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Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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Backgrounders

Key Issues
before the

Committee on Energy and Commerce
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Health Agenda

Repeal and Replace of Obamacare: Repealing Obamacare will be the central health related focus of the Committee over the next four years. The cost of the new entitlement and Medicaid expansion have been severely underestimated and will prove disastrous to our long term fiscal health. The taxes included in the law and the hundreds of thousands of pages of regulations that will come are hindering economic growth and providing an uncertain environment for job creation. The law will also fundamentally alter the provision of medicine in our country. We have already witnessed within the past year the growing power of Washington regulators to make arbitrary rules and selectively enforce those rules related to all aspects of our health care system. This power provided to federal bureaucrat will only intensify. The Committee will hold them accountable and over time return this power back to the American people. The Committee will also develop better solutions that are based on increased competition and choice with the goal of lower health care costs for individuals and families. The Committee will also legislate to ensure federal funds are not used to terminate pregnancies.

Medicaid: Reforming the Medicaid program will be a top priority of the nation's governors and will be a priority of the Committee. The program is on a trajectory to be the largest federal health care program. Obamacare will place 16 million to 20 million additional people on the Medicaid rolls but did nothing to actually reform the program. Federal rules handcuff the governors from tailoring the program to fit their individual state needs. The Committee will solicit the opinions of state leaders on tools they need to better control fraud and abuse in their programs and what flexibility the states need to more efficiently administer their program.

Medicare: The Committee is committed to reforming the methodology on how Medicare pays for physician services. Obamacare cut over \$500 billion from the Medicare program; using the cuts to expand Medicaid and create a new entitlement. However, the law failed to address the existing problems in the Medicare program like the lack of a predictable and sustainable system to reimburse the physicians that seniors depend on. We will work to recapture the Medicare cuts contained in Obamacare so they can be used to strengthen the Medicare program both to provide higher quality care and make the program more financially sound.

Oversight of the Food and Drug Administration (FDA) and Regulatory Competitiveness: FDA regulated products account for 25 cents out of every dollar spent by our nation's consumer. The agency's actions have a significant impact on the American economy. By providing effective oversight, we will improve our country's regulatory competitiveness so we can get Americans back to work and improve patients' lives. On October 1, 2012 laws related to prescription drug user fees, medical device user fees, and pediatric testing of drugs expire and will provide the Committee the vehicle to reestablish the United States as the leader in medical innovation and keep the jobs that comes with that designation.

Department of Health and Human Services (HHS) Discretionary Budget: An examination and potential reorganization of HHS agencies will be a critical component of the Committee's agenda. Over \$80 billion a year is spent by HHS on discretionary program often at overlooked agencies like the Health Services and Resources Administration, the Agency for Healthcare Research and Quality, and the Centers for Disease Control. These agencies frequently have overlapping functions and duplicative programs. As part of our commitment to balancing the budget and identifying wasteful spending, we will examine the budgets and functions of each of the agencies to identify cost saving proposals and make government operations more efficient.

Energy and Power Agenda

EPA Regulatory Chokehold: We believe it critical that the Obama Administration “stop” imposing its new global warming regulatory regime, which will undermine economic growth and U.S. competitiveness for no significant environmental benefits. For EPA’s other multi-billion dollar Clean Air Act rules, we believe the agency has been regulating “too much too fast,” without fully analyzing the feasibility and economic and job impacts of the new rules. Congress will be reasserting its oversight function to ensure sufficient analysis supports the proposed new rules, that the rulemaking process allows for open and full evaluation and information, and that the Administration is fully considering jobs and economic impacts in its decision-making. This oversight effort should be a deliberate, thoughtful, and probing process so that the Committee is satisfied that the agency has done its job. The stakes could not be higher; if the Obama Administration succeeds in imposing unaffordable and unworkable permitting and other rules through EPA, it will severely impede the domestic manufacturing and industrial growth necessary for this nation to create jobs and emerge strongly from a devastating recession.

Rising Gasoline Prices: Obama Administration policies are helping gasoline prices to rise and prices are expected to continue higher. Almost 67% of the price of gasoline is the price of oil; and yet, the Administration has consistently created one artificial burden after another to thwart the exploration and production of domestic energy resources. Further compounding the problem, the Administration’s policies on refining make the manufacturing process of transportation fuels more expensive. Our oversight will illuminate the necessity of these resources for continued economic recovery and job creation. In the face of \$4 gasoline, calls for increased supply will be stronger than ever. We will respond by promoting affordable, abundant, and secure sources of energy by preventing the Administration’s regulatory overreach and expanding access in an environmentally responsible manner.

Renewable Electricity Mandates: Although governments have important roles to play in facilitating development of alternative energy, we oppose energy technology mandates that must be met regardless of cost. We will be exploring the electricity cost and reliability implications associated with federal government mandates for increased renewable electricity.

Nuclear Oversight & Investigations: China is building 25 nuclear plants, while the U.S. can’t even process the permit for one, despite Obama Administration promises to “restart” nuclear in the United States. Nuclear power plant licensing remains bogged in federal review, existing facilities face costly new EPA regulations, and the Administration has shirked its legal obligations to develop a nuclear waste repository at the Yucca Mountain site by shutting down the project, developed at the cost of more than \$10 billion. This is not only bad energy policy, but exposes US taxpayers to billions of dollars of new liability costs. The Committee intends to conduct thorough oversight to identify opportunities to reduce regulatory red tape and to ensure that the Administration adheres to its statutory obligations to continue Yucca Mountain development.

Waste in the Stimulus’s Energy Programs: The Committee is committed to conducting oversight over the energy portions of the American Recovery and Reinvestment Act of 2009 (the “Stimulus”). Republicans have a host of questions regarding the efficacy of renewable technology and energy efficiency spending under the Stimulus, and until such questions regarding these programs are comprehensively answered, further Republican conference support for additional spending on such programs will not be forthcoming.

Environment and Economy Agenda

Resource Conservation and Recovery Act (Solid Waste Disposal Act): Coal Combustion By-Products (CCB) Requirements (coal ash). The Obama Administration proposes using one of two (2) new regulatory constructs for CCBs: one for hazardous waste and one for solid waste. For three decades States have opposed, and previous Administrations have rejected, calls to regulate CCBs at the Federal level. States remain concerned by these proposals over needless federal intrusion; and several industries industry fear that beneficial uses of coal ash will be stunted over liability concerns with using a newly designated “hazardous waste” in domestically produced concrete or wall board.

Safe Drinking Water Act (SDWA): Hydraulic Fracturing. Two recent efforts by the Obama Administration could frustrate domestic natural gas development. The Interior Department announced it would regulate this practice on Federal lands while EPA invoked its Emergency Authority under Section 1431 of SDWA to intervene on a well in Texas -- Texas and EPA disagree on whether EPA’s action was warranted. We should determine whether EPA is overreaching its existing legal authority.

Nuclear Waste Policy Act. Nuclear waste management policy is at a crossroads. Federal law provides for development of a waste repository in Nevada, but since 2009, the Department of Energy has reversed progress toward implementing the law. U.S. electricity consumers have paid billions of dollars into the fund to build the repository and manage the waste, but have little to show for it.

Chemical Facility Anti-Terrorism Standards Act (CFATS) and Title IV of the Bioterrorism Preparedness Act (Title IV). Created in the Fiscal Year 2007 appropriations, CFATS sunsets in March 2011.

Appropriations Acts have carried one year extensions for the past two years. Even though the program is not fully implemented, some in Congress and the Obama Administration support efforts to dramatically expand the CFATS program into non-security areas. We should highlight how the program has not yet been fully implemented and that expansion beyond security against terrorism could kill domestic investments and jobs. Any program extension should preserve the original focus on security against terrorism. As for the Bioterrorism Act, Title IV, enacted in 2002, we should only require water utilities to update and submit their vulnerability assessments and site security plans. Providing additional EPA regulatory authority could lead to a program that deviates greatly from the security mission authorized by Congress.

Toxic Substances Control Act (TSCA). Enacted in 1976, TSCA is the only Federal environmental law that regulates all forms of chemical manufacturing from “cradle to grave.” Several public and private interests seek changes to TSCA, but they vigorously disagree on what the problems and solutions are. Robust oversight to understand existing authorities should precede major legislation.

Comprehensive Environmental Response Compensation and Liability Act (CERCLA, aka Superfund). Originally intended to clean-up the most heavily contaminated sites, Superfund has become a stereotypical government program: it spends too much, accomplishes too little, and perpetuates itself. Generally less than 50 cents of each dollar spent goes to actual remediation and sites take about 20 years to cleanup. We must understand why the program has been such a morass for so long, and what can be done to restore focus on environmental remediation and fiscal discipline.

Commerce, Manufacturing and Trade Agenda

Consumer Product Safety Improvement Act (CPSIA)

- A top priority for the subcommittee is to fix this law, passed in 2008, which has already had severe economic consequences for many companies, particularly smaller U.S. manufacturers.
- Even stricter provisions are scheduled to take effect over the next 6 months, some retroactively, threatening many more jobs unless Congress acts.

National Highway Traffic Safety Administration (NHTSA)

- Time is proving that last year's Toyota crisis was overblown, and the many regulatory mandates passed by Committee Democrats in response are unnecessary as well as burdensome
- NHTSA's authorization has expired, and Senate Commerce (Rockefeller) is likely to push for more money, more authority, higher penalties and more fodder for the trial bar

Federal Trade Commission (FTC)

- Senate Commerce may push reauthorization legislation
- FTC is seeking expanded regulatory authorities that were rejected by Republicans (and Congress as a whole) last year
- Many industries are concerned with the direction of the FTC's regulatory priorities

Others

- Inaction on the pending Free Trade Agreements with Panama, Colombia and South Korea delays significant opportunities for economic growth
- Republicans should lead the charge in finding ways to provide regulatory relief as well as tax relief for U.S. manufacturers

Communications and Technology Agenda

Network Neutrality

- Nullification of rules through resolution of disapproval under the Congressional Review Act.
 - Requires a simple majority in both chambers and is filibuster-proof in the Senate, but must be introduced within 60 days of official FCC transmittal of the rules.
 - Clock tolls during recesses.
 - Transmittal has not yet occurred, but expected soon.
- Series of hearings on the harm regulation of the Internet will cause to investment, innovation, and jobs, as well as the FCC's abuse of authority and process.

Legislation Auctioning Spectrum for Broadband

- Would promote broadband, create jobs, spur the economy, and raise billions for the treasury.
- Might include: 1) incentive auctions sharing proceeds from spectrum *voluntarily* returned by licensees; 2) commercial auction of the D-Block; 3) return of government spectrum through relocation and more efficient use, taking into account national security.

FCC Process Reform

- FCC has long been criticized as slow, inefficient, and less than transparent.
- Network neutrality and Comcast transaction latest examples of abuse of power and process.

Oversight of Broadband Provisions in Stimulus Package

- The NTIA and RUS were allocated \$7 billion for broadband grants and loans.
- The program is vulnerable to waste, fraud, and abuse.
- The NTIA's oversight funding in the current continuing resolution expires March 4.

Reform of Universal Service Fund

- The fund costs \$8.8 billion per year and continues to grow, currently amounts to a 15.5 percent surcharge on consumers' long-distance bills, and skews competition.
- In exchange for substantial fiscal reform, might support migration of fund to broadband.

Other Possible Topics

- Internet privacy.
- Cybersecurity.
- Content protection.