



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 105<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 143

WASHINGTON, WEDNESDAY, SEPTEMBER 3, 1997

No. 114

## Senate

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

*Bless the Lord, O my soul:  
and all that is within me,  
bless his holy name.  
Bless the Lord, O my soul,  
and forget not all his benefits.*

—Psalm 103:1.

Gracious God, You have given us souls so we could know You and receive Your spirit of wisdom, guidance, and power. We thank You for the repeated reminders from the psalmist not to neglect the spiritual health of our souls, and Jesus' warning to us of the danger of gaining the whole world and losing our own souls.

Lord, we confess that we don't think very much about the condition of our souls, nor do we always listen attentively to Your voice speaking to us through our souls. It is easy to lose our assurance of abundant, eternal life in the intensity of the pressures and the demands of daily life. We become burdened by the responsibilities when we lose the blessing of our relationship with You. The danger is that we polish our personalities and we shrink our souls.

As we begin this day, we honestly confess to You our deep inner need for a fresh inflow of Your spirit into our souls so that all the faculties You have given us will be used to glorify You and not ourselves. Through our Lord and Saviour. Amen.

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

### SCHEDULE

Mr. LOTT. Today the Senate will resume consideration of the Harkin amendment No. 1057 to the Agriculture appropriations bill. Under the previous order, there will be 20 minutes for debate on the amendment equally divided between Senator COCHRAN and Senator HARKIN. Following the use or yielding back of time, a vote will occur on or in relation to the Harkin amendment at approximately 9:50 a.m.

Following the disposition of the Harkin amendment and passage of the Agriculture appropriations bill, the Senate will resume consideration of S. 1061, the Labor-HHS appropriations bill.

I remind Senators that this issue, of course, was considered in July. The Harkin amendment was defeated at that time, I believe, by a vote of 52 to 48. I urge my colleagues to again vote against the Harkin amendment and to, of course, support passage of the Agriculture appropriations bill. I believe Senator COCHRAN in July outlined clearly what is involved in this issue, and I think obviously he has stated the position that we should support which is to defeat this Harkin amendment.

Members can expect a number of amendments to be offered today and votes will occur throughout the day on Labor-HHS. We hope to be able to complete action in short order on the bill. We may not be able to do it tonight, but we will stay with the Labor-HHS appropriations bill until it is completed, either today or, if necessary, tomorrow. We will notify Members when votes can be expected.

In addition, the Senate will recess at 12:30 until 2:15 for the weekly policy luncheons to meet. As announced earlier, Members can expect votes each day this week, including the very real possibility of at least one vote, maybe more, on Friday of this week.

As the Senate continues the session through September and October, we will notify Members, after consultation

with the Democratic leadership, when we will definitely have votes on Mondays or Fridays or if there will not be any votes on a particular Monday or Friday. But if we are going to be able to complete our work by a reasonable time this fall and then go back to our constituencies in our respective States, we are going to have to work on some Mondays and Fridays.

I yield the floor, Madam President.

### RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mrs. HUTCHISON). Under the previous order, the leadership time is reserved.

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

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 2160, which the clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 2160) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Programs for the fiscal year ending September 30, 1998, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Harkin amendment No. 1057, to provide funding for activities of the Food and Drug Administration relating to the prevention of tobacco use by youth.

The PRESIDING OFFICER. The Harkin amendment No. 1057 is pending on which there shall be 20 minutes of debate equally divided.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. First, I ask unanimous consent that Ms. Lori Turpin, a detailee in the office of Senator

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S8677

INOUE, be granted floor privileges during deliberations on S. 1061.

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

Mr. HARKIN. Madam President, I yield myself 3 minutes, after which time I will then yield to Senator CHAFEE, the majority cosponsor of this amendment.

I also ask unanimous consent that Senator BINGAMAN be added as a cosponsor of the pending amendment.

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

Mr. HARKIN. Before I return to the substance of our amendment, I want to address a couple of points raised yesterday.

The distinguished chairman of the agriculture appropriations subcommittee suggested that my amendment should not be adopted because it skirts the rules. Well, the rules governing this body clearly permit this Senator or any other Senator to offer an amendment to the House Agriculture appropriations bill once it comes over to us.

There was a quotation in AP today of Senator COCHRAN saying, "This is an unfortunate effort to go around the rules and procedures."

How, I ask, can this Senator, be going around the rules when I am in full compliance with the rules of the Senate? Our amendment is fully within the Senate rules. There is no point of order that lies against offering it. And I will point out that offering this amendment at this time is in full compliance with the unanimous-consent agreement worked out with the majority leader during the Senate's consideration of its Agriculture appropriations bill.

The distinguished chairman, Senator COCHRAN, was involved in those discussions also. I did not wait until after the Senate passed its version of the bill and then spring this amendment on the Senate. Before the Senate passed its bill, there was a unanimous consent agreement worked out which plainly provided an opportunity for me to offer an amendment at this point, an amendment that is clearly permitted under the rules. That was all worked out under the rules openly and aboveboard before the Senate passed its Agriculture appropriations bill.

If, I submit, the argument of the distinguished chairman, Senator COCHRAN, prevails and our amendment is defeated on the basis of his procedural argument that this Senator should not be able to rely upon the Senate rules, every Senator should be concerned about the precedent that outcome would set regarding his or her ability to rely upon the Senate rules. Senators who are inclined to vote with Senator COCHRAN should think again and ask themselves what options under the Senate rules they may be closing off that they may one day critically need. I am not just talking about the rule I am relying on here. I am talking about a whole host of other rules protecting

the rights of Senators that could be swept away in the name of expediency, rules that could be eviscerated as mere trifling inconveniences.

This procedural argument made by the distinguished chairman is both dangerous and bogus. Let's get to the real issue here. The issue is whether or not kids under the age of 18 should be able to buy tobacco and whether we ought to fund efforts to stop such sales. That is what this vote is about. It is about our kids and protecting them from the ravages of tobacco. With the death toll of over 400,000 a year, smoking is killing more Americans than AIDS, alcohol, motor vehicles, fires, homicide, illicit drugs, and suicide combined. And I might add, with the addition of the Byrd language, States will be encouraged to crack down on the illegal sales of alcohol along with the illegal sales of tobacco. Teenage smoking rates are climbing—a 17-year high among high school seniors.

Why do we need these FDA rules? Because without the ID checks and a strong rule against underage sales, kids will continue to fall prey to tobacco.

This picture says more than a thousand words about why the FDA rules are needed. Here is Melissa on the left, Amy on the right. "Can you tell which one is 16? If they walked into a store, would the clerk know which one was under 18? To eliminate the guesswork, FDA requires retailers to card anyone who is under 27."

You could not tell which one of them is under the age of 18. It just so happens the young woman over here, Melissa, is 16 and Amy, over here, is 25. That is why this rule is needed. That is why the court in Greensboro, NC, upheld this rule.

Our amendment seeks \$34 million in funding, minuscule in comparison to the \$50 billion in smoking-related medical costs in our Nation each year.

Madam President, I ask unanimous consent at this point to have printed in the RECORD the editorial appearing this morning in the Washington Post regarding the upcoming vote.

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

[From the Washington Post, Sept. 3, 1997]

#### A SMOKING VOTE IN THE SENATE

The Senate is scheduled to vote today on an amendment by Tom Harkin of Iowa to give the administration the entire, modest amount it seeks to enforce new rules meant to prevent the sale of cigarettes to minors. The amendment deserves to pass. This is a clear test of the instincts of the Senate on this issue, which over the years has inspired so many grandiloquent speeches and so little action.

The request is for \$34 million instead of the \$4.9 million voted by the Senate Appropriations Committee and \$24 million by the House. Most of the money would fund enforcement action by the states; no heavy federal hand there. The rest would be used by the Food and Drug Administration for an educational campaign aimed mainly at cigarette retailers.

The amendment nonetheless was beaten 52 to 48 in July, in part because the money was

to come from an increased assessment on tobacco companies. Now it will come from another source—an offsetting cut in a minor Agriculture Department program. The question is whether those, including a number of leading Democrats, who voted no on the earlier grounds, will now vote aye. They should.

The rest of the session is likely to include a lot of fights like this, mostly over second- and third-tier issues and small amounts. The same Senate agriculture appropriations bill, for example, contains some \$50 million more than the administration sought to pay commissions and otherwise subsidize crop insurance; the House bill contains \$30 million more. Critics tried to use some of this money for programs to feed the poor instead. No way, but the issue may still be live in conference.

There are likely to be similar struggles when the Senate takes up the Interior appropriations bill, possibly next week. Subcommittee Chairman Slade Gorton included in the bill two provisions that would make major changes in Indian law harmful to the interests of the tribes. They ought to be excised. An effort will be made to limit further logging in the national forests by cutting construction funds for the roads on which such logging depends. That one failed in the House by only two votes when the administration wobbled in support. It ought to pass.

Mr. HARKIN. Madam President, I yield 3 minutes to the distinguished Senator from Rhode Island [Mr. CHAFEE].

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, I am delighted to be here today to support Senator HARKIN's important amendment in the fight against teenage smoking.

The attorney general of my home State of Rhode Island has urged Congress to provide the full funding level of \$34 million requested by the Food and Drug Administration. Our attorney general believes adequate funding is critical to our success in reducing the level of smoking among children and adolescents, and I agree with him.

Furthermore, with the evidence that we now have regarding the epidemic of teen smoking as outlined by the distinguished Senator from Iowa, and all the implications this has for the future, it seems to me there is no excuse for delaying full implementation of this critical program.

As has been pointed out, smoking among high school seniors is at a 17-year high. That is very discouraging. Smoking among 8th and 10th graders has increased by more than 50 percent in the last 6 years. State and local officials need this money for enforcement purposes. And the money is also needed to educate retailers about their responsibilities.

In my home State, even though we have a law prohibiting retailers from selling tobacco products to minors, over 70 percent of high school smokers were not asked to show proof of their age when purchasing cigarettes.

According to our attorney general, Rhode Island stores each year are selling—I was stunned by this figure. We are a small State, a million people—11

million dollars' worth of cigarettes to underage consumers, and the main reason, of course, is the lack of resources at the local level to enforce the law. We have been able to provide the funds for education. We have to be able, in my judgment, to provide funds for education and enforcement of this rule to make it meaningful.

Now, there is a little less than \$5 million provided thus far by the Senate. That is nice, but it just plain is not enough. With the improvement of the sunset provisions in the new offset, I believe there is no good reason not to vote for this amendment. Preventing underage smoking should be a national priority and providing full funding of this program is an important step toward achieving that goal. So I urge my colleagues to join me in this effort to eradicate teenage smoking.

I thank the Chair and I thank the distinguished Senator from Iowa for his leadership.

Mr. HARKIN. I thank the Senator for his comments. I thank him for his strong support in the effort to eliminate teenage smoking.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. Three minutes forty-five seconds.

Mr. HARKIN. I will yield 1 minute 45 seconds to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. I thank my colleague, the Senator from Iowa.

I rise in strong support of this amendment. Think about this for a moment. Have you ever met a parent who said, "I had the greatest news last night; I went home and my daughter came home and announced she had started smoking."

I have never heard that. I never heard a single parent say how proud they were to learn their children started smoking and yet statistics show us across America the fastest growing group of new smokers is children, and particularly young women, who decide in high school or sometimes earlier to start buying this product illegally to start smoking, to develop a nicotine addiction which can haunt them for a lifetime, leading to disease and sometimes to death.

What Senator HARKIN is doing is just eminently sensible. If there is such a thing as a family value, this is a family value amendment because what Senator HARKIN is doing with this amendment is to make sure that the Food and Drug Administration has the resources to enforce existing law. It is not a new imposition of law from the Federal Government. It is just common sense. Keep this dangerous addictive product out of the hands of children. And the people who want to sell it to kids illegally have to be stopped.

If we are going to do that, it takes more than a speech on the Senate floor. It takes a commitment of resources. I am sorry that Senator HARKIN's effort lost last time by a handful

of votes. There were a lot of speeches given and a lot of reasons given. I hope my colleagues have had a chance to go home during this break and talk to a number of families, as I have. They should realize, as I do, how critically important it is to pass the Harkin amendment and give the FDA the resources to make sure that our kids are not lured into this dangerous addiction.

The PRESIDING OFFICER. Who yields time?

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Madam President, what is the situation with time? Has all the time been used by the proponent of the amendment?

The PRESIDING OFFICER. The Senator from Iowa has 1 minute 35 seconds and the Senator from Mississippi controls 9 minutes 45 seconds.

Mr. COCHRAN. Madam President, I yield myself such time as I may consume.

Madam President, one comment at the outset has to be made in response to the Senator's statement quoting from an Associated Press article which suggests I said yesterday that the effort to bring this amendment to the Senate on a second vote violates the rules of the Senate. I said no such thing yesterday. I have just completed reading my remarks as reflected in the CONGRESSIONAL RECORD of yesterday's proceedings of the Senate, and that is not contained in my remarks.

What I did say was this, and I will read it again for emphasis. "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."

Now, let me elaborate on that. The procedure being used by the proponent of this amendment creates an unfortunate precedent. If it is rewarded by a majority of the votes on his amendment, that precedent will permit a vote on an amendment to a bill after third reading, and, after a unanimous-consent agreement has ripened, as an order limiting amendments on a bill. Using the tactic employed by the distinguished Senator and my friend from Iowa should not be rewarded by the Senate and such a precedent should not be established.

The reason I am making that point as strongly as I can, and repeating what was said yesterday in the 10 minutes we had to discuss this issue, is that we had worked out a procedure for considering appropriations bills here in the Senate in advance of their being considered by the House. We had mark-ups, in subcommittees and the full committee, of appropriations bills that had not yet passed the House. That is a departure from procedures that had been used as a matter of custom and

practice in the past. The reason was to accelerate and expedite consideration of these bills so that we would not get into a situation of winding up at the end of the fiscal year, or right on the brink of the beginning of a new fiscal year, not having passed all appropriations bills because of the slowness of that earlier procedure.

This was working fine. But one little nuance to permit that to work is that when the House-passed bill is received in the Senate, we have to get unanimous consent to hold it at the desk, and then call it up, substitute the Senate action on the appropriations bill for the language of the House-passed bill, and have it passed as amended by the Senate action. We have already had third reading of the Senate bill; we have already adopted all the amendments; we have had orders limiting those amendments; and then the Senator decides to use this opportunity. Under the Senate rules, he is right. Under the Senate rules, any Senator can object to a unanimous-consent request, and that is what he did. The difference is that it was understood that when we completed action on the Senate bill, we would then take up the House-passed bill, substitute the Senate action on it, adopt it, and go to conference. So it was at that little point in the procedure that the Senator decided to use a new tactic, and that is why we are having to vote another time, a second time, on an amendment that was disposed of during the consideration of the agriculture appropriations bill.

We passed the bill on July 24. Here we are in September having to vote on an amendment virtually the same with a different offset. The offset is described as defective and flawed in a statement made by Senator DOMENICI that is in the RECORD of yesterday. I invite the attention of Senators on that subject. What it does, in effect, is instead of spending money in this next fiscal year, we will postpone it to the following fiscal year, and that is scored by CBO as an offset. Are you kidding? There is a statutory maximum to spend, a mandate for computer operations to be funded at the Department of Agriculture. So the offset, while the CBO scores it—and we continue to live under this very interesting obligation to honor, cherish, and obey the decisions of CBO on these issues, the wisdom of the Senate or the will of the Senate notwithstanding—we are bound to respect the CBO decision on whether or not this is an effective offset of the new spending.

The arguments about whether you are for or against smoking—really, we are all for doing everything possible to persuade young people, minors, not to smoke. That is not the issue here. This program by FDA provides some funds to States to help enforce State rules and laws and Federal regulations on sales of tobacco to minors. Only a few States are even getting this money. I mean, the whole point of this argument

suggests that the substance of the amendment deals with that issue in some important or dramatic way. It does not.

The point is, this money, this account, will be negotiated in conference. All Senators understand that. The House has a higher number than the Senate has. We have higher numbers for other things like agricultural research and some other important initiatives protecting farmers, trying to do something about production agriculture and the efficiency and the yields that our farmers can achieve on their crops to remain globally competitive. This is a big bill. It has WIC money, which is very important. A lot of nutrition programs are funded in this bill at higher levels than the House recommends.

So, what I am saying is that we don't agree with the House on every part of the bill. That is why we are going to conference. But to permit this procedure to prevail and have us vote on the same amendment we have already disposed of, I think should be rejected. We are not going to be able to continue the procedures we followed if we reward this strategy, this tactic, this use or abuse of the procedures that we have been following.

Mr. LAUTENBERG. Madam President, I rise today in strong support of this amendment to restore funding to the Food and Drug Administration so it can enforce its rule in the war on teen smoking. At stake are the lives of millions of our children.

This rule prohibits—nationwide—the sale of tobacco products to anyone under the age of 18. It also requires retailers to check the ID of any purchaser of tobacco who appears to be under the age of 27.

Isn't this just common sense as matters of both public policy and public health? Apparently not.

Madam President, if I wasn't seeing this with my own eyes, I would not believe anyone doubted the need to fund FDA enforcement of this rule. The rule against teen smoking is overwhelmingly supported by the American people. It was validated by a North Carolina judge. Yet, here we are on the floor of the U.S. Senate, trying again to save this rule from obliteration.

Madam President, the tobacco lobbyists have spread a great deal of money and misinformation about the need for this initiative. I would like to clear the air.

The tobacco lobby has been telling Senators that we should wait until we pass settlement legislation before we fund the FDA's teen smoking enforcement efforts. That is nonsense. The ultimate disposition of the proposed settlement—which is far from being in place—has nothing to do with this fight against teen smoking. Nothing. The settlement negotiations, assumed that these rules would be in place and fully funded.

Once you eliminate this nonsense, it comes down to a basic question. Should

we simply sit back and watch 3,000 kids a day pick up an addiction that will kill or cripple many of them? Or should we fund this program and start saving lives? The money we approve today is a bargain compared to what we'll be forced to spend in later years on treating smoking-related illness.

Everyone, including the tobacco companies, says they are against teen smoking. Our Nation's parents, the medical community, and public opinion support the President's fight against teen smoking.

And make no mistake about it. If you vote against this funding, you gut the President's plan and take a stand for tobacco and against America's kids. I therefore urge you to support this amendment.

Mr. BYRD. Madam President, I will vote against tabling the Harkin amendment. It is a good amendment with the worthwhile goal of protecting the health and lives of young Americans.

Both the tobacco and alcohol industries have received well-deserved criticism in recent years for a variety of questionable or unsavory practices, including what many of their critics have identified as the use of advertising campaigns specifically intended to entice young people to try, and then become hooked on, their products. In response, the tobacco industry has been attacked at both the State and Federal levels, but, unfortunately, much less attention has been directed toward the alcohol industry.

Certainly, tragedies like the recent alcohol-related death of a Louisiana State University student demonstrate that a national effort to save our young people from the destructive forces of alcohol is warranted.

This amendment to the Agriculture appropriations bill will boost the ability of the States to enforce age and identification requirements for the purchase of cigarettes, but, importantly, at my request, the amendment also addresses the need to shore up the enforcement of checks for the purchase by minors of alcohol.

The amendment encourages States to couple their youth-smoking prevention efforts with State laws that prohibit underage drinking. These issues go hand in hand in preventing our youth from using destructive substances.

According to statistics from the Federal Centers for Disease Control's National Center for Health Statistics, the three leading causes of death for 15- to 24-year-olds—accidents, homicides, and suicides—often involve the use of alcohol. Efforts to curb the sale of alcohol to minors, therefore, can be expected to yield high payoffs to our society.

Under the original amendment, Federal funding was to be used to increase supervision of retailers to ensure that they examine the identifications of customers purchasing tobacco products. But language I added calls for coordinating the oversight of identification checks for alcohol sales along with those tobacco-related programs. It only

makes sense that store clerks who are already checking ID's for cigarettes also be checking ID's for alcohol. The exercise is called "carding," checking identification cards to verify that the buyer is not under the legal age. It is such an easy step that can help prevent a teenager from getting drunk and getting behind the wheel of a car—"carding" for age. Perhaps it would be more aptly described as "carding for life." I hope that this amendment may indeed result in saving lives.

Mr. FRIST. Madam President, I am in wholehearted agreement with the intent of the amendment before us, and I commend my colleague from Iowa for his sincere attempt to address the crucial issue of youth smoking. However, I remain unconvinced that FDA control and management of a youth antismoking initiative will solve the problem. Let me be very clear, I support a Federal role in restricting teen smoking and in funding a youth antismoking initiative. However, a cursory review of our Nation's history shows that the States have the primary jurisdiction over enforcement over youth smoking laws, just as they do with laws relating to underage consumption of alcohol.

In the aftermath of the tobacco settlement negotiations, our Nation's attention is focused, as never before, on the problem of teen smoking. We have an unprecedented bipartisan commitment to addressing this problem at all levels of government. Currently, seven committees in the Senate alone are tackling the complex issues raised by the settlement. In my opinion, we do the children of America a disservice by thinking we absolve ourselves of responsibility by simply delegating this job to Federal bureaucrats. We have a golden opportunity to put these financial resources to work, and bring about long-overdue solutions. I am not a politician by trade or training, and I find that sometimes that works to my advantage. I haven't been in Washington long enough to lose my appreciation for the truism that the best solutions are often found at home.

Let's talk about some of the initiatives the Federal Government is already funding to prevent youth smoking.

The Centers for Disease Control and Prevention has an Office on Smoking and Health [OSH] which conducts scientific research, communicates health information to the public, and coordinates action with other Federal agencies, State health departments, and other organizations. Their programs include the Smoke Free Kids & Soccer campaign, which collaborates with the U.S. women's national soccer team to promote smoke-free lifestyles among teenage girls. The OSH budget is \$21.4 million.

At the National Institutes of Health, the National Cancer Institute funds the American Stop Smoking Intervention Study research program in collaboration with the American Cancer Society

and State and local health departments and other organizations to develop comprehensive tobacco control programs in 17 States. NCI also administers investigator initiated research projects in smoking cessation and education, funded at \$94.9 million. The National Institute of Drug Abuse funds research on smoking and nicotine dependency.

The Health Resources and Services Administration provides funding for antismoking education through its health professions education and nurse training programs. The Maternal and Child Health Block Grant funds health services to mothers and children, including antismoking education.

And let us not forget, the Substance Abuse and Mental Health Services Administration provides discretionary funding for community-based demonstration projects for the prevention and early intervention of alcohol and drug abuse, including tobacco use. Also, SAMHSA is already implementing the Synar amendment, which requires States to enforce laws prohibiting the sale of tobacco products to individuals under age 18. States must conduct random unannounced inspections of retail outlets, and develop a strategy for achieving an inspection failure rate of less than 20 percent. States that don't comply with these requirements may lose their block grants funds, and I would like to point out that these funds may not now be used for enforcement activities.

Now, Madam President, I've named a few Federal antismoking efforts, but there are actually over 17, in different departments and agencies. The settlement which has been negotiated between industry, plaintiffs, the attorneys general, and the public health community has been referred to no fewer than seven Senate committees. I think it's time for a little common sense. The FDA, while they have done many wonderful things, have too often demonstrated a tendency to rely on centralized, heavyhanded bureaucracy rather than practical solutions. Let's proceed with hearings in the Senate, and let's examine the best possible avenues for administration of these funds. Most of all, let us not lose sight of the goal of our public health efforts.

The issue is reducing teen consumption of cigarette smoke. At every level of government, local, State, and Federal, and in every part of our communities, we must commit to do this ourselves. We cannot simply look the other way when a child with a cigarette walks by. Convenience store owners cannot ignore the law, and profit from our children's poor decisions, and legislators cannot allow campaign finances to cloud their judgment on this issue.

We know that one very effective tool is a consistently enforced requirement that retail outlets care young people. This is primarily a task for local law enforcement. Any Federal agency that Congress authorizes to police retail

outlets will in the final analysis turn to local agencies to conduct the compliance checks. As we seek to partner with governments at home, we can and should build in Federal compliance standard for States who refuse to cooperate. Together, we can put some teeth into the laxly enforced statutes already on the books.

Let me add that I think we should have some concern for what could happen if we stray too far from the obvious connection between personal responsibility and health. Personal responsibility is the key to good health. As a physician, I urged everyone of my patients and my constituents to stop smoking if they had started, and more importantly not to start. There is a clear link between smoking and many types of cancer and other diseases. As a heart and lung transplant surgeon, I have seen firsthand the harmful effects of smoking. I have held tar-laden lungs in my hand and removed malfunctioning hearts from failing bodies. As the father of three sons, whom I relentlessly urge not to smoke, I agree with columnist James Glassman that "Kids shouldn't smoke; parents, taxes, and laws should deter them." But before we entrust \$29 million of taxpayers hard-earned money to the Food and Drug Administration, let's make sure that this is the wisest use of our resources.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Madam President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Iowa controls 1 minute 53 seconds, the Senator from Mississippi 2 minutes 47 seconds.

Mr. HARKIN. Madam President, Senator COCHRAN said that only a few States are getting FDA funding right now. That is the point. Six States right now are receiving FDA enforcement money, and only 10 States are expected to receive such money in fiscal 1997, because FDA does not have the money for all States. What this amendment provides is enough money to expand the FDA initiative to all 50 States. I thank my friend from Mississippi for pointing that out. That is the essence of this amendment; to expand to all interested States FDA funding for enforcement of rules providing for ID checks and prohibiting illegal sales to kids who come in to buy cigarettes and tobacco.

Madam President, we hear time and time again the tobacco companies saying they want to stop kids from smoking. This amendment does that. Yet has one tobacco company stepped forward to support this amendment? A deafening silence. Not one penny comes out of their pockets under this amendment, and yet not one tobacco company has come forward to say, yes, this amendment by Senators HARKIN and CHAFEE is good because it will keep kids from smoking and buying tobacco. They say they want to help stop kids from smoking. Not one of them has come forward to support this amendment. Shame on them.

We debated the previous version of this amendment on July 23, and it was tabled 52 to 48. Since that time another 125,000 young Americans have gotten addicted to smoking, and every day that we delay, thousands more kids like these young women here walk into stores, buy cigarettes and tobacco products, and get hooked. That's why the tobacco companies are not here supporting this amendment.

Mrs. BOXER. Will my colleague yield?

Mr. HARKIN. Yes, I will yield to my friend from California.

Mrs. BOXER. I thank my friend for fighting this battle.

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

Mrs. BOXER. One quick point is the tobacco companies have increased their contributions to colleagues so they will not support you, and I hope we overcome that this time.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Mississippi controls the remaining time.

Mr. COCHRAN. Madam President, I have made the arguments that I intended to make. If Senators are interested in a little more detailed discussion of the procedures and why I think it would be such an unfortunate precedent for us to reward the strategy being used by the proponent of the amendment, I invite attention to yesterday's RECORD.

Let me just say one other thing about the effort to resolve this issue. We have plenty of room within the amount provided by the House in its version of this bill and the amount provided by the Senate in the bill that passed the Senate 99 to 0 to negotiate an appropriate level of funding for the FDA's program. We are not suggesting that this program ought not be funded, that assistance ought not be made available to States which need the assistance. But has it occurred to anybody that the States are bringing lawsuits and collecting from the tobacco companies money to do this very thing? Our State of Mississippi is the first to obtain a cash settlement with the tobacco industries, and it can use the money for a wide variety of purposes: to help defray expenses, medical expenses, that have been paid out to those who have suffered health problems because of smoking, antiteenage smoking campaigns and efforts and initiatives—and that is what this program is. Here we are asking people around the country to use their tax dollars to go to States, whether they have brought law suits, whether they have taken action—these are applicants for funds under a new FDA program that has just begun.

So, I am saying there is more to this than is being discussed. There is more to this than is being admitted. Florida has just now undertaken to consummate a settlement that is similar to the one in Mississippi, and there will be others. Where has been the Department

of Justice? Where is the Federal Department of Justice on these issues? Where is the proposal of the administration on these issues? We are asked to spend more taxpayer dollars, but I am not sure it is for a coherent, comprehensive way to deal with the overall issue. That is what I am suggesting. The States are doing a much better job and a much more aggressive job getting after this than we are. And an amendment is being suggested here to solve all those problems. Well, that is just not an accurate reflection of the facts, is it, Madam President?

So I urge, when we make a motion to table the amendment, once all time has been used or yielded back, that the Senate vote for the motion to table to permit us to continue to consider appropriations bills in this orderly fashion so that we can expedite their consideration and be fair to all Senators who offered amendments when the Senate considered the bill. I thank the Senators very much for their careful attention to this discussion.

Madam President, if all time has been used—

The PRESIDING OFFICER. All time has expired.

Mr. COCHRAN. Then I move the amendment of the distinguished Senator from Iowa be tabled.

Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 1057. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Virginia [Mr. WARNER] and the Senator from Alaska [Mr. MURKOWSKI] are necessarily absent.

The PRESIDING OFFICER (Mr. ALLARD). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 28, nays 70, as follows:

[Rollcall Vote No. 212 Leg.]

#### YEAS—28

Ashcroft	Gorton	Roberts
Brownback	Gramm	Santorum
Burns	Grams	Sessions
Coats	Hagel	Shelby
Cochran	Helms	Smith (NH)
Domenici	Hutchinson	Stevens
Enzi	Hutchison	Thomas
Faircloth	Inhofe	Thurmond
Ford	Lott	
Frist	McConnell	

#### NAYS—70

Abraham	Campbell	Feingold
Akaka	Chafee	Feinstein
Allard	Cleland	Glenn
Baucus	Collins	Graham
Bennett	Conrad	Grassley
Biden	Coverdell	Gregg
Bingaman	Craig	Harkin
Bond	D'Amato	Hatch
Boxer	Daschle	Hollings
Breaux	DeWine	Inouye
Bryan	Dodd	Jeffords
Bumpers	Dorgan	Johnson
Byrd	Durbin	Kempthorne

Kennedy	Mack	Roth
Kerrey	McCain	Sarbanes
Kerry	Mikulski	Smith (OR)
Kohl	Moseley-Braun	Snowe
Kyl	Moynihan	Specter
Landrieu	Murray	Thompson
Lautenberg	Nickles	Torricelli
Leahy	Reed	Wellstone
Levin	Reid	Wyden
Lieberman	Robb	
Lugar	Rockefeller	

#### NOT VOTING—2

Murkowski

Warner

The motion was rejected.

The PRESIDING OFFICER. The question is on the adoption of the Harkin amendment.

The Senate will please come to order.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, will the Chair please state the question that is now before the Senate on which we are about to vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1057, the Harkin amendment.

The amendment (No. 1057) was agreed to.

The PRESIDING OFFICER. Under the previous order, the text of S. 1033, as amended, including amendment No. 1057, is substituted for the text of H.R. 2160, and the bill is read for the third time and passed.

The bill (H.R. 2160), as amended, was read the third time and passed.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment, requests a conference with the House, and the Chair is authorized to appoint conferees.

The Presiding Officer (Mr. ALLARD) appointed Mr. COCHRAN, Mr. SPECTER, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. BURNS, Mr. STEVENS, Mr. BUMPERS, Mr. HARKIN, Mr. KOHL, Mr. BYRD, Mr. LEAHY, and Mr. INOUE conferees on the part of the Senate.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

#### LEAVE OF ABSENCE

Mr. COCHRAN. On behalf of the distinguished Senator from Virginia, [Mr. WARNER], I ask unanimous consent, in accordance with paragraph 2 of rule VI of the Standing Rules of the Senate, that Senator WARNER be permitted to be absent from the work of the Senate for this morning to serve as a pallbearer in Warrenton, VA, for Robert Canard, a former farm employee and friend of more than 30 years. Bob and his wife Dorothy have long been considered members of the Warner family.

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

Who seeks recognition?

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to proceed for up to 20 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. KYL addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I had sought recognition before the Chair ruled on the unanimous-consent request. I wonder if I could engage in a colloquy, a brief colloquy, regarding the request.

The PRESIDING OFFICER. The Senator from Arizona may proceed.

Mr. KYL. I was prepared to begin a debate at this point on an amendment which I laid down yesterday, which my understanding was we were going to try to conclude prior to roughly the noon hour because of a request by two other Senators, I believe Senator MOYNIHAN and another Senator, to speak during that period of time.

I just wonder if Senator SPECTER could be involved here and if we could quickly get an agreement. I am perfectly willing to accommodate the Senator from Delaware, but we need to get an agreement on how we are going to proceed here because I was going to conclude my part of this and then attend a committee hearing, which may not be possible if the Senator moves forward.

I ask the Senator from Pennsylvania what his intentions are.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank my colleague from Arizona for his inquiry.

If it is consistent with the scheduling of the Senator from Arizona, I suggest that we defer to the Senator from Delaware for a period of time for morning business.

Would that be acceptable to the Senator?

Mr. KYL. Would this mean we could take up my amendment at roughly 11 o'clock?

Mr. BIDEN. Mr. President, I will attempt to keep this under 15 minutes, if that will help.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I ask unanimous consent that we proceed with the amendment by the distinguished Senator from Arizona at 10:45.

Mr. KYL. Mr. President, that is certainly fine with me if it does not inhibit the Senator.

Mr. BIDEN. That is fine.

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

The Senator from Delaware is now recognized.

Mr. BIDEN. Mr. President, I thank the chairman of the committee, Senator SPECTER, for accommodating me and my friend from Arizona.

#### AMERICAN POLICY IN BOSNIA

Mr. BIDEN. Mr. President, having just returned from a trip to Bosnia, I would like to describe my impressions