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CALIFORNIA CHAMBER OF COMMERCE

February 14, 2023

The Honorable Nancy Skinner
California State Senate
1021 O Street, Suite 8630
Sacramento, CA 94814

SUBJECT: SBX1 2 (SKINNER) ENERGY: TRANSPORTATION FUELS: SUPPLY AND PRICING: MAXIMUM GROSS GASOLINE REFINING MARGIN
OPPOSE/ JOB KILLER – AS INTRODUCED DECEMBER 5, 2022

Dear Senator Skinner:

The California Chamber of Commerce is **OPPOSED** to your **SBX1 2 (Skinner)** as a **JOB KILLER** because it creates a misguided policy and dangerous precedent that will discourage employers from expanding or maintaining operations in California. While this measure is centered on refiners within California, it establishes a playbook for State government to arbitrarily determine what is a "reasonable" profit margin, which is appropriately the role of the market in competitive industries. This would send a chilling message to any business considering opening, relocating, or expanding operations in California – if you make more money than the government believes is acceptable in a given quarter, then you will be subject to political punishment. There is no reason to believe that once policy makers use this punitive approach against one economic sector, they would not use it against other industries that operate within the State.

Specifically, **SBX1 2** would set a maximum refining margin at a yet-to-be-determined price and authorize the California Energy Commission (CEC) to annually adjust the margin. The bill then authorizes the CEC to assess a yet-to-be-determined administrative civil penalty on refiners that exceed that yet-to-be-determined margin. Capping profits or setting prices that are otherwise governed by a robust competitive market will create massive distortions and unintended consequences in those markets, including limiting or reducing supply that would otherwise meet increased demand and ultimately lead to lower prices through competition. That's why government usually treads lightly in this area: setting or approving rates only for true monopolies, like utilities, and otherwise letting consumers and businesses sort out prices.

No matter how such a penalty is dressed up, it is still effectively a tax on the manufacture of products critical to the daily lives of California residents and businesses. Companies subject to this tax are not accused of violating any health, safety or environmental regulation – they are simply being targeted by tax collectors because of market-driven global profits, in excess of a politically-determined threshold. And as elected officials have learned over time, if you want less of something, then tax it. The predictable consequence of taxing the production of oil and gas by California refineries will be less production, higher prices, and eventually more expensive imports, making California a more expensive place for everyone - businesses and residents alike.

This bill will not provide any relief at the pump[1]. After all, the Energy Commission said in a September 2022 report that "Filling up the tank in California also costs more…for a few reasons. These reasons include the isolated nature of the state's transportation fuels market, a special gasoline recipe that reduces air pollution, environmental program costs, and taxes." Similar proposals have been tried and failed in every instance– both at the state and federal level.[2] These efforts were repealed in all cases for failing to generate additional revenue and doing nothing to impact the price of gasoline. We have the benefit of history to inform us that penalizing "excess profits" will not lead to the desired outcome of reducing the price at the pump. If this

[1] *California might levy a new tax on oil companies. Here's what to know,* CalMatters (October 26, 2022) https://calmatters.org/economy/2022/10/california-gas-tax/

[2] Stillwater Associates. Hawaii Fuels Study. Public Information Briefing, September 8, 2003 https://energy.hawaii.gov/wp-content/uploads/2011/10/Act-77HawaiiFuelsStudy_2003.pdf

1215 K Street, Suite 1400
Sacramento, CA 95814
916 444 6670
www.calchamber.com

proposal is enacted, it would only devastate a vital California industry that provides well-paying jobs for tens of thousands of Californians.

It's not just the Energy Commission that has identified other factors that contribute to higher gasoline prices, others in the academic space have also come to the same conclusion. According to Professor Michael A. Mische, from the University of Southern California Marshall School of Business, "California's high oil and gas prices are the result of real-world economics. Market factors such as the geopolitical environment, weather, operations, high dependency on foreign-sourced oil, California's overly complex regulatory environment, high taxes, and mandatory special blends all contribute to the price of gasoline[3] the "price gouging penalty" does nothing to address the factors that lead to high gasoline costs, nor does it create real solutions to lower the price for consumers".

Many fossil fuel companies are transitioning to cleaner energy solutions, similar to the rest of California's energy mix and that transition process requires the very capital this bill is attempting to punish. Without these capital infusions, the transition to a net-zero carbon future will become less likely, or, at best, the timeline will be elongated. For example, refiners have been introducing cleaner blends that are tailored for California, and have been re-engineering the refining process itself to further reduce emissions stemming from the production of fuels produced in California. Both of which require significant investments to retrofit the refining facility in alignment with California's climate goals. As we collectively transition to a cleaner energy future we should be mindful of the fact that demand for refined products still exists, and marginal reduction in emssions stemming from facilities that provide these fuels should be viewed as a necessary puzzle piece to our transition.

SBX1 2 incorrectly attempts to address the symptoms of our current economic climate while ignoring the larger root cause of rising prices for goods and services, i.e. inflation, regulatory environment, taxes, supply challenges, etc. At a time when we may be at risk of an economic contraction, we should collectively be identifying solutions that can reduce costs and bring more jobs to the State, which ultimately increases revenue. Unfortunately, this measure will do the exact opposite, and likely deter job growth in a sector that historically has competitive high-paying wages, as well as send a warning signal to other industries or employers looking to grow and expand in California that they could be next.

For these reasons, CalChamber is **OPPOSED** to your **SBX1 2 (Skinner)** as a **JOB KILLER**.

Sincerely,

Brady Van Engelen

Brady Van Engelen
Policy Advocate

cc: Hazel Miranda, Legislative Affairs, Office of the Governor
Kip Lipper, Office of the Senate President pro Tempore
Chase Hopkins, Office of the Assembly Speaker

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[3] Mische, Michael A., *The Fiction, Facts, & Realities of California's Price Gouging Tax,* University of Southern California, Marshall School of Business, 2023.