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Legislation to Expand Energy Production; Create New American Jobs

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Good morning Chairman Lamborn, Ranking Member Holt, and distinguished members of the subcommittee. Thank you for the opportunity to testify today. My name is Ryan Alexander and I am President of Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog organization. Taxpayers for Common Sense's mission is to achieve a government that spends taxpayer dollars responsibly and operates within its means.

Over the last fifteen years, TCS has actively worked to ensure that taxpayers receive a fair return on resources extracted from federal lands and waters. Royalties and fees collected from resource development represent a valuable source of income for the federal government and should be collected, managed and accounted for in a fair and accurate manner. As the rightful owners, taxpayers have the right to fair market compensation for the resources extracted from our lands and waters, as would any private landowner.

Unfortunately, over the years taxpayers have lost billions on royalty-free oil and gas leases and royalty-free hard rock mineral operations on federal lands. Taxpayers have also lost because of a corrupt and inadequate royalty collection system. In today's budget climate, we cannot afford to lose this valuable revenue. These problems must be resolved as we move forward with additional mining and energy production on federal lands and waters.

Today's hearing to examine legislation aimed at increasing energy production on public lands and waters is certainly an important discussion. But simply making more federal lands available or limiting regulations on resource extraction is not a solution to our nation's debt crisis and could lead to greater taxpayer liabilities down the road.

This morning, I would like to raise two overall concerns with the suite of legislation offered today, followed by a more specific discussion on the revenue provisions in the American-Made Energy and Infrastructure Jobs Act and the royalty provisions in the Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act, or PIONEERS Act.

Energy Legislation Must Ensure Fair and Accurate Collection of Revenues for Extraction of our Federal Resources

Natural resources derived from federal lands and waters can and do provide great benefit to the entire country. In addition to their end use and overall domestic economic benefit, as resource owners their extraction provides valuable revenue for the federal coffers.

To this end, federal lands and waters must be mined, drilled or otherwise developed in a manner that protects taxpayers' interest. Appropriate fees, rents and royalties must be applied and collected and long-term liabilities such as potential clean-up or mitigation costs must be shouldered by the extractive industries.

TCS believes in "fix it first." While our federally owned natural resources currently provide around $10 billion to the Treasury, the amount collected falls dramatically short of what is rightfully owed to federal taxpayers. We must recoup what we are owed before moving forward. For example, taxpayers are currently losing billions of dollars on royalty free oil and gas leases in the Gulf of Mexico, as well as royalty-free leases for hard rock mineral extraction on federal lands.

TCS believes there are many areas where reform is needed to ensure fair and accurate royalty collection. First, the federal government must have a clear, transparent collection system which has sufficient oversight and accountability. Through the many scandals that plagued the Minerals Management Service (MMS), the agency that for nearly three decades ran the government's royalty collection system, we are all aware how corrupted the system can become.

The Government Accountability Office has said for years that the Department of Interior has not done enough to monitor and evaluate its royalty collection system. A report in 2008 found that the DOI had not re-examined how it was compensated for extracted oil and gas from public lands in over 25 years and had no system in place to evaluate whether or not such a reassessment was needed. Then a 2010 study found that DOI also had no way to determine if it was accurately measuring the amount of resources being taken from public lands, meaning taxpayers may very well not be receiving a fair market value for their goods. All of this on top of some the lowest royalty rates in the world means that the system in place to collect royalties on current or new leases just isn't up to speed.

Although the MMS has been dismantled, the Department of Interior's new royalty management structure is still establishing itself. Until this new system demonstrates it can effectively manage our taxpayer resources and collect royalties from existing operations on federal lands, it would be premature to add to their portfolio with new leases.

Additionally, federal taxpayers should not be asked to provide revenue from offshore leases in federal waters to the states. The GOMESA Act already directs a portion of revenue derived from new leases in federal waters in the Gulf of Mexico to the states rather than federal taxpayers. Other legislation like the American-Made Energy Act propose expanding state revenue shares for new leases in federal waters outside the Gulf of Mexico.

Existing onshore oil and gas operations can also provide more revenue for taxpayers. In late 2010, the GAO found taxpayers could earn $23 million more in royalty revenue annually from additional natural gas obtained from federal lands, if companies were required to capture vented or flared natural gas in cases where it is economically feasible.

Making more natural resources available, without ensuring recoupment of what we are already owed for current and past operations, is likely to only ensure inadequate collection of royalties on new leases and perpetuate the existing flawed system for even longer. Without legislation to address this existing problem, taxpayers will continue to lose valuable revenue—revenue that can be used to address our nation's federal deficit.

The American-Made Energy and Infrastructure Act

Specifically on the legislation before us today I would like to first comment on Representative Stivers's bill, The American-Made Energy and Infrastructure Jobs Act. Taxpayers for Common Sense is opposed to any legislative measure that would alter the existing federal-state revenue sharing provisions for royalty payments or direct any percentage of royalties collected on new leases in federal waters to the states.

TCS is not opposed to offshore drilling. We believe with proper taxpayer safeguards and the application of fair market royalties, federal resources can and must be used to meet our nation's energy, transportation, and mineral needs. The calculation on whether it is in the national interest to drill should certainly include sufficiency of offshore resources, but also potential long term liabilities and risks of those liabilities.

Revenue-sharing provisions, like those provided in the Stivers bill, siphon billions of dollars in valuable revenue from the general treasury. Not only is this bad policy, in today's fiscal climate it is downright foolish. Altering these shares towards the states would do nothing for the bottom line of the oil and gas, wind, or other offshore developers—they would owe the same royalties, rents, and fees at the end of the day either to the states or to the federal government.

Federal taxpayers are due any royalties derived from leases operating in federal waters. Federal waters are administered, protected, and managed by federal – not state – agencies at a cost to federal taxpayers, and the revenue derived from sale of these resources should be returned to the federal treasury. Unlike onshore energy operations, offshore energy operations do not occur in a state and the impact for operations beyond state waters reaches well beyond any one state and has national implications.

Federal taxpayers fund the agencies charged with royalty collection and lease regulations. Additionally, the U.S. Coast Guard, not the states, inspects and regulates the offshore drilling rigs as well as performs vessel regulation, search and rescue, security, and pollution response.

States do get the money from waters dedicated to the states under federal law and we believe this should continue in any new drilling in state waters. But all Americans should get the revenue from federal waters. These waters are more than six miles from the coast and nine miles in parts of the Gulf of Mexico. State waters are within three miles of their respective shoreline.

The American Made Energy Act suggests the revenues derived from the new leases be used for infrastructure and other purposes. House leadership has also argued for the use of speculative revenues from increased oil and gas drilling to offset very real, concrete transportation and infrastructure costs. According to the Speaker's release, House Republicans "favor an approach that combines an expansion of American-made energy production with initiatives to repair and improve infrastructure and reform the way infrastructure money is spent."

This is approach would be a fairly radical departure from the "user pays" principle for transportation spending that has operated for decades—where the system's users (drivers) pay for construction and maintenance of the system. Instead it relies on speculative future revenues derived from new offshore drilling leases. Paying for a couple of years of transportation funding with expected revenues from an increase in oil and gas drilling that will likely take many years to get rolling is not a responsible budget approach. It's like buying the Ferrari tomorrow because you are sure a raise is coming sometime in the future. If you think this sounds like a similar story that got us into our current budgetary quagmire, you'd be right.

Adding insult to injury, we've already discussed that revenues from the bill are going to be shared with the states—further constraining the actual amount the federal government will receive to pay for transportation and infrastructure needs.

TCS believes Congress either needs to find more concrete offsets or revenue increases to pay for the nation's transportation system or limit spending to what we can expect through gasoline tax increases.

In summary, royalties collected from offshore drilling in federal waters should be returned to the rightful resource owner, the federal taxpayer. States receive revenue from royalties collected within state waters and the transitional area between state and federal waters (3-6 miles from shore). The federal government manages and secures operations off our coasts and the taxpayer bears the cost of these services. The impacts of drilling in federal waters have national implications. Costs and benefits should be carried out in the interest of all Americans, not a handful of coastal states. Additionally, relying on this money to pay for today's infrastructure needs is bad budget policy.

PIONEERS ACT

TCS also has concerns with the PIONEERS Act. Oil shale is in its very early stages of development, and therefore it is extremely difficult to ensure taxpayers will receive a fair return for extracted shale. No country in the world has established a commercially viable oil shale industry.

Retrieving oil from shale may be a way to produce more domestic energy, but the technology to retrieve it in a cost competitive fashion does not currently exist. Taxpayers should not bear the financial consequences of this risky prospect. Research and development on federal lands is already occurring, and fast-tracking to commercial leasing before a technology is developed is a high risk taxpayers cannot afford.

Thousands of acres have already been leased for shale development, but sit idle. This locks up valuable federal land for other uses including other oil and gas development, grazing, timber, or other uses.

Furthermore, the PIONEERS Act does not guarantee a fair return to taxpayers. Federal mineral leasing laws should provide a fair return for federal taxpayers and for oil shale development it is explicitly required under the Energy Policy Act of 2005. The PIONEERS Act allows the Secretary of the Interior to reduce royalties, fees, rentals, bonus, or other payments on oil shale to promote its development, but because shale developers are primarily big oil companies, this amounts to little more than another subsidy to the profitable oil and gas industry.

CONCLUSION

All resources extracted from federal lands must provide federal taxpayers with fair market revenue. We believe it is imperative that energy legislation address these problems.

From our perspective, the bottom line is that federal lands and waters must be used responsibly and taxpayers must receive appropriate financial assurances from those companies benefiting from resource extraction. Without proper assurances, any future financial liabilities will fall on the shoulders of taxpayers. Providing increased access without addressing future taxpayer costs is fiscally irresponsible and could cost taxpayers billions.

The country is now facing a $14 trillion debt and an annual deficit of more than $1 trillion dollars. Many things need to be done to resolve the nation’s fiscal woes, not the least of which is ensuring federal taxpayers get the revenue they deserve for the resources they own.

Furthermore, relying on the speculative revenue of new leases is dangerous fiscal policy. Instead, Congress must take steps to fix our existing royalty and leasing problems and spend less time spending money that we do not have.