Statement of Chairman Jeff Bingaman

Senate Finance Subcommittee on Energy, Natural Resources & Infrastructure

September 10, 2009

"Oil and Gas Tax Provisions: A Consideration of the President's FY 2010 Budget Proposal"

Good afternoon. In the Budget Proposal he sent Congress in February, President Obama called for significant changes beginning in 2011 to the taxation of domestic oil and gas activities. Taken together, the proposed changes would raise $31.5 billion over 10 years.

Some elements of the President's proposal are already familiar to the Senate Finance Committee, as we considered them at length in the last Congress: first, imposing an excise tax on production in the outer continental shelf, and second,

disallowing the Section 199 domestic manufacturing deduction for the largest integrated producers. There was broad bipartisan support on the Finance Committee for those proposals in the last Congress. The proposals were included in comprehensive energy tax legislation that the Committee reported, but which failed by one vote to achieve cloture on the Senate floor. I continue to believe those proposals have merit. But the President's Budget Proposal would go further, in that it would disallow the Section 199 deduction for *all* oil and gas producers, not just the largest integrated firms. I have concerns about that expansion, and believe it will require careful study. I also understand that the Administration is refining the OCS excise tax proposal and I look forward to working with them in doing so.

In addition, the President's Budget Proposal newly places on the table several tax preferences that have been embedded in our Tax Code for decades and, in some cases, nearly a century. In revenue terms, the most significant among those proposals are those to:

(1) disallow expensing of intangible drilling costs, or IDCs, and instead require that those costs be capitalized;

(2) prohibit percentage depletion for oil and natural gas firms, and instead require use of the cost depletion method; and

(3) increase the period over which independent producers amortize geological and geophysical, or G and G, costs, from two years to seven years.

"IDCs" and "G&G costs" are part of industry's everyday vernacular. But quite frankly, few in Congress have deep familiarity with these concepts. I believe it is important, therefore, for this Subcommittee to carefully study the tax provisions at issue, and to hear not only from the Administration, but also from industry and independent analysts. I am very pleased, therefore, to have with us today a panel of six distinguished witnesses and I appreciate the benefit of their views.

Before turning to their testimony, I would like to offer several observations.

Today's panel will walk through elements of the President's proposal. In addition, the non-partisan staff of the Joint Committee on Taxation has prepared a descriptive pamphlet for today's hearing. I thank the JCT staff for their characteristically thorough work, and I direct that the JCT pamphlet be made a part of this hearing's record.

As we evaluate each proposal, I believe Congress should look through three critical lenses.

First, we must ask whether the proposal would cause more than a negligible increase in consumer prices. Last year, gasoline prices increased to over $4 per gallon. After a significant falloff, prices have again ticked upwards. We must consider what impact, if any, modifying the tax treatment of oil and gas activities would have for the nation's consumers, keeping in mind that prices are set in a world marketplace.

Second, we must ask whether the proposal would decrease domestic production. As a nation, we are on course to make significant short- and long-term investments to lessen our dependence on fossil fuels. But we must remain realistic, and acknowledge that fossil fuels continue to play an important role in our nation's economy. The United States has become increasingly reliant on imported petroleum, and we now rely on overseas oil for nearly three-fifths of our petroleum. Congress must be cautious in enacting any policy, in the tax code or elsewhere, that could increase foreign oil's share.

Third, we must ask whether the proposal would impact local economies or cause job losses. For example, the oil and gas industry employs more than 23,000 people in New Mexico, and oil and natural gas production annually contributes $1.2 billion to New Mexico's economy. State taxes on oil and gas production contribute approximately 20% of my state's general fund, and royalties from production on New Mexico state trust lands have provided 95% of the revenues to our state's Land Permanent Fund, which supports education and health care across New Mexico. I would be very concerned by any tax law

change that impacts economies in oil and gas producing regions, like New Mexico's San Juan and Permian basins.

I look forward to exploring these issues with our distinguished panel.