

many of the community college students in Minnesota are not.

We also expanded the Pell grant a little bit, but if you talk to the financial aid officers around the country, I think all of them will tell you that the most effective, efficient way of providing the necessary support for young or not such young students—many of our students are older—to be able to afford higher education is the Pell grants.

So I say to my colleague, it is a laudable goal. I will have an amendment on the floor to provide some additional funding for the Pell grants in this country. But you cannot do that on the backs of some of the poorest, most vulnerable citizens in the United States of America. I mean, you cannot take away energy assistance from people who, if they do not receive this emergency assistance during cold winters, could very well go cold or maybe pay for heat but then not have enough to eat. This is just an unacceptable trade-off.

I am disappointed we have to go through this whole fight again, but, you know, all of us do what we think is right. I know my colleague from Arizona is doing this because he thinks it is the right thing to do. But we have had very strong bipartisan support over the LIHEAP Program. I think we all know already that it is minimum funding. We all know already it is not enough. We all know already that we end up every winter having to provide additional emergency funding. So the last thing we want to do is essentially gut this program.

So, again, I share part of the goal of this because indeed I will have an amendment that will talk about expanding Pell grant funding. But you do not take the funding from some of the poorest, most vulnerable families in America.

I am speaking as a Senator from a cold-weather State, Minnesota, but I think the vast majority of my colleagues share this sentiment as well. So when we come back to this, there will be a pretty strong debate. I hope we will have an overwhelmingly strong vote in opposition to this amendment.

I also want to say, Mr. President—I will say it very briefly—that I look forward to starting tomorrow. I do intend to introduce an amendment to expand funding for Head Start. I have been doing some really interesting traveling and learned so much from people when I was in eastern Kentucky.

I, by the way, would like to say to the Chair, not in sort of a syrupy, senatorial courtesy, if you will, but at my wife's family reunion, the Isom family in eastern Kentucky, about half the people were from Indiana. I had an opportunity to tell them I really enjoyed working with Senator COATS from Indiana. It was kind of nice. Most of them are Republicans. I did not change their view, but they are wonderful people. They think a great deal of the Chair. I think they are disappointed he is in fact not going to be continuing in the Senate. I say that to the Chair.

One of the things you learn, especially as you visit Head Start, is that now that we are talking more about the very early years, I mean the funding, when it comes to really trying to help with families where children are 1 or 2, under the age of 3, we have practically no funding at all.

I tell you, I met some wonderful people in eastern Kentucky. One woman who has been with Head Start, I don't know, from the very beginning, her husband died of black lung, and she has not had a high school degree. With the help of Head Start, she went back and got her high school degree, went on and got a college education and has been a Head Start teacher for 30 years. I asked her, "Why do you do this? You can't get wealthy. You don't make very much money at all." She talked about her love of children. You could just feel it.

So I want to have an amendment that talks about expanding some funding for Head Start. I certainly want to have an amendment that deals with the Pell grant program. I will have one other amendment that will deal with this whole issue of what are we going to do about rebuilding crumbling schools.

I heard my colleague, Senator KENNEDY from Massachusetts, in a very eloquent way say there is agreement on this except we do not seem to match our words with resources. I am seeing, as I travel around the country, some of these crumbling schools. It is sort of like when we talk about family values. We have to make "values" a verb. It cannot just be a noun. We have to sort of live it, do it.

If we value these children, we just cannot have children going to schools that are crumbling. You cannot have children walking into schools where the ceilings are falling—I have seen these conditions—or when the stench of urine is in the hallway or toilets are decrepit and you cannot even wash your hands after you go to the bathroom.

As Senator KENNEDY said earlier, we are saying to these kids—no matter what we think we are saying—what we are saying is that we do not value you much. We have to figure out a way as a nation to do something about this.

I was at a gathering with a top urban educator. I so appreciated her remarks because what she said is: Look, you all can debate whether there should be tests or standards or how you measure accountability and all the rest of it, and it is all debatable, but, she said, some things are simple. Just invest some money in infrastructure. Help rebuild these crumbling schools.

She is right. I will have another amendment that will deal with that. But I do hope when we come back—I want my colleague from Arizona to know there will be a very fierce debate about this. I mean, for the last several years I have come out here. Senator KENNEDY has joined me. Senator HARKIN, Senator SPECTER, a number of dif-

ferent Senators have been very strong on this. Senator JEFFORDS has been a very strong leader on this. And we have had to fight every year for this low-income energy assistance. I do not think we should have to fight so hard for it because it is really just a basic lifeline program.

My colleague from Arizona, whether he intends to do so or not, is essentially gutting this program, ending it. We cannot do that. We cannot do that.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. Under the previous order, the hour of 2:15 having arrived, the Senate will proceed to the consideration of H.R. 2160, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2160) making appropriations for agricultural, rural development, Food and Drug Administration and related agencies, programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN, is recognized to offer an amendment. There will be 20 minutes of debate equally divided.

#### AMENDMENT NO. 1057

(Purpose: To provide funding for activities of the Food and Drug Administration relating to the prevention of tobacco use by youth, with an offset)

Mr. HARKIN. I send an amendment to the desk on behalf of myself, Senators CHAFEE, LAUTENBERG, REED, DURBIN, KENNEDY, and WYDEN.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. REED, Mr. DURBIN, Mr. KENNEDY, and Mr. WYDEN, proposes an amendment numbered 1057.

Mr. HARKIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the matter under the heading "SALARIES AND EXPENSES" under the heading "FOOD AND DRUG ADMINISTRATION" in title VI, add at the end the following:

In addition, the total amount made available under this heading shall be increased so as to make available a total of \$34,000,000 for the Food and Drug Administration children's tobacco initiative: *Provided, That—*

(1) the amount that may be expended for equipment of services related to automated

data processing, information technologies, or related items (including telecommunications equipment and computer hardware and software) under section 4(g) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(g)) may not exceed \$36,914,000 for fiscal year 1998; and

(2) to the extent that funding becomes available for the Food and Drug Administration children's tobacco initiative as a result of the national tobacco settlement—

(A) any amounts made available under this Act, allocated for the Food and Drug Administration children's tobacco initiative, and not expended on the date that such funding becomes available shall be rescinded; and

(B) the amount specified in paragraph (1) shall be increased by the total of the amounts rescinded under subparagraph (A):

*Provided further*, That in carrying out their responsibilities under the Food and Drug Administration children's tobacco initiative, States are encouraged to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking.”

Mr. HARKIN. I understand I have 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. During previous consideration of the appropriations bill on agriculture I offered an amendment, along with Senator CHAFFEE and others to protect America's kids and crack down on illegal tobacco sales. We would do it by providing full funding for the FDA's youth tobacco use prevention initiative.

That amendment was debated and received a strong bipartisan vote of 48 Senators, but some of my colleagues expressed concerns about certain aspects of the amendment. Those concerns seemed to focus primarily on the nature of the offset and on whether the FDA initiative should be funded before the outcome of the pending tobacco settlement is known. I have, in good faith, modified my amendment in two important respects that I believe fully address both concerns.

First, this amendment contains an entirely different offset. It would reduce spending by the USDA Commodity Credit Corporation on automated data processing and information technology equipment during fiscal year 1998 by \$29.1 million, just enough to allow full funding for the FDA initiative.

Second, to clear up any uncertainty about the relationship of the FDA initiative to the pending tobacco settlement, this amendment contains a sunset provision that would become effective if funding for FDA youth tobacco use prevention activities becomes available as a result of the tobacco settlement.

I want to make it clear there is nothing in my amendment having to do with tobacco marketing assessments or tobacco farmers or anything that could remotely be called a revenue measure that could conceivably interest the Ways and Means Committee of the House.

I also add the amendment includes language suggested by Senator BYRD that would have the FDA encourage

States to coordinate their enforcement either under the youth tobacco use prevention initiative with enforcement of laws against underage drinking. I want to commend and thank Senator BYRD for that addition. As I said in the debate earlier, the two go hand in glove. You find kids using illegal tobacco, you find them illegally buying alcohol at the same time more often than not.

With that background, Mr. President, I hope we can zero in on what this is all about. Plain and simple—this amendment is about protecting America's kids from killer tobacco. With a death toll of more than 400,000 a year, smoking kills more Americans than AIDS, alcohol, motor vehicles, fires, homicides, illicit drugs, and suicide combined.

This is an epidemic, and we know where it starts. It starts with kids. It starts with illegal underage smoking. Almost 90 percent of adult smokers began at or before age 18.

Put this in perspective: The Senate last took up this debate 40 days ago with my previous amendment. Since that time, another 120,000 young Americans got hooked on tobacco and began smoking; 40,000 of those will die because of it. That is the toll just in the past 7 weeks. At current rates, 5 million American kids under age 18 who are alive today will be killed by smoking-related disease. And teenage smoking rates are still climbing.

Smoking among high school seniors is at a 17-year high. The statistics on smoking among young women and girls is just shocking. Smoking among 8th grade girls jumped over 60 percent from 1991 to 1996, with rates of smoking now higher for 8th and 10th grade girls than for boys.

Now, briefly reviewing what this amendment will fund at FDA. FDA needs \$34 million to carry out enforcement of rules setting a minimum age of 18 for tobacco purchases and requiring photo ID checks. In its initiative, FDA is signing contracts with State and local jurisdictions for cooperation in carrying out enforcement of these rules.

The FDA initiative also includes funding to provide information to retailers and the public about the rules to help retailers comply with the rules and not sell tobacco to kids. This excerpt from an FDA brochure shows why it is necessary to have a photo ID check.

FDA has \$4.9 million in fiscal year 1997 that it is using to fund contracts with 10 States. The \$34 million will allow FDA to provide money to all 50 States to help them prevent youth tobacco use. This is not some big new bureaucratic program. The bulk of the money goes to the States and local jurisdictions.

Of the \$34 million, \$24 million will go to enforcement and evaluation, and \$10 million will be used to educate retailers and the public about the rules so retailers can comply. The point of the rules is not to punish anyone, it is to

protect kids. I add that these photo ID check and minimum age rules were fully upheld by the Federal district court in Greensboro, NC.

This funding request is part of the President's budget request for the Food and Drug Administration. I have a letter from Vice President GORE expressing the administration's strong support for my amendment. I ask unanimous consent the letter, dated August 28, 1997, from the Office of the Vice President, be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE VICE PRESIDENT,

Washington, DC, August 28, 1997.

Hon. TOM HARKIN,

U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN: I am writing to inform you of the Administration's strong support for your amendment to fully fund the anti-youth access to tobacco initiative in fiscal year 1998. As you know, every year, there are more than \$1 billion in illegal sales of tobacco products to children and adolescents in the United States. With approximately 500,000 retailers in the country who sell tobacco, it is critical that the Food and Drug Administration's request for \$34 million in funding be granted in order to stop these illegal sales to our children.

The requested funding is intended to enforce the age and photo ID provisions of the FDA rule, upheld by the Federal District Court in Greensboro, North Carolina. The bulk of the \$34 million will be spent on contracts with states that want to join the FDA in ensuring retailer compliance with these provisions. While the FDA is in the process of providing initial funding for 10 states to begin conducting compliance checks, the \$34 million is needed to allow state officials in all interested states to undertake compliance checks in fiscal year 1998.

The remaining funds are intended to educate retailers and the public about the new rules. We believe that the vast majority of retailers in this country will comply with the age and photo ID requirements if they understand their responsibilities and recognize the important role they can play in protecting children from tobacco and its consequences.

Funding the FDA initiative is vital if we are to have a credible national youth tobacco program in the upcoming fiscal year; the \$4.9 million provided thus far by the Senate will not enable us to do so. This amendment would add the needed \$29 million to the initiative, offset by reducing the Department of Agriculture automated data processing funds available through the Commodity Credit Corporation. The Administration has determined that this modest limitation will not impair the ability of USDA to carry out its programs and provide services to the public.

Once again, let me assure you that the President and I remain strongly committed to protecting young people from tobacco and its consequences. Your amendment would allow the government to have a meaningful enforcement and outreach program that will ensure the safety of our children.

Sincerely,

AL GORE.

Mr. HARKIN. I have a letter from 33 attorneys general involved in the tobacco settlement negotiations calling

for full funding of the FDA initiative. I ask unanimous consent a letter from the attorneys general be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ATTORNEY GENERAL OF WASHINGTON,  
*Olympia, WA, June 20, 1997.*

Hon. TED STEVENS,  
*Chair, Senate Appropriations Committee, Hart  
Senate Office Building, Washington, DC.*

Hon. ROBERT BYRD,  
*Ranking Member, Senate Appropriations Com-  
mittee, Hart Senate Office Building, Wash-  
ington, DC.*

Hon. THAD COCHRAN,  
*Chair, Senate Appropriations Subcommittee on  
Agriculture, Rural Development and Re-  
lated Agencies, Russell Senate Office Build-  
ing, Washington, DC.*

Hon. DALE BUMPERS,  
*Ranking Member, Senate Appropriations Sub-  
committee on Agriculture, Rural Develop-  
ment and Related Agencies, Dirksen Senate  
Office Building, Washington, DC.*

DEAR SENATOR STEVENS: We are writing as the attorneys general for our respective states in support of the Food and Drug Administration's (FDA) request for \$34 million to implement the tobacco initiative in the Agriculture Appropriations bill. This funding is critical to our efforts to protect kids from tobacco sales.

There is no reason not to fully fund the FDA tobacco regulations. A Federal District Court recently upheld FDA's general jurisdiction over the sale of tobacco products to minors, and the American public overwhelmingly supports this initiative. The tobacco industry failed in its legal effort to derail FDA's important protections for kids. Now, local, state and federal officials must move forward and work together to implement FDA's regulations.

In 1994, attorneys general from around the country issued a report illustrating the need for comprehensive new policies to protect kids from tobacco. In the past three years, 40 attorneys general have filed suit against the tobacco industry to recover damages caused by their behavior. To stop the marketing of tobacco products to kids is a primary goal of these lawsuits, against the tobacco industry.

We are prepared to work hand-in-hand with FDA to ensure that the provisions of its tobacco initiative are fully enforced. Towards this end, FDA has allocated a significant portion of the \$34 million to go directly to the states to help with enforcement. This money is critical to ensuring our country's success in reducing tobacco use by youth.

We need to act without delay: cigarette smoking among high school seniors is at a 17 year high and smoking among 8th and 10th graders has increased by more than 50 percent since 1991. Tobacco use is clearly a problem that starts with children: almost 90 percent of adult smokers started using tobacco at or before age 18, and the average youth smoker begins at age 13 and becomes a daily smoker by age 14½.

While some provisions of FDA's initiative are on hold pending appeal, the court fully upheld FDA's funding that cigarettes and smokeless tobacco products are both drugs and drug delivery devices. In addition, the court provided FDA with full authority to continue implementing provisions requiring retailers to check photo identification of consumers seeking to purchase tobacco who appear to be younger than 27 years of age. Strong enforcement of this provision is key to reducing youth access to tobacco prod-

ucts. The \$34 million requested by FDA will provide much needed funding for enforcement by state and local officials.

Currently, it is far too easy for kids to buy cigarettes and chewing tobacco through vending machines and at retail outlets. A review of thirteen studies of over-the-counter sales found that, on average, children and adolescents were able to successfully buy tobacco products 67 percent of the time. We can substantially improve on this record by providing funding for the FDA regulations.

The tobacco industry's record of targeting our kids is clear. Now is the time to stand up for America's kids and protect them from cigarettes and chewing tobacco. FDA's jurisdiction over sales to minors has been upheld in court and enjoys strong support among the people of our states. We hope you will vote for full-funding of this critical initiative.

Sincerely,

Christine O. Gregoire, Attorney General of Washington; Bruce M. Botelho, Attorney General of Alaska; Grant Woods, Attorney General of Arizona; Gale A. Norton, Attorney General of Colorado; Richard Blumenthal, Attorney General of Connecticut.

A. Jane Brady, Attorney General of Delaware; Robert A. Butterworth, Attorney General of Florida; Alan G. Lance, Attorney General of Idaho; Jim Ryan, Attorney General of Illinois; Tom Miller, Attorney General of Iowa.

Carla J. Stovall, Attorney General of Kansas; Richard P. Ieyoub, Attorney General of Louisiana; Andrew Ketterer, Attorney General of Maine; A. Joseph Curran, Jr., Attorney General of Maryland; Scott Harshbarger, Attorney General of Massachusetts.

Hubert H. Humphrey III, Attorney General of Minnesota; Mike Moore, Attorney General of Mississippi; Jeremiah W. Nixon, Attorney General of Missouri; Joseph P. Mazurek, Attorney General of Montana; Frankie Sue Del Papa, Attorney General of Nevada.

Philip McLaughlin, Attorney General of New Hampshire; Peter Verniero, Attorney General of New Jersey; Dennis C. Vacco, Attorney General of New York; Heidi Heitkamp, Attorney General of North Dakota; Betty D. Montgomery, Attorney General of Ohio; A. A. Drew Edmondson, Attorney General of Oklahoma.

Hardy Myers, Attorney General of Oregon; D. Michael Fisher, Attorney General of Pennsylvania; Jeffrey B. Pine, Attorney General of Rhode Island; Jan Graham, Attorney General of Utah; William H. Sorrell, Attorney General of Vermont; Darrell V. McGraw, Jr., Attorney General of West Virginia; James E. Doyle, Attorney General of Wisconsin.

Mr. HARKIN. Keep in mind the \$34 million FDA needs is just a drop in the bucket compared to the \$50 billion in annual smoking-related medical costs in our Nation.

As I close, I want to bring the discussion back to the central issue. That is, whether we will stand up to big tobacco and stand up for America's kids. If we cannot even take this modest step, \$29.1 million, what kind of message does that send?

We talk a lot around here about protecting kids. Well, it is time to quit talking and do something about it. Let's do what is right for our kids, right for law enforcement, right for the

future. Let's pass this amendment and give our kids what they deserve—better health and a brighter future.

Again, I point out that this amendment is in full compliance with the rules. This Senator is offering the amendment parliamentarily to the House-passed bill as it came over here under the unanimous-consent agreement reached with the majority leader prior to the Senate going out in early August.

How much time is remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 53 seconds remaining.

Mr. HARKIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi

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

Mr. President, let me say at the outset, when we started the consideration of appropriations bills this year it became important that we work out an arrangement whereby we proceed to consider bills even though they may not have passed by the House. And as all Senators know, it is the past custom, and the practice has been that appropriations bills originate in the House, they come to the Senate, and they are amended, and then they go to conference to work out the differences.

Because of the crush of the time and the negotiations on a budget resolution and for a number of other reasons, it was considered appropriate for the Senate committee to proceed to consider original legislation on appropriations here in the Senate, for the subcommittees to mark up bills and the full committee to report out bills, whether or not the House had passed the bill or even met in the Committee on Appropriations to act on legislation.

Consistent with that procedure, it was assumed that it would be appropriate at the conclusion of the Senate's action on an appropriations bill to obtain unanimous consent to hold the bill here, and that upon receipt of the bill as passed by the House, the Senate's action on the bill would be substituted for the House-passed bill. That it would then be considered as passed, conference would be invited, and we would proceed to work out our differences in conference.

The Senate has passed 10 appropriations bills, all but two were Senate-originated bills; the House has passed only 7 appropriations bills. The process was working just fine, and with the cooperation of all Senators, until the agriculture appropriations bill was considered and action on the bill was nearly completed. Our leadership sought to get unanimous consent to substitute the Senate-passed bill, to insert it as an amendment to the House-passed bill when that bill was received. We could not get unanimous consent because the distinguished Senator from Iowa had offered an amendment, as other Senators had, during the course of consideration of the bill. The amendment had been disposed of, but he wanted to offer

it again in a different form. So to do that, he objected.

It was discovered that unanimous consent had to be obtained under the procedure we were using. So if he objected, he could hold up passage of the House bill, offer his amendment again, reconfigure it, and have the Senate vote on it again. That is what has happened.

I think the Senate should reject the amendment on the grounds that the procedure is one where we will have to either stop considering Senate appropriations bills until the House has acted, or at the beginning of the consideration of an appropriations bill either get unanimous consent in advance to taking up amendments, or take some other action that would keep from happening what the Senator from Iowa is trying to make happen now. That is, on the whim or on the action of any individual Senator, to force this Senate to vote on all the amendments again or versions of the amendments that were defeated when we were considering the Senate bill. This becomes a terribly unwieldy and impossible procedure to follow.

We have certain understandings all the time about how things will be done here in the Senate. There are certain procedures and rules that are institutionalized. After third reading, you cannot offer any more amendments, for example. I don't know of anybody that has tried to overturn or undo that rule. There are other procedures that have become a part of the practice of the Senate in doing business. The reason for the rule on third reading is that at some point there has to be an end to the offering of amendments. No one objected to the procedure we were following on the other appropriations bills; there was no alternative proposed; everybody agreed it was fair; it was serving the purpose of expediting action on appropriations bills; it was not a problem with the House; no one objected and said they were not going to permit the Senate to act on appropriations bills until the House has completed its action. We heard nothing like that from the House leadership.

So what I am suggesting, Mr. President, as respectfully as I can, is that this is an unfortunate effort to go around the practices and the procedures that have been established for this purpose, to facilitate the orderly consideration of appropriations bills, and the Senate ought to reject this effort. The Senate ought to vote down this amendment. Tomorrow morning, after all time has been used under the unanimous-consent request, I will move to table the Harkin amendment. I urge the Senate to vote to table the Harkin amendment.

It is the same amendment, in effect, that was offered and argued before the Senate on July 23. A motion to table that amendment was made and agreed to by the Senate on a record vote. Then, after amendments had been considered, a unanimous-consent request

was made by our leadership, jointly supported, to limit the remaining amendments to a stated number. This was after the Harkin amendment had been defeated on a motion to table. The Senator should have asked, if he wanted to offer another amendment on this subject, that he be permitted to do so under that unanimous-consent request. And there was no request that he be permitted to do so. There were a few amendments left to be considered at that time, and so the Senate heard that request. There was no objection, and so it was ordered that the remaining amendments on the bill be limited to those stated in that order. The Harkin amendment was not one of them. No amendment to be offered by Senator HARKIN was one of them.

He or any Senator under that situation should be stopped from urging a right to offer another amendment then after that order was entered. After the order was entered, then we voted on the bill, as amended, and it passed 99 to 0 on a rollcall vote. Now, after that has happened, the Senate is obliged to consider this amendment in order to get unanimous-consent to receive the House-passed bill, which was adopted on the same day the Senate adopted its bill. We have to consider this amendment before the Senate again and have the Senate act on it in exchange for a unanimous consent agreement that we can then substitute the Senate-passed bill, as amended, for the provisions of the House bill and go to conference.

I hope the Senate will not encourage this kind of activity in the future and make it impossible for us to proceed as we have been proceeding by acting favorably on the Harkin amendment. The Senate has to vote down the Harkin amendment or vote for a motion to table, which will be made tomorrow.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, first of all, I appreciate the arguments made by my friend, the chairman of the Senate Agriculture Appropriations Committee. However, let me point out that, first of all, no point of order lies against my amendment. Therefore, it is in full compliance with the rules of the Senate. I know of no one who would say that something ought to be defeated because it is in compliance with the rules.

I, through my staff, consulted the Parliamentarian's office about researching any precedents for the procedural situation of my amendment on the bill. My staff was told it would be virtually impossible to research precedence because offering an amendment in this posture is clearly within the rules and would not be identified as having set a precedent. By the same token, I believe that adopting my amendment would not set any precedent whatsoever. We are simply using the rules.

Now, the fact is that, as the chairman said, most of the time bills are

passed in the House and they come over and we substitute, in the beginning, before the process, the House-passed bill, and therefore we work on one bill, and when third reading is made, that is the end of it. But in this case, we passed the bill prior to the House passing it. The rules clearly allow that any bill that comes over from the House taken up by the Senate is amendable. That is all this Senator is doing. It sets no precedent whatsoever.

Second, I point out that I did not need a unanimous-consent agreement to offer my amendment. I could have done it without any unanimous consent agreement whatsoever. The only reason the unanimous consent was entered into is I was accommodating to the majority leader that night, who wanted to get the bill done. I want to make it clear that I didn't need unanimous consent to offer this amendment.

Third, there was a lot of confusion at the time that I offered this amendment that, by offering it, it would go to the House, it would be blue-slipped by the House, would go to the House Ways and Means Committee, all of which I thought at the time was spurious. But I think some Members were swayed by that. Even in light of that, this amendment got 48 votes. I now point out that no such argument can be held on this, because this will not go back to the House. It will go right to conference. Therefore, it cannot be blue-slipped. It will not go to the Ways and Means Committee in the House. So, therefore, there was some confusion about that at the time.

Next, there was a feeling by some that the offsets I had were not appropriate. So we changed the offsets, as I said in my initial opening comments, to accommodate certain Senators who didn't feel I had the right offsets.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator from Iowa has expired.

Mr. DOMENICI. Mr. President, Mr. HARKIN's amendment uses a budgetary gimmick to offset increased spending in 1998.

The amendment merely delays \$29 million in mandatory Commodity Credit Corporation [CCC] spending for USDA computers and related items until 1999 to offset increased spending in 1998.

The 1996 farm bill included \$275 million for computer and related expenses over the 1997 through 2002 fiscal years. Based upon the language in the farm bill CBO had to estimate the flow of funds over the 6-year period.

The CBO estimated that approximately \$66 million will be spent on computers and related expenses in 1998. The Harkin amendment merely delays the expenditure of \$29 million into 1999 thus increasing spending in 1999.

Under our scoring rules if the appropriations bill changes a mandatory program the Appropriations Committee will get scored with the change. If this

amendment becomes law, the discretionary spending caps will be adjusted downward in 1999.

This amendment will therefore make it more difficult for Congress to fund agriculture research and extension, education, and environment programs in next year's appropriation bills as less money is available to spend.

Mr. COCHRAN. Mr. President, I presume all time has now expired.

The PRESIDING OFFICER. The Senator has 1 minute 15 seconds.

Mr. COCHRAN. I hope everybody will read Senator DOMENICI's remarks in the RECORD tonight. They refer to the fact that the offset this amendment proposes really isn't anything more than a temporary, 1-year offset. In order to achieve the savings that are purported to be added to the FDA account by this amendment being offered by the distinguished Senator from Iowa, a limitation on the use of Commodity Credit Corporation funds is imposed. But that is only for 1 year. In other words, that deserves some consideration, as Senator DOMENICI indicates. I agree with him.

In addition, if \$47 million in Commodity Credit Corporation funds is really needed for the Department of Agriculture to operate and maintain its computer systems in fiscal year 1998, as the Department indicates, those funds will have to be reprogrammed from other accounts, putting pressure on possibly the Farm Service Agency or other USDA agencies.

I am focusing on and I hope the Senate will focus on why we are going to have to reject this effort to undermine the procedure we have, or either change the procedure. We had a procedure that seemed to satisfy everybody. And now there is an effort to undermine it completely. It ought to be rejected.

The PRESIDING OFFICER. All time has expired.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that I be allowed to speak for up to 5 minutes on the Harkin amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am a cosponsor of the amendment that the Senator from Iowa has offered on increasing the funding for the FDA youth tobacco initiative. This amendment will restore full funding for the Food and Drug Administration's tobacco initiative in order to prevent tobacco use by teenagers and adolescents. The goal of the amendment is to prevent illegal sales of tobacco products to children.

In the bill presently before us, the Senate has allocated \$4.9 million for the implementation of the FDA regulations that restrict the sale and distribution of tobacco products to young people.

This is not adequate funding. The FDA will not be able to enforce the restrictions on the sale of tobacco to children unless the additional funds proposed by the Harkin amendment are agreed to. Some have said that the amendment is premature and the tobacco settlement is still being reviewed. Here in the Congress we will provide the money that the FDA needs in order to go ahead with the enforcement called for in the current regulations.

First, I point out that it is not that clear that Congress will go ahead and approve a settlement similar to that proposed by the attorneys general and the tobacco industry. Even if we are able to agree upon legislation to implement such an agreement, money for FDA enforcement through that settlement is not likely to be provided before fiscal year 1999, and the FDA enforcement and outreach efforts are very important and should not be delayed until that time.

It should also be noted that the amendment has a sunset provision. The Harkin amendment has a sunset provision, and if funding for the FDA tobacco initiative is provided for fiscal year 1998 through any tobacco settlement legislation, then the extra funds covered by that offset would be rescinded under the amendment. The amendment would raise the level to \$34 million in fiscal year 1998 so that the FDA, working with the States, can carry out rules to prevent kids from smoking.

Clearly, the need to give more attention and more effort and more resources to the effort to prevent young people from smoking is clear: 4.5 million young people, ages 12 through 17, are smokers today. High school seniors are smoking at the highest rates they have in 17 years. Nearly 90 percent of adult smokers began at or before the age of 18 and began with that habit. Today, just like every other day of the year, another 3,000 young people will become regular smokers. If current rates continue, more than 5 million children under age 18 who are alive today will wind up being killed by smoking-related diseases.

A root cause of youth smoking is the easy access that kids have to tobacco. A survey by the Centers for Disease Control shows that children and adolescents were able to buy tobacco products 67 percent of the time that they tried. The CDC found that most young smokers usually buy cigarettes without questions being asked and without any identification being requested. The American people support the effort that the FDA is making to reduce smoking among young people. Their strong support is shown in recent polls among the public with the use-access

provisions of the FDA rule in the enforcement of those provisions. Eighty-seven percent of the public agreed with the FDA policy setting a national minimum age of 18 for the purchase of tobacco products. It is estimated that there are more than \$1 million in illegal sales of tobacco products to children and adolescents in the United States every year.

Mr. President, let me just conclude by saying that this amendment, which Senator HARKIN has offered and I have cosponsored with him, will allow us to enforce the law that is in effect in all 50 States—the law against the sale of tobacco products to minors. It simply restores full funding to the FDA's tobacco initiative to prevent teenage tobacco use.

I urge all of my colleagues in the Senate to support the amendment.

I yield the floor.

#### DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The PRESIDING OFFICER. The clerk will report S. 1061.

The legislative clerk read as follows:

A bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. BINGAMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, earlier this morning, when the majority leader and I were on the floor, with Senator HARKIN, the ranking member of the subcommittee, we discussed the sequence of the bill which is currently pending, and it was our plan, our expectation, to conclude action on this bill by tomorrow evening. We have only had one amendment laid down so far. The distinguished Senator from Arizona [Mr. KYL] has laid down an amendment with respect to LIHEAP, but no other amendment has been forthcoming.

Now is obviously a good time to offer amendments since the floor is clear, with ample time for consideration. We hope that anybody who has an amendment to offer would advise the managers of the bill, myself in my capacity as chairman of the subcommittee, and Senator HARKIN, the ranking member of the subcommittee, and that we would have notification by the end of business today as to all amendments