



**Energy and Commerce
Committee**

112th Congress, 1st Session

Fourth Quarter 2011/Year-End Report
Rep. Fred Upton (R-MI), Chairman
January 19, 2012

TO: Republican Members, Committee on Energy and Commerce
CC: Speaker Boehner, Majority Leader Cantor, Majority Whip McCarthy, Conference
Chairman Hensarling, and Policy Committee Chairman Price
FROM: Fred Upton, Chairman, Committee on Energy and Commerce
DATE: January 19, 2012
RE: Fourth Quarter 2011/Year-End Report

“Get ready to work hard. Get ready to bring your ideas forward. Get ready to do the work the American people sent us here to get done.”

“Over the next two years, we will focus on jobs. We will focus on the economy. We will focus on runaway government spending and our unsustainable public debt. We will focus on securing individual freedoms.”

“We will conduct substantive oversight and doggedly pursue investigations wherever they may lead. Where we find waste and abuse, we will eliminate it. Where we find burdensome regulations that hamper our economy, we will repeal them. Where we find barriers to private sector job creation, we will remove them. We will work as a team, never shying from the differences that divide us but always remembering that what unites us is much greater. Simply put, we will uphold the great tradition and responsibility of this, the best Committee in Congress.”

I said these words on January 20, 2011, at the Energy and Commerce Committee organizational meeting for the 112th Congress. Since then, I have reported back to you each quarter on our progress, and I appreciate the chance to do so once again, this time summarizing all that we accomplished in our first year.

Our Committee has led the way in fundamentally changing the way Washington works. Our majority was elected with a promise to change how we serve the American people, and we have. A few short years ago, fiscal debates revolved around the question of how much more to spend. Today, we look at the budget with an eye toward how much we can cut, and how to spend more wisely, with stronger protections for taxpayers. It used to be routine for Congress to create new programs and government offices. Now we scour federal agencies for waste and inefficiency, proposing a smaller government instead of a larger one.

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We are also responsible for dramatic efforts to create regulatory certainty for job creators across the country. In every area of our jurisdiction – health care, telecommunications, energy, the environment, consumer protection – we have passed legislation to promote the American economy. Every Subcommittee and every Member has been involved in this effort.

Our legislative efforts have been equally matched by some historic oversight and investigations. “Solyndra” is now a household name. We have uncovered waste, fraud, abuse, and downright dysfunction at Departments and agencies within our jurisdiction.

We should all be proud of our record, and I am grateful to all of you for your hard work in 2011 to deliver on the promises we made together. Each of our six Subcommittees pursued the policy and oversight issues unique to their jurisdiction, but we never forgot that we are one team working together on a shared mission. To that end, this report demonstrates how our Subcommittees worked in a united fashion to make good on those words I used one year ago.

Focus on Jobs and the Economy

On day one of the 112th Congress, we set out to protect jobs put at risk by overzealous government regulators and promote new job creation by cutting red tape and allowing private investment to spur economic growth. The urgency of our efforts is clear. The most recent unemployment report from the U.S. Department of Labor shows that 13.1 million Americans remain unemployed, and millions more have grown discouraged, able only to find part-time work or leaving the workforce altogether.

Included in this section:

- *Costly, Controversial, and Unconstitutional: The Health Care Law Hurts the Economy*
- *Investment and Innovation in the Communications and Technology Sector*
- *Reckless Regulations Cost Jobs: We Have a Better Way*
- *Creating Jobs Through Energy Production*
- *Adding it Up: How the Energy and Commerce Committee Has Fought for Jobs*

Here is a summary of how key Energy and Commerce bills advanced in 2011 will protect jobs put at risk by this administration’s policies and foster the creation of new jobs through private-sector growth and innovation.

Costly, Controversial, and Unconstitutional: The Health Care Law Hurts the Economy

On January 19, 2011, the House approved H.R. 2, the “Repealing the Job-Killing Health Care Law Act.” By repealing the President’s controversial health care law, we can protect jobs put at risk by its costly mandates and ease the economic uncertainty created by this massive government

expansion. This includes protecting the estimated **800,000 jobs** that would disappear from our workforce as a result of the law.

Investment and Innovation in the Communications and Technology Sector

On April 8, 2011, the House approved H.J.Res. 37, a resolution that will overturn the Federal Communication Commission's so-called "network neutrality" rules. The bill, authored by Communications and Technology Subcommittee Chairman Greg Walden, rejects these controversial regulations that put the government in charge of how network traffic is managed and what kinds of partnerships can be formed to serve consumers. Network neutrality rules may cost between **500,000 and 700,000 jobs** by 2015, and result in **up to 1.45 million fewer jobs** in the economy by 2020.

Chairman Greg Walden has also tackled FCC process reform to prevent the FCC from stifling innovation and jobs with unnecessary regulation. He introduced H.R. 3309, the Federal Communications Commission Process Reform Act of 2011, with Rep. Adam Kinzinger to ensure the FCC seeks public comment on the actual text of proposed rules, as well as demonstrates a market failure before imposing them. Rep. Steve Scalise and Chairman Walden introduced H.R. 3310, the Federal Communications Commission Consolidated Reporting Act of 2011, to consolidate overlapping FCC reports and eliminate outdated ones. Both bills passed the Subcommittee on November 16 and will be considered by the Full Committee early this year.

Getting government out of the way is an important first step, but not the only action Congress can take to spur innovation. According to recent studies, investment in next generation, wireless broadband could produce an estimated **300,000 jobs** or more. FCC Chairman Genachowski even cites one study indicating spectrum legislation could create as many as **770,000 jobs, generate \$25 to \$53 billion in investment, and produce \$73 to \$151 billion in GDP growth**. But that takes spectrum. Chairman Walden's Jumpstarting Opportunity with Broadband Spectrum (JOBS) Act authorizes the Federal Communications Commission to auction airwaves that will significantly expand the availability of wireless broadband for consumer use and produce \$16.5 billion in proceeds for the federal taxpayer. In December, the bill was approved by the Communications and Technology Subcommittee and passed the House as part of H.R. 3630, the Middle Class Tax Relief and Job Creation Act of 2011. Getting it to the President's desk is a top priority for 2012.

Reckless Regulations Cost Jobs: We Have a Better Way

On August 12, 2011, Commerce, Manufacturing, and Trade Subcommittee Chairman Mary Bono Mack's H.R 2715 was enacted with broad bipartisan support. The legislation provides regulatory relief and gives the Consumer Product Safety Commission greater discretion in enforcing consumer product safety laws. It made immediate and targeted changes to a flawed 2008 law that would have forced potentially billions of dollars worth of goods to be pulled from store shelves beginning on August 15, 2011. The initial law placed costly restrictions and regulations on small businesses, causing many to shut down and lay off employees, and by getting this bill signed into law, we protected **thousands of jobs** put at risk.

Unfortunately, many of our efforts to address unworkable or overly expensive regulations have not made it past the Democrats who control the U.S. Senate – *despite the fact that we have*

consistently secured bipartisan support in Committee and on the House floor. Indeed, our pro-jobs policies have drawn repeated veto threats from a president who consistently chooses government intervention over private-sector job creation. Consider the numerous bills we have advanced to promote a smarter approach to regulations – one that protects jobs and our environment at the same time.

This section details the number of jobs put at risk by the administration's regulations; later in this report is a brief summary of our better policies.

On April 7, 2011, the House approved H.R. 910, the Energy Tax Prevention Act. The bill will protect up to **1.4 million jobs** currently threatened by the Obama administration's plan to regulate greenhouse gas emissions across the U.S. economy. I drafted this legislation along with Energy and Power Subcommittee Chairman Ed Whitfield; Senator James Inhofe introduced companion legislation in the U.S. Senate.

On September 23, 2011, the House approved H.R. 2401, Rep. John Sullivan's Transparency in Regulatory Analysis of Impacts on the Nation (TRAIN) Act. The bill will protect hundreds of thousands of jobs at risk from EPA's new power sector rules, including the Utility MACT and Cross-State Air Pollution Rules. NERA Economic Consulting estimates the cumulative cost of EPA's power rules will result in net job losses of **183,000 annually**, with net employment losses totaling 1.65 million job-years by 2020.

On October 6, 2011, the House approved H.R. 2681, the Cement Sector Regulatory Relief Act. The bill, authored by Rep. Sullivan, aims to avoid domestic plant closures and avert the loss of a projected **20,000 jobs** from EPA's unworkable Cement MACT rules. These rigid rules affecting the cement sector threaten to ripple through our economy, not only affecting directly thousands of cement manufacturing jobs, but also driving up construction costs, which will put even more jobs at risk.

On October 13, 2011, the House approved H.R. 2250, Rep. Morgan Griffith's EPA Regulatory Relief Act. Like H.R. 2681, the EPA Regulatory Relief Act is about taking a more sensible approach to regulations that threaten jobs across diverse sectors of the economy. H.R. 2250 protects more than **230,000 jobs** estimated to be at risk from EPA's Boiler MACT rules, which affect more than 200,000 commercial, industrial, or institutional boilers or incinerators. From manufacturers to small businesses to colleges and universities, these rules will impose significant burdens across the economy.

On October 14, 2011, the House approved H.R. 2273, the Coal Residuals Reuse and Management Act. The bill, authored by Rep. David McKinley, provides a practical alternative to the administration's plans to regulate coal ash under the Resource Conservation and Recovery Act (RCRA). Rather than imposing a high-cost, one-size-fits-all federal mandate, the bill recognizes that states can effectively maintain responsibility for recycling and disposal of coal combustion residuals in a way that protects jobs. Estimates project up to **316,000 jobs** could be lost under EPA's proposed regulation.

On December 8, 2011, the House approved H.R. 1633, the Farm Dust Regulation Prevention Act, which our freshman colleague Rep. Kristi Noem introduced with many of us as cosponsors. The bill eliminates the regulatory uncertainty surrounding EPA's current and future regulation of

rural dust, which is why a broad coalition emerged in support of this bill and the important economic relief it will give farmers, ranchers, and businesses across our rural economy.

Many of these bills made up the core of Majority Leader Eric Cantor's fall agenda, which centered on repealing the top ten job-destroying regulations threatening our economic growth and recovery. As the Majority Leader [said](#), our efforts "can help lift the cloud of uncertainty hanging over small and large employers alike, empowering them to hire more workers."

Creating Jobs Through Energy Production

A silver lining to the current economic storm clouds is the job-creating potential of America's vast energy resources. If we can simply get government bureaucracy out of the way, America has the potential for a dramatic energy resurgence that will spur growth all across our economy.

Among the best-known energy development opportunities is the Keystone XL pipeline, a \$7 billion private-sector development project that is projected to **create as many as 100,000 jobs or more, including 20,000 direct manufacturing and construction jobs**. The House approved legislation, authored by Rep. Lee Terry, on July 26, 2011, to expedite a final decision on this long-stalled project. Republicans held firm in support of this pro-jobs, pro-energy project and included it as part of a payroll tax relief and unemployment benefit extension signed into law on December 23, 2011. In the coming weeks, Republicans will continue highlighting the potential of this project to create jobs and expand access to secure energy supplies.

On June 22, 2011, the House approved H.R. 2021, Rep. Cory Gardner's Jobs and Energy Permitting Act. The bill will **create and sustain more than 54,000 jobs** through the development of tremendous offshore energy resources in Alaska's Beaufort and Chukchi Seas by cutting through the red tape and preventing endless appeals that prevent us from exploring and accessing our own energy supplies.

Adding it Up: How the Energy and Commerce Committee Has Fought for Jobs

A wide range of independent and industry analyses have attempted to quantify the consequences of the Obama administration's aggressive rash of rules and regulations. Looking solely at those rules we have attempted to slow down or stop through legislation, the high-end of these estimates shows that **approximately 5 million jobs could be at risk** because of the regulatory choices being made by this administration.

The Hippocratic Oath says, "First do no harm," and indeed, much of our work has focused on first making certain that this administration does no further harm to our economy by stopping some of its most dangerous rules. But we haven't stopped there. The bills we advanced to promote energy development and innovation in the communications sector have the potential **to create hundreds of thousands of jobs** thanks to private-sector investment and innovation. Protecting the jobs we have and encouraging the creation of new ones – that's exactly what a pro-growth jobs agenda is all about.

Focus on Runaway Government Spending and Unsustainable Public Debt

For much of the last year, the national dialogue and our debates here in Congress focused on the drivers of annual budget deficits and the unsustainability of our national debt. And for good reason: In November, the national debt surpassed \$15 trillion and in August our nation faced the first-ever credit rating downgrade on our debt. These dubious milestones underscore the urgency of the fiscal challenges we face.

There are two fundamental truths we all understand when it comes to our fiscal challenges: first, economic growth is essential – our lackluster economy is making it significantly harder to dig out of this pile of debt; and second, we cannot achieve the level of savings we need – in the trillions, with a “t” – unless and until we are willing to tackle the major drivers of our long-term deficits, namely the ever-rising cost of health care, which is readily apparent as the Medicare and Medicaid programs careen toward bankruptcy.

For that reason, our efforts to promote economic growth and reject job-destroying government policies are a direct and intentional effort to address our fiscal challenges along with our economic ones. Likewise, we intend to engage in a longer-term national dialogue about fundamental health care reform, including necessary changes to strengthen entitlement programs and ensure they are sustainable for future generations.

As we address these parallel challenges in the long term, we have also done our part to achieve immediate savings. In 2011, we voted on bills to pare away at both discretionary and mandatory spending with immediate changes to repeal unnecessary programs, reform one of the biggest unnecessary drains on our health system, and bring in revenue through spectrum auctions. Following is a summary of the major bills advanced by the Energy and Commerce Committee to help drive down our deficit.

The medical liability reform included in H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act, introduced by Rep. Phil Gingrey, M.D., saves taxpayers **\$57 billion** and will save patients and the broader health system even more.

By eliminating a pair of unaccountable slush funds in the health care law, we voted to save taxpayers billions: H.R. 1213, which I authored, shuts off the limitless spending spigot created in the health care law to fund state-based exchanges. CBO estimates this will save taxpayers **\$14 billion**. Similarly, Health Subcommittee Chairman Joe Pitts authored H.R. 1217 to repeal the so-called Prevention and Public Health Fund, which is a perpetual multi-billion dollar piggy bank for this and future Secretaries of Health and Human Services. This bill will save **\$16 billion** by ending duplicative spending on prevention and public health programs.

Reps. Phil Gingrey, M.D., and Cathy McMorris Rodgers authored legislation to save money for the federal government and states by restoring important Medicaid flexibility. The State Flexibility Act (H.R. 1683) repeals the maintenance of effort requirements first imposed in the failed 2009 stimulus package and later made permanent as part of the health care law. By empowering states

to make common-sense changes to their Medicaid programs, this bill will save taxpayers **\$2.1 billion**.

The Obama health care law was filled with numerous other duplicative or simply unnecessary spending programs, and Members of the Energy and Commerce Committee worked over the last year to identify and eliminate them one by one. Rep. Michael C. Burgess, M.D., introduced H.R. 1214 to eliminate a duplicative new program that awards grants to support the construction of school-based health centers. Rep. Bob Latta introduced H.R. 1215 to modify a new program establishing grants for “personal responsibility education” programs. His bill converts the automatic spending into a funding authorization so Congress will decide whether and by how much to fund this program each year. In the same way, Rep. Brett Guthrie introduced H.R. 1216 to convert a program for teaching health centers development grants from mandatory to discretionary spending. Taken together, these bills to end duplicative or unnecessary programs save nearly **\$550 million**.

While much of the savings we achieved over the past year came by eliminating waste and misspent funds in health care, the Committee also scored a major victory for the American public as the year came to a close with a bill that will simultaneously expand access to high-speed Internet services and generate major savings for taxpayers. Subcommittee Chairman Greg Walden’s Jumpstarting Opportunity with Broadband Spectrum (JOBS) Act generates an estimated **\$16.5 billion** in revenues by freeing up airwaves for auction, which will spur billions in private-sector investment and massive job creation.

These bills from the Energy and Commerce Committee, if enacted, together will save taxpayers **more than \$100 billion**. As Congress works to restore fiscal discipline, a \$100 billion dent in the deficit is certainly a good place to start.

Focus on Securing Individual Freedoms

The relationship between patients and their doctors is extraordinarily personal, and the government’s intrusion into the exam room was a significant encroachment into citizens’ lives. After the House voted to repeal the entire health care law, the Committee took out a magnifying glass to scrutinize the details hidden in the 2,700-pages of controversial legislation. Nearly 20 hearings revealed a rising price-tag, multi-billion dollar slush funds, bailouts to unions and Hollywood, a controversial bureaucratic board tasked with cutting Medicare spending by limiting access to care, and countless consequences for job creators.

Of course, one of the greatest infringements of this law on individual freedom is the unconstitutional individual mandate that requires Americans to purchase government-approved health insurance. The U.S. Supreme Court is scheduled to hear arguments in the legal challenge to this law in March, roughly two years after it was signed into law. And our team is hard at work developing the kinds of solutions that could replace the law if it is stricken down, as we hope and expect it will be.

As we work to secure individual freedoms, an important part of our work is recognizing and protecting the sanctity of human life. The House last year approved, with support from our Committee, the Protect Life Act and the No Taxpayer Funding for Abortion Act, both of which ensure tax dollars are not used to fund abortions through money allocated in the President's health care law or any other federal program. The majority of Americans oppose taxpayer-funded abortions, which is why Congress continues taking steps to safeguard the taxpayers' dollars and defend conscience protections, particularly for health professionals.

Our health care system is not the only aspect of Americans' lives where government is steadily expanding its reach. Particularly in our communications and technology sector, we have seen a disconcerting effort to exert government control.

It began decades ago with the so-called Fairness Doctrine, an insidious attempt to control the news and information disseminated over the public's airwaves. In the face of public outcry, the rules have long since been abandoned in practice and enforcement. Yet they remained on the books, needlessly endangering the sacred freedoms of speech and the press and reminding us of an earlier era when government officials thought they knew best what news American citizens ought to hear. We know the best way to prevent a bad law from being resurrected is to wipe it from the books entirely, which is why we called on the Federal Communications Commission last year to finally erase this inappropriate government intrusion from our laws for good. At our urging – and with a clear declaration that we were prepared to take action to eliminate these rules if the FCC didn't – the agency finally moved in August to eliminate these and other obsolete communications rules.

Unfortunately, other dangerous federal rules governing communications have not been so easy to obliterate. In December 2010, the FCC issued Internet rules that stifle innovation, investment, and jobs. These so-called “network neutrality” or “open internet” rules do quite the opposite – they put government in charge of some of the most basic interactions in online enterprise including decisions about how to manage broadband networks, create technology partnerships, and manage investments in innovation.

The FCC, which issued the rules on a partisan 3-2 vote, had no basis for its actions. It failed to provide evidence of any sort of Internet crisis warranting federal intervention, nor did it offer sufficient legal authority for this unprecedented government power-grab over the online ecosystem. To protect the Internet and the freedoms that allowed it to flourish from its creation to the robust web that exists today, the House voted on April 8, 2011, to overturn the FCC's controversial rules using the Congressional Review Act, a tool established by Congress – and championed by key Democrats, including Senate Majority Leader Harry Reid – to permit the legislative branch to reject inappropriate federal regulations.

Conducting Substantive Oversight – Pursuing Investigations Wherever They Lead

The goal of Congressional oversight is to shine the light of day on a massive government bureaucracy. We use it to root out waste, fraud, and abuse. We use it to show the American people how government agencies are spending their hard-earned dollars and whether they are fulfilling their public mission. And there are few cases in the last year that more clearly demonstrate the need for – and the power of – Congressional oversight than exposure of the half-billion dollar government loan to now-bankrupt Solyndra.

Included in this section:

- *Reckless Stimulus Gamble and the White House’s Refusal to Give Taxpayers Answers*
- *Health Care Oversight: Exposing Runaway Spending and Massive Government Expansion*

A Reckless Stimulus Gamble and the White House’s Refusal to Give Taxpayers Answers

We began our investigation nearly two years after the President’s stimulus package had been signed into law and aware that virtually no oversight had been conducted to monitor how hundreds of billions of taxpayer dollars had been allocated or whether that spending was achieving its intended goal of creating jobs and holding down unemployment. In fact, one of the only things that *was* known is that, after the stimulus became law, the national unemployment rate quickly surpassed 8 percent despite the administration’s promises that it would stay below that level with enactment of the roughly \$800 billion in spending – and it remains well above 8 percent today.

The stimulus law took an existing federal loan guarantee program at the U.S. Department of Energy and narrowed its scope – limiting participation to so-called green energy firms – while also adding greater risk to taxpayers by eliminating a previous requirement that participating companies finance a portion of the costs, known as the credit subsidy costs. Because participating companies did not have to put up even a modest amount of capital to secure the loan, experts warned that loan recipients could be even more financially shaky, ultimately putting taxpayers at greater risk. Such were the warnings we heard about Solyndra, the much-heralded solar panel manufacturer that received the very first loan guarantee under this program (along with a significant amount of attention and plaudits from the Obama administration).

The goal of our investigation was to assess the decision-making behind the awarding of this guarantee – we wanted to determine whether Solyndra was financially sound, whether the company should have received the loan in the first place, whether the Department of Energy conducted a proper due diligence review, whether the company was creating the new jobs that

were promised, and at what cost to taxpayers. However, the investigation quickly evolved, with Solyndra declaring bankruptcy in August 2011 and facing an FBI raid shortly thereafter.

With clear evidence that the Obama administration made a bad bet on this company to the tune of \$535 million, the Committee ramped up its inquiry to determine answers to the basic questions of who was involved in key decisions surrounding the loan and its subsequent restructuring. Experts both inside and outside the administration sounded the alarm bells about Solyndra's financial troubles and shaky business model, and we need to know why those warnings were ignored time and time again.

Our investigation has turned up a series of questionable, hurried, and outright foolish decisions as the administration made this loan and did everything in its power to prop up the company as it spiraled toward bankruptcy. Yet key questions remain, due in large measure to the White House's refusal to answer the most basic questions about the role key West Wing advisors played in this taxpayer-funded debacle. The twists and turns of this investigation are really unbelievable; suffice it to say, [a clear pattern](#) of obstruction and stimulus politics has emerged that casts a pall on this administration.

The goal of this and any investigation is to get a full and complete picture of what went wrong so that we, as policymakers, can take the necessary steps to protect taxpayers from similar government failures in the future. In the case of Solyndra and similarly dubious stimulus giveaways, we intend to continue our investigation until we have the answers we need to assure taxpayers we know exactly what went wrong, and we will prevent it from happening again.

Health Care Oversight: Exposing Runaway Spending and Massive Government Expansion

Another central focus of our oversight efforts last year was the President's controversial health care law. Because this administration has held itself up to be the "most open and transparent in history," we knew it was important to probe the secret meetings with special interest groups that took place as the law was being developed. The President promised to let C-SPAN's cameras into the room as the law was written – instead, we learned about meetings convened outside the White House's walls to avoid even the most basic accountability of visitor logs tracking who comes in and out of the White House to advocate their preferred positions on public policy. There is much more to learn about how this law was written and what policies were traded away in special interest deals.

What we do know about this law confirms some of our greatest fears about the consequences of a massive government expansion into health care. We were the first to probe a new federal office and ask the tough questions about why this administration was handing out waivers, exempting businesses, unions, and entire state-based plans from the law's costly mandates. Earlier this month, the administration published the final list of waivers it handed out to protect Americans from its own health care law. More than 4 million Americans are being shielded from the high costs of the law and the loss of coverage that could come without a waiver. Unfortunately, millions of Americans are still enrolled in plans that got no waiver. And beginning in 2014, waivers will no longer be available as the law kicks in completely and no one is shielded from its burdensome mandates.

The same office responsible for doling out waivers is also the one doling out approximately \$5 billion to state governments, Fortune 500 companies, and Hollywood unions. We first called public attention to this program in March 2011, shining a light on how quickly money was being shoveled out the door in the Early Retiree Reinsurance Program with absolutely no assurances that it was protecting seniors who would otherwise lose their insurance coverage without this taxpayer spending. The program was initially expected to last through 2014, but we revealed that it would be drained of resources much sooner, and just as we predicted, the program ran out of money at the end of last year.

While there are many programs within the health care law that are financially unsound, few rise to the level of the CLASS Act, which our oversight helped expose and paved the way for our efforts to repeal it. The CLASS program is a massive new entitlement created under the health care law and used to inflate the supposed “savings” from the law despite the fact that independent and government actuaries have always agreed that the program was financially unsustainable and would be a massive burden on taxpayers in the long run.

In September, we released an investigative report called “CLASS’ Untold Story: Taxpayers, Employers, and States on the Hook for Flawed Entitlement Program.” Drafted in partnership with our colleagues in the U.S. Senate and with other involved House committees, we revealed the depth of the administration’s knowledge about this program’s financial insolvency and the fact that they moved forward to include it in the law anyway as a budget gimmick. Among our findings were internal emails showing that senior HHS officials publicly pronounced the CLASS program to be solvent in the fall of 2009, even as the agency’s own employees were calling CLASS “a recipe for disaster.” Not long after our report was released, HHS Secretary Kathleen Sebelius announced that the Department was suspending implementation of the program, saying “I do not see a viable path forward at this time.” On November 30, 2011, our Full Committee voted to repeal this unsustainable program.

Yet many other financial burdens created or exacerbated by this law remain. Today, Medicaid spending consumes nearly a quarter of state government budgets, often forcing significant cuts to other state priorities, such as education and law enforcement. With states facing billions in projected shortfalls over the next couple of years, governors continue to press Washington for greater flexibility in advance of the health care law’s implementation. To better understand these challenges and work to identify solutions, the Committee has investigated the dramatic burden the health care law placed on state budgets. Early in the year, we held a hearing to highlight governors’ growing concerns about the unfunded mandates in the health care law and their profound impact on state budgets. During that same time period, I worked with Senate Finance Committee Ranking Member Orrin Hatch to release a comprehensive report estimating the cost of the Medicaid expansion in the health care law to be over \$118 billion for states.

While the President’s health care law was, and still is, ripe with opportunities for Congressional review, our oversight in the health care space extended far beyond that controversial law. For example, we continued making progress in 2011 to finally identify the culprits behind the unsolved case of toxic and sometimes lethal contaminated heparin supplies that were imported from China and given to U.S. patients three years ago. In October, we once again pressed the Food and Drug Administration for answers and urged the FDA Commissioner to cooperate with our probe to bring those responsible to justice.

This is not the only area where we exercised oversight of the FDA. We held a hearing early in the year on the status of FDA's screening efforts at the border, a critical responsibility when it comes to preventing the entry into this country of food, pharmaceuticals, and other medical products that violate our laws or pose a threat to public health. Our commitment to an effective FDA was shown later in the year as we pressed the agency for information about critical food safety matters, including the recent case of Listeria-tainted cantaloupes that was the deadliest outbreak of foodborne illness in more than 25 years.

This is just a sampling of our oversight efforts in the last year, and particularly those where investigations progressed in the final quarter of 2011. Our efforts to hold government accountable to the American people will continue just as strongly in 2012.

Repealing Burdensome Regulations that Hamper Our Economy and Removing Barriers to Private-Sector Job Creation

House Republicans launched the [Plan for America's Job Creators](#) to offer real solutions that will help put America back to work. We recognize that runaway regulations are one of the biggest threats to economic recovery, which is why many of our solutions are about developing a more sensible approach to regulation. Complex and burdensome federal rules are expensive, forcing job creators to invest in red tape compliance instead of hiring and thriving. Worse, the continued threat of new regulations creates a climate of uncertainty, keeping investments and ingenuity on the economic sidelines. The Energy and Commerce Committee is proud to have played a big role in developing ideas as part of the House Republican Plan for America's Job Creators, and we will continue offering these kinds of common-sense solutions in the coming year. Below is a brief summary with links to additional resources on bills developed by the Energy and Commerce Committee – these are among the [job-creating bills approved by the House, but stalled in the Senate](#).

Energy Tax Prevention Act (H.R. 910)

Approved by the House on April 7, 2011 by a vote of 255-172

The Energy Tax Prevention Act is designed to stop the EPA from misusing the Clean Air Act to impose greenhouse gas regulations to address climate change. This legislation puts Congress back in charge of our energy future and stops EPA's cap-and-trade agenda, which threatens to drive up energy prices, send jobs overseas, and hamstring our economic recovery. Just one day before the House approved H.R. 910 with bipartisan support, a total of 64 Senators voted for one or more proposals to block EPA's greenhouse gas regulatory regime, underscoring the bipartisan support on both sides of the Capitol.

Resolution Disapproving the FCC's Internet Rules (H.J. Res. 37)

Approved by the House on April 8, 2011 by a vote of 240-179; motion to consider defeated by the Senate on November 10, 2011

The FCC's highly controversial – and legally suspect – “network neutrality” rules represent an unprecedented government infringement into the Internet by establishing and imposing new government rules on the web. The resolution of disapproval, H.J.Res 37, overturns the rules and ends the uncertainty created in the marketplace by the FCC's Internet power-grab.

Jobs and Energy Permitting Act (H.R. 2021)

Approved by the House on June 22, 2011 by a vote of 253-166

The Jobs and Energy Permitting Act advances our nation's energy security by eliminating the administration's bureaucratic delays that have stalled offshore energy production in the Outer Continental Shelf. The development of Alaska's Beaufort and Chukchi seas alone could produce up to 1 million barrels of domestic oil per day and create more than 50,000 American jobs.

(Keystone XL Pipeline) North American-Made Energy Security Act (H.R. 1938)

Approved by the House on July 26, 2011 by a vote of 279-147

The North American-Made Energy Security Act was intended to expedite the President's final decision on construction of the Keystone XL pipeline, a shovel-ready project that will create tens of thousands of American jobs and bring millions of barrels of secure Canadian oil to U.S. refineries. H.R. 1938 required the President to issue a decision on the pipeline's construction by November 1. With that deadline passed and the President still refusing to make a final decision on the pipeline, the House included a similar measure in its year-end package, the Middle Class Tax Relief and Job Creation Act.

Transparency in Regulatory Analysis of Impacts on the Nation Act (H.R. 2401)

Approved by the House on Sept. 23, 2011 by a vote of 249-169

The TRAIN Act provides for an honest accounting of the cost of EPA's rules. The bill requires an interagency committee to analyze the cumulative economic impacts of certain rules to better understand how these regulations affect jobs, energy prices, electric reliability, and America's overall global competitiveness. The House-passed legislation also includes language to shield American families and businesses from the costly impacts of EPA's Utility MACT rule and Cross-State Air Pollution Rule (CSAPR), providing additional time to develop and comply with achievable utility emissions limits, and restoring the rule in place before the CSAPR, which was recently halted in federal court amid several challenges.

Cement Sector Regulatory Relief Act (H.R. 2681)

Approved by the House on Oct. 6, 2011 by a vote of 262-161

The Cement Sector Regulatory Relief Act will protect the domestic cement manufacturing industry from new rules issued by the EPA that currently threaten widespread plant closures and thousands of American jobs. This legislation provides a remedy to EPA's flawed Cement MACT rules with a directive to EPA to propose reasonable regulations. The bill gives more time for cement manufacturing facilities to come into compliance so they can keep their doors open

while making progress to reduce their emissions, which will allow us to keep jobs here in America rather than being forced to import cement from overseas as we work to rebuild our economy and our infrastructure.

EPA Regulatory Relief Act (H.R. 2250)

Approved by the House on Oct. 13, 2011 by a vote of 275-142

The EPA Regulatory Relief Act offers a common-sense alternative to EPA's regulations for industrial, commercial, and institutional boilers and incinerators. The EPA Regulatory Relief Act gives EPA time to re-propose its costly Boiler MACT rules and, importantly, gives affected facilities more time to come into compliance so that the emissions standards and timelines are achievable for current facilities.

Coal Residuals Reuse and Management Act (H.R. 2273)

Approved by the House on Oct. 14, 2011 by a vote of 267-144

The Coal Residuals Reuse and Management Act provides for the safe management and disposal of coal ash in a way that preserves jobs and encourages recycling. The bill provides a practical alternative to EPA's misguided plan to regulate coal ash by creating a state-based program that sets enforceable federal standards.

Farm Dust Regulation Prevention Act (H.R. 1633)

Approved by the House on Dec. 8, 2011 by a vote of 268-150

The Farm Dust Regulation Prevention Act removes the regulatory uncertainty surrounding EPA's current and future regulation of rural dust. The bill will prevent EPA from changing its standard for coarse particulate matter for one year and will exempt "nuisance dust" from federal regulation where such dust is already regulated under state, tribal, or local law.

Protecting Individuals, Families, and Communities

On January 3, 2012, President Obama signed into law H.R. 2845, the Pipeline Safety, Regulatory Certainty, and Job Creation Act. The bill was a bipartisan collaboration with our colleagues on the Transportation and Infrastructure Committee and in the U.S. Senate to make necessary updates and improvements to pipeline safety.

While our nation's 2.5 million miles of pipeline infrastructure remain the safest and most effective mode of transporting essential energy resources throughout the United States, recent safety failures underscored that additional steps were needed to update and improve these guidelines. Among its numerous safety provisions, the new law increases maximum violation fines, requires notification of an incident within one hour of its confirmed discovery, provides for the use of automatic shut-off valves when needed on new transmission lines, sets up leak detection standards for liquid pipelines, and provides for a federal review of pipelines buried under waterways. All of these measures will help pave the way toward a safer energy future.

Like our pipeline infrastructure, we recognize that other critical infrastructures must be protected, particularly in light of emerging threats. That is why our Committee and several of its Subcommittees engaged in hearings and oversight as part of a Congress-wide effort to update cyber-security policies for the emerging threats of the 21st century. And it's not just physical infrastructure that must be secured, but also our virtual world. That is why we launched an aggressive review of online privacy, as well as specific efforts to address data security in the wake of high-profile breaches.

Upholding the Tradition of the Energy and Commerce Committee

The Energy and Commerce Committee is the oldest standing legislative committee in the U.S. House of Representatives. With responsibility over telecommunications, consumer protection, food and drug safety, public health research, environmental quality, the availability of affordable energy, and the promotion of interstate and foreign commerce, the work we conduct each day affects virtually all facets of Americans' lives. It is a responsibility that we all take seriously, which is why our Committee has such a proud tradition of responsible legislating and robust oversight.

While facts and figures cannot tell the whole story of what we accomplished in our first year, I do believe these figures help paint the picture of a committee that worked extraordinarily hard on behalf of taxpayers.

- 109** Hearings held by Energy and Commerce in 2011
- 26** Bills approved by Energy and Commerce in 2011
- 21** E&C Bills approved by the House in 2011
- 92** Amendments considered in Committee
- 105** Amendments to E&C bills considered on the House Floor

And it's just the beginning. Get ready for 2012.