Congress of the United States
House of Representatives
Washington, DC 20515-3605

May 13, 2021

The Honorable Nancy Pelosi
Speaker of the House
H-232, The Capitol
Washington, DC 20515

The Honorable Steny Hoyer
Majority Leader
H-107, The Capitol
Washington, DC 20515

Dear Speaker Pelosi and Leader Hoyer:

There is bipartisan agreement on the need to improve our nation's roads and bridges, broadband connectivity, and energy infrastructure to keep our economy moving forward. Despite significant areas of agreement, another partisan approach is being contemplated to ram through a lengthy list of progressive policies and backbreaking tax increases. Many of these proposed and devastating tax hikes are punitive measures targeting the oil and gas sector and the 11 million high-paying jobs supported by the industry. It's one thing for policies to accelerate investment activity or production of certain products, but it is an entirely different matter to write laws that would punish a particular industry, especially one that is so fundamental to our economic growth and national security. Using an "infrastructure" package to weaken our energy infrastructure is a grave mistake that will hurt families, farmers, and small businesses still recovering from the pandemic.

While oil and gas, like many U.S. industries, will suffer from broad sweeping tax increases, they are also being singled out, targeted, and denied the same tax treatment that is available to every industry in the U.S. economy. Oil and gas producers are being falsely characterized as the beneficiaries of "tax subsidies" and "loopholes". President Biden's infrastructure plan calls to "eliminate tax preferences for fossil fuels" and corresponding Democrat legislative proposals leave no question as to what is slated for removal. For example, lawmakers are pushing to remove essential provisions like Intangible Drilling Costs (IDCs) and Percentage Depletion, which are crucial tools for weathering a volatile and unpredictable industry. Some are pushing to eliminate Enhanced Oil Recovery (EOR) from Section 45Q, which is antithetical to efforts to lower carbon emissions.

IDCs are not credits, loopholes, or subsidies. They are ordinary and necessary deductions, and a far cry from the lavish tax credits flowing to wealthy green energy investors and electric vehicle owners. Our tax code is designed to levy taxes on net profits, not on dollars used for operational costs or capital expenditures. Every business since the inception of the tax code, has used cost recovery provisions. Similarly, the expensing of IDCs allow companies to recover costs such as labor, site preparation, equipment rentals, and other expenditures for which there is no salvage value. It is important to note that 80 percent of IDCs are associated with labor costs. It is also important to note that the independent oil and gas industry, which accounts for 80 percent of our nation's oil production and 90 percent of its natural gas production, would be hit hardest by the elimination of this provision. IDCs often represent 60 to 80 percent of total production costs and repealing them could result in the loss of over a quarter million jobs by 2023.

Percentage Depletion recognizes the depreciating value of capital investments in mineral property, like oil and gas wells. Under the tax code, capital investments are depreciated over time; Percentage Depletion allows for similar treatment, but in a way that acknowledges the inherent distinction of a mineral-based asset. For oil and gas production, it is small, independent, and family-owned oil and gas companies, and royalty owners like farmers and ranchers, that benefit most from this provision. Economic analysis projects that the repeal of Percentage Depletion will eliminate 84,000 mainly small business jobs per year and harm royalty owners as well.

Various legislative proposals have called to preclude Enhanced Oil Recovery techniques from qualifying for the Section 45Q tax credit, a bipartisan provision to incentivize carbon capture and sequestration. American energy innovation has led to a reduction of greenhouse gas emissions by 30 percent in the last few decades. The oil and gas industry has led the charge in the research, development, and utilization of new carbon capture technologies. By allowing carbon sequestration for EOR, producers are simultaneously reducing emissions while also efficiently recovering more resources, leading to lower energy prices for consumers. It should be celebrated by those concerned about carbon emissions, and even by critics of the industry, that oil and gas producers are able to help Americans realize the benefits of affordable, efficient, and reliable energy, while making strides towards carbon neutral production. An industry that invests billions of dollars in this new technology must be encouraged to continue these game-changing developments, not punished.

Before waging war on the oil and gas sector, it should be remembered that the industry supplies nearly 70 percent of America's energy needs at a low cost for millions of families, as household energy costs have decreased 15 percent in the last decade alone. The industry has given the United States enviable energy independence and, as a result, enhanced national security. Production of oil and gas provides much-needed tax revenues for federal, state, and local governments to fund education, infrastructure projects, and helps to provide salaries for teachers and first responders. Additionally, less than half the content of a barrel of oil goes towards gasoline, as the industry produces critical products used for fertilizers, pharmaceuticals, medical supplies, and a host of pivotal technologies. An infrastructure package should not include punitive tax provisions that would cripple a vitally important industry, lead to mass layoffs, skyrocketing energy costs for working families, higher prices at the gas pump, and give China and Russia the upper hand in a competitive global market. Policymakers should not be picking winners and losers, and if the oil and gas industry is truly the "loser" that far left progressives want it to be, the market should decide.

Our nation has been blessed with abundant and affordable energy resources that have been a driving force of job growth and have given America economic advantages over totalitarian foreign competitors. We urge you to put American families ahead of special interests in any legislative package and work with us to accelerate our economic recovery.

Sincerely,

Steve Scalise

Jodey C. Arrington
Member of Congress

Steve Scalise
House Republican Whip

Adrian Smith
Member of Congress

Kevin Hern
Member of Congress

Ron Estes
Member of Congress

Carol D. Miller
Member of Congress

Jason Smith
Member of Congress

Devin Nunes
Member of Congress

Brad R. Wenstrup, D.P.M.
Member of Congress

Mike Kelly
Member of Congress

Lloyd Smucker
Member of Congress

August Pfluger
Member of Congress

Tony Gonzales
Member of Congress

Dan Newhouse
Member of Congress

Randy Weber
Member of Congress

Yvette Herrell
Member of Congress

Kelly Armstrong
Member of Congress

Dan Meuser
Member of Congress

Madison Cawthorn
Member of Congress

Pete Sessions
Member of Congress

Brian Bain, D.D.S.
Member of Congress

Van Taylor
Member of Congress

Michael C. Burgess, M.D.
Member of Congress

Ronny L. Jackson
Member of Congress

Ralph Norman
Member of Congress

W. Gregory Steube
Member of Congress

Tracey Mann
Member of Congress

David B. McKinley, P.E.
Member of Congress

Stephanie Bice
Member of Congress

Guy Reschenthaler
Member of Congress

Debbie Lesko
Member of Congress

Fred Keller
Member of Congress

Roger Williams
Member of Congress

Pat Fallon
Member of Congress

Lance Gooden
Member of Congress

Eric A. "Rick" Crawford
Member of Congress

Ann Wagner
Member of Congress

Louie Gohmert
Member of Congress

Chip Roy
Member of Congress

Jeff Duncan
Member of Congress

Matthew Rosendale, Sr.
Member of Congress

Richard Hudson
Member of Congress

Michael Cloud
Member of Congress

Doug Lamborn
Member of Congress

Troy E. Nehls
Member of Congress

Glenn "GT" Thompson
Member of Congress

Greg Pence
Member of Congress

Scott Perry
Member of Congress

Ted Budd
Member of Congress

David G. Valadao
Member of Congress

Bob Gibbs
Member of Congress

Tom Cole
Member of Congress

John Joyce, M.D.
Member of Congress

Jake LaTurner
Member of Congress

Austin Scott
Member of Congress

Bruce Westerman
Member of Congress