THE ENERGY TAX PREVENTION ACT OF 2011

The following is a point-by-point rebuttal to EPA Administrator Jackson's recent testimony on the Energy Tax Prevention Act before the House Subcommittee on Energy and Power. The rebuttal reaffirms that the Energy Tax Prevention Act will:

- Protect jobs in America's manufacturing sector;
- Protect consumers from higher energy costs;
- Put Congress in charge of the nation's climate change policies; and
- Ensure that the public health provisions of the Clean Air Act are preserved.

Taking Exception

EPA: "I respectfully ask the members of this Committee to keep in mind that EPA's implementation of the Clean Air Act saves millions of American adults and children from the debilitating and expensive illnesses that occur when smokestacks and tailpipes release unrestricted amounts of harmful pollution into the air that all of us breathe."

- **FACT**: The Energy Tax Prevention Act does not affect the Clean Air Act's provisions dealing with *real* pollution. For example, standards for the 6 criteria pollutants at the heart of the CAA—lead, ozone, nitrogen oxides, sulfur dioxide, carbon monoxide, and particulate matter—remain in place. Also, as another example, the Energy Tax Prevention Act does not affect section 112 of the CAA, which deals with toxic pollutants. The Energy Tax Prevention Act *stops* EPA regulations covering carbon dioxide and greenhouse gases (GHGs) *that have no direct human health impacts*. EPA's regulations, as EPA has admitted (see below), will have no meaningful affect on global climate. They will, however, cost workers their jobs and their livelihoods.

EPA: "Mr. Chairman, and members of the committee, thank you for inviting me to testify about [The Energy Tax Prevention Act] to *remove* portions of the Clean Air Act…" [Emphasis added]

- **FACT**: The Energy Tax Prevention Act does no such thing—if it became law, the Clean Air Act would remain fully intact. The bill simply requires that, as Congress originally intended, EPA may not regulate GHGs to address climate change.

EPA: "In April 2007, in the case of *Massachusetts v. EPA*, the United States Supreme Court…rejected the EPA Administrator's refusal to determine whether that [greenhouse gas] pollution endangers American's health and welfare."

- **FACT:** This tells only part of the story—and conveniently elides the important point. Central to the debate on EPA's cap-and-trade regulatory agenda is whether EPA was *required* by the Supreme Court to regulate GHGs. It was not. EPA has stated several times that it was—Administrator Jackson even said that the Supreme Court, among

others, called "for enduring, pragmatic solutions to reduce the greenhouse gas pollution that is causing climate change." This is false.

The *Massachusetts* decision gave EPA the *discretion* to determine whether carbon dioxide endangers public health and welfare. As the Court ruled, "*Under the Act's clear terms, EPA can avoid promulgating regulations only if it determines that greenhouse gases do not contribute to climate change or if it provides some reasonable explanation as to why it cannot or will not exercise its discretion to determine whether they do*." EPA wrongly decided that they do—and unleashed a regulatory barrage that is harming the economy and keeping unemployment high.

EPA: "[The Energy Tax Prevention Act] would, in its own words, 'repeal' the scientific finding regarding greenhouse gas emissions. Politicians overruling scientists on a scientific question—that would be part of this committee's legacy."

- **FACT**: EPA's endangerment finding was made by *Administrator Jackson*, who used her political and policy judgment in considering the scientific evidence before her. The Energy Tax Prevention Act puts Congress, rather than the EPA Administrator, in charge of deciding the nation's climate change policy.

EPA: "[The Energy Tax Prevention Act] would block the Administration's announced plan to follow up with Clean Air Act standards for cars and light trucks of Model Years 2017 through 2025. Removing the Clean Air Act from the equation would forfeit, on a massive scale, both pollution reductions and oil savings that the combined program otherwise would achieve, because the compliance structure would be altered and also vehicle air conditioning systems no longer would be covered."

- **FACT**: The Energy Tax Prevention Act *does not* prohibit the National Highway Traffic Safety Administration (NHTSA) from setting fuel economy standards for cars. It stops EPA from regulating carbon dioxide from tailpipes after 2016, regulations that *would have no effect on global warming or oil savings*.

  EPA is contributing practically nothing to the Administration's global warming car deal—about 4 percent of the joint EPA-NHTSA program's emissions reductions. Dropping EPA would therefore have a meaningless effect on oil consumption. And according to EPA, its GHG car standards would mean that "global mean temperature" is reduced by "0.006 to 0.0015 °C by 2100."

  And that will be the likely outcome of anything EPA would attempt to do beyond 2016. EPA and NHTSA's GHG/fuel economy rule for light and heavy duty trucks, for example, would avert 0.002-0.004°C of global warming and 0.012-0.048 centimeters of sea-level rise. "Such changes," Marlo Lewis of the Competitive Enterprise Institute, writes, "would be too small for scientists to distinguish from the 'noise' of natural climate variability."