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VIA E-MAIL

TO: Committee on Energy and Commerce

FROM: David Terry, Executive Director
National Association of State Energy Officials (NASEO)

RE: Request for Input – 8/27/19 – Climate Legislation

We are submitting these comments on behalf of the National Association of State Energy Officials (NASEO). NASEO represents all the state energy offices in the 50 states, territories and the District of Columbia. We are committed to a balanced approach to energy, environment and climate policy.

1. There are significant policy, regulatory and market considerations that should inform the development of climate legislation. Where possible, market mechanisms should be utilized. For example, the trading regime established for sulfur dioxide after the Clean Air Act Amendments of 1990, was very successful in reducing this criteria pollutant. To the extent practicable, private financing should be utilized to expand energy efficiency, renewable energy, energy storage, and carbon capture and utilization programs, coupled with innovative federal tax policy. One of the significant policy and regulatory problems associated with dramatically reducing carbon emissions and other greenhouse gas emissions is the failure to address energy and environmental policies in a holistic manner. For example, infrastructure and community resilience is a critical piece of energy and environmental policy, whether related to climate or not. Actions by the federal government should be consistent with resiliency policies and regulatory actions, so that the problems are not placed into silos and as a result not addressed comprehensively. Obviously, there are many federal and state policies and regulations that should be harmonized, to the extent possible. For example, dramatic state energy-climate policy actions are underway in at least 25 states, with many others taking significant supportive action. In the renewable energy and energy efficiency arena, Colorado, New Mexico and Maryland have taken recent administrative and legislative action, with utility support in their states. Zero-emission vehicle introductions are being expanded in numerous states. In Wyoming, Oklahoma and Louisiana, CO2 capture, sequestration and utilization is being supported, especially in conjunction with the 45Q federal tax credit. Approximately one-half of the states have adopted carbon reduction commitments consistent with the Paris Climate Accord. Together, the state efforts would be far more effective if federal action aimed to bridge the gaps, accelerate progress, ensure that more states have the option to fully participate in reducing a range of greenhouse gas emissions, and avoid actions that would limit existing state-private partnership efforts. In addition, the line between FERC and state public utility commission authority and state law is fluid. Innovative state electricity policies (distinct from regulation) set by governors and state legislatures, along with federal incentives, can help bridge gaps and help to avoid unintended consequences.

2. Innovative concepts for climate policy design abound, and many such concepts make economic, policy and regulatory sense, whether the objective is climate policy or innovative energy, environmental, sustainability and resiliency policy. For example, spending on energy efficiency actions totaled approximately $56 billion in 2017 (with savings far in excess of that number). Utility ratepayer funded energy efficiency programs for investor-owned utilities generally range from $7 - $9 billion each year. Energy service performance contracts (ESPCs) at the federal, state and local levels range from $5-$7 billion each year, with 90% of those programs operated in the institutional sector (MUSH markets – government buildings), and generally managed by the state energy offices (other than the $1 billion invested each year at the federal level. As the Committee considers legislation in 2019 and 2020 to expand ESPCs (including the Welch/Kinzinger legislation), the Committee should also authorize a new program at DOE's Office of Energy Efficiency and Renewable Energy (EERE) to provide technical assistance to states to improve and expand ESPC programs for both state and local governments. The House Energy and Water Development Appropriations report for FY'20 provides $2 million for this purpose. It is a relatively small amount of money, but it would have dramatic impacts. If these programs were expanded at the state and local levels and made more effective, then the programs (with private financing) could be tens of billions of dollars larger with dramatic energy savings and emissions reductions.

States are enacting policies, programs, and regulations across a range of energy production, distribution, and end-use sectors that build upon the technological innovation of the private sector. For example, the rapid cost reductions for energy storage are delivering on the promise of both improved grid optimization and vehicle electrification. State policies are supporting major auto manufacturers and are delivering new electric vehicle options, and manufacturers expect initial vehicle purchase price parity as compared to non-electric vehicles within a few years. These and many other examples are a reminder that state and local governments, consumers, and businesses make the decisions for the vast majority of investments that impact energy and climate goals. Ensuring the federal actions consider existing state policy and regulatory actions is essential to accelerating progress on clean energy, climate, infrastructure, and resilience goals.

The Disaster Recovery and Reform Act of 2018 modified the Stafford Act to allow reconstruction after a disaster to above pre-existing conditions. The same Act authorized 6% of disaster relief funds for pre-disaster mitigation. While these issues involve potentially shared jurisdiction with the Transportation and Infrastructure Committee (T&I), the Energy and Commerce Committee should coordinate with T&I to ensure that: 1) guidance is provided so that the pre-disaster mitigation funds can be used in concert with a holistic approach to energy, environmental and climate policy; and 2) ensure that federal emergency managers coordinate with DOE across key offices including CESER, OE, EERE, FE, and the Office of Science so that innovative technologies are known to FEMA and can be implemented both pre-disaster and post-disaster. For example, FEMA and DOE, working with retailers and manufacturers, could ensure adequate supplies of energy efficient appliances and more energy efficient and less polluting generators can be utilized to respond to emergencies. Formal, ongoing cooperation is needed among FEMA, DOE, State Emergency Management Agencies, and State Energy Offices to better address pre and post-disaster energy innovations. In ARRA, $450 million was allocated for an energy efficient appliance rebate program, which produced a dramatic increase in the use of energy efficient appliances. Retailers moved quickly to improve the efficiency of their stock. Congress could help ensure that disaster recovery responses include energy efficiency appliances, including incentives for manufacturers and retailers to pre-position these necessary appliances so that purchases can be made quickly. Energy

efficient appliance rebates and efficient HVAC incentives should be legislatively implemented and "no-year" appropriations provided.

Another innovation could be an authorized program to fund the hardening of mission critical facilities such as police, fire, water, and health care, as well as schools that are used as community shelters in the event of disasters. Shelters, in particular, are an emerging concern as state experience is increasingly stressing a greater reliance on shelter-in-place to avoid mass evacuations where possible (due to the logistical and safety risks associated with large-scale evacuations). With associated appropriations, these facilities could be outfitted with micro-grids, made more energy efficient to reduce energy load and costs, and relocate HVAC and transformers to higher ground, and diversify transportation fuels to include alternative fuels for example. Since private financing through ESPCs would not "cost-out" for these types of changes, the federal funds could be additive to state-overseen ESPCs for such facilities. Moreover, these mission critical facility and critical infrastructure improvements directly benefit fuel and grid resilience across the energy system (and can reduce overall resilience costs). It is hard to price-out the value of resiliency, unless you have been subjected to hurricanes, wildfires, flooding and other disasters.

Another concern is how climate is impacting rural America. In the buildings area, in many regions up to 50% of the new homes are manufactured homes. They are generally far less efficient than stick-built homes. While they are less expensive to purchase, they are generally far more expensive to operate because of high energy costs. This imposes a burden on rural America and low- and moderate-income households in particular. Senator Tester had proposed legislation to authorize rebates to homeowners who choose to purchase ENERGY STAR manufactured housing, which are much less expensive to operate and are generally more resilient to storm damage. However, initial costs are somewhat higher and price-sensitive manufactured home buyers are often not able to afford the upfront costs despite the long-term economic benefits. The Committee could authorize an ENERGY STAR rebate program for manufactured housing and could work with the appropriators to fund such a program. The state energy offices would be happy to work with the Committee to operate this type of program at the state level.

The states having been working for many decades to improve the delivery of new and innovative technology to consumers and businesses. The R,D,D&D continuum (research, development, demonstration and deployment) is a major conundrum and many attempts have been tried to address it. For example, NASEO supports the continuation of the ARPAe program that is intended to stimulate the development of new technologies. Many states operate their own energy research institutions and many more states work with universities to encourage innovative research. For example, the State of Florida's energy office brings together the research universities within the state to collaborate on energy research. That model could be applied across the country, with a federal authorization and funding. The 2005 Energy Policy Act established the State Technologies Advancement Collaborative (Section 127), which received some DOE funding and implemented collaborative R,D,D&D activities for a few years until DOE decided that it was no longer a priority. This program should be reinvigorated, modernized, and funded. The Industrial Assessment Centers operated under the Advanced Manufacturing Program (AMO) within EERE at DOE could be expanded to every state and could be more effectively coordinated to share R,D,D&D. New York operated a similar program for many years – the "FlexTech" program. The state worked with universities and businesses of under -500 employees to examine their industrial processes and develop innovative technology solutions to reduce their costs and improve productivity. Again, this could be authorized at the federal level and appropriations could be provided to assist each of the interested states in operating such a program.

NASEO is working on an exciting project with the EERE Building Technology Office (BTO) to examine innovative approaches to grid interactive efficient buildings (GEB). This is a priority for the Administration and the states, and is an excellent example of examining ways to take into account new technologies as the building sector (which consumes 40% of our energy) is more integrated with the electric grid – providing cost and reliability benefits. This applies to residential, commercial, agricultural, institutional and industrial facilities. In addition, as the transportation sector electrifies, GEB and transportation electrification must be addressed holistically so that the electric system is optimized, and overall energy cost burdens are lower. In general, the grid's current configuration results in significant system inefficiencies depending on the time of day, demand and supply profiles. New technologies are being deployed every day and state and federal policies and programs need to assist, not hold back private sector progress. The Committee should specifically examine authorizing an expanded program of GEB in conjunction with the transportation sector (electrification), in coordination with DOE, DOT, the state energy offices and electric utilities. Pilot programs are being initiated throughout the country (e.g., AL, GA, NY, TX, CA) and these pilots should be expanded.

In addition to the state and private-sector innovation underway in advancing renewable energy, energy efficiency, vehicle electrification, and storage, a number of states are working to speed investment in carbon capture, utilization and storage (CCUS). For example, NASEO is working with key oil and natural gas producing states to lay the groundwork for CCUS to become a pathway for companies with significant carbon emissions to have an alternative to use or store those emission. Ensuring federal agencies support rapid and clear permitting mechanisms for carbon dioxide pipelines and class six injection permits is an essential part of an all of the above climate solution.

3. A number of sectors are very challenging to decarbonize. From Congress' perspective, some of the "scalable solutions" could involve authorizing language and federal appropriations. As noted elsewhere in this response, there is no substitute for robust funding of the State Energy Program to address all sectors of the economy and to deal with the technical assistance needs of consumers and businesses within the states. For the residential sector on the low-income side, the Weatherization Assistance Program is necessary to address this hard-to-reach population, with high transaction costs. A number of states have invested and implemented zero-net energy buildings programs. For example, Kentucky was a trailblazer in zero-net energy schools and determined that enhancements were generally no more costly for new schools than building in a less energy-efficient manner. A number of state financing programs could be scaled with additional federal resources and could address challenges to decarbonization. For example, the Nebraska HELP program is a loan program working between the state energy office and local community banks to finance energy efficiency and renewable energy retrofits. Close to $400 million has been loaned over 28,000+ projects and the default rate has been less than $200,000. In Texas the LoanStar program, operated by the state energy office, finances energy efficient building retrofits in state and local government facilities. Like the Nebraska program, they have provided hundreds of million dollars in loans with strong success metrics. Federal funds could augment this activity, and it could be done through the State Energy Program. In the local government area, the Committee has moved to reauthorize and expand the Energy Efficiency and Conservation Block Grant (EECBG), which was part of the Energy Independence and Security Act of 2007, by expanding the program to cover distributed generation. NASEO supports that expansion of EECBG but also recommends that financing language similar to the SEP financing language be incorporated in the EECBG statute (See 42 USC §6322(d)(5)(SEP) as compared to EISA 2007 §544(4)(42 USC §17153)(EECBG)). During the implementation of ARRA, the EECBG financing language was interpreted by DOE's General Counsel in a manner that severely limited the flexibility of EECBG. This could address one of the significant barriers to decarbonization efforts by local governments.

4. While NASEO has not adopted specific climate goals, the energy policies, programs and activities of the organization and its members have contributed significantly to reductions in greenhouse gas emissions and criteria pollutants. NASEO's 2019 Annual Meeting, which will include representatives from every state and territory energy office, has a theme of *Building a Clean Energy Economy for Everyone*. The sharing of best practices (energy, climate, economic, and equity policy and program) across the states at this conference reflects the broad commitment to these issues and goals. There remain significant bipartisan opportunities for reduction in carbon emissions through innovative policies, programs and activities that include, but are not limited to, energy efficiency, renewable energy, carbon capture utilization and sequestration, expansion of new technologies, expanded electrification (where appropriate) and use of all appropriate resources.

5. NASEO works hard to share "best practices" or "model programs" among the states so that innovative programs do not need to be reinvented each time it is developed in an individual state. These innovative programs start with the flexibility afforded by the State Energy Program (SEP), which the House reauthorized under suspension on September 9, 2019 (HR 2114), and was funded at a $55 million level in FY'19. We look forward to working with the Committee to develop additional federal legislative solutions to climate change, including both authorizing legislation and sufficient appropriations to have a significant impact.

6. There are a myriad of challenges and barriers to significant greenhouse gas emission reductions. NASEO has responded to this problem by sharing model practices and programs among the states so that an individual state does not have to reinvent the wheel each time they want to address an important need. In addition, as noted in response to question #2, the RDD&D continuum is a big challenge. The states through their own research and development efforts have attempted to connect these activities more closely to the demonstration and deployment activities within a state. For example, in Florida the energy office works with the state research universities to ensure that the research efforts are complementary. Congress and the Administration should take steps to ensure that the National Laboratories and the ARPAe program works more effectively with the state energy offices to ensure that the fine work of these institutions and these research efforts are disseminated in a manner that will lead to economic development, job creation and domestic manufacturing.

7. The federal government has many tools that could assist in responding to climate change and energy and environmental challenges. First of all, the key mantra should be "do no harm." NASEO believes that the Administration's approach to lighting standards established under the bipartisan Energy Independence and Security Act (EISA) of 2007 is wrong-headed. The lighting standards should be increased steadily and the "no backsliding" provisions in the relevant statutes should be respected. The Administration's proposals could cost consumers approximately $14 billion in unnecessarily increased energy costs. The federal government's further failure to put into place new appliance standards is also unnecessary and will cost consumers and businesses untold billions of dollars. These policies should be reversed. In addition, individual states and groups of states that wish to move forward on appliance standards should not be threatened with litigation; they should be supported in their efforts to serve as the "laboratories of democracy." The state energy offices opposed efforts in 1983 to preempt the states in the appliance standards area through the creation of the "no standard-standard," i.e., interpreting EPCA to preempt the states even when the federal government chose not to "occupy the field." Those efforts were defeated in court and the National Appliance Energy Efficiency Act of 1987 was a bipartisan solution to move appliance standards forward. Again, not all states will choose to take action in this area, but they should not be prevented from doing so, especially when the federal government chooses

not to act. This same approach should apply with respect to CAFÉ standards. Advances by the automotive industry should be encouraged, especially with the introduction of new technologies and new materials. In the event that the federal government chooses not to act, then the states, including groups of states, should be permitted to move forward to adopt climate and energy policies that are adapted to the needs of their citizens.

Federal authorizing legislation and federal appropriations can also be very helpful in assisting states and localities in reducing both greenhouse gas emissions and criteria pollutants. These efforts should be coordinated.

In the near term, Congress could pass and the President should sign the following legislation: 1) HR 2114 (House passed on 9/9/19)(Rush/Upton bill)/S. 2094 – reauthorization of the State Energy Program, which not only enhances the cyber and physical security elements of SEP, but reauthorizes appropriations for the underlying program which includes aggressive measures to support energy efficiency, renewable energy and other clean energy elements; 2) HR 2041 (Tonko bill)/S. 983 – reauthorization of the Weatherization Assistance Program; 3) HR 2119 – reauthorization of the public buildings efficiency program (Section 125 of EPACT 2005)(the Kelly bill); 4) HR 3962/S. 2137 - the comprehensive energy efficiency bill (Energy Savings and Industrial Competitiveness Act) – Welch/Mckinley and Portman/Shaheen; 5) S. 2382 (Community Energy Savings Program Act of 2019) (Merkley legislation) – to expand the use of innovative financing programs for energy efficiency and renewable energy, including on-bill financing and other mechanisms working with consumer-owned utilities; 6) HR 2043 (Welch)(HOMES Act) – to provide funding for residential energy efficiency initiatives beyond the Low-Income Weatherization Assistance Program; and 7) Energy Title of the Farm Bill – to ensure that the next rewrite of the multi-year Farm Bill includes robust mandatory funding of the energy title, including the REAP program (Rural Energy Savings Program) and the RESP program for on-bill financing. These bills will help lead innovation at the state level in all sectors of the economy, assist low-income Americans deal with the costs of energy and the increased danger caused by climate, improve the energy efficiency and hopefully the resiliency of public buildings (HR 2119), and improve the energy efficiency of the economy (Welch/McKinley and Shaheen/Portman). All these bills will help address climate concerns, but also help the economy and reduce energy costs for consumers. Foremost among these bills is the reauthorization of SEP.

Federal tax policy (not jurisdictional to the Committee) could be critical in reducing carbon emissions. Enactment of the energy tax extenders should be a first step in reducing energy costs and incentivizing good policy and consumer decision-making.

8. As you examine infrastructure policy in conjunction with the T&I Committee and the House Ways and Means Committee, NASEO urges you to include the electricity grid, GEB, transportation sector fuel diversity, including electrification, and clean energy options including wind, solar, energy storage, and hydropower. Many states are supportive of CCUS activities and nuclear power and those views should be considered as well. While NASEO has not taken a position on a nationwide CES, EERS or RES, a number of states have enacted policies to promote such activities, and no federal action should impede those state actions, including DOE, EPA, DOT, and FERC pronouncements. NASEO and NASEO's state energy office members from across the 56 states, territories and the District of Columbia would be happy to provide a direct opportunity for the Committee Staff to talk with all the states and ask a series of questions. This could be done in-person during the February meeting of NASEO members in Washington, DC or on a variety of specific topics through nationwide conference calls. We stand ready to work with the Committee. Thank you for the opportunity to comment.