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Chris Hamilton
President
West Virginia Coal Association
200 Association Drive #160
Charleston, WV

Mr. Hamilton,

I took great interest in the letter that America's State Coal Associations released yesterday relative to the Inflation Reduction Act, but I remain concerned that you may have been misled about what is actually in the bill and how it would impact your member companies. I believe the best government is retail government that works for the people it is designed to serve, so I wanted to take this opportunity to set the record straight about what is – and what is not – in this bill, and to clarify my positions.

First off, let me assure you that I have not wavered in my advocacy for innovation over elimination. Since becoming Ranking Member and now Chairman of the Senate Committee on Energy and Natural Resources, I have fought for and delivered billions of dollars to help the coal industry transition by investing in the technologies necessary to continue using coal as a reliable source of power generation and developing alternative carbon products. In fact, since 2019, I have delivered more than $20 billion to deploy and provide enabling infrastructure for innovative technologies like carbon capture, utilization, and sequestration (CCUS), to perform efficiency or other environmental upgrades at coal facilities, and more. I am proud to have led the West Virginia delegation in championing funding to directly assist the coal industry to modernize its fleets, reduce emissions, and diversify its value proposition. I have also delivered over $17 billion directly to coal communities for new economic opportunities or to clean up legacy sites.

Unfortunately, despite our best efforts to the contrary, the industry has consistently declined under both Democratic and Republican administrations. Even President Trump, who promised to bring back all the coal jobs, could not stop the decline. When he took office in January 2017, there were 51,000 coal jobs in America. When he left office in January 2021, there were only 38,000. That was not President Trump's fault. The truth is that over the last decade, coal has gone from more than 37% of our generation mix to less than 22%. That's exactly why I have fought so hard to ensure that coal miners, coal communities, and responsible coal companies can continue to provide reliable, essential baseload energy today and participate in the new energy opportunities of tomorrow. And that is exactly what the Inflation Reduction Act does.

You state that the "bill does nothing for coal or coal generation nor does it…lower household energy costs" and allude to a preference for renewables that will thrust coal electric generation assets into rapid decline. The reality is I specifically ensured that the Inflation Reduction Act provides incentives that would benefit coal. That includes increasing the value of the 45Q CCUS tax credit and providing direct pay for the first 5 years to help fossil plants. This is in contrast to the electricity tax credits that benefit renewables, which do not have direct pay.

In addition, the Inflation Reduction Act creates a new $5 billion energy infrastructure reinvestment financing program that can help existing coal-powered plants perform upgrades to do things like improve their efficiency, adopt environmental controls like scrubbers, and adopt CCUS equipment. This is on top of the $8.5 billion we provided for CCUS and related necessary infrastructure in the bipartisan infrastructure bill, for which several funding announcements have been released. In addition, the Rhodium Group has estimated that the Inflation Reduction Act will decrease annual household heating and electricity costs by between $41 and $232 in 2030.

As you know well, our brave miners and the coal communities they call home bear the scars of years of hard work and energy extraction. So I fought tooth and nail to ensure the Inflation Reduction Act also provides direct support to our coal miners and our communities. It expands the bipartisan 48C investment tax credit for clean energy manufacturers and has $4 billion reserved for use exclusively in coal communities to attract new investments and create new opportunities for our workforce. It makes the use of other energy tax credits more valuable if you use them in coal communities. And it permanently secures essential healthcare benefits for coal miners who contract black lung – rates that are unfortunately on the rise – from breathing too much coal and silica dust while they risk their lives to mine the coal that keeps our lights on.

The Inflation Reduction Act also does not impose any new taxes on coal. The Consolidated Omnibus Budget Reconciliation Act of 1985 established a coal excise tax of $0.55 per ton for surface mined coal and $1.10 per ton for subsurface mined coal. The Omnibus Budget Reconciliation Act of 1987 extended the 1985 law's rates through 2013. The Emergency Economic Stabilization Act of 2008 once again extended the 1985 law's rates through 2018. In fact, over the past nearly 40 years, the coal excise tax rate has only lapsed twice – once in 2019 and once in 2022. The argument that this is a new tax is a lie. As you and your members well know, each and every coal company has and will continue to budget for this tax each and every year.

Your letter also indicated that the Inflation Reduction Act provides the Environmental Protection Agency (EPA) with unbridled ability to regulate greenhouse gases and coal assets however they deem appropriate and that it removes the critical underpinnings of the recent West Virginia v. EPA court ruling. Once again, you have misunderstood the text. The U.S. Supreme Court in that ruling made clear that Congress did not give EPA the authority to require "generation shifting." The Inflation Reduction Act does not provide any new authority for EPA to shut down coal plants or to require "generation shifting." The text does not grant EPA any new authority to do anything to power plants or coal facilities that Congress has not already authorized.

Let me be clear, the Inflation Reduction Act contains no new taxes, let alone subject mining companies to a higher level of taxation than other American businesses or cost them tens of millions of dollars in new taxes. Instead, it raises revenue by closing loopholes that allow the largest and most profitable corporations in America to pay little or nothing to support our great country. It simply requires the 200 or so largest companies that, for the last 3 years, make more than $1 billion each year to pay at least a 15% tax rate. This is well below both the current corporate tax rate (21%) and the average tax rate for hardworking Americans (22%), but I do not believe that even this commonsense tax reform would impact any of your member companies. My staff analyzed the financial statements of the two largest U.S. coal companies – Peabody Energy and Arch Resources, Inc. – and neither were anywhere close to the $1 billion average needed to trigger the 15% corporate minimum. As their filings reflect, Peabody reported an average annual income of -$541 million over the past 3 years. Arch reported an average annual income of $76 million over the past 3 years. If you and your members have any additional information to the contrary, please send it my way.

In addition to what I have secured in the Inflation Reduction Act, I have also secured a commitment to pass permitting reform legislation that would benefit all domestic energy sources, including coal and other fossil fuels. This legislation also contains a provision that requires the President to designate and prioritize projects of strategic national importance, including a set number related to fossil fuels, such as coal.

In closing, allow me to answer your question of "why now." As we have discussed countless times, I am a son of the West Virginia coal fields. The people, the mountains and the industry shaped me into the person I am today and it is one of the things I am most proud of. I know the people of West Virginia sent me to the U.S. Senate to act because the consequences of inaction are too severe. Inaction will not provide opportunities for the coal industry to adopt new technologies to ensure their place in America's energy future. Inaction will not provide much-needed economic opportunity for the coal miners and coal communities that have borne the brunt of powering our nation to greatness. Inaction will not reverse the trends that we have seen in the coal industry under both Republican and Democratic leadership at the federal level. We have no choice but to focus on innovation, diversification of both uses for our coal and for our economy, new opportunities for our communities, and taking care of the families who have sacrificed so much for their fellow Americans. I will not apologize for taking action to give this industry and our coal communities every opportunity I possibly can to survive and thrive in new ways. The Inflation Reduction Act meets this moment but don't just take my word for it. I encourage you to read it for yourself. As always, my staff and I stand ready to assist you or any of your members if you have further questions.

<u>The Inflation Reduction Act</u>

- Increases the value of the 45Q carbon capture, utilization, and sequestration tax credit and provides direct pay for the first 5 years to help fossil plants.
- Funds a new $5 billion energy infrastructure reinvestment financing program to help existing coal-powered plants perform upgrades to do things like improve their efficiency, adopt environmental controls like scrubbers, or install CCUS equipment.
- Revives the 48C clean energy manufacturing tax credit, a provision to help onshore supply chains, and the IRA has a $4 billion carve out for use in coal communities.
- Makes the use of other energy tax credits more valuable if you use them in coal communities.
- Permanently secures black lung healthcare for our brave miners at the rate it has historically been at since 1985 with very few exceptions.

- Applies a 15% minimum tax on corporations that make more than $1 billion each year over the course of three years so that major companies cannot use tax loopholes to avoid paying their fair share. Based on earnings over the last three years, even the largest coal producers would not be impacted by the 15% minimum.

Sincerely,

U.S. Senator Joe Manchin III

"There are key sections of the bill that really focus on American job creation with American-sourced minerals. We like the requirement that minerals for batteries be sourced close to home rather than from our geopolitical rivals. Doing that directly supports the high-paying jobs here in the United States, strengthens our economy, definitely secures our supply chain and really enhances our global competitiveness."

Katie Sweeney, Executive Vice President, National Mining Association