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Statement of Rep. Henry A. Waxman Chairman, Committee on Energy and Commerce Committee on Energy and Commerce Markup

H.R. 1256, the Family Smoking Prevention and Tobacco Control Act and other health related bills

March 4, 2009

This is a historic day in the fight against tobacco, but it has taken us far too long to get here. I first introduced this legislation over ten years ago and I have fought every year since then to see it become law. We came close last year, when the House passed this legislation by a vote of more than three to one. Despite that overwhelming support, the bill did not become law, so we are back here again. I am hopeful that this year will mark the end of this long road, and the beginning of great strides in protecting our children from tobacco.

All of us here share the goal of reducing the death and disease caused by tobacco. Tobacco is the leading preventable cause of death in our country. And every one of us has seen the devastating effects of tobacco, whether through losing someone we love, watching others grow sick, or even feeling the grip of nicotine addiction firsthand. Worst of all is watching our children and grandchildren targeted as the next wave of casualties.

Regulating tobacco is the single most important thing that we can do right now to curb the deadly toll of tobacco. And FDA is the right agency to do this job. In fact, FDA is the only agency with the right combination of scientific expertise, regulatory experience and public health mission to effectively oversee these products.

This legislation will give FDA the authority to prevent the dangerous and all-too prevalent marketing and sales of tobacco to kids. It will empower FDA to prevent tobacco companies from making false and misleading claims about their products. And it will give FDA the ability to require changes to product content or design to protect the public health.

Some believe this legislation will serve only to distract FDA from its "core mission." They say FDA is already facing an almost insurmountable challenge just managing its current workload.

I share the concern about FDA's current ability to fulfill its mission. But it's clear to me that FDA's recent struggles are primarily a result of years of chronic underfunding. That's a failure in which both Congress and the last Administration played a part.

But this unfortunate state of affairs does not mean FDA cannot and should not take on the critical role of protecting the country against the harms of tobacco. It simply means that when we give the Agency this additional responsibility, we also must give it the resources necessary to handle the job—and to handle it well.

We have ensured that this will happen under this legislation.

The tobacco program will be fully funded through new user fees—paid for by the industry. We have carefully drafted the legislation to ensure that the monies received from those user fees will be directed exclusively to the tobacco center. And we have ensured that the amount of user fees will be enough to permit FDA to effectively take on this task.

So the new tobacco program at FDA will not impact the other programs at the Agency. It will not affect the work the Agency is doing in the areas of food, drug, or device regulation. But it will give FDA authority to address one of the most significant public health issues in this country.

Simply put, the bill meets the twin goals of assuring adequate funding for the tobacco program and protecting FDA's ability to fulfill its other critically important responsibilities.

In short, we have everything we need to take this historic step: a comprehensive and flexible set of new authorities, and full, certain funding. All we need now is the political will to do the right thing.

I am hopeful that we have that too. This bill draws wide bipartisan support from all corners of the country. The breadth of support for this bill—from AARP to the American Academy of Pediatrics, and from the Islamic Society of North America to the Southern Baptist Convention—shows just how critical this issue is to all Americans.

I also want to note that we have worked hard to accommodate specific concerns we have heard about this bill. The bill that we will be considering today is identical in all substantive respects to what was passed by the House last year. In that bill, we made changes to ensure fairness and flexibility for convenience stores, tobacco growers, and small manufacturers. We added provisions to ensure that FDA addresses the issue of menthol in cigarettes as one of its first priorities. We also worked with the minority to address many of their concerns.

I am proud that we have reached this day. I look forward to taking this tremendous step toward protecting our children and grandchildren from the deadly tobacco epidemic.

We will also be marking up some important public health bills that address issues from hearing to postpartum depression to the healthcare workforce. These bills all passed the House under suspension last year, and I hope to move them expeditiously today.