

limited funds on objectives unrelated to the combat efforts in Afghanistan and Iraq. How do we claim to be responsible stewards of the taxpayers' money when Congress can't pass an emergency supplemental for our combat forces without loading it up like a Christmas tree?

NATIONAL ENERGY TAX

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, the Democrats' climate change "compromise" bill passed by the Energy and Commerce Committee is still a job killer that will hit every American with a national energy tax. This plan will have a devastating impact on the price at the pump and utility bills across the country. One estimate for a similar proposal found that families would pay more than \$3,100 a year in extra energy costs.

Representative JOHN DINGELL said it best: "Nobody in this country realizes that cap-and-trade is a tax, and it's a great big one." Even the President admitted that his energy plan would cause energy prices to "necessarily skyrocket" and that the costs will be passed on to consumers. Various estimates suggest anywhere between 1.8 and 7 million American jobs could be lost. Manufacturing jobs will relocate to countries with less stringent environmental regulations like China and India, inflicting greater harm on American families and small businesses while doing even greater damage to the environment.

The American people know we can do better. Republicans also support a clean environment and have a comprehensive energy solution that lessens our dependence on foreign oil and leads us to a stronger economy.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF H.R. 2300

Mr. BISHOP of Utah. Mr. Speaker, I ask unanimous consent to have all the cosponsors on H.R. 2300 withdrawn.

The names of the cosponsors are as follows:

Mr. Akin
Mr. Alexander
Mrs. Bachmann
Mr. Bonner
Mr. Boozman
Mr. Boustany
Mr. Brady of Texas
Mr. Broun of Georgia
Mr. Brown of South Carolina
Mr. Burton
Mr. Carter
Mr. Cassidy
Mr. Chaffetz
Mr. Coffman
Mr. Conaway
Mr. Culberson
Mrs. Fallon
Mr. Fleming
Mrs. Foxx
Mr. Franks
Mr. Gallegly

Mr. Gingrey
Mr. Goodlatte
Mr. Harper
Mr. Heller
Mr. Hensarling
Mr. Herger
Mr. Hoekstra
Mr. Hunter
Mrs. Jenkins
Mr. Sam Johnson of Texas
Mr. Jordan
Mr. Lamborn
Mr. Latta
Mr. Lee of New York
Mr. Linder
Mr. Lucas
Mrs. Lummis
Mr. Manzullo
Mr. Marchant
Mr. McCaul
Mr. McCotter
Mr. McHenry
Mr. McKeon
Mrs. Myrick
Mr. Neugebauer
Mr. Pence
Mr. Pitts
Mr. Poe
Mr. Price of Georgia
Mr. Radanovich
Mr. Rehberg
Mr. Ryan of Wisconsin
Mr. Scalise
Mr. Sessions
Mr. Simpson
Mr. Smith of Texas
Mr. Souder
Mr. Sullivan
Mr. Thompson of Pennsylvania
Mr. Thornberry
Mr. Wamp
Mr. Westmoreland
Mr. Young of Alaska

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

There was no objection.

PROVIDING FOR CONSIDERATION OF SENATE AMENDMENT TO 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 532 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 532

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes, with the Senate amendment thereto, and to consider in the House, without intervention of any point of order except those arising under clause 10 of rule XXI, a motion offered by the chair of the Committee on Energy and Commerce or his designee that the House concur in the Senate amendment. The Senate amendment shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The previous question shall be considered as ordered on the motion to its adoption without intervening motion.

□ 0915

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. FOXX. All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I ask that all Members have 5 legislative days in which to revise and extend their remarks and 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. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 532 provides for consideration of the Senate amendment to H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Mr. Speaker, I rise in support of the rule, House Resolution 532, and the underlying bill, 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 the House by a margin of more than three to one last July and again passed the House by a vote of 298-112 this past April will finally give the U.S. Food and Drug Administration the authority to regulate the advertising, marketing and manufacturing of tobacco products, and it will also allow them to take additional critical steps to protect the public health. Putting a stop to the tobacco industry from designing products that entice young people and developing programs to help adult smokers quit is the first step in prevention.

Tobacco is currently the number one cause of preventable death in America. It is responsible for about one in five deaths annually, or 443,000 deaths per year, according to the Centers for Disease Control. Smoking-related deaths account for more deaths than AIDS, alcohol, cocaine, heroin, homicide, suicide, motor vehicle crashes and fires combined. Approximately 8.6 million Americans also suffer from chronic illnesses that are related to smoking.

And yet every day, more than 3,500 youth try a cigarette for the first time and another 1,000 will become new, regular, daily smokers. One-third of these youth will eventually die prematurely as a result. 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 and their families.

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 two-thirds of adult smokers became regular daily smokers before 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, and this bill is an important step. Congress must work to help make our children's lives safer and their daily choices easier.

The history of low tar cigarettes illustrates the grave danger to public health caused by fooling consumers by making false and unsubstantiated claims that one kind of cigarette is substantially safer than another.

Millions of Americans switched to low tar cigarettes, believing they were reducing their risk of lung cancer. Many were convinced to switch instead of quit. It wasn't until decades later that we learned through the deaths of those smoking low tar cigarettes that low tar cigarettes were just as dangerous as full tar cigarettes.

Mr. Speaker, as you may recall during the last debate, I spoke of my fellow Coloradan, David Hughes, who as a teenager began smoking and then died last year at the age of 52. I had the chance to speak to his widow.

In 2002, after his first cancer diagnosis, throat cancer, he immediately quit smoking and became one of Colorado's fiercest anti-smoking advocates. His optimism and strength never went unnoticed as he volunteered for Smoke-Free Loveland. His mission was to prevent others from dying from cancer due to smoking, prevent others from making mistakes, prevent others from making the wrong choices that ultimately cost him his life.

David and so many others of our friends, our brothers, our sisters, our cousins, our relatives personify the humanity of tobacco addiction, and this is why we must ensure that protections are put in place and this bill is passed and sent to President Obama so that we can fulfill David's mission and honor the way that so many others have lived and died.

Under this legislation, by empowering 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 really what it claims to be. The bottom line: we have an interest in making sure our constituents know the facts, all of them, before making potentially deadly choices.

America must also be made aware of the dramatic health risks associated with smokeless tobacco. Many still believe that chewing tobacco and snuff are safe alternatives to smoking cigarettes.

This bill will 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 cheeks and gums, which is the formation of leathery patches of diseased tissue on those parts of the mouth. The most shocking figure is that one in 20 of these cases of leukoplakia develop into oral cancer.

The American Dental Association, who strongly supports this legislation, 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.

I also want to stress that the bill fully funds FDA tobacco activity through user fees on tobacco product manufacturers. All tobacco product-related FDA costs are allocated among the manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products that are sold in the United States based on the manufacturer's respective share of the United States market.

The Congressional Budget Office estimates if this bill is passed, we will reduce youth smoking by 11 percent over the next decade and adult smoking by 2 percent, a small step in the right direction; but there is much more work ahead of us.

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

Ms. FOXX. Mr. Speaker, I appreciate my colleague yielding time.

This bill is being brought to the floor by the majority in a manner that is closed again, adding to the record number of closed rules in this and the last Congress. Concurring in the Senate amendment blocks the minority from offering a motion to recommit. By choosing to operate in this way, the majority has cut off the minority from having any input into the legislative process and is simply not the way we should be operating in this country.

I would now like to yield such time as he may consume to my distinguished colleague, 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 for the time. She and I share opposition to this proposal.

I rise in continued opposition, Mr. Speaker, 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 this legislation would have upon my congressional district and my State.

It is my firm belief, Mr. Speaker, that allowing the FDA to regulate tobacco in any capacity would inevitably lead to FDA regulating the family farm. Of course, that is the potential. This could create uncertainty for family farmers at a time when they are already struggling during the current economic downturn.

I have spoken to tobacco farmers in my district, Mr. Speaker, and if this matter is enacted, they see the door ajar, and their fear is tobacco today, the family farm tomorrow. I don't think this is a knee-jerk reaction. I think it is realistic.

I also have concerns, Mr. Speaker, regarding the negative impact the measure would have upon tobacco manufacturers and their employees, retailers, and wholesalers. Previously this Congress has voted to implement a 62-cent tobacco tax increase to fund children's health insurance. Today we consider legislation that will create further hardship for the tobacco industry and consumers who use tobacco products.

I have said this countless times before, Mr. Speaker, but I will reiterate it today: we are talking about a product that is lawfully grown, lawfully manufactured, lawfully marketed, lawfully advertised and lawfully consumed.

Mr. Speaker, H.R. 1256 remains a misguided piece of legislation. It does not achieve the goals identified by the proponent of regulating tobacco content, marketing and advertising. Indeed, it will further exacerbate an already-stretched FDA, negatively impact manufacturers and farmers and create a strain on Federal revenues to the national Treasury.

In my State and in my district and in the district of the distinguished lady from North Carolina, H.R. 1256 will result in job losses to the beleaguered tobacco manufacturing and farming interests, and it will compromise an already overburdened FDA. I cannot in good conscience support this measure.

I again thank the gentlewoman from North Carolina.

Mr. POLIS. Mr. Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Thank you for yielding.

Mr. Speaker, I rise in support of the rule and in strong support of H.R. 1256. I want to take this opportunity to thank Chairman WAXMAN for his many years of hard work on this legislation. We would not be here today passing this landmark bill without his and Senator KENNEDY's unwavering commitment to have tobacco regulated and their leadership.

As a physician and Chair of the Congressional Black Caucus Health Brain Trust, as well as a parent and grandparent, I give my full support to the Family Smoking Prevention and Tobacco Control Act.

Today, tobacco is the leading cause of preventable death in this country. It accounts for nearly one in five deaths each year and kills more people than AIDS, fires, cocaine, heroin, alcohol, homicide, car accidents and suicide combined. It is a major public health issue and a key driver of the country's high health care costs.

This bill empowers States and communities to prevent aggressive tobacco marketing that has the greatest negative impact in the hardest hit communities and among our most vulnerable.

It bans the additives used to manufacture flavored cigarettes which are marketed to children. And while it does not ban menthol immediately, it gives the FDA the authority to do so and sets up a commission to make a recommendation on this issue, so important to the African American community, within a year. Additionally, it speeds up the development of smoking cessation and nicotine replacement therapies, which are key to helping millions of Americans overcome nicotine addiction.

So this bill will help save millions of lives, and in doing so, it will also jumpstart and complement our efforts to improve health and save millions more lives through the broader health care reform bill that will also soon be on the President's desk.

I am pleased that we are taking this bold step necessary to finally address this issue in a comprehensive and thoughtful manner, a step that has not come easy nor one that has come without controversy, but a step nonetheless worth taking.

I urge passage of the rule and H.R. 1256.

Ms. FOXX. Mr. Speaker, you know, in many cases, the titles of bills here since the Democrats have been in control have been backwards from what they do, but this bill I think does have a partially appropriate title. It is called the Family Smoking Prevention and Tobacco Control Act.

I think it is emblematic of the concern and the attempt by the majority party to control every aspect of our lives. Everything that we do in this country, they are trying to control. They think they have the answers to everything and that what they want us to do is what should be done. So the emphasis should be on control, because that is what they are trying to do, is control our lives.

We know that this legislation will have little impact on overall tobacco use. The Congressional Budget Office has estimated that if this bill is enacted, smoking by adults would decline by only 2 percent after 10 years. This marginal reduction does not warrant this legislation's significant intrusion on free speech rights and expansion of government-run regulatory bureaucracy.

I strongly oppose this bill and this rule and urge my colleagues to vote against both of them.

Mr. Speaker, I yield 15 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. I thank the gentleman for yielding.

Herbert Hoover in the last century referred to the Volstead Act as a noble experiment. It was grounded on the sincere desire to rid society of the ills of alcohol. It was designed to improve health, cut crime and relieve taxpayers of a portion of the burden of subsidizing prisons. The problem is we know it as Prohibition. It failed to take into account human nature and

the truism that things are apt to go wrong when government tinkers too much with personal choices.

□ 0930

We are about to repeat history. There will be speeches here on the floor, I just heard one, about how this bill is going to help children, how this bill is going to improve public health. Unfortunately, the Kennedy bill that has now just come from the Senate back to the House here is not going to be able to achieve the goals which it desires.

What I will do here this morning, and as I also manage the bill itself, is bring up some of the highlights and concerns. The first highlight and concern is that Members need to do their due diligence and read the legislation that is coming to the floor. Please. There is a herd mentality that is occurring right now whereby there is blind faith that is given to leadership, and people are just voting for things. They have no idea what is truly in the legislation.

So I'm going to highlight some of the great concerns, because we need to be a responsible legislative body. A responsible legislative body is one that doesn't kick or punt the tough questions to the Supreme Court, and that's exactly what we're doing.

I'm going to address the Supreme Court in the First Amendment and Fifth Amendment issues. I'm going to address the same "quit or die" strategies of abstinence that are being applied to smoking. I'll also address harm reduction that should have been incorporated, claimed to be incorporated but is not. I'll also mention how this bill further burdens the FDA and its core mission while, at the same time, the majority is talking about how the FDA cannot protect the American people with regard to tainted food and adulterated and counterfeit drugs. I also would like to mention how this bill actually locks the marketplace to prevent innovation and competition. We are truly on the wave of socialism in this country.

So, first let me refer to the First Amendment. The Kennedy bill directs the Secretary of HHS to promulgate an interim final rule that is identical to the FDA's 1996 rule which legal experts from across the political spectrum have stated would violate the First Amendment. While these expert views should carry great weight, even more dispositive of the fact that the United States Supreme Court has also weighed in on various provisions of the rule, finding them already unconstitutional—they've already ruled—yet we're going to go ahead and put them right back in legislation. Not very responsible.

So before Members get down here and start pounding their chests as though they're doing great things, this is irresponsible for this body.

In *Lorillard Tobacco Company v. Reilly*, the United States Supreme Court struck down a Massachusetts statute that was similar in many ways

to the FDA's proposed rule. The statute banned outdoor ads within 1,000 feet of schools, parks and playgrounds, and also restricted point-of-sale advertising for tobacco products. The Court held that this regulation ran afoul of the tests established in the *Central Hudson* case, which defines the protection afforded commercial speech under the First Amendment, as it was not sufficiently narrowly tailored and would have disparate impacts from community to community.

The Court then noted that since the Massachusetts statute was based on the FDA's rule, the FDA rule would have similar unconstitutional effects on a nationwide basis. As Justice Sandra Day O'Connor wrote for the Court, "the uniformly broad sweep of the geographical limitation demonstrates a lack of tailoring."

Additionally, the proposed rule in the Kennedy bill would require ads to use only black text on white background. Again, the United States Supreme Court found a similar provision unconstitutional in *Zauderer v. Office of Disciplinary Counsel*. In that case, dealing with advertisers for legal services, the Court held that the use of colors and illustrations in ads are entitled to the same First Amendment protections given verbal commercial free speech.

Justice Byron White, in his opinion for the Court, wrote that pictures and illustrations and ads cannot be banned "simply on the strength of the general argument that the visual content of advertising may, under some circumstances, be deceptive or manipulative."

There are numerous other speech restrictions in this legislation that raise serious First Amendment issues and will create a swarm of lawsuits that will only divert us from trying to develop more effective approaches to tobacco use in the United States.

To put forward speech restrictions that a broad range of experts have stated is almost certain to be struck down would be highly counterproductive, and should not be done by this legislative body. Actually, there probably will be a record time between when this bill is signed into law and when lawsuits begin to be filed in Federal court.

Now, I referred in my opening to these "quit or die" strategies. The "quit or die" strategy, the reason I call it that is this is an abstinence approach to tobacco, meaning, you either quit or, if you continue to use the product, you die. That's their abstinence approach.

The previous speaker even talked about, well, this bill is going to promote nicotine therapies, and we're going to move people toward these nicotine therapies and they'll get a chance to quit.

Nicotine therapies work for less than 7 percent of the American smokers who use them to quit smoking. Each year, approximately 20 million smokers use nicotine replacement therapies in an attempt to quit smoking.

Now, think about this. You've got over 40 million smokers. Two million try to quit, and there's a 7 percent success rate. This bill locks in the 7 percent success rate and does not allow the marketplace to exercise innovation as a gateway of smokers to smokeless-type products in a harm reduction strategy to lower in a continuum of risk.

Seven percent? So individuals are going to come here to the floor and claim that a 7 percent success rate is wonderful; 7 percent success rate is failure. Failure. Why should we, as a body, embrace failure? We should not.

This legislation, the Kennedy legislation, locks down the marketplace. It locks it down. And it says whoever has what particular market share, that's it. That's where it's going to be.

With regard to introduction of new products, oh, no, no, no, no, no. We're going to create a 2-tier standard. You have to be able to show, with regard to that product, its impact upon the individual and then the population at large. In order to do that, that is a hurdle. It is called a "bridge too far." When you create a 2-tier standard that is a barrier, as an entry barrier of new products to the market, you lock down innovation. You secure competition in a present pattern, and then, with regard to these therapies, we're saying okay, this is cool, this is good. We're doing something great for public health. We're going to lock in a 7 percent success rate. Wow.

Now, Members are also going to come to the floor and say oh, this is really great. We're really going to be helping people quit smoking.

Are you kidding me?

You know what this bill does?

This bill increases the success rate, now, of quitting smoking by two-tenths of 1 percent. Two-tenths of 1 percent. You're proud of that? Two-tenths of 1 percent.

Now, let's talk about what is two-tenths of 1 percent? Well, let's go to our friends, one of our strongest allies in our transatlantic alliance, Great Britain. The Royal College of Physicians, also looking at this issue in their report, and they're looking also to solutions to the smoking epidemic, they write, in their review of other countries, it indicates that the best conventional tobacco control measures reducing smoking prevalence is between .5 and 1 percentage point per year. Whoa. Great Britain went out there and looked at all these other countries around the world and found that other countries that are taking aggressive measures are able to reduce smoking prevalence by .5 to 1 percentage points per year. And none of them have even taken into account what Mr. MCINTYRE and I presented to the floor for harm reduction strategies.

So, great. The rest of the world is at .5 and 1, and we're going to be at two-tenths of 1 percent, and you're going to claim that's success. We're doing great things to improve public health.

Are you kidding me? We are not. We're continuing failure. Failure. So don't come to the floor and act like someone is the champion here, because we're not. Two-tenths of 1 percent.

Mr. POLIS. Will the gentleman yield?

Mr. BUYER. I'll yield to help you with math.

Mr. POLIS. I'm asking you the source.

Mr. BUYER. It's two-tenths of 1 percent.

Mr. POLIS. Will the gentleman yield for a moment?

Mr. BUYER. Two-tenths of 1 percent, 2 percent. You think that's great.

Mr. POLIS. I'd like to yield to ask your source.

Mr. BUYER. What?

Mr. POLIS. I'd like to ask your source.

Mr. BUYER. Sure. It's the Royal College of Physicians.

Mr. POLIS. That's from another country?

Mr. BUYER. Absolutely.

Mr. POLIS. Is the gentleman aware the Congressional Budget Office estimates it will reduce youth smoking by 11 percent over the next 10 years, and adult smoking by 2 percent? Those are our own estimates.

Mr. BUYER. The Royal College of Physicians, I'm indicating, with regard to the reduction of prevalence of smoking of .5 and 1 percentage point per year of places around the world. Two percent CRS? Yeah, this is CBO. I don't know where you're getting your facts. This is CBO. Last time I checked, CBO is in the United States, you think? Yeah. CBO is in the United States.

Now, let me also move to harm reduction strategies. Here's why I'm really upset. I'm upset because what we really should be doing, if we really had an interest in improving public health, we should be migrating populations, moving populations. And when you move populations, you also want to inform people with regard to choices and the risk associated with products. We do that every day in the types of automobiles which we buy, whether you're going to wear your seatbelt. I suppose, I don't know, if you want to wear a helmet—did you wear a helmet to work when you drove your car today? I guess that's a choice you could make. People make harm reduction choices every day. In the foods we eat, what we drink, whatever we consume, we make these decisions every day. But how come we don't apply harm reduction strategies to tobacco? We should.

So, in the marketplace right now, there are many types of products. Now, what is unique about what's happening here is that this legislation doesn't even touch that which is most harmful, which are cigars and pipes. Cigars and pipes, you can directly ingest these toxins and carcinogens in a far greater strength into the body, and it is more harmful. But that's not even touched in this legislation.

So let's just talk about what's touched. If you look at the continuum

of risk and the choice of available products that are out there today, the most harmful, which would be under this bill, are the non-filtered cigarettes. That's why I put them at the 100 percent.

Next is if you actually put a filter on that cigarette. We're beginning to reduce the harm.

Then you've got tobacco-heated cigarettes. But we don't understand all the science about the tobacco-heated cigarettes.

Then you have an electronic cigarette, whereby it's a nicotine delivery device. Yet we know that when you don't ingest the smoke, that you have a less harmful product.

Then there are the U.S. smokeless products. Now we can reduce the risk by 90 percent and say to an individual that you can obtain your nicotine you want, but guess what? You can reduce the harm by 90 percent. But these are still all harmful products.

Then you can go to a Swedish snus, and now you can reduce almost 98 percent of the risk. The difference here is one is fermented, and the other is pasteurized.

Then you can go to dissolvable tobacco products that have no nitrosamines. And then you can go to almost a 99.5 percent reduction of the risk. So you can actually get your nicotine by either an orb or a strip you lay on your tongue, or you can have a stick that kind of looks like a toothpick and you can roll it and you can obtain your nicotine, and you can remove 99 percent of the health risk. Ninety-nine percent.

But this legislation is going to say no to these types of innovations. No; that somehow we're going to lock into that which is the most harmful, instead of permitting a migration.

Now, what we want is, as individuals migrate, and you've got then the therapeutics and medicinal types of nicotine, what you really want is them to quit. And when you migrate them, you migrate them to eventually quit smoking.

□ 0945

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

Ms. FOXX. I yield the gentleman another 1 minute.

Mr. BUYER. What we have in the bill is abstinence. It mentions harm reduction, but because there is a two-tiered approach to the approval process for the introduction of new tobacco products, it is truly an entry barrier, so we've locked down the marketplace. When you lock down the marketplace, you do not improve public health in this country, and that is the greatest concern that I have here today.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded to address their remarks to the Chair.

Mr. POLIS. Mr. Speaker, currently a head of lettuce receives more regulation than tobacco products. I would

simply ask: Which is more dangerous to the American people? I would like to quote from *The New York Times* today, which endorsed, through an editorial, this bill, and it has been supported in the past as well.

“It has now been proved beyond a shadow of a doubt that cigarette makers have spent decades making false statements, suppressing evidence of harm, and manipulating the design of cigarettes to increase their addictiveness. Federal regulators should be able to stop many of these abuses—and we hope help prevent more Americans from losing their lives to smoking.”

This bill is the first step.

Mr. Speaker, I would like to yield 3 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Thank you, I thank my colleague from the Rules Committee for allowing me to speak for 3 minutes.

Mr. Speaker, I respectfully disagree with my colleague and member of the Energy and Commerce Committee from Indiana. I rise in strong support of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. I am an original cosponsor of the bill, and I am pleased that we will finally send this piece of legislation to the President. Again, I respectfully disagree with some of the statements earlier.

For many years, Congress has tried to address tobacco use and the impact it has on our country and on our people. Nearly 21 percent of Americans smoke cigarettes, which is actually a reduction over the past few years, but almost 23 percent of high school students are smokers—23 percent.

According to the Substance Abuse and Mental Health Services Administration, every day, 1,140 young adults start smoking. Over 1,000 young people start smoking. Every day that these young adults start smoking, they're entering a lifelong addiction. Therefore, the number of young adults who start smoking every day is tragic, especially when you consider that cigarette smoking is a leading cause of preventable death in our country. Once you're addicted to tobacco, it's with you for life and death. Most smokers start at 13, 14 or 15 years old.

The Family Smoking Prevention and Tobacco Control Act will give the Food and Drug Administration, the FDA, the authority to regulate tobacco for the first time. As was said earlier, we don't regulate tobacco now. We're finally giving the Food and Drug Administration the authority to regulate it.

This bill is fully paid for, and the FDA activity on tobacco will be fully funded through a user fee, not through the FDA's existing budget. These new funds will not take away or affect any of the FDA's current activities. This bill will also subject all new tobacco products to premarket review. It will give the Secretary of Health and Human Services the ability to restrict the sale, distribution and promotion of tobacco products. The Secretary will

be able to establish tobacco product standards and require manufacturers to provide the Secretary with a list of harmful ingredients in tobacco products. We don't even know what we're smoking today. The bill will establish new labeling requirements to tobacco products.

I believe the bill is long overdue, and I am pleased that this bill has the support of tobacco manufacturers such as Philip Morris as well as public health groups like the American Cancer Society and the Campaign for Tobacco-Free Kids. The Family Smoking Prevention and Tobacco Control Act is a step in the right direction to address the issue of smoking in our country.

I ask Members of Congress: How many loved ones and constituents do you know who have died from lung cancer caused by smoking?

This bill can help those 13-, 14- and 15-year-olds, who are growing up now, not to become addicted to tobacco. I strongly support the bill, and I urge my colleagues to support it as well.

Ms. FOXX. Mr. Speaker, I would like to point out a couple of issues.

It seems to me that, if a head of lettuce has more rules than tobacco, then I think we should reduce the regulations on lettuce. I think we're going in the wrong direction in terms of this issue.

The other thing I would like to point out is something that my colleague from Indiana pointed out. This bill focuses totally on the issue of abstinence. It's interesting to me that I've been in so many debates where the majority party completely puts aside abstinence education when it comes to sex education in the schools. They say abstinence education has absolutely no benefit, and we know the research shows the opposite. Yet, on this issue, they'd like to go totally for abstinence education.

I would now like to yield 2 minutes to my colleague, the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I would just like to bring up two points.

During my presentation, the gentleman brought up the 11 percent issue. After I gave my remarks, I immediately went to the Congressional Budget Office. It was a very clever attempt, Mr. Speaker, of the Rules Committee to try to confuse the American people, so I'll read directly from the CBO report so the record is clear.

“Based on information from academic and other researchers, CBO estimates that H.R. 1256,” which is the Waxman bill, which is not being heard here—it is the Kennedy bill which is being referred to here—“would result in a further reduction in the number of underage tobacco users of 11 percent by 2019.”

Here is the other part, the rest of the story, that the Rules Committee did not share with the country.

“CBO also estimates that implementing H.R. 1256 would lead to a further decline in smoking by adults by

about 2 percent after 10 years.” Wow. Wow.

Now let me refer to the other. Too often, we should be careful about being cute here on the House floor. “Cute” means the reference with regard to lettuce, so I'll follow your logic. If you were to take that lettuce, dry it, roll it, and go ahead and smoke your lettuce, do you realize that you would end up with similar problems than if you were smoking tobacco? It's not the nicotine that kills. It's the smoke that kills. It's the inhalation of the smoke. That's what causes and is responsible for the pandemic of cancers, of heart disease, of respiratory disease, and of other factors. It's the smoke. So, as for the migration of people from smoke into smokeless and into other forms of therapies, if they want to obtain their nicotine, it's okay. Mr. WAXMAN, himself, would say, I do not want to outlaw tobacco.

Mr. POLIS. Mr. Speaker, I think that one of the differences between smoking lettuce—and I have to admit that this is the first time I've heard of smoking lettuce—and smoking tobacco is that tobacco, because of its nicotine content, is highly addictive. Again, there is evidence, undisputable evidence, that companies have deliberately increased the levels of addictive nicotine within those products and that American lives have been lost as a result.

One of the other important aspects of this bill is ending the practice of many of these tobacco products which are targeted specifically to children—barring the sale of flavored tobacco products, such as fruit and cloves and chocolate, with names that entice children, like “Very Berry.” This would ensure that those are properly regulated.

Mr. Speaker, I would like to yield 3 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. I thank the gentleman for yielding, and I rise in support of this rule and of the bill, as amended, by the Senate.

Mr. Speaker, as they say in the intelligence world, “this is a slam dunk.” I have experienced the tragedy that afflicts many tobacco users and their families. Both of my parents were chain smokers. My father, a physician, quit 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. After long illnesses, both parents died from lung cancer. It was a nightmare and one I would spare other families. As a grandmother of three, I hope my grandkids will never smoke.

Approximately 4,000 children 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, regular users. We can take a big step forward in breaking this deadly cycle by giving the FDA the authority to regulate tobacco products. That's all this bill does, and it is long overdue.

The legislation we are voting on today is the product of a decades' long crusade by our colleague HENRY WAXMAN, by Senator EDWARD KENNEDY, by the Campaign for Tobacco-Free Kids, and by scores of public health groups. It is a big downpayment on health care reform.

Mr. Speaker, California alone spends over \$9 billion annually treating tobacco-related diseases. This critical funding could be put towards our failing health care infrastructure and towards making health care more affordable for everyone. With its passage today, I hope this bill will become law promptly, and I hope that the CBO will find the way to score the savings that come from this and from other preventative health measures.

If we can do this, we can find a way to cut the cost of health care reform, of national health care reform, which is urgently needed this year. So, as I see it, this is a downpayment on health care reform, and it's a downpayment on the health of our children and of our grandchildren. This bill will save lives and scarce resources. This bill is a slam dunk. Vote "aye" on the rule and on the underlying legislation.

Ms. FOXX. Mr. Speaker, I would like to yield briefly to my colleague, the gentleman from Indiana (Mr. BUYER), who has a very important point to make on this issue.

Mr. BUYER. Mr. Speaker, I would just say to my good friend from California that I am not an advocate of smoking at all. What I'm trying to do here on the floor is to help improve the public health of our Nation, and this is a bill that actually locks down the marketplace.

To the speaker, as to my reference to Ms. HARMAN, I want you to know that that is my sincere effort here. How do we improve public health?

Other nations around the world are all struggling, like we are, for good, sound public policy in how we regulate a legal product by adult users. There are restrictions with regard to access to children. Then, with regard to adult users, countries around the world are beginning to look at harm reduction and at applying those strategies to tobacco.

We had an opportunity to do that. It failed here on the floor, and I recognize that. It's probably something that's new. I welcome the opportunity to join with the gentlewoman from California, as we've worked really well together our entire time we've been here, and I would love to work with you on harm reduction strategies. I'll just read this from the American Association of Public Health Physicians. Since, Mr. Speaker, the Rules Committee doesn't want me to cite the Royal College of Physicians, I'll cite an American institution.

The American Association of Public Health Physicians found, in practical terms, the enhancement of current policies based on the premise that all tobacco products are equally risky will

yield only small and barely measurable reductions in tobacco-related illness and death. The addition of a harm reduction component, however—and that's why I want to work with Ms. HARMAN—could yield a 50 to 80 percent reduction in tobacco-related illness and death over the first 10 years and a likely reduction of up to 90 percent within 20 years.

That's why I'm so passionate about a harm reduction strategy. I embrace your personal story, and that's why I am so sincere about a harm reduction.

Ms. HARMAN. Will the gentleman yield?

Mr. BUYER. I would yield to the gentlewoman.

Ms. HARMAN. I appreciate what you've said, and I do appreciate long years of collaboration on very important issues, especially affecting the military, like sexual harassment and this wave of sexual assault and rape against women. I appreciate that very much.

On this issue, sure, let's work together on a harm reduction strategy. I think this bill, which I'm for and you're obviously against, goes only partway. There is a lot more to do, and a lot of people have terrible stories like mine, and I embrace the fact that you're against smoking. I surely hope that becomes a much more prevalent practice by our young kids. That's what my purpose here is. I never want anyone else to have the kind of tragedy that I had with parents who were addicted like mine.

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Mr. BUYER. Reclaiming my time, I will embrace that, and probably what we need to do if the President signs this bill into law, I offer to work with the gentlewoman and we'll introduce a bill to incorporate harm reduction. I agreed earlier when I had spoken with Chairman WAXMAN, he recognizes that a pragmatic approach is truly incorporation of harm reduction with abstinence. And when we're talking about teenage sex or the use of tobacco, if we really, truly want a hand, four fingers and a thumb don't make a hand without a palm. So you have to use pragmatism along with new science.

And I will welcome the opportunity to work with the gentlewoman.

Mr. POLIS. I want to highlight that this legislation is supported by over 1,000 public health, faith, and other organizations, including the American Cancer Society Action Network, the American Heart Association, American Dental Association, and American Lung Association. I would also like to think that the recent dialogue between the Representative from California and the Representative from Indiana, that, of course, this bill is just a start.

With regard to many strategies that need to be used and employed to reduce youth smoking, certainly the banning of targeted marketing towards youth and tobacco products that clearly have names that affect youth, creating a

regulatory structure for the first time around tobacco products, are constructive steps; and I would agree with the gentleman from Indiana not mutually inconclusive steps, mutually inconsistent steps with many other things that we need to do for the common goal that we share to reducing youth smoking.

Madam Speaker, I would like to yield 1 minute to the gentleman from Illinois (Mr. QUIGLEY).

Mr. QUIGLEY. Madam Speaker, the tobacco industry has been feeding us a line. In addition to selling tobacco, the industry is now selling us a story. They would have us believe that this bill, which will allow the FDA to regulate their tobacco, will ruin their industry, shut down small farms, and hurt already-hurting farmers who just want to earn a living.

The truth is the tobacco industry has lied for decades about the addictive nature of tobacco. They have targeted our children as prime consumers of their deadly product, and they have produced and marketed a product that is the leading cause of preventable death in the United States, killing an estimated 438,000 people each year.

It is past time to empower the FDA to step up and stop the tobacco companies from continuing to make false claims about tobacco and start telling the truth. For too many years, the tobacco industry has sold us a line. They've attempted to tell us what they're selling, but in reality, the only thing they've been selling us is sickness and death.

Ms. FOXX. Madam Speaker, I want to say that Mr. BUYER has brought up again the issue that the Republicans have alternatives that are proven more effective. But those alternatives are not being properly considered by the majority party. Department of Health and Human Services Secretary Levin has noted that this legislation could be also viewed by foreign countries as a hostile trade action.

Many of the cloves and other flavored cigarettes that are banned under this bill are manufactured in foreign countries. However, this bill expressly permits production of menthol cigarettes. This could lead Indonesia or other foreign governments to file complaints at the World Trade Organization claiming discrimination against their products. Ultimately, retaliatory measures could be taken against American-made products which could lead to unnecessary trade disputes with a negative effect on economic growth.

As Mr. BUYER again pointed out earlier, most of us do not want to encourage smoking. But we oppose this bill on the basis that it is establishing a new Federal authority for the regulation of the tobacco industry in putting the FDA in charge of this. The tobacco industry should continue to be regulated at the State level. We should not expand the Federal Government to add

another layer of bureaucracy to the already overburdened Food and Drug Administration and another layer of regulation to American consumers and lives. This is not the direction we need to go, but it is the direction, again, that the administration and the majority party want to go, that is, more and more control of the lives of Americans. And with that, Madam Speaker, I yield back.

Mr. POLIS. Madam Speaker, this bill is not a hostile trade action. Every sovereign State, every country has the full ability to regulate public health issues. Tobacco is a killer: 443,000 deaths per year. Smoking-related deaths, as I mentioned earlier, are more than the deaths caused by AIDS, alcohol, cocaine, heroin, homicide, suicide, motor vehicle crashes, and fires combined. It is a matter of national sovereignty, a concept that I know the gentlewoman from North Carolina is also a strong supporter of, that countries have the ability, in fact a duty, to regulate public health issues.

Madam Speaker, this bill specifically achieves critical public health goals. This legislation would ensure that tobacco products are not advertised or sold to children. And as I mentioned, 90 percent of adult smokers start before the age of 19.

Addiction to tobacco begins almost universally in childhood and adolescence. Tobacco companies have long taken advantage of this vulnerability by promoting their products through cartoon advertisements, free, tobacco-themed merchandise that appeals to kids, and sponsorships of sports and entertainment events.

By reinstating the FDA's 1996 rule, we will be able to ban all outdoor tobacco advertising within 1,000 feet of schools and playgrounds. Again, common sense. We will ban free giveaways of any nontobacco items with the purchase of a tobacco product that appeals to children; we restrict vending machines and self-service displays to adult-only facilities; and require retailers to verify age for all over-the-counter sales and provide for Federal enforcement and penalties for retailers who sell to minors.

Barring the sale of certain flavored tobacco products, such as fruits and chocolate, will protect the health of children who are lured to smoking by these candy-like flavors with little, if any, impact on adult enjoyment of tobacco.

The opponents of this legislation often cite the American value of individual or personal responsibility. Certainly informed adults are responsible for making their own choices and dealing with the consequences, including the choice of whether to smoke. Where we differ is our treatment of the fact that 90 percent of the Americans who smoke began as teenagers between the ages of 12 and 17. Opponents ask kids to make grave, health-related choices with incomplete information and hold those kids responsible for childhood

mistakes with their lives. When 80 percent of kids smoke the most heavily advertised brands, it's easy to infer the influence of advertising on children.

Big Tobacco claims they don't market to kids. Nevertheless, they do a remarkably and suspiciously good job of getting kids to use their products. This has to change.

This legislation will also require that tobacco products marketed as safer and claims to be safer are in fact demonstrated to be safer by scientific proof. No more will consumers be duped into believing there is such a thing as healthy cigarettes, light or low tar. By imposing scientifically backed, new labeling requirements for such products, this bill will ensure that tobacco consumers not only receive accurate information about what is in such products, but also are protected from poisonous substances that are injurious to health.

Madam Speaker, I would like to inquire as to how much time remains.

The SPEAKER pro tempore (Mrs. TAUSCHER). The gentleman has 10 minutes remaining.

Mr. POLIS. Madam Speaker, I would like to yield 2 minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my friend from Colorado.

I rise in support of the underlying legislation, and I thank my friend from Colorado for his passion on the subject.

We know that if we can deter teenage smoking, we can deter a lifetime of health risks and health costs.

I must confess, Madam Speaker, some concern about accepting the Senate provision here. There were other provisions in the House bill that I passionately supported that protect our Federal workforce, and I specifically refer to the provision allowing the counting of sick leave for retirement and allowing those who are under the Federal Employment Retirement Service to re-employ, pick up where they left off. These are important provisions, Madam Speaker, because the Federal workforce, as we look out to the future, is going to be challenged with a brain drain.

The baby boom generation is going to be retiring. As many as 40 percent of the current workforce will be retiring over the next decade. In order to attract talent for the future Federal workforce, we need more flexible work rules; we need to provide more amenities for that workforce. I was disappointed that the Senate, on an amendment by Mr. DEMINT of South Carolina, dropped those provisions from this bill that were carefully crafted from the Committee on Oversight and Government Reform here in the House, and I hope we can revisit those issues in the future.

But the underlying bill with respect to tobacco is a very important bill. And, again, I thank Mr. POLIS from Colorado for his leadership and passion to the subject.

Mr. POLIS. I would like to thank the gentleman from Virginia for bringing

up another important issue that is no longer included in this bill, and hopefully he and other of our colleagues can work to ensure that we have a competitive workforce for our Federal Government.

Madam Speaker, tobacco is the deadliest product on the market today. It kills over 400,000 Americans every year. Despite that grim statistic, tobacco companies have enjoyed a great deal of influence over public policy—indeed, a privileged state—avoiding the appropriate oversight of their dangerous business. By giving the Food and Drug Administration the authority to exercise their proper oversight duties, we strip Big Tobacco of their special privileges and power.

We owe consumers the same levels of protection with regard to tobacco use as we do with 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 as a head of lettuce or mascara or a drink?

The FDA is more than capable of handling this new responsibility. We entrust the most sensitive regulation and oversight efforts already to the FDA: the regulation of what we put in our own bodies. We must give this agency the opportunity to succeed, providing the necessary resources to get the job done; and this bill does that.

By providing the Health and Human Services Secretary with the authority to regulate tobacco product standards and product testing based on scientific evidence, this legislation will promote and protect the Nation's public health. And as my friend and colleague and Representative from California, Ms. HARMAN, said, this is an important nexus in the health care debate in reducing costs and helping ensure that Americans are healthier.

For far too long we have not followed doctors' orders with regard to tobacco use. Science tells us a great deal about the causes of disease and the risks of certain behaviors. This legislation puts those scientific findings at the forefront of policymaking for the Department of Health and Human Services.

Mr. BUYER. Will the gentleman yield?

Mr. POLIS. Yes.

Mr. BUYER. I want to make sure the record is clear.

Earlier in your remarks you referred to the issue on spiking. Spiking was an allegation that was made in a newspaper article; the investigation had taken place. Former FDA Commissioner Kessler found that spiking allegations of nicotine were found to be false.

Mr. POLIS. Thank you for clarifying.

This bill also promotes public health by requiring the Health and Human Services Secretary to consider placing tobacco replacement product on a fast-track FDA approval process. If we want Americans to stop smoking, we must

provide them with the help they need to kick the habit. Holding up these smoking cessation aids, in an age of bureaucratic red tape, is no longer an option. I believe that that's a concept that's consistent with the harm-reduction strategy that my colleague from Indiana had discussed earlier.

By creating a special category of small tobacco product manufacturers, the bill will ensure that small businesses have the assistance they need from the FDA to comply with the new regulations. Supported by over 1,000 health and faith-based groups from across the country, including the American Cancer Association, the American Heart Association, the American Lung Association, The Campaign for Tobacco Free Kids, and the American Dental Association. This bill also preserves States rights by not preempting State tobacco laws. It's extremely important to respect that many States, including my own home State of Colorado, already recognize the dangers of smoking and the role that regulation can play and have excellent laws on the books that keep cigarettes out of the hands of children and also regulates second-hand smoke.

I'm very proud to say that my home State of Colorado is recognized as a leader in tobacco control, as demonstrated by our leadership in enacting a comprehensive smoke-free law that includes casinos. Additionally, Colorado is working on enacting a youth-access policy statewide. A senator from my district, the State senator, introduced a bill last year that required ID checks for tobacco purchases and prohibited youths from possessing tobacco products.

I would like to highlight, in conclusion, a story of a hero in the cancer awareness movement from my district, a type of heroism that, unfortunately, is all too common.

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Susan DeWitt was a typical soccer mom from Superior, Colorado. She made a DVD video about the struggles of her family during her 8-year battle with cancer that ultimately cost her her life. She had earlier worked as a reporter in Boulder County. She had been a light smoker in her teens and continued into her twenties, and she quit in 1992, in her early thirties.

She passed away at the age of 42 from lung cancer. She created "Through My Children's Eyes" as a legacy, and her family founded the Susan DeWitt Foundation to continue her work.

How many more Susan DeWitts must there be in this country? This plague has touched almost all American lives. How many of us have lost a friend or relative to lung cancer and to smoking?

This bill is a critical important first step in finally creating a regulatory structure to discourage young people from ever beginning to smoke and regulating the safety of tobacco products.

Madam Speaker, I urge a "yes" vote on the rule and the underlying bill.

Madam 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.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. WAXMAN. Madam Speaker, pursuant to House Resolution 532, I call up from the Speaker's table the bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes, with a Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Senate amendment:

Strike all after the enacting clause and insert the following:

DIVISION A—FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

Sec. 3. Purpose.

Sec. 4. Scope and effect.

Sec. 5. Severability.

Sec. 6. Modification of deadlines for Secretarial action.

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.

Sec. 106. Studies of progress and effectiveness.

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