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Donnelly (IN)  
Doyle  
Driehaus  
Duncan  
Edwards (MD)  
Edwards (TX)  
Ellison  
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Farr  
Fattah  
Filner  
Foster  
Frank (MA)  
Fudge  
Giffords  
Gonzalez  
Gordon (TN)  
Grayson  
Green, Al  
Green, Gene  
Griffith  
Grijalva  
Gutierrez  
Hall (NY)  
Halvorson  
Hare  
Harman  
Hastings (FL)  
Heinrich  
Hersteth Sandlin  
Higgins  
Hill  
Himes  
Hinchee  
Hinojosa  
Hirono  
Hodes  
Holden  
Holt  
Honda  
Hoyer  
Inslee  
Israel  
Jackson (IL)  
Jackson-Lee  
(TX)  
Johnson (GA)  
Johnson, E. B.  
Jones  
Kagen  
Kanjorski  
Kaptur  
Kildee  
Kilpatrick (MI)  
Kilroy  
Kind  
Kissell

Klein (FL)  
Kosmas  
Kratovil  
Kucinich  
Langevin  
Larsen (WA)  
Larson (CT)  
Lee (CA)  
Lewis (GA)  
Lipinski  
Lofgren, Zoe  
Lowey  
Luján  
Lynch  
Maffei  
Maloney  
Markey (CO)  
Markey (MA)  
Marshall  
Massa  
Matsui  
McCarthy (NY)  
McColum  
McDermott  
McGovern  
McHugh  
McIntyre  
McMahon  
McNerney  
Meek (FL)  
Meeks (NY)  
Melancon  
Michaud  
Miller (NC)  
Miller, George  
Mollohan  
Moore (KS)  
Moore (WI)  
Murphy (CT)  
Murphy, Patrick  
Murtha  
Nadler (NY)  
Napolitano  
Neal (MA)  
Nye  
Oberstar  
Obey  
Olver  
Ortiz  
Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
Peters  
Peterson  
Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Reyes

Richardson  
Rodriguez  
Rohrabacher  
Ros-Lehtinen  
Ross  
Rothman (NJ)  
Roybal-Allard  
Ruppersberger  
Lee (CA)  
Lewis (GA)  
Lipinski  
Lofgren, Zoe  
Lowey  
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Meek (FL)  
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Miller, George  
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Murphy (CT)  
Murphy, Patrick  
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Napolitano  
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Pastor (AZ)  
Payne  
Perlmutter  
Perriello  
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Pingree (ME)  
Polis (CO)  
Pomeroy  
Price (NC)  
Rahall  
Rangel  
Reyes

McHenry  
McKeon  
McMorris  
Rodgers  
Mica  
Miller (FL)  
Miller (MI)  
Minnick  
Mitchell  
Nunes  
Moran (KS)  
Moran (VA)  
Murphy, Tim  
Myrick  
Neugebauer  
Nunes  
Olson  
Paul  
Paulsen  
Pence  
Petri  
Pitts  
Platts  
Poe (TX)

Posey  
Price (GA)  
Putnam  
Radanovich  
Rehberg  
Reichert  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rogers (MI)  
Rooney  
Roskam  
Royce  
Ryan (WI)  
Scalise  
Schock  
Sensenbrenner  
Sessions  
Sestak  
Shadegg  
Shimkus  
Shuster  
Simpson

Smith (NE)  
Smith (NJ)  
Smith (TX)  
Snyder  
Souder  
Stearns  
Sullivan  
Terry  
Thompson (PA)  
Thornberry  
Tiahrt  
Tiberi  
Turner  
Upton  
Walden  
Wamp  
Whitfield  
Wilson (SC)  
Wittman  
Wolf  
Young (AK)  
Young (FL)

Representative Buyer of Indiana, or his designee, which shall be in order without intervention of any point of order except those arising under clause 9 or 10 of rule XXI, shall be considered as read, and shall be separately debatable for thirty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. (a) In the engrossment of H.R. 1256, the Clerk shall—

(1) add the text of H.R. 1804, as passed by the House, as new matter at the end of H.R. 1256;

(2) conform the title of H.R. 1256 to reflect the addition to the engrossment of H.R. 1804;

(3) assign appropriate designations to provisions within the engrossment; and

(4) conform provisions for short titles within the engrossment.

(b) Upon the addition of the text of H.R. 1804 to the engrossment of H.R. 1256, H.R. 1804 shall be laid on the table.

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentlewoman from North Carolina, Dr. F. Oxx.

#### GENERAL LEAVE

Mr. POLIS. I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and to insert extraneous material into the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. POLIS. I yield myself such time as I may consume.

Mr. Speaker, House Resolution 307 provides a structured rule for the consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. The rule makes in order a substitute amendment, if offered, by Representative BUYER of Indiana or his designee.

I rise in support of House Resolution 307, the Family Smoking Prevention and Tobacco Control Act. I thank Chairman WAXMAN and my colleagues who serve on the Energy and Commerce Committee for their leadership in this bipartisan effort.

This legislation, which passed this House by a margin of more than 3–1 last July, would at long last give the U.S. Food and Drug Administration, the FDA, the authority to regulate tobacco products and to take additional critical steps to protect the public health. The bill prevents the tobacco industry from designing products that entice young people. It develops programs that help adult smokers quit, and it funds the efforts through fees to tobacco manufacturers.

America's youth face intense pressure every day from friends, fancy advertisements and irresponsible adults to make bad decisions that will affect their long-term health. A 2006 study conducted by the Substance Abuse and Mental Health Services Administration found that 90 percent of all adult smokers began while they were in their teens or earlier and that two-thirds became regular daily smokers before

#### ANSWERED "PRESENT"—1

Cantor

#### NOT VOTING—12

Barton (TX)  
Kennedy  
Levin  
Loebsack  
Miller, Gary  
Pallone  
Pascrell  
Sanchez, Loretta  
Schmidt  
Thompson (MS)  
Watt  
Westmoreland

□ 1823

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### HOOR OF MEETING ON TOMORROW

Mr. POLIS. Mr. Speaker, I ask unanimous consent that, when the House adjourns today, it adjourn to meet at 9 a.m. tomorrow.

The SPEAKER pro tempore (Mr. ALTMIRE). Is there objection to the request of the gentleman from Colorado? There was no objection.

#### PROVIDING FOR CONSIDERATION OF H.R. 1256, FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 307

*Resolved*, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. The amendment printed in part A of the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce; (2) the amendment in the nature of a substitute printed in part B of the report on the Committee on Rules, if offered by

#### NOES—171

Aderholt  
Akin  
Alexander  
Austria  
Bachmann  
Bachus  
Barrett (SC)  
Bartlett  
Biggert  
Bilbray  
Bishop (UT)  
Blackburn  
Blunt  
Boehner  
Bonner  
Bono Mack  
Boozman  
Boustany  
Brady (TX)  
Braley (IA)  
Broun (GA)  
Brown (SC)  
Buchanan  
Burgess  
Burton (IN)  
Buyer  
Calvert  
Camp  
Campbell  
Capito  
Carter  
Cassidy  
Castle  
Chaffetz  
Coble  
Coffman (CO)  
Cole  
Conaway  
Crenshaw  
Culberson  
Davis (KY)  
Deal (GA)  
Dent  
Dreier  
Ehlers  
Emerson  
Fallin  
Flake  
Fleming  
Forbes  
Fortenberry  
Fox  
Franks (AZ)  
Frelinghuysen  
Gallegly  
Garrett (NJ)  
Gerlach  
Gingrey (GA)  
Gohmert  
Goodlatte  
Granger  
Graves  
Guthrie  
Hall (TX)  
Harper  
Hastings (WA)  
Heller  
Hensarling  
Herger  
Hoekstra  
Hunter  
Inglis  
Issa  
Jenkins  
Johnson (IL)  
Johnson, Sam  
Jordan (OH)  
King (IA)  
King (NY)  
Kingston  
Kirk  
Kirkpatrick (AZ)  
Kline (MN)  
Lamborn  
Lance  
Latham  
LaTourette  
Latta  
Lee (NY)  
Lewis (CA)  
Linder  
LoBiondo  
Lucas  
Luetkemeyer  
Lummis  
Lungren, Daniel  
E.  
Mack  
Manzullo  
Marchant  
Matheson  
McCarthy (CA)  
McCaul  
McClintock  
McCotter

they reached the age of 19. A shocking number of American children are at least casual smokers before they can even drive a car.

As a cosponsor of the Family Smoking Prevention and Tobacco Control Act, I am strongly committed to seeing this figure drastically reduced. Congress must work to help make our children's lives safer and their choices easier.

This bill bans flavored cigarettes with names like Mocha Taboo, Midnight Berry and Warm Winter Toffee that clearly attract children as consumers. The history of low-tar cigarettes illustrates the grave danger to public health that's caused by fooling consumers into believing unsubstantiated claims that one kind of cigarette is safer than another. Millions of Americans switched to low-tar cigarettes, believing they were reducing their risk of lung cancer substantially. Many were convinced to switch instead of to quit. It wasn't until decades later that we learned through many deaths that those low-tar cigarettes were just as dangerous as full-tar cigarettes.

Under this legislation, which simply empowers the FDA to regulate tobacco products, we will not have to wait until the deaths of millions of more Americans to learn whether a so-called "safer" cigarette is what it claims to be.

□ 1830

The bottom line is we have an interest in making sure our constituents know the facts, all of them, before making potentially deadly choices.

Americans must also be aware of the dramatic health risks associated with smokeless tobacco. Many believe that chewing tobacco and snuff are safe alternatives to smoking cigarettes. That's wrong. This bill would require warning labels that indicate that smokeless tobacco causes mouth and gum cancer, serious oral diseases, and tooth loss. A study by Brown University reveals that just a few weeks of chewing tobacco can develop leukoplakia of the cheek and gums, which is the formation of leather patches of diseased tissue on the mouth.

The American Dental Association strongly supports this legislation, and calls tobacco use the number one cause of preventable disease in the United States. It should be a no-brainer to responsibly regulate such a dangerous product. And the FDA, the only agency charged with food and drug safety, is a logical Federal agency to place with this great and important responsibility.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I thank the gentleman from Colorado for yielding time.

This is a terrible bill. And we should vote down this rule. The bill is a de facto prohibition of tobacco. It's going to legislate a Big Tobacco monopoly. This bill is going to increase taxes, ex-

pand government bureaucracy at the expense of public health. This bill will decimate the family farm. This bill fails to focus on protecting our kids and instead, targets adult tobacco users and retailers.

This bill will increase black market activity, potentially funding criminal enterprises and terrorists' activity. This bill precludes the development of reduced-risk products. The advertising and communication provisions of this bill are duplicative and unconstitutional. This bill eliminates Federal preemption of marketing and advertising, allowing each State to set its own standards.

This bill is bad for the U.S. economy. It is another power grab on the part of the majority here. This is not something that we need, and it is not something that we should do.

I am going to urge my colleagues to vote "no" on the rule and to vote "no" on the underlying bill.

On that, Mr. Speaker, I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding.

Mr. Speaker, this is a personal issue for me. I have experienced the tragedy that afflicts many tobacco users and their loved ones.

Both of my parents were chain-smokers in their early years. My mother and her friends started smoking in their teen years because they thought it was cool. My father, a physician, quit smoking when I was young, but our house reeked of secondhand smoke, and my mother continued to smoke until she could no longer hold a cigarette. Both parents died of lung cancer.

It was a nightmare, one I would spare other families. Now as a grandmother of three, I hope my grandkids will never smoke.

Mr. Speaker, approximately 4,000 kids try a cigarette for the first time each day. By the end of this week, thousands of Americans will have died from tobacco-related diseases and thousands more will become new, more regular users like my parents were.

We can take a big step towards breaking this deadly cycle by giving the FDA the authority to regulate tobacco products. This bill, which passed this House last July by a huge margin, is the product of a long crusade by my California colleague, HENRY WAXMAN, and is a big down payment on health care reform.

Mr. Speaker, California alone spends over \$9 billion annually treating tobacco-related diseases; \$9 billion could be far better spent on a failing health care infrastructure and increased access to health care.

This bill will save lives and scarce resources. Vote "aye" on the rule and "aye" on the bill.

Ms. FOXX. Mr. Speaker, I now would like to yield 6 minutes to my distinguished colleague from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I applaud my friend from California, Congressman WAXMAN, for his persistence over the past decade and all Members who have supported his legislation in the past. However, Mr. WAXMAN's legislation was drafted over 12 years ago and has not taken into account the positive outcomes from the Master Settlement Agreement and the changing conditions of the tobacco market in our country. Additionally, the legislation has unconstitutional provisions, and according to CBO, will only reduce smoking rates by 2 percent over 10 years.

Over the past 2 years I have participated in three markups of Congressman WAXMAN's bill, and I, along with my colleagues, have offered numerous amendments to improve and update Mr. WAXMAN's bill. Unfortunately, no significant changes have been incorporated, and our concerns have not been addressed in totality.

That is why I introduced a new bipartisan bill this year which I offer today as an amendment in the nature of a substitute to H.R. 1256. This substitute mirrors the legislation that I introduced with Congressman MIKE MCINTYRE of North Carolina which has strong bipartisan support, including the support of Chairman COLLIN PETERSON of the House Ag Committee along with Chairman JOHN SPRATT of the Budget Committee and other ranking members.

This strong bipartisan substitute amendment seeks to regulate tobacco by creating a new science-based, pragmatic harm-reduction strategy to improve public health. The amendment combines education, prevention, and cessation goals while using public policy to migrate over 45 million smokers to nonsmoking tobacco products and nicotine therapies which are scientifically proven to be significantly less harmful to human health and greatly assist in our efforts to decrease tobacco-related deaths and disease rates in our country.

I strongly believe that no tobacco products are safe. However, Americans today are left in the dark about the relative risks of all tobacco products, and it is false to assume that all tobacco products have equal health risks. Adult smokers deserve to understand the relative health risks of all tobacco products so that they can make informed health decisions.

According to the Royal College of Physicians, "The application of harm reduction principles, to nicotine and tobacco use, could deliver substantial reductions in the morbidity and mortality currently caused by tobacco consumption." Making such information available to adult tobacco users is one of the purposes behind this substitute amendment.

Tobacco harm reduction adds to current tobacco-control policies in order to drastically improve our Nation's health outcomes. It is important to note that harm reduction strategies do

not replace tobacco cessation programs but work along with them. That is why when I first put this bill together, I was very, very hopeful that Mr. WAXMAN and I could combine our efforts, but unfortunately, that did not prevail.

If we can move our smoking population away from smoking products, the most dangerous tobacco products on our market, and move them to less risky tobacco and nicotine products as we move in this effort to wean them off nicotine and tobacco, we have a chance to decrease the adverse effects of tobacco by up to 90 percent over 20 years, according to the American Council on Science and Health. For smokers who are unwilling or unable to quit smoking, we must provide them with the information they can use to decrease their health risks.

Additionally, this substitute protects the core missions of FDA by creating a new harm-reduction agency within Health and Human Services to ensure we have a safe, secure food supply, pharmaceuticals, biologicals and medical device supply. Given the numerous news reports over the years of counterfeit and adulterated drugs and our tainted food supply, the last thing we should be doing is forcing the FDA to regulate an inherently dangerous product in carrying out a mission that is counter to its culture.

This substitute also goes further than the Waxman bill in protecting children because we require States to spend a larger percentage of their master settlement agreement for tobacco education, prevention and cessation efforts. In the last 10 years, States have spent just 3.2 percent of their total tobacco-generated revenue on prevention and cessation programs, and in the current fiscal year, no State is funding tobacco prevention programs at the level recommended by CDC.

Additionally, we require States to make it illegal for minors to purchase and possess tobacco products, aligning our Nation's tobacco policies with our Nation's alcohol policies. Not only will it be illegal for retailers to sell tobacco to minors, but now minors will be strongly discouraged from purchasing or possessing tobacco.

We also ensure that the Feds stay off our Nation's farms. We ensure that our farmers are not hit with additional Federal regulations that affect their traditional farming practices, and we make sure that these regulations stay within the purview of the agriculture department.

Mr. WAXMAN's legislation will directly and indirectly affect farming practices, and I was quite surprised that the Parliamentarian ruled that the Agriculture Committee did not have jurisdiction on this bill. My amendment expressly prohibits the tobacco legislation from finding its way into today's farming practices.

Finally, this substitute calls for a blue ribbon study of tobacco advertising in our Nation. I am very concerned about the first amendment po-

tential violations in the Waxman bill. It was discussed during the last two markups we have had before the Energy and Commerce Committee. You see, in 1996, 46 States, plus the District of Columbia, reached an agreement with the tobacco companies known as the Master Settlement Agreement. This agreement has proved extremely effective in regulating tobacco advertisements in our Nation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. FOXX. Mr. Speaker, I yield the gentleman 1 more minute.

Mr. BUYER. It is important to note that the advertising restrictions reached in this agreement were voluntary. When we legislate such advertising restrictions, we violate the first amendment. So I'm very concerned, even if we take the rule that was done, the rule-making effort to place restrictions on advertising back in 1996 as then incorporated in this bill, in fact the Supreme Court has already ruled that unconstitutional. So to put that back in this legislation just throws this right back to the Supreme Court. To me as a lawyer, that's unconscionable. We shouldn't be doing that here on the House floor.

So when we legislate these advertising restrictions, we should never, never violate the first amendment. This is one of these really awkward positions where I find myself as a conservative Republican aligned with the ACLU. I also believe we must study ways in which we can better address tobacco advertising without violating the Constitution.

To conclude, we offer this substitute as a bipartisan effort, as an innovative and pragmatic health approach in addressing the harms of tobacco in this country. This substitute protects our children, jobs, farmers, retailers, and wholesalers while protecting our Constitution and protecting the health of our Nation.

Mr. POLIS. Mr. Speaker, the Buyer version is opposed by many credible health organizations, including the American Lung Association, the American Heart Association, the American Academy of Pediatrics, among many others who support the Waxman administration because it would protect children from tobacco marketing.

The Buyer bill falls short of banning brands that are potentially targeted to children like Mocha Taboo and Midnight Berry. It does not protect consumers from misleading health claims about so-called reduced-risk tobacco products, and it embraces smokeless tobacco as a means to reduce the harm caused by cigarettes. While certainly there should be sound, scientific investigation, and there is a process under the Waxman bill for doing that, we must not rush to prejudgment of what works and what doesn't.

Mr. Speaker, I yield 2 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I rise today in strong support of the rule

and in strong support of the Family Smoking Prevention and Tobacco Control Act.

Today, this body has the opportunity to take a long, overdue and significant step toward not only the regulation of tobacco—a product that is currently totally unregulated—but also on efforts to reduce the number of new smokers, especially children and adolescents who have been targeted by the tobacco industry for far too long.

I want to take this opportunity to thank Chairman WAXMAN for his unwavering commitment and leadership on this issue.

Because 7 in 10 African Americans who smoke choose to smoke menthol cigarettes, I am pleased that this bill provides provisions that accelerate the formation of the new FDA Tobacco Product Scientific Advisory Committee and directs it to issue recommendations on the use of menthol in cigarettes within 1 year of its establishment. It empowers States and communities to prevent the aggressive marketing that has the greatest negative impact in the hardest-hit communities and on our most vulnerable. It bans the additives used to manufacture flavored cigarettes that are marketed to children and creates a faster track for the development of smoking cessation and nicotine-replacement therapies.

As a physician who has seen firsthand the devastating impact that cigarette and tobacco products have on individuals and their families, I strongly urge my colleagues to reject the substitute, to vote "yes" on the rule and then "yes" to pass this legislation so that we as a Nation can finally regulate the leading cause of preventable cause of death in this country.

Ms. FOXX. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. To respond to the gentlelady's concern and her efforts promoting nicotine replacement therapies, there are over 45 million adult smokers in the United States. Each year approximately 2 million smokers use these nicotine replacement therapies in an attempt at quitting. The public success rate of nicotine replacement therapies is only 7 percent, meaning that only 7 percent of smokers who try to quit using nicotine replacement therapies are successful. To me, a 7 percent success rate is failure. It's failure. So we need to try something different, and that's why we have this substitute.

□ 1845

Mr. POLIS. Mr. Speaker, the Waxman bill does allow something different to be tried. It sets up a scientific process for review to make sure that all technologies that might help wean smokers away are allowed into the marketplace in a manner that makes sure that they don't publish misleading claims regarding their health.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I rise in strong support of the Family Smoking Prevention Act; and, Mr. Speaker, I want to take the time to thank Mr. WAXMAN for all of his great work in making it possible for us to have a vote on this bill.

We all know that tobacco is a killer. We all know that it causes cancer and respiratory problems. We all know that smoking is addictive and that most people who are hooked began smoking as children. We cannot and we must not wait a moment longer to protect our children from this killer. We must break the cycle. This bill is the right approach.

Children should not see cigarette advertisements from their school playground and at sporting events. Children should not be able to buy cigarettes in a vending machine. And children should not be the target of advertisements designed to get them hooked on smoking.

We should know what it is in the cigarettes that people smoke. People try to fool us and say that certain things are not in the cigarette. With the passage of this bill, for the first time, the FDA will know the ingredients in a cigarette, and they will be able to reduce or eliminate harmful ingredients.

Mr. Speaker, we cannot and must not allow another child to get hooked on cigarettes or on tobacco. We must pass this rule, and I support the rule and I strongly support the bill.

Ms. FOXX. Mr. Speaker, I now yield 3 minutes to the gentleman from North Carolina (Mr. COBLE), the dean of the North Carolina delegation.

Mr. COBLE. Mr. Speaker, I thank the gentlelady from North Carolina.

Mr. Speaker, I rise in opposition to the Family Smoking Prevention and Tobacco Control Act.

During my tenure in the Congress, I have consistently opposed granting the Food and Drug Administration the authority to regulate tobacco. I do so based upon my philosophical beliefs and the ramifications that this legislation would impose upon my congressional district and my State.

It is my belief that allowing the FDA to regulate tobacco in any capacity would inevitably lead to FDA regulating the family farm. This creates uncertainty and adds another burden to the already overwhelmed FDA.

I, furthermore, have concerns with the negative impact H.R. 1256 would have upon tobacco manufacturers, their employees, retailers, and wholesalers.

It is ironic, Mr. Speaker, that the very day a 62 cent tobacco tax goes into effect to fund the Children's Health Insurance Program that we would debate legislation to create further hardship for the tobacco industry.

H.R. 1256 is misguided, in my opinion. It does not achieve the goals identified by proponents. Instead, it will further exacerbate an already stretched FDA, negatively impact manufacturers and

farmers, and create a strain on Federal revenues to the Treasury.

I do not come to the House floor tonight without solutions, Mr. Speaker. The bipartisan Youth Prevention and Tobacco Harm Reduction Act provides a different alternative, offering harm reduction strategies through the Department of Health and Human Services. I encourage its consideration and oppose H.R. 1256.

Finally, Mr. Speaker, tobacco is a product that is lawfully grown, lawfully marketed, lawfully manufactured, and lawfully consumed. We do not need the FDA inserting its oars into these waters.

I thank the gentlelady from North Carolina.

Mr. POLIS. I would remind the gentleman that the FDA is the primary agency charged with food and drug safety and, as such, to ensure the safety of our Nation's food supply and safety of our Nation's drug supply is the logical place at which to reside the regulation of tobacco products.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. I thank the gentleman for yielding to me, and I rise in support of the rule, and I rise in strong support of the bill. I'm an original cosponsor of the Family Smoking Prevention and Tobacco Control Act, and I am absolutely delighted to support its passage today.

There are at least 438,000 reasons to vote for this bill, and each one represents a life lost to tobacco use each year. It's staggering to realize that smoking kills more people than alcohol, AIDS, car crashes, illegal drugs, murder, and suicides combined.

My own State of New York mourns the loss of over 25,000 adults each year due to smoking, not to mention 2,000 New Yorkers who die each year from exposure to secondhand smoke. As if this isn't tragic enough, there are thousands of children at risk for the same fate, with over 3,600 youth taking up smoking every single day.

And our States, desperately trying to control soaring budget deficits and stretch scarce dollars during this economic downturn, simply cannot afford the billions of dollars in health care costs, \$8 billion lost annually to New York alone, caused by tobacco use.

Today is a new day, Mr. Speaker. It's time that we close the gaps in our laws which have allowed tobacco use to be unregulated with devastating consequences. Granting the FDA the authority to effectively regulate the manufacturing, marketing, labeling, distribution, and sale of tobacco products will ultimately have a profound effect on reversing the public health crisis we face today.

So, in conclusion, today we vote for our Nation's children and families. I urge all of my colleagues to join me in strong support of the Family Smoking Prevention and Tobacco Control Act.

Ms. FOXX. Mr. Speaker, I now yield 5 minutes to the distinguished gentleman from Texas (Mr. POE).

Mr. POE of Texas. Mr. Speaker, I thank the gentlelady from North Carolina for yielding.

Mr. Speaker, the so-called Family Smoking Prevention and Tobacco Control Act really doesn't help anyone. It's just feel-good legislation that makes Big Government bigger and costlier.

It certainly doesn't help stop smokers from smoking. Our own Congressional Budget Office estimates that smoking by adults would decline by only .2 percent a year, or by just 2 percent over the next 10 years.

This bill certainly won't help farmers, many thousands of whom will struggle to comply with the bill's regulations and who will be forced to entertain the Federal tobacco police coming on their properties to inspect their crops.

It certainly won't help anyone who eats, drinks, or uses medication. An already dysfunctional and overburdened FDA will become even more distracted by this new Big Government program.

And the bill certainly won't help Federal law enforcement officials. They should spend their resources policing real crime rather than arresting people for violating the tobacco laws. Regulations that drive up the cost of cigarettes and reduce their appeal will only benefit the smuggling industry.

One advocate of the Big Government approach in this bill told a Senate committee that, We want to create Marlboros so they are like lard, but we want to regulate the contents, we want to regulate the toxicity, we want to regulate everything so it sits on the shelf and no one uses it, even though it's legal. That, Mr. Speaker, is a prescription for more prohibition that will lead to smuggling, lost revenue, and lawlessness.

On top of everything else, H.R. 1256 places additional Federal restrictions on tobacco advertising. In other words, it's more speech control by the Feds. Some of the Federal regulations on advertising in H.R. 1256 include the following specifications for the size of warning labels on tobacco products, and let me quote.

"The text of such label statements shall be in a typeface pro rata to the following requirements:

- 45-point type for a whole-page broadsheet newspaper advertisement;
- 39-point type for a half-page broadsheet newspaper advertisement;
- 39-point type for a whole-page tabloid newspaper advertisement;
- 27-point type for a half-page tabloid newspaper advertisement;
- 31.5-point type for a double-page spread magazine or whole-page magazine advertisement;
- 22.5-point type for a 28 centimeter by 3 column advertisement; and
- 15-point type for a 20 centimeter by 2 column advertisement."

Doesn't the government have better things to do than regulate the type of font used in tobacco advertising? Mr. Speaker, we have gone a little too far.

The CBO estimates that the new fees on tobacco companies would be about

\$235 million in fiscal year 2009. The country's in a recession, people are out of jobs. Is this really the best time to tax companies for a program that really, on its face, will not work even though it sounds good?

This is not reform. It's mindless Big Government that will only create more problems than the one it claims to address. I urge my colleagues to vote against more government bureaucracy, vote against this bill that won't stop smoking, vote against the rule and final passage.

And that's just the way it is.

Mr. POLIS. Mr. Speaker, the gentleman from Texas mentioned 2 percent decrease in smoking over 10 years. I will say that every cigarette not smoked, every person who never starts is a life saved.

One of my late constituents, Ms. Susan DeWitt of Lafayette, passed away of lung cancer this last year. Posthumously published on her Web site is a very powerful statement which I will submit in its entirety to the RECORD but would like to quote from as follows, in part.

"Just prior to being told I suffered from stage IV lung cancer, Dr. Karen Kelly, an oncologist at the University of Colorado Cancer Center, lifted her arms and emphatically exclaimed, 'We have to raise the awareness of lung cancer.'

"With those words resonating in my head, I thought back to those high school moments and the few drags I took from my cigarettes. I thought of the precious few years that followed. Years that would include a marriage, a son, my youth and cigarettes. I remembered the day I said, 'No more.' That was the day I was given another diagnosis by my doctor, I would again be a mother. That day was 14 years ago . . .

"The day I quit, I was 27 years old. Lung cancer was something I understood the elderly suffered from. It was nothing a young mother of two need bother herself with. I was 28 when my daughter was born. I was young, in love, and beginning to walk my path of life . . . At 37, I was given the gift of another daughter.

"Then, standing there listening to this oncologist tell me I have stage IV lung cancer. I was only 39."

Ms. DeWitt dedicated the remainder of her life to educating people about the danger of cigarettes. I had the opportunity to speak to her husband just yesterday who shared with me the message that she shared with so many Americans. There is no free ride. There is no break. Don't start smoking.

This bill will help prevent children from ever starting to smoke and help prevent many, many cases of lung cancer and many, many deaths that disrupt families and cause a great risk to our public health as well.

[From the Dailycamera, Oct. 4, 2007]

LUNG CANCER EDUCATOR DIES AFTER LONG BATTLE

(By Cindy Sutter)

Susan DeWitt, a Superior mom who made a widely distributed DVD about her family's

struggle with her lung cancer, died Wednesday. She was 43.

"She died at home with her family members holding on to her," said DeWitt's husband, Randy.

DeWitt, a Boulder County court reporter for eight years and founder of the Susan L. DeWitt Foundation for Extended Breath, was diagnosed with Stage IV lung cancer in 2004 at the age of 39. Although DeWitt was a light smoker in her teens and 20s, she quit in 1992. After her diagnosis, she made it her mission to warn young people that even casual smoking can cause cancer. The DVD—"Lung Cancer, Through My Children's Eyes"—begins with this line from her son, Cody, then 19: "There are some things in life that people shouldn't have to go through."

Then this from his sister, Gabrielle, then 13: "I was afraid to go to sleep at night."

The film, now on You Tube as well as available on DVD through the foundation, has been distributed to school districts in Colorado and around the country. The family has subsequently made music videos about the subject.

Those who knew DeWitt say she touched people, not only with her DVD, but with the grace and courage with which she faced her illness and treatment—which included multiple rounds of chemotherapy and brain surgeries.

Dan Hale, who retired as a Boulder County District judge last fall, called DeWitt's spirit even as she became gravely ill "truly incredible."

"Why this happened is one of those great mysteries of life, but despite that, she wanted to see how she could benefit others," Hale said.

Rob Harter—lead pastor at Larkridge Church in Erie, where the DeWitts attend—remembers being at the hospital with the DeWitts when Susan was being prepped for a second brain surgery. She was giving Randy last-minute instructions on gifts she had bought for them to open during her surgery.

"Right before they were to wheel her away for three- to four-hour surgery, what she was thinking about was, 'Make sure you get the gifts for the kids in the car,'" Harter said. "Her idea was to not have them focused on her pain. It's a powerful example of how she was very other-centered in her approach to life."

Randy DeWitt said she touched many people.

"Her group of friends is very vast," he said. "She had a way of speaking to and treating people with respect. . . . If you had a troubled look on your face, Susie would attend to you."

The DeWitts' story and clips of the DVD were featured on "Good Morning America" and ABC's "World News Tonight" in 2006. The DeWitts estimate that at that time about 15 million people had heard of her documentary through those national news sources, articles in local newspapers, features on local TV news, speaking engagements and distribution of the DVD.

Susan, who was born in Wheat Ridge and graduated from Arvada High School, got the idea for the film after seeing a group of teenagers smoking outside the Westminster Promenade shortly after her diagnosis.

With their suburban bedrooms as the simple backdrop, the documentary shows Cody and Gabrielle talking about how their mother's cancer has upended life as they once knew it.

"Now comes the hard part," Cody says in the film. "What if my mom dies?" The DVD shows footage of him graduating from high school with the sound of his family yelling, "Woo-hoo!"

"I want her to be there when I graduate from college," he says.

The foundation will continue its work, distributing the DVD and music videos. The family plans to expand its focus to help people deal with a diagnosis of terminal cancer.

Randy DeWitt said the children are doing well. He and Susan were frank about her illness from the beginning, even with their youngest child, Gianina, now 6.

Cody is attending the University of Northern Colorado part-time. He's in his fourth year. Gabrielle is a sophomore at Monarch High School. Gianina is a first-grader at Superior Elementary.

"The kids are pretty resilient," Randy said. "My 6-year-old is giving us a lesson on how to deal. She's talked to me about this. She gets it. She knows what death is. She knows that Mommy's not coming back, and she's OK."

#### RAISING THE AWARENESS AND PREVENTION OF LUNG CANCER

Just prior to being told I suffered from stage IV Lung Cancer, Dr. Karen Kelly, an Oncologist at the University of Colorado Cancer Center, lifted her arms and emphatically exclaimed, "We have to raise the awareness of Lung Cancer".

With those words resonating in my head, I thought back to those high school moments and the few drags I took from my cigarettes. I thought of the precious few years that followed. Years that would include a marriage, a son, my youth and cigarettes. I remembered the day I said, "No more". That was the day I was given another diagnosis by my doctor, I would again be a mother. That day was fourteen years ago. That day came after a few precious years clouded by smoke.

The day I quit, I was 27 years old. Lung cancer was something I understood the elderly suffered from. It was nothing a young mother of two children need bother herself with. I was 28 when my daughter was born. I was young, in love and beginning to walk my path of life. At 37, I was living a life some would call a fairy tale. At 37 I was given the gift of another daughter.

Then, standing there listening to this oncologist tell me I have stage IV lung cancer. I was only 39.

I knew at that very moment what God had designed for me. My purpose was to open a Foundation that would focus on raising the Awareness and Prevention of Lung Cancer and save other families of its horrific effects.

The metastasis to my brain would raise its' ugly head at 41. Lung cancer had moved into my brain in September of 2004, which just fueled my passion. The picture attached was taken with my youngest daughter after my first of three brain surgeries. The "head band" is actually the incision made by the brain surgeon and sutured shut by 32 staples.

What you need to know is this; nearly a half a million Americans will die from illnesses due to cigarette smoke this year.

A third of those will be lung cancer. As a woman, I need to tell you that women with a smoking history are ten times (10X) more likely to die from lung cancer than they are from breast cancer.

With that, know that the Susan DeWitt Foundation for Extended Breath (SLD Foundation) has a mission to raise the awareness and prevention of lung cancer and related illnesses. Illnesses that endanger tobacco users and non-users. Our focus is to: isolate our children from ETS (Environmental Tobacco Smoke), educate our youth as to the consequences of smoking and to assist "at risk" people by resolving addiction, creating a method of early diagnosis and increasing survival rate.

I reserve the balance of my time.

□ 1900

Ms. FOXX. I would like to enter testimony from Commissioner Steve

Troxler into the RECORD, and I would like to recognize Mr. BUYER from Indiana again for 5 minutes.

TESTIMONY OF NORTH CAROLINA AGRICULTURE COMMISSIONER STEVE TROXLER, SUBCOMMITTEE ON RURAL DEVELOPMENT, BIOTECHNOLOGY, SPECIALTY CROPS AND FOREIGN AGRICULTURE—MARCH 26, 2009

Good morning, Mr. Chairman and members of the committee. Thank you for inviting me here today to talk about a topic I know very well.

I grew tobacco in Guilford County, North Carolina, for more than 30 years. I dealt with dry weather, wet weather, the steady decline of quotas, and the end of the federal price-support system.

As North Carolina's Commissioner of Agriculture, I have seen tobacco production bottom out following the end of federal price supports. And I have seen it rebound.

North Carolina produced nearly 385 million pounds of flue-cured tobacco on 171,000 acres last year. We are still the nation's leading producer of flue-cured tobacco, despite the fact that we now have less than 3,000 tobacco farmers. That might seem like a lot, but in 2002, we had 8,000 tobacco farmers.

When it comes to tobacco, I have seen a lot. But I have never seen the situation facing North Carolina's tobacco farmers today.

Tobacco farmers are under siege. First, Congress raised the excise tax on cigarettes by 62 cents a pack. Now many states are lining up to do the same. In North Carolina, Governor Perdue has recommended raising the tax on cigarettes by \$1 per pack.

The consequences for our farmers will be severe. The increase in the federal excise tax hasn't even taken effect yet, but it has already impacted North Carolina farmers. Cigarette companies have reduced 2009 contracts with our farmers by as much as 50 percent.

If the state excise tax goes up, too, our growers will be hurt even more. And, this increase could also lead to job losses in the manufacturing sector.

Tobacco manufacturing employs more than 10,000 North Carolinians and pays average wages of more than \$86,000 a year. That's more than twice the state's private industry average of \$39,000. The last thing North Carolina—or any state—needs right now is more lost jobs.

In addition to higher taxes, Congress is considering regulating tobacco. Congressman WAXMAN's bill would put tobacco under FDA oversight. This is ill-advised. FDA's focus right now should be, and needs to be, on food safety. Expanding FDA's mission would dilute its effectiveness in protecting our nation's food supply.

Chairman MCINTYRE and Indiana Congressman BUYER have introduced a bill that would create a new agency within the Department of Health and Human Services to oversee tobacco products. One of the things I like about this bill is that it would not subject farmers to additional regulations on the way they grow tobacco. That's good.

North Carolina growers increasingly rely on export markets. In fact, tobacco is our most valuable agricultural export, valued at more than \$1 billion. Additional regulation would put our growers at a competitive disadvantage in international markets.

Agriculture is by far North Carolina's largest industry, with a \$70.8 billion economic impact. Tobacco manufacturing represents almost \$24 billion in added value for North Carolina's economy.

On average, a single tobacco plant is worth 71 cents in revenue for a U.S. farmer. That same plant will yield an average of \$15.74 in state and federal taxes on tobacco products. This money supports a variety of economic and health programs. A decrease in tobacco

revenues will ultimately hurt states' ability to carry out programs that benefit many citizens.

In closing, I want to say that farmers must endure many hardships. They have to deal with the weather and manage their input costs amid fluctuating commodity prices. As I've said many times though, the single greatest factor in a farmer's ability to make a living isn't the weather, but government policy.

I urge you to make wise policy decisions concerning the future of our nation's tobacco farmers. Your decisions will ripple throughout the states, in communities both large and small. If you regulate and tax U.S. tobacco farmers out of business, America will become reliant on foreign tobacco that is not subject to the same high standards. The situation will be no different from the many problems with imported foods that our nation has experienced in recent years.

Please choose wisely. Thank you.

Mr. BUYER. I wanted to touch on just a few things. I don't believe that the gentleman from Colorado meant to do this, so I wanted to make sure to correct any potential false misperception.

The Buyer amendment does not allow for false and misleading advertising. So when you look at the existing State and Federal law adequately today, it protects against false and misleading advertising in a range of consumer products, which also includes tobacco.

Mr. POLIS. Will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Colorado.

Mr. POLIS. What I stated—I believe in the affirmative—is the Waxman bill prevents false and misleading advertising.

Mr. BUYER. Reclaiming my time, the point is that there are existing State and Federal laws, including the Master Settlement Agreement, which protects against false and misleading advertising in a range of these tobacco products. With regard to the MSA—the Master Settlement Agreement—it's administered by the attorneys general of the 46 States, including the District of Columbia.

So I don't want the gentleman's affirmative statement to somehow mean that we don't. That was my point of clarifying the RECORD.

In addition, the consumer fraud statutes in each State are also applicable to tobacco products and, at the Federal level, the Federal Trade Commission has—and enforces—section 5 regarding false and misleading jurisdiction over tobacco products. The FDA currently has authority over tobacco advertising and makes therapeutic and health claims.

I would ask the gentleman from Colorado a question because he was talking about the FDA. My question to the gentleman from Colorado would be: Has the FDA ever regulated an inherently dangerous product, is the gentleman aware?

Mr. POLIS. The program is fully funded with user fees to set up within the FDA the ability to regulate tobacco products.

Mr. BUYER. Today. My question is: Has the FDA today ever regulated an inherently dangerous product?

Mr. WAXMAN. Will the gentleman yield?

Mr. BUYER. I yield to the gentleman from California.

Mr. WAXMAN. I would point out that even though cigarettes kill 400,000 people a year in this country, it is not regulated by any agency of the government. While it is an inherently dangerous product because it's the only product that, when used as intended, kills and makes people sick. It is not regulated.

The FDA is the ideal place to have it regulated because they have the scientific expertise. They know how to regulate. They have been acting as a regulator. This is where our bill would place the responsibility.

Mr. BUYER. Reclaiming my time, since two speakers chose not to answer my questions, I then therefore must assume that by silence they're not aware of the FDA ever in its past regulating an inherently dangerous product.

Therein lies the challenge that we have. The FDA is the gold standard with regard to the protection of our food supply, our medical devices, our biologics, and our pharmaceuticals. So right now the FDA—we all know the FDA is overworked and under-resourced.

So when we look at that agency, the last thing we should be doing is taking the FDA and overburdening them with a new mission that is counter to their culture. That's the issue here.

You see, the difference between the Waxman and the Buyer and the McIntyre approach is this: Both of us seek to regulate tobacco. Mr. WAXMAN chooses the FDA to do it. We say that the world even recognizes that the FDA is stressed in doing its job.

You see, 80 percent of our domestic drug supply is comprised of ingredients produced in foreign countries—increasingly produced in less developed nations. So the FDA has the capability to inspect only a small percentage of foreign drug manufacturing facilities.

So when you think about it, we have 3,000, there could be approaching 4,000, of these foreign manufacturing facilities, and we are only inspecting 200 to 300. If we do that at that rate, by the time we get through all of them, it will be 13 years.

So when you think about all the stress that we're presently placing on the FDA, the last thing we should be doing is giving it another mission counter to its core mission.

Also, when I think about trying to protect our drug supply, not only with regard to how they're manufactured, but let's talk about the products that are coming into the country.

When you look at the 11 international ports of entry run by the United States, coupled with the two by FedEx and UPS, that's 13 international ports of entry. On any given day, each of those ports of entry have between

30,000 and 35,000 drug packages that are coming in.

Now let's just do the math—and let's be conservative. Of the 13 international mail facilities, take 13 times 30,000 drug packages. That's 390,000.

The SPEAKER *pro tempore*. The time of the gentleman has expired.

Ms. FOXX. I yield the gentleman another 2 minutes.

Mr. BUYER. So we continue to do this math. Thirteen international mail facilities times 30,000 drug packages. That's 390,000 times 365 days a year. That's 142,350,000 drug packages.

Now why am I taking time to do this? It's because if 80 percent of these drug packages—every time the FDA does a spot check, they find that these drug packages are counterfeited, adulterated. They're knockoffs. A very small percentage are actually even sent to labs. So the FDA is not being able to do its job to protect our Nation's drug supply.

With regard to food, Americans eat food imported from 150 countries and processed in 189,000 plants scattered all over the world. Here in the United States, FDA inspectors visit every food processor about once every 10 years. FDA examined less than 1 percent of the 7.6 million fresh produce lines imported into the United States from fiscal years 2002 to 2007.

So what we have here is we recognize that Congress, over the last 20 years, has continued to lump more and more jobs and missions on FDA. So when the gentleman from Colorado said it only makes sense that we give it to FDA, well, I disagree.

That's why we want to create a separate agency called the Harm Reduction Agency Under under FDA to—with a laser beam—recruit some of those great scientists and build that science base to regulate tobacco products along a harm-reduction strategy.

I don't support tobacco. I don't use tobacco products. But I don't want to leave 45 million smokers out there to an abstinence approach, whereby it's either smoke or die or go to a harm-reduction therapy, which only has a 7 percent success rate. That's what we're kind of faced with. I don't want to do that.

So I think if we combine our efforts here, at some point in time we're going to have to get together on this if we really want to promote public health for the country.

Mr. POLIS. The gentleman, Mr. BUYER's proposal, rather than using an agency that exists, would create a new agency and then go on not to fund that new agency. It's fiscally irresponsible to create a new regulatory agency but fail to provide it with any new funding to do the job. The FDA is up to the task, given the funding which this bill provides with user fees.

Mr. Speaker, tobacco is the deadliest product on the market today. It kills over 400,000 Americans each year. Despite this grim statistic, tobacco companies have enjoyed a great deal of in-

fluence over public policy, avoiding the appropriate oversight of their dangerous business.

By giving the FDA the authority to exercise their proper oversight duties, we strip Big Tobacco of their special privileges and power. We owe consumers the same level of protection with regard to tobacco use as food and drink consumption, prescription and over-the-counter drugs, and even makeup and cosmetics. Why should tobacco, such an obviously harmful product, not be subject to the same scrutiny?

The FDA is more than capable of handling this new responsibility. We entrust the most sensitive regulation oversight to the Food and Drug Administration. We must give this agency the opportunity to succeed, providing the necessary resources, which the Waxman bill does, to get the job done. It's the most appropriate agency to regulate these deadly products.

Tobacco companies have long taken advantage of this vulnerability by promoting their products through cartoon advertisements, tobacco theme merchandise products, and flavored products that appeal to kids.

By barring the sale of fruit, chocolate, and clove-flavored tobacco products, this bill would protect the health of children who are lured to smoking by these candy-like flavors, with little if any impact on adults' enjoyment of tobacco.

Mr. BUYER. Will the gentleman yield?

Mr. POLIS. I yield to the gentleman from Indiana.

Mr. BUYER. You have been talking about tobacco companies. I don't have tobacco companies supporting my bill. Are there any supporting the Waxman bill?

Mr. POLIS. Reclaiming my time, we can find that out from the gentleman.

I would read a number of groups that are backing the Waxman bill, including the American Lung Association, the American Association of Respiratory Care, the American College of Preventative Medicine, the Association of Schools of Public Health, the Lung Cancer Alliance, the Oncology Nursing Society, and Oral Health America, among many others.

Mr. BUYER. Will the gentleman yield?

Mr. POLIS. No. Let me finish my statement. Opponents ask kids to make grave health-related choices with incomplete information and hold these kids responsible for childhood mistakes as they would a fully aware adult.

When 80 percent of kids smoke the most heavily advertised brands, we can't help but infer that the ads influence the children.

Big Tobacco claims they don't market to kids. Yet, they continue to do a pretty good job of getting kids to use their product. This has got to change.

This legislation will require that tobacco products marketed as safer than other tobacco products are in fact dem-

onstrated to be safer with scientific proof. By providing the Health and Human Services Secretary with authority to regulate tobacco product standards and product testing based on scientific evidence, this legislation will promote and protect the Nation's public health.

Far too long we have not followed doctor's orders, so to speak, with regard to tobacco use. Science tells us a great deal about the causes of disease and the risk of certain behavior. This legislation puts those scientific findings at the forefront of policymaking by the Department of Health and Human Service.

The bill also promotes public health by requiring the Health and Human Services Secretary to consider placing tobacco replacement products on a fast track FDA approval process. If we want Americans to stop smoking, we must provide them the help they need to kick the habit.

By creating the special category of small tobacco manufacturers, the bill ensures that small businesses have the assistance they need for the FDA to comply with the new regulations.

Supported by over 1,000 health and faith groups from across the country, this bill preserves States rights by not preempting State tobacco laws. It's extremely important to respect that many States, including my home State of Colorado, already recognizes the danger of smoking and the role regulation can play in keeping cigarettes out of the hands of kids.

My home State of Colorado is recognized as a national leader in tobacco control, demonstrated by our leadership in enacting a comprehensive smoke-free law that includes casinos and increasing our State tobacco tax to fund health programs.

Even with this legislation in place, health care costs in Colorado caused by smoking every year is over \$1.3 billion. Nearly 15 percent of Colorado high school students still smoke. Nearly 6,000 kids in Colorado start smoking every day.

I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I now would like to yield 3 minutes to our distinguished colleague from Michigan (Mr. ROGERS).

Mr. ROGERS of Michigan. I would like to thank the gentlelady.

I rise with a little bit of disappointment this evening about the state of this bill because we were told when this bill passed last year—which I supported this bill—that there would be no money taken from the general fund to implement this new program. No money.

I heard it often repeated, heard it repeated in committee this year. No money from the general fund would go to support this new program. And let me tell you why that's a good idea not to take any money from the general fund to do what we all would agree needs to happen.

We need to have some form of oversight and regulation of tobacco products. Last year, the FDA inspected

roughly 6,000 of the 189,000 food facilities under its jurisdiction. That's about 3 percent. Americans eat food imported from 150 countries and processed in 189,000 plants scattered from China to Fiji. But in 2007, the FDA inspected just 96 of those plants—96 out of 189,000 plants.

And what does this bill do? It takes money from those kinds of operations from the FDA's general fund to implement this new government program.

The FDA examined less than 1 percent of the 7.6 million fresh produce lines imported to the United States from 2002 to 2007.

□ 1915

We had just the salmonella outbreak. Just the salmonella outbreak, 550 illnesses and eight deaths in 43 States.

So what you are saying is, you know what, it is okay to stop those programs, take money out of those programs. FDA, this is more important to start this new program.

Well, imagine if you are a pediatric cancer patient and you are waiting today for the dozens of approvals that are going through the process today. But you know what? This is more important. This new government program is more important than pediatric cancer. It is more important than chronic pain. There are drugs that would treat chronic pain and cancer and other conditions, including new technology to prevent pain killer abuse that are going through the process now, and you stop it and you slow it down because you take money from the general fund. And it is time that you cannot get back.

They say, well, it only happens for 6 months, Congressman ROGERS. We only take that money for 6 months, \$1, 1 minute away from the scientist who is going to develop the cause or the treatment for something like cancer or pediatric cancer or chronic pain care. We should not interrupt that process. Those dollars, that time is too precious.

Mr. Speaker, this is really a dangerous precedent.

The SPEAKER pro tempore. The time of the gentleman has expired.

Ms. FOXX. I yield the gentleman another 30 seconds.

Mr. ROGERS of Michigan. A vaccine can now protect women from a strain of HPV that causes most cervical cancers. Think of this, the FDA is now reviewing applications to approve HPV vaccinations for women in their mid 40s. And when you do this program the way you are doing it, you take money away from those programs. So maybe they don't get it in 3 months or 6 months, maybe it is 1 year. Maybe you give them a delay in this operation that costs the lives of real Americans.

Mr. Speaker, I urge the rejection of this bill. We ought to go back and say nothing ought to impede food safety and the safety of the medicines and the cures that are getting ready to come to the United States of America.

Mr. POLIS. Mr. Speaker, I would inquire of the gentledady if she has any remaining speakers.

Ms. FOXX. Yes, we do.

Mr. POLIS. I am the last speaker for my side, so I will reserve my time until the gentledady has closed for her side and yielded back her time.

Ms. FOXX. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, as you know, we have had some really tough decisions lately. We have had to act boldly on many fronts to address the current financial crisis. People today are suffering, and they are unsure of their future. But I have faith in the American people.

Throughout history we have shown courage in the face of adversity, and today I am asking Members of this Congress to show courage by supporting the Youth Prevention and Tobacco Harm Reduction Act.

It is the only bill before this body that directly addresses the issue of youth smoking in this country. It is the only piece of legislation that builds on the success that we have seen in youth smoking rates, which are down more than 50 percent in the last 10 years.

How did this happen? It happened because the American people, parents, teachers, and the retail community, came together and said that we are going to do something about kids smoking, and they have.

More than 10 years ago, Congress passed legislation that included the Synar amendment. This amendment requires the States to enforce laws prohibiting the sale of tobacco products to individuals under 18 years of age. Synar seeks to develop a strategy to help States achieve a retailer violation rate of 20 percent or less.

In 2006, for the first time, the Secretary of HHS found that no State was out of compliance, and the average rate of tobacco sales to minors was at its lowest in history. This is a great achievement, but we cannot be complacent. We must look to the future and build on the success of the last 10 years.

Our esteemed colleagues, in particular Mr. MCINTYRE, the chairman of the Ag Committee, the chairman of the Budget Committee, the ranking members, have given us an opportunity to do just that and vote on this substitute.

The Youth Prevention and Tobacco Harm Reduction Act is a tough measure that allows us to really address youth tobacco use in the 21st century. The substitute requires that the States spend a minimum of 20 percent of their tobacco settlement money on prevention, cessation, education, and harm-reduction programs.

Mr. POLIS. I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, the Family Smoking Prevention and Tobacco Control Act will not serve to advance the

cause of improving public health, and instead will serve only to act as an unnecessary and expensive regulatory scheme at the expense of our rural farming communities, our small businesses, and the American economy.

This bill includes more than \$5 billion in new tax increases on tobacco companies and gives sweeping control of the tobacco market to the FDA. This bill imposes undue bureaucratic and logistic hardships on tobacco manufacturers by burying them under multiple layers of regulation.

FDA regulation will have a devastating economic impact on rural tobacco companies, their employees, associated businesses, and the largely rural communities which they support. As Department of Health and Human Services Secretary Leavitt noted, this legislation could also be viewed by foreign governments as a hostile trade action. Many of the clove and other flavored cigarettes that are banned under this bill are manufactured in foreign countries.

This also grants de facto power to ban existing conventional tobacco products. It will dramatically increase black market activity. It favors larger companies over smaller companies. It favors existing products over new products. It creates insurmountable barriers to development of reduced-risk products. It limits the ability to communicate with adult consumers. It eliminates existing Federal preemption of State limits on labeling, marketing, and advertising. And, it grants FDA indirect authority to mandate changes in farming practices.

In effect, this is a very, very bad bill. I urge my colleagues to vote against the rule and to vote against the bill. We do not need more examples of Big Brother as we are seeing in this Congress and in this administration.

I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, protecting the health of our Nation's children is of paramount importance to me, personally, to all of us, and to the strength and security of our Nation. We need to work to ensure that children have access to adequate health care, including vaccinations and attention from medical professionals.

Tobacco use is the single most preventable cause of death in the United States, and yet it continues to receive less regulation than a head of lettuce. Indeed, even pet food is regulated by the Food and Drug Administration.

When we pledge to safeguard our children's health, we are investing in where the return is, a generation of healthy, productive Americans. Congress not only has an obligation to provide adequate funding for programs that offer health care access and a healthy start for all children, but also a responsibility to step in and provide meaningful oversight and restore accountability. This bill embodies both of these commitments.

This is a personal issue for many of us. I had the opportunity to talk to another widow of a victim of tobacco

from Colorado last night. I spoke to Ms. Kathy Hughes of Loveland, who lost her husband. David succumbed to lung cancer. Again, the latter years of his life were dedicated to combating the dangers of secondhand smoke.

Just as my colleague from California, Ms. HARMAN, shared her own family experience with this, we too in my family have direct experience. My partner Marlin's late mother, Wendy Klein Reiss, passed away from lung cancer 2 years ago. It was a very painful thing to go through; and, of course, her wish and her dying breaths were that she never started smoking.

Americans across all political, demographic, and geographic lines have expressed overwhelming support for this legislation. The strong endorsement of hundreds of public health organizations for this bipartisan bill sends a powerful message.

The bill simply gives the FDA the long overdue authority to regulate tobacco products and reduce their devastating harm, just as they enjoy today for pet food and lettuce and cosmetics.

Today, we have an opportunity to protect millions of children across this Nation and to safeguard their future and prevent them from starting smoking. We have an opportunity to do the right thing, to save lives and to strengthen American families.

I urge a "yes" vote on the previous question and the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

#### REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H. CON. RES. 85, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2010

Mr. POLIS (during consideration of H. Res. 307), from the Committee on Rules, submitted a privileged report (Rept. No. 111-73) on the resolution (H. Res. 316) providing for further consideration of the concurrent resolution (H. Con. Res. 85) setting forth the congressional budget for the United States Government for fiscal year 2010 and including the appropriate budgetary levels for fiscal years 2009 and 2011 through 2014, which was referred to the House Calendar and ordered to be printed.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 307, I call up the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 307, the amendment printed in part A of House Report 111-72 is adopted, and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1256

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Smoking Prevention and Tobacco Control Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Scope and effect.
- Sec. 5. Severability.

#### TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

- Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act.
- Sec. 102. Final rule.
- Sec. 103. Conforming and other amendments to general provisions.
- Sec. 104. Study on raising the minimum age to purchase tobacco products.
- Sec. 105. Enforcement action plan for advertising and promotion restrictions.

#### TITLE II—TOBACCO PRODUCT WARNINGS; CONSTITUENT AND SMOKE CONSTITUENT DISCLOSURE

- Sec. 201. Cigarette label and advertising warnings.
- Sec. 202. Authority to revise cigarette warning label statements.
- Sec. 203. State regulation of cigarette advertising and promotion.
- Sec. 204. Smokeless tobacco labels and advertising warnings.
- Sec. 205. Authority to revise smokeless tobacco product warning label statements.
- Sec. 206. Tar, nicotine, and other smoke constituent disclosure to the public.

#### TITLE III—PREVENTION OF ILLICIT TRADE IN TOBACCO PRODUCTS

- Sec. 301. Labeling, recordkeeping, records inspection.
- Sec. 302. Study and report.

#### SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of considerable proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority

and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under article I, section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products and the advertising and promotion of such products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year, and approximately 8,600,000 Americans have chronic illnesses related to smoking.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco-induced disease. Such a reduction in youth smoking would also result in approximately \$75,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products, and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 2005, the cigarette manufacturers spent more than \$13,000,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.