Testimony of the Honorable U.S. Senator Jerry Moran (R-Kan.)
U.S. Senate Finance Subcommittee on Energy, Natural Resources and Infrastructure
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The United States is experiencing a resurgence in the domestic energy innovation, exploration, and production. With this growth, more and more Americans are employed in the development of our country's natural resources, both traditional and renewable. Our country does much of its energy policy in the tax code. So while many of us will spend time trying to develop what we call energy policy, the reality is that what the Finance Committee does, and how the tax code looks in many ways determines what our energy policy is. So I'm pleased that this committee and this subcommittee are pursuing this topic. As our technologies mature and our knowledge advances, our tax code has not adjusted to the needs of today's markets.

As Congress considers the future tax treatment of the energy sector, there appears to be a bipartisan consensus, and that is: a sound financial tool that has allowed the oil and gas industry to efficiently raise more than $450 billion over the past two decades from a broad array of individuals and institutions – that tool is the Master Limited Partnership (MLP) structure introduced in 1987 by Section 7704 of the Internal Revenue Code. In my view, it should be renewed, continued and modernized to include renewable and clean energy sources.

An MLP is what I would describe as a "publicly traded partnership" that holds energy or other specified assets. Traded on public stock exchanges, MLPs allow individuals and small institutional investors to invest in energy projects similar to the way mutual funds allow investors to make small investments in diversified stock portfolios. MLPs are efficient structures for raising capital in part because, unlike corporations, the taxable income and deductions are passed through directly to the investors (the limited partners), rather than being taxed twice − once at the corporate level and then again at the shareholder level. This feature of MLPs has enabled the oil and gas industry to raise capital efficiently and at an appropriate cost and has provided investors with sustained and consistent cash flow.

It is important to note that the MLPs in my view don't represent what I would call a "tax break" for those industries eligible for the MLP tax structure, such as the energy industry. Rather, it is a tax simplification structure that concentrates tax at the investor level, avoids double taxation, and significantly broadens the potential investment base.

MLPs have aided in the construction and operation of much of our modern oil and gas infrastructure and most recently fueled the shale revolution in oil and gas. In 2012 alone, MLPs raised over $23 billion of new capital for eligible projects. These include significant parts of the oil and gas supply chain, such as production, pipelines, refineries, and gathering and storage facilities.

MLPs create needed investment opportunities for individuals saving for retirement and for pension funds. And according to the National Association of Publicly Traded Partnerships (NAPTP) surveys, 75 percent of investors in MLPs are over the age of 50. This is in part due to the fact that these individuals are seeking a secure income-oriented investment that provide a reasonable return. MLPs fulfill this role where other types of investments fall short.

And this perhaps is the most important as we have those who struggle to pay their utility bills – MLPs lower the cost of energy. MLPs afford the energy industry a stable access to less-expensive capital and therefore lower the cost of energy (both fuels and electricity) to consumers.

While it’s critical that MLPs continue to be available to investments in the non-renewable energy industry, it is important that we extend this important tax structure to the entire energy sector. For example, companies involved in the production of solar, wind, geothermal and combined heat and power − our largest renewable energy industries – they have never been eligible for MLP treatment even though renewable energy has been burdened by the same high cost of capital as the non-renewable energy industry. Only a small group of investors, consisting almost entirely of a few large corporations, have been able to invest profitably in renewable energy projects.

Ironically, the United States has the largest and most efficient capital markets in the world, but our renewable energy companies rarely have access to those markets. Extending MLP treatment to renewable energy could move the renewable energy industry from relying on a few investors demanding high rates of return to a broader and deeper investment pool for those energy projects.

Continuing the MLP structure in the Internal Revenue Code, and expanding it to include investment in renewable and clean energy, would provide a predictable tax policy that encourages investment in all U.S. energy projects, creates jobs, and promotes American competitiveness in the global race to develop and utilize competitively priced energy sources.

I grew up in a family whose father worked in the oil fields – it’s what put food on our family’s table. The energy sector is a perfect example of how American can provide an opportunity for all Americans to pursue the American Dream. I encourage the committee’s consideration of MLPs, and I thank the Chairman.

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