyone who has driven behind an old diesel truck has experienced this up close and firsthand. And while HDVs total 7 percent of all vehicles on our roads, they account for 33 percent of America's smog precursor emissions from mobile sources and 20 percent of all transportation-related greenhouse gases.

Why this is important: According to the EPA, 125 million Americans reside in areas of exceedingly poor air quality. They call them non-attainment areas. And almost 40 percent of the U.S. population lives in communities that have dangerous smog-causing pollutants, and breathing in this particular pollution increases the risk of asthma, lung cancer, heart disease, premature death. Heavy duty trucks are the number one source of those urban emissions.

The simple truth is if we want cleaner air, we need cleaner trucks. And we need federal incentives like these credits to encourage the replacement of aging, dirty fleets with clean zero emission-equivalent natural gas power trains.

So we at NGVA believe that every child in America can and should awake in a neighborhood with clean air by 2025, and natural gas gets us there. Mr. West spoke a little bit about some of those benefits.

Natural gas vehicles are sustainable. The newest natural gas engines, with zero emissions-equivalent technology, produce 90 percent fewer NO_X emissions than the standard. The cleanest heavy duty truck engine in the world is powered by natural gas. And when it is powered with renewable natural gas, it has 115 percent fewer greenhouse gas emissions.

Natural gas vehicles are responsible. As a domestic fuel, its increased use grows the economy. Our engines, the Cummins engine, the medium and heavy duty, are made in places like Jamestown, New York, and Rock Mount, North Carolina. Natural gas vehicles are proven, road tested, and commercially ready right now.

So I ask for your consideration of a five-year extension for 2018 through 2022 that would offset the cost of these new cleaner-burning trucks and accelerate the investment payback for consumers and job creators. Extending this alternative credit would provide some partial parity with other emerging technologies that have additional credits.

Thank you very much.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. Gage follows:]

NGVAMERICA
Natural Gas Vehicles for America

STATEMENT OF DANIEL GAGE

ON BEHALF OF

NGVAMERICA

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TAX POLICY

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 14, 2018

Introduction

NGVAmerica respectfully submits the following statement in response to the House Ways and Means Committee's request for information on tax provisions effective through the end of 2017 that have now expired. This statement addresses the benefits and importance of the alternative fuel credit found in IRC 6426 and 6427, and the alternative fueling infrastructure credit found in IRC 30C.

NGVAmerica is a national trade association dedicated to creating a profitable, sustainable and growing market for compressed natural gas and liquefied natural gas powered vehicles. NGVAmerica represents more than 200 companies, including vehicle manufacturers; natural gas vehicle component manufacturers; natural gas distribution, transmission, and production companies; natural gas development organizations; non-profit advocacy organizations; state and local government agencies; and fleet operators.

NGVAmerica urges the Committee to support legislation to extend the now expired incentives for alternative fuels and alternative fueling infrastructure. Extending these incentives will support the creation of U.S. jobs, encourage domestic investments in alternative fuel vehicles and fueling infrastructure, expand markets for domestically produced alternative fuels, and provide significant economic and environmental benefits for communities across America.

Comments

Today's natural gas industry is stronger than ever, employing millions of Americans, providing increased revenues to state budgets, powering a larger share of the country's electric utility generation units and providing significant economic benefits to the millions of consumers that rely on natural gas for their energy needs. A report prepared for the American Gas Association estimates that businesses have saved more than $76 billion in energy costs since 2009 due to lower natural gas prices.

The U.S. is now the number one producer of natural gas in the world due to breakthroughs and enhancements in technology and an abundant resource base. U.S. producers are now producing and supplying unprecedented levels of natural gas for the U.S. and world market. Due to the vast natural gas resources that are now economically recoverable, the U.S. now can finally begin to think about displacing a significant share of petroleum imports with domestic fuels and cleaner-burning natural gas. Experts believe that the abundant supply of natural gas will last for many decades. According to the American Gas Association, the U.S. estimated future supply of natural gas (reserves plus resources) stood at 3,141 Tcf at year end 2016 — enough natural gas to meet America's diverse energy needs for more than 100 years. The estimated future supply has more than doubled for the period 1990–

2016.[1] Additionally, increasing supplies of Renewable Natural Gas (RNG) are also now available. RNG is biomethane produced from existing waste streams and a variety of renewable and sustainable biomass sources, including animal waste, landfills, crop residuals and food waste. The combination of new near-zero emission natural gas engine technology and RNG provides the single best opportunity for the U.S. to achieve immediate and substantial nitrogen oxide and greenhouse gas emission reductions in the on-road heavy-duty transportation sectors. RNG production for transportation fuel grew by 900% from 2013 to 2017 and is on pace to continue rapid growth into the future.

Domestic oil production also has increased significantly in recent years. However, the U.S. continues to import close to 8 million barrels of oil per day and *annually* sends hundreds of billions of dollars overseas for this imported oil.[2] That is money that would be better spent here in the U.S. on domestic alternative fuels, helping to improve our domestic economy, helping to transition to a cleaner economy, and providing new job opportunities.

Displacing petroleum with domestic natural gas would provide huge economic benefits to the U.S. economy. It creates and sustains jobs in the domestic natural gas industry and related industries (e.g., processing, handling, transmission and distribution of natural gas). A 2017 study released by the American Petroleum Institute (API) estimates that the natural gas industry currently supports 4.1 million America jobs with a valued added benefit of $550 billion to the U.S. economy. Expanding the use of natural gas in transportation will *add* to the number employed and to the economic benefit provided.

Displacing petroleum imports with natural gas for transportation not only keeps dollars here in this economy but it lowers the transportation costs for U.S. businesses, making them more competitive, and allowing them to expand their businesses. Fleets converting to natural gas will be able to lock-in lower costs for years to come because the price outlook for natural gas is stable. EIA's 2018 *Annual Energy Outlook* projects that natural gas will continue to be priced competitively with diesel and gasoline for many years. EIA projects a discount of 80 – 85 cents per gallon for natural gas compared to diesel fuel for the 2018 – 2019 timeframe and at an even greater discount in future years as petroleum prices return to higher levels.[3]

There are about 175,000 natural gas vehicles on the road in the United States, compared to about 22 million worldwide. Despite lagging other countries, the U.S. has in place the

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[1] American Gas Association Playbook, https://www.aga.org/contentassets/6ff34106cf9e4fc08fa22a385e187b93/aga_3610-2018-aga-playbook_clickable.pdf

[2] U.S. Energy Information Administration, 2018 *Annual Energy Outlook* (Reference Case) Liquid Fuels Supply and Disposition (2016 $109.7 billion, 2017 $123.5 billion, 2018 forecast $121.4 billion, and growing to more than $200 billion per year after 2020). Over time, these payments represent trillion of dollars of investment that could be taking place in the U.S.

[3] EIA, *Annual Energy Outlook 2018*, Table 3 Reference Case (prices adjusted from MMBtu to Diesel Gallon Equivalent Units for comparisons).

building blocks for a successful natural gas transportation industry. In the U.S., virtually every heavy-duty truck manufacturer and most transit bus manufacturers offer a selection of natural gas vehicles. Many prominent light duty manufacturers – FCA, Ford, GM - offer factory built products or have arrangements with suppliers to make natural gas vehicles available to their customers. Unfortunately, the United States fails to incentivize manufacturing of these products, unlike countries around the world, where more natural gas vehicle options are available. US manufacturers need clearer signals, better incentives, and stability for markets within which they make decisions about vehicle availability. Fuel providers have also been adding to the number of fueling outlets that offer vehicular natural gas. Today, there are nearly 2,000 natural gas fueling stations in the U.S. This total is up significantly from just a few years ago and now provides coast to coast and border to border refueling options. The capital required to build out these stations represents $250 - $500 million a year in new investment. With fuel credits spurring additional vehicle adoption, private investment in these stations will increase. Natural gas consumption at about 550 million gasoline gallon equivalents represents just a small portion of the overall transportation market, which for on-road use consumes about 175 billion gasoline gallon equivalents.

Natural gas vehicles have the greatest potential of available alternative fuel technologies to displace oil consumption and achieve mass market adoption across all classes of on-road motor vehicles.[4] This statement reflects the fact that natural gas is well suited to use in a broad variety of vehicle platforms including pickup trucks, sport utility vehicles, refuse trucks, smaller sized delivery vehicles, and large trucks and buses. Natural gas also is an excellent fuel for displacing petroleum in many off-road applications such as marine, mining and rail.

The near-term prospects for natural gas are best in high-fuel use applications where the pay-back or return on investment is most economical. High-fuel use applications can include pickup trucks and vans operated by commercial businesses as well as larger trucks operated by shippers and carriers. Natural gas holds the potential to vastly change the freight transport and heavy-duty transportation market. Truckers are not just interested in today's low natural gas prices but also are interested in the prospect of price stability and the long-term outlook for locking in lower fuel prices with natural gas. Truckers also appreciate the quieter operation of natural gas trucks, no more diesel fumes saturating their clothes, and reduced NOx emissions. Noise reduction is a benefit of increasing importance as more medium and heavy-duty vehicles are deployed in residential areas for delivery and waste hauling. Quieter and cleaner burning natural gas trucks ensure neighborhoods see reduced noise and NOx levels as well. For many applications, however, the incremental cost of natural gas vehicles is currently too high, even with the lower fuel price, because these applications simply do not use enough fuel to provide a return on

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[4] See National Petroleum Council, "Future of Transportation Fuels" (August 2012)" (http://www.npc.org/FTF-report-080112/Natural_Gas_Analysis-080112.pdf); National Academy of Sciences, "Transitions to Alternative Vehicles and Fuels (March 2013) (http://www.nap.edu/catalog.php?record_id=18264).

investment in the necessary time period (often 2 -3 years for most fleets). Providing incentives for natural gas will make it more economically attractive to a larger percentage businesses and vehicle operators.

As the natural gas industry grows and larger numbers of vehicles are produced, the first-cost or incremental cost of natural gas vehicles will come down because of economies of scale and competition. That process would be greatly accelerated by extending tax incentives and removing tax barriers that currently impede the growth of natural gas vehicle use.

Building out a national fueling infrastructure to support a revolutionary domestic fuel like natural gas is a daunting task. It requires enormous capital and confidence that the demand for the new fuel will materialize. Tax policy can have a positive impact on this effort. Continuing to provide tax incentives will accelerate the investments in natural gas vehicles and increase demand for vehicles. This, in turn, will encourage more businesses to develop fueling stations that provide natural gas, and it will reward manufacturers who are investing in producing natural gas vehicles and natural gas fueling equipment. It also is important that governmental policies ensure access to low-cost natural gas supplies, and foster the right type of environment for investment. For this to be truly sustainable effort, more fleets and more businesses need to be encouraged to invest in this market.

In September 2017, NGVAmerica released a white paper[5] detailing the benefits provided by extending for five years the $0.50 credit for natural gas used in transportation. That white paper found that extending the credit would result in the deployment of 58,000 additional NGVs, providing $9.9 billion of economic growth, $5.8 billion in private sector investment, and ~62,000 new jobs. This paper also found that by stimulating more natural gas vehicle usage, extending the incentive would result in 200 million metric tons of reduced greenhouse gas emission and 82,327 metric tons of avoided NOx emissions and $1.0 billion avoided public health costs. The environmental benefits provided by natural gas vehicles are greatly aided by the fact that today's natural gas engines are the cleanest internal combustion engines available anywhere, and produce emissions results that are 90 percent below federal emission requirements. Also, the increased use of renewable natural gas, which in most cases in carbon neutral or carbon negative, greatly adds to the greenhouse gas reduction benefits of NGVs.

According to the U.S. Environmental Protection Agency, 125 million Americans – almost 40 percent of our population – reside in areas of exceedingly poor air quality, called nonattainment areas.

The EPA has identified six pollutants as "criteria" air pollutants because it regulates them by developing human health-based and/or environmentally-based criteria (science-based guidelines) for setting permissible levels. These six pollutants are carbon monoxide, lead,

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[5] https://static1.squarespace.com/static/54df8befe4b0419b74c936c2/t/5a46bdda8165f549188a52bf/1514585563095/NGVAmerica+Economic+Analysis-+Benefits+of+AFTC+5-Year+Extension.pdf

nitrogen oxides, ground-level ozone, particle pollution (often referred to as particulate matter), and sulfur oxides.

Heavy-duty vehicles (HDVs) are the fastest growing segment of U.S. transportation in terms of energy use and emissions, and these vehicles are major emitters of nitrogen oxide (NOx), diesel particulate matter (DPM), and greenhouse gases (GHGs). While HDVs total 7 percent of all vehicles on our roads, they account for 33 percent of America's smog-precursor emissions (NOx) from mobile sources and 20 percent of all transportation-related GHGs. They also consume 25 percent of the fuel used in on-road vehicles. Electric vehicles pose similar environmental challenges unless they are powered by large amounts of hydroelectric or wind energy, which is rare.

Breathing in such particle pollution increases the risk of asthma, lung cancer, heart disease, and premature death, costing tens of billions of dollars each year. Every day in the United States just due to asthma, 30,000 people have an asthma attack, 5,000 visit the emergency room, 1,000 are admitted to the hospital, and 11 people die.[6]

Converting vehicle fleets to natural gas power would greatly reduce these emissions harmful to public health. Cleaner trucks powered by natural gas will result in cleaner air since the newest natural gas engines with Near-Zero – or "Zero Emissions Equivalent" – technology produce 90 percent fewer NOx emissions than the federal standard and 90 percent fewer emissions than the cleanest commercially-available diesel product.

Given the significant energy security, environmental, and economic benefits associated with accelerated growth in the use of natural gas vehicles, NGVAmerica believes Congress should extend the incentives that encourage natural gas vehicles. Although not part of the discussion for this hearing, we also believe that Congress should remove tax policies that serve as direct or indirect barriers to increased use of natural gas. Extending the fuel credit and infrastructure incentive is also important to ensuring that tax policy continues to support a wide variety of alternative fuel technologies and does not just favor one technology.

The fuel credit has broad support, as is evidenced by the multi-party letter[7] which received support from over 300 organizations nationwide. The signatories include users, retailers, customers, fleet managers, utilities, and producers of clean alternative fuels, including natural gas and propane. These businesses, both large and small, seek regulatory, legislative, and tax certainty around the alternative fuels market. Inconsistencies in the tax code, as well as retroactive tax credits, discourage, rather than encourage increased investment in newer, cleaner transportation technologies.

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[6] https://www.cdc.gov/asthma/pdfs/breathing_easier_brochure.pdf

[7] http://www.ngvamerica.org/media-center/propane-natural-gas-vehicle-users-urge-congress-extend-alternative-fuel-tax-credits/

Specific Proposals for Tax Policy Changes

Excise Tax Credit to the Seller of CNG or LNG (IRC 6426, 6427)
Sections 6426 and 6427 of the tax code provide a 50-cent incentive for compressed natural gas (CNG) and liquefied natural gas (LNG) sold for use as a motor vehicle fuel. The incentive also applies to other types of alternative fuels (e.g., propane, hydrogen). This incentive serves as a tax credit for taxable entities and a payment in the case of tax exempt entities, such as state agencies, transit authorities, school districts and public universities. In many cases, this incentive directly benefits public fleets such as school districts, transit agencies, and other state and local government fleets that own fueling infrastructure. The credit was extended retroactively through 2017 by Congress but now has expired. In recent years, Congress has extended this provision several times after allowing it to lapse.

This incentive is particularly effective in helping to offset the cost of owning and operating natural gas vehicles and accelerating the return on investment. And it is the only incentive that directly benefits tax-exempt entities because the other federal incentives for alternative fuel vehicles and fueling infrastructure are income tax credits that can only be claimed by taxable entities. The beneficial aspects of this incentive have been undermined by the fact that the incentive has lapsed several times and then retroactively reinstated often only for one or two years. Predictability in the tax code is crucial for those considering investment in natural gas powered vehicles and fleets.

Proposal
Congress should extend this incentive for five years, providing the same tax treatment as other incentives for alternative fuel vehicles. This extended period is important because it provides vehicle buyers and manufacturers greater certainty, which facilitates longer term planning.

Income Tax Credit for Installing Alternative Fuel Infrastructure (IRC 30C)
Section 30C of the tax code provides a tax credit equal to 30 percent of the cost of natural gas refueling equipment, up to $30,000 in the case of large stations and $1,000 for home refueling appliances. This incentive also applies in the case of infrastructure used to dispense other alternative fuels (e.g., electricity, hydrogen, propane). The credit recently was retroactively reinstated for 2017 but expires after that.

A new natural gas fueling station can cost from $400,000 to $4 million depending on the type of station and the number of dispensers, storage capacity, and on-site compressors. Thus, the ability to claim the $30,000 tax credit is useful for smaller, private businesses who are installing their own fueling stations but likely is not a significant factor in the decision making of businesses installing large natural gas fueling stations. The $1,000 home fueling appliance credit has likely not been used in the past several years as there are no low-cost home refueling appliances available. There continues to be interest in developing a low-cost home refueling appliance for natural gas vehicles, so extending the availability of the $1,000 credit for a 5-year period could stimulate the market for such products.

Proposal
To continue to accelerate the growth of NGVs, NGVAmerica supports an extension of these infrastructure facility incentives for a period of five years.

Conclusion
NGVAmerica appreciates the opportunity to provide the Subcommittee with comments on the expired tax credits for natural gas and other alternative fuels. The U.S. has an unprecedented opportunity to significantly reduce its reliance on foreign petroleum and to improve its economic competitiveness by encouraging greater use of domestic natural gas. Greater use of domestic natural gas stimulates job growth and provides state and local revenues, and federal royalties. One of the best ways to use more cleaner-burning, domestic natural gas here in the U.S. is to encourage its use as a transportation fuel. This directly offsets petroleum use, provides lower emissions, and stimulates investment and job growth here in the U.S. Now is the time to act to encourage the increased use of natural gas vehicles. Using natural gas as a transportation fuel also will help fleets and businesses lower their operating costs, thus improving overall economic prosperity. Tax policies can aid in accelerating the successful market penetration of natural gas vehicles and thereby accelerate the achievement of the benefits provided by natural gas vehicles. In order to be effective, policies that provide incentives need to provide certainty for businesses and industries and remain in place for a specific number of years, preferably five years or more. Also, a broader discussion of tax policy should identify and remove existing barriers that discourage capital investments in new advanced technologies.

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Chairman BUCHANAN. Mr. Weidie, you are recognized for three minutes.

STATEMENT OF STUART WEIDIE, PRESIDENT AND CHIEF EXECUTIVE OFFICER, THE BLOSSMAN COMPANIES

Mr. WEIDIE. Thank you, Mr. Chairman. I am here on behalf of the National Propane Gas Association, and I would like to briefly discuss the following three tax provisions that have greatly helped propane, a domestically produced alternative fuel, gain acceptance as a transportation fuel: the alternative fuel tax credit, the alternative fuel infrastructure credit, as well as the alternative fuel mixture credit.

Globally, there are more than 27 million vehicles running on propane auto gas. And unfortunately, in the United States there are only approximately 220,000 vehicles, despite the clear fuel cost savings and environmental benefits of propane auto gas.

Since the early 1970s, our Nation's dependence on foreign oil has been an ongoing dilemma. But in recent years we have come a long way towards more energy independence, but I think the more appropriate term is energy security, due to the shale gas and oil methods that have greatly increased supply.

The United States is now the world's largest producer of propane, a little-known fuel. It is very much a process of natural gas extraction. In fact, we are expected to grow our supply in the United States 40 percent over the next decade. So we have got an abundant supply.

In 2017 alone, more than 14 billion gallons of propane was exported out of our country to nations in Asia, South America, and Europe. That is enough fuel to convert more than 5.5 million government and private fleet vehicles. Since 2005, Congress has assertively acted to support our Nation's desire to become more energy secure and improve emissions, and the legislation that was passed then encouraged the use of domestic fuel such as propane and natural gas, or CNG.

At that time, hundreds of companies went into business and initiated businesses, and just in time, they created technology for the vehicles, refueling infrastructure. But in 2010, these incentives started to expire. And unfortunately, they have only been renewed one year at a time, sometimes only retroactively, which does little to stimulate future growth or market adoption.

According to the Gas Technology Institute, propane reduces emissions 35 percent for greenhouse gases and 16 to 18 percent for nitrogen oxides and CO2 and others. So additionally, I would like to add that NPGA's support for an extension of the refueling credits, the refueling infrastructure credits, and the refueling mixture credits is very important in order for us to develop this market.

In summary, propane and natural gas vehicles lower emissions, reduce maintenance costs; for school districts around our country who are deploying it dramatically, it has human health benefit due to the reduction in particulate matter and soot from diesel school buses.

So I urge this Committee to support our energy security and cleaner air by providing future incentives.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. Weide follows:]

STATEMENT OF MR. STUART E. WEIDIE
Ways and Means Subcommittee on Tax Policy
Hearing entitled
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"
Wednesday, March 14, 2018

On behalf of Blossman Gas and the National Propane Gas Association (NPGA), I commend the Ways and Means Tax Policy Subcommittee for holding this hearing, *Post Tax Reform Evaluation of Recently Expired Tax Provisions*. Additionally, Mr. Chairman, and Mr. Ranking Member, thank you for providing me the opportunity to testify today. I look forward to briefly discussing the following three expired tax provisions that have greatly helped propane gain acceptance as an alternative vehicle transportation fuel option: the alternative fuel tax credit, the alternative fuel infrastructure credit; and the alternative fuel mixture credit.

NPGA is the national voice for the odorized propane gas industry. NPGA's nearly 3,000 member companies—the majority of which are small, family-owned businesses—fuel homes, businesses, and vehicles in all 50 states and territories. Globally, there are more than 27 million vehicles running on propane, or AutoGas, as propane is known when used as a transportation fuel. Unfortunately, in the United States, there are only 220,000 vehicles running on propane.

The United States is the largest producer of propane in the world. Eighty percent of propane comes from natural gas production. Propane and other Natural Gas Liquids (NGLs) are butane, isobutene and propylene produced as part of natural gas processing. Production of propane is expected to rise more than 40% in the next 10 years so we have an abundant supply. In 2017, more than 14 billion gallons of LPG or propane was exported out of the United States to Asia, South America and Europe. This volume is enough to convert more than 5.5 million government and private fleet vehicles to run on propane Autogas in the United States. If these vehicles were running on propane, it would result in an 11.4 million ton reduction in CO2 emissions.

Since the early 1970s, our dependence on foreign oil has been an ongoing dilemma. Countries hostile to the United States are significant contributors to global oil supply and our desire to wean ourselves off these supplies has been a strategic objective. In addition, our desire to reduce environmentally damaging and harmful emissions created a bi-partisan consensus to encourage the use of alternative fuels. The Department of Energy's Clean Cities programs have been created around the country to foster the use of transportation fuels besides gasoline and diesel and are producing solid results connecting government and private fleets with alternative fuel providers. Fuel cost savings coupled with the environmental benefits have been the primary motivators for change or moving away from the status quo.

Since 2005, our country has come a long way toward energy independence, and we now export more propane than we consume domestically. Nevertheless, we can be more "Energy Secure" if we approach the transportation sector with an "all of the above approach" which includes using the vast quantities of propane and natural gas produced nowadays in the United States.

Congress reacted assertively to these concerns and began a long history of bipartisan support for encouraging the use of alternative fuels such as propane. Most importantly, the Energy Policy Act of 2005 encouraged the use of alternative fuels such as propane AutoGas and natural gas. Important incentives were part of the legislation, including fuel tax credits for the use of alternative fuels. These incentives helped stimulate a new marketplace for alternatives to gasoline and diesel and therefore, fulfilling one of the Act's primary intended purposes. Hundreds of new companies emerged in the United States to innovate and develop the technology for vehicles to run on propane, build refueling infrastructure and provide transportation fuel alternatives to gasoline and diesel-powered vehicles.

Propane vehicles, particularly when deployed in commercial fleets that drive more miles and therefore consume more fuel, emit up to 35% fewer greenhouse gas emissions, reduce carbon dioxide emissions by 16-18% and significantly reduce emissions of Nitrogen Oxides (NOx) compared to gasoline vehicles. They also reduce emissions versus diesel significantly. Propane school buses are being deployed in school districts around the country. Studies have demonstrated that the human health benefits for children riding propane buses versus diesel are substantial due to reductions in particulate matter and soot.

We are seeing some impressive preliminary results from West Virginia University in-use testing. The test compared a model year 2014 diesel bus and MY2015 propane bus on a route around Morgantown, WV that consists of both city and highway driving. Such a stop-and-go route simulates low speed operation and passenger pickup. The test shows that in use NOx emissions average less than 0.05 g/mile from propane bus and more than 1 g/mile from diesel bus during Morgantown route after a cold start. In addition, in use NOx emissions average less than 0.1 g/mile from propane bus and more than 5 g/mile from diesel bus during stop and go route. Finally, in-use CO2 emissions average approximately 2800 g/mile from propane bus and approximately 3300 g/mile from diesel bus during a stop and go route.

Today, the alternative fuels market is poised for growth. However, the fuel tax incentives created in 2005 have only been renewed generally on a retroactive basis and even then, intermittently. In other words, it took 4 or 5 years for companies to get started, create the technology, secure Environmental Protection Agency and California Air Resources Board certifications to legally install alternative fuel technology on vehicles and initiate the investments in refueling infrastructure necessary to create the market. These sizable human and financial investments have been forced over the years to operate in a business environment where decisions cannot be made with any certainty due to the expiration of the credits every December 31.

In 2010, my company, Blossman Gas, created a subsidiary called Alliance Autogas. Alliance Autogas operates in 45 U.S. states and provides certified vehicle conversions, refueling infrastructure, reliable fuel supply and a service network to maintain fleet vehicles. The amount of financial and human capital to create this company has been extraordinary and while we are experiencing consistent growth each year, I believe we are only impacting the marketplace at a fraction of what will happen in future years. We believe the advantages of propane in helping our customers reach their energy and environmental goals are valid reasons on their own to utilize propane, but fuel tax incentives will certainly accelerate the adoption of Propane AutoGas.

The lack of certainty on fuel tax incentives has caused hesitation with many decision makers. Indeed, in contrast to the United States, Europe and several Asian countries are providing fuel incentives for the use of propane AutoGas, primarily for its environmental benefits. For example, Germany just extended its fuel incentives for propane use through 2022 as a reflection of its commitment. Regardless, they are acting to ensure that cleaner alternatives to traditional fuels are incentivized.

Another reason to advocate for these alternative fuel tax credits is that they support technologies that directly use American energy. In a propane-powered vehicle, the propane is directly consumed with virtually no loss of energy, in contrast to an electric vehicle, where significant losses in energy occur between production and use. Our electric grid only delivers approximately one-third of the energy produced by the power plant to the plug, which is an inefficient use of energy compared to the direct use of propane. Full Fuel Cycle Analysis is an excellent methodology used to calculate all the factors associated with energy delivery and efficiency, one that has been adopted by the Department of Energy for use within its energy conservation and emissions reductions activities. Even if the efficiency of electricity delivery could be improved, concerns about the supply chain of battery materials and the capacity of the electric grid system in the United States should give us pause when evaluating the benefits of electric vehicles.

Finally, I would like to add NPGA's support for an extension of the alternative fuel mixture excise tax credit. We believe this credit will increase year-round propane usage. When small amounts of taxable fuel are blended into propane under the terms of this credit, the mixture will qualify. Extension of this credit will allow the industry to further expand infrastructure investment for year-round demand such as use in school bus fleets. Propane use lowers emissions, reduces bus disruptions, and its low cost allows schools to retain teachers and invest in students. Finally, the provision encourages conversion of traditional heating fuels such as coal and fuel oil into clean propane in order to reduce emissions. The investments by the industry to install blending equipment and quality control processes are significant, and the credit allows recovery to further propane market development.

I urge this committee to continue incentivizing Propane AutoGas for the energy security and environmental benefits it provides. Doing so as far into the future as possible would allow

companies that have been established in this area to take advantage of the business platforms they have created and help our country utilize domestically produced fuels rather than shipping our natural resources to other Nations. The increased use of propane as a vehicle fuel is helping to create American jobs, make the United States more energy secure, and lead to the deployment of more environmentally-friendly vehicles. Unfortunately, uncertainty about the future of these credits has limited their effectiveness.

Again, on behalf of NPGA I want to thank you for your time and consideration. And I encourage each member of this panel to support a cleaner and more energy independent transportation marketplace by enacting into law long-term extensions of the Alternative Fuel Credit, the Alternative Fuel Vehicle Refueling Property Credit, and the Alternative Fuel Mixture Credit.

Thank you.

Chairman BUCHANAN. Mr. Dungan, you are recognized.

STATEMENT OF MICHAEL DUNGAN, DIRECTOR OF SALES AND MARKETING, RES POLYFLOW

Mr. DUNGAN. Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, my name is Michael Dungan and I am the director of sales and marketing at RES Polyflow, based in Chagrin Falls, Ohio. Today I am here to discuss Section 6426D and C and E of the Federal Tax Code, also known as the alternative fuel tax credit and alternative fuel mixture credit.

These 50 cent per gallon tax credits accrue to retail sellers and blenders of alternative fuels. My company manufactures systems that convert post-use non-recycled plastic into gasoline and diesel blend stocks, naphtha, and waxes.

We do this via pyrolysis, which is an oxygen-free process that does not involve burning. Together with three other pyrolysis companies, we form the Plastics to Fuel and Petrochemistry Alliance at the American Chemistry Council to promote greater understanding and advocate on behalf of these technologies. We are a fledgling industry that is creating alternative fuels while also providing a solution for non-recycled plastic destined for a landfill.

Parity and fairness in the Federal Tax Code with other renewable and alternative energy technologies is important so our industry is not at a competitive disadvantage. Providing parity for fuels derived from plastics via pyrolysis will not only deliver an alternative fuel, it will help reduce the volume of material that today's taxpayer pays to landfill.

Why? Because the U.S. EPA has calculated that Americans generate over 33 million tons of plastic in our waste stream every year. Plastics are wonderful material and help us to do more with less, but unfortunately, we currently recycle less than 10 percent, or about 3 million tons, and about 25 million tons of these plastics get buried and wasted. They go to a landfill or worse, and are at risk of being improperly managed.

Recycling even greater amounts of plastic has become more challenging after China recently banned imports of many types of plastic scrap. Plastics make a particularly valuable feed stock for alternative fuels because U.S.-manufactured plastics are primarily derived from natural gas, which has a very high energy content.

The Earth Engineering Center at Columbia University has conservatively calculated that if the United States converted all of its landfill-bound plastics to transportation fuel via pyrolysis, these plastics could produce enough fuel to power nine million cars for a year.

There are also economic benefits. The ACC has conservatively calculated that the economic impact of plastics-to-fuel facilities in the U.S. would generate 39,000 jobs and produce $9 billion in economic impact per year. With over 300 million tons of plastics produced globally each year, there is enormous potential to create additional jobs here in the U.S. by engineering, manufacturing, and importing these pyrolysis systems.

In closing, I know there are many different opinions about the efficacy of these energy tax extenders. However, pyrolysis tech-

nologies are exactly the type of fledgling industry that smart, targeted federal tax policy can help jumpstart.

Thank you for the time.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. Dungan follows:]

RES Polyflow Statement for the Record
Submitted to the U.S. House of Representatives
Committee on Ways and Means, Subcommittee on Tax Policy
For Hearing on Post Tax Reform Evaluation of
Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett and members of the subcommittee,

My name is Michael Dungan, and I am the Director of Sales and Marketing at RES Polyflow based in Chagrin Falls, Ohio.[1] Today I am here to discuss Sections 6426(d) and (e) of the federal tax code, also known as the Alternative Fuel Credit and Alternative Fuel Mixture Credit. These fifty cents per gallon tax credits accrue to retail sellers and blenders of alternative fuels. My company manufacturers systems that convert post-use, non-recycled plastics into gasoline and diesel blendstocks, naphtha and waxes. We do this via pyrolysis – an oxygen free process that does not involve burning. Together with three other pyrolysis companies we formed the Plastics-to-Fuel & Petrochemistry Alliance[2] at the American Chemistry Council (ACC) to promote greater understanding and advocate on behalf of these technologies. We are a fledgling industry that is creating alternative fuels while also providing a solution for non-recycled plastic destined for landfill. Parity and fairness in the federal tax code with other renewable and alternative energy technologies is important so our industry is not at a competitive disadvantage.

Providing parity for fuels derived from plastics via pyrolysis will not only deliver an alternative fuel, it will help reduce the volume of material that today taxpayers pay to landfill. Why? Because the U.S. EPA has calculated that Americans generate over 33 million tons of plastics in our waste stream every year.[3] Plastics are a wonderful material that help us do more with less, but unfortunately we currently recycle less than 10%, or about 3 million tons, and about 25 million tons of those plastics get buried – and therefore wasted - in landfills or worse are at risk of being improperly managed and escaping into the environment. Recycling even greater amounts of plastics has become more challenging after China recently banned imports of many types of plastic scrap.[4] Plastics make a particularly valuable feedstock for alternative fuels, because U.S.

[1] www.respolyflow.com
[2] https://plastics.americanchemistry.com/Plastics-to-Fuel-Technologies-Alliance.html
[3] Advancing Sustainable Materials Management: 2014 Fact Sheet. U.S. Environmental Protection Agency. https://www.epa.gov/sites/production/files/2016-11/documents/2014_smmfactsheet_508.pdf
[4] *Plastics Pile Up as China Refuses to Take the West's Recycling*. New York Times, January 11, 2018. https://www.nytimes.com/2018/01/11/world/china-recyclables-ban.html

manufactured plastics are primarily derived from natural gas which has a very high energy content.[5]

The Earth Engineering Center at Columbia University has conservatively calculated that if the United States converted all of its landfill bound plastics to transportation fuel via pyrolysis, those plastics could produce enough fuel to power 9 million cars for a year.[6] And better yet – beyond keeping these plastics out of landfills, there are additional environmental benefits. Last year, the U.S. Department of Energy's Argonne National Laboratory found that using ultra-low sulfur diesel derived from post-use, non-recycled plastics reduced greenhouse gas emissions by up to 14%, fresh water consumption up to 58% and fossil energy use up to a whopping 96%, compared to ultra-low sulfur diesel produced from traditional crude oil.[7]

There are also economic benefits. The ACC has conservatively calculated that the economic impact of plastics-to-fuel facilities in the U.S. would generate 39,000 jobs and produce $9 billion in economic output each year.[8] With over 300 million tons of plastics produced globally each year there is enormous potential to create additional jobs here in the U.S. by engineering, manufacturing and exporting these pyrolysis systems.

Chairman Buchanan, your home state of Florida understands this potential. Last year legislation signed into law by Governor Rick Scott created an appropriate regulatory climate for these technologies by recognizing that these technologies are high tech manufacturing facilities and not waste treatment facilities.[9]

In closing, I know there are many different opinions about the efficacy of these energy tax extenders. However, pyrolysis technologies are exactly the type of fledgling industry that smart, targeted federal tax policy can help jumpstart. If these energy tax credits for alternative and renewable technologies do get extended, it is an issue of fundamental fairness that technologies which convert post-use plastics into lower carbon fuels be included in a broadened definition of Alternative Fuel in 6426(d). Thank you.

Please feel free to contact me at mike.dungan@respolyflow.com or (330) 607-8977 or contact Craig Cookson, Senior Director, Recycling & Energy Recovery at (202) 249-6622 or craig_cookson@americanchemistry.com.

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[5] *2014 Energy and Economic Value of Municipal Solid Waste (MSW) Including Non-Recycled Plastics (NRP) Currently Landfilled in the Fifty States*. Columbia University, Earth Engineering Center. Nickolas J. Themelis and Charles Mussche. https://www.americanchemistry.com/Policy/Energy/Energy-Recovery/2014-Update-of-Potential-for-Energy-Recovery-from-Municipal-Solid-Waste-and-Non-Recycled-Plastics.pdf

[6] *Ibid*

[7] *Life cycle analysis of fuels from post-use non-recycled plastics*. Fuel. Volume 203, 1 September 2017. 11-22. https://www.sciencedirect.com/science/article/pii/S0016236117304775

[8] *Economic Impact of Plastics-to-Oil Facilities in the U.S*. American Chemistry Council, October 2014. https://plastics.americanchemistry.com/Stand-Alone-Content/Economic-Impact-of-Plastics-to-Oil-Facilities.pdf

[9] *Florida House and Senate pass plastics-to-fuel bill*. Waste Today. May 5, 2017. http://www.wastetodaymagazine.com/article/florida-house-and-senate-pass-plastics-to-fuel-bill/

Chairman BUCHANAN. Mr. Diamond, you are recognized.

STATEMENT OF ROBBIE DIAMOND, PRESIDENT AND CHIEF EXECUTIVE OFFICER, SECURING AMERICA'S FUTURE ENERGY

Mr. DIAMOND. Thank you very much. Thanks for the opportunity to testify on this critical topic. I represent a nonpartisan organization committed to reducing the United States dependence on oil for economic and national security reasons.

In 2006, SAFE formed our Energy Security Council, a nonpartisan group of business and military leaders that advocate for long-term policies to support this mission. The ESLC is currently chaired by Frederick W. Smith, the chairman and Chief Executive Officer and founder of FedEx, and General Jim Conway, the 34th Commandant of the U.S. Marine Corps.

With 92 percent of U.S. transportation powered by oil, businesses and consumers have no alternatives available at scale when oil prices spike. And given the global nature of our oil market, a disruption anywhere impacts prices everywhere.

The risks of oil dependence require some policy intervention because oil supply is determined by a cartel and traded on an opaque and an unfree oil market. Make no mistake. We remain as vulnerable to an oil supply disruption today as we were before the oil shale boom.

There are three main policy approaches the United States should take. The first is to continue to increase our domestic oil production. The second is to maintain and modernize our unified fuel economy standards, which have served as the country's most effective response to global oil market vulnerability since their introduction after the first OPEC oil embargo.

The third, the topic we are here to discuss today, is to provide greater fuel choice to consumers and businesses, including American-made advanced fuels like electricity, biodiesel, hydrogen, and natural gas that many of you have heard about today.

This can be accomplished through the extension of the 30C tax credit and the biodiesel tax credit. As noted, 92 percent of our transportation sector requires oil, and there are just no alternatives. And this oil is traded on an unfair and unfree market controlled by people who do not like us.

Extending the credit for alternative fuel infrastructure under 30C is important to diversifying the transportation fuels and maximizing the investments our country has made to date. Extending 30C will increase fuel choice for consumers and businesses, expand research and development, increase investment in infrastructure, and encourage policy changes at the State and local level.

Also critical is the ability for American innovators to have a minimum amount of certainty regarding these credits. The biodiesel tax credit illustrates this point well, but it applies to all these other credits. Extending the BTC for only short periods of time and often retroactively casts greater uncertainty into the market rather than providing assurances.

When biodiesel producers do not know the future of the tax credit, they are forced to gamble on whether or not they think it will be passed. This stifle innovations and pushes off the day when this

domestic fuel can fully compete. Certainty is as important as tax credits themselves.

Diversifying our transportation fuel helps to reduce the need to import oil. The U.S. has spent $2.5 trillion on imported oil in the last 10 years. Two-thirds of that has flowed directly to OPEC members.

We should celebrate the benefits from recent increases in domestic production but not be lulled into a false sense of security. Thank you.

Chairman BUCHANAN. Thank you, Mr. Diamond.

[The prepared statement of Mr. Diamond follows:]

Written Statement of Robbie Diamond
President and CEO of Securing America's Future Energy
U.S. House Committee on Ways and Means
Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Dear Chairman Buchanan, Ranking Member Doggett, and distinguished members of the Subcommittee,

Thank you for offering me the opportunity to testify on this critical topic. My name is Robbie Diamond, President and CEO of Securing America's Future Energy (SAFE). For over a decade, SAFE has been committed to strengthening America's national and economic security by reducing U.S. oil dependence. This reduced reliance will lessen our nation's resulting exposure to the destructive impacts of oil price volatility. In 2006, SAFE formed the Energy Security Leadership Council (ESLC), a nonpartisan group of business and former military leaders in support of long-term policy to reduce U.S. oil dependence. The ESLC is co-chaired by Frederick W. Smith, Chairman, President and CEO of FedEx, and General James T. Conway, 34th Commandant of the U.S. Marine Corps (Ret.).

SAFE's mission is to end the nation's near-complete reliance on oil, especially in our transportation sector, as a matter of national and economic security. SAFE advocates for expanding domestic production, decreasing the oil intensity of the economy so that we get more economic output out of each barrel we consume, and, ultimately, creating greater fuel choice for consumers and businesses by promoting advanced-fuel vehicles.

Oil is a strategic commodity bought and sold on an unfree global market under the outsized influence of the Organization of the Petroleum Exporting Countries (OPEC), its member nations and other national oil companies (NOCs), which control over 80 percent of the globe's proven crude reserves. The cartel's activity over the last two years alone demonstrates its ability to manipulate the market to meet the political aims of its most powerful members, often to the detriment of American interests.

Put simply, the lack of a free market for petroleum, and the volatility that accompanies regular oil market manipulation and geopolitical instability, necessitates government policy in the interest of national security. This takes on greater significance in the context of U.S. oil dependence: The U.S. is the world's largest oil consumer, using one-fifth of daily global supply to fuel the American economy. As noted, the U.S. relies on petroleum to power 92 percent of the nation's transportation system. This renders the U.S. particularly vulnerable to oil price spikes, which in turn have a harmful effect on American businesses and consumers.

I want to take a moment and address the question of why SAFE believes there is still significant risk and vulnerability associated with oil given all the benefits our nation has received with the rise of domestic shale production. The benefits from the rapid rise in shale and a reduction in oil imports are absolutely positive and encouraging. Despite the promising outlook, shale's longer-term impact is highly uncertain. Circumstances in the oil markets are expected to change, perhaps dramatically, in the next few years. While U.S. production is expected to grow by a massive 2.5 million barrels per day (Mbd) in 2018-19, increases are forecasted to slow considerably thereafter. Output is forecast to rise by only 100,000 barrels per day in 2023.

As U.S. production slows, global demand is forecast to keep rising at a strong pace, even with continued penetration of alternative fuel vehicles. The International Energy Agency (IEA), for instance, sees global demand growing by an average of 1.2 Mbd per year through 2023, reaching 105 Mbd. Emerging markets will still dominate demand growth, and China's net crude oil imports will be double U.S. imports in five years, giving this emerging power increased influence on global prices.

At the same time, the weak oil price environment of the past few years has discouraged oil companies from making the necessary investments in future conventional capacity. Total investment in new supply fell by 25 percent in both 2015 and 2016; investment remained flat last year. The IEA recently issued a warning of higher global oil prices if conventional supply investment does not rebound quickly.

Some analysts have said that the oil market may enter a “decade of disorder” after 2020, when the world will need approximately 5 Mbd of new supply annually to compensate not only for the natural decline of existing fields but also to meet growth in global demand.

Aside from sharp declines in upstream investments, market risks will spread due to rising consumption in emerging markets, increased reliance on OPEC as it consolidates power with other producers such as Russia, and destabilizing geopolitical events. A return to triple-digit oil prices, a strong possibility, would threaten economic growth and precipitate a recession: Every recession since World War II has been preceded by or occurred concurrently with an oil price spike. It should be noted that every one-cent increase in gasoline prices reduces consumer spending by an estimated $1-2 billion. The US can put itself in a better position with increased production, but production alone cannot entirely shield us or our allies. In truth, the oil market is global in nature and a change in price due to growing demand, or a change in supply due to geopolitics or manipulation impact oil prices everywhere. This is why supply- and demand-oriented solutions remain pragmatic and fundamentally essential policy proposals.

To combat this oil market exposure, the U.S. has three main policy approaches. The first is to increase domestic oil production to power transportation here at home. Beyond domestic production of oil itself, the biodiesel tax credit supports domestic production of a liquid transportation fuel and should, therefore, be extended. Biodiesel is particularly useful because it is a drop-in biofuel that requires no additional infrastructure investment (as opposed to drop in ethanol which can require significant modifications to infrastructure).

The second is to maintain and modernize our nation’s single fuel economy standards, which have served as the country’s most effective response to global oil market volatility since their introduction in response to the 1973 oil embargo.

And the third, and most timely policy approach to discuss here today, is to provide greater fuel choice to consumers and businesses, including American-made advanced

fuels such as electricity, biodiesel, hydrogen fuel cells, and natural gas. This can be accomplished through the extension of 30C.

Extending the credits for alternative fuel vehicles and infrastructure under section 30C is, in particular, critical to diversifying our transportation fuels and maximizing the investments our country has smartly made over the last decade. The 30C tax credit provides support for infrastructure investments across a range of fuel sources (including natural gas, hydrogen, electricity, propane, diesel blends and biofuel blends) that benefit the U.S. economy, support domestic jobs and spur investment, while providing choice for consumers and businesses on the type of fuel they want to buy. As an example, the cost to fuel a plug-in vehicle is approximately half that of its conventional gasoline counterpart, generating meaningful savings for American households and businesses. This is a choice that consumers and businesses would have the opportunity to make but, without the proper infrastructure, it will be out of reach.

Diversifying our transportation fuels also helps to reduce our need to import oil. The U.S. has spent $2.5 trillion on imported oil in the last 10 years, $1.6 trillion of which has flowed directly to OPEC member states, and the nation spends an estimated $68 billion every year just to ensure the security of global oil supply lines.

Extending the 30C infrastructure credit can help overcome three early issues that can slow infrastructure deployment: (1) Existing gasoline and diesel infrastructure is often already in place giving it a direct advantage over new fuel entrants; (2) The scale of advanced fuel utilization is early and potentially insufficient to quickly cover fixed costs; and (3) Many fleet owners already have conventional fueling infrastructure available either onsite or through public stations, so new infrastructure would be an added expense.

Extending 30C will provide an important incentive to consumers and business, expand research and development, increase investment, and encourage policy changes at the state and local level, all of which will encourage the increase in the infrastructure America needs to expand advanced fuel vehicle adoption. The chart below shows the transition that infrastructure needs to make, moving from a model that is largely

dependent on manufacturer-provided infrastructure to one (upper right) where an array of fueling infrastructure are commercially viable. The result of such viability will be stronger choice for consumers of both fuels and infrastructure options.

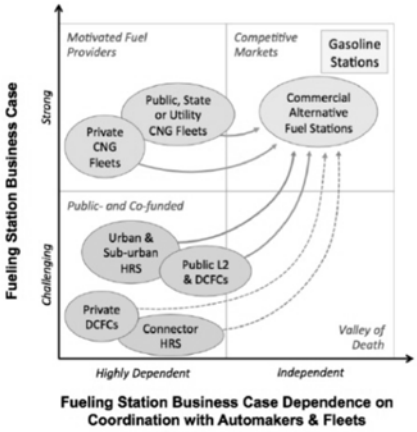

Figure 1. Summary of investment types across a spectrum of alternative fuel stations business case strengths and dependence on automaker and fleet coordination.

Investing in Alternative Fuel Infrastructure: Insights for California from Stakeholder Interviews, Marc Melaina, Matteo Muratori, Joyce McLaren, and Paul Schwabe, National Renewable Energy Laboratory, March 2017

Critical to this entire process is the ability for American innovators to have some minimum certainty that their investments will have time to develop and compete with mature technologies. One example of this issue is the Biodiesel Tax Credit (BTC), but it applies to all the other credits in a similar way. This credit, to be specific, provides an incentive of $1.00 per gallon for the blending of biodiesel with petroleum diesel. The value of these credits is ultimately distributed across the entire value chain providing benefits from rural farm communities to the ultimate consumers at the pump. Biodiesel supports job growth and economic development in rural America. There are over 64,000 jobs associated with the biodiesel industry.

When it functions properly, the BTC helps maintain pricing levels for soybean, lowers RIN cost for refiners, and supports blenders and producers, keeping them viable. This increases stability to the biodiesel value chain and allows this nascent, domestic industry minimal levels of certainty which lead to investments in research and development, as well as job creation.

However, because of the way the BTC, along with other biofuel and infrastructure tax credits, has been extended in the past, the process of providing the credit only for short periods of time—and often times retroactively—casts greater uncertainty into the market rather than providing assurances. When biodiesel producers do not know the future of the tax credit, it forces them to gamble on whether or not they think the credit will continue. That unnecessary and counterproductive lurching from one year to the next stifles innovation and artificially stretches the time the industry will need to grow into one that can compete in the marketplace on its own. The tax credits themselves are important mechanisms for increasing the domestic fuels market; but certainty is just as important.

It is clear that when the nation is dependent on a commodity like oil—that is controlled by actors who do not share our interests or values—it creates vulnerabilities. By recognizing this vulnerability, it is in our nation's best interest to support infrastructure and provide credits that will accelerate of the development of fuel options to enhance our economic and national security. For these reasons, SAFE supports extending the tax credit known as 30C and the biodiesel tax credit.

While it is unclear what oil will cost next year or even tomorrow, history tells us that oil prices operate in boom-bust cycles, and it is only a matter of time until prices rise again. We should celebrate the benefits from recent increases in domestic oil production but not be lulled into a false sense of security. The same vulnerability that destroyed 200,000 jobs in the oil patch when OPEC decided to dramatically increase production in 2014 continues today.

In addition, we cannot continue to depend on Russia, Saudi Arabia, Iran, Iraq, other Gulf States, Nigeria or Venezuela—some of the most unfree and unstable countries in

the world—for our own economic future. We should not continue to have our hands tied geopolitically or militarily, nor be forced to send our sons and daughters to secure oil supply lines or stabilize an oil-producing country in the name of global security.

In the end, if the U.S. produces significant amounts of oil, makes efficient use of what it does consume and has alternative ways to power the transport sector when oil becomes too volatile, then our nation will have achieved a level of protection from oil market manipulation that we have been pursuing for decades. Extending the tax credits under consideration today is an important part of that effort and a small price that will pay itself back in our strengthened economic and national security. Thank you.

Chairman BUCHANAN. Mr. Markowitz, you are recognized.

STATEMENT OF MORRY MARKOWITZ, PRESIDENT, FUEL CELL AND HYDROGEN ENERGY ASSOCIATION

Mr. MARKOWITZ. Thank you for the opportunity to speak with you today.

The member companies that make up FCHEA range in size from Fortune 100 companies to small businesses and startups. Our members currently employ tens of thousands of employees and workers in the United States.

My comments will focus on two items: the fuel cell vehicle tax credit, found in Section 30B, and the alternative fuel vehicle refueling property credit, found in Section 30C. That sent a strong signal to the private industry that the Federal Government was committed to help alleviate initial market barriers by providing consumer credits for zero emission vehicles and help industry comply with Federal CAFE standards and State mandates concerning ZEVs.

Automobile manufacturers and industrial gas companies have invested billions of dollars in fuel cells and hydrogen. Light duty vehicles are being sold and leased in the marketplace today. So why fuel cell electric vehicles? Because it is the only zero emission vehicle technology out there now and for the foreseeable future, the next five to 10 years, that totally replicates the current driver's experience of being able to drive three to 400 miles on a tankful of fuel, but equally important, to be able to refuel it in three to five minutes.

Plus it has the added advantage of being scalable. You can power a car from a subcompact to a full-size SUV to a full-size bus to medium and heavy-duty trucks. In other words, fuel cell vehicles offer American consumers the option of zero emissions, zero compromise.

Unfortunately, the Tax Code is currently aligned to skew customer choice by offering a tax credit for one ZEV technology and not another. We believe that the best tax policy is one that is technology-neutral. We ask that you extend 30B and 30C provisions in order to level the playing field.

You may ask, why is this in the best interests of the American people? My answers are simple.

One, this American-developed technology, which by the way helped us get a man on the Moon, will enable us to transfer our transportation sector's use of foreign oil to domestic production thanks to the fact that hydrogen can be derived from fossil fuels such as natural gas to renewables, keeping our national wealth here.

Two, keep America competitive. As the world moves to vehicle electrification, equal footing will not only send clear signals to consumers but to automobile manufacturers and will keep us competitive in the global marketplace.

Three, smart tax policy, a technology-neutral approach, will be simple, fair, and allow consumers more choice.

Four, it will allow automobile manufacturers to meet upcoming State, Federal, and international mandates.

Five, the costs will be modest when weighed against the benefits.

Six, the 30C provision is important for the build-out of the necessary infrastructure to fuel the growing fleet of fuel cell vehicles.

In closing, we feel our industry is capable of great things, but we need to be able to compete on equal footing with other technologies with the eye towards always letting the consumer be the ultimate decider in the marketplace.

Thank you.

[The prepared statement of Mr. Markowitz follows:]

Testimony of Morry Markowitz, President, Fuel Cell and Hydrogen Energy Association
Before the House Ways and Means Committee, Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, my name is Morry Markowitz, and I am the President of the Fuel Cell and Hydrogen Energy Association.

The member companies that make up the Fuel Cell and Hydrogen Energy Association range in size from Fortune 100 companies, to small businesses and startups. We also count National Laboratories and other non-profits within our family. Our member companies currently employ tens of thousands of workers in the U.S. through manufacturing, maintenance, engineering and supply-chain support.

On behalf of our members, I am grateful for the opportunity to address the subcommittee on recently expired tax provisions. The expired provisions I will discuss today are vitally important to our industry and the future of clean transportation efforts.

My comments will focus on two items, the Fuel Cell Vehicle Tax credit, found in Section 30B, and the Alternative Fuel Vehicle Refueling Property credit, found in Section 30C.

Both provisions for fuel cells and hydrogen infrastructure were initiated by the bipartisan Energy Policy Act of 2005, and renewed by Congress. While these policies preceded market introduction of fuel cell vehicles, they sent a strong signal to private industry that the federal government was committed to help alleviate initial market barriers by providing consumer credits for zero emission vehicles and help industry comply with federal CAFE standards, and state mandates concerning ZEVs.

In the lead up to commercial offerings of these vehicles, automobile manufacturers and industrial gas companies have invested billions of dollars in fuel cells and hydrogen. Light-duty vehicles are being sold and leased in the marketplace today.

These investments and strategic decisions by automobile manufacturers are based on consumer preferences for vehicle convenience and performance. Namely, that fuel cells are the only ZEV platform now, or for the foreseeable future that replicates today's drivers experience of being able to travel 300-400 miles on a tank of fuel and refuel in 3-5 minutes. Fuel cells are scalable and can also be applied to any vehicle platform from subcompact, to SUV, to a full size bus, and even medium to heavy-duty trucks. These applications are being tested and commercialized.

In other words, fuel cell vehicles offer American consumers the option of Zero Emissions, Zero Compromises.

Unfortunately, the tax code is currently aligned to skew customer choice, by offering a tax credit for one ZEV technology and not another, as there is no fuel cell tax credit available to consumers interested in buying this important technology.

We believe that the best tax policy is one that is technology neutral. Because today's tax code favors one type of ZEV technology over another, we ask that you extend the 30B and 30C provisions in order to level the playing field. We ask for continuity of these credits, as the start and stop is disruptive and creates uncertainty for consumers and automakers in the marketplace.

You may ask why is this in the best interest of the American people? My answers are simple:

1. This American developed technology will enable us to transfer our transportation sector's use of foreign oil to total domestic production thanks to the fact that hydrogen can be derived from fossil fuels such as natural gas to renewables, keeping our national wealth here.

2. Keep America competitive. As the world moves to vehicle electrification, equal footing will not only send clear signals to consumers, but automobile manufacturers who make investment decisions many years before new models and platforms are introduced and will keep us competitive in the global marketplace.

3. Smart tax policy. A technology neutral approach will be simple, fair, and allow consumers more choice.

4. It will allow automobile manufactures to meet upcoming state, federal, and international mandates.

5. Cost will be modest, when weighed against the benefits. According to the Congressional Research Service, the historical costs of 30B and 30c since inception have been extremely small.

6. The 30C provision is important for the buildout of the necessary infrastructure to fuel the growing fleet of fuel cell vehicles.

In closing, we feel our industry is capable of great things, but we need to be able to compete on equal footing with other technologies, with an eye to always letting the consumer be the ultimate decider of our technology in the marketplace.

I am grateful for this opportunity, and look forward to your questions.

Chairman BUCHANAN. Thank you. Thank all of you for your testimony. We will now proceed to a question-and-answer session. I will defer my question till the end of the question period.

I now recognize Mr. Rice.

Mr. RICE. Thank you, sir.

My first question is to Mr. West and Mr. Gage. When I was running for Congress the first time in 2012, a constituent brought me to a natural gas—I think it was compressed natural gas—service station in Dillon, South Carolina, right on the 95. It was a Flying J station. It had cellophane wrapped around it. I think they said Boone Pickens built it like every 300 miles along the interstate.

Today that thing is still wrapped in cellophane. Why is that? Turn your microphone one.

Mr. WEST. Sorry. Back in 2011 there was sort of a debate whether LNG or compressed natural gas would be the fuel of choice. The clean energy natural gas highway that Boone Pickens supported was for LNG facilities. They started down the path of developing those facilities.

They never commissioned them because basically, the engine manufacturers in 2013 came out with a dedicated engine for compressed normal—a 12-liter engine that fit class 8 vehicles' needs. So they sunset the production of most LNG engines, and that basically made those stations useless.

So compressed natural gas is the clear choice, and it is very viable.

Mr. RICE. Okay. Okay, thank you. Now, these energy tax incentives that we are talking about here, pretty much all of them came in effect in 2005, right? Mr. Gage, why did they CME into effect in 2005?

Mr. GAGE. Well, they were part of a larger bill that——

Mr. RICE. Yes. But why did we need that bill?

Mr. GAGE. Well, in advance—at the time, in 2005, we were looking to get—there was a big push for energy independence, right, from foreign oil.

Mr. RICE. Why was that?

Mr. GAGE. I am sorry?

Mr. RICE. Why was that?

Mr. GAGE. Well, we had a huge conflict in the——

Mr. RICE. What was oil per barrel at that time?

Mr. GAGE. I do not know, sir.

Mr. RICE. $140 a barrel.

Mr. GAGE. Well over a hundred. And now it is——

Mr. RICE. And we were still operating under what they call peak oil theory. You know what peak oil theory is? It said we have discovered all our recoverable oil and that we were not going to find any more and that oil was going to keep going up in price. So we had to incentivize domestic fuels, right?

Mr. GAGE. Right.

Mr. RICE. I mean, we were trying to be energy independent. You know what oil costs a barrel today?

Mr. GAGE. Sixty?

Mr. RICE. Sixty dollars a barrel.

Mr. GAGE. Yes, sir.

Mr. RICE. And do you know the estimate of onshore fuel that we have now, how many years of onshore fuel we have today in America?

Mr. GAGE. I know we have a 90-year supply of recoverable natural gas.

Mr. RICE. Ninety years. So the purpose of these fuel tax credits was, oh, my goodness, we are completely subject to our enemies. Mr. Diamond, you said just as subject today as we were in 2005. I think that is absolutely untrue. In fact, we are producing more oil now in the United States than we ever have, ever have, and we have got almost 100 years' worth of proven recoverable supplies.

So I am just struggling to understand why we still need to provide this level of incentive.

Mr. GAGE. If I could answer that——

Mr. DIAMOND. Can I respond to the dependence question?

Mr. RICE. Let Mr. Gage——

Mr. GAGE. If I could just answer your question why we need that for us, it is parity. It is not about finding new fuel sources. It is about turning fleets over to this cleaner technology. And currently we do not have parity with, as an example, the electric drive folks. The economics just do not make sense.

And so while you are asking why stations may have been built five, six, seven years ago and not open, we do not have the number of fleets to make the numbers work on paper.

Mr. RICE. Thank you.

Chairman BUCHANAN. Thank you, Mr. Rice.

I now recognize the distinguished Ranking Member, Mr. Doggett, for any questions he might have.

Mr. DOGGETT. Well, thank you very much. I believe that natural gas is a very important transition fuel to get us to a cleaner place. We have had a significant increase in the availability of natural gas, and much of it is due to what is happening in Texas.

I have ridden on the buses, VIA, the San Antonio public transportation system. I know they have invested in some of these vehicles. And I am interested in protecting their investment and seeing us move to cleaner fuels, particularly in what is a near non-attainment area in both Austin and San Antonio.

At the same time, I see this tax credit as being rather expensive. It is over $5 billion per year, and I want to understand it better. As I understand it, all of you are saying, give is to us for another five years and we will be fine. Is that, in essence, the testimony?

Mr. GAGE. My testimony is that we are asking for a five-year extension of the credits.

Mr. RICE. And you will not be asking for six? Five years is sufficient?

Mr. GAGE. Well, when you look at how other alternative power trains—the light duty does not—currently, light duty electric does not have a sunset.

Mr. DOGGETT. Well, so are you saying after five years you will be back asking for five more if they have it?

Mr. GAGE. I am asking—we are asking for a five-year extension.

Mr. DOGGETT. And you say the five-year extension will not lead to any new discoveries; it will simply put you on a more equal playing field with electric vehicles?

Mr. GAGE. To convert more and more fleets over to natural gas from currently diesel. Remember, the biodiesel credit is a dollar. We are half of that.

Mr. DOGGETT. Let me be sure I understand this, the GGE, the gasoline equivalent. Can you tell me what percentage of that credit is passed on to consumers?

Mr. WEST. I could probably better answer that, if that is okay.

Mr. DOGGETT. Fine.

Mr. WEST. Whether it is reduced price at the pump or some sort of rebate back to them, 100 percent of it. We are investing in new stations without these tax credits. We are just going to stop building infrastructure, and we are at that tipping point. This is a critical time to support the investments we have made. And like I said, diesel took 20 years to convert. It is critical timing now.

Mr. DOGGETT. So no part of the credit goes to expanding capital expenditures for natural gas extraction?

Mr. GAGE. This credit is with fuelers, for fuelers and consumers.

Mr. DOGGETT. And you are saying 100 percent of it flows to the consumer?

Mr. GAGE. Generally. Generally, it is a consumer credit.

Mr. WEIDIE. I can speak to the propane auto gas in the United States. A hundred percent goes to the consumer, the fleet operator that is running their business for their government fleet every day.

And I just want to add that the third most widely used fuel is propane. It is slightly ahead of natural gas globally. Here we are sort of like the stepchild; it does not get much attention. But we do have a prominent place in the market, particularly in class 6, 7 vehicles and lower.

Mr. DOGGETT. And if I understand, Mr. Dungan, you have really kind of the same argument Mr. Gage has about—as regards electric. You are saying that unless you can cover this plastics to fuel, you are at a disadvantage relative to natural gas?

Mr. DUNGAN. That is correct. We are asking to be listed as a——

Mr. DOGGETT. Do you know how much it would cost to list you, expand the credit?

Mr. DUNGAN. We are going through an economic study right now with ACC in order to provide that.

Mr. DOGGETT. You will get that to us? Thank you all.

Chairman BUCHANAN. Thank you.

Mr. Larson, you are recognized.

Mr. LARSON. Thank you, Mr. Chairman. And I find this question interesting. It is that old saying. I am going to ask some rapid questions about the—I hate to be Biblical, but everybody wants to go to heaven but nobody wants to die. And when we look at this tax bill, of course, and we see the enormous amount of debt that we are putting on the American people, when you really look at it it is about $2.3 trillion.

So in essence, when we are talking to you, we are asking you and you are saying, hey, look. We should be included. There has got to be fairness and equity within all of this. And I note some very farsighted thinkers, most notably Senator Lindsey Graham, but closer to home, some real radicals—Jim Baker, George Shultz, Martin Feldstein, Greg Mankiw, Hank Paulson, Elon Musk, Gary Cohn,

Kevin Hastert, Rex Tillerson, and Art Laffer have said that they would favor a carbon tax because they feel that this will grant the kind of revenue-neutral monies that we need so that we can take care of some of the emerging concerns that so many of your industries have.

Would you support a carbon tax? Mr. West.

Mr. WEST. In conjunction with this or separate?

Mr. LARSON. In conjunction with?

Mr. WEST. Certainly.

Mr. LARSON. Mr. Lazio.

Mr. GAGE. I would have to take that back to our membership.

Mr. LARSON. Take it back to your membership?

Mr. WEIDIE. I would have a difficult time supporting a carbon tax unless it was going to be applied equally across the board. And if it is so, it should be based on the carbon intensity of the fuels, and natural gas and propane ought to be pretty low.

Mr. LARSON. Even if it was, would you support it?

Mr. WEIDIE. Not particularly excited about additional taxes.

Mr. LARSON. So you want to go to heaven but you do not want to pay to get there. I get it. Okay. Go ahead, Mr. Dungan.

Mr. DUNGAN. We would certainly support looking into that. And again, carbon intensity in our view is an important——

Mr. LARSON. Mr. Diamond.

Mr. DIAMOND. Yes. We have supported a gas tax in the past because it is true that we should not pick winners and losers and it is the best way to do it. But unfortunately, the Government has been unwilling to put the fair price on the externalities and then let the market choose. But seeing that we are not willing to do that, we should definitely have tax credits.

Mr. LARSON. According to Mr. Baker, Mr. Shultz, and Mr. Feldstein and others, this produces about $1.8 trillion. The tax bill was $1.5 trillion. But when you look at all the costs that are added to it, it ends up being a cost to the American taxpayer of about $2.3 trillion.

I am a strong supporter and head of the—one of the co-chairs of the fuel cell—what are other nations doing with respect to fuel cell automobiles, Mr. Markowitz?

Mr. MARKOWITZ. Well, I would like to tell you that they are actively involved in not only the manufacturing but the deployment of vehicles. In the EU, especially in Germany and the Netherlands, there is a growing government support for the buildup of infrastructure, and in the support of the purchase of the vehicles.

As an example, in Denmark—you know that is a very heavily taxed——

Mr. LARSON. I thank you for that, but I just wanted to add, because I know my time is running out. So I think it is safe to say that you all want to make sure that you get part of the equity that is involved in a major tax cut, but nobody wants to pay for it.

Chairman BUCHANAN. Mr. Blumenauer, you are recognized.

Mr. BLUMENAUER. Thank you, Mr. Chairman. And I appreciate having this panel walk us through a variety of aspects of our transportation and technology policies that are not necessarily congruent. They face some short-term and intermediate-term challenges. There are issues about parity, the application of new tech-

nology, and how it relates to other competitors in the marketplace. Each one appears to be a little different. And I look forward to being able to understand better the implications of what you are talking about.

This is part, though, of a bigger picture that I hope our Committee is able to deal with. It is not just parity, winners and losers, how we accelerate technology implementation. But we are facing a transportation crisis in this country. We are not paying enough now to support our transportation infrastructure, and many of these disrupt.

We have not raised the gas tax in 25 years, and many of these technologies are disruptive in the short term because they are not paying into a trust fund that is woefully inadequate and getting worse. And broader applications of some of the technologies are going to accelerate that. I mean, self-driving cars are all going to be electric.

How do we maintain the infrastructure of today while we finance the infrastructure of tomorrow and be able to have the technological applications that are necessary to have cleaner, more efficient vehicles, cleaner air, and be able to have a position of strength when we deal with our energy future?

I was disappointed when the chairman of our Committee said he was interested that the Transportation Infrastructure Subcommittee had a hearing on paying for our infrastructure and he was looking forward to hearing their recommendations. That is our responsibility. And I would hope that we could incorporate what we are hearing today with the broader picture of how we pay for America's transportation where we are falling apart and we are falling behind.

I would hope that we would have a week or two of hearings that allow us to deal with issues of parity and application, but also, how do we keep the system going? What are the essential elements of infrastructure that we—not just the roads and bridges, but there are fueling issues for all of these technologies that are, in the intermediate term, are going to require some sort of public support to be able to come to scale and take advantage of it.

And I hope, Mr. Chairman, that that is an opportunity that we could have a broader conversation amongst ourselves, not wait for some other Committee to handle our jurisdiction because these are very significant subjects that I think are worthy of our debate and maybe even taking some action.

Thank you very much.

Chairman BUCHANAN. Thank you.

I am going to just go to some questions. And I guess the big thing—these extenders, our goal is to try to improve on what we did. The bill is not perfect. There is more work to be done. That is why we are trying to deal with extenders.

And I had been in business 30 years before I got here. I cannot imagine having a deal wait on an extender—you might get it, might not get it at the end of the year. Many times it rolls into January. It makes no sense.

So our goal, frankly, is to see how many extenders that we need to consider going forward. Or if they make so much sense, they be-

come part of permanent law. But I guess that what I would ask all of you quickly is why?

If you are in a profitable industry, if your business is profitable, corporations got a 43 percent tax cut. Pass-through entities, which a lot of them are, smaller businesses, maybe the propane dealers or whatever, they are a pass-through entity. They got 25 percent when you add it up, the tax cut. You got fully expensing. If you are in the business where you have got to buy trucks, you can write it all off, 100 percent.

So the question is, why do you need more tax incentives? Because we do need to pay the bills. The next panel is going to talk about America is going broke. We have had $10 trillion in debt in the last 10 years, roughly. Plenty of blame to go around on that.

But the bottom line: Why is it that you need these additional incentives or tax breaks or consideration? And that is what we are all looking at. It is not even a Democrat or Republican. Really, both sides, I think we somewhat agree on this. If it is that good, let's put it in maybe permanent law and consider it.

But I have got to believe a lot of these things we have to take a hard look at. How much is enough? And I am not referring to just you, just in general, because we have a lot of public companies who were paying 35. Now they are paying 21, 43 percent cut. They are competitive in the world.

But I don't know why we need additional incentives. They have got plenty of incentives. So maybe your business is different. Your industry is different. I would be the first to admit I don't know everything about your industry. So I just pose that question to you.

When you look at what the new tax law is doing starting January 1 of this year, the benefits that you are going to take advantage of, why do you need this? And Mr. West, maybe you can talk to the industry, or if you represent your company——

Mr. WEST. Outside of the parity, clarity, and certainty argument, it is we are emerging since 2013 with a dedicated engine to fuel our technologies and to push these NGVs to the next level. Class 8 vehicles are going to work and our businesses have 20-year investment horizons on the infrastructure component.

So we do not have public money like Tesla and $1.5 billion commitments like electric does per company. So we are looking at this to incentivize our customer base to adopt this technology. That is why we asked for five years. We do pay Federal excise tax credits at the State and Federal level, so we do pay tax liabilities to fund the roadways, and electric vehicles, weights and measures has not even come up with a unit measure for it.

So it is because we are not—this is not going to big companies that are very profitable. This is an emerging bunch of people in the value chain that are building out this great technology, and we are at that tipping point. So I really do believe——

Chairman BUCHANAN. Yes. And I realize I don't know the background of all the companies here or industries being represented.

Mr. WEST. It is a lot like us.

Chairman BUCHANAN. But I would like to get that sense of it. I am just—the industries that I have been involved in, we make money. And I think there has been more than enough consider-

ation, I think it has been more than fair, with companies across America. But again, it might be different.

Mr. DIAMOND. Can I—just because a national security economic pointed to this. So oil is a special——

Chairman BUCHANAN. Everybody will get a minute or so. But go ahead, Mr. Diamond. Yes, go ahead.

Mr. DIAMOND. Yes. I was just going to say that oil is a special commodity, right? So first of all, we are 100 percent dependent. It is traded by a cartel. So in 2014—so the price is actually, in 2005, $60. China starts using so much more it drives to $147, driving our auto industry into bankruptcy. Goes down to $20 because of the recession. Then starts going up because shale, and Saudi Arabia decides to flood the market in 2014, which drives 200,000 jobs out of the oil patch.

So if you are a company and you are dealing with oil, it is a very different type of thing. And that is a national security risk. So we might produce more oil today. Have we changed one thing in our 6th, 7th fleet? We have not changed anything. We are still paying for that.

Two is, there is a chicken and egg problem with all the industries here.

Chairman BUCHANAN. Let me say one thing. When I got here 10 years ago, it was all about how are we going to get off foreign oil. We have come a long way, in a sense, my understanding in the last 10 years.

Mr. DIAMOND. So I—absolutely. I am all for domestic production. But there is a global price, and that price is volatile. And what they decide in Vienna as a cartel would be illegal in the United States of America, and they are doing it all the time and telling us they are doing it.

So these people are fighting a battle with their hands behind their back because at a time when even they can deploy, the price can be dropped because Saudi Arabia floods the market. So I just think that oil is unique because it powers the global economy. It is 92 percent our transportation system. There is no other alternative.

But two, there is a chicken and egg problem. So everyone here has a problem because they are dealing with an incumbent, once again very volatile and not traded in a free market. But also, they need infrastructure and they need the vehicles. So if you need that, chicken and egg problem, you need infrastructure incentives to help drive the infrastructure. Then people buy the vehicles. So I think it is unique to buildings, which we just heard about, because there is this sort of dual sides of this equation.

Chairman BUCHANAN. Okay. I am going to give everybody about a minute, if you want a minute or so, because we have got a time frame here. But whatever—Mr. Dungan, yes. Anybody take a minute, whatever you want.

Mr. DUNGAN. Thank you. To answer your question directly, Chairman Buchanan, I represent an early-stage company in an emerging industry. And we look at this as a way to continue to propel innovation. Two of our companies in the U.S. are based in Ohio. One is based in Oregon. We just had legislation passed in Florida to allow the permitting to change for our type of facilities.

This is a way to de-risk these startup companies and get us up on our feet. And maybe in five, six years we do not need the support any more. We are just asking to participate.

Chairman BUCHANAN. Is it the way for you to attract capital? Is that part of it?

Mr. DUNGAN. It de risks us from an off-take perspective so our fuels that we produce are more attractive to the petroleum industry.

Chairman BUCHANAN. Thank you.

Mr. WEIDIE. Very briefly, if we want to be more energy-secure and we want to have cleaner air, these alternative options make a lot of sense, not only in the five-year period but perhaps beyond. And if anybody can tell us that oil is not going back to a hundred, I would like to know so I can make some future transactions.

From a business perspective, our company operations with alternative fuels in 45 states. Our experience is we are providing a three, four payback on the investment in putting the conversion equipment on the vehicles. Unfortunately, a lot of people in this realm are only interested in a 24 month or less payback——

Chairman BUCHANAN. Let me ask you, the equipment that you are putting on the vehicles, under the new tax law can you not write it off 100 percent the first year now?

Mr. WEIDIE. That will be a benefit to the consumer, the customer, the fleet customer, respond——

Chairman BUCHANAN. This is not a benefit to the——

Mr. WEIDIE. There will be a benefit here.

Chairman BUCHANAN. Is that a benefit to the companies that provide the service and the equipment they are adding?

Mr. GAGE. The vehicles are 25 percent more.

Chairman BUCHANAN. Yes.

Mr. WEIDIE. If there are increased sales, they will be a benefit to the providers of the technology.

Chairman BUCHANAN. But if they are making money, they are paying tax on the money, right? And they are going to get a tax reduction.

Mr. WEIDIE. Oh, yes. Sure.

Chairman BUCHANAN. I am just trying to—I am telling you what I get hit with; when we talk about extenders, people ask me, right?

Mr. WEIDIE. But the business decision process is usually in this type of realm, a 24 month or less payback. And that is what our experience has been while they were in place and when they have not been in place.

Chairman BUCHANAN. Mr. Gage.

Mr. GAGE. I would just say very simply that there are a lot of alternative options, right? When a fleet is looking to upgrade or invest in new equipment. And for us, our members are incredibly appreciative of the tax reform. As the year progresses, they will find out more and more just how beneficial that piece of legislation will be to them.

But when they look at what alternatives are available, there is not parity in terms of tax policy for natural gas as compared to, say, biodiesel or for electric. And that is a bottom-line decision, right? It is dollars and cents. And when you can get a dollar with

biodiesel and only 50 cents for natural gas, it has an impact. And it has an impact, and our goal is to try and get these fleets to convert over to natural gas.

Chairman BUCHANAN. So when you are talking about your industry buying, did you say trucks?

Mr. GAGE. Yes, sir.

Chairman BUCHANAN. How much are those trucks?

Mr. GAGE. Well, it all depends. A typical class 8 truck could cost anywhere from—usually about 125- to $150,000. But when you the natural gas component, it could be another $50,000.

Chairman BUCHANAN. So they might buy four or five trucks a year?

Mr. GAGE. Some of our members are very small fleets. We also represent fleets like Waste Management and UPS that are buying——

Chairman BUCHANAN. Let's say they buy five trucks. That is $500,000. They finance it over 10 years. So they get 10 percent out of pocket and they got a $500,000 deduction, which they are saving 25 percent on that. I mean, it seems like that is a pretty good benefit.

Mr. GAGE. Many of our members, especially the larger members, are looking for—they keep the vehicles for between two and three years. So as was just referenced, that return is—they are looking more on a payback of between——

Chairman BUCHANAN. Oh, just ask all of us because we do have to pay the bills up here, too.

Mr. GAGE. Yes, sir.

Chairman BUCHANAN. Just take a look at what you are getting and then the incentive you are asking us to address because at the end of the day, we want to make sure this works for the American people. We are running these massive deficits, and these are the questions that I get asked from people on tax extenders or any other incentives: Have they not—a lot of people say, have they not got enough? Maybe not referring just to your industry, but just in general.

So I think it is something you need to talk to the membership about and just ask the because you represent a lot of different big and small, and see how badly do they need that, considering what they just are going to get, they just got.

Mr. Markowitz.

Mr. MARKOWITZ. Chairman, I want to give you a little different twist on what you are talking about. Also, some of the companies are being required by either Federal or State mandates to meet certain performance standards, which requires them to build products that are transformational and new to the marketplace.

But a lot of those transformational products are also very expensive or more expensive than the incumbent technology you are trying to replace. So to make this sort of technology attractive for consumers to policy, you need sometimes that incentive to provide some sort of financial equity for the purchaser.

In addition to that, what we were talking about is when you deal with transformational technologies, you should not pick winners or losers. For instance, I could give you a long list of products, whether it was flat screens that came out with plasma and LCD. By hav-

ing just one tax break for one technology, not providing it for the other, you may be going all in on the wrong technology.

Chairman BUCHANAN. Yes. Let me ask you, just in concluding, I would like to have you think about this. I asked the last panel, if you were here: If we were to work with you in terms of permanent law, what are you willing to give up? What is the industry willing to give up in exchange, maybe, for what you are looking for today in an incentive? It is a possibility.

It is just something—I do not have time today because we are running out of time. But send me a note or send our staff here a note a just think about that. Is there something in the industry that you are getting as an incentive that is not much of an incentive—maybe it was eight, 10 years ago when we went a period of 2008 and it was a disaster the next three or four years. All of us lived through that. And just take a hard look at it.

And also, just let me say thank you for your testimony. We appreciate the opportunity to work with you and continue working with you. I would say tax reform, our goal, is to try to improve on it. We want to make sure it makes sense, it is fair, and we want to make sure these extenders are permanent law, which ones, because they will not all make it but some of them might be considered. And that is our goal.

Thank you. And let me just mention, we will adjourn now and then try to come back right after votes or 2:00. So this portion is adjourned. Thank you.

[Recess]

Chairman BUCHANAN. The subcommittee will come to order. Welcome back. For those of you in the Subcommittee on Tax Policy hearing post Tax Reform evaluation of recently expired tax provision, I would like to welcome our third panel for the discussion of a broader economic and policy considerations to be taken into account to evaluate these expired provisions.

First, we will hear from David Burton, senior fellow in economic policy at The Heritage Foundation. Secondly, we will hear from Richard Phillips, senior policy analyst at the Institute on Taxation and Economy Policy. Thirdly, we will hear from Ryan Alexander, president of Taxpayers for Common Sense. Fourthly, we will hear from Maya MacGuineas, president of the Committee for Responsible Federal Budget. Finally, we will welcome Seth Hanlon, senior fellow at the Center for American Progress.

Thank you again for being here today. The Committee has received each of your written statements, and they will be made part of the formal hearing record. Each of you will be recognized for 3 minutes for your oral remarks.

We are going to have votes in here, so we are going to try to get through your testimony. That is kind of our goal. We will take votes and then come right back.

But, Mr. Burton, you are recognized for 3 minutes.

STATEMENT OF DAVID BURTON, SENIOR FELLOW IN ECONOMIC POLICY, HERITAGE FOUNDATION

Mr. BURTON. Thank you. My name is David Burton. I am a senior fellow in economic policy at The Heritage Foundation. I would like to express my thanks to you, Mr. Chairman, Ranking

Member Doggett, and Members of the Committee for the opportunity to be here. The views I express in this testimony are my own and shouldn't necessarily be construed as representing any official position of The Heritage Foundation.

Tax preferences distort the economy by picking winners and losers. They alter relative returns or the cost of capital of different investments and induce taxpayers to make suboptimal economic decisions that they would not have made but for the tax preference. They make the economy less efficient, so that a given amount of inputs produces less output.

In economics terminology, tax preferences reduce the production possibility frontier. In plain English, they reduce the incomes of the American people.

Let me quickly address some of the 26 provisions being considered by the Committee. All 13 of the energy tax provisions are unwarranted tax preferences. The only possible economic justification for these provisions is that they are designed to address a negative externality.

A tax subsidy for politically favored interests with strong lobbies will be fairly far down the list of efficacious means of addressing the problem of negative externalities. To achieve the desired effect, the policy designed to address the externality must be calibrated to accurately internalize the actual costs of the externality.

In the case of the expired provisions being considered by the Committee, the subsidy with various alternative energy sources is only tangentially related to the externalities that may exist, and there is little reason to believe that the tax preferences are effectively addressing whatever externality the tax preferences are meant to address.

In principle, all capital expenses should be deductible when incurred; in other words, expensed. The various cost recovery provisions at issue are highly targeted provisions that would shorten recovery periods and provide for expensing for narrow interests.

Although there is no particular reason to believe that the class lives in the current asset depreciation range system adopted in 1971 are correct in every respect. Those seeking targeted changes to capital cost recovery allowances should be required to provide persuasive evidence that their property is misclassified under current law.

A tax deduction should be accorded for outlays made for the purposes of earning future income. The primary reason that people pay tuition is to enhance their future earnings capacity. Therefore, allowing a deduction for qualified tuition expenditures has a sound policy rationale.

A well-designed tax system should generally treat similarly situated taxpayers in a similar fashion. Thus, those with the same level of consumption or income should pay roughly the same tax. This concept is sometimes called horizontal equity. Tax preferences or loopholes violate this principle and are one of the central reasons that the tax system is viewed as unfair.

The Committee should keep this principle in mind as it deliberates. I address other tax preferences or expired provisions in my written remarks. Thank you.

Chairman BUCHANAN. Thank you, Mr. Burton.

[The prepared statement of Mr. Burton follows:]

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CONGRESSIONAL TESTIMONY

"Post Tax Reform Evaluation of Recently Expired Tax Provisions"

Testimony before

The Committee on Ways and Means
Subcommittee on Tax Policy
United States House of Representatives

March 14, 2018

David R. Burton
Senior Fellow in Economic Policy
The Heritage Foundation

My name is David R. Burton. I am Senior Fellow in Economic Policy at The Heritage Foundation. I would like to express my thanks to Tax Policy Subcommittee Chairman Buchanan, Ranking Member Doggett and members of the committee for the opportunity to be here this morning. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

Framework for Analysis

The primary objective of sound tax policy is to raise the revenue necessary to fund limited government in the least economically destructive manner.

Taxes have an adverse economic impact. They reduce the output of the economy and therefore incomes. Economists call this the excess burden or deadweight loss of a tax.[1] Taxes distort economic behavior. High marginal tax rates reduce the incentive to work, save and invest. Multiple layers of taxation on capital raise the user cost of capital,[2] reduce investment, hinder productivity growth and harm real wages.

Tax preferences distort the economy by picking winners and losers. They alter the relative return or cost of capital of different investments and induce taxpayers to make suboptimal economic decisions that they would not have made but for the tax preference. They make the economy less efficient so that a given amount of inputs produce less output. In economics terminology, tax preferences reduce the production possibility frontier. In plain terms, they reduce the incomes of the American people.

The optimal tax, public finance and microeconomic literatures lead us to the conclusion that the tax base that has the least adverse economic impact while raising a given amount of revenue is a consumption base or, stated differently, a tax base that taxes all factor incomes once but only once.[3] There is more than one way to get to a consumption tax

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[1] What economists called the "deadweight loss" or "excess burden" of a marginal tax rate rise increases with the square of the tax rate increase. The converse is also true: The excess burden of a marginal tax rate decrease declines with the square of the tax rate decrease. See John Creedy, "The Excess Burden of Taxation and Why it (Approximately) Quadruples When the Tax Rate Doubles," New Zealand Treasury Working Paper No. 03/29, December 2003, http://www.treasury.govt.nz/publications/research-policy/wp/2003/03-29/twp03-29.pdf. Also see, for example, N. Gregory Mankiw, *Principles of Economics*, 4th Edition (2006), Chapter 8 (or many other textbooks on price theory, microeconomics, or principles of economics).

[2] For the basic user cost of capital analysis with taxes, see Robert E. Hall and Dale W. Jorgenson, "Tax Policy and Investment Behavior," *American Economic Review*, Vol. 57, No. 3 (June, 1967), pp. 391–414, https://web.stanford.edu/~rehall/Tax-Policy-AER-June-1967.pdf. See also Kevin A. Hassett and Kathryn Newmark, "Taxation and Business Behavior: A Review of the Recent Literature," in John W. Diamond and George R. Zodrow, eds., *Fundamental Tax Reform: Issues, Choices, and Implications* (2008), and Alan J. Auerbach, "Taxation and Capital Spending," University of California, Berkeley, September 2005, http://eml.berkeley.edu//~auerbach/capitalspending.pdf.

[3] A tax system that taxes labor and capital-factor incomes equally, and only once, results in higher output and higher incomes. Usually in the modern public finance literature, this is called a consumption tax or cash-flow tax. See N. Gregory Mankiw, Matthew Charles Weinzierl, and Danny Yagan, "Optimal Taxation in Theory and Practice," *Journal of Economic Perspectives*, Vol. 23, No. 4 (2009), pp. 147–174, http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.23.4.147, and Alan J. Auerbach, "The Choice Between

base.[4] In the context of the current system, that would mean expensing of capital costs,[5] treating all savings in the same fashion as savings in Individual Retirement Accounts (IRAs) or 401(k)s[6] and integrating the corporate and individual tax systems.[7] The essence of good tax policy and sound tax reform is to repeal tax preferences and dedicate the revenue raised to reducing marginal tax rates and reducing the multiple taxation of savings and investment.

The economic advisability of a tax provision should be judged by whether it is a step towards the right tax base. Thus, for example, raising the threshold for section 179 expensing is a step toward a consumption tax. A tax preference for a particular type of energy production is not.[8] Thus, the former warrants support and the latter does not in that the former reduces the excess burden and distortionary impact of the tax system but the latter does not. The formers improves incomes and social welfare, the latter does not.

Expired Provisions

The staff of the Joint Committee on Taxation (JCT) has identified 26 tax provisions that expired in 2017.[9]

Energy Provisions

All 13 of the energy tax provisions are unwarranted tax preferences.

Income and Consumption Taxes: A Primer," NBER Working Paper No. 12307, June 2006, http://www.nber.org/papers/w12307.

[4] For a discussion of the equivalence of various types of consumption taxes, see David R. Burton, "Four Conservative Tax Plans with Equivalent Economic Results, Heritage Foundation Backgrounder No. 2978, December 15, 2014 http://thf_media.s3.amazonaws.com/2014/pdf/BG2978.pdf. The four types of taxes discussed are the (1) Hall-Rabushka "old" flat tax or X tax (the X tax being a graduated rate proposal with the same tax base as the Hall-Rabushka flat tax), (2) a cash-flow tax, consumed income tax, inflow-outflow tax or "new" flat tax, (3) a business transfer tax, business flat tax, business consumption tax or business activity tax and (4) a retail sales tax. A credit-invoice value added taxes (also called a goods and services tax or GST in some countries) is also a consumption tax.

[5] The current tax system is not neutral toward investment. This neutrality criterion is sometimes expressed as ensuring that the private rate of return equals the social rate of return, that the tax system does not raise the user cost of capital, that factor incomes (labor and capital) are taxed once and equally, that the tax system defines income properly, or that the tax is a consumption tax. See, for example, Charles E. Walker and Mark A. Bloomfield, eds., *The Consumption Tax: A Better Alternative?* (Cambridge, MA: Harper and Row, Ballinger, 1987).

[6] For an early discussion of why the income tax should expense capital and treat all savings like IRAs are treated today, see Irving Fisher, "The Double Taxation of Savings," *American Economic Review*, Vol. 29, No. 1 (March, 1939), pp. 16-33.

[7] See David R. Burton, "Tax Reform: Eliminating the Double Taxation of Corporate Income," Heritage Foundation Background No. 3216, May 18, 2017 https://www.heritage.org/sites/default/files/2017-05/BG3216.pdf; For a discussion of tax reform principles generally, see David R. Burton, "A Guide to Tax Reform in the 115th Congress," Heritage Foundation Backgrounder No. 3192, February 10, 2017 https://www.heritage.org/sites/default/files/2017-02/BG3192.pdf.

[8] This would be equally true if the objective were to move towards a comprehensive income tax.

[9] *Federal Tax Provisions Expired in 2017* (JCX-5-18), Joint Committee on Taxation, March 9, 2018. In addition, two others have been rendered irrelevant by the recent tax reform bill.

The only possible economic justification for these provisions is that they are designed to address a negative externality. An externality is (1) a cost that is imposed on (negative externality) or (2) a benefit accorded to (positive externality) someone that is not a party to a transaction or not engaged in an action. There are countless positive and negative externalities all around us. Air pollution is a typical example of a negative externality.

There are many ways to address negative externalities. Improved property rights,[10] tort law,[11] regulation,[12] or a tax equal to the cost involuntarily imposed by the economic actor creating the externality on those "external" to the transaction.[13] A tax subsidy for politically favored interests with strong lobbies would be fairly far down the list of efficacious means of addressing the problem of negative externalities. Moreover, to achieve the desired effect, the policy designed to address the externality must be calibrated to accurately internalize the actual cost of the externality. This would require estimating the costs imposed by the externality and imposing costs in an equal and off-setting amount on the economic actor in question. There is no evidence that policy-makers have done this and there is little reason to believe that this committee has the technical competence at this juncture to do so. Moreover, in the case of the expired provisions being considered by the committee, the subsidy to the various alternative energy sources is only tangentially related to the externalities that may exist. There is little reason to believe that the tax preferences are effectively addressing whatever externality proponents of the tax preferences may use to justify the tax preferences. Detailed scientific, cost and market information must be obtained to get this even close to right.

At roughly $53 billion over ten years,[14] the revenue lost from these provisions is substantial. It would be better used to reduce marginal tax rates or to improve the capital cost recovery provisions for all investment. By way of comparison, the "bonus depreciation" or partial expensing provisions in the 2017 tax bill that applied to most machinery and equipment were scored by JCT as reducing revenues on a static basis by $86.3 billion.[15]

Various True Tax Expenditures

The Indian employment tax credit, the credit for certain expenditures for maintaining railroad tracks, the mine rescue team training credit and the American Samoa economic

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[10] In the case of air and water that are usually unowned resources, this is problematic. In other cases, this can be the solution, although transactions costs can impede a private solution. See Ronald H.Coase, "The Problem of Social Cost," *Journal of Law and Economics*, Vol. 3, October, 1960, pp. 1–44.

[11] The common law of nuisance and various more modern environmental torts.

[12] Most notably by the Environmental Protection Agency and state analogs.

[13] This is commonly know as a Pigouvian tax. See Arthur Cecil Pigou, *The Economics of Welfare* (1920 and various later editions); "Pigouvian Taxes," *The Economist*, August 19, 2017 https://www.economist.com/news/economics-brief/21726709-what-do-when-interests-individuals-and-society-do-not-coincide-fourth.

[14] FY 2018-2027. *Federal Tax Provisions Expired in 2017* (JCX-5-18), Joint Committee on Taxation, March 9, 2018 at p. 1 of table.

[15] *Estimated Budget Effects of the Conference Agreement for H.R. 1, The "Tax Cuts and Jobs Act," Fiscal Years 2018 – 2027* (JCX-67-17), Joint Committee on Taxation, December 18, 2017, Item II.D.1, p 3.

development credit are all classic tax expenditures or tax subsidies. To the extent that policy-makers want to fund these subsidies, they should be subject to oversight and the appropriations process. They do not belong in the tax system.

Capital Cost Recovery Provisions

The capital cost recovery provisions before the committee raise different issues. In principle, all capital expenses should be deductible when incurred (i.e. expensed). The various capital cost recovery provisions at issue are highly targeted provisions that shorten recovery periods or provide for expensing. Thus, they move toward the correct policy but only for narrow interests.

In a conventional income tax, property is not expensed but depreciated. The proper class life[16] and rate of depreciation[17] is an empirical question. To accurately measure income, the amount of depreciation should be equal to the annual decline in the present discounted value of the assets' future income stream.[18] This is typically not an observable figure because most assets do not have an active secondary market and because most assets help firms earn income in conjunction with other assets. Thus, determining the proper depreciation or capital cost recovery allowances in a conventional income tax is an intractable and unsolvable problem. The allowances will always be somewhat arbitrary and contentious because, for most assets, all policy-makers can do is make a quasi-educated guess.[19]

There is no particular reason to believe that the class lives in the current Asset Depreciation Range (ADR) system, adopted in 1971, are correct in every respect. ADR serves as the ultimate basis for class lives for both the Modified Accelerated Cost Recovery System (MACRS), its predecessor, the Accelerated Cost Recovery System (ACRS) and for non-MACRS property. On the other hand, those seeking targeted changes to capital cost recovery allowances should be required to provide persuasive evidence that their property is misclassified under current law.

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[16] The number of years over which the property is depreciated.

[17] For example, straight line or double declining balance (in accounting) or geometric in many economic models.

[18] This would, in principle, result in a uniform double taxation of capital income and all rates of return on capital income would be reduce by the same proportion. A consumption tax, in contrast, taxes labor and capital incomes once.

[19] Charles Hulten has probably done as much as anyone to try to accurately estimate class lives and depreciation rates going back to at least the early 1980s. See Charles R. Hulten, "Getting Depreciation (Almost) Right," March, 2008 http://econweb.umd.edu/~hulten/WebPageFiles/Getting%20Economic%20Depreciation%20Almost%20Right.pdf and the references to the literature in the paper. See also Barbara M. Fraumeni, "The Measurement of Depreciation in the U.S. National Income and Product Accounts," *Survey of Current Business*, July, 1997, https://www.bea.gov/scb/account_articles/national/0797fr/maintext.htm ; Derek Blades, "Depreciation in the National Accounts," Organization for Economic Cooperation and Development, March 1997 http://www.oecd.org/sdd/na/2666804.pdf.

Discharge of Indebtedness

The provision[20] that excludes gross income arising from the discharge of indebtedness on principal residences is entirely understandable but questionable as a matter of tax policy. When a debt is discharged, the person for whom the debt was forgiven sees their net worth increase by the amount of debt forgiven. It is as if they had income in the amount of the discharged debt and used the income to pay the debt off. In addition, the lender will generally be able to deduct the bad debt. It is for this reason that discharge of indebtedness has historically been treated as income by the tax law. On the other hand, it is understandable why policy-makers may not want the Internal Revenue Service to send a massive tax bill to these already insolvent homeowners. Moreover, the resultant taxes are likely to be discharged in any event if the taxpayer files for bankruptcy.

Tuition Expenses

A tax deduction should be accorded for outlays made for the purpose of earning future income. This is why business expenses are deductible and why capital expenses should be deductible when incurred rather than depreciated or amortized over long periods. In my view, investments in human capital[21] should also be tax deductible. The primary (though by no means exclusive)[22] reason that people pay tuition is to enhance their future earnings capacity. Therefore, Internal Revenue Code section 222, allowing a deduction for qualified tuition expenditures, has a sound policy rationale.

Empowerment Zones and Enterprise Zones

Enterprise zones or empowerment zones were conceived as a means of using the initiative of the private sector to help address poverty. They are meant to draw businesses to economically distressed areas to improve employment prospects for those living in or near the zones and to provide economic services (such as retail) to those same people. Providing work, self-sufficiency and opportunity for lower income people is much better than creating dependency on government programs. Furthermore, creating thriving commerce in an economically depressed area will improve the quality of life of those that live there.

Enterprise zones are, however, inconsistent with sound tax policy principles. They introduce extra complexity to the tax system and create tax preferences that favor one set of taxpayers over another. They can only be justified as an effective anti-poverty initiative. Whether they are effective is the proverbial empirical question.

In the past, I have been supportive of enterprise zones as a reasonable experiment in trying to address the difficult problem of poverty by increasing opportunity in poor

[20] Internal Revenue Code sec. 108(a)(1)(E).
[21] Gary S. Becker, *Human Capital: A Theoretical and Empirical Analysis, with Special Reference to Education*, 3rd Edition (1994).
[22] Other reasons may include enjoyment (more in the nature of consumption) or preparation for being an educated, effective citizen.

neighborhoods.[23] The evidence of their effectiveness is mixed, at best. Reasons for this include that the design of existing zones has left a lot to be desired, that the incentives provided have typically been weak and that the complexity of the provisions increase administrative costs and reduce the attractiveness of the zones.

Absent strong evidence that the zones are having positive effects that justify the revenue lost, the administrative costs for businesses and local government and the creation of tax preferences in the tax code, it may be advisable either to reconsider the design of the zones or to simply acknowledge that, while they are an attractive idea in principle, they appear not to be cost-effective in practice. Evidence may exist to the contrary but I am unaware of it. There may also be lessons that can be learned from the experience of other countries that have adopted similar approaches.

Fairness

A well-designed tax system should in general treat similarly situated taxpayers in a similar fashion. Thus, those with the same level of consumption or income should pay roughly the same tax. This concept is sometimes called horizontal equity. Tax preferences or "loopholes" violate this principle and are one of the central reasons that the tax system is viewed as unfair. The committee should keep this principle in mind as it deliberates.

Thank you.

[23] David R. Burton, Testimony, House Ways and Means Committee, on "Enterprise Zones," October 17, 1989 http://www.c-span.org/video/?9581-1/enterprise-zones-part-1 and http://www.c-span.org/video/?10969-1/enterprise-zones-part-3.

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Chairman BUCHANAN. Mr. Phillips, you are recognized for 3 minutes.

STATEMENT OF RICHARD PHILLIPS, SENIOR POLICY ANALYST, INSTITUTE ON TAXATION AND ECONOMY POLICY

Mr. PHILLIPS. Thanks. Chairman Buchanan, Ranking Member Doggett, and Members of the Committee, on behalf of the Institute on Taxation and Economic Policy, or ITEP, I would like to thank you for holding this hearing to evaluate the recently expired tax provisions also known as the Tax Extenders.

It is long past time for the tax extenders to be evaluated and either be allowed to expire or to be paid for and made a permanent part of the Tax Code. Congress' tradition of passing short-term extensions of these provisions has long been detrimental to the creation and maintenance of a fair and sustainable tax system.

While a lot of excuses are given for this, the true reasons behind this practice are clear. First, the goal of passing tax breaks on a temporary basis is to hide their true long-term fiscal costs. While increasing the deficit for these tax breaks a couple years at a time may create the appearance of fiscal prudence, the reality is that their continual extension is increasingly costly and fiscally imprudent.

Secondly, there is a problematic relationship between lawmakers and the special interest backers of these provisions. The former director of ITEP, Bob McIntyre, rightfully referred to the tax extenders legislation as the Tax Lobbyist Full Employment Act.

We need to remove the special interests from the tax policy-making process, and one of the most important first steps to accomplish this would be to end the tax extenders tradition once and for all. To this end, lawmakers should initiate a detailed analysis of each of the recently expired tax provisions at issue in today's hearing to determine whether or not they serve a compelling public interest in a cost-effective manner.

If a provision does not meet these standards, it should be allowed to remain expired. And if a provision does prove to be effective, then it should be made a permanent part of the Tax Code. But at the same time, it should be paid for.

It is critical to note that creating permanency in the Tax Code goes well beyond dealing with the tax extenders. Rather than clearing out the Code of temporary provisions, the Tax Cuts and Jobs Act has created a series of temporary tax provisions that are many times the size of the tax extenders that are the focus of today's hearing.

Some lawmakers may argue that the answer to this problem is to make all of the temporary provisions of the Tax Cuts and Jobs Act permanent. But the problem with this is that it would not make the Tax Code sustainable and would not guarantee any real permanency in the Tax Code.

The United States faces a deficit of roughly $12.3 trillion over the next 10 years, which means that current tax law will have to change substantially to prevent a historic increase in the national debt. Making all the Tax Cuts and Jobs Act provisions and other temporary provisions permanent would make the Tax Code even

more unsustainable by increasing the projected deficit by an additional $1.2 trillion.

To create permanency in the Tax Code, Congress should embrace a real tax reform effort which would set the Code on a fiscally sustainable path and end the use of temporary provisions.

Thank you for your time. I look forward to answering any questions.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. Phillips follows:]

Informing the debate over tax policy nationwide

Statement of
Richard Phillips, Senior Policy Analyst
Institute on Taxation and Economic Policy
Before the Committee on Ways and Means
Subcommittee on Tax Policy
Hearing on
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"
March 14, 2018

Chairman Buchanan and Ranking Member Doggett:

On behalf of the Institute on Taxation and Economic Policy (or ITEP) I would like to thank you for holding this hearing to evaluate recently expired tax provisions, which are widely known as the tax extenders. It is long past time for the tax extenders to be evaluated and then either be allowed to expire or to be paid for and made a permanent part of the tax code. If we want permanency in the tax code, this will also mean looking beyond recently expired tax provisions to those significant portions of the tax code that are now set to expire due to the Tax Cuts and Jobs Act.

ITEP is a non-profit, non-partisan research organization that provides timely, in-depth analyses on the effects of federal, state, and local tax policies. ITEP's mission is to ensure the nation has a fair and sustainable tax system that raises enough revenue to fund our common priorities, including education, health care, infrastructure and public safety. For more than 35 years, ITEP has provided in-depth research and analysis of the tax code, including on the tax extenders. I am honored to continue this work on behalf of ITEP by submitting this testimony to the Subcommittee today.

Introduction

Congress has made a nearly annual tradition of continually passing short-term extensions of a series of temporary provisions in the tax code. This tradition has long been anathema to the creation and maintenance of a fair and sustainable tax system. While a lot of excuses are given for this, the true reasons behind this practice are clear.

First, the goal of passing tax breaks on a temporary basis is to hide their true long-term fiscal cost. For example, the cost of providing a 7-year recovery period for motorsports entertainment for just 2018 is $6 million, while making it permanent would cost $504 million over the next ten years. Overall, the cost of extending all the expired 2017 provisions in 2018 would be $4.2 billion, while making them permanent would cost $92.5 billion over the next ten years.[i] Some lawmakers want to maintain the appearance of fiscal prudence by only increasing the deficit for these tax breaks a couple of years at a time, but the reality is that their continual extension is increasingly costly and fiscally imprudent.

Second, the passing of these tax provisions is driven by a problematic relationship between lawmakers and the special interest backers of these provisions. The former director of ITEP, Bob

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McIntyre, rightfully referred to the semi-annual passage of the tax extenders as the tax lobbyist full employment act. Passing tax provisions repeatedly on a short-term basis only makes sense if the goal is to maintain the attention of special interest lobbyists. We need to remove the special interests from the tax policy making process and one of the most important first steps to accomplish this would be to end the tax extenders tradition once and for all.

Framework for Evaluating Temporary Tax Provisions

While there is certainly room for improvement, major government programs are typically subject to several layers of oversight, evaluation, and reform on an ongoing basis. In contrast, expenditures of equal size and impact in the tax code are rarely subject to much if any scrutiny and evaluation. This lack of evaluation has been especially true for the tax extenders, which have historically been passed as a package in a rushed fashion, allowing numerous provisions to pass and remain in effect for years without any serious evaluation of their merits.

Moving forward, lawmakers should consider the following three questions when evaluating the passage of any tax provision, temporary or otherwise.

1. Does the tax provision serve a compelling public interest?
2. Does the tax provision achieve a compelling public interest in a cost-effective way?
3. If the passage of a tax provision is worthwhile, how should it be paid for?

A compelling public interest?

One of the principles of an ideal tax code is horizontal equity, meaning that taxpayers with similar income and assets should pay the same amount in taxes. The only reason to deviate from this practice should be that doing so serves some compelling public interest. For example, the child tax credit causes individuals with the same income and assets to pay a different amount in taxes based on whether they have children. This clearly serves a compelling public interest because it helps families support and care for children.

In contrast, many of the tax extenders have historically been created to benefit narrow public interests, not the broad public interest. For example, one of the tax extender provisions under discussion today provides owners of racehorses millions in tax breaks each year. While certainly beneficial to a narrow set of racehorse owners, this provision serves no broad public interest to justify the special treatment of the owners of horses over owners of other assets.[ii]

Cost effective?

If a tax provision does theoretically serve a broad public interest, the next question should be whether it is doing so in a cost-effective way. Many provisions in the tax code and many of the tax extenders were put in place to serve a noble purpose, but simply do not achieve this purpose in a cost-effective way. For example, the idea that there should be a tax incentive to help economically distressed urban and rural areas makes sense, but the empowerment zone tax incentives created to serve this purpose have not been effective in helping distressed areas. The problem with empowerment zone tax incentives, as well as many other tax incentives, is that they often provide

a windfall to companies and individuals who would have engaged in the desirable activity regardless of the tax incentive, rather than encouraging more of the desired activity.[iii]

It is worth noting that none of the recently expired tax provisions passed as part of the budget deal are likely to be at all effective because they were extended retroactively. It strains credulity to assert that these provisions created incentives, even though they were not in effect until after the time that they are supposed to impact.

Each and every temporary provision of the tax code should be subject to an independent cost-benefit analysis. Permanent tax expenditures in the code should also be subject to periodic analyses. If a provision is found to not be cost effective, then it should either be reformed to make it more effective or simply allowed to expire.

Paying for It?

The most basic task of the federal tax code is to raise enough revenue to fund the federal government. Years of tax cuts, however, have made it so that our tax code brings in substantially less revenue than is needed to cover the public investments we need. Under current law, the federal government will face a deficit of around $12.3 trillion[iv] over the next ten years, which does not even include additional funding for new investments in healthcare, education, and infrastructure that our country needs to prosper. There is a crucial need for Congress to raise a significant amount in revenue going forward and Congress should certainly not make the deficit worse by piling on additional tax breaks on top of the trillions in tax breaks passed most recently in the Tax Cuts and Jobs Act of 2017[v], the Protecting Americans from Tax Hikes Act of 2015[vi], and the American Tax Payer Relief Act of 2012.[vii]

If a temporary provision of the tax code serves a compelling public interest and is found to be effective at achieving that goal, then it is worth paying the costs of making that provision a permanent part of the tax code. One of the ways that the tax extenders have managed to avoid scrutiny is that lawmakers have not had to confront the tradeoffs associated with paying for them. Put simply, any provision that is not worth paying for should not be temporarily extended or made permanent.

Recommendation for Dealing with Temporary Tax Provisions

In summary, lawmakers should immediately begin a detailed analysis of each of the recently expired tax provisions at issue in today's hearing to determine whether they serve a compelling public interest in a cost-effective manner. If a provision does not meet these standards it should be allowed to remain expired. The most obvious candidates for this treatment would be the tax breaks for race horses, motorsports entertainment complexes, special expensing for certain film, television, and live theatrical productions, and the empowerment zone tax incentives. If a provision does prove to be effective, then it should be made a permanent part of the tax code, but at the same time it's cost should be offset by an increase in revenue from either broadening the tax base or raising tax rates.

Bringing Permanency to the Tax Code

The failure of lawmakers to bring permanency to the tax code is by no means limited to the 28 recently expired provisions that form the primary basis of today's hearing. A recent analysis by the JCT listed 80 provisions in the tax code that are set to expire at different times over the next 10 years.[viii] While 26 of the provisions that form the subject of today's hearing would cost $92.5 billion to extend over the next ten years,[ix] many of the other provisions set to expire over the next ten years would cost hundreds of billions of dollars over the long run.[x]

If there was one minimum goal that tax reform legislation should have accomplished, it was a reduction in the number and scope of the provisions of tax code that is temporary.[xi] Unfortunately, the Tax Cuts and Jobs Act greatly expanded the number of temporary provisions of the tax code.[xii] In fact, after 2025 virtually all of the individual tax provisions of the act are set to expire. In addition to the expiring provisions, the Tax Cuts and Jobs Act includes a variety of provisions that raise revenue after 2025 (such as the increase in the Base Erosion and Anti-Abuse Tax rate from 10 to 12.5 percent) that lawmakers and special interests will seek to stop from ever going into effect. Rather than creating stability and predictability in the tax code, the Tax Cuts and Jobs Act has set Congress up for years of debates over many more temporary provisions in the tax code.

Some lawmakers may argue the answer to the problems created by making significant portions of the Tax Cuts and Jobs Act temporary is to simply make all these provisions permanent. For these lawmakers, the issue was simply that some provisions had to be made temporary due to Senate budget rules and should be made permanent going forward. But making all the temporary provisions of the Tax Cuts and Jobs Act permanent is not sustainable and thus does not guarantee any real permanency in the tax code. As discussed above, under current law the United States faces a deficit of roughly $12.3 trillion over the next ten years, which means that current tax law will almost certainly have to change substantially to prevent a historic increase in our national debt. Making all the Tax Cuts and Jobs Act provisions and other temporary provisions permanent would make the tax code even more unsustainable by increasing the projected deficit by an additional $1.2 trillion.[xiii] In other words, if Congress were to make permanent all the temporary tax provisions today, fiscal reality will force them to overhaul that tax code again in a few years to raise more revenue.

To create real permanency in the tax code, Congress should embrace a real tax reform effort. This means setting the tax code on a fiscally sustainable path and ending the use of temporary provisions to cover up the real cost of tax breaks.

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[i] Joint Committee on Taxation, "Federal Tax Provisions Expired in 2017," March 9, 2018. https://www.jct.gov/publications.html?func=startdown&id=5062

[ii] Department of Treasury, "Report to Congress on the Depreciation of Horses," March 1990. https://www.treasury.gov/resource-center/tax-policy/Documents/Report-Depreciation-Horses-1990.pdf

[iii] Congressional Research Service, "Empowerment Zones, Enterprise Communities, and Renewal Communities: Comparative Overview and Analysis," February 14, 2011. https://www.everycrsreport.com/files/20110214_R41639_b18ae5bf0fbe93505d7b6c2b13b744b76124b9ed.pdf

[iv] Committee for a Responsible Federal Budget, "Updating the U.S. Budget Outlook," March 2, 2018. http://www.crfb.org/papers/updating-us-budget-outlook
[v] Institute on Taxation and Economic Policy, "The Final Trump-GOP Tax Plan: National and 50-State Estimates for 2019 & 2027," December 16, 2017. https://itep.org/finalgop-trumpbill/
[vi] Citizens for Tax Justice, "Why Lawmakers Should Say No to Tax Extenders, Yes to the Working Families' Tax Credits," November 23, 2015. https://www.ctj.org/why-lawmakers-should-say-no-to-tax-extenders-yes-to-the-working-families-tax-credits/
[vii] Citizens for Tax Justice, "Revenue Impacts of the Fiscal Cliff Deal," January 3, 2013. https://www.ctj.org/revenue-impacts-of-the-fiscal-cliff-deal/
[viii] Joint Committee on Taxation, "List Of Expiring Federal Tax Provisions 2016-2027," January 9, 2018. https://www.jct.gov/publications.html?func=startdown&id=5057
[ix] Joint Committee on Taxation, "Federal Tax Provisions Expired in 2017," March 9, 2018. https://www.jct.gov/publications.html?func=startdown&id=5062
[x] Committee for a Responsible Federal Budget, "Updating the U.S. Budget Outlook," March 2, 2018. http://www.crfb.org/papers/updating-us-budget-outlook
[xi] Richard Phillips, "How the Latest Budget Deals Expose the Failure of "Tax Reform"," Just Taxes Blog, February 9, 2018. https://itep.org/how-the-latest-budget-deals-expose-the-failure-of-tax-reform/
[xii] Ibid.
[xiii] Ibid.

Chairman BUCHANAN. Ms. Alexander, you are recognized.

STATEMENT OF RYAN ALEXANDER, PRESIDENT, TAXPAYERS FOR COMMON SENSE

Ms. ALEXANDER. Thank you for the opportunity to testify today.

Taxpayers for Common Sense is a national nonpartisan budget watchdog. We have long catalogued tax extenders and welcome this hearing as one of the first instances of oversight on this topic. In the last decade, short-term extensions of expiring tax provisions have added hundreds of billions of dollars to the federal deficit.

Tax extenders undercut the goals of providing certainty, providing a predictable flow of revenue, and encouraging future behavior. In almost every case, the hodgepodge package of unrelated extenders are attached to a must-pass bill without full offsets for lost revenue.

The practice adds complexity and results in Washington picking winners and losers. In the last decade, 6 out of 7 extender bills have been at least partially retroactive, subsidizing past, not future, actions.

On the very same day the most sweeping tax package in a generation passed the Senate in December, Finance Committee Chairman Hatch introduced the Tax Extenders Act of 2017. Most of the tax breaks in that bill have been extended several times in the past and were retroactively extended in the Bipartisan Budget Act last month.

Excluding them from the December tax package either means they were unimportant or lawmakers couldn't shoehorn the costs into the 1.5 trillion deficit permitted by the reconciliation package. The December tax package also set the stage for a whole new round of tax extenders by including many provisions that expire, like the new break for craft beer, which expires in 2019.

Taxpayers for Common Sense also has concerns on the merits of many of the provisions we are talking about today. Section 168E3A provides 3-year depreciation for certain racehorses and has been extended 4 times. Other than political influence, how did this become a tax policy priority? Are racehorse investors' profits critical to the country's economic health?

The NASCAR tax break or the 7-year recovery period for motorsports entertainment complexes has been extended 6 times since its establishment in 2004 at a cost of more than 300 million. It is a perfect example of a special interest lobbying successfully for special treatment.

Special expensing rules for film and television, Section 181.F, a perennial favorite, received retroactive extension through last year. And the December package includes a new provision for bonus depreciation for film, television, and theater that may have greater value than Section 181.F.

More than half the provisions included in the BBA 2018 relate to the energy industry, many of which were created to provide incentives to less established sectors as a counterweight to longstanding tax preferences for mature industries.

But the December tax package left the legacy energy expenditures in place, thereby renewing emerging industries' demand for

extenders. So continues the cycle of adding rather than subtracting subsidies.

Again, thank you so much for inviting me today. Taxpayers for Common Sense is pleased that you are holding this hearing on individual extenders, but we believe the entire process has to stop. And I am happy to answer questions you have.

Chairman BUCHANAN. Thank you.

[The prepared statement of Ms. Alexander follows:]

Testimony of Ryan Alexander
President, Taxpayers for Common Sense
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"
House Ways and Means Committee
March 14, 2018

Thank you for the opportunity to submit testimony on the important issue of tax extenders and recently expired provisions in the tax code. My organization, Taxpayers for Common Sense, is a national nonpartisan budget watchdog and we have long monitored and cataloged the nearly annual legislative event of extending packages of expiring tax provisions.

My testimony will focus on the tax policy and budget implications of these narrow short-term tax expenditures as well as critiques of specific provisions that expired at the end of 2017.

The practice of tax extenders undercuts the most broadly agreed upon goals of tax policy: to provide certainty to individuals and businesses; to provide a predictable flow of revenue to the government; and to encourage future behavior. The procedural history and practice of tax extenders is equally flawed. The hodge-podge package of unrelated provisions has no rational basis as a whole, and in almost every case extender bills are passed without debate on any of the individual provisions. We welcome this hearing as one of the first instances of oversight on extenders and expiring provisions in the tax code.

The short term nature of tax provisions passed on an annual or biannual basis increases uncertainty for all involved. Investors and companies benefiting from specific provisions may not be able to make long term decisions. In some sectors, like energy, emerging technologies have largely benefitted from "temporary" tax provisions while more mature industries benefit from permanent tax preferences, skewing the market and compounding the already complex risk assessment involved in investments in emerging technology. It means that taxpayer subsidies benefit one industry to compete with another subsidized industry. The narrow focus, in turn, adds complexity to an already complex tax code and results in Washington picking winner and losers amongst taxpayers.

Moreover, temporary tax provisions reflect the political influence of the beneficiaries rather than reasoned, prioritized tax policy making. Like earmarks in appropriations, tax extenders have one unsung beneficiary: lobbyists. Because extenders allow for narrow changes to tax law that often benefit a single industry – and sometimes a single company – they are perfect for lobbyists. One example in the recent extenders package is the changes to the nuclear production tax credit. The changes included in the package are not technically an extender – rather they modify the conditions required to qualify for the credit, by eliminating the time limitation on eligibility. Originally projects needed to be placed into service by 2021, now there is no deadline. The modifications also allow tax exempt entities to claim the credit – and pass it along to their for-profit partners.

Repeated short-term extensions mask the true costs of provisions. In the last decade, we estimate that the extension of expiring tax provisions has added hundreds of billions of dollars to the deficit. The seven bills passed in the last decade were almost all attached to must-pass legislation – as the most recent bill was – without any effort to fully offset the lost revenue. In that period of time, more than 150 provisions were extended more than once, and more than 40 provisions were extended four times or more.

The true aggregate cost of these bills is difficult to ascertain because of the way the legislation is structured and passed. All Congressional Budget Office (CBO) and Joint Committee on Taxation (JCT) projections – the projections upon which Congress bases budgetary decisions presumed that all of these "extender" provisions would not be renewed – not even once. When provisions are extended for another one or two years, JCT and CBO make new projections, once again assuming there will be no further renewals, further obfuscating the true, long term cost. The lack of transparency in scoring results in Congress is willfully making decisions based on incomplete evidence. With a debt of $20 trillion that already exceeds our gross domestic product and trillion dollar deficits on the horizon, extenders are a foolhardy practice to continue.

And finally, the often retroactive extensions of these provisions do not promote future activities, rather they subsidize behavior and actions that have already occurred – possibly in anticipation of an extension. In the last decade, six out of seven extender bills have included retroactive provisions.

Before turning to the recently expired provisions, I want to take a moment to put the most recent tax extenders bill in context. In December, Congress passed and the President signed, the most sweeping tax legislation in more than 30 years. On the **very same day** the tax package passed the Senate, Senate Finance Committee Chairman Hatch (R-UT) introduced the Tax Extenders Act of 2017, which extended the expiration date of more than 30 provisions, most of which have been extended repeatedly in the last decade. These provisions were not made permanent in the tax bill. The fact that these tax extender provisions being discussed today were not included in this package is either an indication of their importance, or lack thereof, to lawmakers, or the inability of lawmakers to shoehorn the costs of these provisions into the more than $1.5 trillion deficit permitted by the budget reconciliation agreement.

The recent tax bill also set the stage for a whole new round of tax extenders by including many provisions that expire before the end of the ten year budget window. In addition to almost all of the individual provisions expiring in 2025, several other provisions, including some newly established tax preferences will expire within the budget window. The new provision dealing with craft beer will expire in 2019, those affecting citrus producers in 2027, and bonus depreciation in 2027. These will almost certainly become the nucleus of future extender packages.

The majority of extensions attached to the Bipartisan Budget Act of 2018 in February were retroactive – shifting the expiration date from the end of 2016 to the end of 2017. There is no possibility that these extensions will change behavior.

Of the 28 provisions that were only retroactively extended and therefore expired on December 31, 2017, many are provisions Taxpayers for Common Sense has long criticized on their merits in addition to the inherently problematic process by which they were passed.

Section 168(e)(3)(A), which provides for three-year depreciation of race horses two years old or younger, which has a value of $37 million in FY 2018 alone, was created as part of the 2008 Farm Bill and has been renewed three times prior to the most recent extension. The narrowness of this provision is self-evident, the policy behind the provisions is not. Was Congress presented with evidence that the horse racing industry would create more jobs because of this accelerated depreciation? Is the universe of investors in race horses critical to the economic growth and health of the country? What changes to the industry – other than increased profits for race horse owners – would result because of this change?

Similarly, the seven year recovery period for motorsports entertainment complexes, section 168(I) (15) (d) has also been extended six times since it was established. This so-called NASCAR tax-break is a perfect example of a special interest lobbying successfully for special treatment. Owners of motorsports entertainment complexes are allowed to depreciate their investments in less than half the time of other investors in similar real estate. Since 2004, when the provision was added "temporarily" to the tax code, it has cost taxpayers more than $300 million.

Movies and television benefit too, with section 181(f), which grants the industry special expensing rules, and has done so temporarily six times in ten years. Unlike motorsports complexes and race horse owners, film and television had some of their wishes addressed in December's tax package, which included bonus depreciation for film, television, and theater—although that provision expires in 2026.

The American Samoa Economic Development credit is essentially a $10 million subsidy for Korean-owned Starkist to operate a cannery in the territory. This provision has been extended seven times in the last decade. If it is as critical as proponents suggest, why wasn't it included in the December tax package?

Some provisions in the extenders package passed last month did do more than retroactively extend the expiration date of a specific provisions. The rum excise tax cover over was retroactively extended to cover 2017 and further extended until 2022. The rum provision also demonstrates how these provisions are often poorly targeted. The US Virgin Islands used the cover over to build a distillery to entice Diageo, the British-based largest liquor conglomerate in the world, to shift Captain Morgan rum production from Puerto Rico to USVI. From one US territory to another.

After years of trying, (see H.R. 4622, S. 3179, S. 1535, etc.) carbon capture and sequestration (CCS) backers have gotten an extension and expansion of the 45Q tax credit. The credit for capturing and sequestering a metric ton of carbon will ramp up from $20 to $50 by 2027; the credit for capturing a ton then using it for oil recovery or something else ramps up from $10 to $35.

More than half of the provisions included in the BBA 2018 relate to the energy industry, some of which originated as temporary tax provisions in the Energy Policy Act of 2005. Many of those provisions were established to provide tax incentives to less established sectors, to counteract the longstanding tax preferences in the tax code for more mature industries. Unfortunately, the December tax package left all of longstanding provisions in place, thereby renewing the demand for tax preferences for newer industries – and now the tax extenders package continues the cycle of adding rather than subtracting subsidies.

Among the biggest beneficiaries among the energy and natural resources portion of the extenders package are the biodiesel/renewable diesel industries: the retroactive extension of their credits will reduce their 2017 tax bill (or increase their refund) by $3.3 billion. Similarly, although section 30C(g)(2), Credit for Alternative Fuel Vehicle Refueling Properties, has been renewed six times, it didn't make it in to the December tax package, but a one year retroactive extension did make it in to the budget deal. While the Solar Investment Tax Credit was extended for five years in 2015, the construction start date for eligibility to claim the credit for **non-solar** property was extended five years in the recent deal, after significant lobbying from non-solar industries.

Another concern about extending any of the recently expired provisions of the tax code is the likelihood that expiring provisions are either duplicative, overlapping, or even undermining of provisions in the new tax law. For example, the recent extenders package included a retroactive extension of the Empowerment Zone tax credit through 2017. This provided a tax credit to employers who hired individuals who live and work in certain high poverty areas in the country. Still another provision targeted at development in high poverty areas is the New Markets Tax Credit, which was extended six times before being extended for five years as part of the PATH (Protecting Americans from Tax Hikes) Act in 2015. Interestingly, the New Markets Tax Credit excludes racetracks from the eligible activities, something that is subsidized by the aforementioned NASCAR tax extender.

All of these provisions certainly overlap, and may be duplicative of section 1031 of the December tax package, which creates new incentives and vehicles for investing in qualified opportunity zones. Under this new provision, investors can defer taxes on unrealized capital gains by investing them in a Qualified Opportunity Fund, which would in turn, only be able to invest in opportunity zones. What is not clear is that these provisions actually stimulate activities and development that would not otherwise occur or simply fuel gentrification and planned development.

Again, thank you for inviting me to testify. Taxpayers for Common Sense is pleased that you are holding a hearing on specific tax extenders, but we believe the entire process should be ended. I would be happy to answer any questions you might have.

Chairman BUCHANAN. Ms. MacGuineas, you are recognized for 3 minutes.

STATEMENT OF MAYA MACGUINEAS, PRESIDENT, COMMITTEE FOR RESPONSIBLE FEDERAL BUDGET

Ms. MACGUINEAS. Thank you so much for having me here today to discuss tax extenders. I am Maya MacGuineas. I run the Committee for a Responsible Federal Budget, and I am pleased to have the opportunity to join you, but I am also disappointed we continue to have this discussion.

The PATH Act and the recent tax reform effort were meant to end the practice of making tax policy 1 year at a time.

I would like to make 4 points. Our Tax Code has too many tax breaks, even after tax reform. Temporary tax extenders are a bad way to do policy. Retroactive tax extensions are basically a giveaway, and our fiscal situation necessitates that any extensions be paid for.

The over 1 trillion a year—a year—in tax breaks in our Code, even after tax reform, makes our often—which are oftentimes inefficient, ineffective, expensive, regressive, distorting, and pick winners and losers, are not a good way to do tax policy.

They are worse when they are temporary, which makes it hard for businesses and individuals to plan and invest. There are times when they make sense, like if to deal with an economic downturn, to test the effectiveness of something, or to provide transition relief.

But generally they are an outright gimmick to make the cost of legislation look cheaper, just like the expiration of the just-passed tax bill, which creates a host of new extenders that could add over a trillion to the debt, or 1.6 trillion if you include all the other tax extenders that you are considering.

That is more than the cost of the entire tax bill. Tax incentives/extenders are particularly problematic when they are extended retroactively. Since they have little or none of their intended effect, they are just paying people to do what they have already done.

Congress almost always extends these tax breaks without offsets. Since 2012, Congress has passed 4 extender laws that added more than $1 trillion to the deficits. And right now our debt is at near record levels. Debt relative to the economy is twice the historical level. It is twice where we were when we went into the downturn of 2008. We need to be in better fiscal shape than that if and when we enter the next downturn, so that we are able to respond.

We are on track to have trillion-dollar deficits a year starting next year forever. And after the irresponsible spending and tax legislation that we have just passed in the past few months, we are likely to have debt as high as the entire economy within a decade.

So I think it is worth noting that most of the people who are pushing to extend the tax extenders are going to benefit from it—their companies, their industries, their self-interest.

And here you have a panel that is unbelievably diverse. I would bet we couldn't agree on much of anything except we are all here with no skin in the game saying, "This is not a way to do a tax policy. This is not a way to keep extending things. This is not a way to borrow for something when the fiscal situation is so bad."

So thank you so much for having me today.

Chairman BUCHANAN. Thank you.
[The prepared statement of Ms. MacGuineas follows:]

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Testimony of Maya MacGuineas
Committee for a Responsible Federal Budget
Hearing before the House Ways and Means Subcommittee on Tax Policy:

Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, thank you so much for inviting me here today to discuss the tax extenders. While I am pleased to have the opportunity to discuss this topic, I'm also disappointed we continue to have these discussions. The 2015 PATH Act and the recent tax reform effort were both meant to end the practice of making tax policy one year at a time. That we continue to debate these tax extenders – which we often pass retroactively and almost always without offsets – shows how broken the policymaking process is.

I am Maya MacGuineas, president of the Committee for a Responsible Federal Budget. The Committee for a Responsible Federal Budget is a nonpartisan organization dedicated to educating the public about and working with policymakers on fiscal policy issues. Our co-chairs are Purdue University President and former OMB Director Mitch Daniels, former Secretary of Defense and former OMB Director Leon Panetta, and former Congressman Tim Penny. Our board includes past directors and chairs of the Office of Management and Budget, the Congressional Budget Office, the Federal Reserve System, the Treasury Department, and the Budget Committees. Our partner organization, Fix the Debt, is a nonpartisan coalition that supports a "grand bargain" to help deal with the debt. The group is chaired by Senator Judd Gregg and Governor Ed Rendell.

I will touch on several main points today:

1. Tax extenders are generally poor policy.
2. The 2015 PATH Act was supposed to permanently resolve the tax extenders.
3. The Tax Cuts and Jobs Act made things worse, not better.
4. With the dire fiscal situation, we can't keep debt-financing tax extenders.

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Tax Extenders are Generally Poor Policy

The tax code has well over $1 trillion annually in tax expenditures, which are oftentimes inefficient, ineffective, expensive, regressive, distorting, and pick winners and losers. It was highly disappointing that the recent tax legislation did way too little to eliminate the many tax breaks in the code – which was one of the key goals of tax reform.

Tax extenders tend to be even worse in that they are temporary, and they are particularly problematic when they are extended retroactively.

The temporary nature of tax extenders makes it hard for businesses and individuals to plan and invest. To be sure, there are sometimes legitimate reasons for temporary tax policy – to respond to a natural disaster or economic downturn, to test effectiveness, or to provide transition relief – but most of the tax extenders are temporary simply to hide their budgetary cost. That is an outright gimmick and makes no economic or budgetary sense.

Worse, when extenders are often passed retroactively, they have little or none of their intended effect. The most recent tax extenders package – which included incentives for individuals, businesses, and certain energy interests – was passed in February 2018 but extended 30+ tax breaks for 2017 only. The purpose of targeted tax breaks is often to encourage certain behavior, but incentives can't travel back in time. Retroactive tax extenders don't encourage anything; they only reward decisions already made.

For example, the recent round of tax extenders revived "empowerment zone" tax credits to businesses who invest and hire in distressed urban areas. But the break was expired for all of 2017; it did not exist while businesses were actually making those decisions. The same logic applies to many of the other breaks: extending the expensing rules for film, television, and live theatre through 2017 rewarded those businesses that *already* invested in productions, but it did nothing to encourage future investments. The energy credits work the same way. For instance, the renewable electricity production credit was provided for projects that broke ground in 2017.

Perhaps most importantly from a fiscal perspective, extenders are costly. Congress almost always extends these tax breaks without offsets. Since 2012, Congress has passed four extenders laws that added more than $1 trillion to deficits over their respective ten-year windows including interest. We simply can't afford these tax cuts that have routinely made a poor fiscal situation even worse.

The 2015 PATH Act Was Supposed to Permanently Resolve the Tax Extenders

In 2015, both parties came together to agree on a plan that would permanently deal with all tax extenders. The Protecting Americans from Tax Hikes (PATH) Act of 2015 (and the simultaneous omnibus spending bill) made many tax extenders permanent while putting the rest on a path toward expiration.

Our organization opposed the PATH Act since it ***added over $800 billion to the national debt.*** However, one silver lining was that it was supposed to provide greater certainty in the tax code and end the damaging process of making tax policy a year or two at a time.

Fig. 1: Fate of Tax Provisions in the PATH Act of 2015 & the 2016 Consolidated Appropriations Act

Extended Permanently	5-Year Extensions & Phase-downs	2 Year Extensions/Path to Expiration
Research and development tax credit	50% bonus depreciation, reducing it to 30% by 2019	Tax-free forgiveness of mortgage debt on homes
Increased small business expensing (Section 179)	Rules allowing multinationals to transfer money between overseas subsidiaries without paying tax	Deductions for mortgage insurance premiums and tuition
State and local sales tax deduction	Work Opportunity Tax Credit	Tax credits for renewable fuels, fuel cell vehicles, and two-wheeled electric vehicles
Lower refundability threshold for the Child Tax Credit	New Markets Tax Credit	Empowerment zone tax incentives for distressed urban areas
American Opportunity Tax Credit	Phased-out renewable energy credits and other energy provisions	Special expensing rules for racehorses, motorsports tracks, film/TV/theatre productions
Expanded Earned Income Tax Credit		Credits for mine safety, railroad track maintenance
Rules allowing multinational financial companies to defer tax		Provisions for depreciation on Indian reservations and Indian coal
15-year depreciation schedule for restaurant and retail buildings		Provisions for Puerto Rico, American Samoa, and the Virgin Islands
Other provisions for charity, housing, reservists, etc.		Other provisions (30 in total)
ACA Tax Extenders		
Delay Cadillac tax to 2020, pause health insurance tax for 2017, pause medical device tax for 2016 and 2017		

All parties involved in negotiating the PATH Act agreed that it was supposed to represent a permanent resolution to tax extenders.

- Ways and Means Chairman Kevin Brady described the PATH Act as "ensuring that we will no longer have to spend months each year debating temporary tax extensions."
- Senate Finance Ranking Member Ron Wyden was clear that provisions were on a path to phase out: "At the same time we are phasing out provisions like bonus depreciation which were always designed to be temporary."

- Finance Committee Member Sherrod Brown welcomed the end of repeated extensions: "What this legislation does, in terms of creating breathing room for tax reform, is it breaks the chain of just extending these tax extenders every 2 years."

- And Senate Finance Committee Chairman Orrin Hatch declared the PATH Act would put "an end to the repeated tax extenders exercise that has plagued Congress for decades . . . an almost yearly exercise in relative futility, characterized by partisan bickering as the deadlines approach with short-term extensions enacted at the last minute, leaving no one – certainly not American taxpayers – feeling any better in the end."

Despite these statements, the Bipartisan Budget Act of 2018 revived tax breaks that were intended to expire, renewing this decades-long debacle that was supposed to be resolved.

The Tax Cuts and Jobs Act Made Things Worse, not Better

Tax reform tried to have it all ways regarding tax extenders. First, lawmakers assumed all of the tax extenders that expired in the PATH Act would always continue to justify an additional $500 billion of debt-financed tax cuts as part of tax reform. Then, lawmakers wrote legislation that addressed only one of those tax extenders. Lastly, lawmakers wrote a bill that included many sunsets to make the costs look smaller, while simultaneously claiming they planned to extend the tax breaks. This was an egregious triple gimmick.

Instead of resolving the old tax extenders, the Tax Cuts and Jobs Act created new ones. Under that bill, expanded deductibility of medical costs will end in 2019, tax breaks for paid family leave and alcohol producers will end in 2020, research & experimentation costs will begin to amortize starting after 2021, full expensing of equipment will begin to phase out after 2022, and nearly all changes to the individual tax code and estate tax will end after 2025. At various points over the next decade, the legislation will also tighten rules for interest deductibility, certain international provisions, and operating losses.

If all these changes are continued, it would add up to **$1.1 trillion** more to deficits through 2028. If policymakers also continue the extenders that expired at the end of 2017, those that will expire, and the "Obamacare tax extenders," the total cost could rise to $1.6 trillion. **In other words, we may lose as much revenue from future tax extenders as we did from the tax bill itself.**

Fig. 2: Cost of Potential Tax Policy Extensions Through 2028

Extension Policy	Ten-Year Cost
Continue individual tax provisions after 2025	$550 billion
Stop amortization of research & experimentation (R&E) expenses after 2021	$125 billion
Continue full expensing after 2022	$115 billion
Prevent making foreign tax provisions more strict after 2025	$90 billion
Prevent making business interest deduction more strict after 2021	$90 billion
Continue more generous medical expense deduction after 2018	$50 billion
Continue credit for employers who offer paid leave after 2019	$35 billion
Continue craft beverage tax reforms	$10 billion
Subtotal, extensions of the 2017 tax bill	**$1.1 trillion**
Revive and extend tax provisions that expired in 2017	$90 billion
Continue other tax extenders expiring over the next decade	$70 billion
Continue delays of ACA taxes	$320 billion
Cost of extending all expiring tax policies	**$1.6 trillion**

Source: CRFB calculations based on Joint Committee on Taxation.

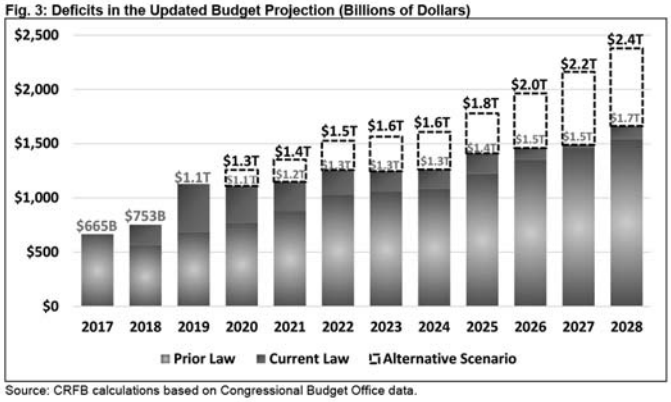
These new expirations worsen the uncertainty from the previous set of tax extenders. Indeed, analyses from across the political spectrum agree expirations in the current tax bill will reduce its growth impact. Giving businesses and individuals some certainty over future tax policy would improve investment decisions and economic outcomes. However, certainty shouldn't come at the cost of adding to the debt.

With the Dire Fiscal Situation, We Can't Keep Debt-Financing Tax Extenders

We cannot afford to keep extending revenue-losing tax policy. Many of the old and new extenders should be allowed to sunset so that they don't add to the debt, and tax policies that are continued must be fully paid for. With our debt at near-record levels, we do not have the fiscal space to keep adding them to the national credit card, and it is even more crucial to pay for policies after the major deficit-increasing legislation enacted in recent months.

Previous Congressional Budget Office (CBO) projections in June 2017 implied that debt would reach 93 percent of Gross Domestic Product (GDP) by 2028. We recently estimated that recent legislation has worsened the debt situation to the point that debt will now exceed the size of the economy within ten years. Trillion-dollar deficits are now expected to return next year rather than in 2022 as CBO last projected, and the deficit will reach a record $1.7 trillion by 2028.

Fig. 3: Deficits in the Updated Budget Projection (Billions of Dollars)

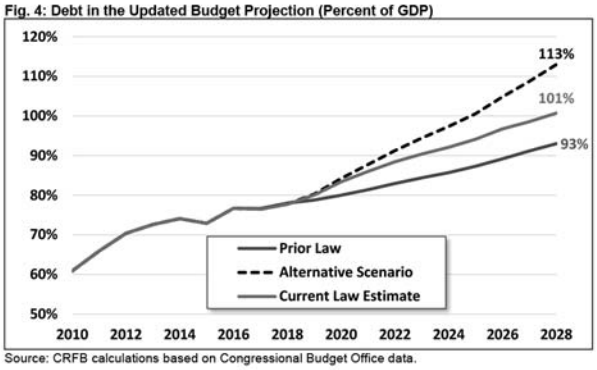


Source: CRFB calculations based on Congressional Budget Office data.

However, even these projections could be optimistic because they assume that lawmakers will allow temporary policies – including the tax extenders, other sunsets in the tax law, and the spending increases from February's budget deal – to expire as scheduled. If these policies were extended permanently without offsets, debt would exceed its all-time record of 106 percent of GDP in 2027 and reach 113 percent ($33 trillion) by 2028, while the deficit would reach $2.4 trillion that year. The 8.2 percent of GDP deficit in 2028 would be the fourth-highest since World War II; the three higher years were in the aftermath of the financial crisis.

Debt would likely continue to grow rapidly beyond 2028 and could be twice the size of the economy in about 25 years.

Fig. 4: Debt in the Updated Budget Projection (Percent of GDP)



Source: CRFB calculations based on Congressional Budget Office data.

An easy start to avoiding this fiscal course is to pay for whichever tax extenders are revived. They are now among the cheapest of the expiring provisions. If you think that reviving tax extenders is important, it should not be difficult to find ways to pay for them.

Economically, a dollar of tax preferences has the same effect as a dollar of spending. Ideally, policymakers should consider both when they have similar goals, an approach known as portfolio budgeting. For example, it would make sense to compare the energy extenders under consideration today along with energy spending programs to see which programs have the largest bang for the buck. I hope the recently appointed Joint Select Committee on Budget and Appropriations Process Reform will help reform our budget process in a way that facilitates such tradeoffs. In the meantime, if lawmakers believe in providing the incentives under consideration, maybe they should consider using some of the $290 billion discretionary spending increase they just approved under in February instead of adding complexity into the tax code.

* * *

Tax extenders were supposed to be dealt with once and for all in the 2015 legislation. We just had a massive tax cut that made an already bad fiscal situation stunningly worse. Support for extending any of these tax breaks without paying for them will cause further fiscal deterioration, and at this point, no Member of Congress should be supporting policy that would make our debt situation worse.

I thank the committee for holding this hearing today and would be delighted to work with you to identify ways to pay for the tax extenders. Thank you.

Chairman BUCHANAN. Mr. Hanlon, you are recognized.

STATEMENT OF SETH HANLON, SENIOR FELLOW, CENTER FOR AMERICAN PROGRESS

Mr. HANLON. Mr. Chairman, Ranking Member Doggett, Members of the Committee, thank you for the chance to testify today. My testimony will discuss the extenders in the context of our overall fiscal challenges and the recently enacted tax bill.

I have 3 points I would like to emphasize today, but my main point is the first one, and that is continuing to renew tax extenders without offsetting their cost would drain needed revenue, making it harder to meet our fiscal and economic challenges.

Demographic changes are putting increasing pressure on the federal budget, and existing levels of revenue will not be enough to fully meet our commitments to Social Security and Medicare over the long term. And at the same time, the U.S. has substantially underinvested in critical priorities like infrastructure, education, and child care, even as we face new challenges like the opioid crisis.

The tax legislation enacted in December substantially worsens our fiscal situation, adding $1½ trillion to deficits over the next 10 years according to the official estimate.

According to the Administration, revenues will be just 16.3 percent of GDP in the coming year, well below historical averages, and corporate tax receipts will average only 1.2 percent of GDP in the coming years, and that is 50 percent less than the average over the past 3 decades.

The tax legislation also creates a host of new tax extenders, including nearly all of its individual tax changes as well as delayed revenue raisers. In this respect and others, the legislation that was billed as a historic tax reform has made the Tax Code even less stable.

The remaining tax extenders should be considered in this context. Having enacted an extremely costly, and I would argue irresponsible, tax bill that will put even more pressure on programs and make it harder to address unmet needs, Congress needs to stop digging an even deeper hole.

Extending the provisions that were extended for 2017 would add $92½ billion to deficits, according to Joint Tax. They should be addressed at least on a revenue-neutral basis by offsetting their costs or by keeping them expired. If there are provisions that merit becoming permanent, there is ample room in our Tax Code to offset their costs by closing other loopholes or otherwise raising revenue.

Secondly, as Maya mentioned, renewing extenders without paying for them undermines the agreement that Congress made in the PATH Act of 2015. The PATH Act was supposed to end the yearly ritual of extending tax breaks 1 or 2 years at a time, and the intent was clear: that the remaining extenders would be addressed in a comprehensive tax reform or be allowed to expire. Sliding back into Congress' old habits would be bad for both our budget and the stability of the Tax Code, and it would open up new opportunities for budget gimmicks.

And thirdly and finally, extending tax breaks retroactively is the worst of all worlds, serving no purpose other than conferring a

windfall for certain taxpayers without incenting economic activity or influencing decision-making in a positive way.

Retroactive tax changes also increase confusion and filing burdens for taxpayers and further stretch the IRS's already stretched resources. Thank you.

[The prepared statement of Mr. Hanlon follows:]

Seth Hanlon
Senior Fellow, Center for American Progress
Written Statement Before the House Ways and Means Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett, Members of the Committee, thank you for the chance to testify on the important subject of "tax extenders." My testimony will discuss the provisions that were recently extended retroactively through 2017 in the context of our overall fiscal challenges and the recently enacted tax overhaul.

1. ***Continuing to renew tax extenders without offsetting them would drain needed revenue, making it harder to meet our fiscal and economic challenges***

The United States needs to raise more revenue, not less, to meet our national challenges. An aging population and the retirement of the Baby Boom generation are putting increasing pressure on the federal budget. Existing levels of revenue will not be enough to fully meet commitments to Social Security and Medicare over the long term. At the same time, the United States has substantially underinvested in critical national priorities, including infrastructure, education, and child care,[1] even as we face new and growing challenges like the opioid crisis. Among advanced economies, the United States is a very low-tax country, ranking 31st out of 35 countries in the Organization for Economic Co-operation and Development (OECD).[2]

In December, the Congressional majority and President Trump enacted major tax legislation (the Tax Cuts and Jobs Act, or TCJA[3]) that will add $1.5 trillion to deficits over the next ten years according to the official estimate, significantly worsening our fiscal situation. The Administration now projects federal revenue to be just 16.3 percent of gross domestic product (GDP) in fiscal year 2019 – well below historical averages.[4] In fact, the only times when revenue has dipped as low as 16.3 percent of GDP or lower have been in the wake of the last two recessions.[5] It is alarming that revenues are projected to be so low at a time when the Administration forecasts a very strong economy. Corporate tax receipts will average only 1.2 percent of GDP in the coming years, according to the Administration's projections – 50 percent less than the average over the past three decades.[6]

The remaining tax extenders should be considered in this context. The one-year extension through 2017 of provisions that had expired after 2016, which was included in the Bipartisan Budget Act of 2018, will add approximately $13 billion to deficits.[7] The cost of extending these expiring provisions over the next decade is much more - $92.5 billion, according to the Joint Committee on Taxation (JCT).[8] Having passed an extremely costly and irresponsible tax bill that

will result in even more pressure on vital programs and make it harder to address unmet priorities, Congress needs to stop digging. That means that the tax extenders should be addressed at least on a revenue-neutral basis, by offsetting the cost of extending any provisions or keeping them expired.

2. Stability and permanence are important goals in tax policy. But the tax code is more unstable, with more temporary provisions, than before "tax reform."

The fact that we are even here today is a further illustration of why the tax law enacted in December failed basic tests for "tax reform." The unfortunate fact is that the tax code is significantly more unstable and uncertain, with many more expiring or delayed provisions, than was the case beforehand. Prior to passage of TCJA, there were just 11 income tax provisions that were due to expire in the future, by JCT's count; now, there are 35.[9] With few exceptions, all of the individual tax changes made by TCJA are temporary. Several significant business tax cuts are also temporary, creating new "extenders."[10] Many of the business revenue-raisers are also delayed. If there is one basic expectation for tax reform, it would have been to end the year-to-year uncertainty caused by Congress's extenders habit and increase the permanence of the tax code. But here we are.

It should also be noted that expiring and delayed provisions are only one source of tax code instability. The hasty, untransparent consideration of the tax bill and the decision to create new tax preferences, including in particular the new section 199A deduction for certain passthrough business income, has produced troublesome glitches as well as vast new tax avoidance opportunities. The complexities of the new law, especially given the lack of deliberation, public hearings, and sufficient time for scrutiny by experts, will result in unanticipated consequences and costs for years to come.[11] Treasury and the Internal Revenue Service (IRS) now face the immediate challenge of interpreting and enforcing the new law, but many of the problems will likely only be fixed with future legislation – which Congress is already being asked to consider in some areas.[12] The net result is a tax code that is significantly more unstable than before Congress passed what was billed as a once-in-a-generation tax reform.

3. Renewing extenders without paying for them would further undermine the agreement Congress made in 2015 to address the extenders

Before TCJA, Congress had made progress in addressing the extenders. The list of extenders was much larger in 2015, when Congress reached an agreement to make some of them permanent while allowing others to expire at the end of 2016. That agreement, called the Protecting Americans from Tax Hikes Act (PATH Act), was intended to end the ritual of extending provisions for one or two years at a time while adding their cost to the deficit. For example, Speaker Ryan said that "we are ending Washington's days of extending tax policies one year at a time."[13] Chairman Brady said that the 2015 extenders deal would "identif[y] what truly are permanent parts of the code."[14] Senate Finance Chairman Hatch asserted that the PATH Act would put "an end to the repeated tax extenders exercise that has plagued Congress for decades."[15] He said it would "adjust the tax and revenue baseline to make conditions vastly more favorable for comprehensive

tax reform in the future" – implying that Congress would adhere to the revenue baseline set by the PATH Act.

The clear intent was that the provisions expiring in 2016 would either be allowed to expire or be addressed in comprehensive tax reform. As its proponents argued, the PATH Act created stability and certainty – and it stanched the fiscal damage from extenders by allowing many provisions to expire and putting others on a glide path to expiration.

Congress has now unfortunately backslid into old habits, renewing the tax breaks that had expired after 2016, including special-interest tax breaks like the shorter depreciation schedules for racehorses, motorsports racetracks, and film and television productions. To be sure, some of these provisions serve important national interests like promoting energy efficiency. But extending them on a temporary basis, and even worse on a retroactive basis, makes them less effective than they should be. Meanwhile, our tax code still includes permanent subsidies for fossil fuels that have existed for decades. TCJA was a missed opportunity to modernize our tax code to end inefficient fossil fuel subsidies and strengthen incentives for clean and renewable energy. One way that temporary incentives for clean and renewable energy can be extended and/or made permanent in a fiscally neutral way is by rolling back fossil fuel subsidies.

4. Extending tax breaks retroactively is the worst of all worlds

The provisions we are discussing today all expired at the end of 2016 and were extended retroactively for 2017 more than a month into 2018. It is not possible to incent behavior in the past. When Congress subsidizes activities or business decisions that have already happened, it is simply conferring a windfall on certain taxpayers, with no hope of boosting economic activity or jobs or influencing decision-making in a positive way.

Retroactive tax changes also disrupt the tax filing process. The IRS had already opened the 2017 tax filing season, and people had already filed tax returns, when Congress renewed the extenders for 2017. The IRS was not ready to process certain tax breaks, and recommended to taxpayers that they either wait longer to file their taxes or file, and then submit amended returns.[16] This pointless confusion adds to the burdens on filers, who deal with enough complexity to begin with, and on the already-stretched IRS.

5. Tax extenders create the opportunity for budget gimmickry that obscures the deficit impacts of tax cuts

Sometimes there are very legitimate reasons for making a tax provision temporary – to provide tax cuts to counteract a recession, for example. But Congress has also used "sunsets" to obscure the real long-term costs of new tax cuts. And last year, Congress used temporary tax cuts whose long-term cost was never built into budgets to justify *new* tax cuts. One of the main ways that the Administration and congressional proponents of TCJA argued that the bill would cost less than the official estimate of about $1.5 trillion was to measure their bill against a so-called "current policy" baseline that assumed Congress would extend expiring tax breaks.[17] In other words, proponents argued that the cost of the new tax overhaul should be measured not against current

law revenue levels, but against the lower revenue levels under an alternative scenario in which Congress extended all the expiring tax breaks forever. They assumed that any tax overhaul would appear $400 billion or $500 billion less costly if compared against "current policy" rather than current law.

This approach was problematic for a number of reasons. Congress had never budgeted for the permanent extension of the extenders – each of them were scored as temporary when originally enacted or when renewed – so measuring new major legislation against a current policy baseline hid the fact that making these provisions permanent entailed substantial fiscal costs. And after the PATH Act, it was inappropriate to measure policies against a "current policy" baseline given Congress's clear intent to allow the 2016 extenders to expire.

Congress did not officially use a current policy baseline for TCJA, but it was one of the major excuses that the Administration and Members of Congress used for dismissing TCJA's $1.5 trillion deficit impact. Just two months later, however, Congress renewed many of the provisions that it had just implicitly taken credit for ending – and did so only for one year, thus obscuring their long-term cost. Through this process, Congress is bootstrapping costly tax cuts on top of each other without budgeting honestly for the long-term deficits that will result.

* * *

In conclusion, Congress should have ended the gimmicky routine on tax extenders long ago, and certainly should have done so in legislation that was billed as a once-in-a-generation tax reform. But better late than never. That means that Congress should address the 2017 extenders responsibly by fully offsetting the cost of making provisions permanent or actually letting them expire. And it should do the same for the many other temporary or delayed provisions Congress will confront in the coming years. Revenue under current law is insufficient to meet our national needs and Congress should not make the problem worse with more unpaid-for tax cuts.

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[1] See, e.g., Katie Hamm and Julie Kashen, "A Blueprint for Child Care Reform" (Washington: Center for American Progress, 2017), available at https://www.americanprogress.org/issues/early-childhood/reports/2017/09/07/438428/blueprint-child-care-reform/; Simon Workman and Jessica Troe, "Early Learning in the United States: 2017" (Washington: Center for American Progress, 2017), available at https://www.americanprogress.org/issues/early-childhood/reports/2017/07/20/436169/early-learning-united-states-2017/; Kevin DeGood and others, "An Infrastructure Plan for America" (Washington: Center for American Progress, 2016), available at https://www.americanprogress.org/issues/economy/reports/2016/07/14/141157/an-infrastructure-plan-for-america/.

[2] Organisation for Economic Co-operation and Development, "Revenue Statistics 2017 – the United States" (2017), available at https://www.oecd.org/tax/revenue-statistics-united-states.pdf.

[3] The official name is "an act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018" (P.L. 115-97).

[4] Office of Management and Budget, "Historical Tables, Table 1.2: Summary of Receipts, Outlays and Surpluses or Deficits 9-) as Percentages of GDP: 1930-2023," available at https://www.whitehouse.gov/omb/historical-tables/.
[5] Dylan Matthews, "Obama's chief economist: Trump's economic projections are 'the most absurd I've ever seen," *Vox,* February 19, 2018, available at https://www.vox.com/policy-and-politics/2018/2/19/17012288/trump-budget-proposal-obama-chief-economist-jason-furman-interview.
[6] Office of Management and Budget, "Historical Tables, Table 2.3: Receipts by Source as Percentages of GDP: 1934-2023," available at https://www.whitehouse.gov/omb/historical-tables/.
[7] Note that JCT estimated that the total cost of extending expiring provisions included in the Bipartisan Budget Act of 2018 would be $15.1 billion. However, this includes the cost of the bill's modification of nuclear power credits ($637 million) and two energy provisions that were extended through 2021 ($1.4 billion). Joint Committee on Taxation, "Estimated Budget Effects Of The Revenue Provisions Contained In The 'Bipartisan Budget Act Of 2018,'" JCX-4-18, available at https://www.jct.gov/publications.html?func=startdown&id=5061.
[8] The Joint Committee on Taxation, "Federal Tax Provisions Expired in 2017,'" JCX-5-18, available at https://www.jct.gov/publications.html?func=startdown&id=5062.JCX-4-18.
[9] Compare Joint Committee on Taxation, "List of Expiring Federal Tax Provisions 2016-2026" JCX-1-17, available at https://www.jct.gov/publications.html?func=showdown&id=4966 with Joint Committee on Taxation, "List of Expiring Federal Tax Provisions 2016-2027" JCX-1-18, available at https://www.jct.gov/publications.html?func=showdown&id=5057 (counting bonus depreciation-related provisions as one provision in each instance).
[10] For example, tax cuts for craft beverage producers and for certain employers that provide family and medical leave are temporary, while several revenue-raising provisions are delayed including amortization of research expenses, stricter interest deduction limits, and changes to the new international tax regimes.
[11] See David Kamin et al, "The Games They Will Play: An Update on the Conference Committee Tax Bill (updated Dec. 18, 2017), https://www.ssrn.com/abstract=3089423.
[12] See Brian Faler, "This Is Not Normal: Glitches Mar New Tax Law," Politico, Feb. 24, 2018, https://www.politico.com/story/2018/02/24/tax-law-glitches-gop-423434; Jim Tankersley and Alan Rappeport, "G.O.P. Rushed to Pass Tax Overhaul. Now It May Need to Be Altered," N.Y. Times, March 11, 2018, https://www.nytimes.com/2018/03/11/us/politics/tax-cut-law-problems.html.
[13] Press Release, Speaker Ryan Press Office, "Speaker Ryan: This is a Big Win for American Jobs," Dec. 16, 2015, https://www.speaker.gov/video/speaker-ryan-big-win-american-jobs.
[14] Richard Rubin, "Q&A: House Ways and Means Chairman Kevin Brady's Tax Plans," Wall St. Journal, Nov. 6, 2015, https://kevinbrady.house.gov/news/documentsingle.aspx?DocumentID=399400.
[15] Senator Orrin Hatch, "Hatch: PATH Act Provides Critical Tax Relief and Stability of Utah Families and Job Creators," press release, December 16, 2015, available at https://www.hatch.senate.gov/public/index.cfm/2015/12/hatch-path-act-provides-critical-tax-relief-and-stability-for-utah-families-and-job-creators.
[16] Kelly Phillips Erb, "IRS Now Accepting Returns Claiming Some (But Not All) Tax Extenders" *Forbes,* February 22, 2018, available at https://www.forbes.com/sites/kellyphillipserb/2018/02/22/irs-now-accepting-returns-claiming-some-but-not-all-tax-extenders/#4315137e6769.
[17] See, e.g., "A Better Way: Tax" https://abetterway.speaker.gov/_assets/pdf/ABetterWay-Tax-PolicyPaper.pdf (June 24, 2016) ("House Republicans measure revenue neutrality by reference to a 'current policy baseline' i.e. achieving a level of Federal revenues that is approximately $400 billion less over the ten-year window than the current law baseline."); Treasury Department, "Analysis of Analysis of Growth and Revenue Estimates Based on the U.S. Senate Committee on Finance Tax Reform Plan", Dec. 11, 2017, available at https://www.treasury.gov/press-center/press-releases/Documents/TreasuryGrowthMemo12-11-17.pdf; Jonathan Allen, "This One Word Is Worth $500 Billion as Congress Debates Tax Cuts" *NBC* News, September 29 2017, available at https://www.nbcnews.com/politics/congress/one-word-worth-500-billion-congress-debates-tax-cuts-n805741; Bernie Becker, "Setback," *Politico*, Dec. 1, 2017, available at https://www.politico.com/newsletters/morning-tax/2017/12/01/setback-038103.

Chairman BUCHANAN. Well, thank you all for your testimony. We will now proceed to questions and answers session. They did call votes, but we are going to try to get a couple in.

I will defer my questions to the end of the question period. I now recognize Mr. Renacci for his questions.

Mr. RENACCI. Thank you, Mr. Chairman. I want to thank the speakers for being here, and I—and, look, we do agree with a lot of things. I agree with a lot of things you are saying, not about the tax bill but about extenders. As a general matter, I find tax extenders to be terrible policy.

In the aftermath of tax reform, we need to determine which provisions should remain expired, which should be phased out, and which should be made permanent. I am for ending this process of temporary extensions. I am a business guy. You have to have permanency. You have to know what your future is. You can't just keep guessing and hoping that the government extends things.

However, it is critically important to me that we avoid picking winners and losers in the process. So in the earlier panels, I brought up examples of, you know, extending the fuel cell vehicle credit included in Section 30B. Currently, the plug-in battery credit contained in 30B provides incentives up to $7,500 for qualifying plug-in battery electric vehicles.

While I support 30B, it doesn't seem fair that the purchaser of a zero-emission fuel cell vehicle receives no credit. So I would just like to hear your thoughts on—it is easy to just say let's end them. The problem is, if you end them today, you are picking winners and losers because some credits have extended already and others haven't.

So I would love to hear your thoughts on how do we bring this plane down slowly, which is the way we should do things, and end them all or make them permanent but be fair between businesses and make sure that we are not picking winners and losers.

So anyone on the panel that wants to.

Ms. ALEXANDER. I think that—a couple of thoughts. One, and this is probably not exactly what you had in mind, but I think that if you took all of the expenditures and the individual breaks in the corporate code as well as the temporary provisions and tried to kind of look at transitions out of all of them, a) that would raise a lot of revenue. The tax bill would be much closer to paid for.

And because the corporate rate was reduced so significantly because of the, you know, depreciation and expensing and pass-through rules, you know, people aren't necessarily going to feel the pain of losing an individual break at this moment when they just got a significant rate reduction.

So I would say this is a good time to start landing the plane slowly, and it may not be—if you wait 5 years, you will probably have to land it a lot more slowly than you would if you did it now.

Mr. RENACCI. Well, I am not saying land it—I am not saying—maybe you forget, we still have ones that we have already extended to 2017. So now if you don't extend—if you don't keep par, you have—we do pick winners and losers. So I am trying to figure out a way to make sure that we can keep this—we shouldn't be picking winners and losers.

Ms. ALEXANDER. Right.

Mr. RENACCI. Just because they got a credit extension—by the way, the other thing is, some businesses already relied on that 2017 credit being extended.

Ms. ALEXANDER. Right. No. And, I mean, I hear you and I think that is—I mean, it is certainly the case that people were relying on it because they could, because it has always happened in the past.

But I think that given the significant changes to the corporate code, if you took all of expenditures and individual breaks in the permanent code, already extended, and the ones that recently expired, and said, you know, let's figure out quickly which ones really have to be part of the permanent code because probably most of them don't. They just got a significant rate reduction, and this is the time when they could afford to lose a break.

Mr. RENACCI. Mr. Chairman, I yield back.

Chairman BUCHANAN. I now recognize the distinguished Ranking Member, Mr. Doggett, for any questions he might have.

Mr. DOGGETT. Thank you for the valued testimony of each of you. I think, in short, any preference or credit or tax break that is worth having that really serves the public interest is worth putting in the permanent Tax Code and worth paying for.

I want to salute each of you for your leadership and testimony today, but I particularly want to focus on Ms. MacGuineas and the Committee for a Responsible Federal Budget, because when the Republican deficit hawks flew south for the winter, when they engaged in what I think is total hypocrisy by adding trillions more to our national debt, you continued to advance staunch principled advocacy for fiscal responsibility.

You conveyed the facts, not just the myths, about the true cost of this Republican Trump tax monstrosity. As you say in your written testimony, this tax law quote "made an already bad fiscal situation stunningly worse." And so now we reach today, and in addition to coming here to testify this morning, Chairman Brady apparently also announced that he and President Trump will soon attempt to force through another 4- to $500 billion of unpaid tax elixir that will make the situation even worse.

We know that for years large multinationals with armies of tax lawyers, lobbyists, and political action committees have exploited loopholes to strip profits out of America and have them magically reappear in some island tax haven. We have had estimates of offshoring and tax dodging costing as much as $100 billion every year.

The joint tax staff demonstrated that the Republican tax bill had no effect on this. Not only did it not raise any revenue by closing these loopholes, the Republican bill actually expanded the loopholes and added another $14 billion in lost revenue from these international loopholes.

Mr. Phillips, I would ask you whether or not it is correct that the Trump Republican tax bill, by establishing a tax rate for international investments made in other countries, that is seldom more than half the rate that is charged for investments here in America and often may be zero, and the second provision that establishes an arbitrary 10 percent tax-exempt rate on overseas tangible in-

vestments, whether all of that doesn't significantly increase the incentives for offshoring both profits and American jobs.

Mr. PHILLIPS. Yes, absolutely. On the one hand, it incentivizes moving profits offshore because the lower rate means that companies, if they can shift their profits over there, can pay the lower rate.

And then, also, I think more disturbingly is that it actually creates an incentive to move more jobs offshore, because if you actually move those tangible assets offshore and actually make a new factory offshore, then you can actually get a tax break for that.

Mr. DOGGETT. And, Ms. MacGuineas, you wanted to add a word in response to the last comments that were made?

Ms. MACGUINEAS. Oh, thank you. I thought in many ways we had picked the winners and losers when we decided what we were going to do in the tax bill, and we created sort of winners for everybody, and I suppose losers were the national debt and the future and economic growth.

But we made those decisions in the PATH Act. We made those decisions in tax reform. So I was going to take issue with that now is when we are making those decisions, but I would say I have no judgment that I am sharing at the moment on each individual tax extender.

Some make more sense than others, but the ones that you decide you want to keep, by all means, if you pay for them. But the whole point is when your debt is where it is right now, growing faster than the economy, we can't continue to do things that we put on the national credit card.

Mr. DOGGETT. Well, thank you. We are going to take a quick recess. We have got to go vote, and then we will be right back and we will pick it up from there. Thanks.

[Recess]

Chairman BUCHANAN. I call the meeting back to order.

Mr. Reed, you are recognized.

Mr. REED. Well, thank you, Mr. Chairman, and thank you for allowing me to participate in this Subcommittee, not being on the Subcommittee this session.

But I appreciate the opportunity to address the panel and to specifically focus in on a provision that I know has caused some concern by members of the panel in regards to the motorsports speed track depreciation bill that we have been a proud supporter of, with Watkins Glen being in the district, I can tell you first hand, having experienced that race weekend, looking at the economic impact statements from the facility generating $81 million worth of economic activity.

And for an area of western New York like us, that we represent, being a poor, rural area, primarily agriculturally based, having $80 million-plus in an economic activity in our backyard is something I am very sensitive to, not only because of that economic impact but the jobs that are located—associated with that weekend as well as throughout the year that that track represents.

And I know there has been some concern raised by this panel, Mr. Chairman, about the need for an extender such as motorsports, but I will tell you, having looked into this industry in very close detail, and when I see an investment, for example, in the Daytona

track, that represented 1 percent of the entire U.S. steel output, of United States steel, going into that investment to the tune of millions of dollars, and the jobs that are associated with the steel production of 1 percent for 1 type of project; and to see and hear an argument, Mr. Chairman, raised that individuals making these investments should not get what I think was a cornerstone of tax reform, which was the immediate ability to write off your investments as an economic catalyst, as an economic growth in regards to that depreciation schedule going down to immediate write-off and encourage that type of investment.

When we see an investment such as what we saw with Daytona, with 1 percent of the steel going into that thing, I think it is only right that we treat these types of investments just like we do and encourage the other types of investments across America when we are able to write off their entire investment in the first year.

And so I come here today to be an advocate for this provision in particular, as well as if the tradeoff is is to make this permanent, I am all for it. I am all for making all tax extenders permanent and making it part of the Code so that we have the ability to plan, that we have the ability to rely upon a Tax Code rather than go through the extenders process that we have historically engaged in here.

So I appreciate the sentiment of the panel, and I am just concerned. Does anybody have any response to the concern that I would raise that by treating these individuals differently, by having them have such a long-term depreciation, you lose that economic impact that we are trying to encourage with the full and immediate expensing provisions of tax reform.

I know my time has expired, so if you can respond to our inquiry in writing, I would greatly appreciate it.

Mr. BURTON. I can do that.

Mr. REED. I am out of time, but I will defer to the Chairman.

Chairman BUCHANAN. Thank you.

Mr. Larson, you are recognized.

Mr. LARSON. Thank you, Mr. Chairman. I want to thank the panelists again. And I got an opportunity to speak with them just before I was—we were leaving for the vote, and I especially appreciate their concern about the national debt.

In one of the previous panels, I said it seems like everybody wants to go to heaven, but nobody wants to die. Everybody loves a tax cut, but nobody likes to pay for it. And so I was saying to them before the break that we have a number of prominent Americans, including Jim Baker, George Schultz, Martin Feldstein, Greg Mankiw, Hank Paulson, Elon Musk, Gary Cohn, Rex Tillerson, Art Laffer, to name a few who favor a tax on carbon.

I wonder what the panelists think about that, and I will start with Mr. Hanlon. Would you favor it, yes or no?

Mr. HANLON. I would. I mean, I think it—oh, sorry.

Mr. LARSON. Ms. MacGuineas.

Ms. MACGUINEAS. Yes.

Mr. LARSON. Ms. Alexander.

Ms. ALEXANDER. Yes, we have been in favor of a carbon tax for 23 years.

Mr. LARSON. Yes. Mr.——

Mr. PHILLIPS. Yes, especially if it was offset for low-income people.

Mr. LARSON. Yes. Now, so 4 out of the 5 of you would favor it because it does produce the kind of revenue that Mr. Baker and Mr. Schultz and others recognize. You know, whether it is revenue-neutral or not, we can't keep on the current course that we are.

And the primary concern that I have—and I want to get back to something Mr. Hanlon raised—is that I may have been born at night, but not last night. Or as me Irish grandfather would say, "Trust everyone but cut the cards." When it comes to this tax cut, it seems like we are going to be in a position where we are out of revenue and unable to, voila, fund Social Security and Medicare at a time of its greatest need.

And so, therefore, I think it vitally important that we come up with a means of funding programs that otherwise will get cut. I think that was your point, Mr. Hanlon. Am I correct?

Mr. HANLON. Yes. And certainly don't make the problem even worse by enacting new tax cuts or extending new tax cuts without paying for them.

Mr. LARSON. I wonder what The Heritage Foundation thinks that we are going to do with 10,000 baby boomers a day retiring—10,000 a day—and we have our head in the sand on the other side of the aisle with respect to what we are going to do, other than cut their benefits and raise their ages.

This, to me, is not a solution for the American people. That is a sentence. And at a time when we find so many Americans that are underwater for a number of reasons, not the least of which are working women in this country who are retiring into poverty, and we find the Committee that can correct it sitting silent here, making enormous cuts for the very wealthy in our country.

But for working women, I don't think we can do Social Security. We are going to—you know, for you, we will raise your age and we will lower your benefits. That seems to be the path we will go.

Mr. BURTON. That is not the path that The Heritage Foundation has recommended, although we certainly believe that a central aspect of addressing our budgetary problems is entitlement reform. But core to what I believe——

Mr. LARSON. Excuse me. Entitlement? Is Social Security an entitlement?

Mr. BURTON. Yes, Congressman.

Mr. LARSON. It is called FICA, right? Is that Federal Insurance Contribution? A contribution is an entitlement? Whose contribution? The people of this country's contribution. You guys call that an entitlement. That is a fraud. People pay for this insurance, and then you tell them it is an entitlement.

Mr. BURTON. Well, Social Security is a relatively tractable problem and can be addressed. Medicare is——

Mr. LARSON. That is right. And it is not an entitlement. Would you admit that for the record?

Mr. BURTON. No, because——

Mr. LARSON. Faced with the facts, that—is FICA not a Federal Insurance Contribution Act, where it comes from?

Mr. BURTON. The benefits are tangentially related to the contribution.

Mr. LARSON. Tangentially? When it comes out of my paycheck, that's tangential?

Mr. BURTON. No. There is——

Mr. LARSON. That is very specific. It comes out of my paycheck, and I do it every single week or biweekly or monthly, and you say, "Oh, no, it is an entitlement."

Mr. BURTON. I believe that you are probably aware the benefit formulas do not correspond to——

Mr. LARSON. And why is that so? Because it hasn't been actuarily adjusted since 1983.

Mr. BURTON. That is——

Mr. LARSON. In the private sector, in the insurance sector, which I know a little bit about, they would have adjusted it. We didn't. That is government's responsibility.

Mr. BURTON. I guess we probably can agree that it needs to be adjusted. I guess I don't understand why liberals and conservatives can't find common ground in reforming Medicare, Social Security, and some of the other programs, so that affluent people have to pay close to the cost of providing the benefits.

Mr. LARSON. I would agree with you on common ground. Thank you, sir.

Chairman BUCHANAN. Thank you.

Ms. DelBene, you are recognized.

Ms. DELBENE. Thank you, Mr. Chair, and thanks to all of you for being with us today.

I am deeply concerned that we are sitting here talking about a host of narrow tax extenders while, as noted, Republicans have, in essence, created a host of new ones in their tax bill that will impact American families directly.

Mr. Phillips, in your testimony, you state that, quote, "If Congress were to make permanent all the temporary tax provisions today, fiscal reality will force them to overhaul the Tax Code again in a few years to raise more revenue."

So let's be very clear. What you are saying is that Republicans and President Trump chose to give corporations a massive permanent tax cut, and they have now boxed themselves in a situation where American families will ultimately face a tax increase because someone has to pay for all the debt that is piling up. Is that correct?

Mr. PHILLIPS. Yes, absolutely. There is no way we can sustain trillion-dollar deficits into the future without raising taxes.

Ms. DELBENE. Now, Chairman Brady just today said that the Committee would consider—actually, his quote was that while the tax cuts for families were long term, they are not yet permanent, so that we would—we are going to address issues like that going forward. So wouldn't that make the situation even worse, given the tax cut that has already been granted to corporations?

Mr. PHILLIPS. Yeah. I think that the current tax cut has already made the situation relatively dire, and adding more tax cuts on top of that would be absolutely disastrous.

Ms. DELBENE. So do you see these same problems as we talk about tax extenders generally?

Mr. PHILLIPS. Yeah. I think that they made much larger portions of the Code temporary, and extending those even further is much larger than the things we are talking about today.

Ms. DELBENE. So you would agree that we should be making decisions on tax policy and actually look at the long-term impacts of those decisions, so that we are making smart decisions that would impact the fiscal situation for our country over the long term.

Mr. PHILLIPS. Absolutely. I think we should evaluate each of these extenders, but I also think we should evaluate the much bigger provisions that are a permanent part of the Code.

Ms. DELBENE. And wouldn't you agree for long-term—for the long-term health of our economy that making smart decisions today actually impacts families and businesses going forward versus making decisions that short term may provide a tax cut, but long term actually really make our economy weaker?

Mr. PHILLIPS. Absolutely. And debt service is one of our biggest expenses, and this will only make that worse.

Ms. DELBENE. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman BUCHANAN. Thank you.

Mr. Blumenauer, you are recognized.

Mr. BLUMENAUER. I appreciate you being here. I found it very useful to listen to your testimony. Particularly, Ms. Alexander and Ms. MacGuineas, I appreciate your consistent voice in terms of talking about challenges and seeking an opportunity for us to be more intentional about these tax policies.

I appreciate your calling out a few of the provisions that really—like racehorses or whatever, but the Code is replete with them.

Do you envision, either of you, with the work that you have done, an opportunity for us—because you have done different things in the public space to try and highlight some of these challenges, do you have some thoughts about a way that we might be able to engage the public and Congress dealing with specifics that probably, if they were in the spotlight, would not withstand scrutiny?

I mean, I appreciate what the Chairman is doing, asking people to come in and justify various extenders. We don't do that, and I am wondering if you have any thoughts about a process that might help us over that hurdle.

Ms. ALEXANDER. I mean, I really wish I could solve the big picture problem with a sentence. But, I mean, I think that our experience, and I know, Congressman Blumenauer, you know our work at Taxpayers for Common Sense is that you—you know, you can engage the public through examples because the numbers are numbing.

And, you know, people understand, you know, the bridge to nowhere and they understand, I mean, you know, we are not going to go bankrupt as a country because of the racehorse tax break. But there is no chance that it was a prior—a decision made based on priorities, and people can then understand the larger problem. The question is how to move them towards thinking that there is a solution that can be bipartisan and enduring and that people—that will last.

And I think that is where I think we are all looking for ways to find a way to——

Mr. BLUMENAUER. Let me give you another view of——

Ms. ALEXANDER [continuing]. Public effectively on that.

Mr. BLUMENAUER [continuing]. Because you referenced the deficit that is going to be fundamentally different. Ms. MacGuineas, you talked about the stage set for a $1 trillion a year deficit starting next year in perpetuity. Might the deficit be a hook that we can engage people to go at this slightly different?

Ms. MACGUINEAS. I do think trillion-dollar deficits may turn out to be a wakeup call. To have trillion-dollar deficits during a time of economic prosperity is obviously unprecedented, and the situation is only going to get worse.

One thought I had about your question was—and this is something that should have happened before tax reform, but if you will remember Simpson-Bowles, they had an idea where they would get rid of all tax expenditures, and then you would go through and you would evaluate each one, and they would bring rates down as low as you could, and it would have been like 8 and 12 and 18 percent. Super, super low on the individual side, corporate rate of higher than it is today, but it would have been lower.

And then you would decide which tax expenditures were worth buying back. If you want the home mortgage interest deduction or the healthcare exclusion or racetrack subsidies, is it worth the fact that you would have to pay for them in higher rates?

And I think the problem is that we have no tradeoffs in our budget right now. If you just put everything on the national credit card, it seems to be free. And so I think we have to do the whole tradeoffs in order to evaluate the situation.

I think we also have to learn to have civil discourse in all of this. We are going to disagree. And I am just going to say it. Congressman Larson, I really—I give you credit on your Social Security bill because you have a bill that addresses the problem, and there are so many people who have ignored it.

But I also think it is not fair to yell at somebody who disagrees with you. I think we have to have a more civil—and you are going to yell at me; I am sorry for saying it. But I want us to have a civil discussion.

Mr. LARSON. I am not going to yell at you because what happens, when you only have 3 minutes, and you can't even get——

Chairman BUCHANAN. You had 4½.

Mr. LARSON [continuing]. It causes frustration.

Ms. MACGUINEAS. I understand that. I do really——

Mr. BLUMENAUER. This was my time.

Ms. MACGUINEAS. And I do thank you for having the Social Security bill, which is what we need more of. You have been one of the people who have talked about that we do need to address it.

Mr. BLUMENAUER. I appreciate your summary point about there are no tradeoffs as long as it is on the national credit card. And we have just been through 2 episodes of that.

Ms. MACGUINEAS. That is right. We have this kind of fiscal free lunch attitude that everything will pay for itself, or we don't have to offset anything. And now I am afraid we are going to keep

doing it until something stops us and says, "If it is worth doing, it is worth paying for."

Ms. ALEXANDER. I think the one thing I would add is that I—when I travel, I very frequently hear people say, "Well, they passed the Budget Control Act, and so they did something." And not once has Congress lived by the limits that they set for themselves.

You know, it is just about making the choices; not promising to make the choices or promising to make the cuts or raise the revenue. We have just got to do it.

Chairman BUCHANAN. Okay. I am going to try to wrap it up. We are talking about budgets, so it is something that I was motivated about coming here as my number 1 issue. And I ran in the 2006 cycle and got elected in 2007 with about $9 trillion in debt, 8.7 I kind of recall. If you go back to it, you can check it.

We have run $10 trillion in the last 10 years. So when we talk about, you know, where we are at in the budget and where we are going forward, we had 1 percent, 1½ percent growth, slowest economy in 10 years. So there is a lot of blame to go around.

We have run trillion-dollar deficits the last 10 years. And if you look back in the last 50 years, we have balanced the budget 5 times out of the last 50, yet 49 out of 50 governors have a constitutional balanced budget amendment. The first bill I filed here, the first week I was here, is a constitutional balanced budget amendment. Why? Because we are incapable of dealing with the spending problem that we have got up here, and you can tax, spend, however you want to get it.

My point is, being from Florida, if you have a bad economy, a tough economy, like 2008, 2009, 2010, you make the adjustments. That is what you do in business. But, unfortunately, we don't do it up here. We just blame each other. And we should find a way we can work together, but the best way we can work together is we have got to get a constitutional balanced budget amendment that simply means you don't spend more than you take in.

You make the hard choices. If you want to spend more, you go to the taxpayers and make your argument. That is what we should be doing up here. That is the way everybody else on the planet, or at least in America, that is the way they operate. That is why, you know, mayors and governors, you know, we had a tough budget this time they had to make some tough choices on where they are going to park their money.

So short of that, and I think in terms of tax reform, just my opinion, what we have been doing hasn't worked. One, 1½ percent growth, the last 50 years of slowest growth we have had in 50 years, the idea is, can we get to a 3 percent growth, add some GDP. They claim the tax bill, nonpartisan group tax foundation, claims it will create another 5 trillion in economic GDP growth in the next 10 years, with the average of 2.9 percent. So we will see.

But my point is, more important than that, we need a constitutional balanced budget amendment that we should do together, and make us make those difficult and hard choices, because there are, as someone mentioned over here, 10,000 people a day turning 65. My mother-in-law is staying with me. She is 99. Her sisters are 101 and 103. These programs have been put in place in the 1930s and the 1960s.

There is a good friend of mine said to me, Democrat leader said, "We have got to get in the boat together. We have got to deal with these challenges." And I kind of agree in terms of Social Security. That is something not only he pays in, but a lot of people forget, because I was an employer for 30 years. He pays in half; his employer, as a part of his fringe benefits, is paying the other half. And that is his money.

So, but as look at Medicare and health care, you know, that is whole other subject in terms of the cost factors of where that is going forward.

So I could spend time on that, but the bottom line, I know all of you are attune to that.

Let me ask any of you, and I think a lot of us feel, Democrats and Republicans, in terms of these tax extenders, the tax reform, as I said earlier to earlier groups, we got a 43 percent corporate tax cut. You got 25 percent, when you add it up, on the pass-throughs. Most companies in America, 90 percent, are pass-throughs. You got full expensing. Why do you need extenders? So the thought is, that is why we are doing this. We are going to take a look at all of these extenders, figure out there are probably some that might make some sense, make it permanent law, and get out of the extender business.

That is why we are doing these hearings, looking to try to improve this. So let me ask you, put you on the spot a little bit, have you looked through the 28 or 30 extenders? Some of you have. Are there any in there that should be permanent law, in your opinion, or would you just say none of them should be? But I would be interested in any of the panelists, any thoughts that you might have on this issue.

Mr. BURTON. I have looked through all of them. I think the—in terms of ones that have a reasonable policy rationale, the primary one would be the tuition deduction, above-the-line deduction, because the primary reason that people pay for tuition is to increase their future earnings capacity.

I also understand entirely, although it is not a tax policy reason, why you don't want to send a massive tax bill to an insolvent homeowner because some of their mortgage was discharged. And in point of fact, a large portion of that would probably ultimately be discharged in bankruptcy in any event.

As to the capital cost recovery ones, that is an empirical question. Ultimately, both modified ACRS and ACRS tee off of a series of decisions made by the Nixon Treasury Department in 1971, the so-called asset depreciation range classifications.

And there is no reason to believe that they got every decision right. There may be some mistakes in classification, particularly as the economy has evolved over the past roughly 40 years. But any targeted provision with respect to capital cost recovery like that should be held to a high evidentiary standard.

In point of fact, Treasury got it wrong in the 1970s. But that doesn't mean that there necessarily—the interest involved is necessarily wrong. They should just have to prove it.

Chairman BUCHANAN. Well, someone mentioned on the panel today, I thought, the extenders, about $1 trillion. I don't know if that is what it was. I think it is what it was. It might not be so

much today because some—a few things have changed ideally. But I don't know if that is a true case or not, but I think obviously that is—we want to look at all of these extenders, make sure they make sense.

I don't want to see personally myself people double dipping. I think it is more than fair that—what has been put in place. However, there might be some things that do make a difference, but I don't want someone that just cut their tax bill by a third and then coming back and say they need an extender, you know, the large corporation or anybody else or a medium-sized pass-through, or whatever it might be.

Mr. Phillips, you got—everybody, I will give you a minute or two just to think about it. Are there any extenders that you have looked at that you think deserve some consideration? I am sure there are some, but maybe you might say no, but I am just curious as a wrap-up on the panel.

Mr. PHILLIPS. So I don't have a strong opinion on the ones before the Committee today, but I think that every single one of them should absolutely be paid for. And I think that if you are going to get rid of all of them, I think you have to look at some of the provisions that are actually permanent.

And I agree with you, we cut the rate down to 21 percent, and I think that means that a lot of tax breaks that didn't get cut should be cut.

Ms. ALEXANDER. I think I said in my remarks that I think that you should look at all of the expenditures in the corporate code along with the extenders. I think it is going to be—I think we are going to see whether or not some of those breaks that are on the permanent books are duplicative of the reduced rate. They may have lost their value or—but they may still have value, in which case they are——

Chairman BUCHANAN. I think there are some that have lost their value. I don't know.

Ms. ALEXANDER. So, I mean, I think it is really looking across the board, particularly for—you know, we are creating subsidies to counteract other subsidies. So just get rid of them all.

Chairman BUCHANAN. Yeah. Go ahead.

Ms. MACGUINEAS. When I look through them, I could probably find justifications for a number of them, certainly not all of them. But I would also point out that the ones that I tend to find most sympathetic, which are for things that we want as a nation, not necessarily here, though there is—the education expense is one.

But when we create subsidies for housing or education or things that we think are good, we ultimately end up driving the cost of those things up. So tax expenditures have—the subsidies have perverse effects, where you make the things you are trying to make more affordable ultimately more expensive. Healthcare exclusion is the biggest example of that.

So as I look through these, these are more helping the industries do their jobs. And I am a level playing field kind of person. I would be quite comfortable dropping all of them.

Chairman BUCHANAN. Okay.

Ms. MACGUINEAS. And, again, I would reinforce your point; we just had a massive tax cut. Massive tax cut. I don't think now is

the moment to think about the need for more tax breaks. There are other more pressing priorities.

Chairman BUCHANAN. Mr. Hanlon.

Mr. HANLON. I mean, if I had to choose, I think the ones that serve the most compelling public purposes are the ones that promote energy efficiency and renewable energies, because they promote, you know, energy independence, and also, you know, help our climate.

So if I were to choose some with the most merit, I would choose those. I definitely agree with the other panelists that, you know, to the extent that we want to extend them or make them permanent, we should definitely pay for them. And I think the best way to make them pay for them is to look at the permanent special tax breaks in the Code, including the ones like for fossil fuels that have been around for decades and decades.

And also, the new special tax breaks that were created by the new tax law, like the Section 199.A deduction that really deserves much greater scrutiny.

Chairman BUCHANAN. I want to thank all of the witnesses today. And if you can excuse yourselves, we will bring up the fourth panel.

[Recess]

Chairman BUCHANAN. I would like to welcome our fourth panel, who will finish us off today in terms of the hearing. First, we are going to hear from Cal Meyer, Group Vice President and Chief Operating Officer for Ag Processing, Inc.

Secondly, we will hear from Michael McAdams, President of Advanced Biofuels Association.

Thirdly, we will hear from Edward Hubbard, General Counsel for Renewable Fuel Association.

Fourthly, we will hear from Judy Petry, Chair of the American Short Line and Regional Railroad Association.

And finally, I would like to welcome Barry Grooms from my District, from Bradenton and Sarasota, Florida. He is a realtor and co-owner of SaraBay Real Estate, Inc.

Thank you all for being here, again, today. The Committee has received your written statements, and they will be made part of the formal hearing record. Each of you will be recognized for your oral remarks.

Mr. Meyer, you may proceed. You have got 3 minutes.

STATEMENT OF CAL MEYER, GROUP VICE PRESIDENT AND CHIEF OPERATING OFFICER, AG PROCESSING INC., ON BEHALF OF THE NATIONAL BIODIESEL BOARD

Mr. MEYER. Good afternoon, Chairman Buchanan, Ranking Member Doggett, and Members of the Committee.

On behalf of the National Biodiesel Board, the leading biodiesel trade association, thank you for allowing me to testify today on the role of biodiesel tax incentive.

My name is Cal Meyer. I serve as Group Vice President and Chief Operating Officer at AGP. We are located in Omaha, Nebraska, and we are an agribusiness. We are also a member of NBB.

We have facilities in eight states, and we employ over 1,100 employees. AGP is a leading producer of biodiesel. Biodiesel is a re-

newable, clean-burning, diesel fuel made from a diverse mix of resources.

History has shown that a well-crafted and efficient tax incentive can be powerful policy in mechanisms for new energy resources like biodiesel. In 2004, before the credit, our industry only produced 25 million gallons. Now, the market has climbed to 2.9 billion gallons.

And the public policy benefits of this tax incentive are clear. First, biodiesel creates jobs and helps grow the economy. In many rural areas of the country, biodiesel plants are a driving force for the local economy. The biodiesel industry supports 64,000 jobs, $11.42 billion in economic impact, and $2.5 billion in wages paid.

Secondly, biodiesel adds value to other sectors of the economy, like agriculture. Biodiesel allows farmers to be more competitive in the global protein market as demand for biodiesel supports U.S. soybean processing and export opportunities.

Lastly, America benefits from fewer toxic pollutants and improved air quality. Biodiesel reduces hydrocarbon emissions by 67 percent and lifecycle greenhouse gases by 86 percent. This leads to health benefits, such as lower rates of cancer and asthma.

These benefits, however, will be jeopardized without the reinstatement of the biodiesel tax credit. Last year, Congress passed comprehensive tax reform, but failed to address the renewable energy. The limited retroactive extension of biodiesel incentives for 2017 was a useful first step, but we urge Congress to renew the biodiesel blender's tax incentive through 2018, at a minimum, while considering a multi-year approach.

Doing so would drive new investment and establish market certainty for U.S. farmers, ranchers, petroleum marketers, blenders, and fuel retailers.

In conclusion, the biodiesel blender's tax incentive has helped achieve the desired goal of expanding domestic production of American energy resources and jobs here at home. It is a worthy reinstatement.

Thank you, again, for the opportunity to testify today, and I am happy to answer any questions you may have.

Chairman BUCHANAN. Thank you, Mr. Meyer.

[The prepared statement of Mr. Meyer follows:]

Testimony of Cal Meyer, Ag Processing Inc (AGP)
On Behalf of the National Biodiesel Board
Submitted to the Ways and Means Committee, Subcommittee on Tax Policy
Hearing on Post-Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Good morning, Chairman Buchanan, Ranking Member Doggett, and Members of the Committee. Thank you for having me.

My name is Cal Meyer, and I serve as Group Vice President and Chief Operating Officer at Ag Processing Inc, an agribusiness headquartered in Omaha, Nebraska. I have been with AGP for more than 30 years and have worked in a variety of leadership roles during that time.

AGP, a member of the National Biodiesel Board (NBB), is pleased to present this testimony to the committee regarding the role of the biodiesel tax incentive in the continued growth of our industry and the resulting benefits for American competitiveness, job creation, and the environment. NBB is the leading U.S. trade association representing the biodiesel and renewable diesel industries, including producers, feedstock suppliers, and fuel distributors since 1992.

AGP is a leading soybean processor and refiner of soybean oil, and we have soybean processing and refining facilities in Iowa, Minnesota, Nebraska, Missouri, and one under construction in South Dakota. AGP has a large-scale export facility at Grays Harbor in Aberdeen, Washington, and grain facilities located in Nebraska, Texas, and New Mexico. Important to today's discussion, AGP is a leading producer of methyl esters for biodiesel production, with over 170 million gallons of biodiesel production capacity in Iowa and Missouri. Across these facilities, AGP employs 1,100 people.

By means of background, biodiesel is a renewable, clean-burning diesel fuel made from a diverse mix of resources, including agricultural oils such as soybean, camelina, and canola oil, as well as recycled cooking oil and animal fats. Based on the performance standards established by law, the U.S. Environmental Protection Agency (EPA) has defined biodiesel as an "advanced biofuel"—meaning it reduces greenhouse gas emissions by at least 50 percent when compared to petroleum diesel.

Biodiesel is the nation's first domestically produced, commercially available advanced biofuel. It meets a strict fuel specification set forth by ASTM International—the official U.S. fuel-certification organization. Biodiesel is primarily used in blends of 5 percent to 20 percent and does not require special fuel pumps or engine modifications. In fact, the majority of automobile manufacturers support biodiesel blends up to 20 percent in their engine warranties. Renewable diesel is a fuel made from the same feedstocks as biodiesel but using a different process—one more similar to petroleum refining. The resulting product (renewable diesel) is chemically indistinguishable from petroleum diesel but made from renewable feedstocks.

Biodiesel and renewable diesel are relatively new sources of energy. History has shown that well-crafted and efficient tax incentives can be powerful policy mechanisms to create jobs, achieve the nation's energy objectives, and leverage private sector investment to promote the deployment and utilization of new energy resources here in the United States. This is certainly the case with the tax credit for biodiesel.

Federal programs, including the biodiesel tax incentive, have played a key role in stimulating growth in the U.S. biodiesel industry, helping biodiesel become the leading EPA-designated advanced biofuel in the nation. Together with the Renewable Fuel Standard, these successful federal policies have sent a positive signal to producers, marketers, and customers. The RFS has effectively opened up the petroleum diesel fuel market to renewable alternatives, and the tax incentive has provided the necessary economic driver to all segments of the value chain, including blending, distribution, marketing, and consumption. Without question, the biodiesel tax incentive has stimulated production. In 2004, prior to the enactment of federal tax incentives, our industry only produced 25 million gallons. When the incentives were first implemented in 2005, the United States produced roughly 112 million gallons; now, domestic production has climbed to as high as 2.9 billion gallons annually.

The public policy benefits of the tax incentive are clear:

Jobs Are Created, Economies Grow. With biodiesel plants nationwide—from California to Iowa to North Carolina—the biodiesel industry already supports roughly 64,000 jobs, $11.42 billion in economic impact, and $2.54 billion in wages paid. In many rural areas of the country, biodiesel plants are a driving force of the local economy, supporting the employment of technicians, plant operators, engineers, construction workers, truck drivers, and farmers.

Value Is Added to Other U.S. Economic Sectors, Such as Agriculture. Biodiesel provides very strong soybean price support. Biodiesel importantly allows U.S. soybean farmers to be more competitive in the global protein market, as demand for biodiesel supports U.S. soybean processing and export opportunities. Demand for biodiesel creates incentives to expand U.S. soybean processing capacity, such as our recent capital investment in a large-scale soybean processing plant in South Dakota. Policy certainty is one of the most important factors in making significant investment decisions in value-added businesses, such as biodiesel.

Biodiesel Helps Americans Put Wastes to Work. Biodiesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils, and animal fats. Biodiesel reduces wastewater by 79 percent and hazardous waste by 96 percent as compared to petroleum diesel. A latte to-go uses 26 times more water than it takes to produce a gallon of biodiesel. The lifecycle for petroleum diesel generates roughly five times as much wastewater flow as the lifecycle for biodiesel. Notably any hazardous wastes from the biodiesel cycle are actually indirect waste flows associated with the production of diesel fuel and gasoline used in production.

Biodiesel Offers Benefits That Petroleum Cannot. Biodiesel blends increase lubricity and cetane of diesel fuel—two necessary properties that diesel fuel lacks. Biodiesel blends provide performance characteristics such as fuel economy, horsepower, and torque similar to petroleum diesel while improving other characteristics, extending the life of diesel engines.

America Benefits from Improved Air Quality. Biodiesel reduces particulate matter by 47 percent, hydrocarbon emissions by 67 percent, and lifecycle greenhouse gases by 86 percent. The health benefits of reducing these emissions include reduced mortality of adults and infants, reduced cancer risk, reduced chronic and acute bronchitis, reduced acute myocardial infarctions, reduced cardiovascular hospital admissions, reduced upper and lower respiratory symptoms, reduced exacerbation of asthma, and reduction in lost work days. Biodiesel's reduction in particulate matter alone equates to preventing more than 500 premature deaths annually. Additionally, biodiesel is nontoxic, biodegradable, and benefits water quality. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making biodiesel the leading commercial-scale U.S. fuel produced nationwide to meet the agency's criteria.

Energy Security Is Enhanced. Biodiesel is diversifying our fuel supplies so that we are less dependent on global oil markets that are influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market. Approximately 3.5 percent of the total diesel transportation fuel market, which is roughly 60 billion gallons, is biodiesel.

We believe it is important for all stakeholders in the transportation fuels industry to have policy certainty—not only for the farmers and producers, but also the blenders and customers who decide to purchase the fuels. We appreciate the strong support of petroleum marketers and retailers, who have helped spread the use of these fuels across the nation.

So where do we go from here? Biodiesel producers and blenders urge the Congress to perform an across-the-board, even-handed evaluation of federal tax treatment of all energy resources. In 2017, Congress moved ahead with a comprehensive tax reform bill that affirmed the permanent tax rules enjoyed by conventional energy resources. Although the subsequent limited, retroactive extension of the biodiesel tax incentives in February 2018 was a useful first step, we urge Congress to renew the biodiesel and renewable diesel blender's tax incentives through 2018 *at a minimum*, while further contemplating a multi-year approach to biodiesel incentives that would drive new investment and establish market certainty for U.S. farmers, ranchers, and petroleum marketers, blenders, and fuel retailers.

In conclusion, I would like to emphasize that the biodiesel blender's tax incentive has helped achieve the desired goal of expanding domestic production of American energy resources and jobs here at home. In turn, the increased use of biodiesel has helped the United States realize economic, global competitiveness, and environmental benefits. These benefits, however, will be jeopardized without reinstatement of the biodiesel tax incentive in the Code to stimulate U.S. biodiesel production and job growth.

Thank you again for the opportunity to submit this testimony. AGP, NBB, and I would be pleased to serve as a technical resource on the industry as the committee moves forward with its deliberations.

Chairman BUCHANAN. Mr. McAdams, you are recognized for 3 minutes.

STATEMENT OF MICHAEL MCADAMS, PRESIDENT, ADVANCED BIOFUELS ASSOCIATION

Mr. MCADAMS. Chairman Buchanan, Ranking Member Doggett, Members of the Committee, thank you for the opportunity to urge the extension of the tax incentives for biodiesel and renewable diesel.

Today I have the unique opportunity to testify on behalf of the Advanced Biofuels Association, the National Association of Truckstop Operators, the National Association of Convenience Stores, the Petroleum Marketers Association of America, the Independent Trucking Association, the Gasoline Marketers of America, and the American Trucking Association.

Together, these organizations represent every segment of the biodiesel supply chain from feedstock growers to producers, to blenders and retailers, as well as the largest fuel users in the United States.

I want to thank Representatives Diane Black and Ron Kind for their strong support in introducing legislation last year that created an extension of the current law.

I also want to thank Congressman George Holding for his support.

Consistent with the legislation introduced by Representatives Black and Kind, our coalition supports continuing the credit as blender's credit with the ordinary phase-down.

First, the credit works as intended when it is prospectively in place for the market. The credit has helped create a success story under the Renewable Fuels Standard Program when combined with the mandates and the RIN values.

When the credit expires, the industry must either reduce investment or risk additional capital in anticipation of a retroactive extension. Currently the industry is badly in need of the renewal of this credit as quickly as possible. The RIN value for biodiesel and renewable diesel is currently at a level that is below the production cost for many of the people making biodiesel in the United States today.

The cycle of lower RINs awaiting on the tax credit must be broken, and prospective certainty must be present so that the credit can achieve its true economic punching power.

Since the credit's inception, the market has responded as Congress intended. We have built a biodiesel and renewable diesel industry with a distribution system that has driven consumer acceptance of these new fuels. The credit has been passed on to the consumer in the form of lower transportation fuels and heating oil prices. That is why the American Trucking Association, which moves two-thirds of the freight in the United States, supports this credit.

Our coalition is aware that the Ways and Means Committee, in examining other expiring incentives, has determined to phase them out rather than simply abruptly terminate them. While we believe the biodiesel and renewable diesel tax incentives should be made

permanent, we understand that there may not be consensus to do that.

Clearly, a longer time frame would help the transition of these markets with a softer landing, especially for smaller companies, like Viesel that is right in Fort Myers, Mr. Chairman. That is why our coalition supports phasing out the credit over a period of years. However, it is imperative that the credit, at the minimum, be extended for the $1 for 2018. Given that Congress has frequently extended the credit retroactively, most recently in 2017, the market participants having already reasonably relied on the credit being retroactively extended, this year has been no different.

I thank you for the opportunity to be here, and we urge that you extend the credit.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. McAdams follows:]

WRITTEN TESTIMONY OF MICHAEL MCADAMS
PRESIDENT, ADVANCED BIOFUELS ASSOCIATION

HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TAX POLICY

HEARING ON POST TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS

WEDNESDAY, MARCH 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee:

My name is Michael McAdams and I am the President of the Advanced Biofuels Association (ABFA). I appreciate the opportunity to appear before you today to urge the extension of the tax incentives for biodiesel and renewable diesel.

My testimony today is not only on behalf of the ABFA, but also the National Association of Truckstop Operators (NATSO), National Association of Convenience Stores, Petroleum Marketers Association of America, Society of Independent Gasoline Marketers of America, and the American Trucking Associations. Together, these organizations represent every segment of the biodiesel supply chain, from feedstock grower to producer, to blender to retailer to end-user.

This coalition of organizations has previously written this Committee to urge the extension of the existing the biodiesel and renewable diesel tax incentives. I am here today on behalf of my colleagues to express our support for extending the current biodiesel and renewable diesel blenders tax credit for 2018 and into the future.

Before I begin, on behalf of our coalition, I want to thank Representatives Diane Black and Ron Kind for their strong support and introducing legislation last year to extend current law. In addition, I also want to thank Congressman George Holding for his support of those efforts.

I would note for the Committee's attention that consistent with the legislation introduced by Representatives Black and Kind, as well as Congress's treatment of other energy tax extenders, my testimony will reiterate our coalition's support for phasing down the credit over a period of several years. Our coalition also strongly opposes converting the biodiesel blenders' credit to a producers' credit.

I. History and Benefits of the Biodiesel Tax Incentive

The tax incentives for biodiesel and renewable diesel are among the expiring tax benefit provisions that have regularly been extended.[1]

The biodiesel tax incentives enacted in 2004 were originally scheduled to expire on December 31, 2006. However, the provisions have been extended by Congress seven times. In some cases, the extensions were enacted just before the scheduled expiration, but the last few extensions

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[1] The most recent extension of these provisions was contained in section 40407 of the Bipartisan Budget Act of 2018. What follows is a brief description of the provisions as they applied through December 31, 2017:

Biodiesel. Present law provides an income tax credit for biodiesel fuels (the ''biodiesel fuels credit''). The biodiesel fuels credit is the sum of three credits: (1) the biodiesel mixture credit, (2) the biodiesel credit, and (3) the small agri-biodiesel producer credit. The biodiesel fuels credit is treated as a general business credit. The credit does not apply to fuel sold or used after December 31, 2017.

Biodiesel mixture credit. The biodiesel mixture credit is $1.00 for each gallon of biodiesel (including agri-biodiesel) used by the taxpayer in the production of a qualified biodiesel mixture. A qualified biodiesel mixture is a mixture of biodiesel and diesel fuel that is (1) sold by the taxpayer producing such mixture to any person for use as a fuel, or (2) used as a fuel by the taxpayer producing such mixture.

Biodiesel credit (B–100). The biodiesel credit is $1.00 for each gallon of biodiesel that is not in a mixture with diesel fuel (100 percent biodiesel or B–100) and which during the taxable year is (1) used by the taxpayer as a fuel in a trade or business or (2) sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

Small agri-biodiesel producer credit. The Code provides a small agri-biodiesel producer income tax credit is 10 cents per gallon for up to 15 million gallons of agri-biodiesel produced by small producers, defined generally as persons whose agri-biodiesel production capacity does not exceed 60 million gallons per year.

Biodiesel mixture excise tax credit. The Code also provides an excise tax credit for biodiesel mixtures. The credit is $1.00 for each gallon of biodiesel used by the taxpayer in producing a biodiesel mixture for sale or use in a trade or business of the taxpayer. The credit is not available for any sale or use for any period after December 31, 2017. This excise tax credit is coordinated with the income tax credit for biodiesel such that credit for the same biodiesel cannot be claimed for both income and excise tax purposes.

Payments with respect to biodiesel fuel mixtures. If any person produces a biodiesel fuel mixture in such person's trade or business, the Secretary is to pay such person an amount equal to the biodiesel mixture credit. The biodiesel fuel mixture credit must first be taken against tax liability for taxable fuels. To the extent the biodiesel fuel mixture credit exceeds such tax liability, the excess may be received as a payment. The Secretary is not required to make payments with respect to biodiesel fuel mixtures sold or used after December 31, 2017.

Renewable diesel. Renewable diesel is liquid fuel that (1) is derived from biomass (as defined in section 45K(c)(3)), (2) meets the registration requirements for fuels and fuel additives established by the EPA under section 211 of the Clean Air Act, and (3) meets the requirements of the ASTM D975 or D396, or equivalent standard established by the Secretary. For purposes of the Code, renewable diesel is generally treated the same as biodiesel. Like biodiesel, the incentive may be taken as an income tax credit, an excise tax credit, or as a payment from the Secretary. The incentive for renewable diesel is $1.00 per gallon. There is no small producer credit for renewable diesel. The incentives for renewable diesel expired after December 31, 2017.

were enacted after the provisions had expired. The latest extension, in February, was enacted retroactively more than 13 months after the provisions had expired.[2]

The credit was initially established to encourage the market to displace petroleum-based fuels with renewable substitutes that have more favorable emissions characteristics. In conjunction with the Environmental Protection Agency's ("EPA's") Renewable Fuel Standard ("RFS"), the tax credit stimulates consumption of these fuels by reducing fuel prices for the millions of truck drivers that move two-thirds of the country's freight. The credit therefore also serves to lower the price of all goods that are moved by truck.

The current blenders' credit for biofuels incentivizes fuel marketers to invest in the blending infrastructure necessary to bring these fuels to market. If extended, it would continue to do so, as there is ample room for growth.

II. Need for 2018 Extension and Transition Relief

The coalition that I represent today is aware that the Ways and Means Committee, in examining other expiring tax incentives, has determined to phase them out rather than abruptly terminate them. While we believe the biodiesel and renewable diesel tax incentives should be made permanent, we understand that there may not be a consensus to do so.

Handled responsibly, our coalition believes that a multi-year phase out of the tax incentive can achieve the same economic and environmental benefits that the $1.00 credit has achieved for more than a decade. We are eager to work with the Committee on identifying a responsible path forward in this respect.

Although our coalition would support phasing out the credit over a period of years, it is imperative that the credit be extended at $1.00 per gallon for 2018. Given that Congress has frequently extended the credit retroactively, including most recently in February 2018 for all of 2017, market participants have come to reasonably rely on the credit being retroactively extended when undertaking business and investment decisions. This includes decisions made

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[2] The biodiesel tax incentives were originally enacted as part of the American Jobs Creation Act of 2004 and were originally scheduled to expire on December 31, 2006. The Energy Tax Incentives Act of 2005 (Pub. L. 109-58, enacted August 8, 2005) extended the provisions through December 31, 2008. The Energy Improvement and Extension Act of 2008 (Pub. L. 110-343, enacted October 3, 2008) extended them through December 31, 2009. The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. 111-312, enacted December 17, 2010) extended them retroactively and through December 31, 2011. The American Taxpayer Relief Act of 2012 (Pub. L. 112-240, enacted January 2, 2013) extended them retroactively and through December 31, 2013. The Tax Increase Prevention Act of 2014 (Pub. L. 113-295, enacted December 19, 2014) extended them retroactively and through December 31, 2014. The Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114-113, enacted December 18, 2015) extended them retroactively and through December 31, 2016. And, the Bipartisan Budget Act of 2018 (Pub. L. 115-123, enacted February 9, 2018) extended them retroactively through December 31, 2017.

already in 2018. To protect these market participants from unanticipated changes in policy, the existing provisions should be extended in full for at least this year.

Consistent with that approach, our coalition is prepared to work with Congress on developing an appropriate phasedown of the tax incentives after the full extension period. Any such phasedown must be enacted well in advance in order to allow market participants to include the phasedown in their planning and make necessary adjustments. This would provide a smooth transition period and reduce negative impacts, particularly on the smaller producers and distributors most likely to be affected.

A. RINs and the RFS

Biodiesel fuel is more expensive to produce than its petroleum-derived counterpart. However, a number of federal and state policies – including the biodiesel tax credit and the RFS – have encouraged biodiesel production, blending, and sales. This has yielded material benefits for American consumers.

Under the RFS, fuel refiners and importers are required to generate an increasing volume of renewable fuel annually. These "obligated parties" must attain a particular number of renewable fuel credits, known as "RINs", to show that they are in compliance with the RFS program. RINs are essentially an artificial commodity that can be bought and sold in an open, transparent market. Certain obligated parties have chosen not to directly generate their mandatory volume of renewable fuel, but instead rely on others to introduce renewable fuel into commerce for them. Many fuel marketers perform this function in a manner that enables them to sell fuel at a lower price.

The biodiesel blenders' credit is designed to work in conjunction with the RFS: Despite its turbulent history, the biodiesel blenders' credit has made producing, buying, blending, and selling biodiesel more attractive to all respective segments of the supply chain. The credit, in conjunction with RINs under the RFS, in effect close the price gap between what a blender would be willing to pay for the energy value of a gallon of biodiesel and the price for which a biodiesel producer is able to sell it and still earn a profit. The more long-term certainty and value that Congress can provide via the tax credit, the less money refiners will need to pay to acquire the requisite RINs under the RFS.

For this reason, the ABFA and the members of the coalition on whose behalf I am testifying today strongly support legislation (H.R. 3264) introduced by Representatives Diane Black (R-TN) and Ron Kind (D-WI) that would extend and phase out the biodiesel blenders' tax credit. This legislation, or any similar effort, would provide the long-term certainty necessary to allow the market to properly value the renewable fuel, enable new market entrants to properly analyze costs of market entry and returns on investment, and ultimately *increase* the production, blending, and consumption of biodiesel.

B. Impact of Retroactive Extensions

Like other tax incentives, the biodiesel and renewable diesel tax incentives are intended to influence economic behavior. The credits have been effective in doing so. Some observers question whether extending expired tax benefits retroactively can create incentives for behavior during the past period for which the provisions are extended. While at first blush, it makes sense to say that a law enacted today can't impact behavior that occurred in the past, such a statement fails to consider market participants' reasonable expectations.

Because Congress has regularly extended the biodiesel and renewable diesel incentives, markets have internalized the expectation that the provisions will be extended retroactively. This market belief can be seen in the fluctuation of the RIN values under the RFS. Through all of last year, the expectation that tax credits for 2017 would be renewed resulted in lower overall RIN prices. The same phenomenon is occurring today as a result of the ongoing discussion surrounding renewal of credits for 2018.

When the tax credit is not in place, most in the biodiesel market believe the RIN value must do more work to make the fuels economic in the marketplace. For most of last year, due to the expectation the credit would be extended for 2017, the RIN values were between 20 and 40 cents less than necessary to make biodiesel's value proposition attractive for consumers. This had a significant impact on cash flows, particularly for smaller players in the market, when selling fuels for less than cost while waiting for restoration of the tax credit to put them in the black. It most certainly diminishes the likelihood of investing in more blending capacity until after the tax credits are collected.

Thus, the biodiesel and renewable diesel tax incentives are continuing to influence economic behavior – even though they are no longer in effect as a matter of law – because market participants believe they will be extended. However, the incentive effect is not as efficient as it would be if the tax benefits had a prospective expiration date.

C. Recommended Extension

We are once again in the position of having the biodiesel and renewable tax incentives expired. Following the February Bipartisan Budget Act, the provisions have now been expired for two and one-half months. Our coalition, representing the entire biodiesel supply chain, recommends that Congress enact a further extension at the earliest possible opportunity. We believe the provisions continue to benefit the economy in their present form and that they should be extended permanently.

However, we understand that there is a more significant revenue cost in making the provisions permanent and that there may not be a consensus in Congress for a permanent extension. As we noted previously, though, market participants have come to rely on the existence of these tax incentives, including that Congress would extend them retroactively when they have expired.

To protect market participants from the adverse economic effects of unanticipated policy changes, we believe strongly that the existing provisions should be extended in full for at least 2018. Consistent with the approach Congress has followed in phasing out other tax incentive

provisions, ABFA and the coalition members are prepared to work with Congress on developing an appropriate phasedown of the biodiesel and renewable tax incentives after the full extension period. Any such phasedown must be gradual and be enacted well in advance in order to allow market participants to include the phasedown in their planning.

III. The Credit Should Remain a Blender Credit, and Not be Converted to a Producer Credit

We note that some in Congress have previously proposed converting the credit from one for blenders (those who make biodiesel mixtures) to one for those who produce biodiesel and renewable diesel, thereby denying the tax credit American companies that import biodiesel or renewable diesel. We oppose this approach and note that our position is buttressed by the Department of Commerce's recent imposition of significant duties against Indonesia and Argentina, eliminating all imports from those countries for the foreseeable future.

The debate over whether to convert the biodiesel blenders' tax credit to a producers' credit represents the effort of a small number of domestic biodiesel producers and their representatives in Congress to disincentivize imports of biodiesel into the United States. Indeed, the reality is that the largest recipients of the biodiesel blenders' tax credit have historically been biodiesel *producers*, who blend nominal quantities of diesel into their supply (*i.e.*, convert B100 to B99), claim the credit, and then sell their product to customers.[3]

The benefit of a blenders' tax credit is that it applies to all biodiesel blended in the United States regardless of where it is produced. A biodiesel producers' credit, on the other hand, would only be available to domestic producers, and would be available regardless of whether the product ultimately made it into a U.S. motor vehicle. This change in policy would substantially reduce U.S. fuel marketers' *access* to biodiesel that can be sold to customers at a price that is competitive with the diesel fuel it is designed to displace.

Put more simply, a blenders' credit results in lower fuel prices in the United States; a producers' credit would result in higher fuel prices in the United States.

In certain regions of the U.S. – including the Gulf, the Northeast, the Carolinas and the Western Coast – it is simply more economic to acquire biodiesel by boat from overseas than by rail or truck from domestic plants, which are predominantly in the Midwest. (Biodiesel cannot be shipped via pipeline.) It is frequently so inefficient to move biodiesel from domestic plants to these regions of the country that fuel marketers in these regions would likely refrain from incorporating biodiesel into their fuel supply at all if they could not acquire biodiesel from overseas.

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[3] Even in 2017, when the blenders' credit had not been in place, biodiesel producers consistently converted B100 to B99 to become the "blender of record" in the hope that they would obtain the credit if and when it was retroactively extended. Producers generally include so-called "50-50 split" clauses in their supply agreements, whereby they agree to provide the purchaser with $0.50 for every gallon purchased in the event the credit is extended. Notably, blenders of record in these scenarios receive the $1.00/gallon credit *tax free*, whereas their counter-parties must treat the $.50/gallon they receive in the transaction as taxable revenue.

To illustrate, to ship biodiesel by rail from Iowa to Houston costs approximately $0.25/gallon; to import biodiesel from overseas to Houston can cost as little as $0.11-$0.12/gallon. There are a number of reasons for this. Rail cars can only hold approximately 25,000 gallons of biodiesel, whereas ocean-going vessels can hold approximately 9,000,000 gallons. Beyond quantity, moving product by rail is a more expensive endeavor because rail operates on an origin-destination fare, meaning a biodiesel plant must be on the same rail-line as where the purchaser wants to receive the product (or else the purchaser will have to pay significantly more for the product). Rail cars are also more difficult to track and predict their arrival; one can never know with certainty when a rail car will arrive. Ocean-going vessels, on the other hand, have GPS tracking associated with them and their arrival dates can be measured with precision.

In addition, removing biodiesel from a train and placing it onto a truck for delivery to a retail outlet is a more complicated, expensive endeavor than removing product from vessels that are docked in fuel-like terminals. Further, biodiesel that is imported comes to shore in close proximity to many retail fuels outlets where marketers are best able to blend it into their fuel supply; U.S. ports tend to be located near fuel demand centers (*e.g.*, Houston, TX; Mobile, AL; Savannah, GA; Wilmington, NC; and Jacksonville, FL).

For all of these reasons, acquiring biodiesel via rail is only 80% efficient (*i.e.*, 20 percent of the time the product cannot be received and blended with diesel fuel before the fuel is sold to a truck driver); biodiesel acquired via oceangoing vessels, on the other hand, is more than 95% efficient.

Cutting off access to foreign supply, as a producers' credit would do, would not change any of these facts. A biodiesel blenders' credit, on the other hand, treats all biodiesel on a level playing field regardless of where it is sourced. This provides domestic fuel marketers access to the global biodiesel market and thus facilitates an environment where biodiesel can be acquired efficiently and blended with diesel to enhance the value proposition to truck drivers (*i.e.*, to lower their fuel costs as much as possible).

A biodiesel producers' tax credit, on the other hand, would place biodiesel produced overseas at a competitive disadvantage relative to domestic product. In many parts of the country, the costs of acquiring and transporting biodiesel would be so great that consumers would find neat diesel fuel to be a greater value proposition and fuel marketers would respond accordingly.

Shifting the tax credit to a producer credit would also raise the price of heating oil in the Northeast. Just as the tax credit enhances the value proposition of biodiesel-diesel fuel blends, so too does it enhance the value proposition of biodiesel blended with heating oil. Given the logistical challenges associated with transporting domestic biodiesel into the Northeast from elsewhere in the U.S., more than 75 percent of biodiesel brought into New England is imported from Canada and other U.S. allies and trade partners. Converting the credit to a producer credit would could dramatically undercut the value proposition of biodiesel-heating oil blends (known as "bioheat") in the Northeast, and equally dramatically raise the price millions of Americans pay to heat their homes.

IV. Conclusion

Again, we thank you for the work on the tax reform bill and extending the credits for 2017. We would urge you to consider extending these credits to continue to build this industry.

Thank you for the opportunity to testify.

Chairman BUCHANAN. Mr. Hubbard, you are recognized.

STATEMENT OF EDWARD HUBBARD, GENERAL COUNSEL, RENEWABLE FUELS ASSOCIATION

Mr. HUBBARD. Thank you. Good morning, Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee. My name is Ed Hubbard, and I am the General Counsel for the Renewable Fuels Association.

On behalf of RFA's membership, I am honored to come before you and testify in support of several key tax incentives that have been critical to the growth and evolution of our Nation's biofuel industry.

For more than 30 years, the U.S. ethanol industry has worked to provide Americans with clean, renewable, and cost-competitive biofuels, and today American made ethanol has grown to become the lowest cost, highest octane fuel additive in the world.

While the U.S. grain-based ethanol industry has matured into an efficient and highly competitive fuel supplier, the second-generation sector is much younger and has struggled to overcome immense financial and commercial obstacles.

But in recent years, with the help of federal tax incentives, the U.S. second-gen. sector has finally been able to actually produce second-gen. biofuels at a commercial-skill level.

Recently, our members have been successful in employing "bolt-on" technologies that have allowed existing gain biorefineries to produce ethanol from the cellulosic fiber waste found in the corn kernel. Given the success, other biorefineries have been looking to invest and expand into this new technology. However, if we hope to continue this technological growth and innovation in the U.S. second-gen. industry, it is critical that investors perceive a steady and reliable tax policy.

Two tax incentives supporting the growth of the second-generation ethanol industry are the second-generation production tax credit and the accelerated depreciation allowance for second-generation biomass property.

These two incentives, which were enacted in 2008, expired at the end of 2013, and the industry has been forced to accept short-term extensions with the hope that a long-term extension would be addressed in time as part of a larger tax reform effort.

In February of this year, Congress approved a one-year, retroactive-only extension of these incentives. While it was better than nothing, what the industry needs is an extension that looks into the future.

Therefore, we urge you to extend the second-generation PTC and accelerated depreciation rules for at least 2018, and subsequently, to consider enacting a longer term, more effective incentive.

In addition, we are calling for Congress to modify and extend the alternative vehicle refueling property credit. In order for our industry to compete with petroleum at the pump, drivers need the ability to choose between alternatives, using market-based drivers, such as price, miles per gallon, octane, et cetera.

However, it has been difficult to encourage many cash-strapped fuel retailers to invest in infrastructure upgrades. To encourage them to make these upgrades, the alternative vehicle refueling

credit provides them a tax credit in an amount equal to 30 percent up to $30,000 of the cost of these upgrades.

We believe this credit has not kept up with grade trends in retail fueling business. To improve the effectiveness of this credit, Congress needs to be focused on expanding eligibility and focused on higher level blends.

Another much needed modification would be to allow the credit for dual-use property. This would allow for the continued growth trend toward the use of blender pumps.

Once again, I thank you for the opportunity to voice our industry's proposals on these important issues.

Chairman BUCHANAN. Thank you.

[The prepared statement of Mr. Hubbard follows:]

RFA RENEWABLE FUELS ASSOCIATION

House Ways & Means Committee
Tax Policy Subcommittee
Hearing on Post Tax Reform of Recently Expired Tax Provisions
March 14, 2018

Good morning, Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee. My name is Ed Hubbard and I am General Counsel for the Renewable Fuels Association (RFA), the national trade association representing the U.S. ethanol industry.

The RFA is the leading trade association for America's ethanol industry. Its mission is to advance the development, production, and use of fuel ethanol by strengthening America's ethanol industry and raising awareness about the benefits of renewable fuels. Founded in 1981, RFA's 300-plus producer and associate members are working to help America become cleaner, safer, energy independent and economically secure.

On behalf of RFA's membership and the U.S. ethanol industry as a whole, I am honored to come before you and testify in support of several key tax incentives that have been, and are, critical to the growth and evolution of our nation's biofuel industry.

For more than 30 years, the U.S ethanol industry has worked to provide Americans with a clean, renewable, homegrown, and cost-competitive, liquid fuel alternative to, and additive for, petroleum based gasoline. With the help of the U.S. ethanol industry, Americans have been afforded a valuable and low-cost source of octane to help their engines run efficiently, a clean and non-toxic additive to oxygenate their fuel to help meet Clean Air Act requirements, and a reliable, value added market for grain that continues to rejuvenate rural communities. Today, the U.S. ethanol industry leads the world in the production of ethanol, producing over 15 billion gallons annually, which has helped our nation reduce its need for oil imports. Even more significant, American-made ethanol has grown to become the lowest cost, highest octane fuel additive in the world, and is very cost competitive against petroleum based gasoline, even at today's historically low oil prices.

1. **The Second-Generation Ethanol Incentives Must Be Extended Prospectively to Provide Certainty to Support Growth and Innovation in the Biofuel Industry**

While the U.S. grain-based ethanol industry has been able to grow and mature into an efficient and highly competitive fuel and fuel-additive supplier, the cellulosic and second-generation ethanol industry is a much younger sector of the ethanol industry, and has struggled to overcome immense financial and commercial obstacles that have prevented it from growing and developing as fast as hoped. But, in recent years, with the help of existing tax incentives designed to drive investment to the industry, and to help provide a glide path to profitability for

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early movers in the technology, the U.S. cellulosic and second-generation ethanol industry has been able to successfully produce second generation biofuels at a commercial scale.

For more than a decade, the cellulosic and second-generation ethanol industry has struggled to secure investments for its "first of its kind" technologies, and to achieve wide-spread, commercial scale development. Despite promising advances in technology over the years, and the discovery and testing of new production processes in the industry, the anticipated wide-spread development and commercialization of second generation ethanol has taken much longer than expected. However, in the last 3 years, the industry has finally been successful in breaking through at a commercial scale. Over that period we have seen the dramatic expansion in the use of "bolt-on" technologies that have allowed existing grain biorefineries to produce ethanol from the cellulosic fibers found in the corn kernel. With this technology in place, these facilities can produce both cellulosic ethanol and starch-based ethanol from the same feedstock. And, with the success of this "bolt on" technology, today (not tomorrow) the U.S ethanol industry is producing EPA-certified gallons of cellulosic ethanol, and selling them to the U.S. fuel market, proving that this is no longer just a future fuel, but instead achievable today.

However, if we hope to continue this technological growth and innovation in the U.S. cellulosic and second-generation ethanol industry, it is critical that we have a steady and reliable policy undergirding the industry. Like all other nascent industries, there must be policies that show the government's commitment to the industry, which have been key for these companies to secure financing and investment. In addition, there must be time afforded to these new industries to allow them to develop and improve production efficiencies and lower production costs to the point that their fuel is competitive with other comparable fuels.

Two key tax incentives supporting the growth of the second-generation ethanol industry are the Second-Generation Production Tax Credit ("PTC") and the Accelerated Depreciation Allowance for Second-Generation Biomass Plant Property. The PTC allows producers of biofuels to take a tax credit in the amount of $1.01 for every gallon of cellulosic ethanol produced, and the accelerated depreciation allowance permits producers of cellulosic biofuel to take 50% depreciation in the first year for property used to produce cellulosic ethanol.

While these two incentives were only first enacted in 2008, and were designed to have a multiyear authorization, they have been treated as an extender since originally expiring at the end of 2013. And, although the industry has regularly sought a multiyear extension since the provisions originally expired, the industry has been forced to accept short, 1 and 2-year extensions with the understanding that a long-term extension would be addressed in time as part of a larger tax reform effort. However, despite promises and protestations that the reform of this credit would be included in the larger context of comprehensive tax reform, no such opportunity for reform of the credit was forthcoming. And, as part of the most recent tax reform effort to pass Congress, while other energy incentives were addressed for oil and gas, and even wind and solar, once again there was no effort made to reform or otherwise extend the incentives for biofuel, including the above incentives. It was instead reported that there was

a deal among Congressional negotiators on the tax bill that these provisions would be addressed as part of an upcoming spending bill.

Congress finally provided an extension of the Second-Generation PTC and the Accelerated Depreciation for Second Generation Biomass Plant Properties as part of the last spending bill; however, the extension was only retroactive. Despite the understanding that the incentives would be extended at least 1 year prospectively, Congress only extended the incentives for 2017, leaving the incentives without any prospective benefit for its users. By failing to extend the credit for 2018, Congress is assuring that these incentives are no longer effective in encouraging industry investment, and are not expected to be available to help early movers survive in the marketplace while economies of scale are being realized.

In an effort to provide greater certainty for the industry, we have previously called for the Second-Generation PTC to be modified to allow for a set, 10-year period of credit eligibility, such as the tax incentive offered to renewable electricity Section 45. In addition, we recommended that the eligibility period for the PTC should be triggered upon the beginning of construction, as found in Section 45, as well. Finally, the accelerated depreciation allowance should be extended similarly for multiple years. By doing so, the tax code could provide more certainty to investors that the credit will be around for a set period of time, and that the credit will not be subject to the annual tax extension exercise that normally occurs at every year end in Congress. However, anything short of that, we recommend that the tax incentives be extended no less than one year prospectively, so that they maintain their prospective benefit for the industry.

These incentives are not costly. They have been scored at only $11 million for 2018, and only $300 million for a 10-year authorization. Moreover, the incentives are critical for our industry to secure financing and investment. If they are going to be effective, they must be able to level the playing field and remove inherent inequities that exist between the biofuel industry, whose incentives expire year after year, and its competing oil and gas incumbents that have permanent incentives under the tax code.

Therefore, we hereby call for the immediate extension of the Second-Generation PTC and Accelerated Depreciation for at least 2018, and moving forward, we further call for the credits to be reformed to provide for a longer term, more effective incentive that allows for a set period of eligibility.

2. **Incentives for Retail Infrastructure Must be Modified and Extended to Encourage Expanded Market Access**

The ethanol industry also continues to struggle with market access due to the need for infrastructure enhancements at the retail level. In order to compete with gasoline at the pump, drivers need the ability to choose between alternatives using market based drivers such as price, mpg, octane, etc. However, it has been difficult to encourage many small and medium fuel retailers to invest in infrastructure upgrades to offer greater fuel choices to consumers, when they regularly have limited funds available for such upgrades.

Today, out of a total of 160,000 retail stations nationwide, there only exists 4000 stations with the infrastructure sufficient to offer higher level blends of ethanol. And, this is true despite the existence of the Alternative Vehicle Refueling Property Credit, which provides a tax credit in an amount equal to 30 percent (up to $30,000) of the cost of any qualified alternative fuel vehicle refueling device.

To date, this credit has not been very effective in pushing infrastructure improvements related to ethanol, despite additional money limits temporarily added in connection past stimulus efforts. We believe the reason that it has been ineffective is due to the fact that it has not kept up with the growth trends in the retail fueling business. Moreover, it is insufficiently designed to accommodate the technological growth that is occurring at today fueling stations, which have increasingly been moving toward blender-style pumps which allow for blending to occur at different levels at the pump.

To improve the effectiveness of this credit, Congress needs to be focused on expanding eligibility. For example, the credit requires that retailers use the credit to install E85 infrastructure, when instead it should be modernized to focus on higher level blends. Rather than require the infrastructure to deliver fuel with a minimum of 85% ethanol, it could be permitted for high level blends such as E50 and above.

Another much needed modification would be to allow the credit for dual use property (retail infrastructure that delivers both conventional and renewable/alternative fuel). This would allow for the continued growth trend toward the use blender pumps. Currently, the credit is limited to providing an incentive for single use, dedicated pumps, despite the fact that retail providers are moving in a different direction.

Therefore, we hereby call for a multiple year extension of the Alternative Vehicle Refueling Property Credit, with minor modifications to make it responsive to the contemporary fuel retail market.

Once again, I thank you for the opportunity to voice our industry's concerns on this important issue.

Chairman BUCHANAN. Mr. Petry, you are recognized.

STATEMENT OF JUDY PETRY, CHAIR, AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION

Ms. PETRY. Thank you.

I am the President of Farmrail, a 349-mile short line railroad in Oklahoma, and I represent the Nation's 600 small railroads. We operate one-third of the Nation's rail network, and we are the only connection for much of rural and small-town America.

The short line tax rehabilitation credit was enacted in 2004 and has been extended six times. Each time it has been one of the most heavily cosponsored and bipartisan pieces of tax legislation.

The current legislation, which would make the credit permanent, has 256 cosponsors, including nine of the 15 Members of this Subcommittee.

The credit allows us to spend more of what we earn rebuilding previously neglected branch lines held for abandonment. The investment needed to make our infrastructure capable of handling the modern 286,000-pound rail car is almost $11 billion.

The industry reinvests, on average, 25 to 33 percent of our annual revenues, making us one of the country's most capital intensive industries. The 45G credit has been instrumental in supporting that investment.

Using Farmrail as an example, over the last 5 years, we spent just over 40 percent of our revenue on track improvements, and almost a quarter of that came from the tax credit.

You asked: what is the value of this credit? Number one, keeping shippers in rural communities connected to the national freight network.

Number two, shippers receive substantial competitive benefits. On my railroad, the cost of moving freight from Clinton to Enid is $2.24 per mile versus $3.75 per mile for comparable truck service. That is a 41 percent savings that stays in the local economy.

Multiply that by the 10,000 shippers across the country, and that benefit is huge.

Number three, virtually everything we buy, the steel rail, the wooden ties, the stone ballast, it is all made in America.

You asked: why is the credit still needed? The new Tax Code benefits the economy, but short lines do not expect tax reform to replace the need for 45G, and here is why.

Number one, we have massive track investment requirements. Even before tax reform, most of that could be immediately expensed.

And, number two, the nature of our industry serving customers in small towns who begin by shipping small volumes leaves the industry with little tax liability, and therefore, little benefit from a lower tax rate.

But, most importantly and lastly, if you believe in strong markets, in small business, and in small-town America, if you truly believe in buying American products and in rebuilding American infrastructure, then you must make 45G permanent.

Thank you for your time, Mr. Chairman.

Chairman BUCHANAN. And thank you.

[The prepared statement of Ms. Petry follows:]

Statement of

Ms. Judy A. Petry
Chair of the American Short Line and Regional Railroad Association

United States House Ways and Means Committee
Subcommittee on Tax Policy

Hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions"
March 14, 2017

I am Judy Petry, President and General Manager of Farmrail, a 349-mile short line railroad in western Oklahoma. I currently serve as Chairwoman of the Board of the American Short Line and Regional Railroad Association (ASLRRA), the trade association representing the nation's **600** Class II and III railroads. These railroads operate in **49 states** over nearly **50,000 miles of track**, or about one third of the nation's railroad network. For large areas of the country, and particularly for small town and rural America, short line service is the only connection to the national railroad network.

A national short line railroad network map is attached.

I am testifying in support of the Short Line Railroad Rehabilitation 45G Tax Credit, first enacted in 2004 and extended six times through 2017. Each time, stand-alone legislation to extend the credit has been one of the most heavily co-sponsored and bipartisan pieces of tax legislation introduced in that Session of Congress. The current legislation, H.R. 721, introduced by Reps Lynn Jenkins and Earl Blumenauer, which would make the credit permanent, has **256** House co-sponsors, including 9 of the 15 members of the Tax Policy Subcommittee convening this hearing. A list of each of those co-sponsors is attached.

Thousands of customers that rely on our service have signed letters or travelled to Washington in testament to the broad benefits of our track infrastructure for the many communities and regions we serve. A collection of quotes from these customers is attached. We have selected a wide variety from across the country to give you a sense of the important relationship between shippers and their short lines. In general, they sound like this: *"Our serving short line railroad is truly a partner for our paper mill. The services provided, including freight haul in and out, daily switches, and rail car maintenance help us keep our mill running successfully day in and day out. It is critical to the 400 plus people employed here that our short line railroad be able to continue to operate successfully."*

A statement from a group they have formed, known as Saving Our Service, is also attached.

The following comments are in reference to the information requested by the Committee in the hearing announcement and by Chairman Brady in a series of public statements:

Is the credit having its intended effect?
The credit was intended to allow short lines to spend more of what they earn rehabilitating track and bridges. Because our task was to bring back to life what were previously under-maintained Class I

branch lines that were headed for abandonment, we invest on average from 25 to 33 percent of our annual revenues back into our railroads, making us one of the most capital intensive industries in the country. At the same time, due to the relatively short distances involved in most short line routes, revenues on short lines are limited. This is why the short line 45G tax credit is so important. Since enactment, the credit has allowed us to spend an additional $2.1 billion of our earned revenues towards the goal of our getting our network into a state of good repair. It is a critical part of how we can reinvest so much back into our small businesses and still have enough to keep the lights on and meet payrolls.

The credit's unique structure maximizes capital investment in two ways:

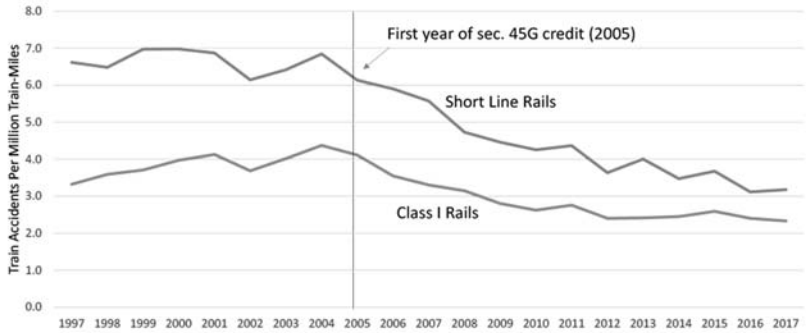
1) 45G requires the railroad to spend two dollars for every dollar in credit, up to the credit cap equivalent of $3,500 per track mile. We have to invest significant amounts into our infrastructure to earn the credit.

2) The ability to assign eligible tax credit miles to a shipper that can use the resulting tax credit allows smaller railroads with insufficient cash flow to fund expensive rehabilitation that would otherwise be out of reach.

Here is one compelling data point that shows that the credit is meeting expectations:
For decades the Railway Tie Association has kept comprehensive statistics on railroad tie purchases. Using econometric modeling and regression analysis that controls for other factors, RTA estimates that the 45G credit results in an average increase of 800,000 short line tie purchases beyond their normalized annual purchases.

And here is another:
One measure of the improved short line railroad infrastructure supported by the 45G credit is improved safety performance. Since enactment of the 45G credit in 2004, train accidents on short line railroads have declined by more than 50 percent, from a rate of 6.84 per million train miles in 2004 to 3.18 in 2017. Short line safety performance is now approaching that of the larger Class I railroads and has improved at a faster rate than Class I railroads over the period the 45G credit has been in existence.

Sec. 45G Credit has Contributed to Improved Safety on Short Line Rails



Notes: Train accidents not at grade crossings; Class I data exclude Amtrak.
Source: Federal Railroad Administration.

What is the overall economic impact of the provision? Is it incentivizing capital investment? How will it amplify the growth and competitiveness delivered by our new tax code?

The credit's overall economic impact and value to the economy is fourfold:

1) Keeping shippers connected to the national freight rail network gives them access to national and global markets which would otherwise be out of reach. It is true that Midwestern grain shippers cannot complete the journey to poultry farm markets in the southeastern United States without Class I railroad service, but it is also true for many that they can't start the journey without short line service.

   America's agricultural, timber, mining, manufacturing (and many more) sectors depend on short line service to get their product on the first mile of its long journey towards its ultimate destination. Without short line service, these job creating sectors would face higher transportation costs and in some cases would no longer be able to stay in business in their current locations, depriving small town and rural America of the jobs they currently provide.

2) Shippers receive substantial competitive benefits by using rail. On my own railroad for instance, the cost of moving the 95 miles from Clinton to Enid, Oklahoma is $2.24 per mile versus $3.75 per mile for comparable truck service. You multiply that by the over 10,000 short line shippers traveling over 50,000 miles of short line track and you are starting to talk about real money.

3) Virtually all the materials we buy to improve our rail lines – wood ties, steel rail, and stone ballast—are made in America.

4) Fifty percent of the cost of a rehabilitated mile of track goes to labor and, as small businesses, we contract out almost all that work to outside companies creating American infrastructure jobs in the process.

As noted, the purpose of the tax credit was to increase capital investment and that has occurred. I will use my own railroad as an example, but these facts can be repeated by virtually every short line in the country. In the last five years Farmrail's annual revenue totaled $84 million and we spent $34 million of that, or just over 40 percent of our revenue, on track improvements. By any measure that is a very high expenditure and $7.7 million of that was made available by the tax credit.

45G incentivizes shippers to invest and they have. In South Dakota, for example, the improvements made by the 670-mile Rapid City, Pierre & Eastern Railroad (RCP&E) since it began operations in 2014 have already attracted over $311 million in new facility investments by six South Dakota companies, creating over 270 new industrial and agricultural sector jobs. For years, shippers would not invest in facilities along the RCP&E's line because of unreliable service and an uncertain future. Then, the track investment and service improvements that were made in part as a result of the 45G credit resulted in increased train speeds, accommodation of industry-standard heavier rail cars, and improved reliability, which changed this reality, restored shipper confidence, and became a catalyst for new industrial development.

This result has been replicated on nearly every short line railroad across the country.

I commend to your attention a recent article by South Dakota Governor Dennis Daugaard on the importance of this investment, a copy of which I have attached to my testimony.

Is the provision still necessary after tax reform? What is the value of keeping the credit in the new tax code?

We believe the recent tax reform legislation benefits American families and businesses and will increase overall economic growth. However, even with the reformed tax code there is still a strong need for the support provided by the 45G credit. While 100-percent expensing will help support capital investment in other industries, it does not serve as a substitute for the 45G credit in the short line railroad industry. Under long-standing IRS rules, 75 percent of most railroad capital track investment could already be immediately expensed. Additionally, much of what we invest in track rehabilitation is considered maintenance expense and could already be immediately deducted. For these two reasons the immediate 100 percent expensing rule does not move the dial much for short lines.

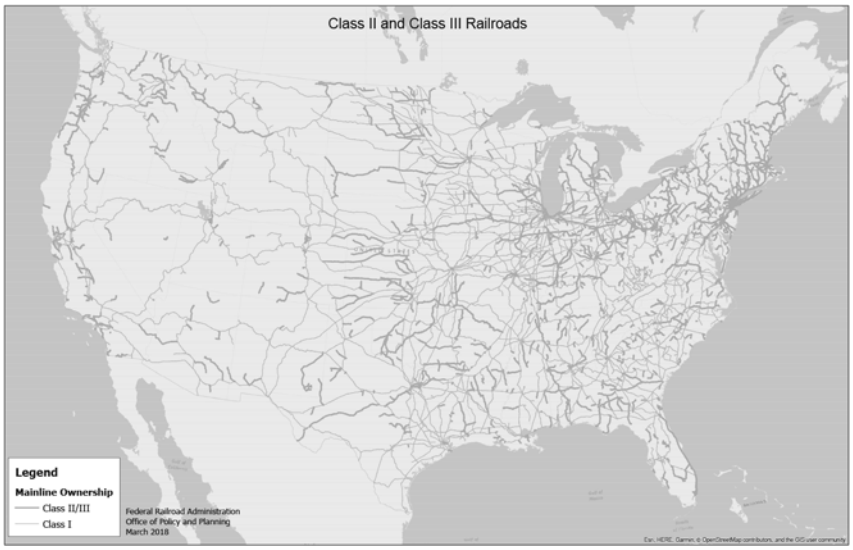
Also, most short lines operate light density lines in rural America that were inherited from their Class I owners with significant deferred maintenance, so the short line owners must now re-invest huge sums, which severely limits pre-tax earnings. Make no mistake: these are viable businesses with significant benefit to the communities and regions they serve. However, the nature of the industry – serving customers who ship in small volumes combined with heavy railroad capital investment requirements, leaves much of the industry with low or no taxable income and hence little benefit from the new lower corporate tax rate.

Since 45G was first enacted in 2004, short lines have used much of the tax credit installing tens of millions of ties to stabilize our most vulnerable track. Going forward, we need to invest approximately $10.8 billion in heavier rail and upgraded bridges to complement that tie replacement and finish the job of upgrading our network to be capable of handling the now industry-standard 286,000 pound rail car.

Finally, as noted above, the ability to assign eligible track miles to a shipper that uses the short line allows smaller railroads with insufficient cash flow to fund expensive rehabilitation that would otherwise be out of reach. This is a unique and very important aspect of the 45G credit that allows short lines with limited income to continue to utilize the credit for its intended purpose.

Although not a question originally posed by the hearing announcement we would be pleased to work with the Ways & Means Committee and the Joint Committee on Taxation to provide industry data on credit usage and assist in projections of the costs and benefits of the credit under possible modifications if the credit were to be made a permanent part of the updated tax code.

I appreciate the opportunity to testify to the benefits of this tax credit and the importance of it being made permanent. On behalf of the entire short line industry let me express our strong desire to work with Congress to ensure that the short line industry remains a vital component of the American transportation network.


Class II and Class III Railroads
Legend
Mainline Ownership
Class II/III
Class I
Federal Railroad Administration
Office of Policy and Planning
March 2018
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Short Line Railroad Customers Talk about Service and the Short Line Rehabilitation Tax Credit

Kevin Remynse, of Pacific Northwest Oil, in Stockton, CA

A customer of the Stockton Terminal & Eastern Railroad

"This is the only railroad serving our terminal, without it we cannot receive the liquid asphalt we use to manufacture and sell our products."

Carlos Rojas, of Alpinos Logistics and Distribution, in Miami, FL

A customer of the Florida East Coast Railway

"The opportunity to have access to regional rail freight is the root of our business expanding the commercial opportunities of transport throughout the country and assists in cutting congestion on our roads. This advantage permits us to service our customers with alternatives and builds job opportunities in our area."

Robert Glezen, of Mont Eagle Mills, Inc., in Oblong and Palestine, IL

A customer of the Indiana Rail Road

"Short line railroads are an increasingly important piece of our nation's infrastructure. Our business depends upon the Indiana Rail Road to serve the agricultural base of southeastern Illinois."

Jeffrey Johnson, of Millennium Roads, LLC., in Worcester, MA

A customer of the Providence & Worcester Railroad

"Short line RR's are an integral part of my business. Without them, I would suffer increased costs using truck freight. With the increased erosion of our road and bridge infrastructure it is imperative that the short lines receive any available assistance from our Federal Government for the survivability of business in America."

Matthew Hamm, of Deflecto, in Dover, OH

A customer of the R.J. Corman Railroad Company

"Our business is supported by R.J. Corman Railroad. We are a plastic sheet extruder and bring our PVC resin in by railcar. It is our most critical raw material. Being serviced by R.J. Corman allows us to be competitive globally. Without them servicing our business, we would not be able to survive."

James Lang, of Ainsworth Pet Nutrition, in Meadville, PA

A customer of the Western New York & Pennsylvania Railroad

"We depend on grains from the Midwest for our pet food production, and we could not operate our facility without the lifeline that short line rail service provides. Please help keep this vital service in place"

Tim Luiken, of Oahe Grain Corp., in Onida, SD

A customer of the Rapid City, Pierre & Eastern Railroad

"If it wasn't for the short line rail road, the Rapid City, Pierre & Eastern Railroad (RCPE), that services our facility Oahe Grain Corp we would not have the marketing advantage to be competitive in the market place for our customers, the farmers."

Jordan Goerger, of Ardent Mills, LLC, in Sherman, TX

A customer of the Texas Northeastern Railroad

"The short line is vital to our business – our main means of transportation for incoming material."

Steve Stivala, of MacMillan-Piper, in Tacoma, WA

A customer of Tacoma Rail

"The short line railroad provides us with consistent and reliable service on a daily basis. By meeting our needs and requirements, we are better able to service our customers."

George Bonner, of Hampton Lumber Sales, in Willamina, OR

A customer of the Portland & Western Railroad

"The success of our business is completely dependent upon the ability of the Portland & Western Railroad servicing our facility. America is dependent upon our rail infrastructure and it is our responsibility to make sure it continues."

SAVING OUR SERVICE

THE WAY SHIPPERS KEEP IT MOVING...

598 companies, serving **1644** locations in **49** states and the District of Columbia, agree that the **BRACE Act** (H.R. 721 and S. 407) is good for railroad shippers. Congress must take action to preserve rail service for short line customers.

Alabama: 84 Lumber Company, Agri-Afc, American Alloy Steel, Ampro Products Inc, Baldwin Transfer, Bentonite Performance Minerals, Berg Steel Pipe Corp, Cox Industries, Inc, Heritage Freight Warehousing & Logistics, LLC, Heritage Plastics, Inc, Imerys, Independence Tube, Inc, International Paper, Junction City Reload, Mineral Manufacturing Corporation, Omya Inc., Pacific Woodtech Corporation, Rail Solutions of Florida LLC, Schnitzer Southeast LLC., Sherwood Lumber, SSA Gulf, Tank Lining of Paris, Inc., Tarkett Alabama, Inc, The Mallory Group, Top Rail Solutions, Inc., Tyson Foods, Inc., WestRock, Weyerhaeuser, **Alaska:** Bentonite Performance Minerals, **Arizona:** 84 Lumber Company, Freeport McMoRan, Junction City Reload, Potters Industries LLC, Rose Acre Farms, **Arkansas:** Anthony Timberlands, Inc., Ash Grove Cement, Batesville Cold Storage, Clearwater Paper Corp, Cottonseed Co-Op Corporation, Domtar, Entergy Services, Inc., FSTI Chemical and Logistics, General Cable, GlobeSource Consumer Products, Green Bay Packaging, Griffin River Terminal, Hexion, J. Bury Services, Livestock Nutrition Center, Omya Inc., Poinsett Rice and Grain Inc., Producers Rice Mill, Inc., Tank Lining of Paris, Inc., Top Rail Solutions, Inc., United Initiators, We Pack Logistics, We Stow, Inc., Weyerhaeuser, **California:** 84 Lumber Company, Advanced Logistics, AgroLiquid, Arizona Chemical, F. Korbel & Bros., Inc., Fleenor Company, Hydrite Chemical Co, Millennium Packaging Service Inc., Miskan America, Inc., Northstar Chemical Inc., Norton Packaging, Inc., Olam, Omya Inc., Pacific Abrasives, Pacific Northwest Oil, Patrick Enterprises dba Superior Soil Supplements, Plains Midstream Canada, Planters Rice Mill, Reagent Chemical & Research, Richard Best Transfer, Inc., Sierra Pacific Refrigerated Services, SOS Crane & Trucking, South Dakota Soybean Processors, LLC, Stockton Coil Center, Inc., Stockton Railcar Repair, Wardley Ind., Inc., Watco Terminal and Port Services, WW Feed LLC, **Colorado:** Allweather Wood LLC, Atlas Oil, Certified DEF, CHS Grainland, Flagler Cooperative, Halliburton, Imerys, Junction City Reload, Pacific Woodtech Corporation, Renewable Fiber, Inc., RMT, Stratton Equity Coop, The Scoular Company, The Western Sugar Cooperative, Vestas-American Wind Technology, Inc, West Plains LLC, **Connecticut:** Allnex, Can-Am Trading & Logistics, LLC, CWPM, LLC, Freeport McMoRan, Logistec USA, Millennium Roads, LLC., Plains Midstream Canada, Rawson Materials, Red Technologies, LLC, Reynolds Consumer Products, Russo Brothers Inc., Saltine Warrior, Inc, Shelburne Limestone Corporation, SSA Gulf, Superior Plastics Extrusion Company Inc, The Anastasio Group, Town of Windham, **Delaware:** 84 Lumber Company, **District of Columbia:** The Anastasio Group, **Florida:** 84 Lumber Company, Allied Universal Corp., Alpinas Logistics and Distribution, American Alloy Steel, American Motive Power, Inc., Arizona Chemical, Cemex USA, Clay Ingels Co. LLC, Cobalt Transport Services, Empire Transload LLC, Florida Public Utilities, Gilman Building Products, LLC, GlobeSource Consumer Products, Hamburg Sud, Hawkins Inc., IMEX Converting, LLC, Interdom LLC, J.B. Hunt Transport, Inc., Jones Logistics, Junction City Reload, Matco Industries, Inc., McLeod Law Firm, MOL (America) Inc, Momentum Transportation USA, Inc., Omya Inc., Pacific Woodtech Corporation, Parsec, Inc., Plains Midstream Canada, Rail Solutions of Florida LLC, Seaboard Marine, Shelburne Limestone Corporation, Sherwood Lumber, Silver-Line Plastics, Synergy Recycling LLC, The Andersons Inc., Titan Florida, Toys R Us, TTS, LLC, US Foundry & Mfh, USAT Logistics - division of USA Truck, Inc., Werner Logistics, WestRock, Yang Ming (America) Corp., **Georgia:** 84 Lumber Company, AgroLiquid, American Proteins, Inc, Ampro Products Inc, Arizona Chemical, Birdsong Peanuts, Constellation Brands-Beer Division, Cox Industries, Inc, Darling Ingredients Inc., East Coast Terminal Company, Gilman Building Products, LLC, Imerys, IMEX Converting, LLC, International Auto Processing, INC, International Feed, Jones Logistics, Lineage Logistics dba Flint River Services, LLC, Logistec USA, MillerCoors, Norton Packaging, Inc., Oil-Dri Corporation of America, Omya Inc., Owens Corning Sales, LLC., Oxford Construction Company, PCA, R. W. Griffin Industries, LLC, Roche Farm And Garden, Rose Acre Farms, Savannah Marine Terminal, Schnitzer Southeast LLC., SeaGate Handling, Inc., South Dakota Soybean Processors, LLC, Standlee Premium Western Forage, Stella-Jones Corporation, Synergy Recycling LLC, The Anastasio Group, The Mallory Group, Toys R Us, USAT Logistics - division of USA Truck, Inc., Venture Commodities, Inc., Yang Ming (America) Corp., **Idaho:** Columbia River Carbonates, Planters Rice Mill, Standlee Premium Western Forage, Stimson Lumber Company, Watco Terminal and Port Services, Wm. B. Morse Lumber Co., **Illinois:** 84 Lumber Company, American Motive Power, Inc., Behr Iron & Steel Inc., BCH Capital Corp, Exelon-ComEd, Great Northern Lumber, Heritage Environmental Services, LLC, IMEX Converting, LLC, Independence Tube, Inc, Ingredion Inc., Lincolnland Agri-Energy LLC, Michels Materials, Mont Eagle Mills, Inc., Nidera, Omya Inc., Owens Corning Sales, LLC., Pacific Woodtech Corporation, Paragon Mfg Inc, Parkside Warehouse, Regal Petroleum, Reynolds Consumer Products, Roquette America Inc, Skyway Cement, Tank Lining of Paris, Inc., Total Grain Marketing, Unilever, **Indiana:** 84 Lumber Company, Bentonite Performance Minerals, Carmeuse Lime and Stone, Certified DEF, CGB Enterprises, Darling Ingredients Inc., Domtar, Duke Energy, Graber Post Buildings, Inc., Heritage Environmental Services, LLC, Hoosier Energy REC Inc., Indianapolis Power & Light Co., Jadcore, LLC, K & K Industries, Inc, Kent Grain, Malarkey Roofing, Manley Bros, Merchandise Warehouse, Metal Traders d/b/a Triad Metals International, Norton Packaging, Inc., Omnisphere Corporation, Omya Inc., Reynolds Consumer Products, Safety-Kleen, Superior Ag Resources, Superior Oil Company, The Anastasio Group, **Iowa:** AgroLiquid, Archer Daniels Midland Company, Behr Iron & Steel Inc., Bentonite Performance Minerals, Grainek-Dunita Co., Inc, Growmark , Hansen Mueller Co, Key Cooperative, MaxYield Cooperative, Merchants Distribution Service, Omya Inc., Reagent Chemical & Research, Rock Falls Grain Co, Roquette America Inc, Schmadeke Feed Mill Inc., Tanner Industries, Wheeler Lumber, **Kansas:** AgMark, AgroLiquid, Archer Daniels Midland Company, Ardent Mills, LLC, Ash Grove Cement, Central Plains Co-op, Coffeyville Resources Terminal LLC, Columbian Chemicals, Darling Ingredients Inc., Frontier Ag, Inc, Midway Coop, Rangeland Cooperatives, Inc., The Great Bend Cooperative Association, The Scoular Company, Top Rail Solutions, Inc., **Kentucky:** 84 Lumber Company, American Motive Power, Inc., American Refining Group, Inc., Baker Iron & Metal Company, Beam Suntory, Bentonite Performance Minerals, Clay Ingels Co. LLC, Darling Ingredients Inc., Derby City Rail Services, Gerdau, Jif Peanut Butter, Novelis Inc., Nugent Sand Company, Omya Inc., Owl's Head Alloys, Pacific Woodtech Corporation, Reagent Chemical & Research, Reynolds Consumer Products, Seaboard International Forest Products, LLC, Standlee Premium Western Forage, Triple M Metal, W. T. Young Storage Company, **Louisiana:** 84 Lumber Company, AEROPRES Corporation, Bentonite Performance Minerals, Columbian Chemicals, M A Patout & Son Limited, LLC, Material Translogistics Inc, MI SWACO, A Schlumberger Company, Miskan America, Inc., Tank Lining of Paris, Inc., Top Rail Solutions, Inc., Weyerhaeuser, **Maine:** Cox Industries, Inc, Dead River Company, GAC Chemical Corporation, Gillies & Pittie, Inc., Imerys, J.B. Hunt Transport, Inc., NEPW Logistics, Omya Inc., Plains Midstream Canada, Savage Safe Handling, Sazerac CO - Mr Boston Brands DBA Boston Brands of Maine, Schnitzer Steel, Shelburne Limestone Corporation, The Maine Wood Treaters, Inc, Verso Paper, **Maryland:** 84 Lumber Company, Lehigh Cement Company, Omya Inc., Pacific Woodtech Corporation, Redland Brick, Standlee Premium Western Forage, **Massachusetts:** American Dry Ice Corporation, American Steel and Aluminum LLC, Ardent Mills, LLC, Bentonite Performance Minerals, Delaware Express, Dennison Lubricants Inc, Eagle Logistics Group LLC, Essroc Cement Corp, FLW Wood Products, Inc, and FLW International, Inc., J.B. Hunt Transport, Inc., Longevin Forest Products, Inc., Lehigh Cement Company, Mapleleaf Distribution Services, Inc., Millennium Roads, LLC., Northeast Treaters, Inc., Plains Midstream Canada, Railroad Distribution Services, RVJ INC, Saltine Warrior, Inc, Schnitzer Steel, Sherwood Lumber, South Dakota Soybean Processors, LLC, Southern States Cooperative Inc., T-Branch, LLC, Tunnel Hill Partners, **Michigan:** AgroLiquid, American Refining Group, Inc., Bayside Best Beans, Bentonite Performance Minerals, Burroughs Materials-Wallace Quarry, Cooperative Elevator Co., Darling Ingredients Inc., GlobeSource Consumer Products, Helena Chemical Company, Ittner Bean & Grain, Michigan Agricultural Commodities, Michigan Potash Company, Michigan Sugar Company, Omya Inc., Oxbow Fertilizer LLC, Pacific Woodtech Corporation, PCA, POET biorefining, Reagent Chemical & Research, Vestas-American Wind Technology, Inc., **Minnesota:** Ardent Mills, LLC, Bentonite Performance Minerals, Choice Grain, LLC, Coop Country Farmers Elevator, Farmers Co-operative Elevator Co., GCC, Glacial Plains Cooperative, Harvestland Cooperative, Heartland Corn Products, Intermodal Services Inc, International Feed, Junction City Reload, Lehigh Cement Company, Malarkey Roofing, Meadowland Farmers Coop, Minn-Kota Ag Products, Omya Inc., Pacific Woodtech Corporation, Red River Grain Co., Rothsay Farmers Coop, South Central Grain and Energy, Southern Minnesota Beet Sugar Cooperative, Western Consolidated Cooperative, Wheeler Lumber, **Mississippi:** 84 Lumber Company, Akzo Nobel, Inc., American Alloy Steel, Bentonite Performance Minerals, Cottonseed Co-Op Corporation, Express Grain Terminals, LLC, Fishbelt Feeds, Inc., Heritage Plastics, Inc, Jones Logistics, Oil-Dri Corporation of America, Omya Inc., Parman Energy Corporation, Producers Rice Mill, Inc., Steel Dust Recycling, USG Interiors Inc., Weyerhaeuser, **Missouri:** 84 Lumber Company, Branson Scenic Railway, Certified DEF, Champion Brands, LLC, Cox Industries, Inc, Emerson Tool Co., MFA, Inc, Omya Inc., PSC Metals, Inc, Tank Lining of Paris, Inc., **Montana:** AgroLiquid, Certified DEF, Plains Midstream Canada, Rockpile Energy Services, The Western Sugar Cooperative, US Minerals Inc, Watco Terminal and Port Services, **Nebraska:** Coffeyville Resources Terminal LLC, GCC, Junction City Reload, Lozier Corporation, Manning Rail, Inc., The Anastasio Group, The Scoular Company, The Western Sugar Cooperative, West Plains LLC, Wheeler Lumber, **Nevada:** Certified DEF, **New Hampshire:** Country Home Products Inc, Dead River Company, Pacific Woodtech Corporation, Plains Midstream Canada, Schnitzer Steel, **New Jersey:** 84 Lumber Company, Certified DEF, Constellation Brands-Beer Division, Durand Glass Mfg Co., FLW Wood Products, Inc, and FLW International, Inc., Heritage Environmental Services, LLC, Interstate Commodities, Inc., Owens Corning Sales, LLC., Sherwood Lumber, Texon LP, Tunnel Hill Partners, **New Mexico:** Atlas Oil, Certified DEF, Ferzo Truck and Rail, Freeport McMoRan, Junction City Reload, Keane Frac, LP, Mount Franklin Foods, Santa Teresa Ag Transload, Southwest Steel Coil, Inc, W. Silver Recycling, Inc., **New York:** 84 Lumber Company, Allied Frozen Storage Inc, American Alloy Steel, Ardent Mills, LLC, Aries Chemical Inc., Bailes Mill Inc., Bentonite Performance Minerals, Bestway Enterprises, Inc., Can-Am Trading & Logistics, LLC, Cargill Feed and Nutrition, Chapin, Cox Industries, Inc, Diamond Hurwitz Scrap LLC, Edward Arnold Scrap Processor/Easco Brokerage, Genesee Reserve Supply, Inc., Gernatt Asphalt Products, Inc., Global Partners, LP, Gold Star Feed and Grain, LLC, Growmark FS LLC, Harbor Point Mineral Products, Inc., Heritage Environmental Services, LLC, Hi Crush Proppants, LLC, Hoosier Magnetics, Inc, Interstate Commodities, Inc., James E. Strates Shows, Junction City Reload, Keane Frac, LP, Matthews and Fields Lumber Co., Maxam US LLC, Metalico Buffalo Shredding and Recovery, Metalico Rochester Inc., Millennium Roads, LLC., New York Bean LLC, Pacific Woodtech Corporation, Potters Industries LLC, Rawson Materials, Regional Logistics Group, Sargent Transportation Lines Inc, Seaboard International Forest Products, LLC, Shelburne Limestone Corporation, Sherwood Lumber, Shuman Plastics, Slack Chemical Co., Inc., Sonoco Products Company, Solvena USA, The Anastasio Group, Tunnel Hill Partners, W.H. Rhinehart Inc., Worthington Industries, **North Carolina:** 84 Lumber Company, Berry Plastic, Inc., Bestway Enterprises, Inc., Builders Firstsource, Cox Industries, Inc, Domtar, Hexion, Jadcore, LLC, Lee Iron & Metal Co., Inc., Lehigh Cement Company, Locust Lumber Co Inc, Noble Oil Services, Inc., Oakboro Oil Co., Inc., Omya Inc., Owens Corning Sales, LLC., Pacific Woodtech Corporation, Planters Rice Mill, Shelburne Limestone Corporation, Silver-Line Plastics, Tyson Foods, Inc., Underwood & Weld Company Inc., Weyerhaeuser, Yadkin Valley Railroad, **North Dakota:** AgroLiquid, Allied Energy and Allied Agronomy, Ardent Mills, LLC, Braaten Farms, Direct Grain, Edgeley Bean Receiving, LLC, GCC, James Valley Grain, Junction City Reload, Larson Grain Company, Maple River Grain and Agronomy, LLC, Minn-Kota Ag Products, Pacific Abrasives, Plains Midstream Canada, Rockpile Energy Services, South Dakota Wheat Growers, Tharaldson Ethanol Co., Wagner Farms, Watco Terminal and Port Services, Wheeler Lumber, **Ohio:** 84 Lumber Company, American Alloy Steel, American Refining Group, Inc., Anchorglass Container, Ardent Mills, LLC, Bentonite Performance Minerals, Carmeuse Lime and Stone, CGB Enterprises, Cincinnati Bulk Terminals LLC, Cox Industries, Inc, D&D Ingredient Distribution, Inc., Darling Ingredients Inc., Deflecto, Flat Flare and Repair, LLC, Global Partners, LP, Heritage Cooperative, Hi Crush Proppants, LLC, Huhtamaki Inc, New Vienna, Junction City Reload, Keane Frac, LP, Keynes Bros.,Inc., Manley Bros, Marlite, Mercer Landmark, Inc., National Lime and Stone, Oleet Processing Ltd., Omya Inc., Owens Corning Sales, LLC., Pacific Woodtech Corporation, Plains Midstream Canada, Polyflex, PolyOne Corp., PSC Metals, Inc, RMT, Texon LP, The Anastasio Group, The Olen Corporation, Tunnel Hill Partners, Van Wert Terminal LLC, Westmoreland Coal, Wheeler Lumber, **Oklahoma:** American Alloy Steel, Anchor Drilling Fluids, Ash Grove Cement, Bentonite Performance Minerals, Bohan Express LLC, Bi-Chem Supply Corporation, Custer City Farmers Coop Exchange, Darling Ingredients Inc., Dolese Bros. Co., Frontier Forest Products, Inc., FSTB Chemical and Logistics, Hampel Oil-Sayre OK, Huber Engineered Woods, LLC, Hughes Lumber, JKM Ventures Inc, Malarkey Roofing, Manley Bros, MI SWACO, A Schlumberger Company, Pattison Sand Company, LLC, Reagent Chemical & Research, Royal Manufacturing Co. LP, Silver-Line Plastics, SSA Gulf, Stockman's Milling, Inc., T & J Marketing, Inc., Texon LP, The Scoular Company, Top Rail Solutions, Inc., Trinity Industries, TrinityRail Maintenance Services, Inc., United States Gypsum, Western Producers Cooperative, Weyerhaeuser, **Oregon:** Batesville Cold Storage, BP, Cascade Warehouse Company, Columbia River Carbonates, Grange Co-op, Hampton Lumber Sales, Independent Dispatch, Knife River - Northwest, Marion Ag Service, Inc., Northstar Chemical Inc., Owens Corning Sales, LLC., Pacific Abrasives, Pacific Terminal Services, Inc., Potters Industries LLC, Protein Products Inc, Seneca Sawmill, SSA Gulf, Stimson Lumber Company, Swanson Group Mfg, Teevin Bros Land & Timber Co, LLC, Valley Fresh Foods Inc., White's Hauling & Farm LLC, Wilco-Winfield LLC, Wm. B. Morse Lumber Co., WW Feed LLC, **Pennsylvania:** 4 Corporation, 7 D Wholesale, 84 Lumber Company, Advanced Waste Services, Inc, Ainsworth Pet Nutrition, American Alloy Steel, American Dry Ice Corporation, American Motive Power, Inc., American Refining Group, Inc., Ardent Mills, LLC, Bentonite Performance Minerals, Bestway Enterprises, Inc., Brajack Lumber, Cargill Feed and Nutrition, Certified DEF, Domtar, DuBrook, Inc., G.R.Mitchell,Inc, Gernatt Asphalt Products, Inc., Gordon Recycling Services, Hi Crush Proppants, LLC, Interstate Commodities, Inc., James Austin Company, Junction City Reload, Keane Frac, LP, Keystone Propane, Keystone Rail Recovery, LLC, Lehigh Cement Company, Linde Corporation, Manley Bros, Metal Traders d/b/a Triad Metals International, MI SWACO, A Schlumberger Company, Millennium Packaging Service Inc., Monadnock Non Wovens LLC, National Lime and Stone, Nicholas Enterprises Inc., North Pier Energy, Oleet Processing Ltd., Omya Inc., Pacific Woodtech Corporation, Pattison Sand Company, LLC, Quality Warehouse, Inc., Reagent Chemical & Research, Recon Construction Services Inc., RMT, Sasol Chemicals (USA) LLC, Schoenberg Salt Company, Shelburne Limestone Corporation, Simona America, SSA Gulf, Stella-Jones Corporation, Tanner Industries, Texon LP, The Ransom Quarry Co., Inc, Trevdan Building Supply, Tunnel Hill Partners, Valier Coal Yard, **Rhode Island:** SB&LS Treated Lumber of New England, Lehigh Cement Company, Schnitzer Steel, **South Carolina:** 84 Lumber Company, Bentonite Performance Minerals, Cox Industries, Inc, Domtar, International Feed, James E. Strates Shows, Nucor Steel South Carolina, Omya Inc., Plains Midstream Canada, Sonoco Products Company, The Anastasio Group, The C. F. Sauer Company, The Mallory Group, Triple M Metal, Vulcraft South Carolina, Yadkin Valley Railroad, Yang Ming (America) Corp., **South Dakota:** CHS Border States, Cone Ag, Dakota Mill & Grain, Dakota Warehouse, GCC, Harrold Terminal, Junction City Reload, Nestle Purina PetCare Company, Novita Nutrition, LLC, Oahe Grain Corp, Red River Grain Co., Ringneck Energy, South Dakota Pulse Processors LLC, South Dakota Soybean Processors, LLC, South Dakota Wheat Growers, Wheeler Lumber, **Tennessee:** 84 Lumber Company, Bentonite Performance Minerals, Certified DEF, CFC Recycling Inc., Chism Hardy Investments, LLC, Coffee Farmers Coop, Cornerstone Systems, Jostens, Kentucky-Tennessee Clay Co., Nyrstar Trade & Marketing AG, Omya Inc., Pacific Woodtech Corporation, PSC Metals, Inc, Queen City Railroad Construction, Regal Petroleum, Republic Plastics, Tank Lining of Paris, Inc., The Knoxville Locomotive Works, Inc., The Mallory Group, Tri-County Railroad Authority, Underwood & Weld Company Inc., White Co Farmers Co-op, Yadkin Valley Railroad, **Texas:** 84 Lumber Company, Abilene Ag Service & Supply Inc, AgroLiquid, American Alloy Steel, American Plant Food Corporation, Archer Daniels Midland Company, Ardent Mills, LLC, Arizona Chemical, Atlas Oil, Bentonite Performance Minerals, Brick Selections, Builders Firstsource, C&C Transload, LLC, Calumet Penreco, Certified DEF, Chapa Quiroga LLC, CI Logistics LLC, cru trading co, Dallas Transfer and Terminal Warehouse Company, Daniel B. Hastings Inc., Darling Ingredients Inc., Dix Shipping Co., Inc., DMG Equipment Company, LTD., Emerson Tool Co., FairmountSantrol, Ferza Truck and Rail, FSTB Chemical and Logistics, Garcia Grain Trading Co., Georgetown Rail Equipment Co., Hafco Services Inc, Headwaters Resources, Hi Crush Proppants, LLC, Hollon Oil Company, Junction City Reload, Kapstone, Kasberg Grain Company, Keane Frac, LP, Livestock Nutrition Center, Logistica Integral en Transportacion, Lone Star Railcar Storage Company, Manley Bros, McAllen Foreign Trade Zone Inc., Millennium Packaging Service Inc., Mission EDC, Novolex, Omya Inc., Owens Corning Sales, LLC., Pacific Woodtech Corporation, Pattison Sand Company, LLC, Pinnacle Sands LLC, Potters Industries LLC, Premier Silica/Pioneer Natural Resources, Quick Build Homes & Lumber, Inc., Reagent Chemical & Research, Rose Acre Farms, Royal Manufacturing Co. LP, Sherwood Lumber, Southwest Steel Coil, Inc, SPR Packaging LLC, Stockman's Milling, Inc., Tank Lining of Paris, Inc., Texas Pacifico Transportation, LTD, The Mallory Group, Top Rail Solutions, Inc., UFP Schertz LLC, Valley Coop oil mill, Vestas-American Wind Technology, Inc, W. Silver Recycling, Inc., We Pack Logistics, We Stow, Inc., West Plains LLC, Wilkinson Ray Iron & Metal, Inc, Zarsky Lumber Co., **Utah:** Ardent Mills, LLC, BHS Marketing LLC, Omya Inc., Reagent Chemical & Research, SSA Gulf, Wheelwright Lumber Company, **Vermont:** Cargill Feed and Nutrition, Carris Reels Inc., Censolmo Industries, Inc., Country Home Products Inc, Couture Trucking Inc., Dead River Company, Gillies & Pittie, Inc., Global Partners, LP, Gold Star Feed and Grain, LLC, James E. Strates Shows, Longevin Forest Products, Inc., Plains Midstream Canada, Seaboard International Forest Products, LLC, Troy Minerals, White River Traffic Group, Inc., **Virginia:** 84 Lumber Company, Ampro Products Inc, Bentonite Performance Minerals, Cox Industries, Inc, Lehigh Cement Company, Omya Inc., Stella-Jones Corporation, The Anastasio Group, **Washington:** AgVentures NW, Akzo Nobel, Inc., Almira Farmers Warehouse Comany, Bentonite Performance Minerals, Calumet Penreco, Central Washington Grain Growers, Inc, Certified DEF, Columbia River Carbonates, Darling Ingredients Inc., HighLine Grain, LLC, MacMillan-Piper, Northstar Chemical Inc., Oroville Reman and Reload, Pacific Abrasives, Sawyer & Sawyer Inc, South Dakota Soybean Processors, LLC, Valley Fresh Foods Inc., Watco Terminal and Port Services, Wilco-Winfield LLC, Wm. B. Morse Lumber Co., WW Feed LLC, **West Virginia:** 84 Lumber Company, FSTB Chemical and Logistics, Reagent Chemical & Research, Reynolds Consumer Products, **Wisconsin:** 84 Lumber Company, Advanced Waste Services, Inc, Cedar Creek LLC, Charter NEX Films, Inc., Cox Industries, Inc, Darling Ingredients Inc., Green Bay Packaging, Janesville Sand & Gravel Co., Michels Materials, Omya Inc., Pattison Sand Company, LLC, PCA, Pinnacle Foods Group, LLC, Top Rail Solutions, Inc., Wheeler Lumber, **Wyoming:** C&C Transload, LLC, Flat Flare and Repair, LLC, Imerys, Intermodal Services Inc, Maxam US LLC, Nestle Purina PetCare Company, Pacific Woodtech Corporation, Reagent Chemical & Research, TAG Environmental Inc., Tank Lining of Paris, Inc., The Western Sugar Cooperative, Vestas-American Wind Technology, Inc.,

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Rail investments can boost local economies

BY GOV. DENNIS DAUGAARD, OPINION CONTRIBUTOR — 03/07/18 09:30 AM EST
THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

Infrastructure is at the forefront of policy discussions these days. The White House recently released its plan for a massive infrastructure program. Governors and state legislatures across the country are having their annual debates over how to stretch limited dollars and how to pay for much-needed infrastructure programs. As we start to see the signs of warmer weather, we also start to see more road signs and barrels as we approach peak construction season.

Today, highlighting Railroad Day on Capitol Hill, representatives from railroads of all sizes will be joined in Washington, D.C. by the companies that supply railroads and other stakeholders. This includes those providing parts and technology for trains, those that help maintain railroad rights-of-way, rail labor unions and public officials who understand the importance of the freight rail network to companies and communities nationwide.

This is important because it is the backbone of the economy, the workhorse of global trade and the connector between companies and communities large and small across the country.

In South Dakota, for example, we consume only a modest amount of the grain produced here so the majority must be sold to out-of-state buyers. And we depend almost entirely on railroads to move those agricultural products to outside markets. We are fortunate to have Sen. John Thune, a former state railroad commissioner who understands the critical role railroads play in South Dakota and in the

economy, chairing the Senate Commerce Committee. He and I have worked together on rail issues in our state and he knows railroading as well as any public official.

Here in South Dakota, we work with our railroad partners to encourage the economic development opportunities that stem from the interconnected, 140,000-plus-mile freight rail network. Recently, we worked with BNSF Railway to have Foundation Park in Sioux Falls certified as a rail-served industrial park as part of BNSF Railway's Site Certification program. This helps developers increase their speed to market and reduce upfront risk by ensuring the site is ready for rapid acquisition and development. Each of the nation's largest freight railroads have such programs.
We have seen the results of participating in public-private partnerships to upgrade tracks for smaller railroads. These upgrades prompted two new grain facilities to be constructed along the upgraded tracks.

Rail investments bring big results and often lead to additional projects that directly reduce shipping costs and improve the bottom line for the men and women who drive the economy. They connect farmers, miners, manufacturers and companies of all stripes to markets across the nation and the globe via the interconnected intermodal network of trains, planes, trucks and barges.

The nation's largest railroads are privately funded, putting 40 percent of every revenue dollar back into their network, nearly $660 billion since 1980. Every ton of freight moving by rail reduces the burden on other modes, eases the dependence on taxpayer dollars, conserves fuel by moving more goods with less fuel burned and, consequently, emits fewer greenhouse gases than moving freight by other modes.
In short, leaders of all political stripes and at all levels of government should appreciate the role that freight railroads play in our country and I urge members of Congress to give the Railroad Day delegation a favorable reception.

Dennis Daugaard is the governor of South Dakota.

Original Article on The Hill website is located at: http://thehill.com/opinion/finance/377056-rail-investments-can-boost-local-economies

Chairman BUCHANAN. Mr. Grooms, welcome to D.C., and you are recognized.

STATEMENT OF BARRY GROOMS, REALTOR AND CO-OWNER, SARABAY REAL ESTATE INC., ON BEHALF OF THE NATIONAL ASSOCIATION OF REALTORS

Mr. GROOMS. Thank you, Chairman Buchanan, Ranking Member Doggett, and the Members of the Subcommittee.

I really appreciate the opportunity to be here today. I am a local business owner. I also am testifying on behalf of the National Association of REALTORS, as well as every homeowner across this great land.

The question is whether the exclusion for forgiving mortgage debt should be permanent. In Florida, the exclusion has been vital in saving families from financial devastations. Residents of the Sunshine State suffered through some of the darkest days in the Great Recession. However, at the time there was plenty of despair everywhere, not just in Florida.

At its worst, as many as 25 percent of mortgaged homes in the United States had negative equity. Just because one home goes under water does not necessarily mean that it will lead to a mortgage default.

But consider this. The financial trouble we have seen since 2007 is not unlike the flu epidemic. The virus is all around us, and almost everyone is susceptible. In the case of those who lost their homes, they were hit by a double whammy: first, by a drop in equity; then by a job loss or some other catastrophe in their lives. This left many in foreclosures or short sales, and often some mortgage debt was discharged.

As a realtor for approaching 20 years, I have often seen what can happen when a family experiences this first-hand. You see, these individuals are not deadbeats looking for a handout. Rather, these are good people faced with a very bad situation. If they have to pay taxes on mortgage debt that is forgiven, they will suffer and likely have no choice but to leave our communities. Everyone would lose.

This is just one example of how many across the country of these families simply do not have the cash to pay these taxes.

I would like to make another point. The exclusion from mortgage debt cancellation also delivers a huge dose of fairness. When the investment in a home goes up and owners sell it, capital gains. The Tax Code generously waives the capital gains up to $500,000, when it happens and things go sour, equity is lost and the family is forced to short sell.

Up through the last year, the exclusions stepped in and relieved an often impossible tax burden. If the exclusion is allowed to expire, however, we will be left with a tax policy that rewards good fortune, but piles on when the tables are turned. This is neither fair nor smart.

Yes, the home equity situation in America is much better today than it was in 2010, but there are likely 2.5 million homes currently under water across America. There are likely thousands of them in your respective districts.

It is great to know that the flu is abating, too. But pockets remain, and we all know that it will be back one day. Cases of nega-

tive home equity will ebb and flow, and they flow as well even with the stronger economy. This is why we need a permanent exclusion to minimize the damages to families and neighborhoods in our community.

And I thank you.

[The prepared statement of Mr. Grooms follows:]

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Jerry Giovaniello
Chief Lobbyist

Testimony of

Mr. Barry M. Grooms
SaraBay Real Estate Inc., Sarasota, Florida
On Behalf of the National Association of REALTORS®

In regards to the
Exclusion from gross income of discharge of qualified principal residence indebtedness

House Committee on Way and Means
Subcommittee on Tax Policy

Hearing on
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"
March 14, 2018

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Chairman Buchanan, Ranking Member Doggett, and Members of the Committee, my name is Barry Grooms. I am a 20-year veteran of the real estate profession, and a co/owner of a 50-agent brokerage in Florida. I am here representing the more than 1.3 million members of the NATIONAL ASSOCIATION OF REALTORS® (NAR) who work in all aspects of real estate. NAR represents a wide variety of real estate industry professionals. I am currently the Vice President of the 179,000 member Florida Association of REALTORS. I have served as Public Policy Chairman for the Florida Association of REALTORS, Chair of Tax and Business and the Issues Mobilization Committee. I am a working owner and have personally brokered 178 real estate short sales and 209 bank-owned real estate transactions since 2009.

Thank you for inviting me to testify today on the important topic of whether the tax exclusion for forgiven mortgage debt should remain expired or be made a permanent part of our tax law. Since it was first added to the Internal Revenue Code in 2007, this provision has provided much-needed financial relief for millions of distressed households.

In my home state of Florida, the exclusion has been especially vital in saving families from financial devastation. Residents of the Sunshine State suffered through some of the darkest days of the Great Recession. In fact, at the worst of the housing crisis, six metro areas in Florida were on the list of the 20 most troubled housing markets.

However, at that difficult time there was plenty of despair to go around. According to the data analytics firm Core Logic, at the depth of the Recession as many as 25 percent of mortgaged residential properties in the U.S. suffered negative equity.[1] While the pain was most severe in a handful of states, there was lots of financial distress everywhere.

Am I saying that more than one in four households found themselves in need of the kind of relief offered by the mortgage debt cancellation exclusion? No. Just because one's home goes under water, it does not necessarily mean it will lead to a default or another crisis with one's mortgage.

But please consider this. The kind of financial contagion we became far too familiar with over the past decade is not unlike the influenza epidemic we have unfortunately experienced this winter. The virus is all around us, but luckily does not seriously affect everyone.

However, almost everyone is susceptible to the flu's devastation. And in the case of the financial troubles that swirled all around so much of the nation, most of those who were felled were hit by a double whammy of problems, first from the more widespread downturn that took away their home equity and then perhaps from a job loss or a family illness or something else that temporarily knocked out their monetary immune system. This left them in a position where they had to turn over their deed in lieu of foreclosure, sell short their home, or somehow rework their mortgage in a way that left them with some of their mortgage debt discharged.

As a REALTOR® in Florida for 20 years, I saw firsthand many times what can happen when a family is double-struck with a financial catastrophe that hits at a time when they have negative equity in their home.

I recently received a call from past clients, a married couple, who asked me to sell their home. However, after meeting with them to determine their needs, I discovered they owned $85,000 more than their home is worth. During the meeting, they told me that they needed to move because the

[1] https://www.corelogic.com/insights-download/homeowner-equity-report.aspx

home was in need of immediate repairs and that they didn't have the money to fix anything. The husband is a firefighter with 10 years under his belt and there was no possible way for him to advance unless a position opens up, which is not likely for many years.

The wife could only work two night shifts as a registered nurse because of his schedule and due to the needs of their two young children. They are not investors looking for a hand out or someone playing the system by a strategic bailout. Rather, these are real people put in a very bad situation. If their only option is a short sale and they are forced to pay taxes on what they lost, this could force them to leave our community. People like these are the fabric of the community and provide so much more than what they do at work. They volunteer at schools, church, and provide stability to a neighborhood. The community would share the loss if they had to move away, and everyone would lose. This is just one example of many taking place right now in a lot of communities across the country. Many of the stories are worse.

Imagine the despair that comes when those who have lost their home are informed that the $85,000, or $40,000, or $150,000 amount by which their mortgage debt was reduced has to be included as income on their tax return, with perhaps tens of thousands of dollars added to their tax bill. In most cases, these families are already in financial straits. They simply do not have the cash to pay the tax that would be due if the exclusion is not available.

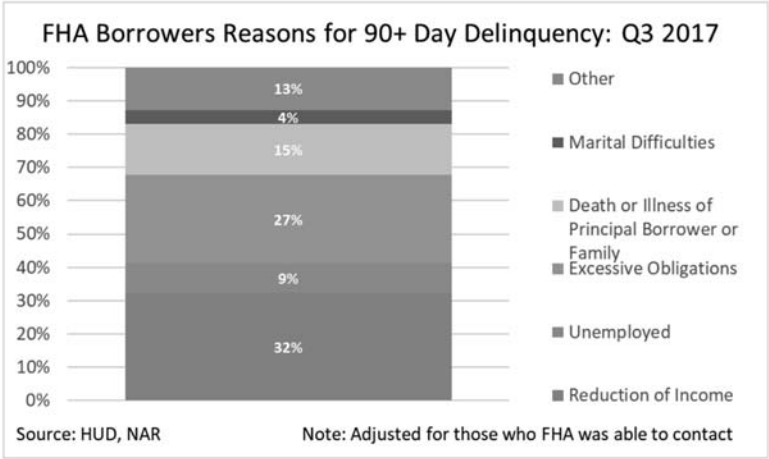
This despair is very real, and has been present for several of the past ten years, despite the *de facto* continuous presence of the exclusion in the law. This is because the provision has been allowed to expire again and again, and was often restored on a retroactive basis, leaving affected taxpayers sweating it out over whether it was going to be available for them when they needed it most.

As recently as a few weeks ago, before the latest retroactive extension of the provision, which had expired at the end of 2016, I saw the anguish on the faces of people who had gone through short sales last year as the April 15th due date for their 2017 tax returns approached. What would happen if those tax returns showed an unanticipated multi-thousand dollar additional amount due? Had these families owned the resources to pay these extra taxes, they likely would not have had to suffer the short sale or foreclosure of their home.

One of the principles of good tax policy says that citizens should not have to pay tax when there is no cash available to do so. And in cases where a homeowner has lost her residence because of a one-two knockout punch to her financial situation that leads to mortgage debt being forgiven, the cash to pay the tax is seldom there.

Exacerbating the double-misfortune aspect of those who find themselves with a discharge of mortgage debt is the fact that many owners who go into a distressed sale are already facing some hardship that impairs their income or liquidity. A vein of mortgage finance research focuses on the "double trigger" theory where homeowners generally continue to pay their mortgage payments when in negative equity, but enter foreclosure or sell short only after a negative life event like a job loss, reduction in income, death of a spouse, or a serious illness.
One study of subprime owners with no equity who originated their loan in 2006 found that 80 percent of those who entered foreclosure did so due to "income shocks combined with negative equity."[2] Even then, the authors of the study found that the, "median borrower does not walk away until he owes 62 percent more than their house's value." As depicted below, even in relatively good times, a high share of delinquencies on FHA loans are due to negative life events. Given the close ties that homeowners develop with their homes and communities, it should be no surprise that an owner would fight to hold onto his or her home.

[2] https://www.federalreserve.gov/pubs/feds/2010/201035/201035abs.html



However, sometimes one must sell a home in order to take advantage of new opportunities. As any economy shifts, one industry may rise as another declines. This dynamism requires a degree of mobility in the work force. The debt burden of selling a home below what is owed on it can impair an owner's ability to move for better jobs[3].

Also, researchers have found that "unemployed individuals with negative home equity are disproportionately more likely to move, and more strongly so, if the local labor market is weak,"[4] thereby multiplying the local stress. However, not cited was the fact that these owners benefited from the Mortgage Forgiveness Debt Relief Act of 2007, a testament to the benefit of this provision. While a new class of "involuntary landlords" – homeowners in negative equity who rented their homes and successfully moved elsewhere to accept new employment – developed after the Great Recession, not all owners are so lucky.

Some who oppose making the exclusion for cancelled mortgage debt permanent will cite the moral hazard argument. It is true that a lender forgiving debt can sometimes incentivize homeowners to simply walk away from their property and their obligations. However, the academic research listed earlier suggests that this is not common.

Furthermore, very real and negative consequences still exist for owners who do walk away. Not all creditors will forgive debts and in many states, laws exist allowing creditors to pursue debtors. Moreover, even if the debt is forgiven, the impact of a foreclosure can be almost ruinous to near- to mid-term future prosperity by reducing one's credit score by nearly 150 points.[5] And, virtually all lending programs will not extend credit to a distressed seller or foreclose seller for one to several years depending on the circumstances.

We must also examine the harm to the surrounding neighborhood and community when considering the moral hazard argument. Most would likely agree that the worst possible outcome

[3] https://www.aeaweb.org/conference/2016/retrieve.php?pdfid=933
[4] http://www.uh.edu/~bsorense/DHLS_July12_2016.pdf
[5] https://www.vantagescore.com/images/resources/loan_restructuring_options.pdf

for everyone – the affected household, the lender, the neighbors, and the community – would be for the borrower to just walk away from the property. Studies show that there is no negative spill-over effect of a short-sale to the neighbors of the house sold short. However, for homes sold within 0.1 miles of a foreclosed or REO property sold within the prior three months of the sale, there is a 1 percent negative impact on home prices. This can compound to as high as an 8 percent downward adjustment depending on the number of foreclosures in the neighborhood.[6]

Therefore, any factor that encourages a distressed homeowner to avoid a foreclosure in favor of a short sale is positive for everyone. And the exclusion for discharged mortgage debt encourages the borrower to sell the home short instead of walking away. Without the exclusion, however, the temptation to leave and let the lender foreclose greatly increases.

There is one more significant point I would like to make, Mr. Chairman and members of the Committee. The exclusion for mortgage debt cancellation also delivers a huge dose of fairness to our tax system.

When the investment in a home goes well, as so often happens, and the owner eventually sells at a gain, the tax system rewards the accomplishment with a tax exclusion of up to $500,000 for married couples filing a joint return (up to $250,000 for a single filer). This wise policy not only helps a family save for retirement, but it also greatly reduces complexity for taxpayer and tax administrator alike. Homeowners everywhere are grateful this provision was preserved in tax reform.

But what happens on those occasions where, most often through no fault of the homeowner, things go sour financially, equity is lost, and before it is recovered, some other unhappy situation forces the family to have to sell short or suffer a foreclosure? When this occurred up through 2017, the exclusion for the mortgage debt cancellation stepped in and relieved the often-impossible tax burden.

If the exclusion is allowed to expire, however, we are left with a tax policy that rightly and richly rewards good fortune, but piles on when the tables are turned. Essentially, the former owner whose double misfortune (first by seeing the home's value drop and second by suffering a family financial catastrophe, such as a job loss) led to a situation where mortgage debt is forgiven in foreclosure or short sale would lose twice more – once by missing out on any subsequent gain on the home value and then again by incurring a tax on forgiven debt.

Yes, the equity situation for homeowners in America is much better today. But there are still approximately 2.5 million homes with their mortgages under water today.[7] As the table below shows, in Florida, this is roughly 9 percent of all homes with a mortgage. But there are likely thousands, and perhaps tens of thousands, of such homes in each of your districts. Some unfortunate percentage of this group will, even in good economic times, find themselves caught in the snare of negative home equity at a time when adverse family financial circumstances force them to have to accept a reduction in their mortgage principal.

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[6]https://faculty.unlv.edu/nasser/Published%20Papers/JRER_forthcoming_%20Spillover%20Effects%20of%20Foreclosed%20Residential%20%20Properties.pdf

[7] https://www.corelogic.com/insights-download/homeowner-equity-report.aspx

Count and Share of Mortgages in Negative Equity: Q3 2017					
State	Negative Equity Share	Negative Equity Count	State	Negative Equity Share	Negative Equity Count
National	4.9%	2,528,700	Missouri	3.9%	34,300
Alabama	4.3%	20,000	Montana	2.3%	3,500
Alaska	1.7%	1,800	Nebraska	4.5%	12,100
Arizona	7.2%	98,600	Nevada	8.9%	49,800
Arkansas	5.5%	17,800	New Hampshire	5.2%	13,900
California	3.2%	213,200	New Jersey	7.6%	137,900
Colorado	1.7%	20,600	New Mexico	4.5%	12,100
Connecticut	8.2%	70,500	New York	4.6%	95,800
Delaware	6.0%	12,900	North Carolina	3.7%	66,500
District of Columbia	3.5%	3,600	North Dakota	3.5%	3,100
Florida	9.0%	356,100	Ohio	6.9%	151,200
Georgia	4.6%	80,800	Oklahoma	4.9%	25,100
Hawaii	1.7%	4,100	Oregon	1.7%	12,300
Idaho	2.5%	7,600	Pennsylvania	4.0%	85,000
Illinois	8.7%	193,800	Rhode Island	7.5%	18,400
Indiana	2.4%	21,700	South Carolina	4.1%	31,900
Iowa	5.1%	24,000	South Dakota	NA	NA
Kansas	3.2%	11,300	Tennessee	3.7%	40,100
Kentucky	4.1%	17,300	Texas	1.5%	56,400
Louisiana	10.1%	43,200	Utah	1.5%	7,900
Maine	2.7%	2,300	Vermont	NA	NA
Maryland	7.7%	105,000	Virginia	5.3%	80,000
Massachusetts	4.4%	68,100	Washington	1.6%	23,700
Michigan	6.2%	91,300	West Virginia	5.4%	2,900
Minnesota	3.3%	25,500	Wisconsin	5.7%	46,500
Mississippi	7.6%	5,400	Wyoming	3.0%	1,700
Source: Corelogic					

As with the wave of reduced negative home equity, it is great to know that the influenza epidemic is abating throughout the nation too. But pockets of high incidence remain. Moreover, we all know that the flu will be back. Luckily, our best infectious disease specialists at the Centers for Disease Control and Prevention are already hard at work to minimize the damage it will bring.

We all know that cases of negative home equity will ebb and flow as well, despite our personal best efforts and even with a strong economy, which unfortunately cannot last forever. This is why we need a permanent exclusion provision in place to offer assistance to those affected, and to minimize the damage to our families, neighborhoods, and communities.

The NATIONAL ASSOCIATION OF REALTORS® thanks you for your attention to this pressing issue and stands ready to work with you address this important problem that faces American families.

Chairman BUCHANAN. Well, thank all of you for your testimony.

We will now proceed to questions and answer session. I will defer my questions to the end of the question period.

Now I recognize Mrs. Noem.

Mrs. NOEM. Well, thank you, Mr. Chairman.

And for those who have followed me during my time in Congress, they know that I am a lifelong farmer and rancher. I am from the State of South Dakota. So there are two of you whom I am going to focus on today, and it is regarding the biodiesel tax credit and the short line rail credit, as well.

Mr. Meyer, I would like to have you quickly respond, if you would. You talked specifically about what it meant to have this tax credit. I would like you to address what it means to agriculture and our national security as far as growing our food and our fuel here in this country and what biodiesel brings to the table.

Mr. MEYER. Well, what biodiesel has done for our group here is given us an outlet for soybean oil, and with that we have raised prices for soybeans because it is directly related to our industry and how many bushels we process.

So if you look at a basic supply and demand table, there are hundreds of millions of bushels that are being processed today and value added into soybean meal and also soybean oil.

And in addition, a portion of that soybean meal is exported. So when we talk about trade deficits and what we do to supply product into the Pacific Rim, another benefit is the fact that the protein that we grow and develop here, it goes into the meat industry, and the most value-added product we can export in agriculture is meat, and we do a lot of that also.

Mrs. NOEM. No, I appreciate that because it is important that we recognize a change in policy is going to impact commodity prices, which right now, if you follow the agriculture industry, we are in a crisis situation. We have got farmers across the country going broke every single day.

So a change in policy to not getting this tax credit re-extended again is going to be dramatic and have an impact on them, and that those byproducts that we have after producing biodiesel has an industry that is counting on those as well to be out there and available.

Ms. Petry, I wanted to ask you a question about the short line tax credit because it impacts agriculture as well in the fact that it impacts our basis and our transportation costs.

And there is so much invested into these rail in order to keep them upgraded and fully functional, and a lot of times those costs could get passed on to people that are using your rail line, and what it means to have a lower basis cost is critically important.

But we have seen in South Dakota a lot of investment in maintaining these rail, and all of our industries are so reliant on making sure. They cannot be successful unless these rail lines are successful.

Could you speak a little bit about what that means to rural America?

Ms. PETRY. I certainly can, and you are correct. We are vitally important to the shippers, but the shippers are vitally important to the railroads. We fit hand in hand together.

Rural America is served by small short lines who inherited track that was neglected and was going to be abandoned. So we have track that is hundreds of years old.

We have a bridge on the north end of Oklahoma that is 115 years old. It is 184 feet long, and it has to be replaced.

Ninety-pound rail, and I brought an example. My industry has been at this. This is 90-pound rail, little, tiny stuff. This is 115-pound rail.

It costs virtually $500,000 per mile just to replace the rail. That is not the ties. That is not the ballast.

But that being said, why is it important? It is important because we are moving the rural economy.

Mrs. NOEM. Yes, you are moving the economy.

Ms. PETRY. We are moving.

Mrs. NOEM. And, Mr. Chairman, if this tax credit is not in place, that cost is going to go right on to all of these industries in the economy and damage them right at a time when we are trying to help them grow.

With that I will yield back.

Chairman BUCHANAN. Thank you.

And I will recognize the distinguished gentleman, the Ranking Member, Mr. Doggett, for whatever questions he may have.

Mr. DOGGETT. Thanks so much, Mr. Chairman.

I appreciate the testimony of each of you. Each of you has pointed to the problems that the uncertainty over these tax provisions presents, and I am very sympathetic to that concern.

I believe these tax provisions should be paid for, but you either need to be included in the code or excluded. I am for at least some of the provisions that have been described here certainly. I have seen people, Mr. Grooms, who face the situation that you described on their home, and they certainly do not think the fact that they are able to survive in that home is a taxable activity.

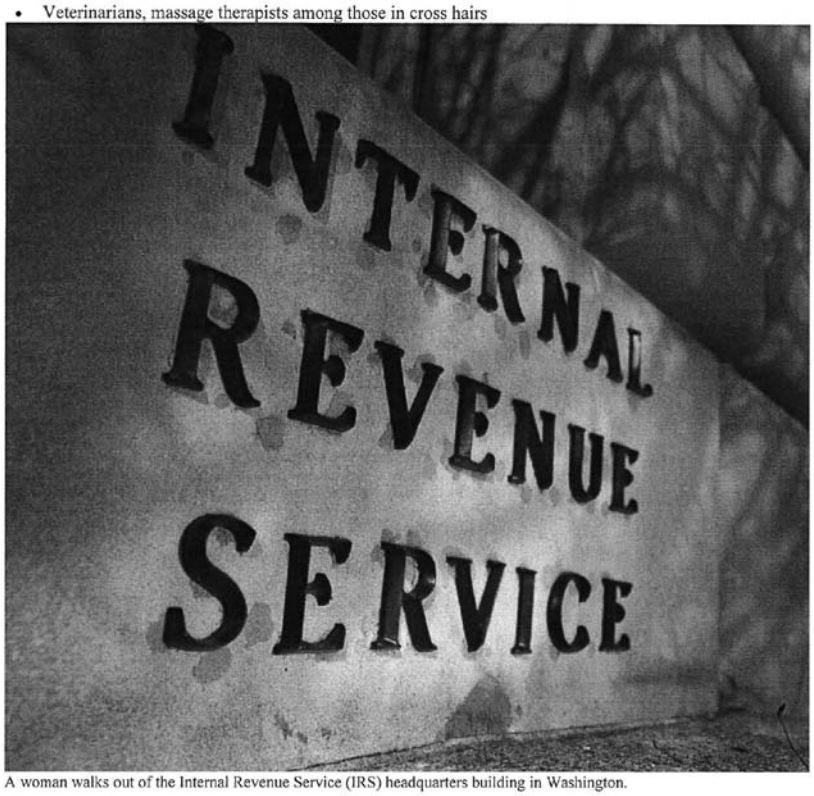
At the same time, what we are focused on today is such a small part of the uncertainty that exists with taxes. Mr. Chairman, I would ask unanimous consent to put in the record a recent Bloomberg article called "No one's sure who qualifies for this $415 billion U.S. tax deduction."

Chairman BUCHANAN. I agree.

No One's Sure Who Qualifies for This $415 Billion U.S. Tax Deduction

By
Ben Steverman
March 12, 2018, 4:00 AM EDT

- IRS guidance on pass-through break could miss June deadline
- Veterinarians, massage therapists among those in cross hairs



A woman walks out of the Internal Revenue Service (IRS) headquarters building in Washington.

Photographer: Andrew Harrer/Bloomberg

Congressional Republicans created a juicy new tax break for business owners when they rewrote the U.S. tax code late last year. Three months later, hundreds of thousands of U.S. employers still don't know if they qualify.

The Internal Revenue Service has said it will provide guidance detailing exactly who's allowed to take the so-called pass-through deduction. With billions of dollars at stake, business groups are lobbying for the agency to open the doors to the deduction as widely as possible.

Some high-earning proprietors -- such as construction contractors, massage therapists, executive headhunters and restaurateurs -- could be excluded if the IRS writes the rules too narrowly. The agency plans on issuing guidelines by June. But that deadline has been questioned by a former top Treasury official given the vagueness of the legislation and complexity of the task.

The 20 percent deduction is aimed at pass-through businesses, whose income is reported on their owners' personal tax returns. Congress tried to bar wealthy owners of service businesses from getting the break -- leaving out many doctors, lawyers and hedge fund managers unless they can find a loophole.

By trying to exclude those service businesses, though, Congress ended up asking the IRS to settle some rather absurd philosophical and semantic conundrums. What, for example, is an entertainer? Are humans the only species who get "health care," or do animals count too? How do you tell a broker from a salesperson, or an interior designer from an interior architect?

"We want to make sure that real businesses that are generating real economic activity get to take advantage of the deduction," said Chris Smith, executive director of Parity for Main Street Employers, a new group formed to lobby the IRS and Congress on

behalf of pass-through businesses. "You should be able to organize your business for business reasons, and not have to restructure because of quirks in the tax code."

Here's the Trump Tax Loophole Your Accountant Can Blow Open

The challenge ahead for the IRS, which has been struggling with limited resources and faces a possible restructuring by Congress, is monumental. The agency must write coherent rules, and then be ready to make judgments on every business in the U.S. And the IRS can be challenged by taxpayers and second-guessed by courts, a process that could take years to play out.

A spokesman for the IRS didn't respond to a request for comment.

A lax interpretation of the pass-through rules would please businesses, but also could blow a hole in the U.S. Treasury. The nonpartisan Joint Committee on Taxation estimates that the pass-through deduction, which expires at the end of 2025, would cost about $415 billion over the coming decade. The tax break could be even more expensive if IRS regulations can't keep gamesmanship to a minimum.

Tax professionals are pleading with the IRS for details as soon as possible. The American Institute of CPAs asked for "immediate guidance" on the pass-through provision in a Feb. 21 letter to the IRS. "Taxpayers and practitioners need clarity" to comply with their tax obligations and "make informed decisions regarding cash-flow, entity structure, and other tax planning issues," the AICPA said.

This much is clear: If you're a pass-through business owner who earns less than $157,500, or $315,000 for a married couple, you get full access to the deduction no matter what you do.

Above those thresholds, the deduction fades for certain "service" industries specified in the law including health, law, consulting, athletics, financial and brokerage services. (The break is completely eliminated for service business owners earning more than $207,500 if they're single, or $415,000 if they're married.)

Tattoo Artists

Each term raises questions. Veterinarians, for example, can't know for sure whether their work qualifies as "health care" in the tax code. Even if it does, vets do lots of things that probably don't fall in that service category, from boarding pets to selling drugs and dog food.

The American Veterinary Medical Association "is working with the IRS and Congress to explore all options to improve tax provisions impacting veterinary medicine," said Kent McClure, the AVMA's chief government relations officer.

"Consulting" and "brokerage" are two catch-all terms that could ensnare many unsuspecting businesses. The function of a consultant is to give advice: So how does the IRS legally distinguish a management consultant, who advises a CEO on restructuring, from a tattoo artist who tells you what might look good on your shoulder?

"What does it mean to be a broker? It could be very narrow or it could be big," said Troy Lewis, a CPA and professor at Brigham Young University who chairs an AICPA task force on the topic. "There are a lot of people who are in the information business, who get paid to put two people together."

Reputation or Skill

Just as puzzling to tax advisers is another phrase in the law. Any firms where the "principal asset" is the "reputation or skill of one or more employees or owners" are also excluded by the law as service businesses.

This makes many businesses nervous. Contractors, for example, can live and die based on their reputations.

For "a lot of the big names in construction, it's their name that is the company," said Matt Turkstra of the Associated General Contractors of America, which represents more than 27,000 firms in the construction business. The law's wording on reputation and skill is "broad enough that it could be concerning if it was taken out of the context," he said.

What does the law mean, Lewis asks, for businesses that advertise their skill or reputation? If you brag you're the "best baker in the tri-city area," will the IRS use those claims against you? Will restaurants owned by celebrity chefs get taxed differently from other restaurants?

'One Big Problem'

Tax professionals are poring over old IRS regulations and rulings looking for clues. Lobbyists aren't consultants, according to a 1988 IRS memo. Another obscure regulationtries to distinguish brokers, consultants and salespeople based on how they get paid.

The final version of the bill took "engineers and architects" off the list of service professionals. Professions like interior decorators and designers could be caught up in disputes over whether they're more like architects or consultants.

"You can see how fine the line is," said Megan Lisa Jones, a tax attorney at Clark & Trevithick in Los Angeles. "The IRS can decide one thing and the court can decide another." Individual IRS examiners could end up disagreeing with each other, she said.

Even some defenders of the tax overhaul find fault with the pass-through provision.

University of Michigan law professor Reuven Avi-Yonah said in a recent paper he supports most of the tax law's provisions such as the doubling of the standard deduction, reduced corporate tax rate and international changes.

But he cited the pass-through deduction as the "one big problem" that creates "an unworkable, unadministrable mess."

Mr. DOGGETT. And what this article is about is the great uncertainty that was created last year in rushing through an unpaid tax bill that includes provisions like the new pass-through provisions: $415 billion, much more than what is at stake at this panel or what is at stake in today's entire hearing.

I believe that that $415 billion tax deduction that is provided there is directed to the so-called pass-through provisions, some of which have merit, but seem to be focused, particularly after the conference committee in secret completed its handiwork, as primarily benefitting real estate moguls like Donald Trump and Jared Kushner.

Republicans claim that they wanted to help small businesses on pass-through. According to the Small Business Majority, the majority of the benefits will go to the largest 2.6 percent of pass-through businesses.

Now, maybe the Bloomberg analysis wrong, and maybe the estimates of the Small Business Majority are wrong. But we will never know because there was never a single public hearing on that provision to allow people like you from the real estate industry or otherwise to come forward and discuss the issues involved.

And that really goes to the core of the problem because today we have the chairman of this Committee out saying, "Well, we need another four or $500 billion of borrowed tax breaks," borrowing from afar to have more tax breaks, and we do not know if there will be any hearing on that, but we have not had a hearing or an understanding of the impact of the last $2 trillion.

I think a responsible committee process calls for us taking a thorough look not only at these modest provisions, as important as they are to you, but that we look at the pass-through provision; we look at all of these international corporate tax dodges and consider one by one what the handiwork is that this Committee has already

done in the past; and those may provide some of the pay-fors that can pay for legitimate provisions that have been left out there, extended and suspended.

Thank you, Mr. Chairman.

Chairman BUCHANAN. Thank you.

Mr. Reichert, you are recognized.

Mr. REICHERT. Thank you, Mr. Chairman.

Thank you for your testimony today.

My home State of Washington has been the beneficiary of biodiesel plant investments that employ hundreds of Washingtonians. Mr. Meyer, what is the impact of the expiration of the biodiesel tax credit on the market?

Mr. MEYER. It absolutely has created uncertainty. In addition to that, we have had the marketplace speculating whether it would be reinstated or not, and that has actually created some real difficulty in product distribution throughout the United States because some of our customers become long product or short or what have you.

And so the expiration, and again, like you have all described here today, just unknowingly it is here; it is not here; and it makes it difficult to make those investments both for our customer and our company that represents the biodiesel group.

Mr. REICHERT. So it causes speculation and uncertainty and leads to some problems in product distribution. Can you describe what you mean by that?

Mr. MEYER. Well, basically, like if you have an expiring program, the potential for building up supplies at the end of the calendar year expires. So the first quarter of the next year, maybe four months the industry does not run. So it is up and down.

We truly have not had the opportunity to see this work since you made some good decisions here in Washington on stopping the dumping from South America into our marketplace. So we truly have not even seen the full RFS RINs and the tax credit work like it could.

But they are definitely providing some good jobs. This is good legislation that you have.

Mr. REICHERT. Appreciate it. Thank you.

The key to the success of Washington State's economy is the movement of goods. By connecting customers to the national freight railroad network, short line railroads play an integral role in getting goods to the market.

For several Congresses I have played a role in this and am proud to be a cosponsor of a bill to make 45G permanent, along with Representative Jenkins, and she has been a leader on this also.

So, Ms. Petry, can you discuss the role of 45G in the new Tax Code?

Ms. PETRY. Yes, sir, I can. As I remarked earlier, 45G is vital in order for us to sustain our railroads and to continue to grow our railroads. We have got to get to the point where we are handling 286,000-pound cars.

Most short lines can only handle 268,000. So what we have done in the past is we have taken the money, our own money, and invested it into the track, and with the help of 45G, we are able to

take those additional funds, those additional tax credit dollars and turn that back into the track.

So we continue to reinvest our own money. Traditionally, the work that we have done has been maintenance, and so it is expensed completely. So the tax reform is excellent, but it does not move the dial in the needs that the short lines have because we are already expensing the maintenance.

Where we need help is to help us rebuild, and we are not asking for a handout. Instead, we are asking you for a hand up. Help us to be able to continue to spend our money, our funds, at a greater level than what we would traditionally spend, and then to turn around and reinvest that money, the tax credit money, right back into the track.

You are making a big difference every time that you enact 45G.

Mr. REICHERT. Thank you, Mr. Chairman.

Chairman BUCHANAN. Thank you.

Mr. Larson, you are recognized.

Mr. LARSON. Thank you, Mr. Chairman.

And I want to thank the panelists. I want to thank Mr. McAdams for your testimony in terms of a soft landing; Mr. Hubbard for your comprehensive view.

Ms. Petry, I think that both Mrs. Noem and Mr. Reichert make a very compelling case, and, Mr. Grooms, no one could be more passionate in terms of an understanding for the situation that, through no fault of their own, people find themselves in.

And I would say, Mr. Meyer, as well, with regard to biodiesels, these are all areas that I think should be made permanent, and I think it would have a lasting impact on the economy, provided that we are willing to pay for it.

And herein lies the problem with Congress, and what I have been saying to the panelists throughout is that there are many individuals though who have suggested that, you know, the tax cut, the bill itself was $1.5 trillion, but some estimated it is $2.3 trillion, and there have been many leading American figures, most of whom I dare say are Republican, who have stepped forward and said we ought to look at a revenue neutral carbon tax that would allow us the opportunity to either utilize the money in a way that we would be able to fund infrastructure projects, that allow us to invest back into the economy, to allow the permanency or certainty that all of you are requesting, and whether it is in terms of a burden placed on a homeowner or whether it is the ability to incentivize biodiesels in a way that is going to impact the economy long term, that we are not just off-loading debt on the American people, but we are actually working together in order to rebuild the Nation.

I think that is in everyone's interest. Mr. Blumenauer has argued this more eloquently than anyone on our panel. He has talked about a gasoline tax, but whatever the vehicle is, I wish more people when they come forward not only understanding that what you have is a very good cause, but also would say, "You know what? We have to pay for this."

You know, I said to a panel everybody wants to go to heaven, but nobody wants to die. You know, I am not asking you to die. I am just asking people to, when they pass the basket on Sunday, every-

body has got to contribute in order for us to succeed, and we have not been willing to do that.

We operate in a mythical country where we can wave a magic wand. In this case it happens to be a tax break that everybody desires, but long term, and everybody on this panel knows it and both sides are guilty, we just cannot continue to do this. We have to pay as we go.

And I thank you all for your testimony, and I would support your initiatives. I hope you will support pay-fors like a carbon tax.

Chairman BUCHANAN. Thank you.

Mr. Rice.

Mr. RICE. Thank you.

Mr. Meyer, you quoted some figures where you said that you were producing I think you said 25 million gallons of biodiesel before the tax credit was allowed.

Mr. MEYER. That was in 2004. Those are the statistics that we had from then.

Mr. RICE. And then 2017, what is it now?

Mr. MEYER. The market currently has grown to 2.9 billion gallons.

Mr. RICE. So that is about 1,000 times as much.

Mr. MEYER. It has gone up significantly.

Mr. RICE. And you think that the subsidy we provide has a lot to do with that?

Mr. MEYER. I think when our customers, the oil company——

Mr. RICE. How much is the subsidy per gallon?

Mr. MEYER. Well, when you look at the dollar credit and you divide that by seven, you are looking at $1 per gallon subsidy off the cost of the biodiesel for a customer.

Mr. RICE. If you did not have that $1 a gallon subsidy, would it be economically viable?

Mr. MEYER. The marketplace, obviously we all know in this room, oil goes up and down and a number of things, but I have got to tell you to——

Mr. RICE. What is the cost of production per gallon?

Mr. MEYER. It runs right around, when you look at cost of production, we would say in oil terms we are looking at about 600 points in oil, and I am thinking in soybean oil terms.

Mr. RICE. Can you get me to a gallon figure? I am running out of time.

Mr. MEYER. I can do that. Can I have just a minute please?

Mr. RICE. Here is the thing. I mean, I understand it creates jobs, and it is important for farmers. I certainly do not want to hurt them, and I know their corn prices are down, but if I want to open a cotton candy stand and the Federal Government is going to give me $1 a sleeve of cotton candy, I can create a lot of jobs.

That does not mean it is viable. That does not mean I can make money. So just the creation of jobs by itself, I mean, if the Federal Government is going to give you money to create jobs, then that is not any magic, right?

This thing needs to be economically viable.

I am sorry. I have got 1 minute left, and I have got to go to the ethanol guy, Mr. Hubbard.

Mr. Hubbard, I have read report after report after report after report. Ethanol drives up the cost of gasoline. It is not environmentally friendly. I have had to rebuild several carburetors in my ATVs because of it. It drives up the cost of food.

So again, I know farmers have relied on this, and they have changed the use of their land, and I know it creates jobs in that regard, but should we not get a glide path and look for a way to get off of this subsidy instead of continuing this?

Mr. HUBBARD. I want to make a big distinction here. When we are talking about ethanol in general, we are speaking about the entire industry as a whole, and ethanol is the lowest cost, highest octane fuel additive on the planet. I said that in my remarks.

We initially became an industry in an effort to try to address oil price shocks in the 1970s, and then we had oil shortages and oil crisis issues in the early 2000s.

Mr. RICE. And that was before fracking, and now we have got 100 years right here in the United States.

Mr. HUBBARD. But what we have learned over the years is our true value to the oil and gas market, to the fuel system. We do not displace oil and gas. We displace other fuel additives, such as benzene, toluene, and xylene.

We used to have MTBE, methyl tertiary-butyl ether, that we used as an oxygen and an octane enhancer. When ethanol took off, it was when it was discovered that MTBE was so toxic it had to be removed from our country's underground storage tanks.

So the challenge for our industry——

Chairman BUCHANAN. We are going to have to keep this moving. Are you all right?

Mr. RICE. I would be happy to append that.

Chairman BUCHANAN. Thank you. I appreciate that.

Mr. Blumenauer, you are recognized.

Mr. BLUMENAUER. Thank you.

I appreciate, Ms. Petry, your being here on behalf of the short lines. I must say that working with your industry over the years has been a great learning experience for me, and I think it is one of the successes.

The current legislation that Representative Jenkins and I have has 256 cosponsors, a majority of the Senate. This is broadly supported, and it is broadly supported for a reason, and I appreciate you referencing it, but you might elaborate.

The short line industry has inherited vital transportation links across the country. These are rail lines that were abandoned by the Class 1s for a variety of reasons, and they were not keeping them maintained.

These are links to little factories, little mills, small towns that do not provide the volume or the revenues to justify the capital expenditures, and even though you can deduct it, it is not enough to get over that process.

And I would hope that maybe we could just take a moment to elaborate a little bit. It is in your testimony, but I think, Mr. Chairman, it is a very important point that these lifelines, these small farms, mills, factories, have got to get into the system before they can take advantage of broader transportation networks.

Do you want to just elaborate a little bit on the situation you face and some of the people that you serve?

The stories of some of these literally Mom and Pop operations, whether it is a husband and wife, a nephew and a cousin who bring these things back to life, can you talk about your situation?

Ms. PETRY. I would love to. That is actually my favorite thing to talk about.

So about three years ago we had the great pleasure of opening a rail station known as Erick, Oklahoma. I am sure that I am not the only person in this room who remembers a guy named Roger Miller, "Dang me, dang me, ought to take rope and hang me." Erick, Oklahoma is home to Roger Miller, has probably about 1,500 residents; had not seen a train in 30 years.

I remember the last time a train ran there because it was in my first year of employment at Farmrail, and it was a grain train. We pulled grain out, and it was five or six rail cars.

So we were fortunate enough that we were able to reopen this Town of Erick, and we brought in a frac sand transloading facility, a multimillion dollar facility into a town of 1,500 people, and the town woke up and began to breathe again because there was vitality brought back.

And Roger Miller's old music was not the only ones being played in the background. Erick, Oklahoma was destitute, and then someone took a chance on Erick, Oklahoma, and it has made a huge difference.

Another story. A little customer started on us in 2013. They were moving frac sand.

Mr. BLUMENAUER. I notice my time has elapsed.

Ms. PETRY. Oh, I am sorry.

Mr. BLUMENAUER. But, Mr. Chairman, suffice it to say there are story after story about this effort, and it would not have been possible without the tax credit.

I appreciate the conversation, but I think this will meet the test that you are challenging us in terms of why it should be there and why it should be permanent.

We can get more examples if the Committee likes.

Chairman BUCHANAN. Thank you.

Mr. Smith, you are recognized.

Mr. SMITH OF NEBRASKA. Thank you, Mr. Chairman.

Thank you to our panel for this exchange here today. I think it is productive, and, Mr. Chairman, thank you for facilitating this.

I think it is very interesting when we talk about renewable fuels. I think there is a fantastic story to tell in terms of diversifying our energy sources. I think in terms of newer technologies that are always more efficient than older technologies.

Sometimes I think that the criticism of biofuels is levied using old information, actually information from a time when biofuels enjoyed a lot more political support than it might today, but I think it is important to note that we want an affordable way to hit the octane levels that are currently required, but I also think that it is pretty darn cool when you break down either a kernel of corn or a soybean or what have you in terms of what all can be extracted from that, even more than the fuel itself, whether it is feed, whether it is even other products.

Mr. Meyer, could you elaborate a bit more? You touched on it before in terms of feed to livestock, but can you break down even further the added value that the processing can facilitate and the various products of that that can result as well?

Mr. MEYER. Well, one of the benefits through the growth of this industry has been the co-products that we do, like you mentioned. One is glycerin. Many, many years we have had a lot of imported glycerin come into the United States, and now with our production here in the United States, we are able to supply that product, and it is further refined, and it is in the health care and a number of different products. It may be in the radiator in your car.

So it is a green, renewable product in the glycerin market, and so that has been a growth for us in the co-product area.

Mr. SMITH OF NEBRASKA. Does anyone else wish to comment on that?

Touch on your button. Thanks.

Mr. HUBBARD. Certainly, the importance that this industry has provided is really based on what it is replacing in the market. Our fuel system requires an oxygenator in order so that we have a clean burn out the carburetor. As a result of that, we get cleaner air.

In addition to that, oil and gas manufacturers need octane in order for these things just to run efficiently. So when we are looking at ethanol as an input in our fuel system, we are replacing more expensive additives, and we are ultimately cleaning the environment.

So the value of ethanol, it not only exists from the growth that it provides to the value add from the farming community, but also to the consumer.

And just to go back to another particular issue, the issue of cost, as an octane enhancer, as an oxygenate, ethanol is generally running 60 cents to a dollar cheaper than all other alternatives. So to the question or to the comment that it drives up cost for consumers, that is not entirely true.

In fact, ethanol and higher ethanol blends are providing savings to consumers, and this is being done without the help of tax incentives for the traditional grand based, conventional part of the industry.

But the real issue that we are talking about here is the second generation, the emerging technologies that are existing out there that need some sort of treatment and some sort of help in order to develop.

Mr. SMITH OF NEBRASKA. Thank you.

My time has expired, but I think also my E15 bill to allow the sale of E15 year round would be a great way to go forward, as well.

Thank you.

Chairman BUCHANAN. Thank you.

Mr. Kelly, you are recognized.

Mr. KELLY. Thank you, Chairman.

Thank you all for being here today.

I actually want to talk to two of the witnesses, and maybe we can go through this. The three minutes is not nearly enough that you need to explain your business models.

First, Ms. Petry, I am not sure that most of America, some of us do, but not a lot of us understand what a short line is. In my district in Pennsylvania, there is an 18-mile regional railroad in Butler County. At the end of the branch, there are two petrochemical firms that are major domestic manufacturers of high quality ingredients used in numerous, widely used personal care products.

Both rely on service by our smaller railroads to compete in what is a very competitive global market for the products they produce. Between these two companies alone, they employ more than 400 industrial sector jobs.

Now, I know a local railroad is working to upgrade this branch line to handle heavier freight cars and that such cars will help these two companies compete, but if you can, would you tell us what other types of products are carried on the short lines in general and the economic impact?

I think sometimes we miss the total economic footprint of what it is that you all do and how it adds to tax revenues.

Ms. PETRY. Certainly, I will be happy to do that.

Our railroads move a lot of wheat. We live in hard red winter wheat country. So the short line, my short lines, move wheat to large grain facilities where the grain is unloaded and later reloaded into a train that is hauled out by the Burlington Northern, a unit train.

And that wheat then goes to other States for different products. It also goes to export markets.

You know, think of it this way. The major railroads, the Burlington, the Union Pacific, whatever, they are the main arteries in our network. The short lines are the veins. We are the capillaries. We handle generally the first mile or the last mile. Pretty much everything starts on or ends on us, whether it is wheat or sand.

We are important to the economy because we employ so many people, and our customers employ so many people.

Mr. KELLY. I do not want to cut you short, but if you can get back to me in writing on that because it is really critical, but I only have another minute left, and I wanted to ask Mr. McAdams.

Certainty in commercial markets is obviously important, particularly when it comes to taxes. Can you describe how the domestic biodiesel industry, including producers such as HERO BX, would have responded if Congress had provided longer term certainty of the tax incentive over the past years or going forward?

I think that is what we are trying to get to. If we have the certainty, you could bring a business plan.

Mr. MCADAMS. Congressman, that is a great question. Let me say it is broader than just the producer of the biofuel, too. It is the guys that put the blending equipment in on the street so that you can actually put it into the truck.

So I represent Love's and Pilot Flying J, two of the large 15 billion gallons of diesel a year that are sold, and they would love to buy HERO's biodiesel and put it into the trucks that come into their truck stops because they sell 30 percent of all the diesel sold in the United States.

But without this credit, they do not get remuneration for the investments they make for the blending equipment which create the

RINs, which allow the refineries to be able to comply with the RFS to start with.

One of the things this Committee did very well was harmonize the tax credits under the code for all five of the biodiesel credits, the second-generation credit, the alternative fuels credit, with what the RFS was doing so that you had a policy that was built on each other that delivered great, great value and performance particularly in the biodiesel fuel.

Mr. KELLY. I mean this. There is just not enough time to cover this. You are getting your day in court, but it is not really a day. It is 3 minutes.

The economic impact of what it is that you do, your business models are so critical to this country, whether it is the short line with Ms. Petry or whether it is the biodiesel people. This is an incredible economic impact on the country. I wish we had more time to talk about it.

Would you please get back to us and let us know what else, and I also want you to all talk about what you pay in taxes, how you support Social Security through wage taxes, all of your real estate taxes, all the other things that you do that provide revenue in the communities that you work in in this great country.

So thank you so much for being here. I am sorry we do not have more time, but thank you all for your time.

Chairman BUCHANAN. Thank you.

Mr. LaHood, you are recognized.

Mr. LAHOOD. Thank you, Mr. Chairman.

And I want to thank the witnesses for your valuable testimony here today and your advocacy.

I represent a district that is a heavy agriculture district. I think it is the eighth largest in the country in terms of corn and soybean production, and I have been a strong supporter at the State level and the Federal level of renewable fuels, and I have seen first-hand the technology and the efficiency and the creativity and the jobs that have been created by renewable fuels and the downstream effect throughout our rural Midwest and in my district in central and west central Illinois.

Mr. Meyer, I wanted to ask you. When we think about the biodiesel tax credit, tell us how it has achieved its policy goals.

Mr. MEYER. Well, the three things you look at is that we have got clean air jobs in support of farm prices. Definitely soybean prices have gone up, and our company has an estimate out there of about 60 cents a bushel. We currently produce about 4 billion bushels a year in this country. So you definitely have an offset according to the farm economy there.

Mr. MCADAMS. And the credit gets shared with the people filling up the tank.

Mr. LAHOOD. Yes, explain that a little bit.

Mr. MCADAMS. So the dollar credit gets shared in the transaction between our members that produce the fuel and those members that buy the fuel. And it is significant.

And one of the issues with this credit not being in place is under the RFS, you have a RIN that goes with the fuel, and that RIN has a price with it. That gets priced into the fuel as well.

When the credit has expired, what happens is this gambling game in the industry goes on about is the credit coming back. If they think it is, then the price of the RIN stays low, and so now we have got people like this gentleman here who have to produce a fuel below the cost waiting for the credit to come back.

So of all the things you can do that retroactivity piece is helpful, but we really need it prospectively, not retroactively because, like I said, you lose the bang economically that you are trying to get out of the credit.

Mr. LAHOOD. And, Mr. Meyer, how have taxpayers benefitted?

Mr. MEYER. Well, you have economic development. We have hired a number of folks over the years as we have expanded our business, and these are family wages, and you are talking about rural, whether it is in Missouri or it is in Iowa. Basically, these are good jobs for families, and we have expanded in that area.

We also employ whether it is the railroads, whether it is the trucking businesses, the local communities, and the taxes paid there. So it is a definite shot in the arm for rural development.

Mr. LAHOOD. And in terms of biodiesel facilities, we tend to think that they are located in the Midwest. Can you talk a little bit about the geographical diversity of these facilities?

Mr. MEYER. There are facilities in the Carolinas all the way to California. So they are throughout, and we heard earlier Washington State. So there are a number of States that have biodiesel facilities in them.

Mr. LAHOOD. Thank you.

Thank you, Mr. Chairman.

Chairman BUCHANAN. Mr. Kelly, would you like another 3 minutes?

Mr. KELLY. I wish we could spend a lot more time than 3 minutes. I would just encourage every single Member of Congress to go and visit these places.

Listen. I have been to Genesee & Wyoming. I know what these folks do, and too many people do not know.

When you talk about short line, I am telling you some people know. I know about it because my grandpa was a conductor on the B&O.

When we talk about the biodiesel, I know because I have been to those plants, and I see what they have done, and you have to actually know what it is you are talking about before you can come before people and say, "Answer this question for me. Answer that question for me."

I want to thank you all for what you do. You provide a heck of a lot of revenue to help run this wonderful country of ours, and we have to give you permanent tax strategies so that you can actually develop a business plan that makes sense.

I do not think that retroactive tax policy is good for going forward. That is just me, but I do not know anybody in business today that says, "You know, I know what I did last year. I can depend on what I did last year. I know going forward where I am."

That is a very dangerous way to approach the future. So, no, Mr. Chairman, I really appreciate you giving me enough time because you have got to see what these folks do, and you have got to be

there for them. You have got to understand what all they do for our community.

So anyway, I am all for many of these programs.

Chairman BUCHANAN. All right. You have been patient. Let me ask you, Mr. Grooms, in terms of the issue that you brought forward.

A lot of people were talking about the railroads. You were talking about they do not understand different markets are different, but at least in our region, probably in a lot of different parts of Florida, we have boom-bust real estate. Real estate is one of our biggest industries.

But after 2008, there was a lot of people if you bought in 2006, you pay at the top end of the market, and then come 2009, 2010, 2011, if you had to get out of the house or you lost your job with the economy, many houses in Lakewood Ranch and a lot of different places fell in half. They paid 500 and now it is worth 250. They cannot make the payment.

So maybe you could expound on that a little bit.

Mr. GROOMS. The worst effect that it has on an overall community?

Chairman BUCHANAN. Yes. I am just talking about the extender that you are here talking about today.

Mr. GROOMS. Well, the primary extender that we are talking about is the only analogy that I can think of is you do not want to buy fire insurance when your house is on fire, and that is really what we are looking at with this.

We have been advocating since 2000, before the bust in the market. Two thousand ten was an incredible year in a very negative way to the real estate industry. Not only did it affect the housing prices, the neighborhoods around it, but it created a ripple effect going into how do we value properties going forward.

How do we measure distressed properties against current properties that are not distressed? And it created a lot of challenges for both the banking industry and the appraisal industry.

So it is not just the fact of that because it is not an income. The deficiencies in the two are not an income. An income you can pay your debt with. An income you can put your kids through school with. This is not an income. This is a great loss to the community.

I wish Mr. Larson was still here because he asked the question: you want to go to heaven, but you do not want to die. Well, in the current tax bill, actually there were sacrifices in it for the American people, and that comes in the way of the mortgage income deduction and also the caps on real estate taxes.

So there is a skin in the game by the people that we are looking at. The disparities that we have in the market are great. I know we have given you statistics and analytics that are from very smart people, much smarter than me, but I will also challenge you that there is a shadow inventory of these properties out there.

In my opinion, by not making this permanent in the Tax Code, what you are going to be doing is penalizing the people who have not had the short sale or foreclosure yet, that with one little blip in their lives—I have a nephew and a niece, a firefighter and a nurse, who are up to here with the value of the home and it needs repairs. If anything happens in their lives and they experience a

job loss, they will be homeless. We will lose a quality firefighter and a quality nurse from our community. That is the great impact of it.

Chairman BUCHANAN. Let me ask this question, pose this question I did to the first two panels. Tax reform, the new law that got put in place January 1 of this year, it cut corporate taxes 43 percent. We cut pass-throughs when you add it up 25 percent. We went to full expensing.

So the thing I get questioned with, and I do not know exactly. You know, everybody is a little different, and when you are in rural communities, it is a little bit different. But we want to take these extenders and get rid of a lot of them, but also make some of them permanent law so that we can get out of the extender business.

At the end of the year, you have got to figure out whether you are going to pass an extender or not. It is not the way to do business. It makes zero sense.

So I guess the question I would pose to all of you: maybe not your industries, but a lot of industries are getting substantial benefits. Corporate America, 43 percent, like I said; pass-through entities, which make up 90-some percent of the entities, get a 25 percent cut this year. Full expensing is a big deal.

So my point is that what we are going to look at, a lot of us, is we do not want people double dipping, not to say you are or your industries because, to be honest with you, I do not know enough about the industries. But I do want to give you all a minute or so or whatever time you need just to talk about: is this something that your industry needs, despite the substantial cuts that got put in place at the first of the year?

Mr. Meyer, what about you? Everybody, take 30 seconds or a minute or something real quickly.

Mr. MEYER. Mr. Chairman, the tax reform, obviously, is very stimulative to the economy. You know, our requesting the tax credit to be reinstated in biodiesel is really a targeted program for improving, again, a continued success in improving air quality, farm prices, and jobs.

So, in essence, I look at those as two separate things in our area.

Mr. MCADAMS. Mr. Chairman, I would give you an example of somebody that did not benefit from the tax bill. That is a pre-revenue company, and so in the second-generation industry for the second-generation cellulosic credit and the depreciation, I have two members that are about to build two of the most innovative plants in the world, one that uses wood, the other that uses solid waste to make diesel and jet fuel.

Yet they have no revenue, and that dollar helps buy down their competition against the incumbent industries. So really key, they cannot double dip.

We only have 13 million gallons of liquid transportation fuels from cellulosic today, and we were supposed to have 6 billion under the RFS. So that is an area where we could have real development all over the country using new feedstocks that would bring jet fuel and drop-in fuels that we have always wanted and never had.

Chairman BUCHANAN. Maybe the term is not "double dip," but the thought is if you get substantial benefit——

Mr. MCADAMS. They need revenue.

Chairman BUCHANAN. My point is that.

Mr. Hubbard.

Mr. HUBBARD. For most of our industry, we are pre-commercial. So many of our companies operate in a net operating loss situation.

When we are looking at investment and improvement and technological innovation, we are all going after the same energy dollar, this same energy investment dollar. But when these investors, private equity funds are looking at our industry, they are looking at first the oil and gas industry, which has permanent tax credits.

Then they are looking at other industries that have longer term credits, and then there is the second-generation biofuel industry, which has essentially a one-year extension.

So we are not providing any sort of certainty for those investors.

Chairman BUCHANAN. So in terms of your industry, how big is it dollar-wise? Your industry.

Mr. HUBBARD. The traditional grain-based ethanol industry, we are producing 15 billion gallons, but the second-generation ethanol industry at this moment——

Chairman BUCHANAN. What is the dollar amount? What does that extrapolate to? Just a ballpark.

Mr. HUBBARD. Forty billion.

Chairman BUCHANAN. Forty billion, 30 billion, and you are saying nobody makes any money? Is that what you are saying?

Mr. HUBBARD. No. Specifically, with respect to the second-generation ethanol industry, and that is really what we are talking about. These are first time movers, moving in not traditional grain based technologies, but moving into new technologies that are first of its kind and have not had the opportunity to kind of develop production efficiencies.

Really, when we are going after the dollar, we use the second-generation production tax credit and the accelerated depreciation when we are trying to secure financing. Now, that is certainly something that we look at at the outset, but once these practices are starting to mature——

Chairman BUCHANAN. I ask the question: if you are not making much money, why do you need the write-offs?

Mr. HUBBARD. Because there is great opportunity there. We certainly see a profit. As the ethanol industry, we think that the same thing that has occurred with the traditional grain-based industry can also occur with the second-generation industry.

It is not a matter of not making money. It is a matter of improving performance, improving production efficiencies, and eliminating the waste, and dealing with some of the commercial obstacles that first-time movers have to face.

Chairman BUCHANAN. Thank you.

Ms. Petry.

Ms. PETRY. Thank you.

As I mentioned earlier, our industry is very capital intensive. We literally take the money that we make——

Chairman BUCHANAN. I think it is a big issue in your area. My sense of it, rural communities' rail, I do not know, but I have got to think it is a big factor. So go ahead.

Ms. PETRY. It is huge. It is huge, and 45G has been instrumental in getting us to where we are today, but we have had 100 years to make up for. So we have been behind the eight ball for more 100 years.

And as we need to change our market base, as we need to increase our market base, that means we need to move to a bigger, heavier railcar and we cannot do that with the infrastructure. I mean, look at the difference in this rail.

But one of the things that helps us is when we know ahead of time. I mean, in Oklahoma, we might not get any rain. So we may not have a profitable year, but I still have to reinvest back into the track. Forty-five G has been instrumental in helping to do that.

Chairman BUCHANAN. Mr. Grooms, do you have anything to add? I mean, you kind of had a chance.

Mr. GROOMS. Just briefly. You know, we are very unique with the panels here today, and I have been watching it all morning, and the difference, I think, primarily when it comes to the housing is we are dealing with people. We are dealing with the American dream. We are dealing with what we have all known and what we have all grown up to believe is the most important thing in life is home ownership.

Many of the people that have had to sacrifice because of a short sale or foreclosure, they do not get tax breaks. They do not have any money. That is the bottom line on it. To think of it as an income is absolutely ridiculous. Again, we have supported this.

Ours is a little unique in the sense that we have identified a problem that we had in the year 2000 when there was not a problem, and again, I make that statement. I want people to think about that. You are from Florida. You will get it. You are not going to get hurricane insurance when the eye of the hurricane is over you.

Chairman BUCHANAN. I read in the paper, USA Today, I think, a year ago, six months ago, 62 percent of Americans do not have $1,000 in the bank. So what that tells me, they are living paycheck to paycheck, and that is why if you have one blip, someone loses a job in a bad economy, your house goes in half and you cannot pay the payment. I know that is a big deal because I have lived through multiple recessions, 1980, 1990, the one we just had. There are a lot of things there.

I do want to close with one other point that has been made. You said you watched it all day. There has been a lot talk about debt and deficits, and I would just say what we have tried to do in this package of tax reform is grow the economy, create a bigger pie.

Instead of growing at 1, 1.5 percent, the slowest growth in 50 years, try to grow it at 3 percent. So if we are right in what we are doing, what we have got in the last 10 years has not been working. We have created $10 trillion in debt, the slowest economy in 50 years.

So what our vision is we want to grow this economy instead of at 1, 1.5 percent, 3, 3.5, with the idea you get a bigger pie and you get more revenues, and at the end of the day, what tax cuts there are, they pay for themselves because you have got more money coming into the Treasury.

We are losing a lot of our companies going offshore because there are more friendly tax environments in the world. So 21 percent corporate tax, we have not done tax reform since the late 1980s. It has been 30-some years ago, and the world has changed. The global economy has changed.

So the thought is what we have got is not working. Let us see if we cannot figure out a way to stimulate and grow this economy. That is the purpose on our side of the aisle that we are trying to do.

And I always find it amazing because all of a sudden now they want to talk about debt and deficits, but the reality is we have run up $10 trillion in debt. We have gotten more debt in the last 10 years than we have got since George Washington to George Bush. Now all of a sudden it is about deficits.

So our goal is to try to grow our communities and make America the best place in the world to do business.

So with that, I would like to thank our witnesses for appearing before us today.

Please be advised that Members will have 2 weeks to submit written questions to be answered later in writing. Those questions and your answers will made part of the formal hearing record.

And with that, the Subcommittee stands adjourned.

[Whereupon, at 4:52 p.m., the Subcommittee was adjourned.]

[Member Submissions for the Record follow:]

Committee on Ways and Means
Subcommittee on Tax
Hearing entitled:
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"
Wednesday, March 14, 2018
Congressman Bill Posey
Statement for the Record

Thank you, Chairman and Ranking Member, for holding a hearing on the recently expired tax provisions.

I strongly support making permanent the seven-year depreciation provision for "motorsports entertainment complexes." Since the 1986 Tax Reform Act was signed into law, the U.S. Treasury has promoted investment in, and modernization of, business assets for theme and amusement parks by providing a seven-year depreciation period.

In 2004, Congress codified into law a tax treatment provision that motorsports tracks have utilized for decades – which made permanent, fixed motorsports entertainment facilities, open to the public for the price of admission, eligible for the seven-year asset depreciation period.

In my home State of Florida, the best example of the value of utilizing the motorsports depreciation tax provision is the recent $400 million private investment into the Daytona International Speedway, home of the DAYTONA 500 for the past sixty years. Unlike "stick and ball" facilities, the renovations at Daytona International Speedway were accomplished without using bonding authority or state and local tax funding.

The large majority of beneficiaries of this tax provision are small, family-owned facilities in towns across the country that host sports car

racing, motocross, drag racing, and other types of racing. These venues are located in every state and in most of our congressional districts.

According to the International Speedway Corporation, motorsports entertainment complexes often require significant and ongoing capital expenditures to maintain safety requirements and sporting regulations for both competitors and spectators.

If the motorsports depreciation provision is not extended or made permanent, the motorsports industry – including vendors, fans, sponsors, subcontractors, and promoters – faces an uncertain future. Upon expiration of the seven-year depreciation period, roughly one-third of all motorsports assets would be reclassified under the 39-year depreciation period and two-thirds would fall under the 15-year period, which would limit the owners and operators of motorsports entertainment complexes from reinvesting private capital in their facilities and communities. Additionally, the expiration of this extender precludes the motorsports industry from accessing the expensing incentive included in the Tax Cuts and Jobs Act of 2017 (TCJA).

I urge the Committee to make permanent the seven-year depreciation provision for "motorsports entertainment complexes." This clarification would bring much-needed certainty to an industry whose success is largely dependent on its ability to secure long-term economic development projects in order to create new jobs and generate additional tourism.

Congressman Hal Rogers
Statement for the Record

March 14, 2018

House Ways and Means Committee
Subcommittee on Tax Policy

"Post Tax Reform Evaluation of Recently Expired Tax Provisions"

Chairman Buchanan, Ranking Member Doggett and other distinguished Members of the subcommittee, I would like to thank you for affording me the opportunity to share some insights about the Empowerment Zone program and accompanying tax credit.

As you know, Appalachian Kentucky has faced a centuries-old battle with poverty and financial hardship. A number of factors contribute to the tough economic reality, such as the unique rugged terrain, the downturn of the coal industry, lack of infrastructure, and personal battles with drug addiction. This region is accustomed to adversity, but it also knows persistence and recognizes progress when it sees it – and progress has come to eastern Kentucky through the help of Empowerment Zones and the accompanying tax credit.

In December 1994, the Kentucky Highlands Empowerment Zone was designated to assist three of the region's most distressed counties – Clinton, Jackson, and Wayne. Over the course of the next decade, the designation proved to be a historic success. During the first ten years of implementation, unemployment rates in the zone dropped by 32.8 percent, compared to a 5.4 percent decrease for the state, and a 1.9 percent increase for the nation. The poverty rate also dropped dramatically in the designated region – from 37.9 percent to 26.1 percent, according to the 2000 Census. Thousands of jobs were created. Infrastructure developed. Quality of life improved and the progress was tangible thanks to the empowerment zone designation.

This designation has incentivized businesses to come to a region they normally would never consider. Tax credits under the empowerment zone designation provide businesses a way to offset expensive investments that may be required due to the rural nature of the location. Without this program, the long term viability of maintaining growth and jobs in the area drastically diminishes. Senture, LLC, for example, now maintains two operational sites in Wayne County and one in Jackson County – all a direct result of the tax credit. In 2017 alone, Senture's Wayne County locations pumped over $10.5 million into the local economy via salaries and wages, with that number set to grow. Senture's presence in the community improves the skills of the local workforce and allows residents the opportunity to "stay home," as opposed to commuting long distances for work – a piece of mind that is heavily valued in eastern Kentucky. This is just one example of the benefits of the empowerment zone designation, but the tax credit has attracted numerous new employers to the region and created countless new jobs. I applaud the program's success.

I appreciate your past support of the empowerment zone program and tax credit. I was pleased to see the recent tax extenders package include a retroactive extension of the credit through tax year 2017, but this program cannot end there. I respectfully ask that you extend the program and allow the local communities to continue their pace of improvement. Thank you.

AUMUA AMATA COLEMAN RADEWAGEN
AMERICAN SAMOA

COMMITTEE ON SMALL BUSINESS
CHAIRMAN
SUBCOMMITTEE ON
HEALTH AND TECHNOLOGY
SUBCOMMITTEE ON
AGRICULTURE, ENERGY AND TRADE

Congress of the United States
House of Representatives
Washington, DC 20515–5200

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON
INDIAN, INSULAR, AND ALASKA NATIVE AFFAIRS
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATION

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON HEALTH
SUBCOMMITTEE ON
DISABILITY ASSISTANCE AND MEMORIAL AFFAIRS

March 19, 2018

Submission for the Record

to the

Committee on Ways and Means

of the

United States House of Representatives,

The Honorable Kevin Brady, Chairman

on behalf of

Congresswoman Aumua Amata Coleman Radewagen

for the March 14, 2018 Hearing:

Post Tax Reform Evaluation of Recently Expired Tax Provisions

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Thank you Chairman Brady for holding this important hearing on the various tax extenders, each of which provides a unique economic benefit. As the House Committee on Ways and Means convenes its hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions," I submit this statement for the record in strong support of the renewal of an economic development tax credit essential to the economic stability of the territory of American Samoa, the American Samoa Economic Development Credit.

American Samoa has long been a proud and faithful territory of the United States—often yielding the highest rate per-capita of military enlistment of any State or territory. In addition to its many cultural and commercial contributions, the island has proved invaluable to the U.S mainland. As a strategic outpost in the Asian Pacific—a location that is increasingly relevant given the tumultuous state of foreign affairs in that region today.

American Samoa's economy depends on its tuna canning industry, the territory's largest private employer and economic driver. The tuna cannery in Pago Pago is the largest private sector employer in American Samoa with roughly 2,400 workers, and the second-largest employer overall behind the American Samoa government (which employs approximately 5,200 workers).

Beginning with the passage of the Tax Relief and Health Care Act of 2006, American Samoa has benefitted from a possession tax credit under now-section 30A of the Internal Revenue Code. This provision—designed to encourage investment in the U.S. insular areas and create jobs by reducing federal taxes on income earned by qualifying corporations—helps offset some of the competitive disadvantages faced by the tuna canning industry. This provision has ensured that the cannery companies do not relocate to foreign countries and take with them thousands of jobs and millions of dollars in economic activity.

As the Tax Cuts and Jobs Act was drafted last fall, the Committee, understanding the significance of the tax credit to American Samoa, included a six year extension of the 30A provision in its bill. The Senate, however, removed the 30A provision from its legislation, instead including a one year extension of the credit in the "extenders" package passed by Congress earlier this year. Unless Congress intervenes to extend the 30A provision, the territory's government fully anticipates that the cannery will shut down within five years—causing a financial crisis from which the island economy may never recover.

Congress has seen the financial crises that can arise when the economic challenges facing U.S. territories are not adequately addressed at the outset. I ask for your support in working toward a legislative solution to this pressing problem by helping me to extend the proven 30A provision beyond the annual renewal to a semi-permanent basis of 5 years. This will allow for adequate business and government planning, and provide for periodic renewal review. This will provide economic stability in American Samoa and deter any sudden economic crisis in American Samoa.

Thank you again Mr. Chairman for your unwavering commitment to the economic well-being of the United States and American Samoa. Please do not hesitate to contact my office should you have any questions.

Sincerely,

Aumua Amata

Aumua Amata Coleman Radewagen

Member of Congress

[Public Submissions for the Record follow:]

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March 23, 2018

The Honorable Kevin Brady
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Richard Neal
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Vern Buchanan
1102 Longworth House Office Building
Washington D.C. 20515

The Honorable Lloyd Doggett
1102 Longworth House Office Building
Washington D.C. 20515

Dear Representatives Brady, Neal, Buchanan, and Doggett:

On behalf of our members and all Americans age 50 and older, AARP is writing to express our support for the medical expense deduction and urge the extension of its current income threshold of 7.5 percent beyond its sunset date at the end of 2018. We believe that every effort should be made to keep the threshold for the deduction as low as possible to help protect people with high medical costs. AARP, with its more than 38 million members in all 50 states, the District of Columbia, and the U.S. territories, represents individuals seeking financial stability while managing their medical expenses.

AARP appreciates that the Tax Cuts and Jobs Act retained the medical expense deduction and restored the 7.5 percent income threshold for all tax filers for two years. The medical expense deduction is an important policy tool to make health care more affordable for middle-income Americans. Nearly three-quarters of tax filers who claimed the medical expense deduction are age 50 or older and live with a chronic condition or illness, and seventy percent of filers who claimed this deduction have income below $75,000. For the approximately 8.8 million Americans who annually take this deduction, it provides important tax relief which helps offset the costs of acute and chronic medical conditions for older Americans, children, and individuals with disabilities, as well as the costs associated with long-term care. Medical expenses that qualify for this deduction can include amounts paid for prevention, diagnosis, treatment, equipment, and qualified long-term care services costs and long-term care insurance premiums.

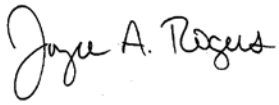
For older Americans and Americans with disabilities, the medical expense deduction can help offset high out-of-pocket expenses. Even with Medicare, a significant share of

beneficiaries spend a considerable amount on out-of-pocket expenses each year.[1] The average Medicare beneficiary spends about $5,680 out of pocket on medical care and the medical expense deduction makes health care more affordable for people with significant out-of-pocket expenses. In 2013, roughly 25.8 million beneficiaries in traditional Medicare spent at least 10 percent of their income on out-of-pocket health care expenses.[2]

Furthermore, older Americans often face high costs for long-term services and support -- which are generally not covered by Medicare -- as well as hospitalizations and prescription drugs. The median cost for a private room in a nursing home is over $97,000 annually, while the median cost for even more cost-effective home-based care is still over $30,000 per year for 20 hours of care a week. Tax relief in this area can provide needed resources, especially important to middle income seniors with high long-term care and medical costs.

Maintenance of this important deduction at the 7.5 percent income threshold is critical financial protection for seniors with high heath care costs. We urge Congress to work in a bipartisan manner to maintain the medical expense deduction at its current threshold level. If you have any questions or need additional information, please feel free to contact me or contact Jasmine Vasquez at 202-434-3711 or at jvasquez@aarp.org.

Sincerely,



Joyce A. Rogers
Senior Vice President
Government Affairs

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[1] Claire Noel-Miller, Medicare Beneficiaries Out-of-Pocket Spending for Health Care, Washington, DC, AARP Public Policy Institute Insight on the Issues 108, October 2015, accessed at https://www.aarp.org/content/dam/aarp/ppi/2015/medicarebeneficiaries-out-of-pocket-spending-for-health-care.pdf.

[2] AARP Public Policy Institute Analysis of data from the Medicare Current Beneficiary Survey, 2013 Cost and Use File. In 2013, 72 percent of all Medicare beneficiaries were in traditional Medicare. Spending data for the remaining 28 percent who had a Medicare Advantage (MA) plan were not reliable. See, Kaiser Family Foundation (October 2017), "Medicare Advantage", Kaiser Family Foundation Fact Sheet, available at https://www.kff.org/medicare/factsheet/medicare-advantage/.

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March 14, 2018

The Honorable Kevin Brady
Chairman
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Ways and Means Committee
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman and Ranking Member:

On behalf of the Air-Conditioning, Heating, and Refrigeration Institute (AHRI) I am writing in support of expiring tax provisions ("tax extenders") which would help to increase energy efficiency. AHRI is the trade association representing over 315 manufacturers of residential, commercial, and industrial air conditioning, space heating, water heating, and commercial refrigeration equipment and components for sale in North America and around the world. The heating, ventilation, air-conditioning, refrigeration (HVACR), and water heating industry employs 1.3 million people and generates $257 billion in economic activity annually.

The HVACR and water heating industry supports the extension of Sec. 25C, the Nonbusiness Energy Property Credit for Existing Homes; Sec. 45L, the Energy Efficient Home Credit; and Sec. 179D, the Commercial Building Tax Deduction. While HVACR manufactures applaud Congress's efforts to simplify the tax code and reduce rates, each of these provisions specifically increase our ability to improve energy efficiency for consumers and families and provide them with reduced energy costs. Current expensing or bonus depreciation provisions in the tax code would neglect these other markets, which deserve the same tax incentives to gain newer and more efficient equipment.

Further, 25C in its current form is in need of amending, as current language requires home buyers to purchase water heaters which meet efficiency ratings based on a metric known as Energy Factor, or EF. On June 12, 2017, the Department of Energy required manufacturers of water heaters to transition from the EF metric for measuring efficiency to a new metric called "Uniform Energy Factor" (UEF). By adopting this new metric, manufacturers are prohibited by law from labeling their equipment using the old EF ratings. As a result, no water heating product is eligible for the tax credit under 25C if extended in its current form. This includes home buyers who purchased water heaters in 2017 after the new metric went into effect, preventing them from taking the credit which has already been extended for them.

AHRI believes these provisions are all crucial to the continued growth of energy efficient equipment deployment in the U.S., and that the critical change to 25C must be made. HVACR

and water heater manufacturers implore this committee to fix this issue and extend the same tax benefits to these other markets. Please do not hesitate to contact me if you have any questions.

Sincerely,

Joe Trauger
AHRI Senior Vice President
Policy and Government Relations

March 14, 2017

The Honorable Vern Buchanan
Chairman - House Ways and Means Tax Policy Subcommittee
1102 Longworth HOB
Washington D.C. 20515

Re: Post Tax Reform Evaluation of Recently Expired Tax Provisions.

Dear Chairman Buchanan:

As the House Ways and Means Committee works to evaluate tax provisions that expired at the end of 2017, we encourage you to seamlessly extend the biodiesel, renewable diesel and renewable aviation fuel tax incentive. Specifically, we encourage you to include the second year of, S. 2256, the "Tax Extender Act of 2017" which was introduced by Senator Hatch and others last December. The tax extenders act continues to be an urgent policy matter for our company. Every day that these provisions remain lapsed creates further confusion and uncertainty for our industry, while needlessly undermining economic growth and job creation.

Established in 2009, AltAir Fuels converted a struggling petroleum refinery into the world's first manufacturer of renewable jet fuel. This facility in Paramount, California is also the country's third largest producer of renewable diesel with a combined production capacity of 40 million gallons a year. Our product is being purchased by a number of private and public consumers, including the Department of the Navy, UPS, United Airlines, KLM Royal Dutch Airlines, Boeing, Gulfstream, South African Airways, Singapore Airlines and both LAX and the Oslo Airports.

AltAir preserved and converted over 100 former petroleum jobs to direct employees in the green economy; and we provide economic activity that generates thousands of indirect labor and service jobs. AltAir's advanced fuels are drop-in replacements, meeting the same industry certification as the petroleum-based products they replace while reducing greenhouse gas emissions by over 70%.

As a domestic energy producer, I can attest that tax policy certainty has been and will continue to be vital to our success. The tax credit allows us to share the credit throughout all segments of the value chain including production, blending, distribution, marketing and consumption of renewable aviation and renewable diesel fuels. Further, tax policy certainty is critical to enable financial institutions to invest in our production expansion and technology development.

There are substantial energy security, job creation, rural economic development and environmental benefits associated with the expanded domestic production and use of renewable jet, renewable diesel and biodiesel. Maintaining the renewable diesel tax incentive and providing certainty in the Internal Revenue Code is a proven and cost-effective way to continue achieving these worthwhile public policy benefits.

The renewable diesel tax credit expired on December 31, 2017 and today our industry is struggling each day to make ends meet. It is essential for the near-term to emphasize the urgent threat facing our

industry from the ongoing expiration. This year marks the fifth time in seven years that the renewable diesel incentive has been allowed to lapse, creating severe disruptions in the industry. This severely disrupts producers' access to capital, as well as their ability to hire and expand. Rather, Renewable diesel producers across the country are struggling to survive.

The renewable diesel tax incentive has played a key role in stimulating growth in the U.S. renewable diesel industry in recent years, helping renewable diesel become one of the leading EPA-designated advanced biofuel in the nation. By making renewable diesel more cost-competitive with petroleum diesel, the $1-per-gallon credit creates jobs, strengthens U.S. energy security, reduces harmful emissions, diversifies the fuels market and lowers costs to consumers.

There are many policy and public benefits associated with renewable diesel and renewable diesel production and use including the following:

- **The Tax Incentive Works**. The U.S. renewable diesel and renewable diesel market was non-existent when the tax credit was created in 2005. Today, three domestic facilities produce nearly 1/3 of all domestic biomass-based diesel production. The renewable diesel tax credit is an important demand stimulus, which improves domestic plant efficiencies, encourages investment in U.S. distribution infrastructure and supports high-paying jobs throughout the economy.

- **Stability Helps**. Traditional oil incentives have been written permanently into the tax code, but the biodiesel/renewable diesel/renewable aviation fuel tax incentive has repeatedly expired—in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and 2017. Often, the credit is retroactively extended and reinstated. We have been operating without the credit since December 31, 2017. The lack of a long-term continuous credit severely disrupts producers' access to capital, and hinders our ability to hire and expand.

- **Energy Security Is Enhanced**. Renewable diesel is diversifying our fuel supplies so that we're not so vulnerable to global oil markets that are heavily influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market.

- **America Benefits from Improved Air Quality and Less Waste**. Renewable diesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils and animal fats. Renewable diesel reduces wastes and most major air pollutants. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making renewable diesel the only commercial-scale U.S. fuel produced nationwide to meet the agency's criteria. According to the EPA, renewable diesel reduces greenhouse gas emissions by 57 to 86 percent when compared to petroleum diesel.

- **Stimulating New Technologies and Feedstocks**: The renewable diesel tax credit has supported the development of a diversity of fuels including biodiesel, renewable diesel and renewable jet fuel all produced using a broad mix of resources including recycled cooking oil, plant oils and

animal fats. This has helped shape a nimble industry that is constantly reducing cost, improving fuel diversity and performance and expanding feedstock options.

- **Immature Industries are Deserving of Assistance**: Renewable diesel is America's first Advanced Biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development. The petroleum industry has benefited from numerous tax deductions and other tax benefits over the years and continues to receive approximately $4 billion in tax benefits each year; while the ethanol industry had a tax incentive for three decades before it expired several years ago. In contrast, the renewable diesel industry has had commercial-scale production for only a few years. Renewable diesel still represents only a fraction of the overall U.S. diesel market. It is an up-and-coming industry that remains at a far more fragile state of development.

The renewable diesel industry has made great strides in producing domestic energy and diversifying our nation's fuel supply. We have done what Congress has asked us to do and we are creating real manufacturing jobs, generating tax revenue and improving our energy security. In its short history, the renewable diesel tax incentive has proven to be a remarkably effective tool in helping to achieve the desired goal of increasing the domestic production and use of renewable diesel and renewable aviation fuel. This in turn is enabling the U.S. to realize the energy security, economic and environmental benefits associated with displacing petroleum with clean, domestically produced renewable fuels. We appreciate and support your efforts to explore a more stable, long-term structure for renewable fuels incentives in the tax code. However, for the near-term, we want to emphasize the urgent threat facing our industry due to the ongoing expiration of the incentive.

We urge Congress to act in a timely manner to address the immediate issue facing the industry by extending the renewable diesel tax incentive. Looking forward, we urge Congress to provide a long-term extension of the renewable diesel tax credit.

Thank you for consideration.

Sincerely,

/s/ Bryan Sherbacow

Bryan Sherbacow
President

Testimony of the American Biogas Council
Before the House Ways and Means Committee, Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, thank you for the opportunity to share the American Biogas Council's views on federal tax policy issues as they relate to recently expired tax provisions.

In furtherance of the ABC's mission and stated goals, we strongly urge Congress to continue the recent forward progress on tax reform and provide parity for all forms of renewable energy. It is critical that Congress formulate and enact stable, long-term tax policy that will support investment and job creation and provide durable tax policy that is equitable across all eligible technologies. To that end, we urge the Congress to pass H.R. 4137, the Renewable Electricity Tax Credit Equalization, introduced by Representative Elise Stefanik which would provide the same tax treatment afforded to the solar industry at the end of 2015 to those technologies contained in the Section 45 Production Tax Credit.

Since our founding in 2010, the ABC's mission has been to create jobs, environmental sustainability, and energy independence by growing the U.S. biogas industry. We represent biogas businesses in the US- over 200 organizations from across the renewable energy, agricultural, waste and wastewater management, and transportation industries, including facility owners /operators, manufacturers of tanks, engines, and other equipment, engineering firms, project developers, legal and accounting firms, educational organizations and institutions, utilities, financiers and lenders, and local and regional governments. One of the ABC's primary goals is to ensure that renewable energy receives the same favorable treatment under federal and state laws as does fossil energy, and that all forms of renewable energy are treated equally to each other as well.

Current law provides a mix of tax incentives for producing renewable energy which benefits some, but certainly not all, clean energy technologies. For example, the FY16 Omnibus Appropriations bill enacted at the end of 2015 included a five-year extension of the Production Tax Credit (PTC) for wind power and a five-year extension of the Investment Tax Credit (ITC) for solar, with gradual ramp-down of these credits, as well as language that enabled them to be used when construction is started on projects. Having stable tax policy for these industries has helped to provide predictable market conditions that has enabled them to deploy at a significant rate, reduce costs, attract investment and create jobs. Additionally, the Bipartisan Budget Act provided a long-term extension for the non-solar ITC technologies, including fuel cells, combined heat and power, small wind, and geothermal.

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Unfortunately, other technologies, such as biogas, have not benefitted from the same long-term tax policies. The tax credit which biogas uses, the open- and closed-loop biomass Section 45 Production Tax Credit, has never existed for longer than two years which puts our technology at a significant disadvantage in the marketplace for two reasons.

First, the lack of long term certainty for the tax credit biogas projects would use makes access to financing extremely difficult or impossible even for good projects. While biogas provides valuable baseload, 24/7 renewable energy, our plants take longer to construct than solar or wind projects, typically 3 years, sometimes more. Since many biogas project owners do not have tax liability as they are newly formed companies for the project or just trying to grow their new US business, these tax credits are used in partnership with the banks that offer project financing. (This is a common practice with solar projects as well.) The bank will utilize the tax credit and pass most of it to the biogas project, but will make a small profit on the deal along with financing. Banks, however, do not want to offer financing to projects whose credit may not be available in three years when the project is at last ready to break ground. Instead, the banks invest in the projects that tax credits which are certain, such as those for solar and wind, making it much more difficult or impossible to secure basic financing for new biogas projects. Consequently, biogas plants are unable to take advantage of tax credits that are only extended for a few weeks or a year at a time. Biogas projects are at a significant competitive disadvantage even though these are strong, economically sound projects that would otherwise be financed if the market were level with fair competition.

Second, the current tax code has created a competitive disadvantage in the way the energy from biogas projects is sold. If the project elects to use the Investment Tax Credit instead of the PTC, biogas projects start at a nearly 30% disadvantage when competing to sell their renewable energy with another project that has a certain tax credit to use, like solar or wind, even though biogas energy is more reliable. Again, the problem is not the quality of the project. We are operating in energy markets that have very thin margins for profit and starting at a 30% deficit is killing most otherwise great projects that not only provide valuable, reliable, baseload energy, but also societal benefits like waste and manure management, odor control, environmental benefits and even products that increase soil health. Biogas projects also create investment and about 25 construction jobs and 2-5 permanent jobs per project.

Representative Stefanik has introduced H.R. 4137, the Renewable Electricity Tax Credit Equalization, which would address the inequity for those non-wind PTC technologies like biogas. The ABC strongly supports this legislation and urges the Congress to take up the bill.

To maintain a diverse portfolio of beneficial energy technologies it is critical that Congress formulate and enact the stable, long-term tax policy framework that will support the deployment of the full scope of clean energy technologies such as biogas in a meaningful way. We strongly urge the Congress to pass legislation such as H.R. 4137 which would provide parity and a level playing field to renewable baseload power projects like biogas. We look forward to working with you as you move forward on these issues and are pleased to provide any further information you may need.

ACEEE
American Council for an Energy-Efficient Economy
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Comments of the American Council for an Energy-Efficient Economy
Steven Nadel, Executive Director

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

We commend the House Ways and Means Committee for consideration of recently expired tax provisions. The American Council for an Energy-Efficient Economy is a research, education and policy organization founded in 1980 that focuses on technologies, programs and policies that improve energy efficiency in the U.S. For the past several years we have researched ways the current tax code impedes cost effective investments in energy efficiency and ways to improve the tax code so it instead encourages energy efficiency investments that create jobs, improve competitiveness and strengthen our economy, with only a limited cost to the Federal Treasury and without favoring specific technologies. Here, we briefly summarize three recommendations. We have also submitted joint testimony with the National Electrical Manufacturers Association regarding the first recommendation in a separate document.

1. **Refine existing energy efficiency tax incentives to promote advanced energy-saving techniques in a way that is technology neutral, allows manufacturers and installers to plan for the mid-term, and phases out when market share targets are reached.** Tax policy should promote energy-saving technologies and practices that have a limited market share today due to market barriers, but where temporary federal assistance can advance these technologies and practices to the point where they can prosper without federal assistance. Federal incentives can open both a domestic market and an export market for advanced energy-saving techniques. Specifically, we have reviewed experience with energy efficiency tax incentives provided in the 1980s and over the 2005-2017 period, and based on this review we recommend that the following principles apply:

   - Set product performance standards primarily in terms of whole building energy efficiency savings, letting all technologies compete.
   - Target efficiency improvement levels that currently have a very small market share, which keeps the cost of tax incentives down and minimizes the number of "free riders" (consumers who take the tax incentives but would have made the same purchase decisions, even if the tax incentives were not offered).
   - Provide a substantial incentive to motivate significant additional sales.
   - Monitor market share of eligible products and when the market share starts to become significant, the tax incentives should either be phased out or eligibility levels increased, starting the process to "transform markets" again.

- Keep the incentives in place for long enough so manufacturers and other market players find it worth making investments to develop and market eligible products.

Many of the tax incentives first enacted in the Energy Policy Act of 2005 have been successful, and provide useful lessons for energy efficiency tax reform. For example, high-efficiency appliances, heating and cooling equipment, and new homes now have much higher market shares due in significant part to these tax incentives. In the case of appliances, the original qualification levels are now standard practice, and qualification levels were tightened several times. On the other hand, tax incentives for Energy Star windows largely subsidize purchases that would have happened anyway since qualification levels were set too low. Going forward, limited federal funds for energy efficiency tax incentives should be provided in four areas:

a. Efficient new homes
b. Efficient new commercial buildings
c. Comprehensive retrofits of existing homes
d. Comprehensive retrofits of existing commercial buildings

For each of these four areas we recommend that legislation establish a three-tier incentive for "good", "better" and "best" performance, with the highest incentives for "best" performance. Market share for each tier should be monitored by the Department of Energy, and when the market share for a tier reaches 10%, the eligibility threshold should be increased or the tier phased out. And when the market share of the highest tier reaches 20%, tax incentives in that area should be sunset. Performance should be measured using metrics in widespread current use for each area (e.g. for new construction, percent savings relative to national model building codes). We have been working with industry groups to develop this proposal and can provide additional details on this approach if you are interested. If eligibility levels are set higher than typical current practice, costs can be kept to modest levels (on the order of $1 billion per year for all four areas combined according to our preliminary analysis).

By setting broad performance criteria that ensure public benefits and advances beyond normal market practice, combined with phasing out incentives once technologies and practices that achieve the performance become established, Congress can advance US competiveness at a modest cost to the Treasury.

2. **Consider "clean tax cuts"**. The Grace Richardson Fund, R Street Institute, ConservAmerica, ACEEE and others have been working to develop the concept of "clean tax cuts" – the application of supply-side tax rate cuts to "clean" investments that reduce emissions of various pollutants. The idea is that by cutting taxes on income from clean investments (where "clean" is specifically defined), investors will be more interested in making such investments, and large amounts of private capital can be leveraged. Clean tax cut proposals are now being prepared to promote clean investments in oil and gas production, energy efficiency, renewable energy production and more. In terms of energy efficiency, examples of "clean" investments could include investments that allow a building to meet the criteria for an Energy Star certified building or that reduce the energy use of a commercial building or an industrial process by at least 30% as determined using approved software.

   Two leading mechanisms are being developed to promote investments that meet a definition of clean:

   a. Applying the capital gains tax rate to income from clean investments that is passed through to individual tax-payers and covered by individual tax returns;

b. Allowing tax-free bonds to be used to finance clean investments.

Details of these proposals are being developed by the Clean Tax Cut Working Group (see http://cleantaxcuts.org/).

3. **Extend existing provisions.** Three tax incentives that were retroactively "extended" through December 31, 2017 are now expired. They are: Sec. 25C, the Nonbusiness Energy Property Credit for Existing Homes, Sec. 45L, the Energy Efficient Home Credit, and Sec. 179D, the Commercial Building Tax Deduction. Sections 25C and 45L are residential sector tax credits, and Sec. 179D promotes energy efficiency in commercial and multifamily buildings

   Absent performance-based reform, ACEEE supports extensions to these three tax incentives with appropriate updates to qualification levels. Specifically, we recommend updates to the qualification levels for residential water heaters, central air conditioners and heat pumps, boilers, oil furnaces, wood stoves and insulation – we would happy to discuss details with staff. Continued tax credits for these products will decrease upfront costs for homeowners and businesses to invest in energy efficiency technologies that lower energy bills and save money. Extensions will also allow full consideration of performance-based reform while the current incentives are still in effect.

Addressing Energy Efficiency in Tax Reform Will Create Jobs

In a 2013 report[1] ACEEE examined the approximate impacts of earlier variants of two of these provisions (depreciation and energy efficiency incentives) on the US economy. To estimate the impact of the energy efficiency tax incentives on the overall economy, we used ACEEE's DEEPER input-output model of the U.S. economy. The DEEPER model looks at cash flow in different sectors of the economy and estimates the impact of efficiency investments relative to spending on conventional energy supplies that are displaced. DEEPER looks both at the investments and the impact of energy savings that are available to be re-spent. Overall, we found that these two energy efficiency tax provisions would result in a significant increase in employment – an average of about 160,000 jobs over the 2014-2030 period. The job gains would start at about 52,000 in the first year of the new tax policy and steadily increase to about 300,000 jobs in the final years. These job gains are driven by both increasing investments in energy-efficient products and services as well as reinvestment of the energy bill savings. We have not conducted an input-output analysis of our revised recommendations, but the results of our 2013 study provide a likely order-of-magnitude estimate of job gains from inclusion of the energy efficiency provisions we recommend.

Conclusion

If enacted, these reforms would reduce barriers to cost-effective energy efficiency investments and contribute toward increased investments in efficiency. Such investments would reduce energy waste, create jobs, and foster economic growth.

We would be happy to provide further details on these proposals if they would be of use. We would also be happy to discuss these ideas with Members or staff.

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[1] http://aceee.org/research-report/e132

Statement of the American Farm Bureau Federation

Statement for the Record Submitted for the Hearing on

Post Tax Reform Evaluation of Recently Expired Tax Provisions held March 14, 2018 by the Ways and Means Committee, Subcommittee on Tax Policy

Submitted by:

The American Farm Bureau Federation

600 Maryland Ave. SW | Suite 1000W | Washington, DC 20024 | p. 202.406.3600 | f. 202.406.3606 | www.fb.org

Farm Bureau supports policies that help create a diverse, domestic energy supply to fuel America's economic growth and strengthen our nation's energy security. Continuation of tax incentives that encourage further development and use of renewable fuels and renewable energy benefit our nation and aid the agriculture sector.

Farm Bureau promotes policies that support the infrastructure necessary to meet the logistical needs of farm and ranch businesses and the rural communities where they live. Tax incentives that assist short line railroads maintain and improve service to rural communities should be continued.

Farm Bureau calls on Congress to formulate predictable, stable, long-term tax policy that provides businesses and investors with the certainty they need for sound business planning. The uncertainty surrounding the expired tax credits undermines the purpose of these credits, which is to provide incentives for investment and to promote economic growth. In the short-term it is critical that Congress extend these important tax credits for one year, through 2018, on the first appropriate legislative vehicle.

Tax Credits for Biodiesel, Renewable Biodiesel, and Second Generation Biofuel (Sect. 40A, 6426(c) and 6427(e))

Biodiesel is a cleaner-burning renewable replacement for petroleum diesel fuel. It can be manufactured primarily from vegetable oils (soybean, corn, sunflower seed, cotton seeds, canola, etc.), animal fats and recycled cooking oils. Second-generation biofuel (formerly referred to as cellulosic ethanol) comes from cellulosic biomass, for example woody crops and agricultural residues or waste. Farm Bureau supports the continuation of tax credits for biodiesel, renewable biodiesel and second-generation biofuels because of the markets they provide for agricultural commodities and their byproducts.

Biodiesel and biofuel supply important markets for agricultural commodities and their byproducts that help sustain demand for and support prices of farm products. This outlet for agricultural products is especially critical as farmers and ranchers struggle to deal with a difficult economic climate. The U.S. Department of Agriculture projects 2018 net farm income will decline $4.3 billion, a 6.7 percent reduction from 2017 levels. This represents the lowest net farm income, in nominal dollars, since 2006 and is a 50-percent decline in net farm income since 2013. The benefits of the biodiesel tax credit would be even greater for farmers and ranchers if the credit were changed from a blender credit to a producers' credit available only for U.S production.

Biodiesel and biofuel production not only help farmers and ranchers by expanding markets for their products; in many rural areas of the country, biodiesel and biofuel production facilities are a driving force in local economies by providing employment opportunities and broadening the local tax base. In addition all citizens, including farmers who are large fuel consumers, benefit when our nation reduces its dependence on volatile international oil markets.

Alternative Fuel Vehicle Refueling Property Tax Credit (Sect 30C)

While expanding production of renewable fuels is important to agriculture and to our nation at-large, correspondingly important is the network of dispensing pumps that customers use to purchase ethanol and biodiesel. Farm Bureau supports continuation and modernization of the tax credit that incentivizes the installation of pumps for alternative fuels.

Tax Credits for Renewable Energy from Biomass (Sect. 45) and Biogas (Sect. 48)

Renewable energy provides supplemental income to farmers and ranchers, expands energy productivity and results in fewer emissions. Electricity produced from closed-loop biomass comes from plants grown exclusively for electricity production, for example switch grass. Byproducts such as wood chips, biogas and farm waste are used to produce electricity from open-loop biomass. Farm Bureau supports expanding the biogas credit to include other sustainable uses such as for fuel and fertilizer.

Short Line Railroad Rehabilitation Tax Credit (Sect. 45G)

An effective transportation system supports farms and ranches by raising the value of their crops, increasing their access to domestic and international markets and reducing the prices farmers pay for inputs like seed and fertilizer. Unlike most other industries, farms and ranches are unable to move their operations because they are tied to the land and often to a particular climate. Because of this immobility, agricultural producers must transport their products long distances to market and they need a reliable and affordable way to get supplies to operate their businesses. Rail is the only reliable and cost-effective transportation mode broadly available for many agricultural producers. And for large areas of rural America, short line rail service is the only connection to national railroad network.

Providing effective transportation for rural regions not only helps farm and ranch businesses, it improves the standard of living for the communities where they live. As agriculture thrives, so do the service sectors, governments, manufacturing facilities and retail and wholesale establishments that comprise the bulk of rural employment. For these reasons, Farm Bureau supports continuation of tax credits that help Class II and III railroads maintain and improve rail service to rural America.

Submitted Testimony of the American Public Gas Association to the U.S. House of Representatives Committee on Ways and Means, Subcommittee on Tax Policy hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions"

On behalf of the American Public Gas Association (APGA), we appreciate this opportunity to submit testimony to this important hearing addressing the status of the alternative fuels tax credit (AFTC, IRC Section 6426).

APGA represents over 730 public gas systems across the country. Our members are retail distribution entities owned by, and accountable to, the citizens they serve. They include municipal gas distribution systems, public utility districts, county districts, and other public agencies that own and operate natural gas distribution facilities in their communities. Public gas systems' primary focus is on providing safe, reliable, and affordable natural gas service to their customers. APGA members serve their communities in many ways. They deliver gas to be used for cooking, cleaning, heating and cooling, as well as for various commercial and industrial applications.

Many APGA members are also heavily invested in natural gas transportation fuels – mostly via compressed natural gas (CNG). CNG has proven to be a safe, clean, abundant, and affordable transportation fuel that our members are proud to distribute. However, natural gas does not compete on a level playing field due to federal policies, such as tax incentives, that favor other transportation fuels. Thus, APGA respectfully requests that the Committee consider an extension of the Section 6426 ATC for three to five years.

Natural Gas Vehicle Background and Benefits

The two most common types of natural gas fuel are CNG and liquefied natural gas (LNG). CNG is created when natural gas (usually methane) is compressed to 3,600 psi, at which point it becomes a viable fuel source. LNG is created by cooling natural gas below negative 260 degrees Fahrenheit. Both processes are now widely used and commercially viable.

While there are a number of LNG vehicles and stations across the country, CNG has emerged as the more common type of fuel. CNG is used for passenger vehicles, municipal applications such as buses, waste trucks, as well as long-range shipping fleet vehicles. Several fleet operators, including UPS, FedEx, and Frito-Lay, have chosen to replace large parts of their fleets with natural gas vehicles as the fuel becomes more affordable and widely distributed. According to the Congressional Research Service there were about 150,000 CNG vehicles on the road in America.[1]

In the past, one drawback to natural gas vehicles was a lack of fueling stations. This is no longer an issue. In 2012, there were only 1,150 CNG and 61 LNG refueling stations across the U.S. Now there are 1,640 CNG refueling stations and 123 LNG stations.[2] I It is now possible to drive a natural gas vehicle across the country with sufficient refueling opportunities, with more coming online rapidly.

CNG is an exceedingly affordable transportation fuel. Most recent data (10/1/17-10/31/17) showed the national average price of CNG at $2.17/GGE (gasoline gallon equivalent). The price of gasoline and diesel

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[1] https://fas.org/sgp/crs/misc/R43791.pdf
[2] http://www.ngvamerica.org/stations/

over the same period of time was $2.49/gallon and $2.76/gallon, respectively. Depending on where you live, natural gas can be a more affordable option than gasoline or diesel.[3]

Not only is CNG abundant and affordable, but it also far cleaner than gasoline and diesel. According to NGVAmerica, NGVs can emit up to 21 percent fewer greenhouse gas emissions than their gasoline or diesel counterparts.[4] For example, the Cummins Westport ISX12N and L9N heavy duty natural gas engines are "the lowest certified NOx emission engines available in North America."[5] These emissions benefits are not trivial and will result in significant long-term emissions benefits.

From a municipal perspective, NGVs provide immense benefits. They increase fuel diversity, spurring economic growth and potential for expanded application in localities across the country. NGVs also provide two specific benefits that other fuels cannot provide: unmatched fuel delivery reliability, and the ability for communities to reach attainment status under National Ambien Air Quality Standards (NAAQS), as set forth in the Clean Air Act (P.L. 91-604, Sec. 109).

Many members of APGA run and maintain their own natural gas fleets (maintenance and utility trucks, etc.), as well as other key private sector maintenance and service vehicles. Compressed natural gas works in a way that its delivery is only dependent on the availability of the gas itself via underground pipelines. Gasoline and electricity, on the other hand, can only be used so long as gasoline supply remains uninterrupted and the electricity infrastructure remains functional. These are often disrupted in severe weather events, gasoline supply shortages, or black/brown outs. Unfortunately, these events are not as rare as one would hope. For example, the devastating 2017 hurricane season resulted in widespread power outages and major gasoline shortages.

Fortunately, natural gas was fully functional through it all. Natural gas vehicles and fuels proved resilient for two reasons. One, the supply could be delivered relatively uninterrupted. Natural gas pipelines, being underground, were mostly protected from debris, winds, and storm surges. Thus, delivery and supply was never an issue. Further, in terms of CNG, fuel can be pumped without the use of electricity: natural gas fueling stations often run on backup generators that are themselves fueled by natural gas. So, with no need for grid power, the natural gas pumps were able to flow out CNG reliably to emergency response vehicles.

In Florida, CMD Energy was able to maintain operations in areas hit by Irma, even running during the storm.[6] The same occurred in Texas in the wake of Harvey. As NGV Global reports:

> The State of Texas has over 150 natural gas stations that have had supply throughout the event. The price is extremely stable and no shortages have been reported. Freedom CNG, for example, was fueling METRO transit buses, Houston Distributing Trucks, Waste Corporation garbage trucks, AT&T service vehicles and many other fleets right here in Houston.[7]

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[3] https://www.afdc.energy.gov/fuels/prices.html
[4] http://www.ngvamerica.org/natural-gas/environmental-benefits/
[5] http://www.cumminswestport.com/press-releases/2017/cummins-westport-moves-to-zero-with-new-natural-gas-engines
[6] https://ngtnews.com/cmd-cng-energy-solutions-gives-thumbs-irma
[7] http://www.ngvglobal.com/blog/texas-cng-triumphs-hurricane-harvey-0906

Second, NGVs help localities meet emissions reduction requirements set forth in the Clean Air Act. The CAA requires states to develop plans to reduce various emissions. Vehicles are one of the largest emissions sectors. By promoting the deployment of NGVs, states and communities can easily reduce their emissions footprint and come closer to reaching attainment under NAAQS.

The Alternative Fuel Tax Credit

The AFTC (IRC Sec. 6426) is a $0.50 per gallon of gasoline equivalent (gge) excise tax credit for CNG or LNG sold for fuel use. This tax credit is applied to the sale of the gas itself, but ultimately flows to the consumer through reduced prices. Without the credit, APGA members are required to pay taxes on CNG (and LNG) sold as a transportation fuel (to non-governmental entities).

This credit has been extended on a year-by-year basis for several years. The natural gas industry has consistently needed to wait until a tax extender bill was considered to see if the AFTC would be extended – almost always retroactively. Not only does this breed uncertainty, but it makes it impossible to plan for the future. From a municipal perspective, this is difficult because city and municipal budget planning takes into account fuel purchasing. A one-year retroactive credit, while helpful, needs to be improved by promoting certainty into the future, at least for the near-term.

The AFTC was extended retroactively for tax year 2017 in the Bipartisan Budget Act of 2018 (P.L. 115-123).

The Need for the AFTC

The AFTC provides significant benefits to APGA's members. The main barrier to increased NGV deployment and penetration is initial cost. While commercially viable, these vehicles do carry additional purchase costs when compared with their gasoline and diesel counterparts. While the long-term cost recovery might even out, some municipalities may have difficulty in securing support for such acquisitions. The AFTC, extended into the near-term, provides greater certainty to our members in calculating costs/benefits.

Municipalities also offer a unique perspective, as they often times operate the fueling stations. This is a significant benefit to the taxpayer. Municipalities are able to reduce their tax burden via the AFTC. For instance, the City of Pensacola, Florida, would have been able to reduce their tax burden by roughly $1 million from 2016-2017 if the AFTC had been applied to fuel sold to non-governmental consumers. For many of our members who are smaller cities and have tight budgets, this savings can result in a significant budgetary offset and results in savings for the local taxpayer.

Most important of all, tax treatment of the vehicle industry is inherently unfair. There are a number of federal incentives in place for certain technologies, vehicles, and fuels. Before the extension of the AFTC (and the alternative vehicle refueling property credit), NGVs received zero federal incentives. However, competitors received significant federal support for their technologies. This is most clearly manifested in the up-to $7,500 credit for every electric vehicle (EV) sold. This credit results in billions of dollars for EV manufacturers, providing them with an unsurmountable competitive advantage when compared to NGVs., This tax credit is permanent – there is no end date.

On the other hand, NGV manufacturers and CNG fuel suppliers have been subject to incessant, stop-and-go tax decisions that have prevented the industry to truly flourish. The failure to enact equitable

policy has clearly had an impact on the markets. EV sales have risen over the last 10 years due to extreme federal incentives. Conversely, NGV market penetration has only grown modestly. APGA often hears the Committee and its Members preach fairness and decry government intervention. The EV-NGV disparity is a clear example of where government intervention and unfairness exists, persists, and results in incredibly damaging policy for our sector.

The tax code is inherently unfair when it comes to vehicles. In an ideal world, NGVs would be able to compete with other technologies, especially EVs, on a level playing field. However, Congress continues to provide large incentives for specific technologies like EVs. Thus, it is only fair that the AFTC is extended into the near term to at least approach some form of parity in incentives. APGA appreciates the Committee's consideration of the AFTC and looks forward to working together to find and equitable solution.

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March 28, 2018

The Honorable Vern Buchanan
Chairman
Subcommittee on Tax Policy
Committee on Ways & Means
U.S. House of Representatives

The Honorable Lloyd Doggett
Ranking Member
Subcommittee on Tax Policy
Committee on Ways & Means
U.S. House of Representatives

Chairman Buchanan and Ranking Member Doggett,

RE: Hearing entitled "Post Tax Reform Evaluation of Recently Expired Tax Provisions."

The American Soybean Association (ASA) is grateful for the opportunity to submit this statement for the record on the hearing entitled "Post Tax Reform Evaluation of Recently Expired Tax Provisions." Consistent with our U.S. biodiesel industry partners, the ASA supports a multi-year extension of the biodiesel tax credit to capitalize on opportunities for growth of a renewable energy source that diversifies our fuel sources, enhances U.S. energy security, and promotes market and economic development, particularly in rural America.

ASA represents thousands of soybean farmers in 30 states. Soybean farmers are very proud of the leading role we have played in establishing and developing the U.S. biodiesel industry. From the first investments from the soybean industry, biodiesel has grown into a domestic market approaching 3 billion gallons. While biodiesel is now made from a diverse and growing volume of feedstocks, soybean oil remains the largest source of biodiesel feedstock.

Biodiesel is an important market for soybean oil, adding value to our product and boosting the farm and rural economy. Soy oil would be a drag on demand for soy meal protein and whole soybeans if not for the biodiesel market.[1] Over the past decade there has been increased soybean production to meet global protein demand and at the same time soy oil is being displaced from food markets due to the prohibition on trans-fat in packaged foods.

The market outlet that biodiesel provides for soybean oil benefits livestock production by improving the margins for soybean processing and thus lowering the cost of soybean meal used

[1] Informa Economics. March 2015. Impact of the U.S. Biodiesel Industry on the U.S. Soybean Complex and Livestock Sector.

for livestock feed. A 2015 analysis by Informa Economics showed that biodiesel resulted in lower feed costs for U.S. livestock producers that ranged from $21 to $42 per ton, totaling $5.9 to $11.8 billion in total value. The more value for soybeans, the more beans will be processed, which means more meal supplies and lower costs to livestock producers.

Biodiesel provides multiple economic, energy, and environmental benefits.

- It has expanded markets for farmers and livestock producers
- Created new jobs and economic growth, particularly in rural America.
- It can provide increasing volumes of a domestically produced, renewable energy.
- It provides significant reductions in greenhouse gas emissions resulting in improved air quality.

As demonstrated and detailed by the National Biodiesel Board in their annual comments to EPA on the Renewable Fuels Standard, the U.S. biomass-based diesel industry has reduced fossil fuel use, which in turn reduces this country's dependence on foreign oil and the environmental impacts of fossil fuel production. In particular, biodiesel has reduced carbon emissions from the transportation fuel sector. Based on the mix of feedstocks utilized and the most updated life-cycle analysis, biodiesel reduces CO2 emissions by over 80 percent relative to petroleum diesel and every 100 gallons of biodiesel that is substituted for an equivalent amount of petroleum diesel reduces CO2 emissions by 1 metric ton.

The jobs and economic impact of the biodiesel industry should also not be overlooked. The biomass-based diesel industry currently supports 64,000 U.S. jobs throughout the supply chain, and for every additional 500 million gallons of domestic production, the industry would provide an additional 13,000 jobs. In many rural areas of the country, biodiesel plants are a driving force of the local economy. The industry's economic impact is poised to grow significantly with continued production increases. The industry supports jobs in a variety of sectors, from manufacturing to transportation, agriculture and service industries.

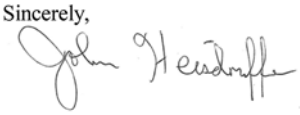
The biodiesel tax incentive has played a key role in stimulating growth in the U.S. biodiesel industry, helping biodiesel become the leading advanced biofuel in the nation. In 2004, prior to the enactment of federal tax incentives, the biodiesel industry only produced 25 million gallons. When the incentives were first implemented in 2005, the United States produced roughly 112 million gallons and now the market has climbed to as high as 2.9 billion gallons annually.

As detailed in the testimony delivered at the hearing on March 14th by Cal Meyer, Vice President and Chief Operating Officer at Ag Processing Inc, the public policy benefits of the biodiesel tax incentive are clear and include job creation and economic growth, added value to the agricultural sector, enhanced energy security, and improved air quality.

On behalf of soybean farmers, ASA urges the Ways & Means Committee and Congress to perform a fair evaluation of federal tax treatment of all energy resources. The recently enacted Tax Cut and Jobs Act left in place the permanent tax rules enjoyed by the conventional energy industry. Although the subsequent, limited, retroactive extension of the biodiesel tax incentives in February 2018 was a useful first step, Congress should, at a minimum, renew the biodiesel and renewable diesel blender's tax incentives through 2018 while further contemplating a multi-year approach to biodiesel incentives that would drive new investment and establish market certainty for U.S. farmers, ranchers, petroleum marketers, blenders, and fuel retailers.

Thank you again for the opportunity for ASA to submit this statement for the record on recently expired tax provisions.

Sincerely,



John Heisdorfer, President
American Soybean Association

COMMENTS OF GRANT ZIMMERMAN

ON BEHALF OF

AMP AMERICAS, LLC

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON TAX POLICY

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 15, 2018

ampAMERICAS | ampCNG ampRENEW RENEWABLE DAIRY FUELS

1130 West Monroe, Suite 310 | Chicago, Illinois 60607 | P: (312) 300-6700 | F: (312) 374-6849 | www.AmpAmericas.com

Since 2012, Amp Americas has delivered clean, abundant, domestic natural gas to fuel our trucking customers at our 20 natural gas fueling stations. We also produce renewable natural gas from dairy waste at a large dairy in Indiana. Together with our dairy farm and fleet partners, we have created jobs in rural communities and taken many dirty diesel vehicles off the road.

We ask for your support in extending the alternative fuels tax credit (AFTC) which provides a credit of $0.50 per gasoline gallon equivalent (GGE) of certain transportation fuels, including natural gas. The AFTC is a particularly effective driver of clean energy adoption because fuel providers like Amp share the credit with our customers to help them reduce the total cost of investing in and using this clean fuel. Amp Americas partners with Canton County School District, Western Dairy Transport, Saddle Creek Logistics and many other small businesses and municipalities to help grow the natural gas vehicle market.

We recently co-authored a paper with NGVAmerica titled "The Benefits of a 5-Year Extension of the AFTC" which we have attached here for the record. In this paper, we describe some of the economic benefits associated with a five-year extension of the tax credit, including:

- The deployment of 58,000 additional natural gas vehicles
- Over $9.9 billion of economic growth
- $5.8 billion in private sector investment
- ~62,000 new jobs

The paper also outlines some of the environmental benefits of stimulating more natural gas vehicle usage, including:

- 2000 million metric tons of reduced greenhouse gas emissions
- Over 82,000 metric tons of avoided NOx emissions
- $1.0 billion of avoided public health costs.

The research demonstrates that the credit is a powerful mechanism for spurring economic growth, domestic job creation and infrastructure investment. However, for important policies like this to have the most impact, businesses need predictability. We also ask Congress to recognize that not extending this policy while extending the incentives for other important alternative fuels and vehicle types artificially disadvantages natural gas vehicles. Reinstatement of the tax credit is critical to ensuring parity for natural gas as a transportation fuel and an equal opportunity to compete in the marketplace.

Finally, this tax credit is well-aligned with Congress and the Administration's priorities related to energy independence and air quality. We ask for your support in extending the AFTC for five-years.

Thank you for your consideration in this matter. Should you have any questions, comments or concerns, please contact me directly at 312.300.6700 or at gzimmerman@ampamericas.com.

Sincerely,

Grant Zimmerman
Chief Executive Officer, Amp Americas

ampAMERICAS | ampCNG ampRENEW RENEWABLE DAIRY FUELS

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NGVAMERICA
Natural Gas Vehicles for America

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Washington, D.C. 20001
ngvamerica.org

ALTERNATIVE FUEL VEHICLE TAX CREDIT EXTENSION WOULD DRIVE BILLIONS IN ECONOMIC GROWTH AND PRIVATE INVESTMENT, CREATE THOUSANDS OF JOBS, AND IMPROVE AIR QUALITY ACROSS THE COUNTRY

NGVAmerica prepared the following white paper to evaluate the economic costs and benefits of extending the alternative fuel tax credit (AFTC) for compressed natural gas (CNG) and liquefied natural gas (LNG) that is sold or used to power motor vehicles. NGVAmerica thanks ampCNG for providing the quantitative model and thought partnership that shaped the analysis and conclusions of this paper.

Executive Summary

Renewing and extending the AFTC for CNG and LNG will spur $9.9 billion in economic growth, the creation of 62,000 new middle-class jobs, better air quality and improved public health at a net cost to the government of $2.4 billion. These benefits are achieved by encouraging the use of America's abundant, clean, cost-effective natural gas resources as a transportation fuel and accelerating the development of the natural gas vehicle (NGV) industry.

Until the provision expired December 31, 2016, the U.S. tax code provided a credit of $0.50 per gasoline gallon equivalent (GGE) of compressed natural gas and $0.50 per diesel gallon equivalent (DGE) of liquefied natural gas sold or used as a motor vehicle fuel (see 26 USC 6426 and 6427). The fuel credit also included other alternative fuels such as propane and liquefied hydrogen.

The fuel credit was effective at providing a real alternative to dirty diesel vehicles by reducing the cost of CNG and LNG used in transportation applications and encouraging operators to add more natural gas vehicles to their fleet. As Congress considers significant reform to the U.S. Tax Code, they should renew the AFTC to extend the proven benefits of this incentive. This paper demonstrates that a 5-year extension of the AFTC will provide benefits many years after the credit is no longer active. It will provide businesses with the certainty they need to make significant, long-term investments in trucks, fueling infrastructure, maintenance capabilities, and manufacturing. Additionally, a multi-year extension of the program will spur enough research and investment in advancing NGV technology and reducing equipment / manufacturing costs that the adoption of this clean technology will continue without the need for further public investment beyond the five-year extension.

For example, over the next 10 years, the private sector will add 58,000 NGVs and America will benefit from:

- **$9.9 billion of economic growth**
- **$5.8 billion** in additional **private sector investment** in infrastructure and equipment
- **62,000** new **middle-class jobs**
- 200.6 million metric ton reduction of greenhouse gas emissions
- 82,300 metric ton reduction of NOx emissions
- $1.0 billion in avoided public health costs

Renewing and extending the AFTC will increase energy independence by decreasing consumption of petroleum-based fuels, stimulating US manufacturing, promoting meaningful job growth, igniting sustained economic output, improving our nation's air quality, and reducing public health costs in disadvantaged communities for years to come.

NGVAMERICA
Natural Gas Vehicles for America

I. Introduction

Since the discovery of significant natural gas reserves in the United States in the mid-1990s and the development of revolutionary technology such as horizontal drilling, the United States has become the world's largest producer of clean-burning natural gas. By some estimates, the US has enough natural gas supply to last the next eighty-six years. While natural gas consumption has been increasing, the US still imports about 5 million barrels of crude oil a day. The transportation sector is particularly dependent on petroleum-based diesel fuels exacerbating America's reliance on foreign oil. While natural gas currently accounts for 30% of total energy consumption, it represents just 0.30% of energy consumed in the transportation sector[1]. With over 1,600 natural gas fueling stations across the country[2] and clean natural gas vehicle (NGV) options for almost every application, now is the time to:

- Spur job creation, infrastructure investment, and incremental economic output by using more natural gas as a transportation fuel
- Decrease America's reliance on foreign oil / displace petroleum-based transportation fuels and forge a path toward energy independence
- Address environmental and health concerns like smog and greenhouse gas emissions
- Develop more sustainable sources of transportation fuel

Jobs Creation, Infrastructure Investment, and Economic Growth

Most of the components in the manufacturing and supply chain for natural gas transportation fuels are sourced in America. Using more natural gas results in more domestic job opportunities. These jobs range from the manufacture of parts that go into natural gas vehicles and infrastructure projects to the development and operation of natural gas fueling stations and renewable natural gas (RNG) projects. With an average salary of $52,000 per year, these are jobs that strengthen America's middle class and expand the tax base.

Path to Energy Independence

Extending the AFTC will also give a much-needed boost to NGV deployment in Class 7 and Class 8 trucks by encouraging both infrastructure investment and truck conversions. This, in turn, will accelerate the achievement of technology advancements and manufacturing economies of scale which become self-reinforcing as costs come down. Importantly, a spike in natural gas usage in vehicle applications will have little or no impact on prices in other applications. Ultimately, economics rather than policy will provide the most sustainable path to energy independence.

Environmental and Health Benefits

Two of the most pressing environmental issues are ozone pollution/smog from nitrogen oxide (NOx) emissions in urban areas and greenhouse gas (GHG) emissions. While diesel-burning Class 7 and Class 8 trucks account for only 1% of the vehicles on the road, they are responsible for more than 50% of NOx emissions and more than 20% of GHG emissions[3]. In stark contrast, NOx emissions from conventional natural gas vehicles are 50% - 90% below federal standards and GHG emissions are at least 20% lower. Using certain sources of Renewable Natural Gas (RNG), the GHG emissions can be reduced by more than 100%. These air quality improvements drive public health benefits.

Sustainability

Recent technological developments have also allowed for sources of renewable natural gas (RNG) to be used as a transportation fuel. RNG is produced by capturing methane wherever organic materials are present, including landfills, dairy farms, wastewater treatment facilities, and other animal and crop waste systems. RNG currently accounts for roughly 35% of the natural gas used in the transportation sector. When using RNG in transportation, "well-to-wheel" GHG emissions can be reduced by more than 100%. In addition, many of the highest potential RNG development sites are dairy and swine farms, so renewal of the AFTC will support the continued development of rural communities[2].

Implicit in the above analysis, two foundational elements of the case for natural gas are that (a) it is America's most plentiful clean / renewable energy resource and (b) the technology to utilize it effectively as a transportation fuel across all vehicle applications is commercially viable today. These two issues are particularly relevant in heavy duty

trucking where many legislators and other decision-makers have mistakenly assumed the inevitability of electric vehicles (EVs). The road to electrifying heavy duty applications will be long and difficult. In particular, the size and weight of the batteries that would be required to pull Class 8 loads using current technologies would be prohibitive[4]. While a comprehensive analysis of the future capabilities and vehicle specifications of EVs is outside the scope of this work, as of this writing, there are no plans for a commercially available heavy duty EV truck in the next two years. In the near-term, NGVs are the only real choice for displacing petroleum's dominance in heavy duty applications.

II. Methodology

To assess the potential impact of extending the AFTC, this analysis considered a high oil price, low oil price, and reference oil price scenario based on the Energy Information Administration's Annual Energy Outlook (AEO)[5]. In each scenario, the model projected an annual number of NGV truck conversions, the economic and environmental impact of those new trucks, and the associated "net" government investment in our future.

The key driver of truck conversion is economics. A diesel truck will be replaced by natural gas if the ongoing operating cost savings provide a sufficient return on the investment to upgrade the engine. There are many commercial factors that impact this calculation including conversion costs, fuel price, fuel efficiency, taxes and target payback timeline (years). The model accounts for variability in these factors by vehicle application, by state, and by year. This methodology is applied both with and without the AFTC to calculate the incremental effect of the AFTC on truck conversions.

The economic impact of truck conversions, including infrastructure spending, station builds, indirect and direct job creation, and economic output were calculated using ratios from Argonne National Labs JOBS model[6] and published research from ICF[7] and Nevada Governor's Office of Economic Development[8]. The public health benefit of NOx emissions reductions was calculated using ratios from an Environmental Research Letter on the VW emissions scandal jointly authored by MIT and Harvard researchers[9]. Environmental benefits of NGV truck conversion were calculated using California Air Resources Board (ARB) Carbon Intensity (CI) scores[10] and NOx emissions benchmarks[11].

The cost of extending the AFTC is calculated based on the cumulative volume of fuel consumed by NGVs on the road today as well as those added over the 5-year period. This investment is offset by incremental tax revenues from two sources:

- Increased excise tax receipts due to the conversion cost of new NGVs
- Increased income tax receipts associated with job creation

Importantly, these sources of incremental tax revenue will persist long after the expiration of the AFTC.

III. Findings

Assuming the reference oil price outlook from AEO, a renewal of the AFTC for 5 years will result in more than 18,000 incremental CNG and LNG trucks by 2022, and America will benefit from:

- $3.8 billion of economic growth
- $2.2 billion in private sector investment in infrastructure, equipment, and project development
- ~26,000 new jobs
- 62.6 metric ton reduction in greenhouse gas emissions
- 25,030 metric ton reduction in NOx emissions
- $300 million in avoided public health costs

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Over a 10-year horizon, assuming no further public investment after the AFTC expires, there will be nearly 58,000 incremental NGVs with a commensurate increase in economic and environmental benefits:

- $9.9 billion of economic growth
- $5.8 billion in private sector investment
- ~62,000 new jobs
- 200.6 million metric ton reduction in greenhouse gas emissions
- 82,327 metric ton reduction in NOx emissions
- $1.0 billion in avoided public health costs

Table 1. Benefits of AFTC by year (Reference Oil Price Scenario)

	Units	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	5-Year Total	10-Year Total
Diesel-fueled Trucks Replaced by NGVs	# trucks	3,193	3,649	3,741	3,795	3,829	3,679	5,444	7,453	9,969	12,950	18,207	57,702
Additional Private Sector Investment	million $	355	453	486	491	446	403	516	698	831	1,146	2,232	5,825
American Jobs Created	# jobs	4,046	5,397	5,876	5,716	4,937	4,595	5,189	7,308	7,781	11,027	25,972	61,872
Average Salary	$/job	45,546	46,961	48,397	49,666	50,840	51,708	52,781	53,921	55,187	56,695	48,398	51,990
Incremental Economic Output	million $	569	769	874	859	762	722	845	1,210	1,335	1,925	3,832	9,868
Greenhouse Gas Reduction	million MT CO2e	10,140	12,747	13,069	13,257	13,376	12,852	19,018	26,036	34,825	45,239	62,589	200,558
NOX Reduction	MTs	4,420	5,041	5,020	5,139	5,410	5,224	7,817	10,789	14,513	18,954	25,030	82,327
Public Health Costs Avoided	million $	49	57	58	61	65	65	99	140	193	258	289	1,044

These incremental benefits are a direct result of the government investment in our future. As modeled, the cumulative "net" investment is approximately $2.3 billion by year 10 due to the continued growth in the tax base long after the AFTC expires. In addition, America will have made great progress towards our goal of energy independence.

Table 2. Cost of AFTC to Government and Economy (Reference Oil Price Scenario)

	Units	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	5-Year Total	10-Year Total
Eligible CNG + LNG Fuel Consumption	million DGE	742	902	1,073	1,275	1,518	1,783	2,117	2,534	3,054	3,725	5,510	18,722
Blended Tax Credit per Gallon	$/DGE	0.56	0.56	0.56	0.57	0.57	0.00	0.00	0.00	0.00	0.00	0.56	0.17
Total Tax Credit	million $	418	509	606	721	858	0	0	0	0	0	3,112	3,112
Less: Increase in Tax Receipts	million $	52	66	69	67	59	54	65	90	101	137	313	761
Net Government Investment in Our Future	million $	366	443	536	654	800	-54	-65	-90	-101	-137	2,799	2,351
Memo:													
Less: Public Health Costs Avoided	million $	49	57	58	61	65	65	99	140	193	258	289	1,044
Net Cost to Economy	million $	317	386	479	593	734	-119	-164	-230	-293	-395	2,510	1,308

As expected, the impact of the AFTC is sensitive to the oil price assumption. In the short-term, the modeled impact of AFTC in the "High Oil" scenario is smaller but the total number of NGVs on the road is higher because diesel prices drive greater demand for NGVs. Ultimately, the economic and environmental benefits of NGVs grow as they become a larger fraction of the transportation fleet mix. The AFTC is an important catalyst for this in all three scenarios.

Table 3. Incremental Economic and Environmental Benefits in All Scenarios

		5-Year Totals			10-Year Totals		
	Units	Reference	High Oil	Low Oil	Reference	High Oil	Low Oil
Trucks Added	# trucks	18,207	17,706	20,642	57,702	77,147	57,042
Truck Stock	# trucks	104,880	127,875	106,878	235,732	389,632	230,818

IV. Conclusion

Extending the AFTC for natural gas provides clearly demonstrable economic and social benefits at a nominal cost to the government over the long-term. Over the next 5 years, Americans will see an increase in the number of well-paying jobs available in both urban and rural communities, greater economic growth, improved air quality, and significant investment in renewable/sustainable sources of transportation fuel. Importantly, because NGVs will still only account for ~1% of forecasted natural gas energy consumption by 2027[12], securing these benefits will have no meaningful impact on the price of natural gas in other applications. Finally, the momentum that is created around NGV technology advancements, manufacturing efficiencies, and industry-wide economies of scale will help put America on a self-reinforcing path to energy independence.

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Natural Gas Vehicles for America

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March 14, 2017

The Honorable Vern Buchanan
Chairman - House Ways and Means Tax Policy Subcommittee
1102 Longworth HOB
Washington D.C. 20515

Re: Post Tax Reform Evaluation of Recently Expired Tax Provisions.

Dear Chairman Buchanan:

As the House Ways and Means Committee works to evaluate tax provisions that expired at the end of 2017, we encourage you to seamlessly extend the biodiesel tax incentive. Specifically, we encourage you to include the second year of, S. 2256, the "Tax Extender Act of 2017" which was introduced by Senator Hatch and others last December. The tax extenders act continues to be an urgent policy matter for our company. Every day that these provisions remain lapsed creates further confusion and uncertainty for our industry, while needlessly undermining economic growth and job creation.

BIOX, is a renewable energy company with a growing network of production facilities and distribution infrastructures in North America, we own a joint venture partnership with World Energy, (WEBB - World Energy Biox Biofuels LLC) which includes a 90 million gallons plant in Houston, Texas. The third largest biodiesel production facility in the United States.

As a domestic energy producer, I can attest that policy certainty is vital to our success.

In 2016, we purchased and re-opened the Houston production facility and brought it back into biodiesel production with our partner World Energy. This facility is located within the Kinder Morgan Galena Park Terminal and has great access to the distribution marketplace via the terminal system. In doing so we created more than 50 direct jobs, with nearly a $5 million payroll and economic activity of more than $150 million that generates thousands of indirect labor and service jobs.

The tax credit allows us to share the credit throughout all segments of the value chain including production, blending, distribution, marketing and consumption of biodiesel. Further, tax policy certainty is critical to enable financial institutions to invest in our production expansion and technology development.

There are substantial energy security, job creation, rural economic development and environmental benefits associated with the expanded domestic production and use of biodiesel. Maintaining the biodiesel tax incentive and providing certainty in the Internal Revenue Code is a proven and cost-effective way to continue achieving these worthwhile public policy benefits.

The biodiesel tax credit expired on December 31, 2017 and today our industry is struggling each day to make ends meet. It is essential for the near-term to emphasize the urgent threat facing our industry from the ongoing expiration. This year marks the fifth time in seven years that the biodiesel diesel incentive has been allowed to lapse, creating severe disruptions in the industry. This severely disrupts producers' access to capital, as well as their ability to hire and expand. Rather, biodiesel producers across the country are struggling to survive.

The biodiesel tax incentive has played a key role in stimulating growth in the U.S. biodiesel industry in recent years, helping biodiesel become the leading EPA-designated advanced biofuel in the nation. By making biodiesel more cost-competitive with petroleum diesel, the $1-per-gallon credit creates jobs, strengthens U.S. energy security, reduces harmful emissions, diversifies the fuels market and lowers costs to consumers. There are many policy and public benefits associated with biodiesel and renewable diesel production and use including the following:

- **The Tax Incentive Works**. The U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005, when the incentive was first implemented, to nearly 2.6 billion gallons in 2017. The biodiesel tax credit is an important demand stimulus, which improves domestic plant efficiencies, encourages investment in U.S. distribution infrastructure and supports high-paying jobs throughout the economy.

- **Stability Helps**. Traditional oil incentives are written permanently into the tax code, but the biodiesel incentive has repeatedly expired—in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and 2017. Often, the credit is retroactively extended and reinstated, but we have been operating without the credit since December 31, 2017. This severely disrupts producers' access to capital, as well as their ability to hire and expand.

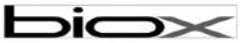
- **Jobs Are Created, Economies Grow**. With biodiesel plants nationwide the biodiesel industry already supports roughly 64,400 jobs, $11.42 billion in economic impact and $2.54 billion in wages paid. In many rural areas of the country, biodiesel plants are a driving force of the local economy, supporting the employment of technicians, plant operators, engineers, construction workers, trucks drivers and farmers, to name a few.

- **Energy Security Is Enhanced**. Biodiesel is diversifying our fuel supplies so that we're not so vulnerable to global oil markets that are heavily influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market.

- **America Benefits from Improved Air Quality and Less Waste**. Biodiesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils and animal fats. Biodiesel reduces wastes and most major air pollutants. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making biodiesel the only commercial-scale U.S. fuel produced nationwide to meet the agency's criteria. According to the EPA, biodiesel reduces greenhouse gas emissions by 57 to 86 percent when compared to petroleum diesel.

- **Stimulating New Technologies and Feedstocks**: The biodiesel tax credit has supported the development of a diversity of fuels including biodiesel, renewable diesel and renewable jet fuel all produced using a broad mix of resources including recycled cooking oil, plant oils and animal fats. This has helped shape a nimble industry that is constantly reducing cost, improving fuel diversity and performance and expanding feedstock options.

- **Immature Industries are Deserving of Assistance**: Biodiesel is America's first Advanced Biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development. The petroleum industry has benefited from numerous tax deductions and other tax benefits over the years



and continues to receive approximately $4 billion in tax benefits each year; while the ethanol industry had a tax incentive for three decades before it expired several years ago. In contrast, the biodiesel industry has had commercial-scale production for only the last decade (the tax credit was first implemented in 2005). Biodiesel still represents only a fraction of the overall U.S. diesel market. It is an up-and-coming industry that remains at a far more fragile state of development.

The biodiesel industry has made great strides in producing domestic energy and diversifying our nation's fuel supply. We have done what Congress has asked us to do and we are creating real manufacturing jobs, generating tax revenue and improving our energy security. In its short history, the biodiesel tax incentive has proven to be a remarkably effective tool in helping to achieve the desired goal of increasing the domestic production and use of biodiesel and renewable diesel. This in turn is enabling the U.S. to realize the energy security, economic and environmental benefits associated with displacing petroleum with clean, domestically produced renewable fuels. We appreciate and support your efforts to explore a more stable, long-term structure for renewable fuels incentives in the tax code. However, for the near-term, we want to emphasize the urgent threat facing our industry due to the ongoing expiration of the incentive.

We urge Congress to act in a timely manner to address the immediate issue facing the industry by extending the biodiesel tax incentive. Looking forward, we urge Congress to provide a long-term extension of the biodiesel tax credit.

Thank you for consideration.

Sincerely,

BIOX USA Limited

Scott Lewis
EVP Commercial Operations & Strategy

STATEMENT FOR THE RECORD

Submitted on March 28, 2018 to the

United States House Ways and Means Committee
Subcommittee on Tax Policy

Hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions"

Bond Dealers of America
1909 K St NW #510
Washington, DC 20006

Introduction:
The Bond Dealers of America (BDA) appreciates the opportunity to comment on recently expired tax provisions post tax reform. The BDA is the only Washington, DC –based trade association representing the interests of "main-street" investment firms and banks active predominately in the U.S. fixed income markets.

The BDA applauds the Committee and Congress for passing sweeping tax reform legislation, the *Tax Cuts and Jobs Act,* which will further stimulate the United States economy, while increasing opportunities for growth in areas such as corporate investment. Specifically, we appreciate that the final bill maintained the tax-exempt status for governmental municipal bonds and private activity bonds, including all bonds for 501(c)(3) organizations, healthcare, multi and single-family housing, and higher education.

However, the BDA and a wide-array of stakeholders were deeply alarmed that the *Tax Cuts and Job Act* fully repealed tax-exempt advance refunding bonds upon enactment of the legislation into law. The repeal of this provision is working against the stated goal of the *Tax Cuts and Jobs Act,* to energize the economy and lower the tax burden of middle-class Americans. Moreover, the significant change would restrict the primary tool that is widely and frequently used as part of financing America's infrastructure.

As a result of the quick enactment of the *Tax Cuts and Job Act,* several critical provisions, including advance refundings, were prohibited by the law without critical public policy considerations. The BDA also recognizes that the Committee and Congress acted to eliminate various tax provisions to minimize the fiscal pressure the federal government is facing. The BDA believes that the projected

federal savings from the repeal of advance refundings in the tax bill is lower than the JCT score of $17 billion due to the rush of issuers into the market in the latter part of 2017 and slowly rising interest rates. In addition, the modest increase in federal tax revenue does not outweigh the public benefit of this provision.

A bipartisan bill, *To Reinstate Tax-Exempt Advance Refunding Bonds*, (H.R. 5003), has been recently introduced in the House. According to the bill sponsors, "the legislation would restore advance refundings so that states and local governments can take advantage of favorable interest rates and more efficiently manage their financial obligations."

We will provide examples of cost savings lost due to the change in the tax code, which will continue to raise borrowing costs, and thus, increase taxes to all jurisdictions focused on infrastructure and capital improvement projects. We will also provide ample evidence of why H.R. 5003 is important to encourage infrastructure and capital investment nationwide.

Background:
State and local governments routinely refinance their outstanding debt obligations, just as corporations and homeowners do. The advance refunding technique allows state and local government issuers to benefit from lower interest rates when the outstanding bonds are not currently callable. It is important to note, that under previous law, tax-exempt bonds could be issued to advance refund an outstanding issuance only once, a significant restriction on these transactions.

According to recent Government Finance Officers Association (GFOA) data, between 2012 and 2017, there were over 9,000 advance refunding issuances nationwide, saving taxpayers over $14 billion in the five-year period. We note that this represents the "present value" measurement of the savings and the actual savings are substantially greater. The data also works to disprove a myth that only large municipalities benefit from the cost savings. For example, in Montgomery County, TX, there were 6 instances of advance refunding for Conroe primary and secondary education that resulted in a cost savings of over $20 million dollars. In Barrington, IL, the city issued $300,000 in advance refunding bonds for parks and in Eden Prairie, MN an issuance of $250,000 for general-purpose bonds.

Tax-exempt municipal bonds play an integral role in financing our nation's infrastructure. This safe investment benefits every aspect of American life, from roads and bridges, to public safety and healthcare. In an age of declining direct federal funding, the municipal bond market drives new construction and maintenance of current infrastructure.

In addition, federal analyses of such tax-exempt bond proposals focus solely on federal tax revenues to be raised by such proposals, ignoring the effect on state and local governments and, thus, state and local residents. Private sector analyses, however, confirm that taxing municipal bonds, in whole or in part, or replacing

municipal bonds with some other financing tool will increase state and local financing costs.

Consequences of the Repeal of Advance Refundings:
The repeal of any portion of the tax code has major consequences, intended and unintended, short-term into long-term. The immediate impact of this policy decision to eliminate advance refundings was to provide a pay-for for a massive tax-code overhaul. This seemingly was done not as a carefully thought-out policy decision, but rather an accounting exercise where monies were needed to fill a gap. While there are a plethora of policies included in the overall bill that are beneficial to the U.S. economy as a whole, the elimination of municipal advance refundings increases the cost and burden on state and local governments nationwide.

An example of this cost savings occurred in the Village of North Barrington, IL. The town advance refunded a debt issued for sanitary sewer improvements. The refinancing saved residents $310,000 over a 10-year period. The savings was realized in annual property tax collected by Lake County.

The loss of municipal advance refundings will severely impact the financing of core public services and infrastructure in the State of Texas. More than 50 issuers including cities, schools hospitals, and water and public transportation boards in the five largest counties in Texas (Bexar, Dallas, Harris, Tarrant, and Travis) will lose the ability to advance refund an estimated $6.6 billion dollars in bonds over the next two years. The repeal of this vital financing tool translates into a loss of millions of dollars that would have been reinvested back into communities. As the population and public needs of Texas continues to grow, the success of the State is directly dependent on its investment in infrastructure.

Another specific example in Texas is the Port of Galveston, TX, which was planning to advance refund a $11.3 million issuance in bonds that would produce a cost savings of $450,000. As a major transportation and trade hub for the central United States, additional capital was not leveraged to compete and continue to be an economic driver in the western Gulf of Mexico.

The Macomb County Michigan Drainage District is missing an opportunity to advance refund over $20 million in bonds and realize upwards of $1.3 million in savings. As the State of Michigan continues to deal with an ongoing water crisis and an overall budget shortfall, the State and its local governments are feeling the negative effects. The inability to advance refund this issuance makes local officials' jobs more difficult.

It is worth noting that the full impact of the repeal of the ability to advance refund tax-exempt bonds will be somewhat delayed. Due to the low interest rates at the end of 2017 and the pending repeal of the ability to advance refund bonds, many state and local governments refinanced their bonds prior to year-end. As a result,

there will be a relatively short period during 2018 before state and local governments feel the real impact of this change in law. However, this delay should not be interpreted to indicate that the repeal will not have significant, long-lasting impacts on state and local governments.

On a long-term basis, State and local governments will be significantly disadvantaged by the loss of the ability to issue tax-exempt advance refunding bonds. Most importantly, they will have lost the most efficient mechanism to take advantage of low interest rates to refinance higher rate debt in advance of when such debt can be called. The inability to lock in lower interest rates when they are available will, simply stated, result in increased costs to these governmental entities. Moreover, both at times of relatively low rates and otherwise, state and local governments have lost an important means of restructuring their outstanding debt to respond to short or long term fiscal issues (which can include both paying off their debt more quickly or restructuring debt to deal with short term financial difficulties).

Given the number of advance refundings completed at year-end, the use of alternatives to advance refundings has been slow to develop in 2018. While there are some alternatives, none are as effective in terms of cost or risk as advance refundings. For example, "forward starting" interest rate swaps can be used to effectively lock in current interest rates but State and local governments are hesitant to use interest rate swaps. Other alternatives are more costly than advance refundings and, for that reason, were not used to a significant degree in the past. While these structures may mitigate some negative impacts of the recent change in policy, their long-term impact and viability will not be to provide an effective replacement for advance refunding bonds.

Conclusion:
The ability to advance refund bond issuances benefits all Americans and creates infrastructure investments that provide high quality jobs and spurs economic growth nationwide.

As the debate on infrastructure and the financing mechanisms behind the desired increase of funding is reconciled, it should be remembered and recognized that state and local governments are currently under a time of fiscal strain due to the elimination of the state and local tax deduction (SALT). This change in federal tax policy will put downward pressure on state and local governments to lower taxes due to the direct increase in tax burden that their constituencies will face. In addition, a vast number of state and local governments must work under a balanced budget system. The elimination of advance refunding removes a vital cost-savings financing tool and in consequences, state and local governments are forced to raise state and local taxes or reduce public service programs.

For over 100 years, municipal bonds have served as the primary financing mechanism for public infrastructure. Nearly three-quarters of the nation's core

infrastructure is built by state and local governments, and imposing an unprecedented federal tax on municipal bonds, including advance refundings, will make these critical investments more expensive while shifting federal costs onto state and local governments, and the people they serve.

In the Trump Administration's "Legislative Outline for Rebuilding Infrastructure in America," municipal bonds were featured as a central pillar and included strengthening private-activity bonds (PABs). While this is a move in the right direction, the BDA recommends the reinstatement of advance refundings to further spur growth. Reinstating advance refundings would be one of the wisest and most cost-effective investments that Congress can make to finance ongoing infrastructure needs for state and local governments and ultimately, the constituents of all Congressional representatives.

In conclusion, the BDA strongly requests the Committee to reincorporate the cost-saving mechanisms of municipal advance refundings back into the U.S. tax code and consider H.R. 5003.

COALITION FOR ENERGY EFFICIENT JOBS & INVESTMENT

March 28, 2018

The Honorable Vern Buchanan
Chairman
House Ways and Means Subcommittee
on Tax Policy
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Lloyd Doggett
Ranking Member
House Ways and Means Subcommittee
on Tax Policy
1139E Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Buchanan and Ranking Member Doggett,

As members of the Coalition for Energy Efficient Jobs & Investment, we commend you for holding your recent hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions." We strongly agree with Ways and Means Committee Chairman Kevin Brady's statement in advance of the hearing that it is time to "prioritize permanence in policies that will benefit our economy for the long term." Evidence shows that the Section 179D deduction for energy efficient commercial buildings has become a crucial tool to promote economic and employment growth in communities across our country, and thus deserves to be continued and strengthened into the future.

The Broad Base of Support for Section 179D

Our organizations and companies represent a broad spectrum of the U.S. economy. They include real estate, manufacturing, architecture, contracting, engineering, building services, financing, labor, education, environmental and energy efficiency advocates. We represent many small businesses that drive and sustain American job growth.

The breadth and diversity of our coalition was demonstrated by the testimony of our member organizations at the recent hearing. The Building Owners and Managers Association, Business Council for Sustainable Energy, Alliance to Save Energy, and Alliantgroup all spoke to the importance of preserving Section 179D as part of the tax code. This kind of consensus – bridging industry and advocacy groups, businesses small and large, and organizations from coast-to-coast – is a testament to the tremendous impact that Section 179D has already achieved, as well as its potential for the future.

A Proven Engine of Economic and Employment Growth

Since its inception, Section 179D has leveraged billions of dollars in private capital, resulted in energy efficient enhancements to thousands of buildings, and created and preserved hundreds of thousands of jobs. This track record is why Section 179D has been extended on multiple occasions in the past. The certainty of permanence or a long-term extension of Section 179D, together with targeted reforms to the provision, can boost its contributions to our economy even more.

The benefits of Section 179D are confirmed by a recent economic impact study conducted by Regional Economic Models, Inc. ("REMI"), the executive summary of which is attached to this statement as an appendix. The study in its entirety can be found here. REMI's conclusion is unequivocal, finding that "Section 179D is an engine of economic and employment growth." In particular, an enhanced tax incentive for energy efficient commercial buildings, including reforms geared toward retrofits of privately-owned buildings, could support up to 76,529 jobs and contribute almost $7.4 billion toward our national GDP each year.

These results represent a significant return on the taxpayer investment in Section 179D, well in excess of the provision's revenue cost. The study also confirms that long-term extension/permanence of the current version of Section 179D or making more modest changes to the incentive would have a substantial positive impact on economic and employment growth. Such approaches, which would strengthen the application of Section 179D in the context of non-profits, tribal governments, and pass-through entities, have been adopted by the Senate Finance Committee in the past on a bipartisan basis, as well as reflected in H.R. 3507, bipartisan legislation in the House in the 115th Congress.

The Continuing Need for Energy Efficiency Incentives

The targeted incentive provided by Section 179D is essential to promote the proper allocation of incentives in the real estate development process. Energy efficiency improvements often carry a higher cost that is recouped by reduced energy consumption over time; however, neither the owners nor tenants of commercial buildings have an adequate incentive to make the upfront investment. In the case of building owners, this is because energy costs are generally borne by tenants. However, in multitenant structures a single tenant is unlikely to invest in improvements on their own.

Section 179D solves this incentive problem by encouraging building owners to install energy-efficient improvements that help their tenants save money on electricity, water, and climate control costs. It does so by accelerating the cost recovery of these improvements, which in turn stimulates additional investment and growth. While the Tax Cuts and Jobs Act ("TCJA") modified and expanded certain cost recovery rules, these changes do not deliver the same impact as Section 179D. In particular, while Section 179D provides a form of 100% expensing for certain real estate investments, the 100% expensing provision of TCJA (Section 168(k)) has limited applicability in the real estate context. Furthermore, the cost of the investments undertaken under Section 179D often exceed the limitation under the small business expensing provision (Section 179). Thus, while many of the reforms enacted in the TCJA are tremendously beneficial, they are not a substitute for the targeted incentive provided by Section 179D.

Beyond cost recovery, Section 179D's unique impact is amplified by the provision's high energy efficiency criteria, which stimulate innovation and entrepreneurship in a way that the more generalized provisions of tax reform do not. In addition, Section 179D includes a unique allocation feature that provides an incentive for state and local governments to undertake energy efficiency projects –creating additional jobs and economic growth – notwithstanding the fact that they cannot take the tax deduction into account on their own. This feature provides cost-effective

support for the development of energy-efficient buildings by school districts, state governments, and other public sector entities and ultimately saves taxpayer dollars through lower energy costs for public buildings. All of these reasons attest to the continued importance of retaining Section 179D in the tax code, along with enhancements to ensure that it continues to drive economic and employment growth.

The Importance of Long-Term Certainty

As Chairman Buchanan acknowledged during the recent hearing, the temporary nature of tax incentives like Section 179D erodes their value to businesses, and thus hinders them from achieving their full economic impact. As the Chairman stated, "If [a] provision continues to play an important role and enhance pro-growth tax reform, we should consider making it permanent." We agree that long-term certainty is an essential part of realizing's Section 179D's full potential. Construction projects require considerable lead-time for planning and development, which increases the urgency for Congress to move away from the practice of providing stopgap year-to-year extensions, toward long-term certainty and permanence.

Given its role in supporting jobs and economic growth in communities across the country, we strongly urge you to include the extension and enhancement of Section 179D among your priorities for this Congress. We look forward to working with you to ensure that tax incentives for energy efficient investment continue to be an engine of growth for our economy. Thank you for your consideration.

Sincerely,

Coalition for Energy Efficient Jobs & Investment

Analysis of Proposals to Enhance and Extend the Section 179D Energy Efficient Commercial Buildings Tax Deduction

Prepared by Regional Economic Models, Inc. (REMI) May 2017

Executive Summary

Section 179D of the Internal Revenue Code, the Energy Efficient Commercial Buildings Deduction, was originally enacted by Congress as part of the Energy Policy Act of 2005 to promote energy independence. Section 179D promotes the proper allocation of incentives in the real estate development process. A key challenge to realizing the benefits of energy-efficient improvements is that the associated cost savings flow to building occupants, not developers. By helping offset the cost of energy efficient investments, Section 179D allows building owners to share in the incentive to install energy-efficient improvements that help their occupants save money on electricity, water, and climate control costs. In so doing, Section 179D promotes private-sector solutions to improve conservation practices and modernize national infrastructure.

In this analysis, REMI evaluates the economic impact of three potential approaches to the Section 179D deduction, which most recently expired at the end of 2016:

1. **Strengthening and Modernizing Section 179D**,[1] which would increase the value of the deduction to $3.00 per square foot from $1.80, increase the applicable energy efficiency standards, make it available to support improvements to existing as well as new buildings, and extend the deduction.
2. **Extension of Current Law Section 179D plus Expansion to Non-Profits and Tribal Governments**,[2] modeled on 2015 legislation developed by the Senate Finance Committee under Chairman Orrin Hatch (R-UT), which would extend the deduction, expand availability of the deduction to nonprofit organizations and tribal governments and increase the applicable energy efficiency standards.
3. **Extension of Current Law Section 179D**,[3] modeled on the two-year extension of current law enacted as part of the Protecting Americans from Tax Hikes ("PATH") Act of 2015.

The results of this analysis show that in addition to advancing the goal of energy independence, **Section 179D is an engine of economic and employment growth**. As captured in the table below, this study quantifies these impacts, finding that:

- Strengthening and extending the Section 179D Energy-Efficiency Commercial Buildings Deduction will create jobs and expand the nation's economy. These benefits would be compounded by increasing the dollar value of the deduction in accordance with several Congressional and administration proposals.

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[1] Proposals along these lines include Title I of S. 2189, sponsored by Senator Cardin (D-MD) in the 113th Congress and the President's FY 2017 Budget Proposal. *See* Description of Certain Revenue Provisions Contained in the President's Fiscal Year 2017 Budget Proposal, Joint Committee on Taxation, July 2016, JCS-2-16.

[2] *See* Description of the Chairman's Mark of a Bill to Extend Certain Expired Tax Provisions, July 17, 2015, JCX-101-15, and Description of the Chairman's Modification to the Chairman's Mark of a Bill to Extend Certain Expired Tax Provisions, July 21, 2015, JCX-103-15. In addition to the Senate Finance Committee extenders bill, other proposals along these lines include H.R. 6376, sponsored by Congressman Reichert (R-WA) in the 114th Congress.

[3] General Explanation of Tax Legislation Enacted in 2015, Joint Committee on Taxation, March 2016, JCS-1-16.

- These enhancements to Section 179D would support up to 76,529 jobs annually and contribute annually almost $7.4 billion to national gross domestic product ("GDP"), as well as over $5.7 billion towards national personal income.

- Expanding the availability of the deduction to nonprofit organizations and tribal governments, while increasing the applicable energy efficiency standards, also provide clear positive impacts to the economy.

Table 1. Average Annual Economic Impacts for First Ten Years

	Strengthen and Modernize	Extension plus Expansion	Extension of Current Law
Jobs	76,529	39,388	40,749
GDP (millions of dollars)	7,398	3,730	3,860
Personal Income (millions of dollars)	5,729	3,017	3,128

Statement on behalf of CRES Forum
Submitted by Charles Hernick, Director of Policy and Advocacy

Before the House Ways and Means Committee, Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 28, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, thank you for the opportunity to submit comments on the evaluation of recently expired tax provisions. On behalf of CRES Forum, I write in support of tax provisions that will assure stability in the clean energy market and provide the level playing field and framework needed for the long-term growth and continued success of this industry in the United States.

CRES Forum is a non-profit organization committed to educating the public and influencing the national conversation about clean energy. CRES Forum supports actionable, market-friendly, fiscally responsible clean energy solutions that grow jobs, strengthen the economy, and protect our national security—while also helping to preserve our environment for future generations.

The clean energy industry, including energy efficiency, energy storage, natural gas electric generation, solar, wind, hydro, nuclear, electric vehicles, waste-to-energy, carbon capture technologies, biofuels, and smart grid, is now a $200 billion industry in the U.S. that supports more than 3 million workers.

CRES Forum is thankful that the Tax Cuts and Jobs Act retained the solar and wind renewable energy Investment and Production Tax Credits (ITCs & PTCs), as well as the sunset dates for these markets. No company or technology should be entitled to permanent subsidies. When left in place too long without adjustment, tax incentives distort price and market signals and create barriers to entry. Tax credits should remain in place only long enough to reach a measurable, market-based objective—getting emerging technologies to a point of sufficient maturity to stand on their own.

As the sunset dates for solar and wind tax credits approach in the next few years, they should be allowed to expire along with corresponding tax breaks for mature energy industries that benefit from permanent tax credits that have been in place since the early 1900s. This will assure fair and robust competition between energy types and assure that companies of all types pay their fair share in tax liability.

CRES Forum is also grateful that the Bipartisan Budget Act of 2018 included the extension of several clean energy tax measures, including the long-term extension for the non-solar ITC technologies such as fuel cells, combined heat and power, small wind, and geothermal.

Similarly, as these clean energy tax credits approach their sunset dates, each technology should be evaluated, and the credits should be allowed to sunset if markets have matured and U.S. businesses are competitive domestically and abroad.

We are also thankful for the inclusion of a tax credit for carbon capture storage in the Bipartisan Budget Act of 2018. This tax credit helps make the financial case for capturing carbon emissions from coal plants and other facilities, which is key for coal's long-term viability and for cutting greenhouse gas emissions. With this credit, it is likely that the U.S. can expand its comparative advantage in this space and export the technology as countries around the world look to reduce greenhouse gas emissions.

To further level the playing field, Congress should extend and phase out production credits for non-wind PTCs including biomass, geothermal, landfill gas, waste-to-energy, hydropower, marine, and hydrokinetic.

Finally, as Congress considers additional tax legislation, CRES Forum supports energy storage and commercial geothermal to qualify for a Section 48 tax credit. This technology offers great promise for advancements in clean energy. These additional clean energy tax credits—and their planned sunset schedules—create parity among energy generation technologies in the short and long runs.

CRES Forum supports a tax framework to maintain America's competitive edge in clean energy and ensure our leadership and dominance in the growing global market. To this end, we believe that the tax code can be a critical tool for leveraging new technologies that will grow the clean energy sector without providing permanent tax breaks that have outlived their original intent. We encourage Congress to enact tax policy that advances these important priorities.

Thank you for the opportunity to submit comments on this important issue.

Citizens for Responsible Energy Solutions Forum/ 601 Pennsylvania Ave. NW/ South Building/ 9th Floor/ Washington DC 20004

March 28, 2018

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

The Honorable Vern Buchanan
Subcommittee Chairman
Subcommittee on Tax Policy
U. S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Written Testimony to the Hearing Entitled *Post Tax Reform Evaluation of Recently Expired Tax Provisions* on Mar 14, 2018

Dear Chairman Brady and Subcommittee Chairman Buchanan:

I am the President of Efficiency Energy LLC, a tax consultancy business specializing in Section 179D, the Energy Efficient Commercial Buildings Deduction, and specifically, the special rule for allocating the deduction with respect to government-owned buildings in Section 179D(d)(4). Our firm's clients include four of the five largest State University Systems, six of the ten largest University campuses, and three of the top ten largest school districts in the country. (Complete list provided below.) On behalf of this constituency, I want to thank the Subcommittee for holding hearings on the effect of tax reform on recently expired tax provisions, and in particular to speak regarding the interests of government entities and state taxpayers in the renewal of Section 179D.

Public entities are important stakeholders in the Section 179D program because, by extension, they represent the interests of the state and local taxpayers that fund them. **To Chairman Buchanan's question "What role does this provision play in the new tax code?" I would answer that the unique benefit to the public sector from the potential transfer of tax benefits under Section 179D is presently absent from the new tax code, and should be restored and continued.** The unique treatment of government buildings is an important part of the conversation that must be understood and considered as Congress begins to evaluate the role of Section 179D and the potential implications of decisions that will be made for future tax years. My testimony identifies the special rule's single most controversial element and proposes potential solutions, with supporting legal and policy rationales. I am also available to provide examples of the application of these rules in the districts of every Subcommittee-member, or indeed practically every district in the country.

I have great respect for the work the Subcommittee has done and continues to do to improve the U.S tax code, and I look forward to helping clarify this important public component of the Section 179D incentive.

Very respectfully,

William J. Volker, CPA
President
Efficiency Energy LLC
wvolker@wesavegreen.com

Government buildings are an integral part of our national infrastructure. Permanence in the Section 179D program would allow public building owners to better incorporate the tax benefit into their long-term project financing plans, thereby reducing the cost of energy efficient capital projects. The Section 179D program provides an effective incentive for job creation while reducing construction and operational cost to taxpayers and lowering energy usage in public buildings. The benefits of this sound economic and public policy have already been presented to the Subcommittee by other witnesses.

I write to you today to highlight the importance of this incentive to taxpayers and public building owners, and to address common points of misunderstanding and some misstatements that have been made regarding the 179D special rule for government-owned buildings.

I. The Code Affords Governmental Entities Discretion in Allocating Section 179 Deductions

Section 179D of the Internal Revenue Code ("Code") provides a deduction (the "Deduction") for the cost of certain property in energy efficient commercial buildings, subject to various statutory maximums. Section 179D(d)(4) provides that in the case of energy efficient commercial buildings placed on property owned by a governmental entity, the Secretary of Treasury shall promulgate regulations to allow the allocation of the Deduction to the person primarily responsible for designing the property. However, the Secretary has not promulgated such regulations to date. IRS Notice 2008-40 provides that, in the case of energy efficient commercial buildings that are constructed on government owned property, the owner of the property "may" allocate the Deduction to the person "primarily responsible" for designing the property. Notice 2008-40 further provides that if more than one designer is responsible for the property, the owner may determine which designer is primarily responsible and allocate the full deduction to that designer, or at the owner's discretion, allocate the deduction among several designers. See also IRS Legal Memorandum No. 201451028 (Dec. 4, 2012).

The use of permissive language such as "allow" and "may," rather than "must" or "shall," in all of these authorities, including specifically the statute itself, demonstrates that the allocation of the Deduction by a governmental entity was not intended by the IRS to be mandatory, and that the governmental entity's decision whether to allocate any, all, or none of the Deduction to a particular designer is discretionary. As discussed in more detail below, I believe that there are good policy reasons, and grounds under state and local law, for continuing to treat allocations of the Deduction by publicly-owned buildings as discretionary, not mandatory.

Deference should be given to the reasonable discretion of the IRS in its interpretation of the statute. Specifically, Congress has already decided that the IRS should be permitted to

determine what constitutes "primary responsibility" and "technical specifications" with respect to a project, the criteria for determining which designer or designers should be allocated the Section 179D Deduction, and what substantiation of those decisions is required. Further, it is abundantly clear that neither Section 179D nor the relevant IRS guidance obligates a governmental entity to allocate the Section 179D Deduction automatically. Rather, a governmental entity may or may not allocate the Section 179D Deduction, and has discretion to decide how to allocate the Deduction in the event it chooses to do so. We believe this discretion is fully in accord with the intent behind Section 179D. It is good policy as well, for it leaves the decision of who should receive the benefit of the Deduction with the building owner – the government agency with responsibility for the particular project at issue, and the entity making the decision whether to invest in energy efficient property as part of that project.

II. A Governmental Entity Should Receive Value in Return for Section 179D Allocations

The Code itself does not directly address whether a governmental entity may properly receive value in exchange for the allocation of a Section 179D Deduction. Our research, however, reveals that there certainly is no prohibition against such a practice, in the statute or elsewhere. Furthermore, state and local laws often obligate a government agency to receive value in exchange for the allocation of this benefit, in keeping with its fiduciary responsibility for transparent stewardship of taxpayer funds invested in energy efficient public buildings. We believe the following three factors support the view that it is right and proper for governmental entities to obtain value in exchange for allocating the Deduction:

(1) The Policy Underlying Section 179D. The legislative intent behind Section 179D supports a governmental entity's right to receive value in exchange for the allocation of the Deduction to a private party. In allowing a commercial owner of an energy efficient commercial property to receive the Deduction under the general use of Section 179D, Congress's intent was clearly to encourage the owner, via this tax incentive, to invest in an energy efficient building. The Deduction reduces the ultimate net cost of the construction project, and increases the owner's return on investment. In the context of commercial buildings, no engineer, architect or other "designer" receives any tax benefit, because those parties are not the decision makers that Congress intended to influence through this tax incentive. Commercial owners investing in the energy efficiency of their buildings receive the benefit of the 179D deduction; while Government building owners making identical investments cannot directly benefit from the deduction they should nevertheless receive some sort of equivalent benefit in return for the allocation.

Section 179D(d)(4) is the special rule created for property owned by governmental entities, which authorizes governmental entities to allocate the Deduction. Allowing a

governmental entity to receive a reduction in the project's cost in return for the allocation provides the entity an incentive to construct an energy efficient building that is analogous to the incentive provided to a commercial builder. But if no value is received by the governmental entity through a rebate or a reduction in design fees, then the allocation of the Deduction to the designer only increases the designer's profit, and provides no incentive to the decision-maker, the property owner. Under such a policy, the provision would give no incentive to government agencies to construct or renovate energy efficient buildings. No rational governmental entity would make its construction decisions based on the ability to increase a private vendor's bottom line – nor would it grant a private benefit derived from public expenditures without public benefit or due process. In order to achieve the Section 179D policy goal of promoting the construction of energy efficient buildings, the law should be applied in a manner that will influence the governmental entities' construction decisions. Any other interpretation of the statute would be inconsistent with the clear policy goals underlying Section 179D.

This interpretation of the application of Section 179D(d)(4) is not new. Under existing law, the national law firm Sherman and Howard reached this conclusion in 2011,[1] and it has been confirmed by multiple subsequent independent analyses by public finance and tax law experts and by state and local governmental entities themselves. More importantly, state and local governments have been encouraged to negotiate savings to the public based on this logic.[2]

(2) A Governmental Entity's Responsibilities. While the policy goal outlined above may not be fully achievable for already-completed projects, governmental entities should nevertheless be entitled to receive value in exchange for allocating Section 179D Deductions, because the government entities assume both risk and responsibility in administering the allocations. A designer may not claim the Section 179D allocation without a form properly completed and signed by an authorized officer of the governmental building owner (the 'Allocation Form'). Notice 2008-40, Section 3.04 requires an allocation to include "[a] declaration, applicable to the allocation and any accompanying documents, signed by the authorized representative of the owner of the government-owned building, in the following form:

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[1] https://shermanhoward.com/publications/internalrevenuecodesection179dmayprovidefinancialbenefittogovernments

[2] http://ncbarblog.com/2018/03/an-untapped-source-of-savings-for-state-and-local-government-owners-of-property/

> 'Under penalties of perjury, I declare that I have examined this allocation, including accompanying documents, and to the best of my knowledge and belief, the facts presented in support of this allocation are true, correct, and complete.'"

Further, a governmental entity has record-keeping obligations to document Section 179D Deductions related to its buildings, and to properly reflect Section 179D Deductions as a reduction of basis. *See* IRS Notice 2008-40, Section 3.07 ("Tax Consequences to Owner of Public Building. The owner of the public building is not required to include any amount in income on account of the § 179D deduction allocated to the designer. The owner of the public building is, however, required to reduce the basis of the energy efficient commercial building property (or partially qualifying commercial building property) by the amount of the §179D deduction allocated.").

To secure allocation signatures, designers (and their intermediaries) have employed various questionable methods such as altering the required forms, omitting material facts and providing misleading guidance or misinformation, and circumventing government internal controls, oversight, and due diligence. Some designers (and their intermediaries) have solicited the required signature from unauthorized and/or uninformed government employees, potentially circumventing government representatives with financial reporting responsibilities and established authorities. Some designers and for-profit third parties have misrepresented that Section 179D allocations are somehow mandatory under the statute, in order to induce state agencies to make allocations. The result is that government agencies sometimes are confronted with potentially duplicative prior allocations that were improperly made without the knowledge of responsible financial officials of the agencies. Governmental entities have a duty to document allocations, apply basis reductions, and appoint/authorize a central signatory to prevent unauthorized or duplicate allocations.

Moreover, allocations without proper documentation, authorization, and/or compensation could potentially be in violation of state or local law. Many states have constitutional and/or statutory restrictions which actually prohibit a governmental entity from transferring anything of value to a private entity without receiving compensating value in return. Many government agencies have also taken the legal position that they may not sign the allocations at all because of anti-augmentation or anti-gift laws that might constitute granting a public benefit without receiving value. Arguably these provisions would make it illegal in many states for the agencies to allocate the benefit with no consideration.

In short, the allocation process imposes substantial responsibilities that a governmental entity must undertake. It is reasonable for governmental entities that elect to participate in

Section 179D allocations to obtain consideration for assuming these additional obligations, and as noted in many states it is even required that they do so[3].

(3) There Was No Congressional Intent to Preclude the Receipt of Value by Governmental Entities. Section 179D provides a rare opportunity for non-tax paying government entities to benefit from an IRS tax incentive. While government entities do not generally pay taxes, they may allocate the benefit to a tax-paying 'Designer' of the project and receive savings in return for that allocation. State and local laws often obligate the receipt of value by a government agency in return for granting this benefit. These savings can spur reinvestment and leverage recent improvements retroactively to add jobs, expand project scope, defray cost, and provide a private economic benefit to the Designer recipient.

A Designer may not claim the Section 179D allocation without a properly signed form executed under penalty of perjury from an authorized government representative. Unfortunately, some designers and their intermediaries have solicited waivers from their governmental customers to void the governmental entity's interest in the Deduction and unwittingly transfer the full value of the tax deduction to the Designer. To induce government employees into signing such allocation forms, Designers and their intermediaries have asserted that federal or state law mandates the governmental entity must sign the allocation form to a specific designer and/or have refused to allow the government agency to fulfill its responsibilities of proper due diligence, accounting or negotiating savings. Many states have constitutional and/or statutory restrictions that actually prohibit the governmental entity from transferring a previously uncontracted-for item of value to a private entity without a negotiated and properly transacted exchange of consideration.

In many instances, Section 179D allocations were not included in the original contract and no additional work was needed to qualify. Section 179D allocations were not originally negotiated, contemplated by, or included in the agreements for the original projects that qualify for the Section 179D Deduction. After executing a final construction contract, government entities are later being asked to sign an allocation that confers a value that was not contracted for and that is derived from a taxpayer funded project. Not only is it reasonable for a government entity to seek compensation in return, in order to defray cost in a similar manner to the deduction's benefit to commercial owners. But one could argue (as have numerous public finance attorneys) that it would be a failure of the government entity's fiduciary duty to fail to seek such compensation for this post-contractual term. Furthermore many state, local, and federal entities have laws and due diligence processes to cover the conveyance of values

[3] https://www.calstate.edu/CPDC/AE/memos/PB-17-006-FED-Energy-Policy-Tax-Credit.pdf

exceeding certain amounts and some designers circumvent these processes without an accounting and exchange of value.

The suggestion that an agency cannot share in the benefit of the tax allocation lacks any explicit statutory or legal analysis and disregards the plain meaning of the statute's language, not to mention the policy rationales favoring the return of value to taxpayers. However, the notion that tax dollars paid back to the state taxpayers is somehow improper demonstrates how aggressively some parties will argue that they should receive precious and scare tax dollars for free. Such claims distract from the real and positive greater good of the Section 179D program. Therefore, I would ask Congress to clarify and protect the rights and responsibility of government agencies to negotiate savings to taxpayers for taxpayer-funded investments in Section 179D-qualifying projects in government-owned buildings.

III. 179D is a Uniquely Successful Public Finance Program

Section 179D has achieved its legislative goal of incentivizing the investment in energy efficient buildings and reduced the net cost of those investments to the public and private building owners. Section 179D is a literal public-private partnership that provides a unique opportunity for non-taxpaying government entities and all state taxpayers to benefit from an IRS tax incentive. While government entities do not generally pay taxes, they may allocate the benefit to a taxpaying 'Designer' of the project and negotiate savings in return for that allocation. Similar programs exist with transferable utility rebates and other financial incentives that defray the cost to building owners of making qualified building investments. Those additional savings can spur reinvestment and leverage recent improvements retroactively to add jobs, reduce costs to the government, and still provide a private economic benefit to the designer recipient. Representative and notable examples include:

$ 1,377,682 savings to the University of Texas at Austin[4]

$ 1,135,327 savings to Miami-Dade County[5]

$ 400,000 savings to the Port Authority of NY&NJ at One World Trade Center[6]

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[4] https://utilities.utexas.edu/sites/uem.utexas.edu/files/179D-Press-Release-UT-Austin.pdf

[5] http://www.miamidade.gov/environment/releases/2014-07-16-chilled-water-system-savings.asp

[6] http://www.panynj.gov/press-room/press-item-print.cfm?headLine_id=2550

Despite being law for a decade, Section 179D is not well-understood. Like other energy-related tax incentive programs, it is subject to an almost yearly process of expiration and extension. The uncertainty whether the incentive will be renewed has caused it to be omitted from the original contracts for otherwise qualifying projects. This has resulted in confusion and uneven implementation of the program, and has created opportunities for fraud, waste, and abuse. Permanence in the program would allow public and private building owners to incorporate the incentive into their project financing and stretch taxpayer dollars further. The Section 179D model could easily be replicated in support of other sustainable energy investments via the Code.

In conclusion, I would propose the following recommendations as potential solutions for your consideration to continue and enhance the success of the 179D program:

1. Reconfirm the discretion afforded federal, state, and local government building owners to negotiate Section 179D savings in return for allocations.

2. Increase the maximum allocation and/or make Section 179D Permanent.

3. Address the 4+ story ASHRAE multi-family building definition to not preclude the vast majority of public housing stock, which have fewer than 4 stories[7].

4. Expand 179D allocations to include other non-taxpaying building owners that were not meant to be precluded by Congress such as REITs, nonprofits/private colleges, and tribal governments.

[7] The current law uses the ASHRAE 90.1-2001 and 2007 standards as the savings benchmark and the standard multifamily commercial building definition is 4 stories or greater. Thus, the vast majority of otherwise 179D qualifying public housing stock is excluded from the program.

EFFICIENCY ENERGY LLC GOVERNMENT AGENCY CLIENT LIST

MA
Boston Housing Authority
Commonwealth of Massachusetts

NY
Port Authority of New York and New Jersey
(EWR, LGA, JFK etc.)
New York City Housing Authority

PA
Philadelphia Housing Authority

MD
Harford County Schools
Frederick County (MD) Schools

DC
DC Public Schools
DC Dept of General Services

NC
Wake County NC
City of Raleigh NC
Wake County Technical College, NC
NC Global Transpark
NC Dept of Administration

FL
Florida State University System
(UCF, USF, FSU, UF)
City of Orlando
Orange County FL
Manatee County FL
Palm Beach County (and PBI Airport)
Broward County (and FLL Airport)
Miami-Dade County (and MIA Airport)
Miami-Dade Schools
Port Tampa

IL
Chicago Housing Authority
Chicago Public Schools

MN
University of Minnesota System

TX
University of Texas System (14 institutions)
University of Houston System (4 institutions)
Texas A&M System (11 institutions)
Tarrant County Community College (6 campuses)

CO
Cherry Creek Public School District No.5
Littleton Public Schools
Aurora Public Schools
Denver International Airport (DEN)

CA
Los Angeles Unified Schools
Los Angeles Community College District (9 Colleges)
Los Angeles County
University of California System (10 campuses)
California State University System(23 campuses)
San Francisco Housing Authority
Cajon Valley Unified Schools
Capistrano Unified School District

"Saving You Money While Saving Our Environment"

March 28, 2018

United States House of Representatives
Committee on Ways and Means - Subcommittee on Tax Policy
1102 Longworth House Office Building
Washington, DC 20515

Dear Members of the Tax Policy Subcommittee,

We write to urge your support for legislation reviving the (179d) Energy Efficient Commercial Building Deduction. This issue directly impacts my business and community as well as the many commercial, educational, and governmental customers we serve each year.

This deduction has been critically important to our business as it provides incentives to commercial customers to upgrade their properties. For owners of commercial buildings and schools, chasing a higher energy efficiency standard is not often a priority, given the tenant, not the owner, is usually responsible for the energy bills. Tax incentives like 179D help overcome this well-understood market failure by offsetting the upfront costs of enhancements that, in the long term, can cut energy costs and boost a building's market value.

Beginning as a true start-up in 2009, we have directly and indirectly created over 200 full-time jobs in our industry, and our cost-saving services have contributed to the preservation of over hundreds of teaching jobs across school districts in both Ohio and West Virginia. We are concerned that the elimination of the 179d deduction will seriously impede our company's growth and the growth of companies like ours, and negatively impact the financial performance of energy efficiency projects across the areas in which we do business.

Our company primarily serves Ohio public schools and local governments. The work we do therefore not only helps us to hire Ohioans, who then spend their money at other local businesses – it also helps the tax base of those communities, and aids schools to more directly help the students they are there to serve. My company's ability to assume the 179d deductions on their behalf has allowed us to reinvest in our business, hire Ohioans, and provide more cost-effective projects to our customers.

Moreover, according to this new analysis, by restoring 179D the U.S. could create as many as 77,000 jobs annually over the next decade and boost the economy by billions of dollars. Energy use in commercial buildings and schools accounts for a fifth of U.S. energy consumption, and 179D is one way we can encourage smarter use of those resources, as well as saved money on the part of our small businesses and consumers. The study from Regional Economic Models Inc. (REMI) confirms that reinstating this benefit makes good economic sense. Aside from creating jobs, the incentive could add $7.4 billion annually to the GDP while lowering utility bills and cutting pollution.

7950 S. County Road 25A | Tipp City, OH 45371 | P 937.877.1919 | F 937.877.1911 | energyoptusa.com

ENERGY
Optimizers, USA

"Saving You Money While Saving Our Environment"

Thank you for your time and consideration of this vital issue. Please do not hesitate to reach out with any questions.

Sincerely,

Gregrey Smith

Gregrey Smith
President/CEO
Energy Optimizers, USA
937-620-8753
gsmith@energyoptusa.com

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Comments for the Hearing Record

Submitted by Ted Michaels
President
Energy Recovery Council
To the U.S. House Committee on Ways and Means
Tax Policy Subcommittee

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
March 14, 2018

Summary of Comments:

- The Energy Recovery Council ("ERC") is the trade association for the U.S. waste-to-energy ("WTE") industry. WTE technology generates baseload, renewable electricity from municipal solid waste ("MSW") that would otherwise be put in a landfill. There are 76 WTE facilities operating in public-private partnerships with local governments across the United States.

Current Tax Law Puts WTE Technology at a Competitive Disadvantage in the Energy Marketplace:

- *The American Jobs Creation Act of 2004* (P.L. 108-357) made WTE technology eligible to claim the Section 45 renewable energy production tax credit ("PTC") at a ½ credit rate. However, as a practical matter, WTE facilities have been unable to utilize the PTC for new facility development because of the temporary nature of the incentive combined with the long project lead times involving local government procurement laws, and lengthy construction cycles associated with these job-creating infrastructure projects.

- On a levelized cost basis, WTE is a competitive technology that gives communities the opportunity to both produce resilient, baseload power and manage waste in a sustainable manner. The ability of other technologies to utilize the PTC and the Section 48 energy investment tax credit ("ITC") while WTE technology was effectively denied similar tax treatment under current law has had the practical impact of putting new and existing WTE facilities at a distinct competitive disadvantage in the energy marketplace.

- P.L. 114-113, the *Consolidated Appropriations Act of 2015,* extended and phased-down the 30 percent Section 48 ITC for qualifying solar technologies. For solar projects that begin construction from 2017 through 2019, the credit rate is 30%; 26% for 2020; and 22% for 2021. For 2022 and beyond, the credit rate for qualifying solar technologies is 10%.

- P.L. 115-123, the *Bipartisan Budget Act of 2018* extended the 30 percent ITC in the same manner as provided under current law for solar technology for fiber optic solar energy, fuel cell and qualified small wind energy. In addition, PL 115-123 extended the 10 percent ITC for combined heat and power, geothermal and qualified microturbines through 2021.

- As a matter of fundamental fairness, the tax code should provide equitable treatment to competing technologies. Providing WTE and other renewable baseload technologies[1] with the same tax treatment that has been afforded to solar, qualifying small wind and fuel cell technology under current law, as reflected in H.R. 4137, the *Renewable Electricity Tax Equalization Act,* introduced by U.S. Representative Elise Stefanik (R-NY), would be a simple way of accomplishing this objective and would provide parity for WTE and other baseload technologies. At a minimum, Congress should pass a short-term extension of the PTC for WTE and other baseload renewable technologies.

****

The Energy Recovery Council ("ERC") appreciates having the opportunity to submit written comments on the U.S. House Committee on Ways and Means Tax Policy Subcommittee hearing on recently expired tax provisions. Tax policy has and continues to play an integral role in promoting the domestic deployment and use of renewable energy technologies. Unfortunately, current law puts waste-to-energy ("WTE") technology at a pronounced competitive disadvantage in the marketplace.

About ERC:

ERC is the national trade association for companies and local governments engaged in the WTE sector. ERC's more than 50 members own and/or operate WTE facilities or provide goods and services to owners and operators of WTE facilities. There are 76 WTE facilities located in 21 states. Nearly half of the facilities are owned by local governments. These facilities have a nameplate electric capacity of 2,547 megawatts and generate approximately 14.5 billion kilowatt hours of clean, renewable energy per year by safely processing more approximately 30 million tons of municipal solid waste per year. In addition to generating electricity, 17 facilities also export steam to local users.

Waste-to-Energy Experience with Current Tax Law:

Overview of Current Law:

The American Jobs Creation Act of 2004 (P.L. 108-357) made WTE technology eligible to claim the Section 45 renewable energy production tax credit ("PTC"). Qualifying facilities are eligible to claim the PTC for 10 years after the facility is placed in service. Electricity derived from closed-loop biomass, geothermal and pre-2006 solar facilities qualify for a 2.4 cent per kilowatt-hour credit, which is indexed for inflation. Qualifying electricity produced from open-loop biomass, small irrigation, MSW (landfill gas and WTE); hydropower; and marine and hydrokinetic qualifies for a ½ credit rate, or 1.2 cents per kilowatt-hour, which is also indexed for inflation.

However, as a practical matter, WTE facilities have been unable to utilize the PTC for new facility development because of the temporary nature of the incentive combined with the long project lead times involving local government procurement laws, and lengthy construction cycles associated with these job-creating infrastructure projects.

H.R. 2029, the *Consolidated Appropriations Act of 2015* (P.L. 114-113), extended the Section 45 renewable energy production tax credit ("PTC") for qualifying non-wind facilities that commence

[1] Qualifying hydropower, biogas, and biomass projects.

construction prior to December 31, 2016.[2] The credit lapsed at the end of 2016, and was reinstated retroactively through 2017 as part of H.R. 1892, the *Bipartisan Budget Act of 2018* (P.L. 115-123), which was enacted on February 9, 2018.

In contrast, P.L. 114-113 also extended and phased-down the 30 percent Section 48 energy investment tax credit ("ITC") for qualifying solar technologies. For solar projects that begin construction from 2017 through 2019, the credit rate is 30%; 26% for 2020; and 22% for 2021. For 2022 and beyond, the credit rate for qualifying solar technologies is 10%.

The *Bipartisan Budget Act of 2018* subsequently provided fiber optic solar energy, qualified fuel cell and qualified small wind energy the same tax treatment afforded to solar projects. In addition, PL 115-123 extended the 10 percent ITC for combined heat and power, geothermal and qualified microturbines through 2021.

Competitiveness, Levelized Cost and Tax Policy:

The structure and function of current law clean energy tax incentives have had the practical effect of putting WTE companies at competitive disadvantage in the marketplace.

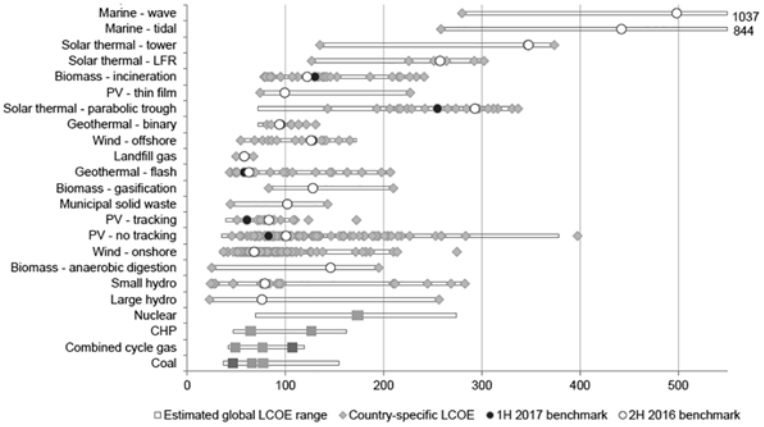
All things being equal, WTE is a competitive renewable energy technology. The U.S. Department of Energy's Energy Information Administration ("EIA") typically uses Levelized Cost ("LCOE") to measure the competitiveness of a particular energy resource. EIA defines LCOE as:

> *"Levelized cost is often cited as a convenient summary measure of the overall competitiveness of different generating technologies. Levelized cost represents the present value of the total cost of building and operating a generating plant over an assumed financial life and duty cycle, converted to equal annual payments and expressed in terms of real dollars to remove the impact of inflation. Levelized cost reflects overnight capital cost, fuel cost, fixed and variable O&M cost, financing costs, and an assumed utilization rate for each plant type."*

As the following chart demonstrates, WTE technology has a LCOE that is very competitive with other commercial sources of renewable electricity.

[2] PL 114-113 extended and phased-out the PTC for qualifying wind projects. For these facilities, the credit is reduced by 20 percent for projects that commence construction in 2017; 40 percent in 2018; and 60% in 2019. The PTC for wind projects is phased-out in 2020.

Global levelized costs of electricity, 1H 2017 ($/MWh)



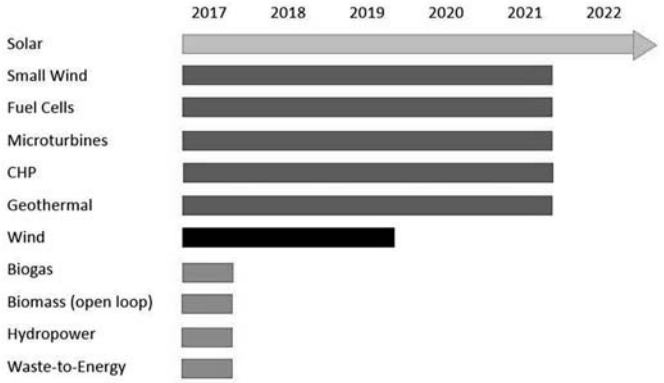
Source: Bloomberg New Energy Finance/Business Council for Sustainable Energy
Sustainable Energy in America 2018 Factbook.

Current law renewable electricity tax incentives, namely the PTC and ITC, have been highly effective in spurring the deployment of certain types of technology. The significant increase in the deployment of wind and solar projects is because are structured in a manner that readily allows these industries to effectively utilize the tax incentives.

By contrast, and despite being a technology with a competitive LCOE that produces reliable baseload electricity, there has been only one new greenfield WTE facility placed in service in the U.S. since 1995, along with several facility expansions. This greenfield project did not qualify for the PTC because it was publicly-owned, and other projects that might have qualified failed to advance beyond the development stage, in large part due to the structure of the PTC. Under current law, WTE projects are eligible for a PTC that is one half the value on a per kilowatt hour basis compared to the PTC that can be claimed by eligible wind, geothermal and closed-loop biomass projects. As a practical matter, however, the PTC has not been utilized by WTE facilities because of the short-term, intermittent nature of the credit's extension in law. The long lead times involving local government procurement laws, and lengthy construction cycles associated with these otherwise economically competitive projects made it impossible to meet the very short-term requirements to access the credit before it reached another expiration date. Additionally, any facility with local government ownership is precluded from claiming the PTC as it is not a tax-paying entity.

The ability of other technologies to utilize the PTC and ITC while WTE technology is effectively denied similar tax treatment under current law has the practical impact of putting WTE technology at a distinct competitive disadvantage in the energy marketplace. The expiration of the PTC for non-wind technologies at the end of 2016, combined with the extension of the PTC for wind technology and the ITC for solar and a host of additional technologies that qualify for the ITC, exacerbates the disparity.

Duration of Renewable Energy Tax Incentives:



1. Solar qualifies for 30% investment tax credit (ITC) through 2019: 26% ITC for 2020; 22% ITC for 2021; and permanent 10% ITC after 2021.
2. Small wind and fuel cells qualify for 30% ITC through 2019; 26% ITC for 2020; 22% ITC for 2021.
3. Mircroturbines, geothermal and combined heat and power qualify for 10% ITC through 2021.
4. Wind qualifies for 2.4 cents per kWh production tax credit (PTC), reduced by 40% in 2018 and 60% in 2019.
5. Biogas, open loop biomass, hydropower and waste-to-energy qualify for 1.2 cents per kWh PTC for 2017.

ERC Perspective on the Need for Tax Parity Among Renewable Energy Technologies:

As a matter of fundamental fairness, the tax code should provide equitable treatment to competing technologies. Providing WTE and other renewable baseload technologies[3] with the same tax treatment that has been afforded to solar, fuel cells, qualifying small wind and fuel cell technology under current law, as reflected in, H.R. 4137, the *Renewable Electricity Tax Equalization Act*, introduced by U.S. Representative Elise Stefanik (R-NY), would be a simple way of accomplishing this objective and would provide parity for WTE and other baseload technologies. At a minimum, Congress should pass a short-term extension of the PTC for WTE and other baseload renewable technologies.

In Conclusion:

Policy certainty is vital to the WTE industry. Due to the unique permitting, financing, engineering and municipal negotiations required to build a new WTE facility, it takes a minimum of five to eight years from project inception to place a WTE facility in service. These long project lead times combined with the limited and sporadic duration of federal tax incentives have impeded the WTE industry's ability to access the existing renewable energy tax incentives that have been widely available and utilized by other participants in the energy marketplace. Providing municipalities and private industry the certainty needed to incorporate the value of an incentive in a WTE project's financing model will significantly improve the prospects of projects coming to fruition, and in the process, level the competitive playing field for WTE projects.

[3] Qualifying hydropower, biogas, and biomass projects.

Testimony of Adam Simpson,
Co-Founder & Chief Product Officer,
EtaGen, Inc.

U.S. House of Representatives Committee on Ways and Means
Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
(March 14, 2018)

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee:

EtaGen, Inc. ("EtaGen") respectfully submits these comments for inclusion in the written record for the hearing entitled "Post Tax Reform Evaluation of Recently Expired Tax Provisions" held on March 14, 2018.

I. EtaGen Background

Founded in 2010, EtaGen is a privately-held company based in Menlo Park, California. Driven by its mission to bring affordable, reliable, and clean power to the world, EtaGen is in the process of commercializing a highly efficient power generation platform to provide customers affordable, reliable, and clean onsite electricity. With the first pilot projects expected in late-2018, EtaGen's "linear generator" technology will deliver high efficiencies and low lifecycle costs, thus delivering to our customers, continuous onsite power generation with unmatched economics.

II. Need to Update Section 48(c)—Investment Tax Credits

Congress recently extended a range of energy tax credits, including the Section 48(c) investment tax credit ("ITC") for fuel cells and other technologies, as part of the Bipartisan Budget Act of 2018. Fuel cells first began receiving a 30% ITC more than a decade ago, yet neither the minimum performance standards nor the definition of fuel cells have been updated to reflect technological advancements that have occurred during this lengthy period. Perpetual subsidization of the status quo will continue to stifle the very innovation that the ITC is intended to promote unless Congress takes immediate action to create parity for high-efficiency linear generators.

A linear generator converts a wide range of fuels (e.g., natural gas, biogas, propane, etc.) into onsite electricity, providing residential and commercial consumers with an unmatched combination of reliable, affordable, and clean power. Manufactured in the United States using American steel, linear generators:

- **Cut electricity costs.** Low capital and maintenance costs plus high efficiency enables linear generators to offer the highest economic returns of any distributed energy resource. Linear generators could save customers in the highest-cost states up to 45% on electricity bills, saving everyone money and enabling commercial customers to reinvest in their own businesses.

- **Increase clean natural gas use.** Linear generators convert natural gas into electricity with near-zero emissions. As a result, even in jurisdictions with the most stringent emissions standards, linear generators will help ensure natural gas continues to be a viable, low-cost energy source. The American Gas Association has endorsed tax parity for linear generators.

- **Enhance reliability and resiliency.** Linear generators provide resilient baseload power and eliminate the need for expensive, unreliable, and dirty diesel backup generators. This makes the technology especially appealing for critical infrastructure, military operations, and in regions that are remote or prone to extreme weather events.

The linear generator industry is poised to bring the first commercial products to market in late-2018, with a major utility and large retailers signed up for the first projects. However, recent resurrection of the Sec. 48(c) ITC poses significant risk to this promising emerging technology. Linear generators are a fuel cell equivalent that did not exist when Sec. 48(c) was added to the tax code. Absent a clarification to the existing fuel cell definition, linear generators cannot qualify for the tax credits under Sec. 48(c) despite far exceeding the performance requirements in the definition as well as meeting or exceeding the performance of eligible fuel cells.

Linear generators, convert fuel into electricity with the same efficiency and emissions as many of the highest performing legacy fuel cells on the market. Thus, to avoid market distortions and unnecessarily picking "winners" and "losers," Congress should make a clarification to the Sec. 48(c) definition of a fuel cell to include linear generators as a fuel cell equivalent. New York State has already done so (*see* Part WW of Chapter 60 of the Laws of 2016).[1]

For further information please contact: Adam Simpson (adam.simpson@etagen.com) or Pierson Stoecklein (pierson.stoecklein@etagen.com).

[1] https://www.tax.ny.gov/pdf/memos/sales/m16_3s.pdf.

Freedom CNG®
New power for the road ahead

Date: March 14, 2018
To: Members of the Committee of Ways and Means
From: Freedom CNG

America is leading the world in natural gas production. The oil and natural gas industry drives $100's of billions of dollars into the economy. The natural gas industry has been focused on environmental stewardship and methane leakage. **Methane emissions per unit of natural gas produced have declined continuously since 1990, down -46%, with production up 52%: in the pipeline distribution segment during the same period down -75%. The EPA *Inventory* reveals that the natural gas distribution systems have a small emissions footprint shaped by an ongoing declining trend.** (American Gas Association Report May 2017)

The Alternative Fuels Tax Credit (AFTC) provides a credit, of $0.50, per gasoline gallon equivalent (GGE) of certain transportation fuels, including natural gas, liquefied petroleum gas, P Series Fuels, liquefied hydrogen and others. Extending the AFTC for five years would allow natural gas technology adopters and fleet customers to plan long-term investment strategies and provide business certainty and would provide a significant contribution to our nation's economic growth.

Almost 40 percent of Americans live in communities with exceedingly poor air quality according to the U.S. Environmental Protection Agency. Exposure to such conditions increases the risk of asthma, lung cancer, heart disease, and premature death. The risk is increasing every year that we do not promote the change to cleaner burning fuels. It is either do something now in regard to on road transportation or we will pay more for healthcare.

Heavy-duty vehicles are the fastest growing segment of U.S. transportation in terms of energy use and emissions. These trucks are major emitters of nitrogen oxide (NOx), diesel particulate matter, and greenhouse gases – the emissions that greatly contribute to poor air quality. While heavy-duty vehicles total 7 percent of all vehicles on our roads, they account for 33 percent of America's smog-precursor emissions (NOx) from mobile sources and 20 percent of all transportation-related greenhouse gases. Here in the Greater Houston Metro area there are over 100,000 local delivery, and drayage trucks producing massive amounts of smog annually. With the population growth and increased commerce in the region, the only viable way to clean up the air quality issue is to use cleaner burning fuel.

An obvious solution is the promotion and adoption of alternative fuels, which burn cleaner, and is better for the environment and the health of our neighbors. If we want cleaner air we need cleaner trucks. Heavy-duty vehicles powered by natural gas are the cleanest, most

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proven commercially available solutions to this growing health concern. Ultra-low NOx engines are powered by natural gas and are 90 percent cleaner than the strictest federal standards. Those powered by renewable natural gas (RNG) are upwards of 115 percent cleaner.

The extension of this important tax credit would further incentivize the transition of aging dirty diesel fleets to cleaner vehicles using natural gas. This could mean the increased deployment of an estimated 58,000 natural gas vehicles (NGVs); equal to eliminating over 1.2 million cars from the area. This would result in the reduction of an estimated 200 million metric tons of greenhouse gas emissions, 82,300 fewer metric tons of NOx emissions, and $1.0 billion in avoided public health costs.

Furthermore, extending the AFTC for a five-year period for natural gas would spur $9.9 billion in economic growth and $5.8 billion in additional private sector investment in infrastructure and equipment and create 62,000 new middle-class jobs over a 10-year period. The AFTC would increase energy independence by decreasing consumption of petroleum-based fuels, and stimulating U.S. manufacturing. The extension of this vital industry credit has support from a broad array of organizations representing users, retailers, customers, fleet managers, utilities, and producers of clean alternative transportation fuels.

Texas by itself is the third largest natural gas producer in the world. The fact that the state has failed to use its own resources to bolster its own industry is a discredit to those who work to make a livelihood in those fields. Natural gas is a clean, abundant, domestic fuel source; and these are real public health outcomes. Utilizing natural gas as a transportation fuel provides numerous economic and national security benefits. Extending the AFTC would promote increased private-sector investment in infrastructure and equipment, which leads to more jobs and economic output.

Congressman Brady, thank you for your consideration of this request. We look forward to sharing more with you regarding this important clean air incentive.

Sincerely,
Eddie Murray
Business Development
Freedom CNG

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STATEMENT FOR THE RECORD

SUBMITTED TO THE

House Ways & Means
Tax Policy Subcommittee

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 14, 2018

Submitted by Washington Council Ernst & Young on behalf of its clients

A member firm of Ernst & Young Global Limited

Introduction

Washington Council Ernst & Young ("WCEY"), on behalf of its clients, very much appreciates the interest of the House Ways and Means Tax Policy Subcommittee in reviewing the policies underlying certain expired and expiring tax provisions in light of the massive tax overhaul legislation enacted late last year. As part of this review, we wish to comment on the so-called "CFC Look-thru Rule" under Section[1] 954(c)(6). While the Tax Cuts and Jobs Act instituted a new exemption system for dividends from foreign subsidiaries (often referred to as a "territorial" system), it left in place the immediate US taxation of so-called "Subpart F" foreign income, including certain dividends, rents, interest, royalties and other categories of passive income (or "personal foreign holding company income"). The CFC Look-thru Rule is an exception to the US taxation of personal holding company income, and it applies when a foreign subsidiary receives payments (such as dividends) from a lower-tier foreign subsidiary where the source of the payments is active business income of the lower-tier foreign subsidiary that is not otherwise subject to the Subpart F rules. The CFC Look-thru Rule is scheduled to expire after 2019, and the Tax Cuts and Jobs Act neither extended that date nor made the CFC Look-thru Rule permanent.

While it may initially seem that the CFC Look-thru Rule is no longer necessary or relevant in an international tax system that primarily exempts active foreign business income, this is not the case because the system implemented by the legislation will continue to tax personal foreign holding company income. Without the CFC Look-thru Rule, active foreign business income of US companies earned through lower-tier foreign subsidiaries will be subjected to US taxation if distributed or otherwise paid to a higher-tier foreign subsidiary—contrary to the fundamental purpose of the new US international tax system. Therefore, the need for the CFC Look-thru rule remains and we urge Congress to make it permanent.

Background

Under Section 951(a)(1)(A), a US shareholder in a CFC must include its pro rata share of any "Subpart F income" in its US gross income for such year. Included in the definition of Subpart F income contained in Section 952(a)(2) is "foreign personal holding company income" (FPHCI). FPHCI includes, but is not limited to certain types of passive income (e.g., dividends, interest, royalties, rents, and annuities).

In 2006, Congress enacted an exception to Subpart F income, the CFC Look-thru Rule, under Section 954(c)(6). Generally, under this rule, payments of dividends, interest, rents, and royalties from one CFC to a related CFC, that are attributable to non Subpart F income is not treated as passive income (i.e., FPHCI subject to current U.S. taxation under Subpart F) for taxable years beginning after December 31, 2005. However, this provision was originally enacted on a temporary basis and has relied on repeated extensions by Congress over the years. The most recent extension, as part of the PATH Act of 2015, only extends the CFC Look-thru Rule through December 31, 2019.

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[1] All references to "Section" are references to the Internal Revenue Code of 1986, as amended by An Act to provide for reconciliation pursuant to title II and V on the concurrent resolution on the budget for fiscal year 2018, P.L. 115-97 (Informally known as the 'Tax Cuts and Jobs Act' (the "TCJA")).

It is worth noting that both the House and Senate versions of the TCJA included proposals to make the CFC Look-thru Rule permanent. However, the final bill did not include permanency apparently due to revenue concerns and because it was part of a budget reconciliation bill.

Purpose for CFC Look-thru Rule

The purpose for the CFC Look-thru Rule is to allow US corporations to deploy their capital outside the United States in a manner that aligns the funding needs of their global business without undue and uncompetitive US tax costs. Congress enacted the CFC Look-thru Rule because it recognized that isolating individual businesses and their funding needs from the global nature of a world-wide business enterprise is unduly restrictive and anti-competitive. Most corporations establish centralized treasury functions to ensure adequate and efficient capitalization of their global businesses, recognizing that businesses cannot be competitive and efficient if they are treated as isolated country-by-country units that must fund themselves independently.

To be clear, this rule is not a multinational tax avoidance scheme or a loophole. For example, assume a US corporation has a profitable controlled foreign corporation (CFC) in China that generates excess capital while its CFC in the UK is in need of additional funding. The CFC Look-thru rule allows the CFC in China to loan or dividend the excess capital to the UK CFC to adequately fund its business operations without incurring incremental US taxes. Without the CFC Look-thru Rule, US corporations must devise other means to fund businesses, including borrowing in the United States to adequately fund their CFCs (and reducing their US tax liability in the process). This process is inefficient, adds unneeded complexity, and many times reduces revenue to the US fisc.

The Need for Permanency

For the following reasons, Congress should make the CFC Look-thru Rule permanent:

(1) The new territorial system of international taxation enacted by the TCJA will not work properly without the CFC Look-thru Rule.

- The new territorial system aims to incentivize companies to repatriate foreign earnings by providing US corporations with a 100% exemption on the foreign-source portion of dividends received from a foreign corporation in which the US corporation owns at least a 10% stake.

- If the CFC Look-thru Rule were not extended, the incentive of the 100% exemption provided by the TCJA would be undermined. This is because dividends received by a foreign corporation from another related CFC would create a Subpart F income inclusion for the US parent, resulting in current US taxation rather than exemption for those earnings.

(2) The policy rationale that supported the enactment and continued extension of the CFC Look-thru Rule remains significant. The CFC Look-thru Rule makes US companies more competitive in foreign markets by allowing them to redeploy capital to its most efficient use.

- The House Ways and Means Committee, which made the CFC Look-thru Rule permanent as part of its version of the TCJA, gave the following rationale for doing so in its Committee Report on the TCJA:

> "As was the case when section 954(c)(6) was originally enacted, today most countries allow their companies to redeploy active foreign earnings with no additional tax burden. The Committee believes that this provision will make U.S. companies and U.S. workers more competitive with respect to such countries. By allowing U.S. companies to reinvest their active foreign earnings where they are most needed without incurring additional tax that companies based in many other countries never incur, the Committee believes that the provision will continue to enable U.S. companies to make more sales overseas and thus produce more goods in the U.S."[2]

(3) The CFC Look-thru Rule has bipartisan support.

- Since the introduction of CFC Look-thru legislation in 2005, several bills, including four bipartisan bills, have been introduced to make permanent the CFC Look-thru Rule.[3]

(4) The CFC Look-thru Rule has bicameral support.

- As noted above, the most recent attempt to make the rule permanent was contained in both the House and Senate versions of the TCJA, which was stricken during Conference. It is our understanding that the provision was only stricken in Conference in an attempt to address revenue issues and to reflect a desire by conferees to leave all "tax extenders" to future legislation. As such, the policy rationale behind making the CFC Look-thru Rule permanent remains true and well supported.

Conclusion

In light of the enactment of a territorial tax system in the TCJA, we encourage Congress to make the CFC Look-thru Rule permanent as part of the first appropriate legislative vehicle. We appreciate the opportunity to submit this statement to the Tax Policy Subcommittee.

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[2] H.R. Rep No. 115-409, at 386 (Nov. 13, 2017).

[3] The four bipartisan bills introduced were H.R. 1430, 114th Congress (Boustany / Kind); H.R. 4464, 113th Congress (Boustany / Kind); H.R. 2735 (Boustany / Kind); and S. 2380, Sec. 3, 110th Congress (Smith / Cantwell).

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March 28, 2018

The Honorable Kevin Brady
Chairman
U.S. House Committee on Ways and Means
Washington, DC 20515

The Honorable Richard Neal
Ranking Democratic Member
U.S. House Committee on Ways and Means
Washington, DC 20515

Dear Chairman Brady and Ranking Member Neal:

Thank you for the opportunity to submit comments regarding expired tax provisions that were covered in a hearing earlier this month. We appreciate the opportunity to provide comments on a topic covered at the hearing, specifically the biofuels-related tax provisions that are currently expired.

The members of our association were broadly very pleased with the approach and outcome of the tax reform bill passed by Congress last December. They view it as a pro growth, forward looking reform effort aimed at making American manufacturing more competitive in a global marketplace. Growth Energy's biofuel manufacturing members include close to 90 biorefineries spread across the country. Giving them a more stable tax structure from which to compete is helpful in a competitive biofuel marketplace – one where the United States is a global leader.

The one item they do wish would've been addressed was the expiring tax provisions that were the subject of the hearing two weeks ago. In particular, our members strongly support an extension of the second generation biofuel producer tax credit, the accompanying depreciation provision, and a biodiesel tax incentive. They support these provisions because they provide business certainty around investments in innovative technologies to produce more American biofuels. Second generation biofuels, like those from corn stover, woody biomass, grasses, municipal solid waste, and corn kernel fiber represent great opportunities to further diversify our nation's biofuels feedstocks. These fuels represent a sizeable reduction in emissions across the board, and provide another energy option for American consumers. These will also be part of an effort to further North American energy dominance by continuing our lead in biofuels manufacturing.

While we would prefer a long-term extension, and extension of these provisions for at least the current calendar year is needed to avoid marketplace disruption. We welcome a further conversation about how these provisions – particularly the second generation producer credit – drives and fosters innovation that will improve the American energy outlook and America's agricultural economy.

I formally ask that the committee extend these three provisions for as long as possible, and welcome any questions or discussion around the provisions.

Sincerely,

Emily Skor, CEO
Growth Energy

HEXAGON

March 21, 2018

Hon. Vern Buchanan, Chairman
U.S. House Ways & Means Committee
Subcommittee on Tax Policy

RE: Request for Five-Year Extension of Alternative Fuels Tax Credit (AFTC)

Dear Chairman Buchanan:

Hexagon Lincoln is a global trailblazer developing innovative energy systems for a variety of applications with all-composite Type 4 cylinders. Hexagon develops expert solutions for some of the world's most challenging transportation challenges with 148 employees based in Lincoln, Nebraska; Heath, Ohio; and Taneytown, Maryland. Hexagon is a world market leader producing natural gas fuel tanks for light-duty and heavy-duty vehicles as well as large mobile pipeline solutions used to fuel engines for trains, marine vessels and mining equipment. These natural gas fuel tanks are sold and utilized with a wide variety of industries around the world.

Hexagon Lincoln is a member of NGVAmerica. With other member companies, we support their recent testimony and activities towards the goal of a five-year extension of the Alternative Fuels Tax Credit (AFTC) and the Alternative Fuel Vehicle Refueling Infrastructure Property Credit. A five-year extension will offer fleets the certainty and consistency they need to realize a return on investment and continue momentum for fueling with American natural gas or biogas. Past extensions of one- or two-years with full or partial retroactivity fails to offer the full power of the incentive's potential.

This letter reinforces information shared by NGVAmerica to further substantiate the need for a five-year extension of the Alternative Fuels Tax Credit (AFTC) and the Alternative Fuel Vehicle Refueling Infrastructure Property Credit by answering two key departing questions posed last week.

Participants were asked "Why industries need tax credits moving forward after recent comprehensive tax reform?" For the natural gas transportation sector, the answer to this question is twofold:

First, remaining federal incentives for alternative fuels are not equal. Even after reform, federal tax code still incentivizes certain investments over others.

While comprehensive tax reform allows companies to lower their overall tax liability and have more money to make new investments, these improvements do not alter the calculus that fleet operators use when deciding what drivetrains to employ. Such decisions are ultimately driven by cost and impact to a company's bottom line. Natural gas lacks the level of federal tax treatment other like fuels receive, leaving it with a distinctive competitive disadvantage.

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Consider the disparity in federal vehicle purchase incentives:

	Electric	Fuel Cell	Natural Gas
Credit Value	$7,500 per vehicle under 10,000 pounds	Up to $40,000 per vehicle depending on size of vehicle	N/A
Duration	Originally passed in 2005. Extended and expanded since. **Credit has no sunset** but currently capped at 200,000 in vehicle sales/manufacturer.	Originally passed in 2005. Sunset in 2014. **Recently extended through 12/31/17** in Bipartisan Budget Act of 2018	Originally passed in 2005. Sunset in 2010. **Never extended**
Cost to Treasury[1]	$1.2 billion per manufacturer before phase down. **$4.4 billion over 5 years**	**$4 million**	N/A

Consider the disparity in federal fuel purchase incentives:

	Biodiesel	Natural Gas/Propane
Credit Value	$1.00 - $1.10	$.50
Duration	Expired 12/31/17	Expired 12/31/17
Cost to Treasury[2]	$3.25 billion annually	$555 million annually

Natural gas faces an additional challenge when competing against electricity since electricity used for transportation purposes currently is not subject to the federal excise tax on motor fuels. And state laws mandating the use of specific powertrains offer added hurdles for natural gas vehicle expansion.

Second, the Alternative Fuels Tax Credit is different from other federal incentives. As a consumer-based credit, AFTC is bottom up. Savings are passed to customers through rebates, lower pricing, or payments in the case of customers that own their own fueling. This lower cost for refueling is crucial to customers who operate natural gas fleets and to those considering switching their fleets to natural gas. Most importantly:

- As tax-exempt entities, municipalities, school districts, airport authorities, and other publicly-owned natural gas fleet operators do not benefit from comprehensive tax reform. But they are eligible to participate in the AFTC. Failing to renew this credit raises their overall fuel costs, and, in effect, punishes them for making the switch to clean, domestic natural gas; and

- For smaller fleet operators, lower fuel prices attract more customers and enable them to invest more of their own capital in new, cleaner vehicles and fueling infrastructure. The ability to pass along this credit to customers ensures their benefit in utilizing natural gas, rather than larger corporate fleets who

[1] "Estimates for Federal Tax Expenditures for Fiscal Years 2016-2020," Joint Committee on Taxation, January 30, 2017.
[2] Ibid.

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benefit disproportionately from comprehensive tax reform.

The second question repeated to all hearing witnesses was, "What other incentives would you be willing to give up in exchange for and extension of your tax credit?" For the natural gas vehicle industry, our answer is simple. We have nothing to give up. The AFTC and the alternative fueling infrastructure credit are the only real federal incentives our industry has as we compete with other alternative technologies with much more favorable federal treatment.

Natural gas vehicle technology has made remarkable strides despite lacking the overwhelming research and development investment the federal government has, and continues to make, in competing technologies. NGVs are not asking for a handout, we are asking for an opportunity to compete on an even playing field.

The two biggest challenges to adoption of natural gas as a transportation fuel remain lopsided treatment for competing technologies and low gasoline and diesel prices. While this Subcommittee can do little to prevent the changing price of gasoline or diesel, it can, and should, work to insulate American consumers from future oil price volatility. It is this volatility that drives the need to incentivize more deployment of natural gas vehicles. Further, as detailed last week, if we as a nation want cleaner air, we need cleaner trucks. And the Ultra-Low NOx natural gas engine is the cleanest, proven commercially-ready-right-now heavy- and medium-duty truck engine in the world.

Thank you again for your thoughtful consideration and support of the five-year extension of the Alternative Fuels Tax Credit (AFTC) and the Alternative Fuel Vehicle Refueling Infrastructure Property Credit.

Sincerely,

Jack Schimenti
Executive Vice President

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SUBMISSION FOR THE RECORD BY
GRETCHEN L. HOLLOWAY
SENIOR VICE PRESIDENT AND CHIEF FINANCIAL OFFICER
ITC HOLDINGS CORP.

HEARING ON POST TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS

HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TAX POLICY
MARCH 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee:

ITC Holdings Corp. (ITC) appreciates the opportunity to submit this testimony in support of extending the tax rule for sales or dispositions of transmission property to implement Federal Energy Regulatory Commission (FERC) or state electricity restructuring policy. As the largest independent electricity transmission company in the country, ITC owns and operates electric transmission assets in Michigan's Lower Peninsula and portions of Iowa, Minnesota, Illinois, Missouri, Kansas, and Oklahoma. As we have no geographic constraints, ITC also focuses on new areas where significant transmission system improvements are needed. ITC is proud of our record of investing in the grid to improve reliability, expand access to markets, lower the costs of delivered energy, and allow diverse new generating resources to interconnect to our transmission systems.

Background on Expired Provision for Electric Transmission Sales

Expired section 451(k) [section 451(i) prior to the Tax Cuts and Jobs Act of 2017] permits taxpayers to elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period beginning in the year of sale if the amount realized from the sale is used to purchase exempt utility property within the applicable period (the "reinvestment property").

A qualifying electric transmission transaction is the sale or other disposition of property used by a qualified electric utility to an independent transmission company prior to January 1, 2018. A qualified electric utility is defined as an electric utility, which as of the date of the qualifying electric transmission transaction, is vertically integrated in that it is both (1) a transmitting utility (as defined in the Federal Power Act) with respect to the transmission facilities to which the election applies, and (2) an electric utility (as defined in the Federal Power Act).

In general, an independent transmission company is defined as: (1) an independent transmission provider approved by the Federal Energy Regulatory Commission ("FERC"); (2) a person (i) who the FERC determines under section 203 of the Federal Power Act (or by declaratory order) is not a "market participant" and (ii) whose transmission facilities are placed under the operational control of a FERC-approved independent transmission provider no later than four years after the close of the taxable year in which the transaction occurs; or (3) in the case of facilities subject to the jurisdiction of the Public Utility Commission of Texas, (i) a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization, or (ii) a political subdivision, or affiliate thereof, whose transmission facilities are under the operational control of an organization described in (i).

Exempt utility property is defined as: (1) property used in the trade or business of (i) generating, transmitting, distributing, or selling electricity or (ii) producing, transmitting, distributing, or selling natural gas; or (2) stock in a controlled corporation whose principal trade or business consists of the activities described in (1). Exempt utility property does not include any property that is located outside of the United States. If a taxpayer is a member of an affiliated group of corporations filing a consolidated return, the reinvestment property may be purchased by any member of the affiliated group (in lieu of the taxpayer).

The provision for gain recognition from qualifying electric transmission transactions was originally enacted in 2004 on a temporary basis but has been extended by Congress several times. The most recent extension was enacted in February and extended the provision through 2017.

Continued Need for the Provision

Extending the transmission property sale tax rule beyond the current December 31, 2017, expiration date is critical to maintaining the incentive for owners of electric transmission assets to sell these assets to independent transmission companies. ITC supports a permanent extension of the provision.

Independent ownership of electric transmission is good for electricity markets and consumers. FERC and other regulatory and government bodies view independent electric transmission ownership favorably because it enhances asset management and provides greater incentive for innovating services, assuring adequate transmission capacity to serve growing energy markets. It also furthers the objectives for expanding independent transmission ownership and developing additional transmission capacity as set forth in the *Energy Policy Act of 2005*.

With the transfer and sale of transmission property to a stand-alone transmission company, the stand-alone transmission company can focus solely on the operation, maintenance and enhancement of the transmission system, which ultimately benefits the entire U.S. grid and the consumers that depend on reliable electric service.

However, the potential tax liability associated with the sale of these assets imposes a significant disincentive to selling. The tax liability associated with sales is especially high because these assets are often fully depreciated. Thus, although the sale of transmission assets by an integrated utility may make complete sense from a business strategy and economic return standpoint absent tax considerations, the significant tax liability resulting from such a sale may be enough to discourage the sale.

The option of paying tax liability associated with such a sale over an eight-year period, pursuant to section 451(k), significantly mitigates the impact of this tax burden, enough to effect sales that might not otherwise occur.

Budget Impact

The Joint Committee on Taxation has estimated the cost of a permanent extension of the provision at $10 million over the period 2018-2027. See JCX-5-18 (March 9, 2018).

Conclusion

ITC thanks the Tax Policy Subcommittee for the opportunity to submit this statement in support of extending the transmission property sale rule.

KENTUCKY HIGHLANDS EMPOWERMENT ZONE
Clinton, Jackson and Wayne Counties, Kentucky
1st Round Rural Empowerment Zone
Lead Entity: Kentucky Highlands Investment Corporation

Empowerment Zone designations and the accompanying Empowerment Zone Tax Credit helped stabilize three rural Kentucky counties in a region facing economic headwinds. The Kentucky Highlands Empowerment Zone (KHEZ) was designated as a Rural Empowerment Zone on December 21, 1994. The original 10-year designation included Clinton, Jackson, and Wayne County and there was a 5-year extension approved through December 31, 2009. As a first-round Empowerment Zone, there was $40 million allocated for economic and community development initiatives as well as federal tax credits for businesses within the Zone area. Kentucky Highlands Investment Corporation, a non-profit founded in 1968 and based in London, Kentucky, implemented the project.

The economic data is stark, and it shows the importance of the KHEZ to the region. For example, the population of the three KHEZ counties has increased while the rest of Appalachia Kentucky has seen significant outmigration. Beyond maintaining population, the KHEZ counties have also defied regional trends in unemployment and wage growth, closely tracking the economy of the rest of Kentucky while most rural areas of the state fell further behind, particularly in Appalachia. While the KHEZ still lags behind the statewide averages in most areas, they are not losing ground. Much of this is due directly to the presence of the Empowerment Zone Tax Credits for businesses, allowing firms to stay competitive and continue to employ residents.

Kentucky Highlands used proceeds from its first round EZ grant award to finance 67 projects, with an eye on projects that could demonstrate long-term sustainability. All projects remain active for the public benefit today and have provided residents with resources most take for granted, including ambulance/911 services and potable water. Of particular note, the KHEZ allocated $13 million for a revolving loan fund (RLF) to support new and expanding business in the Zone. Through March 1, 2018, this RLF has invested $59,932,115 as financing for KHEZ business ventures. It has turned over 4.5 times. The companies financed by the KHEZ have created 3,888 new jobs which are currently in place. Total losses to the Fund have been $484,005, or less than 1%. A vital component of these companies success has been the Empowerment Zone Tax Credit. The advantages provided by the tax credit have helped offset the limitations in doing business in one of the poorest areas of Appalachia. The companies financed through the Kentucky Highlands Empowerment Zone RLF continue in operation through a combination of the KHEZ financing and the benefits provided by the Empowerment Zone Tax Credit.

The Empowerment Zone Tax Credit is a small, targeted incentive that has proven invaluable to this very rural, sometimes forgotten, region.

Kentucky Highlands Empowerment Zone
Statistics

	Population						
	1990	1995	2000	2005	2010	2015	2016
Clinton	9,135	9,354	9,634	24,146	10,272	10,174	10,177
Jackson	11,955	12,915	13,495	13,618	13,494	13,352	13,368
Wayne	17,468	18,646	19,923	19,923	20,813	20,464	20,453
Total	38,558	40,915	43,052	57,687	44,579	43,990	43,998
Kentucky	3,686,891	3,887,427	4,041,726	4,173,405	4,339,367	4,425,092	4,436,974

* US Census Bureau and Kentucky State Data Center

	Median Household Income					
	1990	2000	2005	2010	2015	2016
Clinton	$ 14,627	$ 19,599	$ 23,282	$ 27,133	$ 29,178	$ 29,872
Jackson	14,767	20,384	24,120	26,462	30,565	30,884
Wayne	15,967	20,830	24,040	26,683	29,826	30,260
Average	15,120	20,271	23,814	26,759	29,856	30,339
Kentucky	22,604	33,549	37,377	40,089	45,178	44,811

* US Census Bureau

	Weekly Wages - All Industries					
	1995	2000	2005	2010	2015	2016
Clinton	$ 279	$ 338	$ 440	$ 517	$ 567	$ 570
Jackson	333	376	450	539	616	606
Wayne	296	373	448	513	580	596
Average	302	362	446	523	591	591
Kentucky	447	551	647	736	834	839

* Kentucky Labor Force Estimates

	Unemployment Rate						
	1990	1995	2000	2005	2010	2015	2016
Clinton	10.0%	8.2%	5.0%	8.5%	9.6%	8.3%	7.3%
Jackson	10.4%	8.2%	5.6%	9.7%	17.1%	8.6%	7.5%
Wayne	8.3%	6.7%	5.5%	8.1%	13.1%	8.1%	7.3%
Average	9.6%	7.7%	5.4%	8.8%	13.3%	8.3%	7.4%
Kentucky	5.8%	5.4%	4.2%	6.1%	10.5%	5.4%	5.0%

* KY Local Area Unemployment Statistics Program

	Average Pay Per Employee					
	1995	2000	2005	2010	2014	2015
Clinton	$ 15,714	$ 16,338	$ 23,040	$ 26,909	$ 26,027	$ 27,218
Jackson	14,258	18,047	22,120	28,587	26,693	26,393
Wayne	14,087	18,844	21,014	23,094	27,991	27,835
Average	14,686	17,743	22,058	26,197	26,904	27,149
Kentucky	17,670	27,240	31,689	35,864	39,183	40,356

* County Business Patterns

	Bank Deposits (000)					
	1995	2000	2005	2010	2015	2016
Clinton	$ 86,083	$ 101,000	$ 121,000	$ 163,961	$ 170,000	$ 170,128
Jackson	54,349	85,000	106,000	122,000	109,000	107,261
Wayne	137,580	205,000	246,000	348,000	294,000	294,445
Total	278,012	391,000	473,000	633,961	573,000	571,834

* FDIC - Summary of Deposits

	Povery Rate					
	1995	2000	2005	2010	2015	2016
Clinton	33.9%	22.8%	27.0%	25.4%	26.4%	25.0%
Jackson	34.8%	24.2%	27.9%	30.2%	31.2%	31.9%
Wayne	32.0%	23.4%	26.5%	28.3%	28.0%	26.9%
Average	33.6%	23.5%	27.1%	28.0%	28.5%	27.9%
Kentucky	17.9%	13.9%	16.9%	18.9%	18.3%	18.2%

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VIA ELECTRONIC FILING

March 28, 2018

The Honorable Kevin Brady, Chairman
The Honorable Vern Buchanan, Tax Policy Subcommittee Chairman
The Honorable Richard Neal, Ranking Member
The Honorable Lloyd Doggett, Tax Policy Subcommittee Ranking Member

RE: Biodiesel and Alternative Fuel Mixture Tax Credits

Dear Chairmen and Ranking Members:

Thank you for the opportunity to provide a written statement for the Tax Policy Subcommittee's hearing "Post Tax Reform Evaluation of Recently Expired Tax Provisions." Kern Oil & Refining Co. (Kern) respectfully requests your support to extend the Biodiesel Mixture (Blenders) Excise Tax Credit, Tax Code, § 6426(c), and the Alternative Fuel Mixture Tax Credit, Tax Code, § 6426(e), both of which expired at the end of 2017.

The Biodiesel Blenders and Alternative Fuel Mixture Tax Credits advance important Federal Renewable Fuel Standard (RFS) and California Low Carbon Fuel Standard policy goals by incentivizing the continued use and expansion of renewable fuels in our national (and state) motor vehicle fuel portfolio. Under RFS, Congress mandates the blending of renewable fuels not commercially viable on their own merits. These Tax Credits provide obligated parties like Kern a pathway to RFS compliance through economic biodiesel blending and renewable diesel production. Even with the credits, Kern's renewable fuel production and blending falls short, requiring Kern to purchase Renewable Identification Numbers (RINs) to satisfy its RFS obligation.

The ongoing uncertainty of credit availability and pricing continues to impose operational challenges – affecting manufacturing and processing decisions as well as resource allocation. To reduce uncertainty, Kern strongly supports a long-term or even permanent extension and/or a phase-out of the credits. A fixed longer term credit expiration will enable businesses like Kern to plan, invest and adjust to regulatory mandates.

The recently enacted tax reform bill does not alter the RFS dynamic or provide a substitute for these tax credits. As evidenced by the recent bankruptcy filing of Philadelphia Energy Solutions, lower federal income tax rates only benefit a business with taxable income. The tax credits themselves can result in additional taxable income; consequently, the tax credits effectuate a smaller benefit for profitable refiners and a larger benefit for unprofitable refiners.

Kern is a small, privately-owned petroleum refiner in Bakersfield, California, and the only producer of gasoline and diesel fuel between San Francisco and Los Angeles. Kern has operated for over 70 years and employs approximately 135 people. In addition to California Air Resources Board (CARB) Reformulated Gasoline and CARB Ultra-Low Sulfur Diesel Fuel, Kern blends biodiesel and, separately, produces renewable diesel via co-processing with a distillate stream. Kern does not own or operate upstream production or downstream retail or marketing facilities. All of Kern's gasoline and diesel is sold across its refinery loading rack to a broad range of customers in central California. Kern plays an important role in this market by leveling the supply and price playing fields for petroleum products in the San Joaquin Valley.

Biodiesel Mixture (Blenders) Excise Tax Credit

The Biodiesel Blenders Credit provides a $1.00 per gallon tax incentive to blenders of biodiesel with petroleum diesel. Kern began purchasing biodiesel (B100) for blending in 2012, and currently purchases a blended biodiesel (B99). Kern faces stiff competition for biodiesel supply, which has limited availability in California and the general market. Kern cannot recover the cost of biodiesel without the credit, as the cost of biomass-based diesel is higher than the price at which Kern can sell the blended fuel.

Kern opposes misguided efforts to transform the Biodiesel Blenders Tax Credit to a domestic production credit. A production credit will disincentivize the domestic blending of biodiesel by insulating U.S. producers from foreign competition and increasing the price of domestic biodiesel. A production credit provides no guarantee that the biodiesel receiving the credit will be available to domestic blenders. With the benefit of the credit, a domestic producer could sell its biodiesel to the highest foreign bidder at a premium price, resulting in less biodiesel available for domestic blenders and consumers. As a blenders credit, the biodiesel must be blended in the U.S. to receive the benefit of the credit.

The change to a production credit is also unnecessary given that most if not all producers are already receiving the benefit of the blenders credit. Under industry practice, blenders negotiate a split of the credit (or the anticipated credit) with producers. Shifting to a production credit would eliminate important competing biodiesel supply and domestic producers' incentive to split the credit. The result will be less biodiesel in the nation's fuel stream and higher fuel prices for consumers.

Alternative Fuel Mixture Excise Tax Credit

The Alternative Fuel Mixture Excise Tax Credit provides a tax incentive of $0.50 per gallon of alternative fuel used to produce an alternative fuel mixture. Kern has developed, permitted and registered the co-processing of biomass with petroleum to produce renewable diesel meeting

ASTM specification D-975, which qualifies for the Alternative Fuel Mixture Tax Credit. Kern was the second refiner in the United States to obtain an EPA fuel registration for renewable diesel co-processed with petroleum diesel. The production economics of co-processing biomass are negative without the tax credit because – despite additional processing, maintenance, and capital costs – renewable diesel fuel receives no higher price in the marketplace than petroleum diesel. Kern cannot recover the cost of co-processing biomass without the credit because co-processing biomass to make renewable diesel is more expensive than the price at which Kern can sell the blended fuel.

H.R. 3264: The Biodiesel, Renewable Diesel, and Alternative Fuels Extension Act of 2017

Kern supports H.R. 3264, which was introduced in late July 2017 before the recent extension of the tax credits through 2017. Introduced by Congresspersons Diane Black, Ron Kind, David Valadao, and Jim Costa, this bill proposes to extend the biodiesel blenders and alternative fuel mixture tax credits for two full years with a gradual phase-out of the credits over three years. H.R. 3264 proposes a reasonable transition for obligated parties to prepare for eventual elimination of the tax credits. This five year phase-out will enable the biodiesel and renewable diesel markets to mature and become more competitive when the credits expire.

Timing is critical for both the Biodiesel Blenders and the Alternative Fuel Mixture Tax Credit as they expired at the end of 2017. Kern and other affected parties are operating in 2018 without the benefit of the credits for operational and planning purposes. We urge you to act quickly to give guidance to the industry and support permanent credits or a multi-year extension to provide market certainty.

In conclusion, Kern urges the Committee to enact a permanent or long-term extension of the Biodiesel Blenders and Alternative Fuel Mixture tax credits. Kern specifically supports the five-year phase-out of the credits proposed under H.R. 3264, which will enable an orderly transition for businesses that have relied upon these tax credits for regulatory compliance. Kern is available to work with you and your staff to provide any further information and detail that may be needed.

Sincerely,

Jennifer M. Haley
President

Fleet Solutions for Fleet Professionals

STATEMENT FOR THE RECORD
House Ways and Means Committee
Tax Policy Subcommittee
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"

March 14, 2018

NAFA Fleet Management Association appreciates this opportunity to submit a statement for the record for the March 14 hearing held by the Tax Policy Subcommittee.

NAFA agrees with the Subcommittee's goal of reviewing all of the "tax extenders" and evaluating how they fit into the new tax code following the implementation of the *Tax Cuts and Jobs Act.*

We believe that tax provisions that provide incentives for the use of alternatives to conventional fuels continue to be needed to encourage the use of alternative fuels, such as propane and natural gas, and to commercialize alternative and advanced fuel vehicle technologies.

NAFA urges Congress to extend for five years the incentives for:

- the $0.50 per gallon alternative fuel tax credit for compressed natural gas, liquefied natural gas, propane autogas and other alternative transportation fuels;
- the $1.00 per gallon tax credit for biodiesel; and
- the 30% alternative fuel infrastructure tax credit.

NAFA is the association for professionals who manage fleets of sedans, public safety vehicles, trucks, and buses of all types and sizes, and a wide range of military and off-road equipment for organizations in North America and across the globe. NAFA's members are responsible for the specification, acquisition, maintenance, repair, fueling, risk management, and remarketing of more than 4.6 million vehicles that drive an estimated 50 billion miles each year. NAFA's members control assets and services well in excess of $100 billion each year.

NAFA's members manage fleets for corporations covering a wide range of manufacturing and service organizations, governments (whether local, state and/or federal), and public service entities (public safety, law enforcement, educational institutions, utilities, etc.); still other members serve financial institutions, insurance companies, non-profit organizations, and the like.

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Fleets have been the early adopters of biodiesel and alternative fuel vehicles. A fleet's decision to adopt these fuels and vehicles has often been in response to public policies that urge, or often mandate, that fleets go green. Others, do so to reduce the fleets' environmental impact, while improving the bottom line.

Fleets have used millions of gallons of biodiesel and acquired thousands of alternative fuel vehicles. Existing alternative fuel tax credits play a major role in a company or government agency's vehicle and fuel purchasing decisions. It is well documented that these credits help to make the business case for biodiesel and alternative fuel vehicles. Without these credits, it is often difficult to justify the purchase of these fuels and vehicles.

Fuel tax credits have helped accelerate the adoption of natural gas and propane as motor fuels. These credits help offset the higher acquisition cost of alternative fuel vehicles by reducing operating costs and help ensure the long-term demand and commercial viability of alternative fuel technologies. With respect to propane, it allows a fleet to extend maintenance intervals and keep vehicles longer, thereby reducing capital costs over time.

The biodiesel credit is reflected in the price a fleet pays for fuel and is a significant factor in projecting fuel costs. However, without the tax credit, biodiesel can be significantly more expensive than conventional diesel fuel – making it more difficult for companies and state and local governments to justify the cost of biodiesel. In addition to supporting fleets, the biodiesel credit has proven to be a powerful policy mechanism to create jobs and support local economies.

The changes made to the tax code by the *Tax Cuts and Jobs Act* will not directly impact either a fleet's acquisition cost of alternative fuel vehicles or affect the lifecycle costs of these vehicles.

For tax-exempt entities, such as state and local governments and nonprofits, the fuel incentives are the only incentives that directly benefit them. The vehicle and infrastructure credits cannot be claimed by tax-exempt entities.

As the following case studies from NAFA members illustrate, these incentives have enabled corporate and government fleets throughout the country to make the needed investment for migrating to biodiesel, natural gas and propane.

- Our company used the fuel incentive to defray the additional cost of purchasing biodiesel for use in our fleet. The Company has supported the use of biodiesel since at least the mid-1990's. The Company is under constant pressure to meet budget demands and the fueling incentive certainly eases the concern over biodiesel and simplifies the justification for the approximately 15,000 annual gallons burned in the fleet.

- The City has long been a leader in promoting the use of alternative fuels for fleet use, especially the use of compressed natural gas (CNG). The tax incentives for CNG fuel combined with the cost savings over diesel saved taxpayers over $619,785 in fueling costs in 2014. The tax incentives are deposited into our fleet operating fund and are used to sustain the fund that provides fiscal resources for fleet operations. They also help to offset the portion that the City's general fund needs to contribute to partially support the fleet operating fund. CNG vehicles are significantly more expensive than their diesel counterparts, so fuel savings and tax incentives are crucial in justifying our change over to CNG.

- Since the inception of our program, the City has used over 23 million diesel gallon equivalents of natural gas to power our solid waste collection fleet. This resulted in estimated emission reductions of 20 tons of particulate matter, over 700 tons of oxides of nitrogen, and nearly 10,000 MTCE of greenhouse gases.

- A fleet manager was tasked by senior management to review the cost effectiveness of an acquisition of thirty-three propane vehicles, in part to determine if his company should go forward with additional purchases. When the original purchase decision was made for the vehicles, the $.50 per gallon propane fuel tax credit weighed heavily in the modeling. A decision to purchase additional vehicles likely would not have been made if the propane credit had not been in place.

- The County has received more than $3 million in federal tax credits for their use of liquefied natural gas in their refuse fleet of more than 100 trucks. These credits enabled the County to expand their use of CNG trucks and to build the Region's first combined time fill and fast fill CNG fueling station.

Thank you for the opportunity to submit this testimony.

Sincerely,

Phillip E. Russo, CAE
Chief Executive Officer

NAESCO National Association of Energy Service Companies

Statement for the Record

Submitted by

The National Association of Energy Service Companies
1615 M Street, NW
Suite 800
Washington, DC 20036

For
Tax Policy Subcommittee of
The House Ways and Means Committee

Hearing on Post Tax Reform Evaluation of
Recently Expired Tax Provisions
March 14, 2018

NAESCO National Association of Energy Service Companies

NAESCO is the leading national trade association of the energy services industry. During the last thirty five years, NAESCO member companies have delivered thousands of energy efficiency, renewable energy, demand response, distributed generation and combined heat and power projects across the United States and around the globe. Nationally, NAESCO member companies have delivered $50 billion in projects that have produced $55 billion in guaranteed and verified energy savings, which repay the cost of the projects and provide positive economic impacts to local communities.

NAESCO supports the Committee's efforts to determine what role each tax provision plays under the new tax code. Of particular importance to NAESCO's members is the continuation of the §179D deduction for commercial energy efficient property, which delivers demonstrated and widespread benefits to the U.S. economy. We believe the Section 179D tax deduction for efficient lighting, HVAC, and building envelope improvements continues to play a critical role in the reduction of energy consumption, enhancement of infrastructure resiliency, and the creation of dollar savings thus enhancing the pro-growth tax reform bill that has been enacted.

Reducing waste and costs through the reduction of energy consumption through the §179D tax deduction for efficient lighting, HVAC, and building envelope improvements, has proved to be an important public policy initiative and should remain a critical element of our nation's energy and tax strategy. Tax incentives promoting energy efficiency, such as §179D are a key tool in advancing the country's budget reduction, energy efficiency, and national security goals and result in a high value impact to taxpayers.

The §179D deduction enables accelerated cost recovery of energy efficiency investments made by commercial building owners, provides economic benefits of the deduction to government owned buildings, and assists designers of efficiency systems to develop advanced technologies that, when implemented, reduce energy waste. It does not reward the taxpayer simply for making an investment; rather, the deduction requires the achievement of verifiable reductions in energy usage. In its rules implementing this section of the code, the Internal Revenue Service requires inspection and testing of the energy efficiency (EE) project by qualified individuals to ensure the project qualifies for the deduction.

§179D advances our nation's energy policy and pro-growth priorities in a prudent and cost-effective manner:

- §179D provides a jump-start to President Trump's infrastructure program, by providing a modest incentive for the privately-financed retrofit of public facilities which do not receive the direct benefit of full expensing. The benefit provided to the governmental entity from passing the deduction through to the energy service company delivering the energy retrofit allows for additional efficiency improvements to be provided and savings generated on behalf of the government entity at the same first cost.

- Job Creation: §179D serves as an engine of economic growth that generates job creation in a variety of industry sectors. The incremental energy efficiency projects enabled by the availability of this tax deduction create and sustain more jobs in the construction, engineering, manufacturing, and design sectors and reduce the need for investment in new energy supplies and production. An analysis by Regional Economic Models, Inc. (REMI) provides evidence of the benefits to the U.S. economy provided by §179D. The report shows that a long-term extension of §179D would support up to 40,749 jobs annually and contribute almost $3.9 billion annually to national gross domestic product ("GDP"), as well as over $3.1 billion annually towards national personal income.
- Economic Value: Utilizing the §179D deduction creates additional economic value for building owners and has contributed to the increased use of energy efficient building design strategies resulting in the retrofit of energy inefficient aging buildings, many with significant deferred maintenance problems. In addition, the dollars saved on energy costs by businesses through efficiency improvements can be reinvested in areas that produce greater economic activity.
- Improves Infrastructure Resiliency and Encourages Efficiency Improvements to Building Stock: The §179D deduction encourages energy efficiency improvements to aging commercial building stock, which otherwise may be neglected, by allowing for accelerated cost recovery of energy efficiency investments. Without §179D, almost all energy efficiency retrofits do not qualify for 100% expensing and must be depreciated over a much longer period of time.
- Saves Energy and Reduces Emissions: The acceleration of energy efficient building design and retrofits of inefficient aging buildings generates deep savings in building energy costs, significantly reduces energy demand, generates budgetary cost savings, and lowers the emissions of greenhouse gases – all of which benefit the nation's energy security and infrastructure improvement priorities. Eliminating energy waste also frees up U.S. domestic energy supplies for more productive uses in manufacturing or to contribute to the Trump Administration goal of energy dominance.
- Technology Driver: The §179D deduction rewards achievement of significant energy savings regardless of the technology used to achieve those savings and places a premium on implementation of more sophisticated technologies. The incentive supports the modernization of aging U.S. building stock and enhances the overall performance of our nation's building infrastructure.

Repealing the tax incentive for energy efficient commercial property undermines the significant advancements made to date in modernizing our nation's building stock. In fact, the expiration of the deduction in December 2014, its retroactive reinstatement in December 2015 for 2015 and 2016 and in February 2018 for 2017, have resulted in tremendous uncertainty on the part of commercial building owners, as well as the energy services companies and other industry providers whose businesses are directly tied to developing and implementing efficiency

retrofits. Additionally, removing the only incentive that provides accelerated treatment for commercial efficiency property could result in a strong disincentive to invest in efficiency improvements. The tax code allows commercial businesses the ability to immediately deduct money spent on energy consumption (utility bills) as an ordinary and necessary business expense, while without §179D the cost of efficiency improvements would be depreciated over many years. This asymmetry in the tax code is successfully addressed through the 179D deduction. Eliminating the 179D provision brings back the economic bias in favor of higher energy costs created by, in many cases, the wasteful use of energy that could have been avoided through the use of energy efficient technologies.

According to the REMI report cited above, "Section 179D promotes the proper allocation of incentives in the real estate development process. A key challenge to realizing the benefits of energy-efficient improvements is that the associated cost savings flow to building occupants, not developers. By helping offset the cost of energy efficient investments, Section 179D allows building owners to share in the incentive to install energy-efficient improvements that help their occupants save money on electricity, water, and climate control costs."[1]

In short, we strongly believe §179D should remain a permanent component of a reformed tax code. Importantly, §179D compliments the goals of tax reform by delivering economic growth, job creation, and enhanced economic competitiveness. While NAESCO strongly supports an immediate, multi-year extension of §179D, we are also prepared to work with the Committee to modify §179D to better incorporate this incentive for energy efficiency improvements into the reformed tax code. The extension and modification of §179D will provide needed certainty to the commercial and government building markets as well as the energy services company industry, and retain in the tax code the provision directed specifically at stimulating energy savings through investments in efficiency retrofits in the commercial building sector. Any discussion of a reformed tax code and energy tax policy is incomplete without a robust consideration of the positive budgetary impact of energy efficiency, and prudent and effective efficiency incentives – such as §179D – belong permanently in a reformed tax code.

[1] Analysis of Proposals to Enhance and Extend the Section 179D Energy Efficient Commercial Buildings Tax Deduction, Prepared by Regional Economic Models, Inc. (REMI) May 2017, Page 4

NAESCO National Association of Energy Service Companies

Introduction to NAESCO

The National Association of Energy Service Companies proudly celebrates 35 years of leadership in promoting, developing, and advocating for the central role of energy efficiency as part of a comprehensive national energy agenda. NAESCO and its member organizations maintain a firm belief in the economic and environmental benefits of the widespread use of energy efficiency and embrace ethical market behavior as a core value.

Advocacy Voice

NAESCO represents every facet of the energy services industry and actively advocates for the cost-effective delivery of comprehensive energy services to all end user market segments. The Association places a high priority on making the Association a home for the broadest spectrum of market participants which gives our advocacy voice additional resonance. Through its robust advocacy program, NAESCO has been a key catalyst in creating, among federal and state lawmakers, regulators, and energy program managers, a continuing commitment to developing and implementing energy efficiency solutions.

Opening New Markets for Energy Services

On behalf of its membership, NAESCO works to help open new markets for energy services. NAESCO has focused during the last three decades on reaching out to end users by directly promoting the value of energy efficiency to customers in all market segments through its seminars, workshops, training programs, and conferences; publication of case studies, guidebooks, customer manuals, and original research; and the compilation and dissemination of aggregate industry data drawing upon the project database created and maintained by NAESCO and the Lawrence Berkeley National Laboratory. NAESCO also works collaboratively with allied trade groups, policy groups and customer representatives to accelerate market development and growth.

Promoting Industry Best Practices

NAESCO sponsors a rigorous accreditation program for ESCOs, Energy Service Providers and Energy Efficiency Contractors to recognize management capabilities, outstanding project experience, ethical business practices, and overall commitment to providing customers with comprehensive and successful energy solutions. NAESCO has ethical guidelines in place and has created an industry ombudsman to provide a transparent protocol for the review of ethical issues that may arise.

Nationally, NAESCO member company projects have produced:

- $50 billion in projects paid from savings
- $55 billion in savings – guaranteed and verified
- 450,000 person-years of direct employment
- $33 billion of infrastructure improvements in public facilities
- 450 million tons of CO_2 savings at no additional cost

Most of these projects are Energy Savings Performance Contracts (ESPC), which don't require new taxes, because they re-purpose the money that a customer is currently spending on wasted energy into a payment stream for the energy-saving capital improvements.

Comments of the American Council for an Energy-Efficient Economy and the National Electrical Manufacturers Association

U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy

Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions March 14, 2018

Energy efficiency transforms waste into wealth. When families and businesses reduce their energy use and their energy bills, they re-spend those savings in other parts of the economy, spurring economic growth. On average, energy efficiency jobs are labor intensive, creating more jobs per dollar invested than in the economy. In 2014, energy efficiency saved an average of about $2500 for each person in the US.[1] DOE estimates that 2.1 million Americans are employed in energy efficiency jobs (full- and part-time).[2] Energy efficiency should be considered an important strategy for fostering economic growth.

These comments contain a detailed outline of proposed reforms to energy efficiency tax incentives that are performance-based, technology neutral, self-updating and sun-setting, and set to commonly accepted measures and standards. This concept has been developed by energy efficiency advocates and industry, and are jointly submitted by the American Council for an Energy-Efficient Economy (ACEEE) and the National Electrical Manufacturers Association (NEMA). Together we will follow up with staff to discuss this proposal further.

Energy Efficiency Tax Incentives Under Tax Reform

This package contains a set of recommendations for energy efficiency tax credits for buildings under tax reform that are performance based, technology neutral and follow a set of common principles such as three performance tiers (good, better and best), procedures for regular updates without needing new legislation, and sun-setting when specific market milestones are reached. This package covers new and existing buildings, both residential and commercial. It is organized as separate sections for each of these markets. All but existing homes are part of the business tax code; existing homes are part of the individual tax code. This package will ultimately replace the current 25C, 45L and 179D provisions.

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[1] ACEEE, 2015, *Energy Efficiency in the United States: 35 Years and Counting*, http://aceee.org/research-report/e1502.

[2] DOE, 2017, *U.S. Energy and Employment Report,* https://energy.gov/downloads/2017-us-energy-and-employment-report.

Commercial New Construction

Base: Performance Cost Index (PCI) targets as defined in ASHRAE Standard 90.1-2016, Section 4.2.1. PCI is a scale where zero net energy (ZNE) is 0 and 90.1-2004 is 100. PCI is based on Building Performance Factor (BPF – which covers energy use for HVAC, lighting, refrigeration and water heating) plus a building-specific calculation for other energy use. The BPF baseline table is attached at the end of this section.

Metric: PCI as determined using procedures in ASHRAE 90.1-2016 Appendix G. Using the procedures in COMNET is also acceptable.[3] Two years after implementation begins, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall review a sample of analyses used to claim tax deductions to determine whether analyses are generally being done in a fair and repeatable manner or whether additional voluntary or mandatory guidance is needed, potentially including mandatory use of COMNET. The Secretaries shall provide opportunities for interested parties to comment during this process.

Incentives: Tax deduction/sf for good, better, best performance

> Good: PCI values that are 20% lower than the baseline.
>
> Better: PCI values that are 35% lower than the baseline.
>
> Best: A PCI of 0.25. This is approximately a ZNE ready level of performance.
>
> We recommend tax deductions of $1.50, $3.75 and $6.00/sf for good, better and best respectively (Note: Since these are deductions the value of the tax incentive to a tax payer will depend on the tax payer's tax bracket. For a tax payer in the 21% bracket, a $1.50/sf deduction will reduce their taxes by about $0.315/sf [$1.50 * 21%]).

Revisions: PCI targets should reset every three years after a new version of ASHRAE 90.1 is published and the Secretary of Energy has determined that the new version saves energy (per a provision in Energy Policy Act 1992). The metric will remain PCI, but the expectation is that with each revision the baseline PCI targets values will be reduced. Thus, the first revision to the tax incentive base will use 90.1-2019, then 90.1-2022, and so on. The Secretary of the Treasury will set a new baseline using this latest 90.1 unless he/she determines that it is not in the public interest, in which case the Secretary can modify the PCI targets values in this latest edition of Standard 90.1 to fit the public interest, but would need to work off of 90.1. The Secretary of the Treasury's determination should be made within one year of the final approval of a new version of 90.1.

Sunset: We recommend that the incentive will end when 20% of new commercial building floor area constructed in a calendar year meets the "best" criteria. The "better" incentives should end when the average PCI across building types and climate zones in the base table is 35 or less, as at that point there is not enough difference in performance to justify three tiers. The "best" incentives should end when the average

[3] http://www.comnet.org

PCI across building types and climate zones in the base table is 30 or less, as at that point there is not enough difference in performance to justify two tiers.

Baseline Building Performance Factor Values from ASHRAE 90.1-2013, Table 4.2.1.1

Building Area Type[4]	Climate Zone																
	1A	1B	2A	2B	3A	3B	3C	4A	4B	4C	5A	5B	5C	6A	6B	7	8
Multifamily	0.73	0.73	0.71	0.69	0.74	0.73	0.68	0.78	0.81	0.81	0.76	0.80	0.81	0.76	0.79	0.74	0.80
Healthcare/ Hospital	0.64	0.56	0.60	0.56	0.60	0.56	0.54	0.57	0.53	0.55	0.59	0.52	0.55	0.57	0.52	0.56	0.56
Hotel/Motel	0.64	0.65	0.62	0.60	0.63	0.65	0.64	0.62	0.64	0.62	0.60	0.61	0.60	0.59	0.61	0.57	0.58
Office	0.58	0.62	0.57	0.62	0.60	0.64	0.54	0.58	0.60	0.58	0.60	0.61	0.58	0.61	0.61	0.57	0.61
Restaurant	0.62	0.62	0.58	0.61	0.60	0.60	0.61	0.58	0.55	0.60	0.62	0.58	0.60	0.63	0.60	0.65	0.68
Retail	0.52	0.58	0.53	0.58	0.54	0.62	0.60	0.55	0.60	0.60	0.55	0.59	0.61	0.55	0.58	0.53	0.53
School	0.46	0.53	0.47	0.53	0.49	0.52	0.50	0.49	0.50	0.49	0.50	0.50	0.50	0.49	0.50	0.47	0.51
Warehouse	0.51	0.52	0.56	0.58	0.57	0.59	0.63	0.58	0.60	0.63	0.60	0.61	0.65	0.66	0.66	0.67	0.67
All Others	0.62	0.61	0.55	0.57	0.56	0.61	0.59	0.58	0.57	0.61	0.60	0.57	0.61	0.56	0.56	0.53	0.52

Existing Commercial Buildings

Base: Each building is its own base.

Metric: EPA Portfolio Manager using source Btu: the metric includes all energy use in the building including plug loads and process loads.[5] The comparison will involve Portfolio Manager for the baseline building and using EPA's "Designed to Earn the Energy Star" guidance for the improved building.[6] ASHRAE's Building Energy Quotient can also be used. The same assumptions about building use and operation need to be made for both the baseline and improved buildings. The Secretary of Energy should review the "Designed to Earn the Energy Star" guidance, Building Energy Quotient procedures, the performance rating

[4] In cases where both a general building area type and a specific building area type are listed, the specific building area type shall apply. Multifamily buildings with 5 units or more are eligible.
[5] We use this metric since this is the basis for Energy Star ratings. Also, the industry is very familiar with this tool as more than 100,000 ratings have been done.
[6] See https://www.energystar.gov/buildings/tools-and-resources/how-apply-designed-earn-energy-star.

method in appendix G in ASHRAE 90.1-2016 and COMNET modeling requirements, to make recommendations to the Secretary of the Treasury on any additional guidance that shall be provided so that energy savings are reasonable to estimate, repeatable and are difficult to "game".

The Secretary of the Treasury, with input from the Secretary of Energy, should also consider whether guidance should be established to require a pre-retrofit energy audit as a condition of receiving an incentive under this section, and if such an audit were to be required or recommended, what specific items should be included such as audit type and who may conduct the audit.

Incentives: Tax deduction per sf for good, better, best improvement in performance.

Good: 10% whole building savings with a deduction of $0.30/sf

Better: 25% whole building savings with a deduction of $3.00/sf

Best: 40% whole building savings with a deduction of $6.00/sf

Sunset: We recommend that the deduction end when 20% of commercial building floor area has participated. The floor to use in this calculation should be from the most recent published Commercial Building Energy Consumption Survey (CBECS) as of Dec. 31, 2020[7].

Other: Deduction capped at 75%[8] of retrofit cost.

Provisions that Apply to Both Commercial New Construction and Retrofits

- Secretary of the Treasury, with input from the Secretary of Energy and the Administrator of the Environmental Protection Agency makes changes to program following a notice and comment rulemaking. Such changes cannot increase the cost to the Treasury relative to the estimated cost of the program as enacted by Congress.
- The Secretary of the Treasury shall develop procedures by which qualified experts certify the amount of deduction earned and the specific information that the taxpayer needs to retain if the IRS has questions about any deduction claim. The procedures should be developed after examining the U.S. Green Building Council's accreditation process for LEED professionals and providing opportunity for public comment.
- A requirement of receiving the tax deduction is that the post-construction Portfolio Manager score must be submitted to DOE within 18 months of the new building or building retrofit being placed into service. If no score is provided, the amount of the deduction needs to be refunded to the Treasury as part of a company's next tax return.

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[7] CBECS is prepared and published approximately every five years by the Energy Information Administration. Currently available data are from 2011 and we want to use the next CBECS survey but don't know when it will be published, hence this wording.

[8] For a business taxpayer in the 35% tax bracket, this means the amount of tax reduction is about 26% of the retrofit project cost (75% * 35%). This is a much lower cap than we propose for the residential sector where the tax reduction is capped at 50% of retrofit project cost.

- DOE to conduct periodic analyses comparing estimated and actual performance scores and if there is a significant difference, the Secretary of DOE shall recommend program improvements to the Secretary of the Treasury.
- Include provisions on assignability, earnings and profit conformity and basis adjustment per Title I of S. 2189 in the 113th Congress.
- Require the Secretary to consider partial deductions for major systems – lighting, shell, HVAC

Renewables would not be eligible for the energy efficiency incentive as long as federal tax incentives for renewable energy use in buildings are in place. However, the same building may earn energy efficiency credits for energy efficiency measures and renewable energy credits for renewables. If there are no federal tax incentives for renewables, then renewable use can be factored into the energy savings calculations for the energy efficiency credit but only at the highest tier.[9]

Residential New Construction

We recommend three incentive levels based on three levels of performance – good, better, best. Incentive levels are based on meeting a target Energy Rating Index (ERI), an index referred to the 2015 edition of the International Energy Conservation Code (IECC). With the ERI, a home meeting the 2006 IECC scores 100 and a zero net energy home scores zero. The legislative language should refer to the procedures in the IECC, including compliance with the mandatory provisions of the IECC 2015. However, to prevent "double dipping" with other federal tax incentives, as long as there are federal tax incentives for residential renewable energy systems, the systems eligible for such incentives cannot be used in calculating an ERI or other rating score. (A typical new home meeting the 2015 IECC has an ERI index in the 60's.) The three recommended incentive tiers are for an ERI index of 51 ("good"), 40 ("better"), and 10 ("best").[10]

Also, since this is an energy efficiency program, in order to ensure that all new homes are as efficient as possible, even if/after renewable energy credits end, an ERI of at least 42 should be required without use of active solar, wind and geothermal energy systems – ERI credit for such renewable energy systems can only be used to reduce ERI scores below 42 and such use must be accompanied by a disclosure to the buyer that the home is no longer eligible for renewable energy tax credits based on the equipment installed by the builder.[11] In addition, to be eligible for a tax incentive, the prescriptive building envelope requirements in the 2015 IECC should be met.

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[9] This is an energy efficiency tax credit and we want to first ensure that buildings are efficient before giving credit for renewable energy systems.

[10] The IECC appendix contains the ERI 51 value. 40 is about at Passive House levels. The 10 is based on NYSERDA's ZNE program and will require use of renewable energy; it is intended for the long-term, after federal renewable energy incentives end.

[11] While Passive House is approximately ERI 38 according to DOE, we use a slightly higher level as work by the Florida Solar Energy Center indicates that the maximum score a given house can achieve with energy efficiency may be 40 or thereabouts in some cases. We increase this slightly to 42 for receiving credit for solar systems since some homes may not be able to reach 40 without solar.

A credit of $2,000, $4,000 and $6,500 per home is recommended for the three tiers. When the market share of homes at ERI 51 or less reaches 10%, the threshold would be revised to 47. By setting this level in advance, builders can begin to experiment with strategies to reach this level years before it becomes the qualification level. When ERI 47 reaches 10% market share, the threshold would be revised to 44. And when ERI 44 reaches 10% market share, this tier would end, leaving tiers at 25 and 40. At this point the Secretary of the Treasury should determine whether the incentive for ERI 25 and 40 will be reduced. This process would continue (e.g. when ERI 40 hits 10%, the new target would be ERI 30, then 20) until 20% of new homes reaches ERI 10, at which point the incentive would end. On an annual basis RESNET estimates market share at different ERI indices based on its database of all home ratings in a year combined with US Census data on home sales each year.[12] This process will be overseen by DOE.

Scope: this provision applies to all residential dwelling units that are within the scope of 2015 IECC.

Existing Residential Buildings

Summary

- Individual tax credit to residential homeowners is based on either the measures included in the home or the performance level predicted. Includes owners or condos and co-op apartments as well as owners of rental buildings of three stories or less[13] to the extent the owner includes the property on an individual tax return.
- We recommend the credit capped at 30% of project costs or $500 and $1,500 for the partial system incentives and 50% of project costs or $2,500-$4,500 for the predicted performance approach depending on percent savings. The credit is per residential unit in the project.
- Credit claimed for fiscal year that the project is completed.

Tax credit

Two options. Either:

1. Partial System -- Enhanced prescriptive credit focused on envelope/HVAC system upgrades (expires 5 years from enactment).
   - $1,000 for added insulation and air sealing, not to exceed 30% of cost. Air sealing shall be done per a sealing specification that DOE prepares, adapting in part from the Energy Star Home Sealing Specification for all areas that are accessible.[14]

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[12] These figures will need to include only energy-efficiency measures for any ERI values of 42 or greater.
[13] The commercial credit applies to buildings over three stories.
[14] Alternatively, at contractor option, air sealing may be verified with blower door tests showing at least a 20% reduction in effective leakage area or not more than 6 air changes per hour when tested at 50 pascals of pressure; effective leakage area and air changes per hour measured per ANSI/ASTM Standard E182. We don't expect many contractors to go this route but some may prefer this option and we therefore include it as an option.

- $1,500 for above plus replace furnace, AC, HP or boiler.
  - Must be Energy Star Most Efficient certified.
  - Installation in accordance with ACCA QI.
  - HVAC replacement must include duct sealing (when ducts are present).
  - The insulation and the HVAC can be done at different times but must occur in the same calendar year.

OR

2. Using predictive performance (software and inspection/testing) that meets the requirements for ERI in the 2015 IECC and is approved by DOE) and utilizing ANSI/BPI- 2400 (or an equivalent approved by the Secretary) to establish the baseline[15], not to exceed 50% of cost.
   - $2,500 for approved audit and retrofit that saves 20-34% of whole-house source energy use (as measured by DOE-approved software and procedures for testing and inspection.
   - $4,000 for approved audit and retrofit that saves 35% of whole-house source energy use
   - In determining the baseline from which savings will be measured, DOE should establish procedures and default or required assumptions and diagnostic tests or other documentation to assure that the baseline is reasonable in terms of energy use…
   - For both levels of predicted savings, savings must be achieved from hardware measures or automatic controls and not from measures that require homeowner intervention more than two times per year.[16]
   - Additional $250 credit to the contractor if the contractor inputs 12 months of pre- retrofit energy consumption data (needed for ANSI/BPI-2400), list of measures installed and total project cost into DOE Energy Performance Database and submits a signed form (prepared by DOE and approved by OMB) that allows DOE access to utility data for 12 months before and 24 months after. This information helps with analysis and evaluation. Individual data will be held confidential.

In either case:

- The initial credit cannot exceed 50% of the overall cost (including labor) of energy-saving measures of the project
- Pool pumps are excluded, as are energy uses not included in the definition of ERI.

DOE Role

- DOE should work with states and other program operators to do contractor training as well as quality-control inspections after the completion of work on a portion of the

[15] PSD-NYSERDA study demonstrated a significant increase in realization rates by utilizing ANSI/BPI-2400: http://psdconsulting.com/wp-content/uploads/2015/04/NYSERDA-HPwES-RR-Study-Rev1-012115.pdf.

[16] For example, different settings may be needed for summer vs. winter.

jobs done by each contractor. Language on training and QA can be adapted from Title II of S. 2189 in the 113th Congress.

- DOE should prepare a report to Congress on "DOE Energy Performance Database" three years after date the program begins.
- DOE should undertake an impact evaluation on the program every five years, looking at post-retrofit energy use and achieved energy savings in the post-retrofit years and for several years thereafter for customers throughout the country in different segments of the program.

Customer Requirements

- Customer must keep the contractor bills, the certificate provided by the contractor on estimated savings and projected post-project energy consumption, and the energy bills for three years after completion of work in case of IRS audit.

Sunset

- We recommend that availability of this credit ends at the end of the taxable year in which the Secretary determines that at least 20% of eligible homes have claimed the credit and publishes a notice to this effect in the Federal Register.

Notes:

- Up to the customer to claim their credit
- May not claim the same measure for another federal credit/rebate – i.e., may NOT include solar, geothermal heat pump or wind energy savings IF also claimed the investment tax credit.
- May combine with state and utility incentives
- May take the performance credit again, in a future taxable year, with a newly established baseline. Can also take the performance credit after having taken prescriptive credit in an earlier year. And if the customer takes a renewable energy credit in an earlier year, they can take the prescriptive or performance credit as long as the renewable system is part of the baseline and is not included in the savings calculations for this credit.

If the Committee has any questions or would like to discuss this proposal in more detail please contact either Pasha Majdi, Federal Policy Manager, ACEEE at 202-507-4037 or Joseph Eaves, Director of Government Relations, NEMA at 703-841-3221.

The National Electrical Manufacturers Association (NEMA) represents nearly 350 electrical equipment and medical imaging manufacturers that make safe, reliable and efficient products and systems. Our combined industries account for 360,000 American jobs in more than 7,000 facilities covering every state. Our industry produces $106 billion shipments of electrical equipment and medical imaging technologies per year with $36 billion exports.

The American Council for an Energy-Efficient Economy (ACEEE), a nonprofit, 501(c)(3) organization, acts as a catalyst to advance energy efficiency policies, programs, technologies, investments, and behaviors.

HAL QUINN
President & CEO

March 27, 2018

The Honorable Vern Buchanan
Chairman
House Committee on Ways and Means
Tax Policy Subcommittee
1102 Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member
House Committee on Ways and Means
Tax Policy Subcommittee
1139E Longworth House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Buchanan and Ranking Member Doggett:

As the Ways and Means Committee considers extensions for various tax provisions that that are effective through tax year 2017 and now are expired, the National Mining Association (NMA) urges you to extend permanently, or as long as possible, the following provisions that greatly impact the mining industry:

- Mine Rescue Team Training Credit (Sec. 45N). This provision providing a tax credit of up to $10,000 for mine rescue team training costs. As the Mine Safety and Health Administration notes on its website, "When danger strikes, a speedy and safe rescue effort can mean the difference between life and death for trapped miners. Adequate training is essential, as rescuers must be available and ready to respond on a moment's notice." The revenue cost of extending this credit is $2 million per year, an amount that is small in comparison to the value of the lives potentially saved through this safety incentive;

- Election to Expense Advanced Mine Safety Equipment (Sec. 179E). This provision allows businesses 50 percent bonus depreciation for the costs of specified underground mine safety equipment. Consistent with the types of safety equipment already listed in the statute, we believe that the provision should be modified to clarify that "portable underground life shelters" that provide mineworkers pre-positioned supplies of oxygen and temporary shelter pending a rescue qualify for the 50 percent bonus depreciation. Because the Tax Cuts and Jobs Act enacted last year provides full expensing

for business equipment through 2022, the cost of permanently extending this provision should be relatively small and outweighed by the value of the lives potentially saved by the availability of advanced mine safety equipment;

- Alternative Fuel Credit (Sec. 6426(d)). This provision provides a tax credit of 50 cents per gallon for the production of alternative fuels, including liquid fuels derived from coal; and

- Indian Coal Production Credit (Sec. 45(d), 45(e)(10)). This provision provides for a $2.423 per ton credit for coal produced from coal reserves owned by or on behalf of an Indian tribe on June 14, 2005.

NMA believes these tax provisions continue to provide appropriate incentives for improving mine safety and aiding energy production and must be addressed in any tax extension package Congress approves.

Thank you for your consideration of this request.

Sincerely,

Hal Quinn
President & CEO

STATEMENT SUBMITTED TO
THE HOUSE WAYS AND MEANS SUBCOMMITTEE ON TAX POLICY
ON
POST-TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS
March 14, 2018

On behalf of the U.S. rendering industry, the National Renderers Association (NRA) appreciates the opportunity to provide recommendations about the value of biodiesel tax incentives in the continued growth of the biodiesel industry and to the U.S. economy, competitiveness, job creation and the environment. The alternative fuel mixture tax credit (AFMTC) is also an important tool to encourage recycling and reduce consumption of conventional energy. The biodiesel tax incentives and the ADMTC were retroactively reinstated only for 2017 and are not in effect for 2018.

Biodiesel is the nation's first domestically produced and commercially available advanced biofuel. It meets strict fuel specifications set out by the American Society for Testing and Materials International (ASTM), the official U.S. fuel-certifying organization. Biodiesel is used primarily in blends of 5 – 20 percent and does not require special fuel pumps or engine modifications.

Biodiesel Tax Credits

The NRA supports renewal of the $1-per-gallon biodiesel tax incentives for biodiesel and renewable diesel for at least 2018. These incentives have helped stimulate growth of the U.S. biodiesel industry from a new technology producing about 112 million gallons in 2005, when these credits were first implemented, to nearly 2.9 billion gallons of domestic production today.

The more predictable the biodiesel tax credits, the more they effectively leverage private sector investment to help achieve the nation's energy objectives of energy independence and diversity. A predictable tax policy will help continue attracting investment, developing infrastructure and creating jobs.

The Rendering Industry

The U.S. rendering industry contributes $10 billion in economic activity to the nation's economy. Renderers also employ tens of thousands of people from coast to coast. These are predominantly full-time jobs with benefits and very low turnover.

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www.nationalrenderers.org | renderers@nationalrenderers.com

The NRA represents the interests of the rendering industry in the U.S. and Canada. NRA's 34 member companies operate 178 rendering plants accounting for over 95 percent of production. The industry includes "independent renderers" who process meat leftovers from many packers and producers, as well as "integrated packer/renderers" who process only their own byproducts from their meat packing and poultry processing facilities.

Rendering is an essential link in the food, feed and energy production chain. Rendering consistently, safely and efficiently recycles over 56 billion pounds per year of (human) inedible U.S. livestock and poultry byproducts, as well as Used Cooking Oil (UCO) collected from food service companies, restaurants and food processors. *Nothing is wasted.* Renderers upcycle these byproducts into valuable ingredients for hundreds of new products, including biofuels, soaps, paints and varnishes, cosmetics, crayons, explosives, personal care products, pharmaceuticals, plastics, inks, leather, textiles and lubricants.

Use as a source of protein feed ingredients for livestock, poultry, dairy animals, pets and the aquaculture industry is also an important market for rendered products.

Given the huge volume of animal leftovers recycled by U.S. renderers, all available U.S. landfill space would be exhausted in four years if products now rendered were sent to landfill disposal.

Rendering and Biodiesel

Biomass-based diesel and renewable diesel are important markets for the U.S. rendering industry. Together, rendered animal fats and UCO provide 30 percent of the feedstock for biodiesel production.

Some rendering companies also use the animal fats they produce as energy for their boilers to operate their processing plants. In addition, several are actively engaged in the production of biomass-based diesel and renewable diesel.

Biodiesel production and direct-to-boiler use recycle carbon-containing fats and oils back into the economy and society instead of wasting them in landfills or pouring them down the drain. Use of these feedstocks increases the sustainability of biodiesel and alternative fuel mixtures with animal fats because they utilize leftovers as inputs instead of relying on virgin materials. Supplies of rendered animal fats and UCO are renewable indefinitely because they are the domestic byproducts of the thriving and globally competitive U.S. animal agriculture and grain sectors.

More Jobs and a Stronger Economy

Biodiesel tax incentives strengthen the U.S. economy by supporting thousands of current jobs, creating new well-paying positions and increasing local, state and federal tax revenues. Renderers provide a high number of transportation jobs since they own and operate some of the largest trucking fleets in the nation. Renderers operate coast to coast, transporting huge volumes of raw material input byproducts, UCO and processed end products.

The biodiesel industry provides 64,000 jobs, $11.42 billion in economic impact and $2.54 billion in wages paid throughout its supply chain. This supports families and local businesses, many in rural areas.

Biodiesel tax credits should be continued to stimulate more job creation as the relatively young biofuel industry continues to expand. About 32,000 new jobs are created for every 100 million additional gallons of biodiesel produced.

Continuing the biodiesel tax incentives will also help encourage the confidence to invest in the biodiesel industry and generate more valuable economic activity in the U.S. Predictable tax credits are important as renderers make their business plans and attract investment capital for technology improvement and operations.

Reduced Cost, Public Health Protection

Biodiesel tax incentives help increase the value of UCO to an economic level that encourages renderers to consistently collect and recycle it what would otherwise be a waste product. This reduces the volume of wasted UCO channeled into sewer systems and water treatment plants. If fats, oils and greases (FOG) are improperly disposed of by food service companies and restaurants, cities often face billions of dollars in costs to repair or replace damaged sewer lines, clogged pipes, sewer backups and unsanitary overflows resulting in public health threats. When this occurs, there is less money for local community priorities, such as education, law enforcement and other important services.

Better Air Quality

Use of rendered animal fats and UCO as biodiesel feedstocks has significant environmental benefit. Biomass-based feedstocks from rendering have very low lifecycle carbon emissions. These feedstocks are rich in recycled carbon (76 percent carbon on average) and contribute significantly to reduced CO_2 emissions compared to emissions from petroleum diesel. This is a major reason biomass-based diesel provides exceptionally low greenhouse gas (GHG) emissions, equal to one ton of carbon emissions reduced for every 100 gallons of biomass-based diesel used.

As a result of its low carbon producing benefits, biodiesel qualifies as the only domestically produced, commercial-scale fuel capable of meeting the advanced biofuel mandate of lower GHG emissions.

Use of biodiesel also reduces emissions of other air pollutants, such as particulate matter, carbon monoxide and unburned hydrocarbons.

Conclusion

The significant economic and environmental benefits to the U.S. from use of animal fats and UCO for biodiesel feedstock will be jeopardized without reinstatement of the biodiesel tax incentives to stimulate increased domestic biodiesel production and job growth. NRA strongly encourages you to continue these federal tax incentives and the ADMTC through at least 2018.

If the NRA can answer questions about the rendering industry and its role in biodiesel production and alternative fuel mixtures, please contact NRA President & CEO Nancy Foster at 703-683-0155 or nfoster@nationalrenderers.com.

NGVAMERICA
Natural Gas Vehicles for America

400 North Capitol Street, N.W.
Washington, D.C. 20001
ngvamerica.org

March 22, 2018

Hon. Vern Buchanan, Chairman
U.S. House Ways & Means Committee
Subcommittee on Tax Policy

Hon. Lloyd Doggett, Ranking Member
U.S. House Ways & Means Committee
Subcommittee on Tax Policy

RE: Request for Five-Year Extension of Alternative Fuels Tax Credit (AFTC)

Dear Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee:

Thank you for the opportunity to provide oral testimony at the Subcommittee's March 14th hearing entitled, "Post Tax Reform Evaluation of Recently Expired Tax Provisions". I appreciated the opportunity to make our industry's case for parity with other alternative transportation technologies within the tax code.

NGVAmerica and its member companies thank the Ways & Means Committee for its leadership in the recent reform of the federal tax code. Resulting lower corporate tax rates and other business-friendly reforms benefit companies large and small. These changes are important in making U.S. companies more competitive in the global economy and encouraging companies to create new jobs. NGVAmerica recognizes the need for, and supports continued efforts toward increased clarity and predictability within the federal tax code.

This letter seeks to further substantiate the need for a five-year extension of the Alternative Fuels Tax Credit (AFTC) and the Alternative Fuel Vehicle Refueling Infrastructure Property Credit by answering two key departing questions posed last week.

Alternative Fuel Playing Field Still Not Level

Chairman Buchanan asked each participant why industries such as ours need tax credits moving forward after such comprehensive tax reform. For the natural gas transportation sector, the answer to this question is twofold:

First, remaining federal incentives for alternative fuels are not equal. Even after reform, federal tax code still incentivizes certain investments over others.

While comprehensive tax reform allows companies to lower their overall tax liability and have more money to make new investments, these improvements do not alter the calculus

that fleet operators use when deciding what drivetrains to employ. Such decisions are ultimately driven by cost and impact to a company's bottom line. And natural gas lacks the level of federal tax treatment other like fuels receive, leaving it with a distinctive competitive disadvantage as noted below.

Consider the disparity in federal vehicle purchase incentives:

	Electric	**Fuel Cell**	**Natural Gas**
Credit Value	$7,500 per vehicle under 10,000 pounds	Up to $40,000 per vehicle depending on size of vehicle	N/A
Duration	Originally passed in 2005. Extended and expanded since. **Credit has no sunset** but currently capped at 200,000 in vehicle sales/manufacturer.	Originally passed in 2005. Sunset in 2014. **Recently extended through 12/31/17** in Bipartisan Budget Act of 2018	Originally passed in 2005. Sunset in 2010. **Never extended**
Cost to Treasury[1]	$1.2 billion per manufacturer before phase down. **$4.4 billion over 5 years**	**$4 million**	N/A

Consider the disparity in federal fuel incentives:

	Biodiesel	**Natural Gas/Propane**
Credit Value	$1.00 - $1.10/gal.	$.50/gal. equivalent
Duration	Expired 12/31/17	Expired 12/31/17
Cost to Treasury[2]	$3.25 billion annually	$555 million annually

Federal Excise Tax: Natural gas faces an additional challenge when competing against electricity since electricity used for transportation purposes currently is not subject to the federal excise tax on motor fuels for all light, medium and heavy duty vehicles.

Second, the Alternative Fuels Tax Credit is different from other federal incentives because the benefits of the credit largely go directly to the end-user of the fuel not the fuel producer or retailer. As a consumer-based credit, AFTC is bottom up in most cases. The savings

[1] "Estimates for Federal Tax Expenditures for Fiscal Years 2016-2020," Joint Committee on Taxation, January 30, 2017.
[2] Ibid.

associated with this credit are passed along to customers and end users through rebates, lower pricing, lower negotiated rates contracted with fleets, or taken directly as payments in case of customers that own their own fueling. And this lower cost for refueling is crucial to customers who operate natural gas fleets and to those considering switching their fleets to natural gas. Most importantly:

- As tax-exempt entities, municipalities, school districts, airport authorities, and other publicly-owned natural gas fleet operators do not benefit from comprehensive tax reform. But they are eligible to participate in the AFTC. Failing to renew this credit raises their overall fuel costs, and, in effect, punishes them for making the switch to clean, domestic natural gas; and

- For smaller fleet operators that operate on razor thin margins and often are barely profitable, lower fuel prices enable them to invest more of their own capital in new, cleaner vehicles and fueling equipment if they own their own stations.

AFTC the Only Real Federal Investment Incentivizing Natural Gas in Transportation

The second question repeated to all hearing witnesses was, "What other incentives would you be willing to give up in exchange for an extension of your tax credit?" For the natural gas vehicle industry, our answer is simple. We have nothing to give up. The AFTC and the alternative fueling infrastructure credit are the only real federal incentives our industry has as we compete with other alternative technologies with much more favorable federal treatment.

Natural gas vehicle technology has made remarkable strides despite lacking the overwhelming research and development investment the federal government has, and continues to make, in competing technologies. NGVs are not asking for a handout, we are asking for an opportunity to compete on an even playing field.

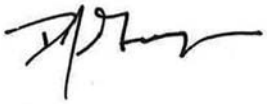
The two biggest challenges to adoption of natural gas as a transportation fuel remain lopsided treatment for competing technologies and low gasoline and diesel prices. While this Subcommittee can do little to prevent the changing price of gasoline or diesel, it can, and should, work to insulate American consumers from future oil price volatility. It is this volatility that drives the need to incentivize more deployment of natural gas vehicles. Further, as detailed last week, if we as a nation want cleaner air, we need cleaner trucks. And the Ultra-Low NOx natural gas engine is the cleanest, proven commercially-ready-right-now heavy- and medium-duty truck engine in the world.

We ask that the Subcommittee work to restore consistency, clarity, and parity in the federal tax code when it comes to encouraging the use of alternative fuel technologies. A good first step would be a five-year extension of the Alternative Fuels Tax Credit (AFTC) and the Alternative Fuel Vehicle Refueling Infrastructure Property Credit. A five-year extension will offer fleets the certainty and consistency they need to realize a return on investment.

Past extensions of one- or two-years with full or partial retroactivity fails to offer the full power of the incentive's potential.

We look forward to working more closely on this issue moving forward. Thank you again for your consideration.

Sincerely,



Daniel J. Gage
President
NGVAmerica

Committee on Ways and Means
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

Your Name: Daniel Gage		
1. Are you testifying on behalf of a Federal, State, or Local Government entity? a. Name of entity(ies). b. Briefly describe the capacity in which you represent this entity.	Yes ☐	No X ☐
2. Are you testifying on behalf of any non-governmental entity(ies)? a. Name of entity(ies). *We are an association that represents utilities, fuel providers, fueling station operators, fueling station equipment manufacturers, automotoive vehicle and vehicle component manufacturers, and commercial truck firms.* *b.* Briefly describe the capacity in which you represent this entity. *I serve as the President.*	Yes X ☐	No ☐
3. Please list any Federal grants or contracts (including subgrants or subcontracts) which you have received during the current fiscal year or either of the two previous fiscal years that are related to the subject matter of the hearing: *NA*		
4. Please list any grants, contracts, or payments originating from foreign governments which you have received during the current calendar year or either of the two previous calendar years that are related to the subject matter of the hearing: *NA*		
5. Please list any offices or elected positions you hold. *NA*		
6. Does the entity(ies) you represent, other than yourself, have parent organizations, subsidiaries, or partnerships you are not representing?	Yes ☐	No X ☐

7. Please list any Federal grants or contracts (including subgrants or subcontracts) which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years, which exceed 10 percent of entity(ies) revenues in the year received. Include the source and amount of each grant or contract. Attach a second page if necessary. *NA*
8. Please list any grants, contracts, or payments originating from foreign governments which were received by the entity(ies) you represent during the current fiscal year or either of the two previous fiscal years related to the subject matter of the hearing. Include the source and amount of each grant or contract. Attach a second page if necessary. *NA*

Page 2

Committee on Ways and Means
Witness Disclosure Requirement – "Truth in Testimony"
Required by House Rule XI, Clause 2(g)

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March 28, 2018

The Hon. Kevin Brady, Chairman
House Committee on Ways & Means
1102 Longworth House Office Building
Washington, DC 20515

The Hon. Richard Neal, Ranking Member
House Committee on Ways & Means
1139E Longworth House Office Building
Washington, DC 20515

Subject: Extension of the Biodiesel and Renewable Diesel Tax Credit (26 U.S.C. §40A)

Dear Chairman Brady and Ranking Member Neal:

We are writing in response to your request for stakeholder input on "temporary" tax provisions, also known as "tax extenders." Congress should be commended for extending the $1 per gallon biodiesel and renewable diesel tax credit retroactively for 2017. However, stakeholders at all levels of the distribution stream from producer to retailer are now operating in an all-too-familiar period of uncertainty as to whether the credit will be renewed for 2018 and beyond.

Considering this, we urge the committee to support a multi-year retroactive extension of the biodiesel tax credit (BTC) given its many benefits for small businesses, jobs and consumers, especially in the home heating oil industry, as well as for the environment and local economies.

Background

Since 1942, the New England Fuel Institute (NEFI) has been a leading voice for America's wholesale and retail heating oil marketers and related service providers. Most are small, family-owned and operated businesses that deliver a reliable, efficient and *increasingly renewable* heating fuel to more than 6.5 million homes and businesses nationwide.[1] While almost every state has homes and businesses that utilize heating oil (also referred-to as "fuel oil"), 80-percent are located in the Northeastern United States.[2]

Figure 1. Heating Oil Use in the Northeast

State	Homes with Oilheat	% of State Total	Avg. Annual Volume[3]
Connecticut	595,244	44%	487 Million Gallons
Maine	359,181	65%	282 Million Gallons
Massachusetts	746,949	29%	650 Million Gallons
New Hampshire	241,284	46%	178 Million Gallons
New Jersey	336,160	11%	263 Million Gallons
New York	1,819,152	25%	1.28 Billion Gallons
Pennsylvania	899,357	18%	723 Million Gallons
Rhode Island	137,451	33%	134 Million Gallons
Vermont	114,826	45%	101 Million Gallons
Total New England	*2,194,935*	*39%*	*1.82 Billion Gallons*
Total Northeast	*5,249,604*	*25%*	*4.08 Billion Gallons*
Total U.S.	**6,533,188**	**6%**	**6.31 Billion Gallons**

American businesses and consumers that utilize heating oil are well represented on the House Ways & Means Committee. At least 21 committee members are from districts with significant heating oil demand, including twelve Republicans and nine Democrats (see Figure 2). In total, these members represent more than 450,000 households and an estimated 1.2 million consumers that use heating oil.

Figure 2. Committee Member Districts with Heating Oil Usage[4]

Member Name	Congressional District	Homes with Oilheat	Est. Consumers[5]
Republican			
Rep. Mike Bishop	Michigan, 8th District	3,476	9,000
Rep. George Holding	North Carolina, 2nd District	5,617	14,600
Rep. Mike Kelly	Pennsylvania, 3rd District	23,783	61,800
Rep. Pat Meehan	Pennsylvania, 7th District	57,626	149,800
Rep. Kristi Noem	South Dakota, At Large	8,272	21,500
Rep. Erik Paulsen	Minnesota, 3rd District	1,112	2,900
Rep. Tom Reed	New York, 23rd District	26,262	68,300
Rep. Dave Reichert	Washington, 8th District	3,695	9,600
Rep. Jim Renacci	Ohio, 16th District	5,816	15,100
Rep. Tom Rice	South Carolina, 7th District	3,108	8,000
Rep. Adrian Smith	Nebraska, 3rd District	1,501	3,900
Rep. Jackie Walorski	Indiana, 2nd District	1,418	3,700
Democrat			
Rep. Earl Blumenauer	Oregon, 3rd District	15,164	39,400
Rep. Joseph Crowley	New York, 14th District	68,701	178,600
Rep. Brian Higgins	New York, 26th District	5,063	13,200
Rep. John Larson	Connecticut, 1st District	96,541	250,000
Rep. Richard Neal	Massachusetts, 1st District	91,748	238,500
Rep. Bill Pascrell	New Jersey, 9th District	15,392	40,000
Rep. Mike Thompson	California, 5th District	1,768	4,600
Rep. Ron Kind	Wisconsin, 3rd District	13,178	34,300
Rep. Suzan DelBene	Washington, 1st District	2,912	7,600

Today's consumers are now utilizing home heating oil blended with advanced biofuels including biodiesel and renewable diesel. Blends of biodiesel and home heating oil are often referred-to as Bioheat® Fuel.[6] According to a recent survey by the National Oilheat Research Alliance (NORA), "5-percent (B5) blends are being used seamlessly across the [oilheat] market." Some retailers are delivering twenty-percent (B20) or higher blends to their consumers.[7] Use of this next-generation heating fuel brings with it many potential benefits.

Benefits of Biodiesel-blended Heating Oil

Studies by NORA, Brookhaven National Laboratory and other non-partisan research organizations have consistently found numerous benefits to the blending of biodiesel and other renewable fuels with today's clean and efficient ultra-low sulfur heating oil (ULSHO).[8] This includes benefits for businesses, consumers, the environment and the broader U.S. economy.

These benefits are being realized *today* thanks to billions of dollars of commercial investments in biodiesel production; well-regulated, safe and reliable liquid fuel transportation, distribution and storage infrastructure; and the presence of storage tanks in more than 6.5 million U.S. homes. No new pipelines or transmission lines or conversion of space heating equipment is necessary.

Environmental Benefits
Biodiesel-ULSHO blends have been proven to reduce harmful emissions. A 20-year atmospheric lifecycle analysis of carbon dioxide equivalent (CO_{2e}) emissions finds blends as low as two-percent (B2) to be *equivalent to* that of natural gas.[9] We estimate that most heating oil consumed in the Northeast in recent winters contained an average of two-percent biodiesel. Analyses based on a 100-year atmospheric lifecycle find that blends of just under 15-percent (B15) yield *fewer* CO_{2e} emissions than natural gas.[10] As mentioned, some heating oil marketers are offering blends as high as 20-percent (B20).

If the entire Northeastern heating oil market were to utilize a five-percent Bioheat blend region-wide, it would displace 205 million gallons of conventional petroleum each year. This would eliminate 1.7 million metric tons of carbon dioxide (CO_2) emissions, equivalent to the removal of more than 355,000 passenger vehicles from the road each year.[11] Nationwide, a five-percent blend would displace 316 million gallons of conventional petroleum and eliminate 2.6 million metric tons of CO_2 each year, equivalent to the removal of 550,000 passenger vehicles from the road.

In addition to carbon emissions, NORA has also observed considerable reductions to criteria pollutants and particulates.[12] This includes particulate matter, sulfur and nitrogen oxides, mercury, carbon monoxide and aromatic hydrocarbons emissions. The resulting improvements to air quality provide public health and environmental benefits such as reductions to acid rain and regional haze.

Figure 3. Bioheat Emissions Reductions[13]

Emissions	5% Biodiesel (B5)	10% Biodiesel (B10)	20% Biodiesel (B20)	100% Blend (B100)
Carbon Dioxide (CO_2)	4%	8%	16%	81%
Nitrogen Oxides (NO_X)*	≥ 5%	Varies	≤ 8%	≤ 35%
Sulfur Oxides (SO_X)	5%	10%	20%	100%
Particulate Matter ($PM_{2.5}$)	≥ 3%	≥ 6%	12-16%	≥ 47%
Carbon Monoxide (CO)	≥ 3%	≥ 5%	≥ 9%	16-40%
Hydrocarbons	5%	10%	20%	100%

* Nitrogen Oxide emissions reductions have shown to vary greatly based on the type of appliance used. Reduction estimates shown are for residential space heating equipment. The NBB has found commercial boilers utilizing higher blends can reduce NO_x emission by up to 35%.

Consumer Benefits
In conjunction with the U.S. Environmental Protection Agency's (EPA) Renewable Fuel Standard (RFS), the Biodiesel Tax Credit (BTC) helps increase demand for biodiesel-blended heating oil by reducing consumer prices. Given the competitive nature of the home heating market, RFS credits and the BTC are passed-on through the distribution chain from producer to importer/supplier, retailer and, ultimately, the consumer.

Consumers also benefit from relative fuel quality and performance properties. Blends of biodiesel and ULSHO not only improve heating system performance and longevity and reduce instances of customer service calls. Rigorous testing shows that "blends of up to 20-percent (of biodiesel) can be used with heating oil fuels with performance equivalent to - if not better than - conventional fuel oil," and that few modifications to existing systems are necessary to realize these benefits.[14]

"Biodiesel blends provide added lubricity and a higher, safer flash-point than conventional fuel oils, while having higher cold flow properties and slightly higher viscosity," NORA reports.[15] The biofuels and heating oil industries are also actively pursuing the development of new feedstocks and technologies that could result in fuels with even greater emissions reduction and cold weather performance benefits, including at blends well above 20-percent. This includes the use of renewable diesel and the development of liquid fuels derived from woody biomass.

Lower sulfur properties of biodiesel-ULSHO blends are also helping to expedite the introduction of lower-cost, compact and ultra-efficient condensing units into the U.S. space heating market. These systems offer AFUE ratings that exceed 90-percent. The above fuel quality and system performance and efficiency benefits result in meaningful consumer savings, in addition to environmental benefits.

Commercial & Economic Benefits

The sale and use of biodiesel-blended heating oil products also offers benefits for America's mostly small-business home heating oil marketers. Foremost, it allows them to help meet consumer demands for cleaner, more efficient and environmentally-secure fuels. A 2015 survey of home heating oil consumers found that 64-percent say a renewable component makes them feel better about using the fuel and 54-percent say it makes them less likely to convert to a competing fuel.[16] Preventing conversions to fuels like natural gas (which is mostly methane, a potent greenhouse gas) by encouraging use of renewable fuels is good for the fuel marketer, the consumer, and the environment. This is especially so in New England and New York, where natural gas prices are higher than the national average[17] and where governors, agencies and legislatures have aggressively advanced carbon-reduction policies.

Biodiesel blends also provide small heating fuel marketers the opportunity to support state and local carbon-reduction efforts, including new laws requiring the sale of renewable fuels, and provides an alternative to carbon taxes and other controversial policies. A multi-year extension of the BTC can provide biodiesel producers, blenders, heating oil marketers and their consumers greater certainty as state and local governments continue to evaluate, enact and implement these policies.

For example, Rhode Island and New York City currently require five-percent biodiesel blends in all heating oil sold.[18] The New York City law further aims to phase-in a 20-percent blend by the winter of 2034. On September 13, 2017, New York Governor Andrew Cuomo singed a law requiring a five-percent blend in all heating oil sold in Nassau, Suffolk and Westchester counties effective July 1, 2018. Along with New York City, this region comprises 70-percent of the state's heating oil market. In total, we expect the Rhode Island and New York laws will require more than 60 million gallons of biodiesel annually, mainly during the winter months.

Massachusetts has approved regulations offering alternative energy credits to retail heating oil marketers that sell biodiesel blends of 10% or higher effective January 1, 2018.[19] The new regulations have the potential to displace 65 million gallons of petroleum fuel and reduce CO_2 emissions by 528,000 metric tons each year. This is the equivalent of removing more than 113,000 passenger vehicles from roads annually.[20] Under the new law, the heating oil industry will make a considerable contribution towards state's Global Warming Solutions Act requirement of an 80-percent reduction of GHG emissions from 1990 levels by 2050.[21]

Other states in the Northeast have considered (or are soon expected to consider) similar policies to encourage or require a renewable component in the local heating oil supply.

Economic Benefits
The production, sale and use of biodiesel-blended heating oil also support state and local economies and thousands of American jobs. As mentioned, the availability of a clean-burning, efficient and increasingly renewable heating fuel provides an attractive alternative to residential conversions and government policies to encourage them, thereby preventing the loss of heating oil market share to competing fuels such as electricity, propane and natural gas. This will help preserve thousands of small energy businesses on Main Street and good paying jobs for tens-of-thousands of Americans nationwide.

Growing demand for biodiesel in the heating oil market also supports American farmers and biodiesel producers. The space heating market provides feedstock growers and biodiesel producers a demand-source during the off-season for on-highway biodiesel demand, which peaks in the summer. According to the National Biodiesel Board (NBB), the biodiesel industry supports 64,000 jobs, $11.42 billion in economic impact, and $2.54 billion in wages paid.[22] The National Oilheat Research Alliance estimates that almost 18-percent of these benefits can be attributed to the growing demand for biodiesel in the heating oil market.[23] This translates to 11,500 jobs, $2 billion in economic impact, and $450 million in wages paid.

Important Role of the Biodiesel Tax Credit (BTC)
The BTC has aided in the development and growth of the market for biodiesel and biodiesel-blended heating oil and the economic competitiveness of these fuels. First, the BTC has been a proven success when it comes to the production of biodiesel. The National Biodiesel Board estimates that 100 million gallons were commercially available prior to the credit. According to the EPA, that number grew to a historic 2.9 billion gallons in 2016.[24] This has helped to develop a market for renewable fuel in the heating oil sector and meet growing demand for biodiesel in the Northeast.

Second, because the BTC is structured as an incentive to blend biodiesel into the existing fuel supply, it has helped develop a market for biodiesel in states and regions where production is limited. As an incentive to blend biodiesel and renewable diesel, the BTC encourages heating oil suppliers in these regions to supplement local supplies with imports of sustainable biofuels from elsewhere in the United States, primarily the farm-rich Midwest, or from foreign producers. The BTC also provides an incentive to small local producers in these areas to invest in their businesses and expand capacity, thereby enriching local economies, expanding the available fuel supply, and creating new jobs.

Regional suppliers have long-stated that a multi-year extension of the biodiesel tax credit will inject much-needed stability and confidence in the markets for biodiesel and biodiesel-blended heating oil. As previously suggested, it will also help regional suppliers, retailers and consumers respond to recent changes in the market that have affected biodiesel sources and demand, including state and local policies designed to encourage or require its use, and to make necessary capital investments in blending, storage and distribution infrastructure.[25]

Conclusion
Biodiesel-blended heating oil provides measurable benefits for businesses, consumers, the environment, and local economies. Along with other federal and state incentives, the BTC has played an important role in helping to ensure biodiesel supplies necessary to meet growing demand in the heating oil market. It has also led to billions of dollars of investments in related production, storage, blending and distribution infrastructure. The BTC can not only continue to serve this purpose, but a multi-year extension can provide much-needed market certainty for heating oil markers, biodiesel producers and other industry stakeholders.

If you have questions or require additional information regarding this issue, please contact Jim Collura, NEFI Vice President & Director of Government Affairs at (202) 441-8857 or by email at jim.collura@nefi.com.

Thank you in advance for your consideration.

Sincerely,

Sean O. Cota, President & CEO
New England Fuel Institute

Contact Information:
20 Franklin Street, Suite 402
Worcester, MA 01608
(617) 924-1000
sean.cota@nefi.com

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[1] U.S. Census Bureau, *American Community Survey,* Fuel Oil Use by Occupied Housing Units, Five-Year Average (2011-2015).

[2] *Ibid*.

[3] U.S. Energy Information Administration (EIA), *Sales of Distillate Fuel Oil for Residential & Commercial End-use*, Five-Year Average Distillate Fuel Oil, Residual Fuel Oil and Kerosene Consumption (2012-2016). Does not include fuel use for industrial, rail, marine or farming applications, in on or off-road engines or electric power generation.

[4] U.S. Census Bureau, *American Community Survey,* Fuel Oil Use by Occupied Housing Units, Five-Year Average (2011-2015). For this chart, "heating oil market" is defined as a market in which one-percent of homes utilize fuel oil as their primary heating source.

[5] Estimate of total constituents utilizing fuel oil based on a U.S. average of 2.6 persons per occupied housing unit. Total value is rounded to the nearest hundred.

[6] "Bioheat Fuel" is a registered trademark of the National Biodiesel Board.

[7] National Oilheat Research Alliance, *Survey on Mechanical Issues Related to Biodiesel Blending*, March 2017, p.2.

[8] Ultra-low (15-parts-per-million) heating oil has been required in the state-wide heating oil market in New York since 2012; in Philadelphia, Pennsylvania since 2015; and in Delaware and New Jersey since 2016. New England states and the District of Columbia will require ultra-low sulfur heating oil on July 1, 2018. Low (500-parts-per-million) sulfur heating oil is currently required state-wide in Maryland, Pennsylvania, Massachusetts, Rhode Island, Vermont, Connecticut and the District of Columbia.

[9] *Ibid.*, p.12.

[10] *Ibid.*, p.9.

[11] Based on the U.S. Energy Information Administration's estimate of 22.40 pounds of CO_2 per gallon of heating oil (*Carbon Dioxide Emissions Coefficients,* February 2, 2016*)* and a 4% percent CO_2 reduction under a five percent biodiesel blend. Calculated using the U.S. Environmental Protection Agency's *Greenhouse Gas Equivalencies Calculator* at https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator.

[12] *NORA Biofuel Report to Congress,* p.15.

[13] National Biodiesel Board, *Bioheat Emissions Reductions Findings,* January 26, 2017 and the Biodiesel Emissions Calculator at www.biodiesel.org/handling-use/emissions-caclulator. Values rounded to nearest whole number.

[14] National Oilheat Research Alliance (NORA), *Developing a Renewable Biofuel Option for the Home Heating Sector: A Report to Congress, State Governments and Administrator of the EPA,* May 2015, p.3. Hereafter abbreviated *NORA Biofuel Report to Congress.*

[15] *Ibid.*

[16] "Oilheat Consumer Perceptions and Attitudes Research Study," Warm Thoughts Communications, conducted between May-July 2015. Summary available at https://www.indoorcomfortmarketing.com/inside-the-mind-of-todays-home-heating-oil-customer.html.

[17] Malik, Naureen S., "Cold Snap Makes New England the World's Priciest Gas Market," *Bloomberg Markets,* December 26, 2017, https://www.bloomberg.com/news/articles/2017-12-26/cold-snap-makes-new-england-the-world-s-priciest-market-for-gas.

[18] The state of Rhode Island requires a five-percent blend in all heating oil sold in the state effective July 1, 2017 (see 23 RIGL §23-23.7); and New York City effective October 1, 2017 (see NYC Admin. Code §24-168.1).

[19] 22 CMR 16.05(1)(a)(6)(a)(vii)

[20] Calculated using the method under Footnote 11, but with an 8% carbon reduction under a ten-percent blend.

[21] Summary of the Global Warming Solutions Act at https://www.mass.gov/service-details/global-warming-solutions-act-background.

[22] Meyer, Cal, *Testimony on Behalf of the National Biodiesel Board*, House Ways & Means Committee, Subcommittee on Tax Policy, Hearing on Expired Tax Provisions, March 14, 2018, p.2.

[23] *NORA Biofuel Report to Congress,* p.15.

[24] U.S. Environmental Protection Agency, *Analysis of 2016 Renewable Fuels Standard RIN volumes*, January 19, 2017.

[25] It will also help preserve market confidence and certainty as the federal government reevaluates other policies that effect the markets for biodiesel and biodiesel-blended heating oil, such as trade policies the EPA's Renewable Fuels Standard.

March 14, 2017

The Honorable Vern Buchanan
Chairman - House Ways and Means Tax Policy Subcommittee
1102 Longworth HOB
Washington D.C. 20515

Re: Post Tax Reform Evaluation of Recently Expired Tax Provisions.

Dear Chairman Buchanan:

As the House Ways and Means Committee works to evaluate tax provisions that expired at the end of 2017, we encourage you to seamlessly extend the biodiesel tax incentive. Specifically, we encourage you to include the second year of, S. 2256, the "Tax Extender Act of 2017" which was introduced by Senator Hatch and others last December. The tax extenders act continues to be an urgent policy matter for our company. Every day that these provisions remain lapsed creates further confusion and uncertainty for our industry, while needlessly undermining economic growth and job creation.

As a domestic energy producer, I can attest that tax policy certainty is vital to our success. Today we are one of America's most consistent suppliers of biodiesel, offering 55 million gallons of annual biodiesel production. We produce a vast array of products from soybeans at our plant locations on the Ohio River in western Kentucky. The company's soy products include protein meal and hull pellets for animal feeds, crude and degummed oil, lecithin, various blends of refined vegetable oil for human consumption, biodiesel and glycerin. Historically, we produced approximately 50 million pounds of crude glycerin per year, which, in 2014, led us to build a glycerin refinery which now converts the crude glycerin into USP Pharmaceutical grade Glycerin-CLP. In 2007, we added a biodiesel processing facility, which added close to 20 highly skilled positions. Biodiesel and the tax credit together, have helped us expand our business and we now are in the process of building a plant that will convert soybean oil into waxes for multiple applications adding even more positions.

There are substantial energy security, job creation, rural economic development and environmental benefits associated with the expanded domestic production and use of biodiesel. Maintaining the biodiesel tax incentive and providing certainty in the Internal Revenue Code is a proven and cost-effective way to continue achieving these worthwhile public policy benefits.

The biodiesel tax credit expired on December 31, 2017 and today our industry is struggling each day to make ends meet. It is essential for the near-term to emphasize the urgent threat facing our industry from the ongoing expiration. This year marks the fifth time in seven years that the biodiesel incentive has been allowed to lapse, creating severe disruptions in the industry. This severely disrupts producers' access to capital, as well as their ability to hire and expand. Rather, biodiesel producers across the country are struggling to survive.

The biodiesel tax incentive has played a key role in stimulating growth in the U.S. biodiesel industry in recent years, helping biodiesel become the leading EPA-designated advanced biofuel in the nation. By making biodiesel more cost-competitive with petroleum diesel, the $1-per-gallon credit creates jobs, strengthens U.S. energy security, reduces harmful emissions, diversifies the fuels market and lowers costs to consumers. There are many policy and public benefits associated with biodiesel and renewable diesel production and use including the following:

- **The Tax Incentive Works**. The U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005, when the incentive was first implemented, to nearly 2.6 billion gallons in 2017. The biodiesel tax credit is an important demand stimulus, which improves domestic plant efficiencies, encourages investment in U.S. distribution infrastructure and supports high-paying jobs throughout the economy.

- **Stability Helps**. Traditional oil incentives are written permanently into the tax code, but the biodiesel incentive has repeatedly expired—in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and 2017. Often, the credit is retroactively extended and reinstated, but we have been operating without the credit since December 31, 2017. This severely disrupts producers' access to capital, as well as their ability to hire and expand.

- **Jobs Are Created, Economies Grow**. With biodiesel plants nationwide the biodiesel industry already supports roughly 64,400 jobs, $11.42 billion in economic impact and $2.54 billion in wages paid. In many rural areas of the country, biodiesel plants are a driving force of the local economy, supporting the employment of technicians, plant operators, engineers, construction workers, trucks drivers and farmers, to name a few.

- **Energy Security Is Enhanced**. Biodiesel is diversifying our fuel supplies so that we're not so vulnerable to global oil markets that are heavily influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market.

- **America Benefits from Improved Air Quality and Less Waste**. Biodiesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils and animal fats. Biodiesel reduces wastes and most major air pollutants. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making biodiesel the only commercial-scale U.S. fuel produced nationwide to meet the agency's criteria. According to the EPA, biodiesel reduces greenhouse gas emissions by 57 to 86 percent when compared to petroleum diesel.

- **Stimulating New Technologies and Feedstocks**: The biodiesel tax credit has supported the development of a diversity of fuels including biodiesel, renewable diesel and renewable jet fuel all produced using a broad mix of resources including recycled cooking oil, plant oils and animal fats.

This has helped shape a nimble industry that is constantly reducing cost, improving fuel diversity and performance and expanding feedstock options.

- **Immature Industries are Deserving of Assistance**: Biodiesel is America's first Advanced Biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development. The petroleum industry has benefited from numerous tax deductions and other tax benefits over the years and continues to receive approximately $4 billion in tax benefits each year; while the ethanol industry had a tax incentive for three decades before it expired several years ago. In contrast, the biodiesel industry has had commercial-scale production for only the last decade (the tax credit was first implemented in 2005). Biodiesel still represents only a fraction of the overall U.S. diesel market. It is an up-and-coming industry that remains at a far more fragile state of development.

The biodiesel industry has made great strides in producing domestic energy and diversifying our nation's fuel supply. We have done what Congress has asked us to do and we are creating real manufacturing jobs, generating tax revenue and improving our energy security. In its short history, the biodiesel tax incentive has proven to be a remarkably effective tool in helping to achieve the desired goal of increasing the domestic production and use of biodiesel and renewable diesel. This in turn is enabling the U.S. to realize the energy security, economic and environmental benefits associated with displacing petroleum with clean, domestically produced renewable fuels. We appreciate and support your efforts to explore a more stable, long-term structure for renewable fuels incentives in the tax code. However, for the near-term, we want to emphasize the urgent threat facing our industry due to the ongoing expiration of the incentive.

We urge Congress to act in a timely manner to address the immediate issue facing the industry by extending the biodiesel tax incentive. Looking forward, we urge Congress to provide a long-term extension of the biodiesel tax credit.

Thank you for consideration.

Sincerely,

/S/ John Wright

John Wright
Executive Vice President
Owensboro Grain Company

March 26, 2018

The Honorable Vern Buchanan
Chairman
House Ways and Means Subcommittee
Subcommittee on Tax Policy
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Lloyd Doggett
Ranking Member
House Ways and Means
Subcommittee on Tax Policy
1139E Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Buchanan and Ranking Member Doggett:

The Paper Recycling Coalition, Inc. (PRC) commends the House Ways and Means Subcommittee on Tax Policy for holding its recent hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions." We agree that it is important for Congress to periodically evaluate the justification and efficacy of the various tax "extenders" to ensure that they continue to serve their intended purpose. As described in greater detail below, we believe that this evaluation is particularly warranted with respect to the section 45(c)(1)(G) tax credit for electricity produced from municipal solid waste (*i.e.*, waste-to-energy production), which has negatively impacted the paper recycling industry.

Paper Recycling Drives Economic Growth & Innovation

PRC represents the interests of the 100% recycled paperboard and containerboard industries. Our member companies operate 500 facilities in 43 states and support over 50,000 well-paid jobs with competitive benefits throughout the U.S. PRC members manufacture 100% recycled paper products that are ubiquitous in American commerce, such as cereal and pizza boxes, Amazon boxes, and other shipping containers and packaging critical to today's growing e-commerce economy.

Paper and paperboard recycling is one of our country's greatest economic and environmental success stories. The amount of used paper recovered for recycling has nearly doubled since 1990. In 2016, more than 56% of all paper used by Americans was recovered to be recycled, a number likely to exceed 70% by 2020.

As this trend continues, it will compound the significant economic and employment benefits of paper recycling. Already, recycled paper, paperboard, and deinked market pulp mills employ nearly 140,000 people directly and influence another 615,000 jobs, for a total of nearly 755,000 jobs nationwide. The annual economic impact of paper recycling amounts to a staggering $150 billion throughout the paper and packaging supply chain.

The impressive economic and environmental benefits of paper recycling are directly tied to the availability of a reliable supply of recovered paper fiber collected for recycling. For that reason, the PRC's primary mission is to protect the U.S. recyclable paper supply from market-distorting government subsidies that divert recyclable paper from the supply chain, thereby limiting opportunities to recycle these materials and turn them into valuable paper and packaging products. Relatedly, we seek to ensure that government regulations, policies and programs do not thwart the continued growth of this critical sector of the U.S. economy.

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www.paperrecyclingcoalition.com

The Section 45 Credit for Municipal Solid Waste Creates the Wrong Incentive – *Not* to Reuse Recyclable Paper

It is this mission which leads to our serious concerns about the section 45(c)(1)(G) tax credit for electricity produced from waste-to-energy facilities. As it stands today, section 45 provides an incentive to incinerate *any* municipal solid waste – including recyclable paper. This dramatically reduces the amount of paper available for recycling, and in some cases leads to an erosion in the quality of the recyclable paper that is recovered.

As Congressman Peter Roskam (R-IL) said during the recent hearing, "Everybody knows intuitively that incentivizing recycling is a good thing – there's no argument about that." Likewise, Congressman Roskam observed that "nobody is interested" in seeing recyclable paper mixed in with garbage and burned, rather than being recycled.

Indeed, Congress has made efforts to clarify that section 45 should not act as an incentive to burn recyclable paper. In 2012, Congress amended section 45 to limit the availability of the credit for the production of energy from municipal solid waste that includes paper that is commonly recycled and that has been segregated from other solid waste. This clarification was intended to ensure that the federal government does not incentivize the burning of paper that should be recycled.

Unfortunately, residual ambiguity in the law means that recyclable paper continues to be burned for energy production. Instead of separating paper from waste as Congress intended, in some cases paper continues to be commingled with waste for energy production purposes. As an added negative, commingling in many cases contaminates recyclable paper and leaves it unusable as a feedstock for recycled packaging and products.

As Congressman Roskam alluded to at the hearing, it is crucial to the health and vibrancy of the paper and packaging industries – not to mention the environment – that recyclable paper be available for recycling, and that the federal government should not be subsidizing the burning of recyclable paper for energy production. If Congress continues to renew the section 45 credit for waste-to-energy facilities without modification, it will continue to provide an incentive for this counterproductive and harmful activity.

That is why the Paper Recycling Coalition supports bipartisan legislation to clarify that the section 45 credit is not available for waste-to-energy facilities that burn commonly recycled paper that has been segregated from solid waste, or that burn solid waste that has been mixed with garbage – thus coming closer to Congress' original intent for the provision. The Senate version of this legislation – the Protecting America's Paper for Recycling Act (S. 2371) – was introduced on February 5, 2018 by Senators Stabenow, Boozman, Carper, Baldwin and Isakson.

Ultimately, since section 45 provides an incentive for energy production and not recycling, the PRC does not support the continued extension of the tax credit for waste-to-energy facilities. But if Congress does act to continue this incentive, it is essential to include the modifications reflected in S. 2371. This commonsense proposal is the only way to bring coherence to a policy that would otherwise prioritize energy production over recycling.

In closing, we strongly agree with Ways and Means Committee Chairman Kevin Brady's sentiment that "this is an opportunity to change our approach on extenders." We hope that the Committee will take this opportunity either to eliminate the harmful municipal solid waste incentive entirely, or to modify it in a way that protects America's vibrant and growing recycling industry.

We stand ready to work with you and your staff as you examine these issues. Please do not hesitate to be in contact with any questions, or if we can provide you with any additional information about our industry or the negative effects caused by section 45 as it exists today.

Thank you for your leadership on these important issues. We look forward to working together to ensure that the economic and employment benefits of recycling continue to grow.

Sincerely,

Brian McPheely
Chairman, Paper Recycling Coalition, Inc.
Global CEO, Pratt Industries

Michael P. Doss
Vice Chairman, Paper Recycling Coalition, Inc.
President/COO, Graphic Packaging International

Terese Colling
President, Paper Recycling Coalition, Inc.

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The Honorable Vern Buchanan
U.S. Congressman, Sixteenth District of Florida
Chairman, House Ways and Means Tax Policy Subcommittee
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Buchanan,

I write to you on behalf of the Policy and Taxation Group, which is an organization comprised of family-held businesses from throughout the country that are dedicated to reform of the estate tax. As the House Ways and Means Tax Policy Subcommittee examines "tax extenders" and the policy justifications underlying these temporary provisions, we want to ensure that the Subcommittee does not forget another important set of provisions that are also temporary: all of the individual tax policies included in tax reform – especially the doubling of the estate tax exemption.

While we are appreciative that tax reform included a doubling of the estate tax exemption, we believe that this should be a permanent change – not one which expires at the end of 2025. As Chairman Brady mentioned in announcing this hearing, tax-writers are taking "*an important step in delivering the certainty and simplicity that Americans need in our nation's new tax code.*" However, if the goal is to achieve certainty, it is critical that Congress examines *all* of the temporary tax provisions in our tax Code and "*prioritize permanence in policies that will benefit our economy for the long term.*" While we believe that eliminating the estate tax is ultimately the best approach, we also believe that permanently doubling the exemption is good policy that will help achieve the Subcommittee's goals.

That said, to maximize the benefits that come with reforming the estate tax, we believe that more than just a doubling of the exemption is needed. For example, based on the 2016 Internal Revenue Service estate tax tables, 88-percent of those who filed an estate tax return fall within the current exemption; however, of those who actually *paid* the tax, 66-percent *remain* subject to the tax – despite the increased exemption. This means that many of the family-held businesses that employ millions of Americans will be at risk when their estate tax bills come due – as will the jobs that they provide.

While we understand that Congress faced political and logistical constraints that prevented more expansive reforms of the estate tax last year, we urge you to use this as an opportunity to take bold action that will protect family-held business, spur additional job creation, and help the economy continue to grow. One idea that will help *all* family-held businesses subject to the estate tax: reduce the rate – which is arbitrarily the highest rate in the tax Code – to the capital gains tax rate, while maintaining step-up in basis.

In addition to a reduction in the estate tax rate, there are various other policy changes that could be implemented to protect family-held businesses from the unfair and disastrous consequences of the estate tax. As the Subcommittee continues to examine such policies in a post-tax reform world, we stand ready to serve as a resource to you, your fellow Committee members, and staff and are happy to provide additional information or answer any questions that you may have.

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(714) 357-3140 | pmsoldano@policyandtaxationgroup.com

Thank you for your consideration of these important tax policies and your continued efforts to improve our nation's tax Code.

Sincerely,

Pat Soldano

Pat Soldano
Founder, Policy and Taxation Group

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March 28, 2018

The Honorable Kevin Brady
Chairman
Ways & Means Committee
United States House of Representatives
1100 Longworth House Office Building
Washington, DC 20515

The Honorable Vern Buchanan
Chairman
Ways & Means Subcommittee on Tax Policy
United States House of Representatives
1100 Longworth House Office Building
Washington, DC 20515

The Honorable Richard E. Neal
Ranking Member
Ways & Means Committee
United States House of Representatives
1100 Longworth House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member
Ways & Means Subcommittee on Tax Policy
United States House of Representatives
1100 Longworth House Office Building
Washington, DC 20515

Subject: Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

Dear Chairmen Brady and Buchanan and Ranking Members Neal and Doggett:

Pacific Gas and Electric Company (PG&E), is an investor-owned electric and gas utility operating in California, covering over 70,000 square miles and serving approximately 16 million Californians. Our electric grid powers more clean, electric vehicles (EVs) than any other utility in the nation – over 150,000 to-date – and we estimate that our natural gas system provides fuel to 4,000 to 5,000 cars and trucks, 3,000 of those at our own fueling stations.

We are writing to urge Congress to extend through 2019 the section 30C Alternative Fuel Vehicle Refueling Property Credit, which provides meaningful incentives for our customers to invest in electric, natural gas, and hydrogen fueling infrastructure at their homes and businesses.

Access to reliable charging and refueling infrastructure is a critical barrier to increasing customer adoption of clean alternative fuel vehicles across the country. High capital costs of infrastructure installation have limited the deployment of compressed natural gas (CNG) and hydrogen fueling stations as well as EV charging at workplaces, multifamily dwellings, and other public locations. The Section 30C Property Credit provides our customers with an important incentive to overcome these barriers, encouraging greater private and utility capital investment in alternative fuel infrastructure.

As a complement to the Section 30C Property Credit, PG&E is an important operator of CNG fueling stations in California. This year, PG&E launched a $130 million program to support customers in deploying electric vehicle charging at their properties to accelerate adoption of electric vehicles.

By extending this provision and providing multi-year certainty to our customers, we believe that Congress can make a significant impact toward transitioning Americans to a clean transportation future.

These investments also help create jobs, save our customers money, increase energy security, and promote greater consumer choice.

Thank you for your consideration. We look forward to working with this Committee to ensure this important incentive receives a multi-year extension.

Sincerely,

Roy Kuga
Vice President
Grid Integration and Innovation
Pacific Gas and Electric Company

Jessica Hogle
Senior Director
Federal Affairs
PG&E Corporation

March 14, 2017

The Honorable Vern Buchanan
Chairman - House Ways and Means Tax Policy Subcommittee
1102 Longworth HOB
Washington D.C. 20515

Re: Post Tax Reform Evaluation of Recently Expired Tax Provisions.

Dear Chairman Buchanan:

As the House Ways and Means Committee works to evaluate tax provisions that expired at the end of 2017, we encourage you to seamlessly extend the biodiesel tax incentive. Specifically, we encourage you to include the second year of, S. 2256, the "Tax Extender Act of 2017" which was introduced by Senator Hatch and others last December. The tax extenders act continues to be an urgent policy matter for our company. Every day that these provisions remain lapsed creates further confusion and uncertainty for our industry, while needlessly undermining economic growth and job creation.

Rio Valley Biofuels, LLC was the first commercial producer of biodiesel in the Southwest. Rio Valley has grown over the last 12 years and produces 15 million gallons per year of biodiesel from used cooking oil and other feedstocks. Our continuing goal is to provide affordable biodiesel to businesses and farms in the Southwest. We started producing biodiesel in 2006 for sale locally to help businesses and farms in the area and now distribute our biodiesel throughout Texas, New Mexico, Arizona, and the western United States. Our company is recognized as a leader in the local community as we provide employment and growth opportunity to residents and businesses in our area.

As a domestic energy producer, we can attest that tax policy certainty for initiatives like the biodiesel tax credit is vital to our success.

There are substantial energy security, job creation, rural economic development and environmental benefits associated with the expanded domestic production and use of biodiesel. Maintaining the biodiesel tax incentive and providing certainty in the Internal Revenue Code is a proven and cost-effective way to continue achieving these worthwhile public policy benefits.

The biodiesel tax credit expired on December 31, 2017 and today our industry is struggling each day to make ends meet. It is essential for the near-term to emphasize the urgent threat facing our industry from the ongoing expiration. This year marks the fifth time in seven years that the biodiesel incentive has been allowed to lapse, creating severe disruptions in the industry. This severely disrupts producers' access to capital, as well as their ability to hire and expand. Rather, biodiesel producers across the country are struggling to survive.

The biodiesel tax incentive has played a key role in stimulating growth in the U.S. biodiesel industry in recent years, helping biodiesel become the leading EPA-designated advanced biofuel in the nation. By making biodiesel more cost-competitive with petroleum diesel, the $1-per-gallon credit creates jobs, strengthens U.S. energy security, reduces harmful emissions, diversifies the fuels market and lowers costs to consumers. There are many policy and public benefits associated with biodiesel and renewable diesel production and use including the following:

- **The Tax Incentive Works**. The U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005, when the incentive was first implemented, to nearly 2.6 billion gallons in 2017. The biodiesel tax credit is an important demand stimulus, which improves domestic plant efficiencies, encourages investment in U.S. distribution infrastructure and supports high-paying jobs throughout the economy.

- **Stability Helps**. Traditional oil incentives are written permanently into the tax code, but the biodiesel incentive has repeatedly expired—in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and 2017. Often, the credit is retroactively extended and reinstated, but we have been operating without the credit since December 31, 2017. This severely disrupts producers' access to capital, as well as their ability to hire and expand.

- **Jobs Are Created, Economies Grow**. With biodiesel plants nationwide the biodiesel industry already supports roughly 64,400 jobs, $11.42 billion in economic impact and $2.54 billion in wages paid. In many rural areas of the country, biodiesel plants are a driving force of the local economy, supporting the employment of technicians, plant operators, engineers, construction workers, trucks drivers and farmers, to name a few.

- **Energy Security Is Enhanced**. Biodiesel is diversifying our fuel supplies so that we're not so vulnerable to global oil markets that are heavily influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market.

- **America Benefits from Improved Air Quality and Less Waste**. Biodiesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils and animal fats. Biodiesel reduces wastes and most major air pollutants. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making biodiesel the only commercial-scale U.S. fuel produced nationwide to meet the agency's criteria. According to the EPA, biodiesel reduces greenhouse gas emissions by 57 to 86 percent when compared to petroleum diesel.

- **Stimulating New Technologies and Feedstocks**: The biodiesel tax credit has supported the development of a diversity of fuels including biodiesel, renewable diesel and renewable jet fuel all produced using a broad mix of resources including recycled cooking oil, plant oils and animal fats. This has helped shape a nimble industry that is constantly reducing cost, improving fuel diversity and performance and expanding feedstock options.

- **Immature Industries are Deserving of Assistance**: Biodiesel is America's first Advanced Biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development. The petroleum industry has benefited from numerous tax deductions and other tax benefits over the years and continues to receive approximately $4 billion in tax benefits each year; while the ethanol industry had a tax incentive for three decades before it expired several years ago. In contrast, the biodiesel industry has had commercial-scale production for only the last decade (the tax credit was first implemented in 2005). Biodiesel still represents only a fraction of the overall U.S. diesel market. It is an up-and-coming industry that remains at a far more fragile state of development.

The biodiesel industry has made great strides in producing domestic energy and diversifying our nation's fuel supply. We have done what Congress has asked us to do and we are creating real manufacturing jobs, generating tax revenue and improving our energy security. In its short

history, the biodiesel tax incentive has proven to be a remarkably effective tool in helping to achieve the desired goal of increasing the domestic production and use of biodiesel and renewable diesel. This in turn is enabling the U.S. to realize the energy security, economic and environmental benefits associated with displacing petroleum with clean, domestically produced renewable fuels. We appreciate and support your efforts to explore a more stable, long-term structure for renewable fuels incentives in the tax code. However, for the near-term, we want to emphasize the urgent threat facing our industry due to the ongoing expiration of the incentive.

We urge Congress to act in a timely manner to address the immediate issue facing the industry by extending the biodiesel tax incentive. Looking forward, we urge Congress to provide a long-term extension of the biodiesel tax credit.

Thank you for consideration.

Sincerely,

/s/ Jed Smith

Jed Smith
Chief Operating Officer

March 27, 2018

Ways and Means Committee

Tax Policy Subcommittee

"Post Tax Reform Evaluation of Recently Expired Tax Provisions."

Comments Submitted on behalf of Paul Jacob, CEO, Rye Development, LLC ("Rye")

Thank you for the opportunity to submit testimony supporting tax incentives for Qualified Hydropower and Marine Hydrokinetics. Rye Development is the developer of the largest portfolio of new hydropower development projects on existing dams in the United States. Currently our projects are in nine states (Oregon, Washington, Pennsylvania, Ohio, West Virginia, Indiana, Kentucky, Mississippi, and Louisiana). All but two projects are proposed to be located on existing dams owned by states or the US Army Corps of Engineers.

Rye's projects make beneficial use of existing infrastructure by adding hydroelectric generating equipment to the existing dam. No new dams will be constructed, and the environmental impact of these projects are broadly agreed to be minimal and mitigable.

In addition to Rye's projects on existing dams, we have recently entered into a partnership with Grid America Holdings, an affiliate of National Grid, to jointly acquire, develop, construct, and operate a 393 MW pumped storage hydro ("PSH") project in Oregon, near the California Border. Rye is also pursuing a 1200 MW PSH project in the state of Washington.

We encourage Congress to extend the Qualified Hydropower and Marine Hydrokinetic tax incentives because of the economic and infrastructure benefits these projects provide to the economy and the U.S. Treasury. Hydropower needs these incentives because of the excruciatingly long regulatory process, the high capital costs to install the facilities, and the long asset life which positions Hydropower more akin to infrastructure than traditional power resources. These factors combine to deter most private investment in the sector. Once a hydropower system is in place, however, it reliably operates with little maintenance for up to 100 years.

Economic Benefits

Hydropower projects developed on existing state and federal dams leverage existing infrastructure. The dams were installed and are still used for the purposes of navigation, flood control, and irrigation. Most of the existing dams need to be repaired

and have significant maintenance costs overwhelmingly borne by the federal government. According to the US Army Corps, the cost of repairing all of its dams is $24 billion over 50 years[1]. Private developers, who add hydropower to existing, publicly owned dams, replace and upgrade portions of the dams, thus saving tax payers millions of dollars. Rye, if able to secure financing for all our licensed projects, would invest over $700 million in replacing and upgrading parts of the U.S. Army Corps dams. The Qualified Hydropower tax incentive significantly attracts and leverages private funds to invest in and upgrade public infrastructure.

Powering existing dams provides further benefits and cost savings to the tax payers. The private developer:

1. reinforces the water retaining nature of the dam, the affected abutment, and at the tie-in to the dam structure, through new construction of a powerhouse and other appurtenances;
2. provides maintenance for 5% to 20% of the dam, the portion occupied by the powerhouse and other projects elements;
3. accepts the responsibility of erosion and sedimentation control on the side of the dam with the new construction;
4. acquires the trash collection and removal responsibility, further cleaning the river and better maintaining the dam (the USACE does not have a discrete budget to conduct trash removal);
5. enhances and strengthens the long-term serviceability of the conduits in some hydropower projects, for example, reinforcing the lining of existing conduits; and
6. provides electricity or pays the electric bill on the federally owned dams on which the project is developed for the life of the project.

Hydropower projects create significant construction jobs. For the thirty-four projects which Rye wants to complete, between 8,000 and 12,000 construction jobs would be created. After construction there will be hundreds of long-term jobs for operations and maintenance.

Importantly, most of the Qualified Hydropower projects provide recreational benefits. Many projects are located in rural areas whose local economies rely on outdoor recreation. Rye works with the communities to provide additional recreational access such as by providing restrooms, boat ramps, fishing access and ADA accessible features. Recreational activities bring further economic benefits to the regions where the dams are located.

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[1] US Army Corps, Facts and Figures, referenced March 20, 2018. http://www.usace.army.mil/Media/Fact-Sheets/Fact-Sheet-Article-View/Article/590578/dam-safety-facts-and-figures/

Infrastructure and Electric Transmission Benefits

The United States electric grid is becoming less stable because of short term policy decisions and aging infrastructure. In recent years, many older coal-fired power plants and nuclear power generation facilities have been retired or decommissioned, resulting in a drop in base load electricity, generation sources that had provided stable electricity. In some regions of the United States, the replacement sources of electricity generation are primarily in the form of solar and wind power, both of which are intermittent sources of electricity. The intermittency creates instabilities in the transmission and distribution system which can cause economic losses to businesses that require stable sources of electricity. Hydropower can "load follow," that is a hydropower resource can ramp up or ramp down without creating undue stresses on the turbine thereby helping to stabilize the transmission system. Other benefits that hydropower provides is black start capability. During the August 2003 blackout from Ohio to New York, hydropower was the only resource that could bring the transmission system and large conventional fossil fueled electric generation sources back on line.

The tax code provides incentives to invest in certain technologies helping to drive capital investment by assuring a predictable return with long-term investment tax credits or production tax credits.

Hydropower needs tax credit support, in part because it is double disadvantaged: First, hydropower projects require a very long regulatory approval process (8 to 10 or more years) versus the shorter requirements for wind, solar, or even natural gas projects (1 to 4 years). Second, hydropower projects, have a comparatively high up-front cost (although offset by extremely long asset life and low operating costs). Obviously, regulatory uncertainty, high capital costs, and tax incentives that come and go each year do not readily attract private investors. Certainty with tax incentives would make a meaningful difference.

The economic benefits that qualified hydro and marine hydrokinetic projects provide to the U.S. Treasury and the aging electric infrastructure can be attained. Congress should act to reinstate these tax credits and strongly consider providing long-term incentives as is afforded to the solar industry.

Conclusion

Rye requests that the committee extend the qualified hydro and marine hydrokinetic tax incentives in recognition of the economic and infrastructure benefits that the projects provide. Developing hydropower on existing infrastructure is a true public private partnership. The Incentives leverage significant private capital that is then used to improve public infrastructure and provide long-term reliable, clean, stable electricity.

March 19, 2018

The Honorable Kevin Brady
Chairman
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
Ranking Member
Committee of Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Brady and Ranking Member Neal:

I am writing today on behalf of Senture, Inc. and the over 2,000 men and women working for Senture in rural eastern and southeastern Kentucky to request that your Committee and the Congress help our company continue to provide economic opportunities throughout rural Appalachia by continuing or making permanent the Federal Empowerment Zone designation and its important tax provisions.

Senture, Inc. is a call center and customer representative company started in London, Kentucky in 2003. We are a family-owned company that had as an overriding objective the desire to create good jobs for the families of rural eastern and southeastern Kentucky and, in so doing, help overcome the decades of poverty and high unemployment that have plagued the region. In order to meet this objective, Senture has to overcome a number of detriments and a lack of what most people would consider normal business conditions and, as a result, our ability to provide jobs in this region is made possible through the benefits provided by the Empowerment Zone designation. Because this region lacks so much of the basic infrastructure a business needs, we must provide a much greater amount of our business resources to items such as job training, telecommunications infrastructure and facilities construction and maintenance than our competitors do. But our company feels that helping families in eastern and southeastern Kentucky have economic opportunity is a worthy objective and the Empowerment Zone benefits provide the crucial benefits needed to make this objective an on-going reality.

Since Senture was created, we have been able to provide economic opportunity in Wayne County, Kentucky and Jackson County, Kentucky due to the benefits associated with the Empowerment Zone designation for each of these counties.

460 Industrial Boulevard ▪ London, KY 40741 ▪ (Office) 606.877.6670 ▪ (Fax) 606.877.6672 ▪ www.senture.com

In Wayne County, Kentucky, Senture now operates two facilities that currently provides over 500 jobs for residents of the county and surrounding areas. The construction and operation of these facilities and the jobs they support were only possible through the tax incentives provided by the Empowerment Zone designation. In addition to these jobs, Senture's presence in the community has brought computer and telephony expertise to an area that didn't support such industries in the past and this new training has improved the skill sets of the local workforce and given individuals an opportunity to "stay home" in and around Wayne County as opposed to going elsewhere for work. Senture's investment in the community has exceeded $4,000,000 in buildings and infrastructure alone and in 2017 these facilities were responsible for providing over $11,449,000 into the local economy via salaries and wages and helped with supporting an additional 1,500 indirect jobs in the area. With planned new expansions at our second facility, those economic impact numbers will grow to over $19,000,000 in salary and wage impact generated by over 700 employees in this small rural southeastern Kentucky county. These tax credits have allowed Senture to reduce unemployment in the area and have helped our company pay for necessary telecommunications upgrades that were needed due to being in a rural area that, quite frankly, were business expenses and upgrades that would most likely not have been required in a metropolitan area. Most importantly, Senture now has an established pool of highly qualified, highly skilled call center agents providing critical work for our nation and helping a region with a long history of high unemployment and poverty diversify and expand their economy and the opportunities such a diversification provides.

Senture has also just recently opened a new facility in Jackson County, Kentucky. This area suffers from chronic unemployment and has historically been ranked as one of the poorest counties in the United States. Residents of the area able to find work do so many miles from home or simply have to move away from their home in order to find a good job and support their families. Because of the Empowerment Zone tax credits and our desire to provide jobs to areas desperate for new jobs, Senture decided to open this new facility with an investment of over $1 million. We currently employ 115 people at this facility and these new jobs will put over $3,600,000 in salaries and wages in to the local economy in 2018 alone. An additional important benefit to the county, as in Wayne County, is that Senture's presence will provide new computer and telephony skill sets to individuals in that area and we have partnered with local economic development and job training organizations to help them provide local residents with the skills they need to work for Senture and companies like Senture. Also, modern telecommunications infrastructure was basically non-existent, thus the availability of the Empowerment Zone tax credits improved the business case to justify the extra expense Senture incurred in order to provide that necessary infrastructure. Without these tax credits the company would have struggled to make a business case for bringing jobs to that area.

These are just two examples specific to our company that have been a result of the Empowerment Zone designation in southeastern Kentucky. The benefits that are provided by this designation make it possible for Senture and other businesses to come in to these areas and provide jobs and economic impact and benefits that far exceed the cost of the incentives themselves. Other parts of Appalachia that don't have this benefit are struggling due to a number of economic issues including the significant economic impacts associated with the downturn in the coal industry. The lack of jobs, the resulting health and unemployment costs associated with that lack of jobs and a general deterioration in the areas themselves are all direct results of a community or county not having adequate jobs for its residents and the costs of that deterioration are enormous. The small cost of the Empowerment Zone

benefits are more than offset by the jobs companies like Senture provides, the benefits we provide and the overall positive impact to both residents and communities.

The Empowerment Zone benefits are crucial to Senture's ability to continue providing good jobs in a part of the United States that has long struggled economically and I hope the Committee will continue this designation and make it a permanent part of the tax code so that our company and companies like ours can afford to do business in rural communities such as Wayne County and Jackson County and provide the same economic opportunities and a quality of life that other Americans enjoy.

Thank you for your time and attention to this information and request and please do not hesitate to contact me if you have any questions or need any additional information.

Sincerely yours,

Christopher D. Deaton
President & CEO

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March 14, 2018

The Honorable Vern Buchanan
Chairman Subcommittee on Tax Policy
House Ways and Means Committee
1102 Longworth House Office Buildings
Washington, D.C. 20515

The Honorable Lloyd Doggett
Ranking Member Subcommittee on Tax Policy
House Ways and Means Committee
1102 Longworth House Office Buildings
Washington, D.C. 20515

Dear Chairman Buchanan and Ranking Member Doggett,

On behalf of the U.S. Green Building Council (USGBC), a national nonprofit organization representing more than 12,000 member companies and organizations committed to cost-effective and high-performing buildings, I write to provide input on recently expired tax provisions.

USGBC commends the committee for calling this hearing to take input from companies and organizations on items in the tax code that have profound importance to the efficiency and productivity of businesses and consumers across the country. USGBC is best known as the developer of the LEED rating system, an industry-leading building standard that reduces utility and resource consumption while saving money for families, businesses, and taxpayers. It is estimated that the green buildings built or renovated in the past four years alone have contributed to $2.4 billion in energy savings nationally.[1]

USGBC recommends the committee provide consistent and stable policy guidance for the designers and owners of high-performing real estate by extending and updating the Energy Efficiency Commercial Building Tax Deduction 179(D). We believe that while changes to the expensing provisions of the Tax Cuts and Jobs Act are helpful to certain businesses and technologies, they are not a substitute for the incentive provided by Section 179D.

The 179(D) deduction has been in the tax code in various forms since 2005 and has had a tremendous impact in advancing the energy efficiency and performance of commercial buildings. Since its inception, this provision has leveraged billions of dollars in private capital, which has resulted in energy efficient enhancements to thousands of buildings and has created and preserved hundreds of thousands of jobs. Reforms to Section 179D can boost its contributions to our economy even more.

A recent economic impact study by Regional Economic Models, Inc. ("REMI") concludes, "Section 179D is an engine of economic and employment growth." In particular, an enhanced tax incentive for energy efficient commercial buildings, including reforms geared toward retrofiting privately-owned buildings, could support up to 76,529 jobs

[1] U.S. Green Building Council and Booz Allen Hamilton. "2015 Green Building Economic Impact Study." September 2015.

and contribute nearly $7.4 billion in national GDP output each year[2]. These results represent a significant return on taxpayer investment in Section 179D, well in excess of the provision's revenue cost. The study also confirms that long-term extension of the current version of Section 179D or making modest changes to the deduction would have an important impact on economic and employment growth.

During the previous Congress, Reps. Reichert, Blumenauer and Reed introduced H.R.3507, which would extend and make refinements to the 179D tax deduction. Enhancing 179D legislation along the lines of H.R. 3507, with an ability to update the building code standard based on existing U.S. Department of Energy analysis[3], would be a helpful addition to the tax code.

Given its role in supporting jobs and economic growth in communities across the country, we strongly urge you to make the extension and enhancement of Section 179D a priority in 2018. We look forward to working with you to ensure that tax incentives for businesses across the country remain an engine of growth for our economy.

Thank you for your consideration. Please do not hesitate to contact me if you have any questions or wish to discuss this issue further.

Sincerely,

Bryan Howard
Legislative Director
U.S. Green Building Council

Cc: Chairman Brady and Ranking Member Neal

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[2] Regional Economic Models, Inc. "Analysis of Proposals to Enhance and Extend the Section 179D Energy Efficient Commercial Buildings Tax Deduction." May 2017.
[3] U.S. Department of Energy. Building Energy Codes Program available at: https://www.energycodes.gov/development/commercial

Ways and Means Committee

Tax Policy Subcommittee

"Post Tax Reform Evaluation of Recently Expired Tax Provisions"

Comments Submitted on behalf of Stuart Lamb, CEO, Viesel Fuel, LLC

March 21, 2018

The provision I address pertains to the Biodiesel and Renewable Diesel Tax Credit under Section 40A of the Internal Revenue code. Viesel Fuel, LLC encourages the Ways and Means Committee to provide an extension to the Biodiesel/Renewable Diesel tax credit in a way such that the industry may grow, expand and become stable to participate in the fuel market in the long-term.

VIESEL FUEL, LLC headquartered in Stuart, FL developed and implemented, in collaboration with Novozymes, a biodiesel production process that uses enzymes to produce biodiesel. The company produced biodiesel in Fort Myers, Florida at a rate of 5 to 6 million gallons. Further, this process is easily scalable to larger capacities. Resin based technology is used to bring the crude biodiesel into ASTM specifications. The development of the technology was possible due to the biodiesel tax incentives.

Forward Thinking: Viesel Fuel continuously reviews technology developments. Now that the enzymatic biodiesel facility is fully operational, the Viesel Enzymatic Process allows Viesel to use FOG (Fats, Oils and Greases from waste water treatment facilities) and convert the FOG into ASTM specified biodiesel (D6751). Viesel Fuel is the only company, at this time, who can successfully use FOG as a feedstock. Presently, Viesel suspended operations and expansion due the uncertainty of the RFS program and the expiration of the tax incentives drove away investors. The innovations and investments in Viesel Fuel were possible due to the tax incentives that have now expired.

The on again off again nature of the tax incentives, make it nearly impossible for businesses to make plans to operate or expand. It would not be prudent to expand nor invest in a biofuel facility at this time to create jobs, help the environment, and create a diversified fuel base due to the ongoing tax and regulatory uncertainty.

The biodiesel and renewable diesel industry dramatically expanded and exceeded expected production, in large thanks to the tax incentives and the RFS. Tremendous capital, research, development and investment has been put into this burgeoning industry. Not continuing the biodiesel/renewable tax credits at this time would cause years of significant personal and government investments in the industry to be lost. The Renewable Fuel Standard (RFS) needs to be reformed, but while waiting for Congress or the EPA to create a better program, longer-term biofuel incentives need to be implemented.

Energy tax incentives make good policy sense. Energy is a requirement for the economy and helps create jobs. Unfortunately, it seems that tax policy has been implemented primarily based on which industry is favored at the time of crafting legislation. Both the oil and gas and then the ethanol industry enjoyed long-term tax incentives which have not been afforded to the advanced biofuel industry. The tax reform bill recently signed into law, continues to provide the oil and gas industry incentives to continue to explore and develop resources, despite that the industry is well established and has a strong market. Such an incentive can be justified given the dependency on oil and gas for the market. However, the lack of incentives to pursue alternative fuels sends a message to the market to no longer invest in the alternatives.

The biodiesel and renewable diesel industry have not had the same advantage despite the dramatic benefits that the fuel can provide. Tax credits expiring, then being reinstated retroactively or for perhaps another 10 or 11 months does not provide a signal to investors that the government will continue to encourage growth of an industry. The biodiesel/renewable diesel tax credit expired and was then reinstated in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and then 2017. While the excess soybean oil as a byproduct of the soybean plant was a driving force to create a biodiesel industry, the tax credit prompted entrepreneurs and small businesses to produce the fuel with alternative feedstocks, in particular waste grease from the food and restaurant industry and in Viesel Fuel's case the FOG from a waste water treatment facility.

Other innovative technologies in the biodiesel and renewable diesel industry draw on feedstocks that could help reduce landfills, emissions and expenses for cleanup. A stable tax credit provides assurance to innovators, entrepreneurs and financiers to find better methods for producing fuel from a variety of feedstocks.

The environmental benefits go beyond reducing greenhouse gas emissions. Waste grease, known as FOG, from the food and restaurant industry was traditionally eliminated by pouring down sewage drains. The expense to municipalities due to FOG clogging waste water treatment lines is significant. New York City, for example, spent $4.65 million

in 2013 to clean the city drains[1]. The FOG that does make it to waste water treatment facilities is separated from the waste water and transported to the landfills.

One small, 5 million gallons per year facility supports 45 good paying jobs and an additional 40 or more jobs in secondary activities for trucking, blending, etc. The benefits back to the government include social security and FICA payments and the produced fuel generates approximately $1.7 million per year in fuel tax.

The tax credit is needed at this time due to a confluence of market forces. The biodiesel/renewable diesel market has come to expect and rely on the tax credit resulting in higher costs of feedstocks and suppressed RIN values. The cost of feedstock and production for biodiesel or renewable diesel is typically higher than the cost of fossil-based fuels, due in part to market forces and in part the cost of doing business, such as collecting and cleaning waste grease. The price of yellow grease is at times $2/gallon while at the same time the price of heating oil (the benchmark sale price for biodiesel) is less than $2/gallon. One cannot sell one's product at a lower cost than the inputs and expect to stay in business. A longer term, stable tax incentive would send signals to the market and stabilize the prices and prompt more innovations.

Diversified fuel sources provide a more robust economy and in times of natural or human disasters, helps to maintain an energy base and reduce the economic impacts of such events. The present tax law, does not encourage diversified fuel sources, it continues the status quo of only encouraging the oil and gas industry to continue to explore. The tax code, should encourage and provide incentives for all the fuel sources.

The small innovative businesses in this nascent industry, do not have revenue to pay taxes. The tax incentives encourage investors to finance these innovative technologies that create jobs, diversify the nation's fuel sources, generate revenue, help preserve the environment and ultimately will generate revenue for the Federal Government.

Viesel encourages Congress to not just pass a one-year tax extender incentive for the biodiesel/renewable diesel industry, but instead provide a longer-term incentive that will allow the industry to grow and then be weaned off the credit in the same fashion as was afforded the oil and gas industry and the corn ethanol industry.

Viesel Fuel is committed to the environment, participating in the RFS program and saving lives by reducing America's dependence on oil and creating a more diversified energy resource base. We look forward to working with our members of Congress to create a stronger America.

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[1] Gregory, K. *New York Tries to Rid Its Sewers of FOG (Fat, Oil and Grease),* The New York Times, February 14, 2014.

Biodiesel Tax Credit

I would like to thank The House Ways & Means Committee for taking the time to review the Tax Extenders and especially the Biodiesel Blenders' Tax Credit. While I am strongly in favor of a long-term Biodiesel Tax Credit as I believe it is good public policy and helps support both agricultural and oil interests, it is more important that we have clarity on this issue one way or another. If Congress cannot support a long-term tax credit, than it is better to send a clear message that it is not coming back as opposed to leaving it with the hope and speculation of all too familiar retro-active reinstatements.

So yes, I am asking for the committee to consider a long-term (5-10 year) Biodiesel Tax Credit. But not as currently administered, with constant expiration and reinstatement, has that causes more harm and disruption to the industry than it does good. Having the mere specter of a retro-actively reinstated biodiesel tax credit disrupts the normal pricing mechanisms of the market and moves them to abnormal levels. Even now, the market is still pricing in a percentage of the tax credit which affects pricing and ultimately erodes the viability of many independent producers. Investments are stifled and progress is restrained due to this level of uncertainty. While installing a long-term tax credit would be ideal for helping the industry grow and support clean air, jobs, and energy independence, sending a clear message of no tax incentives is better than be held in limbo with speculation of a retuning tax credit.

In your evaluation of the Biodiesel Tax Credit, it is important to note that the issues and opportunities surrounding biodiesel are different than that of ethanol. In 2007, the Energy independence and Security act (EISA) was signed into law by George W. Bush. Commonly known as RFS2, this was the first time mandates were set for advanced biofuels, such as biodiesel[1]. The cost to produce biodiesel in 2007 exceed the cost of straight petroleum diesel, as it still does today, but Congress intended RFS2 to be a "market forcing policy"[2]. This meant that even though it was not economically competitive at the time, it was important enough to mandate its use and the build and support this new industry.

Since not all obligated parties desired to install blending capabilities, the law was enacted in such a way that those parties obligated to prove blending was actually occurring could purchase Renewable Identification numbers, (RINS). Given that is costs more to produce biodiesel than it does to produce petroleum diesel, there needed to be a mechanism to compensate producers for the extra cost and to provide incentive for investment. If producers could not cover their costs and make a profit, there would be no incentive to produce biodiesel and thus meet the RFS mandates.

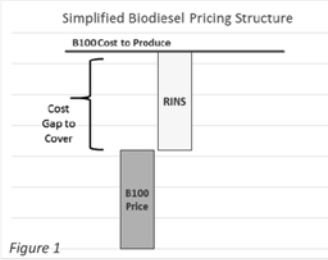

Figure 1

[1] Ron Kotrba, The swinging pendulum of US biodiesel policy, November 20, 2013

[2] Jonathan Coppess and Scott Irwin, Deal-Making on the RFS: Follow the North Star, March 7, 2018

RINS became that mechanism and the price of RINS reflects the cost gap between what the biodiesel will sell for relative to petroleum diesel, and what it costs manufacturers to produce. Figure 1 reflects this simplified pricing structure.

Unfortunately, the real-world did not remain this simple due to two factors.

1. Third party blending
2. The Blenders Tax Credit.

The RFS was written in a way that we could not separate the RINS from the physical gallons until the product was blended to less than 80% biodiesel, (B80). The market had producers to make the product and obligated parties without blending capabilities that needed the RINS separated. This created a need for 3rd party blenders. Those who would buy the biodiesel from a producer, blend it less than 80% biodiesel (B80), with normal blends being between B5 to B20, and then deliver the RINS to the obligated parties. As with any business or industry, there needed to be a financial incentive to do so. To accomplish this, the blenders would purchase the physical gallons from the producers at a discount to petroleum diesel, commonly known as *ultra-low Sulfur Diesel* (ULSD), allowing them to make a "Blend Margin". Since the cost to produce biodiesel was still higher than the price of ULSD, the RINS naturally would need to increase in order to cover the coast of the blend margin.

To help incentivize investment in blending, congress enacted a $1.00 per gallon refundable tax credit known as the Blenders Tax Credit (BTC). This credit was granted to anyone who blended biodiesel with as little as .1% ULSD, creating B99.9, or 99.9% Biodiesel. With this $1.00 BTC available, RIN prices did not need to increase in order to cover the blend margins. In fact, RIN prices declined and have remained lower whenever a tax credit is in place for the year. The blenders also benefited from this credit as they could now request, as receive, larger discounts on the biodiesel relative to petroleum and thus increase their blend margin. Figure 2 reflects this slightly more complicated pricing structure.

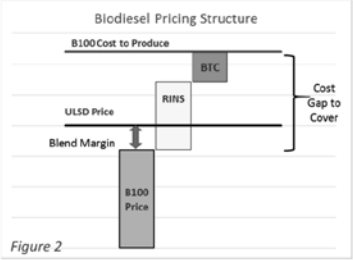

Figure 2

The benefits of the BTC across the value chain were numerous. RIN prices remained lower with the BTC in place than without, which benefited the obligated parties. Blend margins also increased, benefiting the blenders, and feedstock prices, which remains primarily soy bean oil, increased in price as demand went up thereby benefited soy bean farmers and rural communities. There are over 64,000 jobs associated with Biodiesel, creating an $11.4B economic impact[3], and the BTC has played a significant role in achieving this.

Under this new structure, as with the simplified model, the producer was able to cover cost and make a modest profit. Producers did not enjoy the same levels of economic gains as the other constituents as most of the value of the BTC was ultimately distributed along the value chain to soy farmers, blenders, and obligated parties. From a producers stand point, the best thing about having a tax credit was the clarity and certainty that it brought.

[3] BIODIESEL MAGAZINE: Powerful Reasons to Celebrate National Biodiesel Day March 18

As Figure 3 demonstrates, all constituents benefited more from having a tax credit in place than not. It is the speculation in-between reinstatements that has caused the most disruption and has negatively affected producers. The blenders and ultimate customers will not pay more than the cost of ULSD or incur a loss when purchasing biodiesel, nor will the soybean oil producers sell at a loss, not even with a sharing agreement. RINS also trade lower as a percentage of the expired tax credit gets factored into the pricing as the entire market "bets" on whether the BTC will return or not.

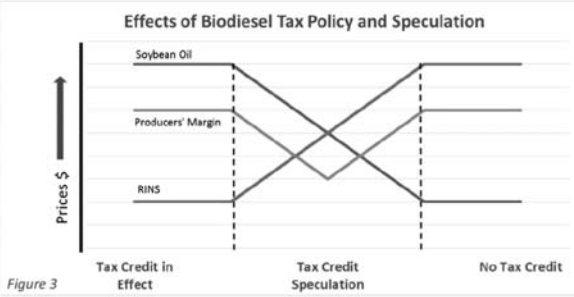

Figure 3

Ultimately, it is the producers that must bear the risk and operate a loss in this environment. Even with sharing agreements, there is no profitable business model without a tax credit due to the artificially high feedstock costs and artificially low RIN prices. This gap is illustrated in figure 4.

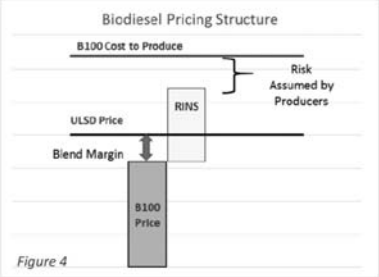

Figure 4

Rather than focusing on growing the business and investing in technology to drive down cost, producers are forced to hunker down and minimize losses. Tax sharing agreements are commonly used to help reduce the overall loss exposure, but generally is it not enough to break-even without the tax credit. Since the customer is only willing to pay for a fraction of the $1.00 tax credit for the right to share, the producer may still end up barely above break-even after the tax credit is finally reinstated. As a result, it is impossible to plan effectively and there is little free cash flow for investing in future efficiencies.

The BTC has expired 5 times since its inception[4] and been reinstated 4 times. Since the adoption of RFS2 in 2007, the industry has not had two consecutive years with a known tax credit to start the year or had a stable policy in which to build from. In 2015, W2Fuel did not run any significant amount of biodiesel after the tax credit expired. In 2017, we ran constrained in an attempt to minimize potential losses should the BTC not be reinstated. Conditions such as these caused us to tread water in 2017, barely keeping our heads above the waves. Instead of being able to invest in upgrading the business so we can stand on our own one day, we are back to the same treading water scenario for 2018 without the tax credit in place to start the year.

[4] Retroactive biodiesel tax credit signed into law for 2017 only; By Ron Kotrba | February 09, 2018

Should the committee decide that the Biodiesel Blenders' Tax Credit will remain expired, we would expect to see RIN prices rise, as they are the main mechanism for bridging production costs and the market value of ULSD. Secondly, we would expect Soybean Oil prices to fall. Nearly 1/3 of all soybean oil production is consumed in the production of biodiesel. Between the rise in RIN prices and the drop in soybean oil, most producers should be able to fill the cost gap. I do not expect that blenders will continue to blend for much less margin than they receive now. This would shift the burden of blending physical gallons away from the 3rd party blenders and back to the obligated parties. There would be few RINS trading on the open market. The Obligated parties would need to invest in blending infrastructure which, up until now, they have all committed to.

In summary, all parties involved, as well as the U.S. Economy in general, would benefit greatly from having a long-term extension of the Biodiesel Tax Credit enacted. Something in the 5 -10 year time frame, with or without a sun setting provision would give the clarity, commitment, and time needed to move the industry forward. In the absence of a consensus on installing a long-term tax credit, the market would be better served to have the clarity of knowing, unambiguously, that the tax credit will not be returning as opposed to continuing to gamble on the hope and speculation of a return. There is no greater disruption to this industry than the one year at a time, on again - off again reinstatement of the BTC. While I hope you will give serious consideration to a long-term tax credit, I applaud the fact that the committee is addressing this issues and I look forward to a firm resolution, whatever the outcome.

Thank you.

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Statement

Of

Paul E Suplizio
President
Work Opportunity Tax Credit Coalition

For

Hearing On Post Tax Reform Evaluation of Recently Expired Tax Provisions:

WOTC And Empowerment Zone and Indian Employment Tax Credits

Subcommittee on Tax Policy
Committee on Ways and Means
United States House of Representatives

March 14, 2018

renewal counties" to help stimulate development in rural areas declining economically. Recently, Congress approved "long-term unemployed" as a target group. Our Coalition supports The Military Coalition's proposal to extend WOTC eligibility to dependents of service members on active duty, who are at a disadvantage in finding employment when re-locating. We also support a bill before Congress to add "transitioning foster youth" as a target group. Empowerment Zone Tax Credit has expired and should be renewed soon and permanently. The Indian Employment Tax Credit has also expired and should be made permanent immediately to relieve high unemployment on reservations. In addition, Native Americans who reside on reservations often travel long distances to find work off reservation; they should be eligible for WOTC. Congress should also consider boosting apprenticeships by granting WOTC to employers who hire and train workers in an officially-registered apprenticeship program.

There are six million disconnected youth who are out of school and out of work because they lack basic skills. Valuable models of intensive counseling, education, and training for such youth exist in city and county welfare departments who confront this problem regularly. The Human Resources Subcommittee received presentations on private models that are achieving excellent results, Year Up and Alternative Schools Network. From testimony, Year Up's model is six months of intensive classroom work followed by a six-month internship with an employer; its program will serve 3,600 people this year. ASN works with 2,500 high school dropouts a year at a cost of $14,200 per student who receive job referrals when they graduate. If ASN's model is extended to fifty states, 125,000 disadvantaged youth would graduate annually and be referred to employers, at a cost of $17.75 billion a year. (This is approximately today's cost of WOTC's 2 million placements.) Baltimore's privately-funded JumpStart intensive training program in construction trades has highly successful graduates but only 800 graduates in ten years. Clearly, intensive programs geared to the disadvantaged and utilizing professional case managers, counselors, and educators, are labor-intensive, high-cost, and don't achieve scale enough to make a serious dent in six million disconnected youth.

There are, however, many disconnected youth who are motivated toward work and willing to step into a job if they can find one, knowing an entry-level job is a stepping-stone to better days. We have proof in that "disconnected youth" ages

Mr. Chairman and Members of the Subcommittee:

Today's hearing takes note of two tax credits that are companions to the work opportunity tax credit: empowerment zone employment tax credit and Indian employment tax credit. As each addresses poverty and the goal of improved income mobility for the poor, we will first address how the work opportunity tax credit expands job opportunity for the poor, at-risk youth, veterans, and people with disabilities to help them advance in real wages, and then we'll comment on how EZ and Indian jobs credits work to elevate zones of deepest poverty in urban and rural areas and Indian reservations. Department of Labor and Census Bureau data show that without these three credits and their emphasis on work, our nation will continue to struggle with a large underclass of people living at the bottom from generation to generation. Research from the Census Bureau shows that during the latest period for which we have data, 2009-2012, of the 22.7 million households in the lowest quintile (income below $22,329), 31 percent moved to a higher quintile and 69 percent remained at the bottom, and overall income mobility fell between 2004 and 2012.

WOTC's focus is on these 22.7 million households when they are unemployed and receiving public assistance. Because of the social safety net—TANF, housing assistance, child credit, food stamps, Medicaid, and other benefits—the poverty rate of those so aided is cut in half; but welfare benefits don't provide a job and steady income, the precondition for a better life by gaining skills and expanding one's own talents. In the WOTC model, nearly two million unemployed workers on public assistance find jobs each year, and once employed, if their annual earnings are low from illness, care-giving, or irregular work, they are eligible for the earned income tax credit (EITC). WOTC and EITC are in a "goldilocks" relationship fighting poverty—WOTC expanding job opportunity for those at the bottom, EITC boosting income when earnings are low—together, they are a cornerstone of the safety net.

The WOTC model has allowed many single mothers to obtain work with earnings that keep their children out of poverty after receiving welfare services and training from city and county welfare agencies who use WOTC as a job placement tool. WOTC is a way-station at the end of the line to exit welfare. WOTC is hard-wired to every city and county welfare services and economic

renewal program which funnel low-skill workers into jobs. It is an integral component of our system to lift low-income households and help them advance in real wages and out of the bottom. The Empowerment Zone Employment Tax Credit and Indian Employment Tax Credit supplement WOTC by providing larger job creation incentives for census tracts with deepest poverty via economic recovery projects of city, county, and reservation economic development agencies, using Federal investment tax credits as well as EZTC and IETC.

Considering WOTC alone, total hires in fiscal year 2015 were 1.9 million, including 1,394,967 food stamp recipients, 210,674 welfare recipients (most of them long-term welfare cases), 75,310 residents of poverty-stressed rural counties, 123,578 veterans, 53,583 ex-felons, 28,150 people with disabilities, and 23,089 SSI recipients, including youths with a disability. That's nearly two million hires a year of a target population of 22 million households in the bottom quintile of income. WOTC is the only Federal jobs program that achieves a scale proportionate to the challenge at maximum cost of $1,900 per job in most cases, and every worker is certified eligible by a State Workforce Agency before an employer can claim the credit. The system of verifying eligibility by State Workforce Agencies matching public records has for two decades assured high program integrity, with no significant fraud or abuse.

WOTC jobs are real, productive, tax-paying, private sector jobs distributed among 23 occupational groups in every major sector of the economy. Labor Department data shows 29.8 percent in sales and related occupations; 21.9 percent in production operations, including manufacturing, transportation, and construction; 18.7 percent in office and administrative support occupations; 17.5 percent in food preparation and serving occupations; 4.7 percent in healthcare and support occupations; and 1.6 percent in buildings and grounds cleaning and maintenance. WOTC is clearly not a program used mainly by restaurants. Nor are these "dead-end" jobs: private employers fill openings and are willing to pay full compensation and taxes beyond WOTC's benefit, which is capped for most workers at a maximum cost to the Treasury of $1,900 (the average is about $1,500 per hire.) What happens to this tax saving? It's used to pay part of the worker's compensation, which means the tax saving is ploughed back into the local economy. States and cities with thousands of WOTC hires a year can tally every dollar of the boost their economies receive from jobs credits, earmarked mostly for communities with the highest poverty and welfare caseloads.

It is said that WOTC's take-up rate of disadvantaged workers is low, but this is based on WOTC's hires as percent of total disadvantaged population, rather than as percent of the total who looked for jobs and were successfully employed. Let's compare WOTC workers employed with total workers employed at low incomes, as $9 is the starting wage for most WOTC workers. For our testimony, we obtained from BLS un-published CPS data on income distribution of full and part-time workers ages 25 and older, by education level, in 2017. Consider the bottom ten percent (decile) of employed workers making the lowest average weekly wages. There were 10.1 million workers employed at this level in 2017, and DOL records show two million ages 18-24 hires via WOTC in an average year. After allowing for 33 percent of WOTC workers being under 25, WOTC hires comprise an estimated 1,353,000, or 13.4 percent take-up rate of bottom-decile, age-25 and older workers in 2017. Assuming turnover of 33 percent between 2017 and 2018, it's likely 900,000 of these age-25 WOTC workers employed in 2017 remained on payrolls in 2018, along with an estimated 1,353,000 new WOTC age 25 and older workers, plus 647,000 workers ages 18-24, for a total of 2.8 million or 27.7 percent take-up rate of WOTC for lowest-income workers in 2018. At lowest decile, WOTC's two million jobs for those on public assistance account for a large percentage of those employed.

It is sometimes said, incorrectly, that WOTC-eligible workers would have been hired anyway, because the employer had an opening to be filled. This is a fallacy because, while the position will be filled, it won't necessarily be filled by a disadvantaged worker. The way the labor market operates is through competition—WOTC workers must compete for jobs with non-WOTC workers. According to BLS data we received, the bottom decile in 2017 were comprised of 843,000 with less than high school education, 3 million high school, 1.9 million some college, 1.3 million associate degree, and 3 million bachelors. Whatever the education of the WOTC worker, one can see there was significant competition for jobs at the lowest earnings level, with around 4 million high schoolers and less, competing with 6 million with some college and higher. It's even tougher competition for those most likely to be on welfare and bearing the scars of poverty, e.g., managers are wary of hiring someone who may not show up for work regularly, but people on welfare carry this stigma—a hurdle others don't have to overcome. Given the competition for work, there's no assurance WOTC workers will be hired without the tax credit, even at the lowest decile.

WOTC does make a difference in who gets hired; evidence from GAO and others shows employers are reaching out to hire WOTC-eligible workers, who thus experience more job opportunity—precisely what Congress intends.

The historical record since 1960 is that, if we do nothing, there will inevitably be a pool of "structurally unemployed" people imposing a drain on the economy and government funds. Ronald Reagan, advised by Milton Friedman and Jack Kemp, enacted a jobs credit for those most in need—today it's called WOTC and has been expanded to include VOW to Hire Heroes Act veterans' jobs credits.

As a policy instrument, WOTC has during the past two decades proven to be the most cost- effective Federal jobs program on record—no more than $1,900 per hire for ninety percent of workers (the credit is larger for long-term welfare recipients and certain veterans). The last time the Joint Economic Committee made a cost estimate for permanent WOTC was in 2013 (see JCX-11-13) and the ten-year cost was $14.215 billion. A study conducted by Professor Peter Cappelli of the Wharton School, University of Pennsylvania, estimates savings in welfare payments alone exceed twice the ten-year cost of WOTC. WOTC is ready-made for evidence-based policy evaluation: the immediate outputs are known, but tangible results in growth of real wages, retention, and long-run impact can be estimated, along with savings from lower public assistance payments.

One must also ask what are the options to WOTC? Congress doesn't seem in the mood to add billions for welfare programs, so the training option appears attractive. But training ranging from assessments of capacity to mastery of skills can be costly. In the end a job with a private employer, be it auto shop or Apple store, that brings a worker into a team and allows him or her to mature in basic skills while earning an income, may be the most cost-effective option. With community colleges at hand in most locales, motivated workers can work toward certificates in at least four hundred high-demand occupations with good wages, according to DOL. To strengthen "academic knowledge and technical and employability skills" low-income workers need to progress, the House recently passed HR 2353 with more funds. With such opportunities and a steady WOTC job the starting point, each can choose their own route ahead.

WOTC has proven adaptable to changing economic conditions. Congress has frequently extended WOTC to aid recovery from disasters. It added "rural

16-25 were a WOTC target group in 2009 and 2010, during which time 424,306 were hired using WOTC. Combining DOL data on employment with JCT data on cost, the average cost to the Federal government was $1,100 a job, and the maximum cost today is $1,900 because WOTC is capped. Does getting jobs for a half million disconnected youth each year via WOTC mean these workers are without counseling, peer support, or training? No, they acquire this on the job, through counseling and training by their managers, learning from co-workers, and making personal adjustments to fit their team. Cost is borne by employers.

If "disconnected youth" were restored as a WOTC target group, there's little doubt this would catch employers' attention because, for entry level jobs, employers count on motivation more than skill. Given the importance of quickly reducing those "out of school and out of work" to support the nation's plan to ignite economic growth, incorporating WOTC into national economic planning by making "disconnected youth" a target group until age 31 offers a good route to a rapid boost in hiring of those who presently have a low workforce participation rate, at lower cost per hire than any Federal jobs program. The "disconnected youth" provision enacted in 2009 ARRA should be copied verbatim and made a permanent part of WOTC, but it should capture more age groups left behind. The original program was highly effective because WOTC is the only program scale-able to the size of the challenge at reasonable cost.

Pertinent to the Human Resources Subcommittee's interest in employment of youths with disabilities is the fact that Congress has enacted a larger WOTC credit for especially hard to hire groups, namely, long-term welfare recipients, long-term unemployed veterans, and disabled veterans. Very favorable results occurred in these cases: today, more long-term TANF recipients are being hired than short-term; and veterans' employment has improved several hundred percent. However, this approach hasn't been used to increase employment of the disabled, and we recommend that Congress do so now by doubling the benefit for hiring a person receiving SSDI or SSI or referred by a state Vocational Rehab agency or Employment Network. To further improve employment of the disabled, our Coalition has long recommended that special attention be given to each year's cohort of special needs students graduating from high school. They should be aided in their job search by receiving an increased WOTC benefit for two years after leaving high school, whether receiving public assistance or not.

To expand the number of jobs available to WOTC-eligible workers, our Coalition recommends that Congress authorize the credit for private non-profit employers, creating good-paying jobs in several areas, but especially in health care and education. We further recommend that all employers be allowed to claim WOTC against FICA tax, with reimbursement to the Trust Funds by the Treasury, as this will allow employers to hire more workers than present income tax rules allow.

Will a growing economy absorb disadvantaged workers, making WOTC unnecessary? Long experience demonstrates that certain groups, particularly the poor on welfare, youth from broken homes and dropouts, people with disabilities, and returning veterans, face barriers that exist in good times and bad, in other words, "structurally unemployed" with higher than average unemployment rates and lower than average workforce participation rates. Without WOTC, such workers will fall even further behind in a growing economy, as past history has shown. Although the economy is improving, the number in poverty continues to grow because of increased population. Coupled with low income mobility that leaves many stuck at the bottom, it becomes clear there will inevitably be a need for a national Federal jobs credit to ensure large numbers of the poor on public assistance find employment speedily.

Many years ago, a scholar considered the leading figure on the theory of economic policy, Jan Tinbergen, who won the Nobel Prize for his work, showed that if a nation has multiple policy goals, then it needs, at minimum, a number of policy instruments equal to the number of its goals (Tinbergen Lectures On Economic Policy, 1993, pp. 89-90). WOTC is such a policy instrument; it's purpose is not to grant a tax preference to certain employers, but to encourage employers to hire the disadvantaged to attain a policy goal: economic improvement for the poor and ex-felons, assistance to veterans and people with disabilities, and a stronger economy by improving a disadvantaged worker's chance in the job market. The policy goal is national, the policy instrument (using the tax code) is efficient—sound basis for making WOTC permanent.

Criticizing employers, who use the credit, as riding a gravy train ignores that they're investing in disadvantaged workers as Congress intended, and it's paying off with nearly two million hires a year for people who, with a job, are on their way to exiting public assistance. Critics are unaware of the extent to which

WOTC is hard-wired into every city and county government in the nation, via their welfare and economic development agencies, veterans job programs, ex-felons and people with disabilities programs, which look to WOTC to match workers with jobs, and thus exit public assistance. To cities and counties, loss of WOTC would be a huge blow, and a workable state-by-state WOTC unthinkable.

In conclusion, our recommendations pertinent to the Subcommittee are:

- ***Enact permanent authorization of WOTC;***
- ***Authorize WOTC for dependents of armed forces members on active duty;***
- ***Make the Empowerment Zone Tax Credit permanent;***
- ***Permanently extend the Indian Employment Tax Credit, and extend WOTC to native Americans who reside on Indian reservations but work elsewhere;***
- ***Reinstate the disconnected youth target group, as enacted in ARRA, from ages 16 to 31;***
- ***Authorize WOTC for all workers receiving cash payments under SSDI and SSI;***
- ***Double the tax benefit for hiring SSDI and SSI recipients and Vocational Rehabilitation and ticket-to-work Employment Network referrals;***
- ***Authorize WOTC for special needs students for two years after leaving high school;***
- ***Extend WOTC eligibility to transitioning foster youth;***
- ***Make non-profit employers eligible for WOTC to expand job opportunities, especially in healthcare and education;***
- ***Allow WOTC to be claimed against FICA tax, while reimbursing the trust funds from the general fund of the Treasury;***
- ***Consider extending WOTC to workers hired by an employer who participates in a publicly-registered and approved apprenticeship program;***
- ***Authorize WOTC for food stamp recipients over the age of 40.***

Thank you for the opportunity to submit this statement. Lists of WOTC Coalition Founding Members and Organization Members are attached.

chargepoint

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March 13, 2018

The Honorable Vern Buchanan
1102 Longworth HOB
Washington D.C. 20515

The Honorable Lloyd Doggett
1102 Longworth HOB
Washington D.C. 20515

RE: Support for Extension of Section 30C Credit for Alternative Fuel Vehicle Refueling Property

Dear Chairman Buchanan and Ranking Member Doggett,

ChargePoint writes to express support for a multiyear extension of the Section 30C credit for alternative fuel vehicle refueling property, including residential and commercial electric vehicle charging stations. ChargePoint is the leading electric vehicle ("EV") charging network in the world, with more than 46,000 independently owned public and semi-public charging spots and more than 8,000 customers nationwide.

As you know, this credit was retroactively extended through the end of 2017 as part of the *Bipartisan Budget Act of 2018* (Pub. L. 115-123). This retroactive extension provided no means for industry to educate potential customers about this important incentive and thereby increase adoption of charging infrastructure. We request that the 30C credit be prospectively extended for multiple years, providing market certainty and predictability for customers to have an effective incentive going forward.

Extending the 30C credit for multiple years will support U.S. manufacturing and construction jobs by increasing investment in transportation infrastructure. Not extending this credit would create uncertainty for industry, will cost consumers money, and will hinder the United States' position as a global leader in electric vehicles and transportation.

The benefits of electric vehicle market growth are proven and far-reaching: EVs are fueled by affordable domestic energy, increasing U.S. energy security and fuel diversity; EVs protect public health with fewer well-to-wheel emissions; and American companies are leading the world in research and development of the technologies that are changing the way people get around.

We urge you to provide a multiyear extension of the 30C credit to provide manufacturers and their customers with a forward-looking incentive to install next-generation transportation

infrastructure. This extension will ensure America's dominance in the rapidly growing, innovative electrification sector.

Should you have further questions, please contact me at 215-858-4748 or david.schatz@chargepoint.com.

Respectfully,

David Schatz
Director, Public Policy
ChargePoint

March 12, 2018

The Honorable Vern Buchanan
Chairman, Tax Policy Subcommittee
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member, Tax Policy Subcommittee
House Committee on Ways and Means
1106 Longworth House Office Building
Washington, DC 20515

Dear Chairman Buchanan and Ranking Member Doggett:

As the House Ways and Means Subcommittee on Tax Policy examines tax extenders in light of tax reform, we encourage Congress to make permanent the New Energy Efficient Home Credit (IRC Section 45L). While we greatly appreciate Congress extending this provision through 2017 as part of the recently enacted *Bipartisan Budget Act of 2018* (P.L. 115-123), the value of this incentive will be maximized if it is made a permanent feature of the tax code.

The New Energy Efficient Home Credit enables builders of new single-family homes and low-rise multifamily properties (three stories or less) to claim a $2,000 per-unit tax credit for those residences that achieve a 50 percent energy savings for heating and cooling over the 2006 International Energy Conservation Code. The provision has provided a powerful incentive for contractors to install higher performance building systems and upgraded appliances than they otherwise could justify within the *pro forma* for developing the property.

The New Energy Efficient Home Tax Credit is very well designed and managed:

First and foremost, home builders and multifamily developers appear willing to modify their designs and specifications to take advantage of this incentive, which is exactly the type of behavior Congress should use a tax credit to encourage. In other words, the credit truly modifies behavior.

Second, the tax incentive provides home buyers and multifamily residents a downstream benefit as well. Residents receive ongoing benefits from the provision through reduced utility expenditures associated with high-efficiency building systems.

Third, the credit is designed only to reward true energy efficiency: Utilization of the Section 45L credit requires additional upfront engineering, construction costs, and expenses for a third-party professional to certify that the property has achieved the required metrics.

Fourth, last year's tax reform legislation enhanced the credit. By significantly reducing the incidence of the individual alternative minimum tax (AMT), Congress removed a key impediment preventing some home builders, multifamily developers, and investors from using the incentive. As a general business credit, Section 45L is ineligible to offset the AMT.

We strongly believe that the New Energy Efficient Home Credit should be made permanent so that it can continue to motivate the development of high performance residential properties.

Thank you considering our views.

Sincerely,

National Multifamily Housing Council
National Apartment Association
National Association of Home Builders
National Association of REALTORS®
National Leased Housing Association
Leading Builders of America
The Real Estate Roundtable

EDTA
Electric Drive Transportation Association
Promoting Clean, Sustainable Transportation Technologies

STATEMENT
OF
GENEVIEVE CULLEN, PRESIDENT
ELECTRIC DRIVE TRANSPORTATION ASSOCIATION
TO THE HOUSE WAYS AND MEANS COMMITTEE, SUBCOMMITTEE ON TAX POLICY
HEARING ON POST TAX REFORM EVALUATION OF RECENTLY EXPIRED TAX PROVISIONS
MARCH 14, 2018

As the Ways and Means Committee evaluates the unfinished business of tax policy items not addressed in H.R. 1, the Electric Drive Transportation Association (EDTA) strongly urges Congress to provide a seamless, multi-year extension of the incentives for fuel cell electric vehicles (FCEVs) and alternative fuel infrastructure.

Electric drive vehicles (EVs) provide consumers and businesses with options that meet their mobility needs and save money at the pump while contributing to the nation's energy and public health goals. Expanding electric drive infrastructure increases these benefits and will ensure our transportation sector continues to meet essential mobility and commerce needs.

These incentives also contribute to U.S. leadership in EV technology, which is critical to our global competitiveness, and create domestic jobs. China and other nations see the future of transportation and are pursuing dominance in electrification. Promoting investment in electric drive helps ensure that the U.S. does not lose its competitiveness in a market that we built.

That market includes the more than 760,000 plug-in vehicles that have been sold since entering the market in 2010, as well as an increasingly robust supply chain of manufacturers, suppliers and infrastructure providers. According to the Department of Energy, electric drive vehicle and component manufacturing currently represents over 215,000 jobs and that number is growing.

Today, consumers have more choices than ever to drive electric, with more than 40 models of plug-in and fuel cell cars available. Options from almost every major automaker are slated to expand exponentially, with cars and trucks offered across price points and capacities. The industry is still emerging, however, and the incentives are helping new technologies achieve scale and become cost competitive.

Businesses large and small have made investments based on these policies, as have their competitors around the world. Allowing them to achieve their intended goals is vital to maintaining U.S. leadership in the transportation sector and securing the attendant job creation.

EDTA advocates for extending the critical incentive that provide more American drivers with the opportunity to benefit from vital tax credits for light-duty electric vehicles - both battery and fuel cell driven,-- and incentivizes additional charging and fueling infrastructure to effectively support an electrified fleet. These policies are working and we urge Congress to continue them.

The incentives for electric vehicles and refueling infrastructure remain vital to the growth of this market even with a reformed tax code. Tax reform was designed, among other things, to lower rates on business income and reduce cost recovery periods, making capital investment more attractive. The goal of these incentives, however, is to help reinforce consumer demand for electric vehicles and infrastructure by reducing post-

incentive prices until sufficient scale exists that the incentives are no longer necessary. While tax reform improves the after-tax rate of return on business investment, it does not address the current cost structure of producing electric vehicles. These incentives, which were always meant to be temporary measures to allow the electric drive market to achieve economies of scale, remain necessary in a post-tax reform world.

Extension of the Fuel Cell Electric Vehicle Credit
The section 30B Fuel Cell Electric Vehicle Credit is a performance-based incentive of up to $8,000 for an advanced technology that is necessary to meet our goals for reducing petroleum dependence and fostering zero-emission transportation.

Many of the world's leading automotive companies have begun commercial production and sales of FCEVs including Honda, Hyundai and Toyota. As is often the case with breakthrough technologies, FCEVs have an initial cost hurdle. Mitigating this through a purchase incentive helps consumers acquire more efficient, cleaner-running cars and encourages industry to invest in the supply chain. The section 30B credit, however, expired at the end of 2016 and was retroactively extended through 2017. Today, as the FCEV market is just being established and as multiple companies are executing market entry plans, the credit stands expired.

To provide greater marketplace certainty, EDTA urges Congress to provide a seamless, multi-year extension of the section 30B Fuel Cell Electric Vehicle Credit.

Extension of Refueling Property Credit
To promote growth in the electric vehicle market, electric vehicle infrastructure must expand as well. The section 30C Alternative Fuel Vehicle Refueling Property Credit is a technology-neutral policy that helps individuals and businesses invest in the refueling/recharging infrastructure that supports electric, fuel cell and other alternative fuel vehicle needs with a 30 percent tax credit, up to $1,000 for residential property and $30,000 for commercial property.

The federal infrastructure credit is an effective, low-cost incentive that supports investment in electric drive and other alternative fuel vehicles. Plug-in electric drive vehicles entered the market in December 2010, with sales growing to a cumulative total exceeding half a million on the road today. In the same time period, charging stations open to the public have grown to more than 20,000 charging stations, with more than 82,000 charging outlets in the United States. Hydrogen fueling infrastructure is also poised to expand in initial fuel cell vehicle markets.

Unfortunately, this vital incentive for the deployment of electric vehicle recharging property expired at the end of 2016 and was retroactively extended through 2017. EDTA urges Congress to provide a seamless, multi-year extension of section 30C Alternative Fuel Vehicle Refueling Property Credit.

Thank you for your consideration. We look forward to working with this Committee on these critical issues.

March 14, 2017

The Honorable Vern Buchanan
Chairman - House Ways and Means Tax Policy Subcommittee
1102 Longworth HOB
Washington D.C. 20515

Re: Post Tax Reform Evaluation of Recently Expired Tax Provisions.

Dear Chairman Buchanan:

As the House Ways and Means Committee works to evaluate tax provisions that expired at the end of 2017, we encourage you to seamlessly extend the biodiesel tax incentive. Specifically, we encourage you to include the second year of, S. 2256, the "Tax Extender Act of 2017" which was introduced by Senator Hatch and others last December. The tax extenders act continues to be an urgent policy matter for our company. Every day that these provisions remain lapsed creates further confusion and uncertainty for our industry, while needlessly undermining economic growth and job creation.

World Energy has been a leader in biofuel supply since the inception of the biodiesel industry fully two decades ago. Today we are one of America's largest suppliers of biodiesel, offering over 200 Million gallons of annual biodiesel production from four plants in four different states.

As a domestic energy producer, I can attest that policy certainty is vital to our success.

There are substantial energy security, job creation, rural economic development and environmental benefits associated with the expanded domestic production and use of biodiesel. Maintaining the biodiesel tax incentive and providing certainty in the Internal Revenue Code is a proven and cost-effective way to continue achieving these worthwhile public policy benefits.

The biodiesel tax credit expired on December 31, 2017 and today our industry is struggling each day to make ends meet. It is essential for the near-term to emphasize the urgent threat facing our industry from the ongoing expiration. This year marks the fifth time in seven years that the biodiesel incentive has been allowed to lapse, creating severe disruptions in the industry. This severely disrupts producers' access to capital, as well as their ability to hire and expand. Rather, Biodiesel producers across the country are struggling to survive.

The biodiesel tax incentive has played a key role in stimulating growth in the U.S. biodiesel industry in recent years, helping biodiesel become the leading EPA-designated advanced biofuel in the nation. By making biodiesel more cost-competitive with petroleum diesel, the $1-per-gallon credit creates jobs, strengthens U.S. energy security, reduces harmful emissions, diversifies the fuels market and lowers

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costs to consumers. There are many policy and public benefits associated with biodiesel and renewable diesel production and use including the following:

- **The Tax Incentive Works**. The U.S. biodiesel and renewable diesel market has grown from roughly 100 million gallons in 2005, when the incentive was first implemented, to nearly 2.6 billion gallons in 2017. The biodiesel tax credit is an important demand stimulus, which improves domestic plant efficiencies, encourages investment in U.S. distribution infrastructure and supports high-paying jobs throughout the economy.

- **Stability Helps**. Traditional oil incentives are written permanently into the tax code, but the biodiesel incentive has repeatedly expired—in 2006, 2008, 2009, 2011, 2013, 2014, 2016 and 2017. Often, the credit is retroactively extended and reinstated, but we have been operating without the credit since December 31, 2017. This severely disrupts producers' access to capital, as well as their ability to hire and expand.

- **Jobs Are Created, Economies Grow**. With biodiesel plants nationwide the biodiesel industry already supports roughly 64,400 jobs, $11.42 billion in economic impact and $2.54 billion in wages paid. In many rural areas of the country, biodiesel plants are a driving force of the local economy, supporting the employment of technicians, plant operators, engineers, construction workers, trucks drivers and farmers, to name a few.

- **Energy Security Is Enhanced**. Biodiesel is diversifying our fuel supplies so that we're not so vulnerable to global oil markets that are heavily influenced by unstable regions of the world and global events beyond our control. Despite increased domestic oil production, consumers will remain vulnerable to volatile international oil prices without diversity and competition in the fuels market.

- **America Benefits from Improved Air Quality and Less Waste**. Biodiesel is made from an increasingly diverse mix of resources such as recycled cooking oil, plant oils and animal fats. Biodiesel reduces wastes and most major air pollutants. The EPA has recognized its environmental benefits by classifying it as an advanced biofuel, making biodiesel the only commercial-scale U.S. fuel produced nationwide to meet the agency's criteria. According to the EPA, biodiesel reduces greenhouse gas emissions by 57 to 86 percent when compared to petroleum diesel.

- **Stimulating New Technologies and Feedstocks**: The biodiesel tax credit has supported the development of a diversity of fuels including biodiesel, renewable diesel and renewable jet fuel all produced using a broad mix of resources including recycled cooking oil, plant oils and animal fats. This has helped shape a nimble industry that is constantly reducing cost, improving fuel diversity and performance and expanding feedstock options.

- **Immature Industries are Deserving of Assistance**: Biodiesel is America's first Advanced Biofuel and when compared to gasoline, diesel and ethanol, it is at a fundamentally different stage of development. The petroleum industry has benefited from numerous tax deductions and other tax benefits over the years and continues to receive approximately $4 billion in tax benefits each year; while the ethanol industry had a tax incentive for three decades before it expired several years ago. In contrast, the biodiesel industry has had commercial-scale production for only the last decade (the tax credit was first implemented in 2005). Biodiesel still represents only a fraction of the overall U.S. diesel market. It is an up-and-coming industry that remains at a far more fragile state of development.

The biodiesel industry has made great strides in producing domestic energy and diversifying our nation's fuel supply. We have done what Congress has asked us to do and we are creating real manufacturing jobs, generating tax revenue and improving our energy security. In its short history, the biodiesel tax incentive has proven to be a remarkably effective tool in helping to achieve the desired goal of increasing the domestic production and use of biodiesel and renewable diesel. This in turn is enabling the U.S. to realize the energy security, economic and environmental benefits associated with displacing petroleum with clean, domestically produced renewable fuels. We appreciate and support your efforts to explore a more stable, long-term structure for renewable fuels incentives in the tax code. However, for the near-term, we want to emphasize the urgent threat facing our industry due to the ongoing expiration of the incentive.

We urge Congress to act in a timely manner to address the immediate issue facing the industry by extending the biodiesel tax incentive. Looking forward, we urge Congress to provide a long-term extension of the biodiesel tax credit.

Thank you for consideration.

Sincerely,

/S/Gene Gebolys

Gene Gebolys
President and CEO

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March 13, 2018

The Honorable Kevin Brady
Chairman
House Ways and Means Committee

The Honorable Richard Neal
Minority Leader

AND

Esteemed Members of the House Ways and Means Committee

RE: March 14, 2018 Hearing on Expired Tax Extenders
Section 45 Tax Extender for Biogas to Energy and Other Baseload Renewable Energy Technologies

Dear Chairman Brady, Minority Leader Neal, and esteemed members of the House Ways and Means Committee,

I have previously communicated by letter with each of your offices to ask for your support of an extension of the Section 45 production tax credits and related Section 48 Investment tax credits for biogas to energy and other baseload renewable energy technologies. The recent retroactive extension of these credits to the end of 2017 does not provide the necessary financial backstops for projects that I have had under development for the past several years. These projects have required substantial private investments in planning and design development but have been unable to move forward into construction because of untenable investor risk caused by uncertainty with respect to the expired extenders.

By this letter I am asking that you consider immediate action to support broad based renewable energy development with an extension of the referenced tax credits until at least the end of 2018, and preferably longer with a phaseout, as suggested in H.R. 4137 introduced by Congresswoman Elsie Stefanik in October 2017. Such an action would address the inequity that has resulted from the decision by Congress to extend the tax credits for wind and solar while allowing the tax credits for the Section 45 renewable baseload technologies to expire. This inequity has directly affected me personally and placed my business and over $70 million in projects that my company currently has under development or has been supporting at risk. I have already had to let go two highly skilled and valued engineering employees because the projects that they were engaged cannot be advanced to construction without bank financing that requires the security of the tax credits to assuage perceived lender risk. Substantial new private investments in renewable energy infrastructure are now being lost because of the lack of a forward extension of the subject tax credits.

Innovative & Sustainable Solutions for a Better Environment
106A Landsdowne Street, Blacksburg, Virginia 24060
540-951-0054

In addition to what I have expressed above, there are a multitude of reasons why your Committee should consider the extender I have requested, and I've enumerated some of the more important ones below.

Renewable Energy Development Creates American Jobs

There are numerous reports that indicate that renewable energy development is fueling our economy and biogas-to energy and the other baseload renewable technologies have been a part of this growth until recently. Why would we want to stop that? In addition, unlike wind and solar projects, biogas to energy projects utilize a wider array of the skilled construction trades, they incorporate a far wider array of American products, and they solve waste management needs in addition to providing renewable energy.

Tax Credits Rather Than Tax Cuts Assure Renewable Energy Investment

While an argument may be made that the recent tax cuts eliminate the need for tax credits, projects financed by investors and business are advanced based upon a return on investment. While investments in renewable energy investment can yield attractive returns on investment they have to compete against projects that generate returns in other ways (e.g. more product sales) and given a choice between investment in core products and renewable energy, renewable energy will frequently lose, and fewer projects will result. Tax credits also allow smaller companies or investors without large tax liabilities to develop biogas to energy solutions because the tax credits can be monetized and sold to larger corporate investors who do have large tax liability. These secondary tier projects will not be possible with the elimination of tax credits and small businesses, including farmers, who could benefit from this technology will be excluded.

There Is An Equity Argument

The decisions by Congress have directly impacted me and my business. As a Board Certified Environmental Engineer, professional engineer, and anaerobic treatment expert with more than 35 years of experience in municipal and industrial waste treatment I have developed numerous industry recognized biogas to energy projects that have solved waste management problems and produced renewable electric and thermal energy. I don't do wind and solar, and it is simply not equitable that Congress has chosen to provide forward opportunities for only a few selected forms of renewable energy.

Tax Credits Are Supporting American Innovation

Tax credits supporting biogas to energy technology have help to fueled American innovation including the new latest generation technologies by engine-generator manufacturers like CAT that now allow over 40% conversion of biogas energy to thermal and electrical energy (greater than 85% overall thermal and electrical energy recovery). Innovations in biogas cleanup technology are driving down prices and new anaerobic reactor designs have improved the conversion of the available carbon in wastes to energy and allow us to extract more energy from hard to degrade lignocellulosic materials. When we don't support renewable technologies, we allow others in the world to advance these technologies and America becomes an importer rather than exporter of technology.

Biogas to Energy Technologies Are Good for the Environment

Biogas to energy technologies provide multiple benefits; they beneficially use waste resources that would otherwise end up in our air, water, and soil and transform it into renewable energy. For instance, anaerobic treatment technology that I first developed to treat from aircraft deicing fluid runoff at the Albany, NY airport is now used at the TF Green, Portland, Oregon, and Canton-Akron airports to prevent millions of gallons of propylene glycol from entering our waterways and depleting needed oxygen for aquatic life. The biogas produced from these facilities is used to produce renewable energy that then reduces the use of fossil fuel derived energy.

Biogas to Energy Technologies Lower Carbon Emissions

While I don't have an opinion on the cause of global warming, increased levels of carbon dioxide in the atmosphere are negatively influencing our climate. Anaerobic digestion cycles carbon of contemporaneous origin rather than releasing carbon stored eons ago and thus reduces carbon emissions. While this may not solve global warming, it certainly won't hurt.

Biogas Generates Sustainable Energy

There is a need for more sustainable energy in the US and the world. Recently, physicist Steven Hawking declared that humankind has another 100 years on earth because of population growth and the fact that we are devouring the planet's resources at unsustainable rates. While this end is not likely to happen in my lifetime, it is not a legacy I think we should leave to our children. While I support the continued development of our natural energy resources, it is hard to deny that they are finite and that there needs to be a transition over time to more sustainable energy resources. Congress can take a leadership role in making this happen by supporting the baseload renewable energy technologies.

Thank you in advance for your thoughtful discussion of this issue during your hearing on Wednesday March 14, 2018.

Respectfully yours,

Very truly yours,

Shawn Veltman, PhD, PE, BCEE
President
H&V Consulting, LLC

SHV/shv

cc / Congressman Morgan Griffiths
Congressman Bob Goodlatte
Congresswoman Elise Stefanik

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March 13, 2018

The Honorable Kevin Brady
Chairman
House Ways and Means Committee

The Honorable Richard Neal
Minority Leader

AND

Esteemed Members of the House Ways and Means Committee

RE: March 14, 2018 Hearing on Expired Tax Extenders
Section 45 Tax Extender for Biogas to Energy and Other Baseload Renewable Energy Technologies

Dear Chairman Brady, Minority Leader Neal, and esteemed members of the House Ways and Means Committee,

I am asking for your support of an extension of the Section 45 production tax credits and related Section 48 Investment tax credits for biogas to energy and other baseload renewable energy technologies. The recent retroactive extension of these credits to the end of 2017 does not provide the necessary financial backstops for a project that we have had under development in the Shenandoah Valley of Virginia for the past several years. This project has required substantial private investments in planning and design development but has been unable to move forward into construction because of untenable investor risk caused by uncertainty with respect to the expired extenders.

I urge you to consider immediate action to support broad based renewable energy development with an extension of the referenced tax credits until at least the end of 2018, and preferably longer with a phaseout, as suggested in H.R. 4137 introduced by Congresswoman Elsie Stefanik in October 2017. Such an action would address the inequity that has resulted from the decision by Congress to extend the tax credits for wind and solar while allowing the tax credits for the Section 45 renewable baseload technologies to expire. This inequity has directly affected our business and has placed a $25 million project that my company currently has under development at risk.

There are a multitude of reasons why your Committee should consider the extender I have requested, and I've enumerated some of the more important ones below.

Renewable Energy Development Creates American Jobs, utilizing a wide array of the skilled construction trades and incorporating a wide array of American products.

Tax Credits Rather Than Tax Cuts Assure Renewable Energy Investment by directing private capital into energy infrastructure projects, rather to other corporate concerns.

There Is An Inequity in the Treatment of Industry Sectors as Congress has chosen to provide forward opportunities for only a few selected forms of renewable energy (wind and solar) while allowing opportunities for other renewable energies to expire.

Tax Credits Are Supporting American Innovation, allowing our nation to advance these technologies and become a world exporter rather than importer of technology.

Biogas to Energy Technologies Are Good for the Environment by beneficially using waste resources that would otherwise end up in our air, water, and soil and transform it into renewable energy.

Biogas to Energy Technologies Lower Carbon Emissions by cycling carbon of contemporaneous origin rather than releasing carbon stored eons ago.

Biogas Generates Sustainable Energy that complements finite traditional energy resources now, and that will replace those resources in the future as finite resources are consumed.

Thank you in advance for your thoughtful discussion of this issue during your hearing on Wednesday March 14, 2018.

Respectfully yours,

Neil Houff
President
Houff Corporation & Shenandoah Valley BioEnergy, LLC

Keith Aldridge, Interim President & CEO, Home Performance Coalition
Stephen Cowell, President, E4TheFuture
Tom Carter, Executive Director, Efficiency First
and
Larry Zarker, CEO, Building Performance Institute

House Committee on Ways and Means
Tax Policy Subcommittee

Regarding Post Tax Reform Evaluation of Recently Expired Tax Provisions

March 7, 2018

As leaders in the residential energy efficiency industry, the Home Performance Coalition, E4TheFuture, Efficiency First, and the Building Performance Institute respectfully urge your support for residential energy efficiency tax incentives. These tax incentives are critical to reducing the upfront cost of energy efficiency improvements, thereby allowing more Americans access to the efficiency market, reduce monthly utility bills, and increase the health and safety of their homes. Energy efficiency is our nation's cleanest, most cost-effective energy resource, and energy efficiency incentives should be included in the tax code in a way that provides parity with other energy sources.

The Home Performance Coalition (HPC) is a national non-profit 501c3 organization that works with industry leaders in the home performance and weatherization industries to advance energy-efficient, healthy and safe homes retrofit policies, programs and standards through research, education, training and outreach.

E4TheFuture is non-profit 501c3 organization which collaborates with industry stakeholders to provide expert policy solutions, education, and advocacy to advance residential clean energy and energy efficiency solutions on the federal, state and local level.

Efficiency First (EF) is a national trade association with members across the country that unites the home performance workforce, building product manufacturers and related businesses and organizations in an effort to advance cost-effective energy efficiency solutions for residential customers to create jobs, boost the economy, and fight rising energy costs.

The Building Performance Institute (BPI) is the nation's premier building performance credentialing, quality assurance, and standards setting organization. Approved by the American National Standards Institute, Inc. (ANSI) as an accredited developer of American National Standards and as a certifying body for personnel credentials, BPI develops technical standards and professional certifications that help raise the bar in home performance contracting.

As you know, America's homes and offices consume about 75% of all the national electricity and represent 40% of its total energy demand, thereby resulting in a significant impact on America's economy. The average homeowner spends approximately $2,300 a year on energy bills, and a comprehensive whole-house energy efficiency upgrade will likely reduce this cost 20-25%.[1] To achieve these savings, however, the homeowner must pay for the upgrade measures (HVAC, insulation and air sealing, etc.) upfront. While most efficiency improvements more than pay for themselves over their lifetimes, these upfront costs remain a significant barrier for many homeowners. Tax incentives for residential energy efficiency projects help reduce the barrier of upfront costs, thereby allowing more Americans to enjoy the benefits of energy efficiency.

Previous tax reform proposals have focused primarily on energy production, largely ignoring the key role of energy efficiency – America's greatest energy resource. Only one tax provision provides an energy efficiency incentive for America's homeowners, 25C. While this legislation should be updated and improved, the very modest tax incentive has motivated many homeowners to do more to save energy. Furthermore, the high-efficiency products that qualify for the tax incentive, are largely made in America – spurring local job growth in manufacturing as well as installations. Businesses, investors, and consumers need stable, predictable federal tax policy to create jobs, invest capital, and deploy energy efficiency technologies. Energy efficiency tax incentives will help ensure that the United States does more with less (energy) to the betterment of our economy, national security, and environment. It should be noted that utilities also benefit greatly when energy efficiency is recognized as a resource – energy efficiency reduces utility costs over time (through avoided costs of generating capacity and ancillary services, avoided or deferred construction of additional transmission and distribution assets, etc.), which translates into reduced rates for customers.

Incentivizing energy performance also avoids "picking winners and losers" among resources. We support S. 1068, the "Clean Energy for America Act," in that it provides an extension and

[1] https://www.energystar.gov/index.cfm?c=home_improvement.hpwes_for_homeowners and http://aceee.org/fact-sheet/homeefficiency-retrofit-program-feb-2009.

update of the 25C tax code and also amends the provision to become performance based over time, allowing for both innovation and the acceleration of whole-house performance-based retrofits. While we would like to see modest changes to this bill, we see this legislation as setting an excellent framework for tax reform.

Energy efficiency is more than just a way to reduce energy waste and save consumers and businesses money on their monthly utility bills - it is by far the largest sector in the U.S. clean economy. A report from E4TheFuture, entitled "Energy Efficiency Jobs in America,"[2] found that three out of every four clean energy jobs is an energy efficiency job, and as of 2015 the energy efficiency industry employed 1.9 million Americans. The report also found that most energy efficiency jobs are created by small businesses: of the 165,000 U.S. companies engaged in energy efficiency, 70% of them have 10 or fewer employees.

A significant portion of the energy efficiency jobs in the U.S. are in the residential sector, and forty percent of those jobs involve the installation of energy efficiency products. These are the contractors – the "boots on the ground" - installing energy efficiency products and technologies and working to reduce energy waste in homes and buildings across the country. These jobs are, by their very nature, inherently local and cannot be exported.

In addition to economic and jobs benefits, residential energy efficiency also plays a key role in public health. A U.S. Department of Energy report on the Weatherization Assistance Program[3] found that home improvements focused on energy efficiency can improve indoor air quality, which reduces respiratory illness and sick days, and boosts mental alertness and productivity for both children and adults. A report from E4TheFuture, entitled "Occupant Health Benefits of Residential Energy Efficiency,"[4] which reviews existing research on the link between resident health benefits and energy efficiency upgrades, also found that residential energy efficiency upgrades can produce significant improvements in asthma symptoms and help improve overall physical and mental health.

Given the importance of energy efficiency to job creation, health and safety, and energy security, it is vital that incentives to encourage and facilitate energy efficiency improvements in homes and buildings be included in the tax code. Specifically, we recommend that a system of "good",

[2] https://e4thefuture.org/wp-content/uploads/2016/12/EnergyEfficiencyJobsInAmerica_FINAL.pdf
[3] https://energy.gov/eere/wipo/downloads/weatherization-assistance-program-national-evaluation
[4] https://e4thefuture.org/occupant-health-benefits-of-residential-energy-efficiency/

"better" and "best" incentives be adopted for energy-saving retrofits for existing homes and commercial buildings. The incentives should be based on energy savings achieved (performance-based), be technology neutral (any way to save energy counts) and phase out when specific market milestones are reached.

The Home Performance Coalition, E4TheFuture, Efficiency First, and the Building Performance Institute believe that energy efficiency is vital to our economic growth and international competitiveness. Energy efficiency improvements pay for themselves many times over and improve energy security, help Americans save money, and create more comfortable and safe homes and buildings. We strongly urge members of the committee to support energy efficiency incentives and include them in the tax code in a way that provides for parity with other energy sources. Thank you for providing this opportunity to submit testimony. We look forward to working with you.

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March 13, 2018

The Honorable Vern Buchanan
Chairman
Subcommittee on Tax Policy
Committee on Ways and Means
1136 Longworth House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member
Subcommittee on Tax Policy
Committee on Ways and Means
1136 Longworth House Office Building
Washington, DC 20515

Re: National Hydropower Association (NHA) Statement for the Record on the March 14, 2018 hearing on post tax reform evaluation of recently expired tax provisions

Chairman Buchanan and Ranking Member Doggett:

NHA[1] strongly supports, and urges Congress to adopt, a long-term extension of the expired tax credits for hydropower and marine energy and hydrokinetic (MHK) technologies, such as that included in H.R. 4137, sponsored by Rep. Elise Stefanik (R-NY).[2]

Today, tax incentives for hydropower and marine energy have lapsed, while tax credits for other renewable resources, such as wind and solar – industries with which hydropower directly competes – now enjoy long-term extensions. This disparity in treatment puts hydropower and marine energy development at a severe competitive economic disadvantage in the market for new renewable electricity generation, particularly in the eyes of investors who are seeking clarity and certainty.

Hydroelectric power is the nation's single largest source of renewable electricity and plays an indispensable role in maintaining a reliable, resilient and functioning grid system, while also supporting the integration of additional renewable generation. Hydropower is a clean air resource avoiding millions of metric tons of carbon emissions each year. Hydropower infrastructure also provides other important benefits, such as managing river flow for aquatic species and habitat protection, flood control and drought management, water supply, irrigation and more. However, further deployment of this clean, flexible baseload energy resource is in jeopardy.

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[1] NHA is a nonprofit national association dedicated to promoting clean, affordable, renewable U.S. hydropower – from conventional hydropower to pumped storage to marine energy to conduit power projects. NHA represents more than 230 companies from Fortune 500 corporations to family-owned small businesses. Our members include both public and investor-owned utilities, independent power producers, developers, equipment manufacturers and other service providers.

[2] Though not the subject of this hearing, NHA also highlights its support for equivalent beneficial new tax policy for energy storage, particularly pumped storage. As such, NHA strongly supports H.R. 4649, the Energy Storage Tax Incentive and Deployment Act of 2017, sponsored by Reps. Doyle, Costello, and Takano.

Certainty in tax policy is needed to accommodate the longer development lead times for projects in the hydropower sector. Also, new facilities, in particular, are often highly capital intensive and tax credits are an important tool for attracting tax equity capital investment.

As such, we reiterate our support for H.R. 4137, the Renewable Electricity Tax Credit Equalization Act, sponsored by Rep. Stefanik. This bill extends the credits for hydropower and marine energy, along with biomass, biogas, and waste-to-energy, through 2020.

Currently, Congress is picking winners and losers in the renewable energy sector. With the enactment of the FY 2016 Omnibus Appropriations bill, Congress adopted a five-year extension of the tax credits for both wind and solar. In this year's Bipartisan Budget Act of 2018, Congress once again acted to provide long-term certainty for the other Section 48 renewable energy technologies – fuel cells, combined heat and power, small wind, and geothermal.

Yet, the budget bill included only a one-year retroactive extension of the hydropower and marine energy tax credits through 2017, which provides no certainty for project developers seeking to finance their projects right now.

Now is the time for Congress to address this disparity for hydropower and MHK technologies.

Investment in hydropower is an investment in a critical piece of our nation's infrastructure. At a time when we are seeking ways to strengthen grid reliability and resiliency, why would Congress seek to disadvantage a premier flexible renewable baseload technology like hydropower? This isn't just playing renewable energy favorites, it's fundamentally missing hydropower's role, and the benefits it brings, to our nation's electricity grid.

If Congress' goal is an all-of-the-above energy policy, allowing the continued expiration of our tax incentives with intermittent, sometimes retroactive, extensions fails to advance it.

Hydropower has significant new growth potential. For example, only 3 percent of the nation's existing dams have power generating facilities. There are also re-investment opportunities at existing hydropower projects to add capacity or increase efficiency. However, inaction on the policies to support the industry make it more difficult to bring new hydropower generation online and create the good-paying jobs and local economic opportunities that come with it.

We strongly urge immediate action on the incentives that have played a critical role in increasing our industry's contribution to our national energy portfolio. NHA supports an all-of-the-above energy tax policy, and Congress must fix the inequities under current policies that are preventing the hydropower and marine energy industries from realizing their full potential.

Sincerely,

Linda Church Ciocci

Linda Church Ciocci
Executive Director

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House Ways and Means Committee
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Submitted via email at: http://waysandmeans.house.gov

March 22, 2018

Re: Written Comments on the Post Tax Reform Evaluation of Recently Expired Tax Provisions

Dear Chair Brady:

On behalf of the nearly one million plug-in electric vehicle (PEV) drivers we represent, Plug In America would like to thank you for this opportunity to provide written comments on the post tax reform evaluation of recently expired tax provisions. We urge you to extend the alternative fuel vehicle refueling property credit (Section 30C) beyond December 31, 2017.

Plug In America is the nation's leading independent consumer voice for accelerating the use of PEVs in the United States to consumers, policymakers, auto manufacturers and others. Formed as a non-profit in 2008, Plug In America provides practical, objective information collected from our coalition of plug-in vehicle drivers through public outreach and education, policy work and a range of technical advisory services. Our expertise represents the world's deepest pool of experience of driving and living with plug-in vehicles.[1]

We respectfully offer the following comments that demonstrate how the extension of the Section 30C tax credit can accomplish sustained economic growth for all Americans, and keep our economy competitive with others like China. It is important to remember that PEVs have bipartisan support, as both Republicans and Democrats have supported PEV policies across the nation. Our comments are structured as follows:

I. Overview of the Section 30C Tax Credit and Plug-in Charging Infrastructure
II. Current Levels of Plug-in Charging Infrastructure Installed and Installations Needed
III. How Plug-In Charging Infrastructure Benefits the American Economy

[1] More information available at: www.pluginamerica.org

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I. Overview of the Section 30C Tax Credit and Plug-in Charging Infrastructure

The alternative fuel vehicle refueling property credit recently expired on December 31, 2017.[2] Any plug-in charging equipment - in addition to fueling equipment for natural gas, propane, diesel blends and biofuel blends - was eligible for a tax credit up to 30% of the cost of the property, not to exceed $30,000 for those properties subject to an allowance for depreciation, and $1,000 for all other properties.

The alternative fuel vehicle refueling property credit was a key policy that was helping to move the PEV market from the early adopter stage to the mass market stage, as the credit applied to the various types of plug-in charging equipment necessary to charge the PEVs.

Charging equipment for PEVs fall into three basic categories by increasing charge speed: Level 1, Level 2 and DC charging. Level 1 is AC charging at 120V, the level of power that is supplied by a normal household outlet, and will supply 3 to 5 miles of range per hour to a typical PEV, or up to 40 miles of range for an 8-hour connection during a typical work day. Workplaces, homes, multi-unit dwellings and places where the vehicle might be parked for extended periods are the best places to install a Level 1 charger. The U.S. Department of Energy released a report on the benefits and value of installing Level 1 plug-in charging stations at the workplace.[3]

Level 2 charging is AC charging at 240V, similar to the power for an electric dryer, and can provide a complete charge in 2-4 hours, or slightly longer depending on the vehicle type. The majority of public charging stations are Level 2. As the batteries in PEVs increase in size, more consumers are opting for installing Level 2 plug-in charging stations at home as well.

DC charging, or DC fast charging (DCFC), charges at 400V/125A, which provides a 50kW charge (though this varies across vehicle type and charging station company). The charge bypasses the vehicle charger and provides electricity directly into the battery. A typical charge time can last anywhere from 20-30 minutes. The best power for a given installation depends on how much charge the target users will need, and how long each driver will want to stay at the charging location.

II. Current Levels of Plug-in Charging Infrastructure Installed and Installations Needed

According to the U.S. DOE Alternative Fuels Data Center, there are 17,614 public charging stations representing 48,625 charging outlets (plugs) for PEVs throughout the U.S. today.[4] While that may seem like many plug-in charging stations, the U.S. DOE released a report in September 2017 that showed the number of public charging stations still needed to address the growing PEV market. The report states

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2 Tax code language found under Title 26, Subtitle A, Chapter 1, Subchapter A, Part IV, Subpart B, §30C of the U.S. tax code at: https://www.law.cornell.edu/uscode/text/26/30C

[3] https://www.afdc.energy.gov/uploads/publication/WPCC_L1ChargingAtTheWorkplace_0716.pdf

[4] https://www.afdc.energy.gov/stations/#/analyze?fuel=ELEC&ev_levels=2&ev_levels=dc_fast&ev_levels=1

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that the "coverage and charging demand estimates needed to serve growing PEV markets are made for the communities where people live and the highway corridors on which they travel."

The results of the report are as follows:

Table ES-2. Summary of Station and Plug Count Estimates for the Central Scenario (15M PEVs in 2030)

		Cities	Towns	Rural Areas	Interstate Corridors
PEVs		12,411,000	1,848,000	642,000	–
DCFC	**Stations** (to provide coverage)	4,900	3,200	–	400
	Plugs (to meet demand)	19,000	4,000	2,000	2,500
	Plugs per station	3.9	1.3	–	6.3
	Plugs per 1,000 PEVs	1.5	2.2	3.1	–
Non-Res L2	**Plugs** (to meet demand)	451,000	99,000	51,000	–
	Plugs per 1,000 PEVs	36	54	79	–

[5]

Despite there being 48,625 charging plugs across the U.S. today, there is a need for 628,500 more charging outlets to meet the growing demand throughout the U.S for the plug-in charging stations. The Section 30C credit is an effective policy that would enable this demand to be met in a timely manner.

Another analysis released by Ceres and M.J. Bradley & Associates found that the benefits of increased investment in plug-in charging stations outweigh the costs by more than 3 to 1. Of the twelve utility service territories included in the report, "An infrastructure investment of $17.6 billion would yield benefits of $58 billion by 2035. Moreover, after 2035 annual net benefits will increase faster than additional charging infrastructure investments, so cumulative net benefits will continue to increase over time."[6] The extension of the Section 30C tax credit would enable these investment dollars in the public and private sector to be leveraged into many more billions of dollars for all Americans across the country.

The leading state for PEV adoption and installed plug-in charging stations, California, also does not have enough plug-in charging stations installed yet. A recently released assessment on the need for more plug-in charging stations shows, "The results from this study present an infrastructure solution that can promote market growth for PEVs to reach the state's ZEV goals by 2025. The results show a need for 99,000 to 133,000 destination chargers, including at workplaces and public locations, and 9,000 to 25,000 fast chargers. The results also show a need for home charging solutions at multifamily dwellings,

[5] https://www.nrel.gov/docs/fy17osti/69031.pdf
[6] https://www.ceres.org/news-center/press-releases/new-report-finds-increased-investment-electric-vehicle-infrastructure

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which are expected to host about 121,000 PEVs by 2025. Therefore, the total number of chargers needed to support PEVs in California ranges from 229,000 to 279,000."[7]

In short, the entire U.S. has a long way to go with installing plug-in charging stations to meet the growing demand for the plug-in vehicles. Extending the Section 30C tax credit is a key federal policy that would enable more of these plug-in charging stations to be installed in a timely manner to meet the fast growing demand.

III. How Plug-In Charging Infrastructure Benefits the American Economy

The installation of more plug-in charging stations, both those installed at public and private locations, are critical to the growth of the PEV market. In fact, studies have found that the deployment of more charging infrastructure speeds the adoption of PEVs; one study found that a 10% increase in public charging increased PEV sales by about 8%, a significant amount.[8]

Not only does the installation of more plug-in charging stations bring significant benefits to Americans and the American economy, but also the adoption of more plug-in vehicles across the country. Given the number of benefits, it's no surprise that states and utilities are preparing for the accelerated growth of this market through supportive policies and programs. The American consumer wants more of these vehicles today.

1. <u>More plug-in charging stations mean more shovel ready jobs and the growth of the American electric power sector.</u>

The U.S. DOE report as mentioned above shows a need for nearly 630,000 charging stations. These are shovel-ready projects that are needed in every state – both large cities and smaller towns, major highway corridors and smaller roads. These projects require electricians and tradesmen – not just to install the charging station – but to provide ongoing maintenance and operation checks as needed.

The growth of the PEV market represents more local, domestic electricity consumed too. Battery electric vehicles (BEVs) rely solely on electricity to charge the battery, while plug-in hybrid electric vehicles (PHEVs) rely on electricity and a battery first, then later switch to gasoline. An increase in load to the electric grid from PEVs can lead to more jobs within the electric power industry to maintain electric grid assets.

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[7] http://docketpublic.energy.ca.gov/PublicDocuments/17-ALT-01/TN222986_20180316T143039_Staff_Report__California_PlugIn_Electric_Vehicle_Infrastructure.pdf
[8] Li, Shanjun, et al. 2015. The Market for Electric Vehicles: Indirect Network Effects and Policy Design. Found at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2515037

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2. Growth in plug-in charging station technology and the PEV market keeps the U.S. competitive in the technology and innovation sectors with countries like China and the European Union.

Both China and the European Union are moving aggressively towards full deployment of the vehicles and nationwide charging systems. China has a target of 35 million vehicle sales by 2025, with PEVs to represent at least one-fifth of that total, according to the Chinese Ministry of Industry and Information Technology. Forecasts of PEVs in China are expected to reach 2 million by 2020.[9] The European Union also has aggressive targets for the deployment of a European-wide charging network and a thriving PEV market. Germany has a target of 1 million PEVs on the road by 2025, while Norway has the most ambitious goals for PEVs anywhere in the world: close to 100% of new cars sold will be zero emission vehicles by 2025.[10] Germany, Norway, the United Kingdom and the Netherlands are also all part of the International ZEV Alliance, with a goal for all new cars sold to be emissions free in their respective countries by 2050.[11]

The U.S. simply cannot lose in the race for the most efficient and effective nationwide charging system and must continue to support the innovation and technology sector that the plug-in charging stations represent. There is a global race to develop the best communications protocol between the charging stations and the grid, as well as additional front- and back-end interoperability standards, which will then be adopted on a global scale. The U.S. must ensure that whatever standards are adapted globally and incorporated within the charging stations will work best for the U.S. grid. In addition, the race to develop a super-fast DC charging station is ongoing; with such a station the PEVs could be fully charged in less than 10 minutes versus the current 20-30 minutes. These super-fast DC charging stations will be in high demand around the world, as businesses strive to make the charging experience similar to filling up at the gas station. The Section 30C credit enables the U.S. plug-in charging station industry to stay competitive on a global scale.

3. Investment in plug-in charging stations and PEVs can bring significant benefits to utilities, grid operators and ratepayers by more efficiently utilizing grid assets.

About 85% of PEV charging occurs at night, during off-peak electric hours. The more off-peak energy is sold to charge PEVs, the more efficiently existing utility assets are used. This puts downward pressure on electricity rates, leading to cheaper prices for all ratepayers.[12] A study performed on the California investor owned utilities showed that PEVs benefit all utility customers and not just the PEV owners themselves: "The Ratepayer Impact Measure (RIM) shows that the utility bills PEV owners pay more than offset the costs incurred by the utility to deliver the electricity to charge the vehicles. … Under each

[9] http://www.reuters.com/article/us-china-autos-electric-idUSKBN17R086
[10] http://www.greencarreports.com/news/1099324_norways-goal-all-new-cars-will-be-electric-by-2025-to-cut-carbon
[11] http://www.zevalliance.org/
12 Available here: https://pluginamerica.org/wp-content/uploads/2016/11/PEV-Incentive-Review-October-2016.pdf

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of four rates and charging load shape scenarios studied, additional revenue from PEV charging exceeds the marginal costs to deliver electricity to the customer, providing positive net revenues that put downward pressure on rates." This is shown in the chart below:

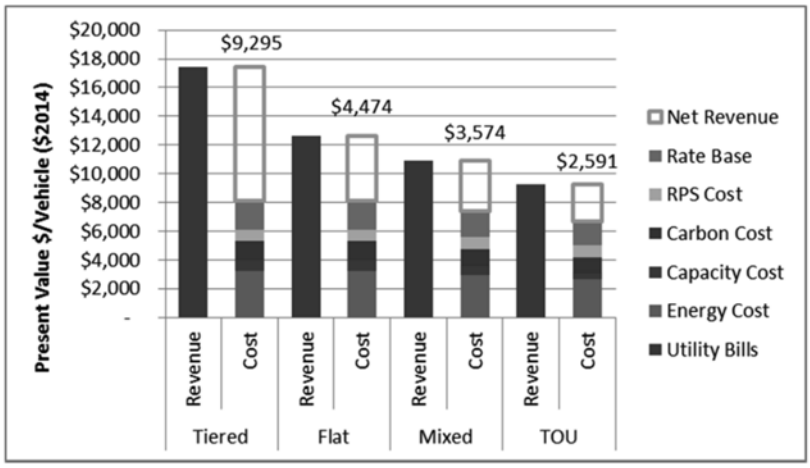

Figure 2. Utility Customer Benefits: Present Value of Revenue and Costs per Vehicle (Ratepayer Impact Measure Cost-test)

[13]

PEVs can also be a source of potential load control. Many PEV owners are open to load control programs, such as letting the utility or a third party turn PEV charging on and off as needed, as long as it does not prevent the charge from finishing by a specified time.[14] Going a step farther than load control is pulling energy from idle PEVs at peak load times via "vehicle-to-grid" (V2G).

Finally, PEVs can make the integration of renewables easier. PEV loads are generally during low demand times (and can be moved around with TOU rates and other tools), making it easier to justify the addition of renewable power sources that cannot be ramped.[15]

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[13] http://www.caletc.com/wp-content/uploads/2016/08/CalETC_TEA_Phase_2_Final_10-23-14.pdf

14 Tal, Gil. 2016. Plug-In Electric Vehicle Multi-State Market and Charging Survey http://www.epri.com/abstracts/Pages/ProductAbstract.aspx?ProductId=000000003002007495

[15] (INL) Anonymous, Idaho National Laboratory. 2013. How do PEV owners respond to time-of-use rates while charging EV project vehicles http://avt.inl.gov/pdf/EVProj/125348-714937.pev-driver.pdf and (INL) Anonymous, Idaho National Laboratory. 2015 (a). Residential Charging Behavior in Response to Utility Experimental Rates in San Diego http://avt.inel.gov/pdf/EVProj/ResChargingBehaviorInResponseToExperimentalRates.pdf

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4. Plug-in charging stations and PEVs support Main Street USA and local economies.

As noted above, PEVs are fueled from electricity from the local grid, promoting local electric jobs through the installation of the charging stations, and the ongoing operation and maintenance of the stations. In addition, the money not spent on gas or on maintenance can be invested back into the local economy.[16]

On behalf of the nearly one million PEV drivers, and the millions more that will soon make the choice to drive electric, we strongly urge you to reauthorize and extend the Section 30C Alternative Fuel Vehicle Refueling Property Credit. There is a severe need for more of these plug-in charging stations to meet the growing demand for the vehicles across the U.S. This credit works to enable more shovel-ready jobs in all states through the installation of the plug-in charging stations and the ongoing operation and maintenance of the stations, and keeps the U.S. competitive in the technology and innovation sectors related to the PEV market. The installed charging stations work to grow and accelerate the PEV market, which equates to significant economic growth in the U.S. and can save consumers money.

We look forward to working with you and we would be pleased to meet with your staff and members of the House Ways and Means Committee any point to discuss our comments as outlined here. Please send any questions to Katherine Stainken, Policy Director, at kstainken@pluginamerica.org.

Best regards,

Joel Levin

Joel Levin
Executive Director
Plug In America

[16] Roland-Holst, David. 2012. Plug-in Electric Vehicle Deployment in California: An Economic Assessment https://are.berkeley.edu/~dwrh/CERES_Web/Docs/ETC_PEV_RH_Final120920.pdf and Stroo, Hans. 2015. Bills to Advance Electric Vehicles Make Good Economic and Environmental Sense http://planwashington.org/blog/archive/bills-to-advance-electric-vehicles-make-good-economic-and-environmental-sense/

FREEDOM PARTNERS

AMERICANS FOR PROSPERITY

Defend Historic Tax Reform by Rejecting Corporate Welfare in All Forms, Starting with Tax Extenders

March 14, 2018

Dear Chairman Buchannan and Members of the Committee,

On behalf of our members and millions of grassroots activists throughout the country, Americans for Prosperity and Freedom Partners Chamber of Commerce write to urge you to stand strong in defense of the Tax Cuts and Jobs Act (TCJA) by opposing the renewal of billions of dollars of expired corporate carve outs – otherwise known as tax extenders – in the post-tax reform era.

While not perfect, the TCJA took significant steps to begin reducing the amount of corporate welfare in the tax code and started rightfully returning that money to the people who earned it. Adding billions of dollars in expired corporate welfare provisions back into the tax code after tax reform has passed would needlessly weaken the most significant legislative achievement in more than 30 years and send the wrong signal to special interests that Washington is back to business as usual.

Earlier this year when asked about tax extenders, Ways and Means Chairman Kevin Brady, told the *Washington Examiner*, "Our old tax code is over. … [I]t makes zero sense to trudge on with old provisions that served a different purpose, in a different tax code, during a different time." Chairman Brady is right. The tax extenders currently under consideration, including those for industries like rum production, horse racing, and green energy, were wrong before tax reform and have no place in a post-tax reform world.

These carve outs were the products of a broken tax code riddled with the corrupting influence of corporate welfare and designed to allow Washington to pick winners and losers. They benefit the well-connected few at the expense of everyone else, they are unjust and unfair, and they underscore one of the major reasons why tax reform was so desperately needed in the first place. Furthermore, the tax relief and benefits that every sector will see as a result of the new tax law will be far greater than these outdated carve outs. There is no justification for renewing them.

We strongly urge the members of this Committee to stay true to the principles you stood for to get tax reform passed, build on the progress you've already made, and reject corporate welfare in all forms, starting with tax extenders.

Nathan Nascimento

Nathan Nascimento
Executive Vice President
Freedom Partners Chamber of Commerce

Brent W. Gardner

Brent Gardner
Chief Government Affairs Officer
Americans for Prosperity

Americans for Prosperity (AFP) exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream – especially the least fortunate. Freedom Partners is a non-profit, non-partisan chamber of commerce dedicated to protecting freedom and expanding opportunity for every American—no matter where they live, what they do or how much money they have.

SORENSON ENGINEERING

Hydropower Specialists Since 1984.

March 23, 2018

House Ways and Means Committee
1102 Longworth HOB
Washington D. C., 20515

To Whom It May Concern,

This letter is submitted as part of the record of the House Ways and Means Committee hearing on tax extenders. Sorenson Engineering has been involved in developing, designing, and through its affiliates, owning small hydroelectric facilities since 1984. The vast majority of the projects we are involved in are low-impact marine hydrokinetic conduit projects, located on existing irrigation systems.

Through the expired Marine Hydrokinetics tax credit (and previous similar programs), we have been able to work with rural irrigation districts and develop at least 6 projects in Idaho, Colorado, Oregon, and Montana that would not have otherwise been feasible. These projects have enormous benefits for the rural communities in which they are built. These projects had a combined construction cost of $36.6 million, two-thirds of which was spent locally. This resulted in 400 to 500 total construction jobs over the two year periods in which each of the projects were built, and 7 long-term jobs for plant operators. Through our collaboration with the irrigation districts who own the systems on which our projects are built, we have taken on the risk of construction and we pay them significant royalties to operate on their systems. These royalties allow them to reduce the water assessments they require of the farmers on their systems, allowing these farmers to compete better in the marketplace, and ultimately, leading to lower crop prices. We have also made upgrades to the irrigation systems themselves, including improving the canal head gates and delay systems.

In addition to providing economic benefits to the rural communities and farmers, these projects provide benefits to the electric grid. Distributed generation (having generation closer to the load) frees up transmission lines throughout the grid. Further, because hydro is more reliable and is not an intermittent technology like wind and solar, it can provide needed stability to the grid and allow for inclusion of more intermittent technologies.

Nonetheless, hydroelectric projects tend to require higher capital investment, but last much longer than other renewable technologies like solar and wind. Because solar and wind have a tax credit, investors often prefer to put their capital in those technologies. In order to provide the benefits to both rural economies and the transmission grid listed above, marine hydrokinetic and qualified hydro need to be able to compete with other renewable technologies on an even playing field.

We appreciate the Ways and Means Committee's consideration of these programs and want to remind the Committee that tax incentives for qualified hydro and marine hydrokinetic provide enormous benefits to both rural economies and our transmission system and ask that they receive the same treatment as other renewable technologies.

Thank you for your time and consideration.

Ted S. Sorenson, President

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The Honorable Vern Buchanan
Chairman
House Ways and Means Subcommittee
on Tax Policy
2104 Rayburn House Office Building
Washington, DC 20515

The Honorable Lloyd Doggett
Ranking Member
House Ways and Means Subcommittee
on Tax Policy
2307 Rayburn House Office Building
Washington, DC 20515

Transmitted by email to designated email address: waysandmeans.submissions@mail.house.gov

Submission for the Record, regarding
House Ways & Means Committee
Subcommittee on Tax Policy
Hearing: "Post Tax Reform Evaluation of Recently Expired Tax Provisions"
Hearing to take place today, Wednesday, March 14, 2018.

March 14th, 2018

Dear Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee,

We offer this submission for your consideration and request that it be placed on the record.

Southeast Biodiesel, LLC, owns and operates a biodiesel manufacturing plant. The plant is located in North Charleston, South Carolina. My partner Karen McAree and I, both formerly resident in Ireland, chose this location and this industry to invest our money in. The company has been in operation since 2007. At this time some millions of dollars have been invested in the company and we are the sole owners. I am making this submission on behalf of Southeast Biodiesel, LLC, in my capacity as Chief Executive Officer and co-owner of the business.

In addition to our ownership in and management of Southeast Biodiesel, we are also on familiar terms with many other U.S. biodiesel manufacturers and know our industry well. Collectively our industry employs about 65,000 people and adds very substantial value to the US economy, while improving energy independence, reducing harmful air emissions and supporting rural communities throughout the country.

We are a small, high-technology, manufacturing company. We do not have a lobbying budget and before now we have not engaged with the world of politics. The haphazard record of switching on and off a major provision of tax law as it relates to our industry has provoked us to engage at this time. We hope that our direct language will be seen for what it is: A sincere and heartfelt plea that you would return to the common-sense application of the tax credit provision for Biodiesel as was in place from 2005 through 2009.

Specifically I am referring to the Biodiesel Tax Credit ("BTC") provided for in IRC 6426 and 6427.

This table gives a history of the BTC:

Year(s)	Biodiesel Tax Credit (BTC) Status
2005-2009	Active and contributing to business investment and growth.
2010	Lapsed. Mid-Dec was retroactively reinstated for 2010 and prospectively put in place for 2011.
2011	Active and contributing to business investment and growth.
2012	Lapsed. End of year was retroactively reinstated for 2012 and prospectively put in place for 2013.
2013	Active and contributing to business investment and growth.
2014	Lapsed. End of year was retroactively reinstated for 2014 ONLY.
2015	Lapsed. End of year was retroactively reinstated for 2015 and prospectively put in place for 2016.
2016	Active and contributing to business investment and growth.
2017	Lapsed. In mid-February 2018 was retroactively reinstated for 2017 ONLY.
2018	Lapsed. **May be reconsidered by Ways and Means / Tax Policy Subcommittee.**

I would like to tell you why we believe that leaving this provision in a lapsed condition through 2018 would be a short-sighted and economically extremely inefficient decision. It is our understanding that Congress's intention in providing the BTC is to boost the growth of a young industry, encouraging early stage investment and gradually allowing it to develop to compete on an equal footing with other independent sources of energy. This is one of the most efficient types of infrastructural investment possible, as long as it is done right.

This is exactly what the BTC did in the period from 2005-2009, when there was a huge amount of investment in US-based biodiesel manufacturing facilities. It was allowed to lapse at the end of 2009, so any biodiesel manufactured in 2010 was done at significant price disadvantage and risk for the industry. It is hard (believe me we have tried) to go to any conventional financing source and say:

"Please let me have a credit facility –

I will repay you when Congress
reinstates the BTC retroactively next year".

This is how the BTC actually operates in real life:

- When BTC is active, but expiring end of "this" year.
  - Biodiesel producers work down some of the financial overhang from last year (when it was lapsed), and can make a modest profit on operations. The value in the BTC tends to get split about 50% to the customers, 25% to the suppliers and 25% to the intended beneficiary – the biodiesel manufacturer.

- When BTC is lapsed:
  - All substantial sized customers demand a promise of at least 50% (sometimes 75% and occasionally 100%) of the possible future BTC on current gallons from the biodiesel manufacturer. They justify this by saying that they are only breaking even or making a small profit on gallons they are currently buying. Biodiesel manufacturers operate at the rate that they can fund, taking into account the margins on production which run anywhere between -50 and +5 cents per gallon in these periods.

This is our company history, on the timeline of the BTC:

Year	Our experience, and our industry's experience, dealing with the effects of haphazard tax policy:
2010	The credit had lapsed, but was believed likely to be reinstated at end of year. We purchased our interest in Southeast Biodiesel and invested our money in improving the facility for 2011 production.
2011	This was a modest trading year. Although we had the BTC, it was set to expire again on 12/31/11 – so no financial institution would allow it in a business plan. Our industry campaigned to remove the uncertainty.
2012	This was a very tough year. We (and many other biodiesel producers) ran at a low production rate and obtained our financing from very expensive sources.
2013	Same as 2011. Our industry made up some lost ground.
2014	Same as 2012. Disappointing and difficult trading year.
2015	It was quite a body-blow to us and to our industry when the BTC was reinstated, but only for "last year", i.e. 2014. It allowed us to repay the finance costs from 2014, but made 2015 an extremely difficult year. At the end of Q3 we (in Southeast Biodiesel) suspended biodiesel production because we were not willing to risk any more money on the "promise" that the BTC would reinstated retroactively for those gallons.
2016	We got our 2015 money, and the industry benefited from a "current year" BTC. However, once again, it was scheduled to lapse at the end of the year.
2017	Same as 2014. We focused on being ready for a good production year in 2018, without relying on an uncertain tax credit for 2017.
2018	Congress made a decision, (which thankfully is now under review), to reinstate the credit for 2017 and leave our industry to grind out another impossible-to-budget year in 2018.

We have no doubt that Congress's current proposal to do another 1-year retroactive reinstatement is motivated by the impulse towards prudent management of taxpayers' money. However this is equally as

short-sighted as funding the military a few months at a time. Probably more so, in my opinion. At least the military knows the money will eventually show up.

Looking back over the time since mid-2009 when this unstable policy first occurred, the Taxpayer has paid a lot of dollars in BTC. The erratic way in which it has been provided means that a huge part of the intended value has been lost to high-priced finance and to customers who can easily take advantage of the manufacturers' weakness. The biodiesel manufacturers have been squeezed and not able to factor it into any investment programs.

The current provision to reinstate the BTC so that it applies to gallons manufactured between 12/31/2016 and 12/31/2017 is a lot better than no reinstatement. If Congress had not decided to take this action we believe there would be job losses across the industry, as well as loss of the value put in over past investments. By not extending it through 2018 this young (but very ambitious and resilient) industry is now facing yet another rear of inability to invest in long-term improvements. We believe that, however well-intentioned it may be, this is a short-sighted and very inefficient use of taxpayers' funds.

At this local level – we have invested a substantial amount of our private funds into Southeast Biodiesel over the past several months with a view to resuming production when the 2018 BTC is enacted. Since mid-February we have stepped back from this and are considering whether to continue our manufacturing business or to shut it down and use our time (and money) more productively elsewhere.

The biodiesel industry has few detractors (no serious/authentic ones) and has a lot to offer. We think that there is a lot of room for multi-partisanship, especially between coastal states and mid-western states. Leadership is needed, both in our industry and at all levels of government, in order to make this happen.

The manufacturers that are still standing in this industry have proven their toughness and commitment. We want to make investments in the infrastructure of our industry. The BTC can be of great benefit to that. There should be a period of time where the BTC is known to be available, thus allowing that investment to take place. The stop-start pattern is wasteful. A sudden full-stop would be even worse – discarding the value invested in these facilities by their owners and by the taxpayers.

We understand that in making your decisions you will be bombarded by many competing points of view. Those of us who own and run small and medium sized manufacturing companies, in South Carolina, tend to be more focused on the facts than on distracting arguments. We hope you will accept our good faith in this. Senator Chuck Grassley has long been a champion for renewable fuels manufacturing. His understanding of the supply chain benefits all the way from agricultural production through fuel supply and distribution make him a powerful voice for our industry. I will refer and defer to his authority regarding two questions that pop up from time to time:

1. Is the Renewable Fuel Standard (RFS) damaging the US oil-refining industry?
2. Do the oil refiners' complaints about the RFS mean they object to Biodiesel as well as Ethanol?

The two questions are effectively answered in these recent, accurate, news releases:

Senator Grassley undermines the claim by some oil refiners that the Renewable Fuel Standard is the cause of their financial problems:

Sen. Grassley Press @GrassleyPress · Feb 28
Iowa Senators @ChuckGrassley and @SenJoniErnst Cite **Mismanagement**, not #RFS, as Reason for **Refinery** Struggles

No Deal on Renewable Fuel Standards as Big Oil and Corn Go At It
IA Senators Grassley and Ernst blame refinery woes on mismanagement, not RFS mandates, as policy makers clash over the program's future.
insidesources.com

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Following

Grassley analysis finds RFS has 'minimal impact' on success of refineries - Iowa Senator Chuck Grassley says an analysis finds that the Renewable Fuel Standard has a minimal impact on the success of oil refineries. Grassley says his energy policy staf...

Grassley analysis finds RFS has 'minimal impact' on succe...
Iowa Senator Chuck Grassley says an analysis finds that the Renewable Fuel Standard has a minimal impact on the success of oil refineries. Grassley says his energy policy staff analyzed cla...
brownfieldagnews.com

2:00 PM · 6 Feb 2018

Report on a March 1, 2018, White House Meeting where President Trump heard the arguments of Oil Refiners against the Renewable Fuel Standard and the arguments of Renewable Fuel Producers in favor of the RFS. Senator Grassley was in attendance. It is noteworthy that, although both Biodiesel and Ethanol are built into the RFS, the meeting addressed concerns about Ethanol, not Biodiesel.

The issues that the refiners have with the RFS are <u>not</u> about Biodiesel.

Biodiesel's role in RFS not at issue in White House discussions

By Ron Kotrba | March 02, 2018

On March 1, for the second time in a week, a meeting was held by President Trump at the White House to discuss possible reforms to the Renewable Fuel Standard with stakeholders, legislators and administrators. The discussions centered mostly on ethanol and RINs.

Randy Howard, the president and CEO of Renewable Energy Group Inc., the largest biodiesel producer in North America, was among stakeholders at the meeting where he said it was made clear there is no problem with biodiesel.

"It was made abundantly clear by all parties in the room that none of them have an issue with biodiesel's role in the RFS," Howard said. "I look forward to continuing the dialogue with the administration to help us all achieve future biodiesel growth."

BIODIESEL MAGAZINE

We are greatly encouraged by your decision to hold a hearing entitled "Post Tax Reform Evaluation of Recently Expired Tax Provisions" today at 10 AM. The Witness List for the hearing includes some strong and reliable advocates for biofuels manufacturers, and Biodiesel in particular. Panel 4 has several witnesses with deep knowledge of the subject.

We hope you will do us the honor of considering our submission in a favorable light. South Carolina could and should have thriving biodiesel manufacturing sector, and this is complementary to the goals set out by the current Administration.

After you have heard the evidence of your Hearing Witnesses and made your due consideration of written submissions, we are hopeful that you will recommend that Congress would amend the proposed expiry date of the Biodiesel Tax Credit from December 31, 2017 to at least December 31, 2018 and preferably 2020. The multiplying effect on the value of each dollar would make this very good value for money. The industry participants that we know will invest the value of that credit directly into expanding productivity and efficiency, directly displacing the importation of foreign-made biodiesel fuel.

There can be no more effective and efficient investment in America's infrastructure.

Yours sincerely,

Southeast Biodiesel, LLC
Patrick Doyle, CEO
1005 Kinzer St.
North Charleston, SC 29405

Testimony of Mark Frohnmayer, President and Founder, Arcimoto
Submitted to the US House Committee on Ways and Means
For the Hearing About Extending Expired Tax Provisions
March 14, 2018

Mr. Chairman, members of the Committee, my name is Mark Frohnmayer. I am the Founder and President of Arcimoto, a three-wheel electric vehicle manufacturing company located in Eugene, Oregon.

I cannot attend the hearing in person today because we are in the midst of the go-to-production push in our new 30,000 square foot manufacturing plant to build Arcimoto's 230 MPGe (est.) Fun Utility Vehicle, an affordable, extremely efficient three-wheeled vehicle for daily driving. We expect this plant to employ more that 200 people at full production capacity. My absence is not an indication that the 2- and 3-wheel electric vehicle tax credit is unimportant to our future customers, my employees, and our company. At this stage of the 2- and 3-wheel electric vehicle industry, it is extremely important.

My father was both the Republican Attorney General in the State of Oregon and the President of the University of Oregon. He was always pragmatic, and taught me that government should pass laws when there is a good policy basis, meaning something legitimate that government seeks to encourage or achieve.

To address the question of the basis or reasons for the 2- and 3-wheel tax credit, in part, requires deeper understanding about the narrow slice of the 2- and 3-wheel electric vehicle marketplace. Arcimoto's history can frame this up.

Arcimoto is a survivor. We started a decade ago, before the 2- and 3-wheel electric vehicle tax credit was even an idea. Our mission for the first 10 years was to develop, and I stress develop, a highly efficient, nimble, fun, and exciting electric vehicle for a price that is affordable to the mass entry level American consumer. By late 2017 we produced eight product prototype generations and delivered our first Arcimoto FUVs to a paying customer.

In September 2017 we raised $19,200,000 in a Tier 2 Regulation A offering and subsequently listed on the NASDAQ exchange. In November, we opened the doors of our new factory in Oregon. We have nearly doubled in size since our IPO, and now employ 43 people developing and producing our electric vehicles right here in the U.S.

By the end of 2018, we aim to produce hundreds of Arcimoto Fun Utility Vehicles, for the more than 2,400 customer pre-orders we've accumulated to date. Our factory will be ready to accelerate production thereafter. Our data-driven pilot sales and marketing campaign between 2015 and 2017 proved demand levels and refined our marketing approach.

I summarize this to highlight that our company is finally building one of the most efficient production vehicles in the world, one without tailpipe emissions that can move world transportation in the right direction. Our customers are finally positioned to take advantage a tax

incentive that the Congress has on and off provided for cutting-edge, super-efficient, cool vehicles like ours.

This occurred after a big gap in our industry began around 2008 or 2009 and continued for about 8 years. I have been around this industry segment long enough to see too many good 2- and 3-wheel electric vehicle companies come and go. The bulk of them entered and exited in the 2007-2015 time frame, largely because of the big bank collapse and sustained economic downturn. There was too little equity capital for anyone then. Most 2- and 3-wheel electric vehicle manufacturers died before producing vehicles and before the tax credit was useful to incentivize customers.

Now the economic situation has finally improved, the 2- and 3-wheel segment of the electric vehicle industry is coming back. Like Arcimoto, Zero Motorcycles survived, but now new players like Vanderhall in Utah, Curtiss Motorcycles in Alabama, Alta, Energica, Lightning, Brutus, Johammer, Evoke and, most recently Harley Davidson are among the producers.

My point is that our 2- and 3-wheel EV segment of the market finally has some traction again. Our segment of the market is nearly back to being early stage—the precise point that a consumer tax incentive is justified and very important to achieve legitimate goals of government.

The credit reduces economic barriers for consumers to buy 2- and 3-wheel electric vehicles that, while still more expensive than liquid fueled counterparts, are much more energy efficient by orders of magnitude. The government has a sound basis to encourage consumers to evaluate and buy products that use less energy to transport people, compared to traditional liquid fueled vehicles.

Incentivizing consumers so that this market becomes firmly established and so that many more highly efficient vehicles integrate into the US fleet will achieve several goals for the government:

(1) promotes efficiency in vehicle travel
(2) diversifies the fuels that Americans use to travel
(3) lowers America's dependence on oil
(4) reduces tailpipe pollution where it needs reduced the most, in cities and concentrated populations
(5) reduces carbon emissions that may affect climate
(6) keeps cutting edge US electric vehicle technology in the US
(7) keeps production and manufacturing capacity in the US
(8) creates more skilled jobs

Each of these goals is a very legitimate government basis for the credit, and all are built around a responsible energy tax policy to promote efficient transportation. The credit is particularly applicable at this early stage of the market for 2- and 3-wheel electric vehicles.

Electric vehicles are the most efficient vehicles in the world, nearly three times more efficient than comparable liquid fuel vehicles, and free from tailpipe emissions that pollute the air where people live and work. But our transportation system has grown up on gasoline and diesel fueled

vehicles and the infrastructure and systems for liquid fuel are ensconced in our transportation and economic systems. Batteries, for EVs are still expensive, so electric vehicles have a severe disadvantage in the marketplace. The credit helps consumers to move past this structural disadvantage.

The government, whether Republican or Democrat, should have a very keen interest in this. And as a result, the government has some very sound policy reasons to help consumers overcome the up-front incremental added cost of a much more efficient electric vehicle (compared to a traditionally powered vehicle). This is particularly pertinent now, at this still early stage of the 2- and 3-wheel electric vehicle market.

I heard that the subcommittee Chairman commented last week that the expired provisions should either become permanent law or eliminated. I think that there is a third alternative. I think that a responsible public policy approach would have the Congress reviewing the credit and adjusting it, if need be, in six to ten years. The adjustment should be made based on how rooted the 2- and 3-wheel electric vehicle market is at that point.

If we have grown sufficiently and the cost of the technology comes down to more comparable levels with liquid fuel vehicles, then the consumer credit could be trimmed back. Again, this policy recommendation is based on sound reason. I believe that there is a reasonable likelihood that the 2- and 3-wheel electric vehicle sector will be more established by then and on more parity with electric transportation.

I also believe that <u>if</u> Congress adopts a shorter term extension, you might look at a different formulation of the credit for the long-term. We suggested an efficiency-based consumer tax credit, where the <u>level</u> of transportation energy efficiency is rewarded at varying levels of a consumer tax credit. More efficiency means more consumer tax credit. (See attachment)

This sensible alternative would encourage manufacturers to push for the upper limits of transportation efficiency. It builds in the incentive to innovate and design the next generation 300 MPG liquid fueled or 300 MPGe electric fueled vehicle. Our electric vehicles will get the equivalent of an estimated 230 MPG, but if there is a higher consumer credit that encouraged us to reach to higher, we might invest the time and money to do so.

One final point. However positive the new comprehensive tax law signed in December may be for small businesses like Arcimoto, <u>it does not address the vehicle demand side for the more expensive 2- and 3-wheel electric vehicles. The consumer credit does so</u>. It helps consumers make the choice for more energy efficient transportation, a choice that has sound basis (promoting energy efficiency and the other results listed above) in public policy. The new tax law does not address this important and legitimate goal.

I conclude by thanking you for the opportunity to present these ideas. I hope that I have conveyed a full basket of public policy reasons—the basis—for extending the 2- and 3-wheel electric vehicle tax credit.

Attachment

Ways and Means Tax Policy Subcommittee
Testimony of Mark Frohnmayer, Arcimoto
March 14, 2018

Discussion Draft

Performance Based Consumer Tax Credit for 2 and 3-Wheel Vehicles

Rewards: Increases in fuel economy and decreased dependence on foreign oil.

New tax credit (to replace the existing tax credit) for 2 and 3-wheel vehicles. The new tax credit awards higher tax credits based on increases in fuel/energy efficiency. This credit replaces technology-based credits that reward certain paths to achieve these goals and instead rewards any successful ability to reach the goals based on performance. This encourages R & D and innovation in energy efficient transportation for small, mid-sized, and large US companies. Consumers of successful innovation get higher credit levels. It is our goal to help move America toward energy efficiency in transportation.

It is sound public policy to continue to provide incentives to purchasers of any vehicles and that further America's fuel diversity and energy independence goals by reducing imported oil consumption and to be innovative and manufacture in the US. In order to incentivize and encourage American businesses to be innovative and exceed those standards, the following tax incentives, in the form of credits per unit, would be put in place for the purchasers of these technologies.

New Credit Parameters

Consumer tax credits per unit, for the purchase of any vehicle or device that enables an increase in the MPG/MPGE by a vehicle:

Credit levels:

10% for 75 MPG/E
20% for 175 MPG/E
30% for 275 MPG/E

March 26, 2018

The Honorable Vern Buchanan, Chairman
Subcommittee on Tax Policy
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

The Honorable John Lewis, Ranking Member
Subcommittee on Tax Policy
Committee on Ways and Means
U.S. House of Representatives
Washington, DC 20515

Re: Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions

Dear Chairman Buchanan and Ranking Member Lewis:

The Tile Roofing Institute (TRI) is pleased to submit this statement for the subcommittee's March 14 Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions. Specifically, TRI supports the Residential Energy-Efficiency Tax Credit (IRC Sec. 25C) with a technical correction made to its roofing criteria.

Congress updated 25C's roofing criteria in the PATH Act of 2015 from a product-specific criteria to one that is product-neutral and allows all roofing products that meet EPA's Energy Star requirements to be eligible. However, there are two references to roofing products in 25C and, in a drafting error, only the first one was properly changed.

Sec. (c)(2)(A) of 25C establishes the new product-neutral criteria for roofing products, but the corresponding language in Sec. (c)(3)(D) wasn't updated and continues to allude to only certain metal or asphalt roofing products. Fixing this second reference is in keeping with the definition of a technical correction (must be revenue neutral; must clarify language as was originally intended; and must have bipartisan support), and should inspire the IRS to finally update the roofing criteria on Form 5695, Residential Energy Credits.

In addition to roofing, 25C has promoted energy efficiency by helping homeowners purchase better performing windows, doors, HVAC systems, hot water heaters and insulation. It also has preserved and created American jobs and, based on 2009 IRS data, the National Association of Home Builders found 278,610 full-time jobs were supported by 25C-related projects. IRS data also showed 25C to be a tax credit that benefits the middle class, with over two-thirds of households that claimed the credit having adjusted gross incomes of $100,000 or less.

While the $1,500 cap for 25C in 2009 - 2010 was decreased to $500 for 2011 - 2017, there is no doubt that it's continued to benefit manufacturers, distributors, contractors, and, most importantly, consumers. However, it is crucial that the tax credit be made equitable to all parties instead of appearing to pick winners and losers.

Therefore, we ask that if renewed, a technical correction be made to 25C's second reference to roofing so that its product--neutral criteria is not confused by the drafting error in the PATH Act.

Sincerely,

Rick Olson

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Comments for the Record
United States House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of
Recently Expired Tax Provisions
Wednesday, March 14, 2018, 10:00 AM

By Michael G. Bindner
Center for Fiscal Equity

Chairman Buchanan and Ranking Member Doggett, thank you for the opportunity to submit my comments on this topic. The hearing will focus on expired tax provisions and what to do about them post tax reform. We have not yet shared our thoughts on this subject with the Committee, however these comments do reflect our usual position on this issue in comments on the Brookings-Urban Tax Policy Center web site. As usual, our comments are based on our four-part tax reform plan, which is as follows:

- A Value Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure very American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of $100,000 and single filers earning $50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25% in either 5% or 10% increments. Heirs would also pay taxes on distributions from estates, but not the assets themselves, with distributions from sales to a qualified ESOP continuing to be exempt.
- Employee contributions to Old Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age sixty.

Our comments reflect the first and last bullets of our tax reform plan, point one being the value added tax and point four being the Net Business Receipts Tax/Subtraction VAT. The one of the other two taxes, the employee-paid OASI taxes do not apply.

The NBRT/Subtraction VAT will contain many tax breaks and credits, but they will all be focused on benefits to individual employees and their families, not to specific industry breaks and no such breaks will be temporary, even those for health care.

Likewise, while it is tempting to grant industry-based exemptions for Value Added Taxes, because this tax is designed to be broad based and to tax both labor and capital, they should be less attractive as a hanger for industry pork. It is one thing to give industries a break on profit taxes, knowing that the labor for whatever activity is subsidized will be taxed by an individual income tax, as will any profits distributed to shareholders. When labor is no longer taxed except when it reaches CEO level salaries, as well as shareholder and employee dividends, it is harder to justify breaks for favored industries.

Enact our plan and the question of targeted breaks, both temporary and permanent, becomes easy to answer, with that answer being NO! We doubt the current system provides Congress with that kind of courage.

We will say what others will not. These tax breaks have probably already been paid for in campaign contributions. It is time to give up being squeamish and pass the tax breaks unless the design of the Tax Cut and Jobs Act specifically or implicitly abolishes them (in which case, don't pass them). Until our proposal is adopted, either stop letting the beneficiaries contribute to your campaigns (and refund any current contributions) or make the tax breaks permanent. What appears to most of us in tax policy as an annual shakedown is unseemly. Please end it, because the proper allusions have as much to do with prostitution as extortion/ Either way, it looks criminal. If such allusions offend you, enact campaign finance reform.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Contact Sheet

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Subcommittee on Tax Policy
Hearing on Post Tax Reform Evaluation of Recently Expired Tax Provisions
Wednesday, March 14, 2018, 10:00 AM

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.

REBUILD AMERICA'S SCHOOLS

A National Coalition

SCHOOL DISTRICTS
Akron, OH
Aldine, TX
Birmingham City, AL
Birmingham Public, AL
Boston, MA
Broward County, FL
Brownsville, TX
Chicago, IL
Cincinnati, OH
Clark County, NV
Compton, CA
Corpus Christi, TX
Dayton, OH
Detroit, MI
Escambia, FL
Houston, TX
Jefferson Parish, LA
Jersey City, NJ
McAllen, TX
Memphis, TN
Miami-Dade, FL
Milwaukee, WI
Minneapolis, MN
Montgomery, AL
Nashville, TN
Newark, NJ
New Orleans, LA
New York, NY
Norfolk, VA
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Omaha, NE
Pharr-San Juan-Alamo, TX
Philadelphia, PA
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Savannah-Chatham, GA
St. Louis, MO
St. Paul, MN
Toledo, OH
Tulsa, OK
Ysleta, TX

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American Federation of Teachers ▫ Council of The Great City Schools ▫ National Education Association
International Union of Operating Engineers ▫ National Parent Teacher Association ▫ National School Boards Association
AASA, The School Superintendents Association ▫ National Association of Elementary School Principals
National Association of Secondary School Principals ▫ NAACP ▫ National Association of Federally Impacted Schools
American Institute of Architects ▫ Organizations Concerned About Rural Education ▫ National Rural Education Association
Californians for School Facilities

Statement Submitted for the Record
U.S. House of Representatives
Committee on Ways and Means
Subcommittee on Tax Policy

Hearing On "Post Tax Reform Evaluation of Recently Expired Tax Provisions"
March 14, 2018

Rebuild America's Schools (RAS), a national coalition, supports extending the cost effective Qualified Zone Academy Bond (QZAB) tax credit bond program affected by the Tax Cuts and Jobs Act, H.R.1. QZABs allow school districts to modernize school facilities. The Tax Extender Act of 2017 included a provision to extend the Qualified Zone Academy program for two years. Tax Extender Act provisions were included and extended in the February Continuing Resolution. But, the QZAB extension provision was not included.

Rebuild America's Schools requests that the Ways and Means Committee reconsider the December 2017 termination of QZAB tax credit bonds as it reviews expired tax provisions. Rebuild America's Schools requests that the Committee act to extend the cost effective QZAB tax credit bonds assisting school districts to finance basic school infrastructure renovation and repairs.

Congress originally authorized Qualified Zone Academy Bonds (QZAB) in the Taxpayer Relief Act of 1997. The Ways and Means and Finance Committees have repeatedly extended the QZAB tax credit bond program on a bipartisan basis. QZAB bonds and other tax credit bonds such as the expired Qualified School Construction Bonds (QSCB) have been used efficiently by local school districts in Florida, Texas, Washington, Illinois, Ohio, California, Pennsylvania, North Carolina, South Carolina, Oregon, South Dakota and in virtually every state across the nation to renovate and repair schools and classrooms. School districts in 49 states have used QZABs and the QSCB program to build and renovate safer modern schools.

QZAB tax credit bonds are cost effective, providing critical financial support for modern, technologically and energy efficient schools and classrooms. The need to modernize our nation's schools is extensive. School infrastructure needs are beyond the capacity of state and local communities. A 2013 Center for Green Schools Report *State of Our Schools* estimated that nationally schools face $271 billion in deferred maintenance costs. The Report estimated a $542 billion cost to bring schools into good repair over the next ten years. The American Society of Civil Engineers 2017 Infrastructure Report Card rated Schools with a D+, noting 24% of public school buildings were rated as being in fair or poor condition."

The extension of QZABs connects well with the Administration's Infrastructure Initiative emphasis on federal and state and local partnerships and state and local decision making. Today, states and local governments across the county are investing in school facility infrastructure advancing student achievement, success and career development while producing local construction jobs. Under the Administration's Infrastructure Initiative, federal, state

and local governments should be able to decide to invest in school infrastructure as a priority.

Federal partnerships with the financial assistance of QZAB tax credit bonds supplement state and local efforts to renovate, repair, modernize and build schools and classrooms promoting student success and local jobs. As a federal investment QZABs are cost effective. The Treasury Department FY 2017 Budget stated the cost of the FY 2015-2016 $400 million annual QZAB allocations at $52 million per year.

The low cost federal QZABs support and benefit state and local school district investments in school infrastructure projects by providing tax credits rather than the school district paying interest on local bonds. The federal QZAB financial support for state and local school infrastructure projects to modernize schools and classrooms is an example of effective federal, state and local partnerships.

Since QZABs were authorized in 1997 the Treasury Department has allocated $9.6 billion in QZABs to states for local school districts to renovate and repair schools and classrooms. A recent economic analysis estimates that every $1 billion dollars invested in construction creates 18,000 jobs. Federal QZAB tax credit bonds supporting state and local school district investments in school modernization advance student achievement and generate construction related jobs in local communities.

Thank you, Mr. Chairman, for the subcommittee review of recently expired tax provisions. Qualified Zone Academy Bond tax credit bonds are cost effective for the federal government, states and local school districts. The continuation of tax credit bonds such as QZABs and QSCBs will contribute well, as Congress and the Administration strengthen policies investing in our national infrastructure assisting state and local communities across America. Continuing QZABs and tax credit bonds will strengthen federal, state, and local partnerships investment in school facility infrastructure advancing student achievement, success and career development while producing local construction jobs.

Rebuild America's Schools appreciates the opportunity to submit this statement for the extension of the Qualified Zone Academy Bonds and tax credit bonds to the Tax Policy Subcommittee of the Ways and Means Committee and requests that the submitted statement be included in the official Committee hearing record.

Respectfully submitted,
Robert P. Canavan, Chair
Rebuild America's Schools

Written testimony of the

Biotechnology Innovation Organization

Submitted to the United States House of Representatives
Committee on Ways and Means Tax Policy Subcommittee
Post Tax Reform Evaluation of Recently Expired Tax Provisions
Wednesday, March 14, 2018

Chairman Buchanan, Ranking Member Doggett, and Members of the Subcommittee, the Biotechnology Innovation Organization (BIO) is pleased to submit a statement for the record to the to the United States House of Representatives Committee on Ways and Means Tax Policy Subcommittee hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions."

Executive Summary

The Biotechnology Innovation Organization (BIO) supports a seamless multi-year extension for the following tax incentives:

- Second Generation Biofuel Producer Tax Credit
- Special Depreciation Allowance for Second Generation Biofuel Plant Property
- Biodiesel and Renewable Diesel Fuels Credit
- Alternative Fuel Vehicle Refueling Property

BIO also supports the extension and expansion of the tax code to include:

- Qualifying Renewable Chemical Production or Investment Tax Credit
- Master Limited Partnerships (MLP) to Advanced Biofuel and Renewable Chemicals

Introduction

BIO is the world's largest biotechnology trade association representing more than 1,000 biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products. Our members are working every day to solve the greatest challenges facing society – whether it is finding a cure for cancer, protecting the public against bio-terror

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threats, feeding hungry people nutritious food, or generating renewable fuels, renewable chemicals and biobased products.

Within its broad membership, BIO's Industrial and Environmental Section (IES) member companies are developing new agricultural and low-carbon feedstocks, industrial enzymes, and biological catalysts for the conversion of biomass into advanced biofuels, alternative jet fuels, renewable chemicals, and biobased products. Utilizing the power of industrial biotechnology, companies across the country are creating a robust biobased economy. Biobased production encompasses a complex value chain, from agriculture through the manufacture of consumer goods, that provides an alternative to the petroleum-based value chain and that brings environmental, economic and other benefits. The biobased economy can generate new markets for agricultural producers, boost innovation in domestic manufacturing, and stimulate sustainable economic growth.

Biofuels Tax Incentives

The biofuel tax provisions that expired at the end of 2016 and were extended retroactively for 2017 are critical to BIO's IES members. Particularly the Second Generation Biofuel Producer Tax Credit (PTC), the Special Depreciation Allowance for Second Generation Biofuel Plant Property, the Biodiesel and Renewable Diesel Fuels Credit, and the Alternative Fuel Vehicle Refueling Property Credit.

While BIO and its member companies are grateful Congress extended these provisions through 2017, the continued short-term extension of these incentives has created uncertainty for investors and the industry about the availability of these credits; jeopardizing the long-term investments necessary for the development of advanced and cellulosic biofuels. Availability of these credits are critical as our companies make significant investments to create new agricultural supply chains, build infrastructure for liquid biofuels, and develop innovative new technologies. These credits have enabled our industry to create new jobs, contribute to rural prosperity, and diversify our nation's energy supply. However, the continued delays in extending these credits puts these investments and benefits at risk.

Ensuring further growth in the advanced and cellulosic biofuels industry will require additional support and greater policy certainty going forward. As such, we encourage the Congress to advance a multi-year extension of advanced biofuel tax. Motor fuel markets are not free markets. The oil industry receives permanent federal subsidies and tax breaks that give incumbents a market advantage over renewable fuels if not remedied by the counter balancing incentives described above. Temporary extensions are not enough to create parity, but they help bridge the gap to comprehensive energy tax reform. Allowing these tax credits to expire in the near term would be premature, and would significantly limit the growth in the domestic advanced and cellulosic biofuels industry and undermine all the positive contributions the industry has made to national security, the economy, and the environment to date.

We are well aware of the financial constraints facing this country. However, the United States' global competitors are offering tax incentives for advanced biofuels and are attracting construction of new facilities. Extending these tax incentives for advanced biofuels ahead of the expiration date will avoid creating uncertainty for investors and companies trying to raise capital at a minimal cost to the federal government. The cost of a one-year extension for the Second Generation Biofuel PTC is $11 million over 10 years and the cost of an extension over 10 years is $317 million.

Renewable Chemical and Biobased Products

Renewable chemicals and biobased products derived from renewable biomass represent a historic opportunity for revitalization of U.S. chemical manufacturing. The U.S has the potential to become the world leader in renewable chemicals and biobased product manufacturing, as we are currently home to most of the world's advanced renewable chemicals technology and intellectual property and have access to a wide range of sustainably produced renewable biomass. An investment in renewable chemicals will pay strong dividends in the future of U.S. chemical manufacturing while advancing the goals of quality domestic job creation and domestic advanced manufacturing, improved trade balance, and maintaining U.S. leadership in clean energy and manufacturing technologies.

To realize the full potential of the domestic renewable chemicals industry, existing renewable energy, manufacturing, or environmental tax incentive regimes should be opened to renewable chemicals. By providing a federal income tax credit for domestically produced renewable chemicals, Congress can create domestic jobs and other economic activity and can help secure America's leadership in the important arena of green chemistry.

The bipartisan Renewable Chemicals Act of 2017, H.R. 3149 and the Senate companion bill, S. 1980 offer a strong model for implementation of this proposal.

Extension and Expansion of Master Limited Partnerships (MLP) to Advanced Biofuel and Renewable Chemicals

Sectors of the fossil energy industry are able to benefit from using the advantages of a publicly traded MLP. The renewable chemicals industry and the renewable energy sector (including advanced biofuels companies) cannot. The publicly traded MLP structure reduces a company's tax burden, enables access to capital at lower cost, and increases liquidity. Access to capital is critical to the success of emerging industries, particularly as they develop their infrastructure. BIO supports legislation to allow the advanced biofuels and renewable chemical sectors to be able to operate as publicly traded MLPs. This would provide parity and level the playing field among the different industry sectors.

The bipartisan Master Limited Partnerships Parity Act, H.R. 4118 Representatives Ted Poe (R-TX) and Mike Thompson (D-CA) and its Senate companion, S. 2005 offers a strong model for implementation of this proposal.

Conclusion

In the interest of job creation, infrastructure development, innovation, and energy security, we respectfully ask Congress to immediately pass a seamless multi-year extension the Second Generation Biofuel PTC and the suite of other biofuel tax incentives; along with the parity for biofuels and renewable chemicals in the MLPs and tax incentives for renewable chemical production. These provisions are essential ingredients in any effort to accelerate the commercialization of advanced biofuels, renewable chemicals and biobased products. We ask that you include these provisions in any tax extenders package. Thank you for your consideration.

GlobalAutomakers

Aston Martin • Ferrari • Honda • Hyundai • Isuzu • Kia
Maserati • McLaren • Nissan • Subaru • Suzuki • Toyota

John Bozzella, President and CEO, Association of Global Automakers, Inc.
Statement for the Record of the
House Committee on Ways and Means Tax Subcommittee Hearing
"Post Tax Reform Evaluation of Recently Expired Tax Provisions"

March 27, 2018

The Association of Global Automakers, Inc. (Global Automakers) represents the U.S. operations of international automobile manufacturers and major automotive suppliers. Our members design, build, and sell cars and light trucks here in the United States. Global Automakers' companies have invested $59 billion in U.S.-based production facilities, produced 4.7 million vehicles last year, and directly employ 101,000 Americans. They produce 40% of the vehicles manufactured in this country and sell nearly half of all new vehicles purchased annually in our country.

The cars and trucks manufactured by our members today are more efficient and cleaner than ever. Automakers are building significantly more efficient internal combustion engines while they are also investing billions in electrification with hybrid vehicles, plug-in electric vehicles that get energy from the grid, and fuel cell electric vehicles that generate energy onboard by converting hydrogen to electricity.

These diverse product lineups offer consumers a wide range of options to meet their needs. The challenge we face lies in getting more electric-drive vehicles into the hands of customers and on the road. To that end, tax policy provides valuable and useful incentives that will move us toward the goal of creating a self-sustaining market for all electric vehicles based on robust consumer demand, and a supporting refueling infrastructure.

Several specific tax provisions move us in the right direction. The Section 30B Fuel Cell Motor Vehicle Tax Credit helps make fuel cell electric vehicles –which have a range and fueling time similar to gasoline-powered vehicles -- more affordable to consumers and more comparable to other vehicle prices. Additionally, the Section 30C Alternative Fuel Vehicle Refueling Property Credit helps provide the fueling infrastructure necessary to support new powertrains.

We appreciate that these tax credits were recently renewed retroactively for 2017, but presently they are expired. Honda, Hyundai, and Toyota currently have fuel cell electric vehicles in the market, and other OEMs have announced plans to roll out hydrogen fuel cell electric vehicles in the future. Consumers are making buying decisions every day, but they are unsure if the tax credit will be renewed again. The retroactive nature of previous extensions and the ongoing uncertainty do not provide the purchasing incentive for consumer adoption that the tax credit was designed to establish. Global Automakers supports a temporary, but multi-year extension of these tax credits to help build a sustainable market for alternative fuel vehicles.

The certainty from extending these credits to at least 2025 accomplishes several goals. Manufacturers will continue to make investments in new technologies and innovation, more businesses and states will be encouraged to fund hydrogen refueling stations bringing new investment and jobs to states, and consumers will have more choices. If we give consumers options, they will pick winners and tell us where market demand is strongest. That will help us address a fundamental policy challenge in this area. We need to reconcile regulatory

requirements – such as state laws mandating manufacturers to sell a growing, and challenging, number of electric-drive vehicles each year[1] – with consumer preferences across the country.

Global Automakers appreciates the Committees' thorough attention to the 30B and 30C tax credits. While the industry and global markets are moving towards a diverse mix of electric-drive vehicles, industry and government need to work together to make sure that the United States has the right policies at the federal level to support innovation, consumer choice, and the transition to greater electrification.

[1] The states that have adopted the California Zero Emission Vehicles mandate are California, Connecticut, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Rhode Island and Vermont. For more information, please visit http://www.globalautomakers.org/advocacy/environment-and-energy/electric-drive.

The Association of Electrical Equipment
and Medical Imaging Manufacturers
www.nema.org

National Electrical Manufacturers Association

March 27, 2018

The Honorable Kevin Brady
1102 Longworth House Office Building
Washington, DC 20515

The Honorable Richard Neal
1139E Longworth House Office Building
Washington, DC 20515

RE: Support for Extension of Section 30C Credit for Alternative Fuel Vehicle Refueling Property

Dear Chairman Brady and Ranking Member Neal,

On behalf of the National Electrical Manufacturers Association (NEMA)—a trade association representing nearly 350 manufacturers of products used in the generation, transmission, distribution, and end-use of electricity—and on behalf of the NEMA Electric Vehicle Supply Equipment Section, I am writing to express our support for a multi-year extension of the Section 30C credit for alternative fuel vehicle refueling property, including electric vehicle charging stations.

While this credit was retroactively extended through the end of 2017 as part of the *Bipartisan Budget Act of 2018* (Pub. L. 115-123), we request that the 30C credit be prospectively extended through at least the end of 2019. Furthermore, H.R. 1, the *Tax Cuts and Jobs Act*, does not include an extension, nor does it include these technologies in the new qualified improvement property section of the bill.

Investment in electric vehicle charging infrastructure is needed in order to ensure the U.S. is a leader in the rapidly changing automotive sector. This is particularly important because other countries have gone "all-in" on electric and advanced vehicles. Providing manufacturers and their customers with the longer-term certainty that a prospective extension would provide will result in increased capital investment in and expansion of the charging infrastructure needed to enable consumer adoption of plug-in electric and advanced vehicles. Extending the 30C credit through at least the end of 2019 will support U.S. manufacturing and construction jobs by increasing investment in transportation infrastructure. Not extending this credit would limit potential job growth, will cost consumers money, and will hinder the United States' position as a global automotive leader.

The benefits of electric and advanced vehicle market growth are proven and far-reaching: EVs are fueled by affordable domestic energy (which increases U.S. energy security and fuel diversity); EVs and advanced vehicles protect public health with increased safety features and fewer well-to-wheel emissions; and American companies are the ones leading the world in research and development of the technologies that are changing the way people get around.

We urge you to extend the 30C credit through at least the end of 2019 to provide manufacturers and their customers with a forward-looking incentive to install next-generation transportation infrastructure. Not doing so would weaken American competitiveness in transportation technology, at a time where other countries are making great strides. Supporting 30C means more jobs, more infrastructure, more energy security, and continued U.S. dominance in the energy and advanced automotive sectors.

Should you have further questions, please contact Patrick Hughes, Senior Director of Government Relations and Strategic Initiatives, at 703.841.3205 or patrick.hughes@nema.org.

Respectfully,

Kyle Pitsor

Kyle Pitsor
Vice President, Government Relations

ADVANCED BIOFUELS
BUSINESS COUNCIL

March 14, 2018

The Honorable Vern Buchanan
Chairman, Subcommittee on Tax Policy

The Honorable Lloyd Doggett
Ranking Member
United States Subcommittee on Tax Policy

RE: Subcommittee Hearing on "Post Tax Reform Evaluation of Recently Expired Tax Provisions"

Dear Chairman Buchanan and Ranking Member Doggett,

The Advanced Biofuels Business Council (ABBC) appreciates the opportunity to comment as part of the post-tax reform evaluation of recently expired tax provisions. The Council represents worldwide leaders in the effort to develop and commercialize next generation biofuels, ranging from cellulosic ethanol made from dedicated energy crops, forest residues and agricultural waste to advanced biofuels made from municipal solid waste, algae and other feedstocks.

A. The recently expired tax incentives offered for the production of second generation biofuels support a promising emerging industry just reaching commercial scale; there is no case to be made for their elimination given government support for fossil fuels.

Current law provides two tax provisions that are critical to the ongoing development of the U.S. advanced and cellulosic ethanol industry, both of which expired on December 31, 2017:

- Producer Tax Credit (PTC): Current law allows producers of cellulosic and other second-generation biofuels to take a tax credit in the amount of $1.01 per gallon. The PTC was enacted as part of the 2008 Farm Bill and was extended for one year in 2012 as part of the deal on the fiscal cliff. It expired again at the end of 2013 and was then extended (for less than a month) at the end of 2014 through the end of 2014. The PTC was extended retroactively this year. While the PTC has not cost the U.S. Treasury anything to date, the credit helps early movers attract financing and survive in the marketplace while economies of scale are realized in the early years of commercial deployment. Both the fossil and some parts of the renewable energy industries currently have producer tax credits, and as such, the second- generation biofuels PTC provides some measure of consistency (in this one category) with other energy sectors.

- Accelerated Depreciation Allowance: Recently expired law allowed producers of second generation biofuels to take 50 percent depreciation in the first year. Accelerated depreciation allows property built or purchased to produce fuel from cellulosic biomass to be depreciated at an accelerated rate, thereby helping to offset initial capital costs. This provision was enacted as part of the 2008 Farm Bill and was extended for one year in 2012 as part of the deal on the fiscal cliff. It expired again at the end of 2013 and was then extended (for less than a month) at the end of 2014 through the end of 2014. The PTC was extended retroactively this year. By comparison, accelerated depreciation/cost recovery has been offered for decades and continues to be offered permanently to the oil and gas industry to help the industry recover costs for encouraging investment and innovation.

The second-generation biofuels PTC and accelerated depreciation allowance are critical to the ongoing development of the cellulosic biofuels industry for the following reasons:

- These provisions at least partially offset the lack of parity in the federal tax code otherwise favoring incumbents in the fuel energy space, particularly regarding accelerated cost recovery (see Figure 2).
- A tax increase in this financial climate would undercut an emerging industry capable of generating tens of thousands of U.S. jobs in the intermediate term and will increase our future dependence on foreign oil.
- The PTC and accelerated depreciation allowance provide investment certainty in a high-risk marketplace largely supply- and price-controlled by OPEC.
- Allowing the PTC and accelerated depreciation to expire runs counter to the goals set forth by Congress to foster the development of advanced biofuels under the RFS.
- The PTC and accelerated depreciation allowance are consistent with current U.S. energy policy to promote energy production and innovation across a wide spectrum of domestic energy sources.
- Conventional sources of oil and gas are depleting rapidly. The federal government currently provides incentives for the production of other unconventional fuels to ensure energy security.
- Production-based tax credits and accelerated depreciation are the two most common tax incentives in the U.S. energy sector; extending these provisions for second generation biofuels maintains some level of consistency for an emerging industry trying to compete with a fully mature, incumbent fossil fuel industry.
- PTCs provide an incentive for actual output of cellulosic biofuel, which means that the government is incenting actual commercial production and job creation.

- Policy uncertainty in the United States is driving energy investments overseas; allowing these provisions to expire would send the wrong signal to investors and curtail the growth of the advanced biofuels industry on U.S. soil.

The cellulosic biofuels industry is meeting its industrial benchmarks notwithstanding the challenging financial climate over the last ten years. The meeting of these industrial benchmarks is widely reported in a number of academic studies.[1] For example, an industry survey conducted by Bloomberg New Energy Finance concluded that "[t]he operating costs of the [cellulosic biofuel] process have dropped significantly since 2008 due to leaps forward in the technology … [f]or example, the enzyme cost for a litre of cellulosic ethanol has come down 72% between 2008 and 2012."[2] As cellulosic biofuel production technology continues to mature, the U.S. advanced biofuels industry is ramping up to compete in the $2.5 trillion global clean energy marketplace. It simply does not make good policy sense to impose (or allow) a tax increase on the cellulosic biofuels industry at this early stage of development, especially given that other countries are competing aggressively to attract these projects to their soil.

B. The problem with the federal tax code is not that it provides incentives for domestic energy production; but rather, that it provides incentives for domestic energy production in an inequitable way.

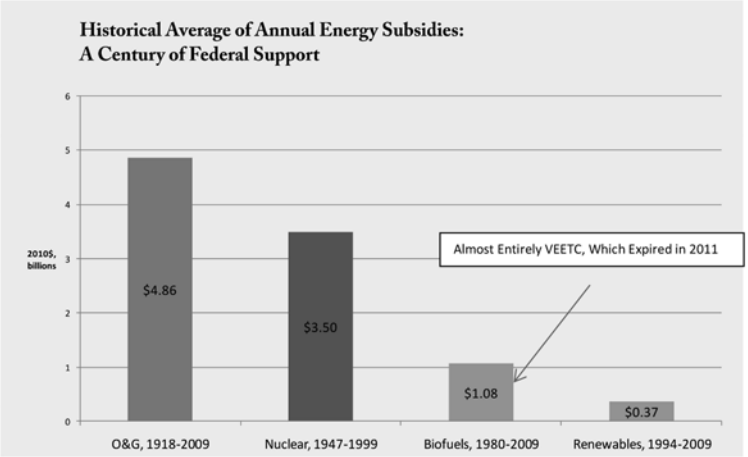
As part of the effort to reform the federal tax code as it pertains to energy, it is important to clearly identify the problem. Regarding energy, the problem with the federal tax code is not that it provides incentives for domestic energy production; but rather, that it provides incentives for domestic energy production in an inequitable way across different business sectors. While those receiving the balance of governmental support in the energy sector (primarily oil, gas and nuclear) have argued that their tax incentives are not unique, independent analysis proves otherwise. For example, a recent analysis conducted by DBL Investors concluded that "the federal commitment to O&G [oil and gas] was five times greater than the federal commitment to renewables during the first 15 years of each subsidies' life, and it was more than 10 times greater for nuclear."[3] The historical average of annual energy subsidies, when looked at through the lens of more than a century of federal support for energy, shows a similar result (see Figure 1 below). So from the outset, we encourage the Subcommittee to

[1] See: *Cellulosic Ethanol Heads for Cost-Competiveness by 2016, http://about.bnef.com/press-releases/cellulosic-ethanol-heads-for-cost-competitiveness-by-2016/;* Brown, T., Brown, R. "A review of cellulosic biofuel commercial-scale projects in the United States." Biofuels, Bioprod. Bioref. DOI:10.1002/bbb.1387 (2013).
[2] See http://about.bnef.com/press-releases/cellulosic-ethanol-heads-for-cost-competitiveness-by-2016/
[3] See http://www.dblinvestors.com/documents/What-Would-Jefferson-Do-Final-Version.pdf at p. 6.

recognize that, "current renewable energy subsidies do not constitute an over-subsidized outlier when compared to the historical norm for emerging sources of energy."[4]

Figure 1

Source: DBL Investors



Subsidy inequity is not just an historical problem. The Office of Management and Budget has identified eight tax breaks for oil companies that cost the government more than $4 billion per year:

1. Intangible drilling cost deductions (worth $13.5 billion over ten years);
2. Percentage depletion deduction (worth $17.2 billion over ten years);
3. Deduction for tertiary injectants (worth $60 million from 2016-2025);
4. Exception from passive loss limitations for oil and gas ($229 million from 2016-2025);
5. Amortization of Geological and Geophysical Expenditures for Independent Producers (increasing the period to 7 years would save an estimated $1.1 billion over ten years);
6. Domestic manufacturing tax credit ($12 billion over ten years);
7. Marginal oil well incentives; and
8. Enhanced oil recovery credits.

Even with regard to federal agency (e.g. DOE) spending on research and development, which is very often the focus of Congress when it comes to subsidies, historic budget allocations for fossil fuels far exceed those for clean or renewable energy. For example, according to a recent Congressional

[4] *Id.*

Research Service report, [f]or the period from 1948 through 2012, 11.6% of Department of Energy R&D spending went to renewables, 9.7 % to efficiency, 25% to fossil energy, and 49.3% to nuclear.[5]

Finally, it also makes sense to look at government supports for energy on a global basis given that most energy markets are global in nature. The International Monetary Fund (IMF) conducted a comprehensive analysis of global fossil fuel subsidies in 2015 (with some data updated recently). Among other things, the report noted that fossil fuels are subsidized globally at a rate of $10 million per minute.[6]

As discussed, we take no issue with the federal government's support for the energy security and economic well-being of the country regarding energy production and innovation; on some levels, it makes sense that the bulk of this support was for fossil fuels in the 20th century. The issue today is if the federal tax code does not similarly advantage the advanced and cellulosic biofuels industry, then we are thereby disadvantaged in our competitive effort to finance and commercialize the production of new types of "unconventional" fuel energy. This is one of the key conclusions of the aforementioned IMF report, which states that inequitable fossil fuel subsidies "discourage needed investments in energy efficiency, renewables, and energy infrastructure, and increase the vulnerability of countries to volatile international energy prices.[7]

[5] See http://www.fas.org/sgp/crs/misc/RS22858.pdf
[6] https://www.theguardian.com/environment/2015/may/18/fossil-fuel-companies-getting-10m-a-minute-in-subsidies-says-imf
[7] http://www.imf.org/en/Publications/WP/Issues/2016/12/31/How-Large-Are-Global-Energy-Subsidies-42940 at p. 4.

Figure 2: Key Points of Tax Inequity Between Fossil Fuels and Advanced Biofuels

The fossil fuel industry receives inequitable treatment from the U.S. Tax Code in three primary areas: (1) accelerated cost recovery; (2) production incentives; and, (3) access to capital.

Type of Incentive	Incentive Offered to Fossil Fuels	Corollary Offered to Advanced Biofuels	Analysis of Inequity
Accelerated Cost Recovery	Percentage Depletion for Oil and Natural Gas Wells Expires: No Estimated Government Spending 2012-21: $11.2b	Accelerated Depreciation for Cellulosic Biofuel Expired: 2017 Estimated Government Spending 2012-21: ~ 0	Percentage depletion allows oil companies to treat a natural resource (oil) as a depreciable asset, and then allows a percentage of revenue from that asset to be tax alleviated. Both provisions (at left) accelerate cost recovery for oil and biofuel projects, respectively, but only the biofuel allowance expires and percentage depletion also reduces income tax liability (see below).
Production Incentive	Percentage Depletion for Oil and Nat. Gas Wells ; Expires: No Estimated Government Spending 2012-21: $11.2b	Producer Tax Credit ($1.01) Expired: 2017 Estimated Gov't Spending: $11M in '18	Percentage depletion is also a production incentive because the outcome is reduced tax on income (i.e. as percentage of oil flow revenue). Similarly, the PTC incents production by providing a tax credit per gallon of advanced biofuel produced. Only the biofuel incentive expires.
Production Incentive & Accelerated Cost Recovery	Expensing of Intang. Drilling Costs; Expires: No; Estimated Gov't Spending 2012-21: $12.4b	No comparable special allowances over accelerated depreciation, which expired in '14	Congress has expressed concern about "up front" tax incentives for renewable energy (e.g. Investment Tax Credit for renewable electricity), yet the oil industry benefits from the expensing of a wide variety of the "up front" costs associated with extracting fossil fuels.
Production Incentive	Enhanced Oil Recov. Credit; Expires: No Only available when oil price low Estimated Gov't Spending 2012-21: depends on oil price	None	Incentive for oil allows tax credit on 15% of allowable costs associated with enhanced oil recovery; only available for low oil price (determined annually from metric). The inequity is these incentives are insurance against the floor dropping out of oil prices – corollary insurance policies do not exist for the biofuels industry.
Production Incentive	Credit for Oil and Gas From Marginal Wells Expires: No Only available when oil price low Estimated Gov't Spending 2012-21: depends on oil price	None	Roughly 20% of U.S. oil production and 12% of natural gas production are eligible at this time (although more marginal NG production may be eligible) when oil prices are low; enacted in 2004 to protect marginal wells during low oil prices. The inequity is these incentives are insurance against the floor dropping out of oil prices – corollary insurance policies do not exist for the biofuels industry.
Additional Incentives	There are several additional unique incentives for oil (e.g. passive loss exception, deduction for tertiary injectants, foreign tax credit, LIFO) that inequitably reduce risk and lower cost for the production of oil and gas, and for which there are no corollaries in biofuels.		
Access to Capital	Master Limited Partnerships Expires: No Estimated Investment Dollars Channeled: $220b in 2010	None; not eligible	MLPs allow extractive industries only to form an LLC-type entity (only subject to one layer of taxation) to raise capital for energy projects. Benefit is direct access to retail investment community, among other tax benefits. The amount of project development money being funneled through MLPs has gone from a couple billion dollars per year in the 1990s to **$220b in 2010**.

C. Resolving the inequities in the federal tax code is extremely important, given both the importance of energy innovation to economic growth and the impact of the federal tax code on energy investment decision making.

As discussed in the DBL Investors report, "energy innovation has driven America's growth since before the 13 colonies came together to form the United States, and government support has driven that innovation for nearly as long."[8] Governmental support drove investment in coal, timber, engine innovations, land settlement for resource extraction and other forms of innovation in the 19th and 20th centuries, and domestic energy consumption and GDP have tracked closely for at least 200 years.[9] Recent testimony presented to the House Ways and Means Committee also pointed out that: (1) global energy demand is expected to grow 36% between 2008 and 2035, which in turn presents a massive and growing market opportunity for countries willing to seize it; (2) much of the U.S. competitive advantage over the last two centuries has come from our ability to innovate in the energy sector, and "technological innovation is linked to three-quarters of the Nation's post-WWII growth rate, with two innovation-linked factors – capital investment and increased efficiency – representing 2.5 percentage points of the 3.4% average annual growth rate achieved since the 1940's;" and, (3) other countries like China ($738 billion by 2020) have made big commitments to energy production and innovation that are already drawing energy projects away from the United States.[10] This country has not only failed to make this level of commitment to innovation in the energy sector, but most of the commitments it has made are under almost constant threat via political attack or legislated expiration (as discussed above).

Tax policy inequity/uncertainty is particularly problematic in the energy sector because energy investments are highly driven by tax policy. This is true for a variety of reasons, including the fact that energy investments are capital intensive and come with inherent risk. In the fuel energy space, this investment risk is exacerbated by a number of factors, including but not limited to: (1) technology risk, as "easy to access" forms of energy like light sweet crude are depleting rapidly; (2) the top down supply and price controlling power of OPEC, which distorts traditional market indicators and spooks investors; and, (3) the vertical integration and high consolidation of the oil industry, which is protective of petroleum market share at the wholesale and retail levels.[11] To be clear, any one of these factors alone puts the federal tax code at the center of investment decision making. For example, in June 2012 the Senate Finance Committee received testimony from the largest leaseholder in the nation's largest oil

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[8] See note 2, at p. 11.
[9] *Id.*
[10] See http://waysandmeans.house.gov/uploadedfiles/colemantestimony922.pdf, referencing U.S. Department of Commerce, *Patent Reform: Unleashing Innovation, Promoting Economic Growth & Producing High-Paying Jobs* (2010).
[11] See http://autogreenmag.com/2013/03/21/report-first-e15-gas-station-gets-warning-from-conocophillips-might-have-to-stop-ethanol-sales/.

play (the Bakken) about the importance of tax incentives for new energy production. Among other points, the CEO of Continental Resources stated:

> There is good reason that when the tax code was reformed in 1986, a bipartisan majority recognized the importance of leaving the tax provisions of the American independent oil and gas industry intact. This decision played a significant role in the technology-driven oil and gas renaissance we are currently experiencing.
>
> … the development of horizontal drilling took trial and error. Without the current capital [federal tax] provisions in place, we would not have been able to fail over and over again, which is what it took to advance the technology needed to produce the Bakken and numerous other resource plays across America. And this technology that allows us to drill two miles down, turn right, go another two miles and hit a target the size of a lapel pin is the technology that has unlocked the resources that make energy independence a reality.
>
> This paradigm shift in American oil and gas exploration brings with it high-paying jobs, increased tax revenues, and economic growth, while lessening our dependence on foreign oil. But it depends on substantial amounts of capital. The tax provisions that let us keep our own money to reinvest in drilling are crucial to keep this energy revival going.[12]

It is critical to point out that cellulosic biofuel producers and "tight oil" producers have something in common; they are both endeavoring to supply the country and world markets with what the Energy Information Administration (EIA) terms "unconventional fuel." While facing similar technology risk, the cellulosic biofuels industry does not receive the same tax treatment as companies like Continental Resources (from the perspective of value or duration). In Figure 2 (next page), we provide a very basic comparison between the primary incentives for oil and gas and those offered to advanced biofuels. It is not a complete list, and many of the incentives/deductions/credits do not fit neatly into one category (some are hybrids of several categories). But the table does illustrate some of the inequities when it comes to the incentives offered to the respective industries.

Regarding specific recommendations for the subcommittee:

Principle 1: Do No Harm

The federal tax provisions (until recently) promoting the development of our industry are not costly from a U.S. Treasury perspective, yet they provide tremendous value in terms of providing some balance against the permanent incentives offered to incumbents. Consequently, the currently expired incentives discussed here should be extended for maximum number of years possible (see below) to provide a similar ramp of certainty as is provided by the federal government to incumbents.

[12] See http://www.finance.senate.gov/imo/media/doc/Hamm%20Testimony1.pdf, p. 2.

Principle 2: Parity + Innovation Puts U.S. in Best Position to Succeed

The ABBC is in the process of reviewing the post-reform tax landscape, but it seems clear that the following remain important objectives for a 21st century U.S. tax code:

1. Elimination of all inequities (including the term/duration of the incentive) with regard to direct subsidies *and* all other forms of government support through the tax code (credits, deductions, allowances, eligibility for certain programs, etc.)
    a. Particularly as it applies to incentives such as percentage depletion, the expensing of intangible drilling costs (IDCs), Master Limited Partnerships, etc.

2. Technological neutrality
    a. Particularly with regard to the commercialization of "unconventional fuels" (e.g. biofuels, thermally-enhanced oil, tar sands, tight oil, etc.)
    b. E.g. any incentive for the production of oil and gas from marginal wells

3. Strong incentives for innovation to ensure that the United States remains at the forefront of the global innovation marketplace, protects both its economic and environmental interests, and develops the world's most innovative energy solutions on U.S. soil

Thank you for the opportunity to comment today. We hope that you find this information helpful and we would be happy to provide further information or answer any questions that you might have.

Sincerely,

R. Brooke Coleman
Executive Director
Advanced Biofuels Business Council (ABBC)

Date: March 14, 2018
To: Members of the Committee of Ways and Means
From: Novus Wood Group

America is leading the world in natural gas production. The oil and natural gas industry drives $100's of billions of dollars into the economy. The natural gas industry has been focused on environmental stewardship and methane leakage. **Methane emissions per unit of natural gas produced have declined continuously since 1990, down -46%, with production up 52%: in the pipeline distribution segment during the same period down -75%. The EPA *Inventory* reveals that the natural gas distribution systems have small emissions footprint shaped by an ongoing declining trend.** (American Gas Association Report May 2017)

The Alternative Fuels Tax Credit (AFTC) provides a credit, of $0.50, per gasoline gallon equivalent (GGE) of certain transportation fuels, including natural gas, liquefied petroleum gas, P Series Fuels, liquefied hydrogen and others. Extending the AFTC for five years would allow natural gas technology adopters and fleet customers to plan long-term investment strategies and provide business certainty and would provide a significant contribution to our nation's economic growth.

Almost 40 percent of Americans live in communities with exceedingly poor air quality according to the U.S. Environmental Protection Agency. Exposure to such conditions increases the risk of asthma, lung cancer, heart disease, and premature death. The risk is increasing every year that we do not promote the change to cleaner burning fuels. It is either do something now in regard to on road transportation or we will pay more for healthcare.

Heavy-duty vehicles are the fastest growing segment of U.S. transportation in terms of energy use and emissions. These trucks are major emitters of nitrogen oxide (NOx), diesel particulate matter, and greenhouse gases – the emissions that greatly contribute to poor air quality. While heavy-duty vehicles total 7 percent of all vehicles on our roads, they account for 33 percent of America's smog-precursor emissions (NOx) from mobile sources and 20 percent of all transportation-related greenhouse gases. Here in the Greater Houston Metro area there are over 100,000 local delivery, and drayage trucks producing massive amounts of smog annually. With the population growth and increased commerce in the region, the only viable way to clean up the air quality issue is to use cleaner burning fuel.

An obvious solution is the promotion and adoption of alternative fuels, which burn cleaner, and is better for the environment and the health of our neighbors. If we want cleaner air we need cleaner trucks. Heavy-duty vehicles powered by natural gas are the cleanest, most proven commercially available solutions to this growing

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WOOD GROUP

health concern. Ultra-low NOx engines are powered by natural gas and are 90 percent cleaner than the strictest federal standards. Those powered by renewable natural gas (RNG) are upwards of 115 percent cleaner.

The extension of this important tax credit would further incentivize the transition of aging dirty diesel fleets to cleaner vehicles using natural gas. This could mean the increased deployment of an estimated 58,000 natural gas vehicles (NGVs); equal to eliminating over 1.2 million cars from the area. This would result in the reduction of an estimated 200 million metric tons of greenhouse gas emissions, 82,300 fewer metric tons of NOx emissions, and $1.0 billion in avoided public health costs.

Furthermore, extending the AFTC for a five-year period for natural gas would spur $9.9 billion in economic growth and $5.8 billion in additional private sector investment in infrastructure and equipment and create 62,000 new middle-class jobs over a 10-year period. The AFTC would increase energy independence by decreasing consumption of petroleum-based fuels, and stimulating U.S. manufacturing. The extension of this vital industry credit has support from a broad array of organizations representing users, retailers, customers, fleet managers, utilities, and producers of clean alternative transportation fuels.

Texas by itself is the third largest natural gas producer in the world. The fact that the state has failed to use its own resources to bolster its own industry is a discredit to those who work to make a livelihood in those fields. Natural gas is a clean, abundant, domestic fuel source; and these are real public health outcomes. Utilizing natural gas as a transportation fuel provides numerous economic and national security benefits. Extending the AFTC would promote increased private-sector investment in infrastructure and equipment, which leads to more jobs and economic output.

Congressman Brady, thank you for your consideration of this request. We look forward to sharing more with you regarding this important clean air incentive

Sincerely,
Steve Ghormley
Vice President – Operations and Business Development
Novus Wood Group.

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WoodFuel.com

A WOOD BY-PRODUCTS COMPANY

Date: March 14, 2018
To: Members of the Committee of Ways and Means
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Sincerely,
Scott Mactier
Managing Partner
Wood Fuel.

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The Uncompahgre Valley Water Users Association

March 20, 2018

House Ways and Means Committee
1102 Longworth HOB
Washington D.C., 20515

To Whom It May Concern,

This letter is submitted as part of the record of the House Ways and Means Committee hearing on tax extenders. The Uncompahgre Valley Water Users Association is a rural water users association, made up of farmers in the Uncompahgre Valley in Montrose County, Colorado. We serve 80,000 acres of irrigated land and have 3,500 shareholders.

Through the expired Marine Hydrokinetics tax credit, we worked with partners to install several small conduit hydroelectric projects on our irrigation system, including the Drop 1, Drop 3, Drop 4, Drop 5 and Drop 6 projects. These projects provide immense benefits to our water users, electric customers, and our community. The benefits included, jobs that were created during construction, jobs for on-going maintenance; reliable, lower cost electricity, and financial benefits to the irrigation district which has been reinvested on the project for upgrades and ongoing rehabilitation.

The renewable energy tax credits (the investment tax credit and its alternative, the production tax credit) for qualified hydroelectric and marine/hydrokinetic technologies have been instrumental in allowing us to build these on our system. The District partnered with for-profit entities who helped finance and build the Drop 4, Drop 5, and Drop 6 projects – projects that were economically risky and that the Uncompahgre Valley Water Users Association could not have been able to finance on its own. Due to the availability of the tax credits, these projects have been built and we receive royalty/lease payments that directly benefit our water users by reducing the costs to them of running our system and consequently, their farms. In addition, because hydro and marine/hydrokinetic are not intermittent technologies like wind and solar, they can provide needed stability to the grid.

Hydroelectric projects tend to require higher initial capital investment than other renewable technologies, but last much longer. There are many projects still running in the US that were built in the early 20th century. The higher capital costs are the barrier to building these long lasting, reliable electricity generation systems. Because solar and wind have a tax credit, investors prefer to put their capital in those technologies. Extending the marine hydrokinetic and qualified hydro tax incentives would encourage the financial markets to invest in these technologies as well.

Given the ongoing tax credits for wind and solar, qualified hydro and marine/hydrokinetic are not on a level playing field to compete with solar and wind in the financial marketplace. We write as a reminder to the Ways and Means Committee that the marine hydrokinetic and qualified hydropower tax incentives provide immense economic benefits to agriculture and rural communities, by extending these hydropower related tax credits.

Thank you for your time and consideration.

Steven A. Anderson
Manager, Uncompahgre Valley Water Users Association

Extend the Production Period for Existing Refined Coal Facilities

Present Law

Section 45(e)(8) of the Internal Revenue Code provides a tax credit for the production of refined coal produced at a refined coal production facility and sold to an unrelated person during the ten-year period beginning on the date the facility was originally placed in service. The tax credit was first enacted as part of the Energy Policy Act of 2005, and only applies to refined coal production facilities placed in service before January 1, 2012. Accordingly, the tax credit period for all qualified refined coal production facilities will expire no later than December 31, 2021.

Refined coal is a fuel produced from coal (including lignite) or high carbon fly ash, which is sold to be used for purposes of producing steam, and which is certified by the taxpayer as resulting (when used in the production of steam) in a qualifying emission reduction. A qualifying emission reduction means a reduction of at least twenty percent in the emission of nitrogen oxide and at least forty percent in the emission of either sulfur dioxide or mercury, as compared to the emissions released in burning comparable feedstock coal.

Background

The refined coal production tax credit was designed to incent the development and application of then-unproven technologies and equipment to reduce certain harmful emissions from coal-fired electricity generating facilities. Implementation of cost-effective processes to reduce emissions of mercury, sulfur dioxide and nitrogen oxide from coal-fired power stations would result in significant health and environmental benefits and improve the ability of electricity produced from coal to compete with increasing levels of renewable energy. As a result of the adoption of the refined coal tax credit, multiple chemical reagent technologies were developed that demonstrated the ability to meet the required twenty percent and forty percent emissions reductions, and equipment was designed, built and placed in service capable of applying the chemical reagents to coal prior to combustion. Substantially all of the qualified refined coal production facilities were placed in service between 2009 and 2011.

Taxpayers that developed these technologies and equipment (known as "sponsors") generally have insufficient tax liabilities to utilize fully the refined coal tax credits. Further, the statute prohibits the utilities that burn the refined coal at their generating facilities from claiming the credits. Thus, sponsors and utilities have had to engage in relatively complicated transaction structures that involve third parties (known as "tax equity investors") that make equity investments in the refined coal projects in order to claim the refined coal tax credits. Similarly, tax equity investors participate in

transactions related to other tax incentives, such as investment in low-income housing, wind and solar energy projects.

The Internal Revenue Service ("IRS") has issued some guidance on refined coal, primarily related to the means of demonstrating the effectiveness of the refined coal technology and meeting the emission reduction standards.[1] However, neither the statute nor the IRS provided guidance to sponsors or investors on refined coal transaction structure requirements. Nevertheless, initial tax equity investors completed transactions based on structures they believed were consistent with the statute and case law.

Upon acquiring an interest in a refined coal project, owners (sponsors and tax equity investors) typically applied for and received private letter rulings ("PLRs") from the IRS that, based on the facts in the PLRs, concluded that the refined coal produced by the facility was eligible for the refined coal tax credits. Although the PLRs, and requests, fully described the ownership structure, the IRS neither provided rulings on the ownership structure; nor did they raise any concern or issue with the ownership structures. In some later PLRs,[2] the IRS explicitly stated that:

> This ruling expresses no opinion regarding any issue not specifically addressed in this ruling letter…In particular, we express or imply no opinion that Taxpayer has sufficient risk or rewards of the production activity to qualify as the producer of the refined coal. The Service may challenge an attempt to transfer the credit to a taxpayer who does not qualify as a producer, including transfers structured as partnerships, sales or leases that do not also transfer sufficient risks and rewards of the production activity.

Nevertheless, largely based on the precedent of these multiple earlier transactions and the opinions of counsel, the refined coal industry continued to close new transactions, further implementing Congress's desired policy objective of reducing harmful emissions. They also continued to seek guidance on these transactions.

However, beginning in 2015, four to five years after issuing many of these PLRs, the IRS began a series of steps that caused widespread uncertainty regarding IRS requirements as to structure and caused a number of projects to be delayed or suspended. First, in March 2015, the IRS stopped issuing PLRs on all refined coal issues, including those regarding the emission standards.[3]

The next indication that the IRS would begin questioning refined coal transactions was the issuance of a Chief Counsel Advice ("CCA"), dated December 3, 2015 and released March 11, 2016, challenging the ownership structure of a refined coal facility.

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[1] See, for example, IRS Notices 2009-90 (2009-51 I.R.B. 859) and 2010-54 (2010-40 I.R.B. 403).
[2] See, example, PLR 201448011, August 13, 2014.
[3] See, Revenue Procedure 2015-29, section 3.

Although a CCA is applicable only to a particular taxpayer and does not necessarily reflect the final audit outcome even for that taxpayer, the CCA is publicly disclosed and generally treated as an expression of the IRS' legal views by the affected industry participants. Given that the conclusions in the CCA were inconsistent with the structures disclosed in the PLRs, refined coal investors were concerned that the IRS might challenge their ability to claim tax credits even though they believed their structures complied with the tax law and their transactions were fully disclosed in their PLRs. As a result of this concern, investors began to stop funding the operations of many existing refined coal projects and delayed investing or declined to invest in new refined coal projects, thereby causing harm to the industry including loss of jobs and increased costs to coal-fired power plants attempting to control emissions.

In an effort to restore confidence to investors and restart operations, the refined coal industry immediately began requesting guidance or clarification from the IRS relating to the ownership structures for refined coal facilities. Similar guidance had been issued to other tax credit related industries such as for wind energy, historic rehabilitation and low-income housing. The refined coal industry was concerned the IRS was unfairly targeting the coal industry and coal burning power plants. Beginning in June 2016, the IRS told the industry they would consider issuing guidance.

During this same period and continuing through the summer and fall of 2016, the Office of the IRS Chief Counsel was preparing a technical advice memorandum ("TAM") challenging the ownership structure of another refined coal facility. By June 2016, the pending issuance of a TAM adverse to the taxpayer and the prospect for guidance was widely known in the industry among current and potential refined coal project participants. Based on an expectation that the TAM would be issued in mid to late 2016, a number of potential investors opted to postpone refined coal investments until the IRS position was clarified.

The IRS finally issued the TAM to the taxpayer in February 2017, raising novel structural issues and causing further concern among current and prospective investors. These two adverse IRS pronouncements caused delay or suspension of multiple refined coal transactions. Industry representatives met with the IRS Chief Counsel in March 2017, where the IRS indicated that it was receptive to the potential issuance of guidance on refined coal structures. The refined coal industry stressed that any guidance must be issued quickly to avoid further chilling the market. The IRS indicated throughout the remainder of 2017 that it would issue guidance "soon." Despite the urgency expressed by the industry and many members of Congress, the guidance (Chief Counsel Memorandum AM2018-02) was not issued until March 9, 2018.

The statutory period for the refined coal production tax credit is ten years from the date the equipment was placed in service. Given the technical and operational

challenges, as well as the complexity of these transactions, the great majority of the available facilities are not able to operate for the full ten-year period intended by Congress. A delay of approximately two years caused by the IRS in the very middle of the ten-year period has greatly diminished the incentive that Congress initially intended, resulting in less refined coal production, less reduction of emissions at coal burning power plants, and the loss of jobs and other economic benefits across the country. It is worth noting that the IRS generally was not questioning whether the refined coal burned at the electricity generating facilities met the emission reduction standards as Congress intended. Rather, the IRS was questioning how the resulting tax credits were allocated among the participants to the transactions. Given this disruption in the Congressionally intended ten-year period, an appropriate response is to extend the tax credit period for existing facilities.

Description of Proposal

In order to compensate for the production shutdowns and loss of investment and jobs for a two-year period caused by the IRS actions and lack of guidance, the production period for refined coal facilities currently in existence would be extended from ten years to twelve years after a facility is placed in service. The amendment would apply to refined coal facilities placed in service after December 31, 2007.

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