Congress of the United States
Washington, DC 20515
May 26, 2017

The Honorable Kevin Brady
Chairman
U.S. House of Representatives
Committee on Ways and Means
1102 Longworth HOB
Washington D.C. 20515

The Honorable Richard Neal
Ranking Member
U.S. House of Representatives
Committee on Ways and Means
1139E Longworth HOB
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Neal,

We are writing to express our energy and environmental tax priorities as they pertain to the work of the Ways and Means Committee's efforts in the 115th Congress to undertake a fiscally responsible tax reform package.

First and foremost, we would like to see a mechanism to put an economy-wide price on carbon as the centerpiece of tax reform. Some carbon price proposals have the potential to generate up to two trillion dollars over ten years. This amount could be used to offset other individual or business tax expenditures and rate reductions under consideration. However, it is critical that a tax reform plan which includes a carbon pricing mechanism delivers maximum benefit to low and middle-income families, and complements sustained support for energy innovation, which will allow for a more rapid and equitable transition to a clean energy economy. We are encouraged by reports that a carbon price is being considered by the Administration as part of tax reform -- it mitigates the negative externalities of pollution, while simultaneously promoting economic activity and expansion.

In addition to a carbon price, we have several revenue ideas consistent with the goals and direction of tax simplification and reform.

Budget Positive Policies

We believe that it is finally time to put an end to special interest tax breaks provided to the oil and gas industry. Not only are these industries polluting and carbon intensive, but many of the tax breaks provided are simply outdated and not reflective of our current energy priorities. The use of "last in first out" accounting methodology by the oil and gas industry ($10,066,000,000); cost depletion ($14,800,000,000); and limits on passive loss ($229,000,000) should all be eliminated.

We request that you repeal the Domestic Manufacturing Deduction for oil production and coal and hard fossil fuels, as well as repeal Dual Capacity taxpayer rules for claiming foreign tax credits. We believe there is a loophole, and statute should explicitly include oil-sands-derived crude oils within the scope of the per-barrel Oil Spill Liability Trust Fund (OSLTF) Tax.

We also request a national tax or fee on plastic bags, taking into consideration municipalities that have already imposed this fee. Nationally, approximately 100 billion plastic bags are used each year, often ending up polluting our lands and waterways, and threatening wildlife. Examples of enacted municipal plastic bag fees have resulted in 60-90 percent reduction in the number of bags used, while raising significant revenue for those municipalities.

Accounting for Economic Externalities

We recognize the Committee's desire to reform the tax code by eliminating a number of tax expenditures, but we believe it is critical that we extend and modify the tax policies described below. While an economy-wide price on carbon could be used to simplify the tax code, it would not fully correct for many externalities associated with pollution. The environmental and security benefits provided by these provisions is accurately accounted for and supports their consideration in any tax package.

As you are aware, the wind power production tax credit (PTC) and solar investment tax credits (ITC) were extended as part of the Consolidated Appropriations Act of 2016. However, as a result of technical drafting errors, some less established technologies have been left behind. The orphan technologies omitted in the PTC/ITC extension, including those for geothermal heat pumps, small wind, combined heat and power, fuels cells, micro-turbines, hydro, biomass, and closed loops systems, should be given the same certainty with extensions no shorter than those provided to solar and wind. With this certainty, each of these technologies will be given additional opportunities to mature into economic and job creating forces, as wind and solar have. The PTC/ITC have been critical to the emergence of wind and solar as cost-competitive energy sources, and the phase-out extensions they were given have allowed for sustained investment and job growth as these industries continue to produce clean energy around the country.

We also suggest that the ITC be made available to stand-alone clean energy storage technologies as well as waste heat to power. While energy storage has become an increasingly common part of wind and solar systems, it has also shown promise as a reliable individual component of modern energy systems, capable of storing excess generation and providing the ability to quickly deploy it when needed most. Allowing stand-alone energy storage to qualify for the ITC will provide greater flexibility to utilities looking to make investments, increase the viability of storage as a component of energy generating systems, and help provide certainty to ratepayers. Waste heat to power is a technology that is becoming more common, but an ITC would allow it to be used regularly in industrial situations.

We also believe the Committee should expand credits for wind energy to offshore wind projects. While the onshore wind industry has been able to thrive in the U.S., the offshore industry has been slow to emerge. The U.S. has far greater offshore wind resources than many European countries, yet we lag woefully behind in the development of these resources. The Bureau of Ocean Energy Management has leased numerous blocks of the Outer Continental Shelf for wind energy projects, but without the right incentives and policy certainty we fear many of these projects may never develop, stunting the growth of the U.S. offshore industry. Unfortunately, the window provided by the phase-out of the wind PTC would likely lapse before many offshore projects were able to begin construction, threatening many of the cost assumptions made when planning these projects. Additionally, offshore wind developers have expressed a strong preference for the ITC because of the higher upfront costs associated with pioneering offshore wind projects. Therefore, providing an ITC for offshore wind beyond the phase-out window or possibly limited to the first twenty thousand megawatts of offshore projects rather than a particular time period will ensure that Americans can benefit from tapping the vast wind resource located just offshore in U.S. coastal waters.

We request that you include a "Resilient Community Tax Credit" so that communities and groups of residents could band together for the benefit of a tax credit for installing community solar gardens, small wind projects and microgrids. This credit could be awarded competitively, similar to the highly effectively New Markets Tax Credit, which is administered by the Treasury Department. These 'credit blocks' would create the incentives for the diverse stakeholders needed for these types of energy projects to come together. The resulting infrastructure would be cost-effective, nimble, clean, and resilient in the face of risks from weather, cyber threats, etc.

There are many tax-exempt entities, such as Native American Tribes, municipalities, schools and universities and many hospitals, which are unable to take advantage of PTC's and ITC's. We would encourage you to permit these entities to transfer tax benefits that they may be allocated but unable to use to taxable partners in joint venture renewable energy projects. The Committee could start by applying this treatment to the ITC and energy efficient commercial building tax deduction.

Specifically, for clean energy technologies covered by the PTC and ITC, as well as infrastructure investments such as the electric grid and water infrastructure, we would request that you strengthen the Modified Accelerated-Recovery System (MACRS), and Bonus Depreciation programs (26 USC § 168, 26 USC § 48), by reducing the current five-year depreciation path to 1 year. Alternatively, you could expand the bonus depreciation to 100 percent. We encourage you to provide for accelerated depreciation of energy efficiency and renewable energy technology, construction, and retrofits.

We also request that the Committee provide $500,000,000 per year in the form of a tax credit, for manufacturing alternative energy projects allowing the U.S. to build out a truly energy independent clean energy manufacturing supply chain that turbocharges domestic job creation. Previous funding for the successful 48C Advanced Manufacturing Tax credit was able to support the growth of over 180 domestic clean energy manufacturing facilities, less than half of the over 500 applications received, demonstrating a strong desire and need for the revitalization a similar tax credit. This amount should go to manufacturers of goods and components (other than for assembly of components) in the US that are used in alternative energy projects. Drawing this distinction helps target support for companies that need it most, and provides financial assistance to US manufacturing companies that want to retool their factories for the clean energy economy.

Used in its pure form in diesel engine vehicles, or blended with petroleum diesel to boost vehicle performance, biodiesel has significantly lower emissions than petroleum-based diesel. According to a Department of Energy study, it reduces carbon monoxide by 50 percent, and carbon dioxide by 78 percent. As of 2000, the United States was producing in excess of 3 billion gallons of waste vegetable oil annually, mainly from industrial deep fryers in potato processing plants, snack food factories, and fast food restaurants. Based on this, we encourage you to allow the small agribiodiesel credit for biodiesel to extend to biodiesel produced from 100 percent waste vegetable oil products. The tax credit would give birth to a new lucrative industry such as an integrated collection and recycling of used oil to produce biodiesel.

We also ask that you address the use of Master Limited Partnership (MLP)'s that are currently only available to oil and gas companies. We think there is a need to level the playing field for this partnership structure by either expanding it to other energy technologies, like wind and solar, or eliminating it entirely.

We see several tax opportunities for home and business owners to save money and feel confident in making energy efficiency investments. The tax credits that should be extended include the energy efficient commercial building tax deduction, nonbusiness energy property tax credit, and residential energy efficient property tax credit. We also support updating the energy efficient new homes tax credit to reflect advances in energy efficient technologies and encourage greater innovation beyond what a homebuilder might now consider standard.

We support an extension of the credit for plug-in electric drive vehicles. There has been so much innovation in the auto industry in just the last few years, and numerous manufacturers now have plug-in electric vehicles as a part of their fleet. Extending the electric vehicle credit will ensure that consumers continue to view electric vehicles as a viable transportation option and send a signal to industry that the U.S. plans to support a growing EV market in the years to come.

Tax policies to encourage energy efficiency have historically received bipartisan support due to their clear benefits. We see a great opportunity in providing similar incentives for water efficiency. The efficient use of water contributes to healthy communities and healthy economies, helps citizens and businesses save money, and supports strong ecosystems. Considering the devastating impact of recent droughts in places such as California, this should be a top priority. The Committee should consider implementing provisions in tax reform to prioritize the efficient use of water.

Many individuals in metro areas use bicycle sharing systems, and they should be credited with this choice. We support including a bicycle sharing system as a mass transit facility for purposes of the tax exclusion of employer-paid commuting expenses.

We would also like to express our support for the carbon capture and sequestration tax credit. As part of a tax reform package that should promote clean energy sources, we feel that the Carbon Capture Sequestration (CCS) credit will allow non-renewable energy sources and high emissions industries to reduce their carbon output and reuse carbon as beneficial resources whenever possible. We are open to seeing changes made to the CCS credit to help ensure it is properly incentivizing CCS for industries with the least avoidable emissions, like steel and cement manufacturing, without unduly incentivizing high-cost or high-emissions projects that wouldn't otherwise be competitive without the credit.

We would also request that you make permanent the tax deduction for charitable contributions by individuals and corporations for conservation easements. This deduction has been a great motivator for transferring lands from private ownership to public ownership that encourages ecological protection. This tax credit should be expanded to easements for the purposes of sequestration practices.

Thank you for taking the time to review some of our tax priorities. We are attaching to this letter a list of the specific tax proposals we have discussed for your consideration. We look forward to working with you to ensure a fair and equitable tax code that accounts for the well-documented externalities of pollution and supports smart sustainable investments in our economy and energy future. We hope to support such a tax plan.

Sincerely,

Jared Polis
Member of Congress

Gerald E. Connolly
Member of Congress

Paul Tonko
Member of Congress

Doris Matsui
Member of Congress

Chelllie Pingree
Member of Congress

Matt Cartwright
Member of Congress

Alan S. Lowenthal
Member of Congress

Mike Quigley
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Mark Pocan
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Niki Tsongas
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Member of Congress

Richard M. Nolan
Member of Congress

Colleen Hanabusa
Member of Congress

Jared Huffman
Member of Congress

William R. Keating
Member of Congress

Summary of Energy and Environment Tax Proposals Included in Letter

Costs are listed in 10 year window, unless otherwise noted

- Include the Production Tax Credit (PTC) & Investment Tax Credit (ITC) for Solar and Wind with the current phase-out schedule. (31.5 Billion)[1]
- Make permanent the "Orphaned" tax credits for small wind, geothermal, etc. that were left out of the 2015 budget deal. The technologies and tax credits would be equal to the bipartisan Technologies for Energy Security Act. ($2.7 billion)[2]
- Include waste heat to power as a qualifying technology under the ITC. (138,000,000)[3]
- Expand Investment Tax Credit to energy storage technologies such as batteries (Energy Storage Promotion and Deployment Act- Sen. Heinrich's office estimated cost would be $2 billion for five years, and then go down with phase-out, approximately another $1 billion)[4]
- The Investment Tax Credit for offshore wind should have a longer window or should be open for the first 20,000 megawatts (2025 window-estimated score $520 million)[5]
- Master Limited Partnerships (MLP's) should either be expanded to all energies, such as renewable energies like solar and wind or MLP's should be eliminated entirely (elimination saves $10,800,000,000, expanding to all energies would increase costs by 1.3 billion)[6]
- Continue the energy efficient commercial building tax deduction (179 D), nonbusiness energy property tax credit (25C), and residential energy efficient property tax credit (25D)-(Cost for permanent extension-$17.8 billion)[7]
- Make sure to extend the current credit of $2,500 to $7,500 for plug-in electric drive vehicles ($2 billion)[8]
- Continue the Carbon Capture Sequestration tax credit (45Q) ($1.1 billion)[9]
- "Resilient community tax credit" for solar, wind, microgrids-where communities and groups can band together up to $500,000,000 per year ($5 billion)
- Tax Credit for trucks-place the line to receive the credit above the fuel economy standard for producers any given year (similar to commercial building efficiency tax deduction) (De Minimis)
- Make permanent the conservation easement tax credit, and expand to include sequestration practices (Conservation Easement Incentive Act of 2015-$1.2 billion)[10]

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[1] http://instituteforenergyresearch.org/analysis/the-presidents-budget-and-the-ptc/

[2] http://www.eenews.net/greenwire/2017/02/16/stories/1060050195 , https://www.cbo.gov/publication/51908

[3] CBO Letter to Rep. Allyson Schwartz, June 2014

[4] Estimate by Heinrich Office

[5] AWEA, https://cleantechnica.com/2016/10/12/us-offshore-wind-needs-25-year-investment-tax-credit/

[6] http://www.greenscissors.com/program/master-limited-partnerships-oil-gas-companies/ and estimate by Sen. Coons

[7] https://fas.org/sgp/crs/misc/R42089.pdf

[8] 10 years estimated through 2019: https://www.washingtonpost.com/news/wonk/wp/2012/09/21/cbo-government-will-spend-7-5-billion-on-electric-vehicles-what-are-we-getting-back/?utm_term=.ed2b3118a701 & https://www.cbo.gov/publication/43576

[9] https://www.everycrsreport.com/files/20140819_R43690_7bb6930f223bbccb0480dff4c096d43564aa034d.pdf

- Keep and expand accelerated deprecation to all "green" and renewable investments. Strengthen the Modified Accelerated Cost-Recovery System, or MACRS, and Bonus Depreciation programs (26 USC § 168, 26 USC § 48), by reducing the current five-year depreciation path to 1 year for green energies. Or, alternatively, expand bonus depreciation to 100 percent for these energies. This will allow renewable energy companies to deduct 100 percent of their capital expenditure on land and equipment for clean energy development. (Current Renewable Energies Accelerated Depreciation Cost was $1.7 billion from 2000-2013 (13 years))[11]
- Include a bicycle sharing system as a mass transit facility for purposes of the tax exclusion of employer-paid commuting expenses. (Bike to Work Act of 2015 Cost-De Minimis)[12]
- Include a Waste Vegetable Oils Tax Credit in the small agri-biodiesel credit (estimated at De Minimis)
- Allow tax-exempt entities (including tribes) to transfer their share of the PTC, ITC and commercial building efficiency tax credit to their taxable partners in joint venture renewable energy projects. (estimated at De Minimis) [13]
- Expand the qualifying advanced energy project credit by allocating $5 billion of grants or tax credit amounts to manufacturers of goods and components (other than for assembly of components) in the United States that are used in alternative energy projects. This is a program that was initially created in the Recovery Act (just under $5 billion as President Obama's budget requested $2.5 billion, and score was $2.2 billion)
- Water efficiency tax credits should receive the same treatment energy efficiency production and projects (presumably a similar cost to energy efficiency tax credits which are a Total Cost of $17.8 billion)

Budget Positive Policies

- Carbon Price ($25 dollars a ton, would raise $977 billion)[14]
- Repeal the Domestic Manufacturing Deduction for oil production and coal and hard fossil fuels (would raise $12,428,000,000) [15]
- Repeal Dual Capacity taxpayer rules for claiming foreign tax credits (would raise $11,566,000,000)[16]
- National tax on plastic bags (estimated plastic bag usage in the U.S.- 100 billion bags per year, a 5 cent tax would raise $5,000,000,000 per year, and would decrease with less plastic usage)

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[10] https://www.cbo.gov/publication/49933/

[11] http://www.usu.edu/ipe/wp-content/uploads/2016/04/UnseeSolarFull.pdf and http://www.gao.gov/assets/670/666270.pdf

[12] https://www.forbes.com/sites/robertwood/2013/10/26/irs-nixes-bike-share/#430c06b3d135 and http://transitcenter.org/wp-content/uploads/2014/11/SubsidizingCongestion-FINAL.pdf

[13] http://waysandmeans.house.gov/Media/transcript/10273.html

[14] https://www.forbes.com/sites/beltway/2017/02/14/what-should-government-do-with-carbon-tax-revenues/#24de4edf2226

[15] http://www.greenscissors.com/program/domestic-manufacturing-tax-deduction-oil-gas-companies/ & http://www.greenscissors.com/program/domestic-manufacturing-deduction-coal-hard-mineral-fossil-fuels/

[16] http://www.greenscissors.com/program/deductions-foreign-tax-dual-capacity/ & https://www.treasury.gov/resource-center/tax-policy/Documents/General-Explanations-FY2017.pdf

- Removing the following oil and gas tax breaks- The use of last in first out accounting methodology, cost depletion, and limits on passive loss. ($10,066,000,000 + $14,800,000,000 +$229,000,000)[17]
- Explicitly include oil-sands-derived crude oils within the scope of the per-barrel Oil Spill Liability Trust Fund (OSLTF) Tax. (Based on import data of Canadian oil-sands-derived crude oil, the tax would have increased by approximately $47 million in 2016, so an estimate would be $250 million)[18]

[17] http://www.greenscissors.com/program/last-first-accounting/ and http://www.greenscissors.com/program/excess-percentage-cost-depletion-oil-gas/ and http://www.greenscissors.com/program/passive-loss-limitations-exemption/

[18] http://www.crs.gov/Reports/R43128?source=search&guid=fd2ba422712b4e43aa64ca8b32a73c5b&index=1