Mr. COCHRAN. Mr. President, I ask unanimous consent that Senate Resolution 109, the Murkowski-Stevens resolution, be temporarily set aside and a vote occur on the adoption of the resolution at 4 o'clock p.m. today, to be immediately followed by the vote on the Cochran motion to table the Durbin amendment, No. 965. I finally ask consent that there be 2 minutes, equally divided, for debate prior to the second vote.

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

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

The Senate resumed consideration of the bill.

AMENDMENT NO. 963, AS MODIFIED

Mr. COCHRAN. Mr. President, I send a modification to amendment numbered 963 to the desk.

The PRESIDING OFFICER. Without objection, that amendment is modified.

The amendment (No. 963), as modified, is as follows:

At the appropriate place in the bill, insert the following:

SEC. ___. RURAL HOUSING PROGRAMS.

(a) HOUSING IN UNDERSERVED AREAS PROGRAM.—The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(b) HOUSING AND RELATED FACILITIES FOR ELDERLY PERSONS AND FAMILIES AND OTHER LOW-INCOME PERSONS AND FAMILIES.—

(1) AUTHORITY TO MAKE LOANS.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking ''September 30, 1997'' and inserting ''September 30, 1998''.

(2) SET-ASIDE FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking ''fiscal year 1997'' and inserting ''fiscal year 1998''.

(3) LOAN TERM.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(A) in subsection (a)(2), by striking ''up to fifty'' and inserting ''up to 30''; and

(B) in subsection (b)—

(i) by striking paragraph (2) and inserting the following:

''(2) such a loan may be made for a period of up to 30 years from the making of the loan, but the Secretary may provide for periodic payments based on an amortization schedule of 50 years with a final payment of the balance due at the end of the term of the loan;'';

(ii) in paragraph (5), by striking ''and'' at the end;

(iii) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(7) the Secretary may make a new loan to the current borrower to finance the final payment of the original loan for an additional period not to exceed twenty years, if—

''(A) the Secretary determines—

''(i) it is more cost-efficient and serves the tenant base more effectively to maintain the current property than to build a new property in the same location; or

''(ii) the property has been maintained to such an extent that it warrants retention in the current portfolio because it can be expected to continue providing decent, safe, and affordable rental units for the balance of the loan; and

''(B) the Secretary determines—

''(i) current market studies show that a need for low-income rural rental housing still exists for that area; and

''(ii) any other criteria established by the Secretary has been met.''.

(c) LOAN GUARANTEES FOR MULTIFAMILY RENTAL HOUSING IN RURAL AREAS.—Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (q), by striking paragraph (2) and inserting the following:

''(2) ANNUAL LIMITATION ON AMOUNT OF LOAN GUARANTEE.—In each fiscal year, the Secretary may enter into commitments to guarantee loans under this section only to the extent that the costs of the guarantees entered into in such fiscal year do not exceed such amount as may be provided in appropriation Acts for such fiscal year.'';

(2) by striking subsection (t) and inserting the following:

''(t) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1998 for costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of loan guarantees made under this section such sums as may be necessary for such fiscal year.''; and

(3) in subsection (u), by striking ''1996'' and inserting ''1998''.

Mr. COCHRAN. For the information of Senators, this amendment modifies the amendment previously agreed to, that had been offered by me for Senators D'AMATO and SARBANES regarding rural housing.

Mr. President, we hope to continue to consider amendments of Senators so we can proceed to complete action on this bill today. We now have two votes that have been set to occur beginning at 4 o'clock this afternoon.

There are, to our knowledge, at least two more amendments that are going to be offered that will probably require rollcall votes. What we would like to do is to stack votes on those amendments immediately following the votes that have now been ordered, and then have final passage of the bill.

To do that, we need to have the cooperation of all Senators who are interested in the passage of this bill and those who have amendments to the bill. We hope they will come to the floor as soon as possible to offer their amendments.

Mr. President, 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. HARKIN. 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. HARKIN. Mr. President, first I want to commend the chairman, Senator COCHRAN, and the ranking Democratic member, Senator BUMPERS, for their efforts in putting together this Agriculture appropriations measure. They have put a lot of work into crafting a bill that stays within the subcommittee's allocation while seeking to satisfy many competing demands for funding. I have appreciated very much working with them and with their staffs in the subcommittee on this bill.

AMENDMENT NO. 968

(Purpose: To provide funding for tobacco and nicotine enforcement activities of the Food and Drug Administration, with an offset)

Mr. HARKIN. Overall, I believe it is an excellent bill and one I wholeheartedly support. However, there is in this bill, I believe, a glaring shortfall relating to the level of funding provided for the Food and Drug Administration's enforcement and outreach efforts to prevent smoking by America's children.

The budget request for FDA includes $34 million for this purpose, but the reported bill provides only $4.9 million. The amendment that Senator CHAFEE and I will be offering will provide FDA the full $34 million it needs to implement a nationwide effort in all 50 States to help our kids avoid the deadly trap of tobacco. The needed funding is truly a drop in the bucket compared to the $50 billion or more our Nation spends each year on medical costs attributable to smoking.

Everyone, including even the tobacco companies, claims to be against underage smoking. But those assertions are just empty words if we fail to provide the necessary resources to carry out the FDA rules specifically designed to prevent sales of tobacco to children.

With this amendment, the rubber really meets the road. It presents this body with a clear choice whether we are really serious about attacking underage smoking.

In discussing our amendment, I hope that Members of the Senate will not lose sight of what is really at stake. Disease, suffering, and death caused by smoking and nicotine addiction is clearly at horrendous proportions in our Nation. With a death toll of more than 400,000 each year, smoking kills more Americans than AIDS, alcohol, motor vehicles, fires, homicides, illicit drugs and suicide all combined.

Here is a chart, Mr. President, that shows that in graphic detail: The comparative causes of annual deaths in the United States. Here we see 30,000 in AIDS deaths, 105,000 from alcohol, and those from homicides, illicit drugs, suicides. Here is smoking, 418,000 per year. There are more deaths caused by smoking than all of the rest put together.

This is truly an epidemic, an epidemic that begins with underage smoking. Mr. President, 4.5 million kids aged 12 to 17 are smokers today. Almost 90 percent of adult smokers began at or before the age of 18. The average youth smoker begins at age 13 and becomes a daily smoker by the age of 14½. Thousands of our kids are drawn into smoking every day. It is no longer even an arguable point that they have been targeted for recruitment into a deadly habit. Today, just like every day, 3,000 young Americans will begin

smoking and 1,000 of them will die from it. At current rates, 5 million American kids under 18 who are alive today will be killed by smoking-related disease.

The upward trend in teenage smoking is even more frightening. Smoking among high school seniors is at a 17-year high. Mr. President, again, here is a graph that shows it in detail. The smoking rates among high school seniors are at a 17-year high. These are the trends of cigarette smoking among high school seniors, 12th grade, 1980 to 1996. Look what has been happening since about 1991, 1992. This graph is going off the charts—a 17-year high.

The statistics on smoking among young women and girls are just as shocking. Smoking among eighth grade girls—yes, I said that correctly, eighth 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. And smoking among black children of this age nearly doubled during this time period.

Our children are our future, as we all know. But thanks to smoking, millions of American kids will not be leading long and fulfilling lives. Instead, they will be filling hospital beds and coffins long before their time.

The epidemic of teenage smoking is a crisis that is beyond partisanship. Responding to it should lift us up above everyday politics. That is why I am so proud to have the distinguished Senator from Rhode Island, Senator CHAFEE, as a cosponsor of this bipartisan amendment.

Unquestionably, Mr. President, a key factor in youth smoking is that it is far too easy for kids to buy tobacco. Not only is it far too easy, but we now know that the tobacco companies, through the use of slick advertising, through the use of Joe Camel, through the use of the Marlboro Man and Virginia Slims and all of the fancy advertising that they have done, have targeted kids with Marlboro gear, the Camel coupons you can redeem for Camel gear and for beach wear and radios and cassette players, jackets and all the things that teenagers like to accumulate. We know that the tobacco companies have targeted teenagers for smoking with their advertising.

When you combine that targeting of the advertising with the easy access for kids to buy tobacco, that is why you have teenage smoking at a 17-year high. I believe that this recent rise is due to the tremendous amount of advertising targeted to our youth and the ease with which youth can buy tobacco.

A review of numerous studies has shown that children and adolescents were able to buy tobacco products successfully 67 percent of the times that they tried. Over 60 percent of kids who smoke say they buy their own. One study showed that over 75 percent of underage high school students who had bought cigarettes in a store or a gas station in the past 30 days said they were not asked to show proof of age.

It has been demonstrated that enforcement of youth access laws can successfully reduce tobacco sales to minors and reduce youth smoking rates. That just makes good common sense and that is exactly the basis on which the FDA acted.

Let me describe the FDA initiative that our amendment funds. In August of 1996, FDA issued rules specifically designed to reduce the number of kids who start smoking. The most important of the rules set a national legal age of 18 for the purchase of tobacco products and require retailers to check photo ID's of consumers seeking to purchase tobacco who appear to be younger than 27 years of age. Those rules went into effect in February of this year.

Now, some might say, is this necessary that we have this photo ID rule with a cutoff of 27 years of age? Well, I ask you, Mr. President, and other Senators to look at this picture. Which one is age 16? Is it Melissa here on the left or is it Amy here on your right, both coming up to the counter to buy cigarettes? Can you tell which one is 16? If they walked into a store, would the clerk know which one was under age 18? Well, to eliminate the guesswork, FDA requires retailers to card anyone, to have proof of ID for anyone who appears under 27. In case you are wondering, Melissa here is 16 and Amy here is 25. That is the problem we have. And that is why FDA acted.

The public overwhelmingly supports putting a stop to illegal sales of tobacco to minors. A new poll shows that 92 percent of Americans agree that young people should be required to show a photo ID to buy tobacco products. Eighty-seven percent agree with the FDA rule setting a national minimum age of 18 for buying tobacco mandating ID checks of all tobacco purchasers appearing to be under the age of 27.

FDA needs $34 million for enforcement and outreach that will help all 50 States carry out the minimum age and photo ID rules. There is no question that the States need help in the area of enforcement. Despite the fact that it is against the law in all 50 States to sell cigarettes and smokeless tobacco to minors, our young people purchase an estimated $1.26 billion—billion—worth of tobacco each year. The FDA initiative directly addresses these enforcement problems. It will keep tobacco out of the hands of children.

Of the $34 million, $24 million will go to enforcement and evaluation, with the vast majority of that going out to the States through contracts. And $10 million of the $34 million will go to outreach efforts for educating retailers and the public about complying with the rules.

The point of the initiative is to prevent our kids from buying tobacco illegally and to help our small businesses and our retailers to come into compliance with the law. The FDA initiative is not a new, big Federal regulatory program. The bulk of the money will go directly to support State and local efforts. Without this funding, the States will not have the resources they need for their efforts against illegal tobacco sales to kids. By the end of fiscal year 1997, FDA expects to have contracted with the first 10 States. The increased funding will allow a comprehensive national enforcement effort with contracts in all 50 States.

Now, Mr. President, it is true that the tobacco industry has challenged FDA's tobacco regulation in court. Well, they went to court. They had their day in court. However, the authority of FDA to carry out the minimum age and photo ID rules was fully upheld in April by the Federal district court in Greensboro, NC. The $34 million request in FDA's budget, which our amendment would provide, would be used for activities that the Greensboro Federal court gave the green light to. That decision did not reduce the need for fully funding the FDA initiative.

Mr. President, I have a letter from Secretary of Health and Human Services Shalala supporting this point. I ask unanimous consent to have it printed in the RECORD.

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

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, July 14, 1997.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you approach your subcommittee's consideration of the Fiscal Year 1998 budget request for the Food and Drug Administration, questions have been raised about FDA's ability to spend the funds for the youth smoking initiative requested by the President.

Earlier this year, the Federal District Court in Greensboro, North Carolina, upheld the FDA's assertion of jurisdiction as well as all of the access and labeling provisions of FDA's 1996 regulations. The Court kept in place the age and photo ID provisions that have been in effect since February 1997 and stayed the effective date of the remaining provisions. Finally, it overturned the advertising restrictions. FDA has appealed this portion of the ruling.

The President requested $34 million in funding to enforce the tobacco rule, which will be used to implement the provisions upheld by the Court. Indeed, this funding is vital to oversee the age and photo ID requirements already in effect. There are approximately 500,000 retailers who sell tobacco products in the United States. Each year, more than $1 billion in illegal sales to children and adolescents occur. Stopping the sale to minors is of paramount importance to protect our nation's youth.

The bulk of the $34 million will be spent on contracts with the states that want to join FDA in ensuring retailer compliance with the provisions already in place. (By the end of this fiscal year, the agency expects to have contracted with the first ten states who have joined with us to address this problem.) Without these funds, FDA will not have the credible national enforcement program required to reduce significantly young people's access to tobacco.

The remaining funds are necessary to educate retailers and the public about the new rules. An effective compliance outreach program will increase the likelihood that retailers will understand and comply with the age and photo ID provisions of the tobacco regulations. Retailers who do not know about the rules cannot possibly comply with them.

By providing the full funding requested by the agency, FDA will be able to put in place a comprehensive enforcement and outreach program. Every day, another 3,000 young people become regular smokers; of these 1,000 will die prematurely because of their smoking. If funds are provided by the Congress, the new FDA tobacco regulation will significantly help prevent another generation of young people from endangering their lives because of this deadly addiction. I appeal to you to help us assure that funding.

An identical letter is being sent to Senator Bumpers.

Sincerely,

DONNA E. SHALALA.

Mr. HARKIN. Mr. President, as the letter from Secretary Shalala makes clear, the full $34 million is needed to carry out the minimum age and photo ID rules. She states:

Without these funds, FDA will not have the credible national enforcement program required to reduce significantly young people's access to tobacco.

Again, the pending litigation has not reduced FDA's need for or its ability to utilize the $34 million. So our amendment provides the full funding for FDA to work with the States to carry out the minimum age and photo ID rules.

Now, where do we get the money? We offset the full cost of the FDA youth smoking initiative by increasing the tobacco marketing assessment from the current 1 percent of the national price support level to 2.1 percent for the 1998 crop of flue-cured tobacco and for the 1997 crop of burley and other tobacco. The increase will apply to assessments expected to be collected in fiscal year 1998. That is because flue-cured tobacco is marketed in the summer, while burley and others are marketed almost entirely after October 1.

The full cost of the increase would be borne by purchasers of tobacco, that is, the tobacco companies. In addition, for the tobacco covered by the amendment, half of the current 1 percent assessment now paid by producers would be shifted to purchasers, thus providing assessment relief to tobacco farmers.

We have heard concerns expressed clearly and forcefully on the floor of the Senate about the consequences for our tobacco farmers of changes in tobacco policies. I am very sympathetic to the situation of any farmer, including tobacco farmers. They are just trying to make a living. I know how hard farmers work and what a struggle it is for them to make a living. So I am concerned, also, about the impacts on tobacco-farming families.

For that reason, this amendment is crafted to relieve tobacco farmers of their obligation to pay a part of the marketing assessment on the tobacco covered by the amendment. Currently, the producer of domestic tobacco—that is the farmer —pays half of the assessment. That is one-half of 1 percent of the support price, with the purchaser paying the other one-half of 1 percent. What our amendment says is that the tobacco companies will pay the whole assessment, including the increase. So this amendment provides relief for our tobacco farmers because it will relieve them of the burden they have now of paying that one-half of 1 percent of the assessment. I might add, parenthetically, Mr. President, I believe if tobacco companies have to pay the full 2.1 percent, then they are going to pass costs along to the consumers—that is, those who smoke tobacco. On the one hand, we relieve the tobacco farmers of this burden and we have made those who use tobacco pay more.

As a nation, we are in solid agreement that use of tobacco by minors must be reduced—or at least we say we are. When that happens, it also means that we eventually will have fewer adults smoking. So it is our national policy that there will be less of a market in this country for tobacco. Tobacco farmers need to recognize that change is coming. But I also know that when markets for agricultural commodities change, it is often the farmers who bear the brunt of that change. It is no different for tobacco than for corn or soybeans or hogs or wheat or cotton or any other commodity. I hope that we will find more ways to help tobacco farmers deal with this change. In the meantime, I am suggesting that at least we should require that tobacco companies pay the marketing assessment. It will ease the burden on tobacco farmers, who clearly are facing uncertainty.

Mr. President, we simply cannot continue to postpone addressing the monumental costs to society of tobacco use on the grounds that doing so may have some negative impact on farmers. There are too many lives at stake—lives of people who are children today.

Again, let me make it clear that this amendment does not give FDA any additional jurisdiction over tobacco farmers. It does not create any new authority for FDA to regulate tobacco farmers or become involved in the marketing by farmers of tobacco. The offset in the amendment involving an increase in the assessment involves only the Department of Agriculture, not the FDA.

Now, Mr. President, there is some misinformation floating around to the effect that we do not need this FDA funding because of the proposed tobacco settlement that is now under review by the Congress and the administration. Well, Mr. President, this FDA initiative against youth smoking was begun long before the tobacco settlement talks even started. The minimum age and photo ID check rules are in place and are working. But there is a pressing need for more funding to allow all 50 States to carry out enforcement efforts aimed at preventing youth smoking. There plainly is no good reason for delaying full implementation of the FDA initiative. We should not await the uncertain fate of the tobacco settlement before putting the necessary resources into FDA's enforcement and outreach efforts to stop underage smoking. As a nation, we cannot afford to continue losing our kids to tobacco at the horrendous rates that we are now experiencing. So the proposed tobacco settlement and this FDA initiative are totally separate matters—there should be no confusion on this point—and there is no inconsistency between them either.

Mr. President, I have here a letter from 33 attorneys general involved in the settlement activities, who write in support of full funding for the FDA initiative, what our amendment here provides. The 33 attorneys general who are involved in the settlement say they support full funding of this initiative. They would not have signed the letter if there were any reason to delay funding the FDA efforts pending possible legislation to carry out the settlement.

I ask unanimous consent to have that letter printed in the RECORD.

There being no objection, the letter 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 Committee, Hart Senate Office Building, Washington, DC.

Hon. THAD COCHRAN,
Chair, Senate Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies, Russell Senate Office Building, Washington, DC.

Hon. DALE BUMPERS,
Ranking Member, Senate Appropriations Subcommittee on Agriculture, Rural Development 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 products. 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.

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. Mr. President, our amendment would in no way prejudice or in any way affect the outcome of any legislation designed to implement the settlement. Mr. President, I also have two additional letters here. One is from Secretary Shalala and one is from Michael Moore, the Mississippi attorney general who has led the attorneys general in the tobacco settlement negotiations. As you know, Mississippi already reached a settlement with the tobacco companies. Michael Moore led these efforts. I just want to read an excerpt from his letter dated July 21, 1997:

Dear SENATOR HARKIN:

I am writing to express my strong support for your amendment to the Agriculture Appropriations bill to provide full funding for the Food and Drug Administration's initiative to protect kids from tobacco. This is a critical program that must be supported without delay.

Attorney General Moore of Mississippi goes on to say:

There has been some confusion regarding your amendment and whether it would interfere or conflict with the proposed settlement with the tobacco industry. Some Members of Congress have also stated that they believe funding FDA's tobacco program is unnecessary because money will be forthcoming from a settlement. No one is more anxious than I to have Congress promptly address the settlement; but let me be very clear:

Again, I am reading from Attorney General Moore's letter.

passage of your amendment is critical because we can't be certain that the tobacco settlement will be passed or implemented in time to provide the needed funds for the upcoming fiscal year. Congress should not jeopardize the current FDA tobacco initiative unless we are assured of the immediate passage of legislation regarding the settlement.

Immediate full funding for the FDA rule is appropriate because the agency's initiative is already in place and has been implemented.

Secretary Shalala, in her letter dated July 22, says:

Let me emphasize that the funding requested by the administration is separate from any funds that might be available sometime in the future as a result of any settlement. Further, I do not believe it would prejudice or predetermine in any way future congressional action regarding the settlement.

I ask unanimous consent that the letter from Secretary Shalala and the one from Attorney General Mike Moore of Mississippi be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, July 22, 1997.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR TOM: Thank you for your leadership in the effort to fully fund the Food and Drug Administration's fiscal year 1998 budget request for the youth smoking initiative. I understand that questions have been raised regarding the relationship of this amendment to the funds discussed in the proposed tobacco settlement.

Let me emphasize that the funding requested by the Administration is separate from any funds that might be available sometime in the future as a result of any settlement. Further, I do not believe it would prejudice or predetermine in any way future congressional action regarding the settlement.

As you know, the Department intends to use the funding requested by the President for FY 1998 to enforce the age and photo ID provisions of the tobacco regulation that are already in effect. This regulation has been upheld by the Federal District Court in Greensboro, North Carolina and has the force of law.

By contrast, the proposed tobacco settlement is still under review by the Administration. No legislation has been considered by Congress and the appropriate committees have just begun to hold hearings. For these reasons, the time frame and likelihood for final action by the White House and Congress on the proposed settlement are entirely unclear. Even under the most optimistic scenario, it is unlikely that any funds under such a settlement would be available in FY98.

I hope that this addresses the questions that have been raised. Please let me know if any additional information is necessary.

Sincerely,

DONNA E. SHALALA.

STATE OF MISSISSIPPI,
OFFICE OF THE ATTORNEY GENERAL,
Jackson, MS, July 21, 1997.

Hon. TOM HARKIN,
U.S. Senate, Washington, DC.

DEAR SENATOR HARKIN. I am writing to express my strong support for your amendment to the Agriculture Appropriations bill to provide full funding for the Food and Drug Administration's initiative to protect kids from tobacco. This is a critical program that must be supported without delay.

There has been some confusion regarding your amendment and whether it would interfere or conflict with the proposed settlement with the tobacco industry. Some Members of Congress have also stated that they believe funding FDA's tobacco program is unnecessary because money will be forthcoming from a settlement. No one is more anxious than I to have Congress promptly address the settlement; but let me be very clear; passage of your amendment is critical because we can't be certain that the tobacco settlement will be passed or implemented in time to provide the needed funds for the upcoming fiscal year. Congress should not jeopardize the current FDA tobacco initiative unless we are assured of the immediate passage of legislation regarding the settlement.

Immediate full funding for the FDA rule is appropriate because the agency's initiative is already in place and has been implemented. A Federal Court in Greensboro, North Carolina, fully upheld FDA's authority over tobacco products. I sincerely hope the settlement with the tobacco companies will be enacted into law, but in the meantime, let's immediately stop the illegal sale of tobacco to minors.

Regardless of what happens with the settlement, the FDA rule is in place and should remain a national priority. I commend you for your efforts to provide full funding for this historic program and wish you success.

Sincerely,

MIKE MOORE,
Attorney General.

Mr. HARKIN. Again, Mr. President, both letters make it clear that the tobacco settlement does not obviate the need for the FDA funding that we provide in our amendment and that providing the funding would not interfere with the settlement.

In closing, Mr. President, I want to thank Senator BYRD for his excellent addition to our amendment. Senator BYRD has been the leader in the Senate in focusing, also, on the horrendous problem of youth drinking and the need to clamp down on young people buying alcohol. Senator BYRD's addition requires that States be encouraged to coordinate their enforcement of the tobacco ID check with enforcement of laws that prohibit underage drinking.

Mr. President, this is a significant improvement to our original proposal. I commend my distinguished senior colleague from West Virginia for providing this language. As I said to Senator BYRD, if we tighten down on these ID checks, if we provide the funding so that when Melissa—Melissa is 16 and she looks older than Amy who is age 25—goes in to buy tobacco we will also attack underage drinking. A lot of times they may be buying beer or wine along with tobacco. As long as an ID check is made, it will stop underage drinking as well as smoking. So I agree with Senator BYRD that the States should coordinate their enforcement of tobacco ID checks with enforcement of laws that prohibit underage drinking.

Mr. President, again, I have an amendment here that incorporates that language from Senator BYRD. I thank my colleague, Senator CHAFEE, for his cosponsorship.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. CHAFEE, Mr. LAUTENBERG, Mr. BYRD, and Mr. REED, proposes an amendment numbered 968.

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

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the amendment.

The bill clerk read as follows:

At the end of title VII, insert the following:

SEC. . TOBACCO ASSESSMENTS.

Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended—

(1) in subsection (g)(1), by striking ''Effective'' and inserting ''Except as provided in subsection (h), effective''; and

(2) by adding at the end the following:

''(h) MARKETING ASSESSMENT FOR CERTAIN 1997 AND 1998 CROPS.—

''(1) IN GENERAL.—Effective only for the 1997 crop of tobacco (other than Flue-cured tobacco) and the 1998 crop of Flue-cured tobacco for which price support is made available under this Act, each purchaser of such tobacco, and each importer of the same kind of tobacco, shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to—

''(A) in the case of a purchaser of domestic tobacco, 2.1 percent of the national price support level for each such crop; and

''(B) in the case of an importer of tobacco, 2.1 percent of the national support price for the same kind of tobacco;

as provided for in this section.

''(2) COLLECTION AND ENFORCEMENT.—The purchaser and importer assessments under paragraph (1) shall be—

''(A) collected in the same manner as provided for in section 106A(d)(2) or 106B(d)(3), as applicable; and

''(B) enforced in the same manner as provided in section 106A(h) or 106B(j), as applicable.

''(3) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.

Notwithstanding any other provision of this Act, $964,261,000 is provided for salaries and expenses of the Food and Drug Administration. In carrying out their responsibilities under the Food and Drug Administration's youth tobacco use prevention initiative, States are encouraged to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking''.

Mr. KENNEDY. Mr. President, I strongly support the Harkin amendment to the Agriculture appropriations bill. The illegal sale of tobacco products to teenagers is a serious national problem. Each year, it is estimated that a half a billion cigarettes are sold to Americans under the age of 18.

The Harkin amendment is an important test of the genuineness of the Senate's commitment to reducing teenage smoking by fully funding the enforcement of the FDA tobacco regulations. These FDA rules prohibit the sale of tobacco to minors, and require retailers to check the photo identification of consumers who purchase tobacco products if they appear to be 27 years old or younger. Of the $34 million, $24 million will go to the States for enforcement.

The Harkin amendment also represents an important test of the Senate's resolve to support FDA regulation of tobacco. Three months ago, a federal court in Greensboro, NC upheld FDA's authority to issue the youth access regulations. But rather than strengthening the FDA's hand by providing the agency with the necessary funds to enforce the rules, the current bill shamefully weakens the FDA's authority appropriating only $5 million for enforcement, or just one-seventh of the President's request for $34 million.

Some argue that the Senate should wait until the so-called global tobacco settlement is enacted into law before funding the regulations, despite the fact that serious concerns have been raised that the settlement doesn't adequately protect the public health. Even if some version of the settlement is approved, it will not be in time for the current budget cycle. In addition, 33 of the State attorneys general who negotiated the settlement support the $34 million funding level.

Each day we delay in funding the FDA regulations, 3,000 new smokers between the ages of 12 and 17 will take up smoking—or 1 million a year.

According to a spring 1996 survey conducted by the University of Michigan Institute for Social Research, the prevalence of youth tobacco use in America has been on the increase over the last 5 years. It rose by nearly 50 percent among 8th and 10th graders, and by nearly 20 percent among high school seniors between 1991 and 1996.

When children are hooked on cigarette smoking at a young age, it is especially hard for them to quit. Ninety percent of current adult smokers began to smoke before they reached the age of 18. Ninety-five percent of teenage smokers say they intend to quit in the near future—but only a quarter of them will actually do so within the first 8 years of beginning to smoke.

Tobacco companies have known this fact for years—and used it cynically to their advantage. Many experts believe that if the industry cannot persuade children to take up smoking, the industry will collapse within a generation.

That's why ''Big Tobacco'' targets children with billions of dollars in advertising and promotional giveaways, promising popularity, excitement, and success for those who take up smoking.

Because of these marketing practices, the Centers for Disease Control and Prevention estimate that 5 million of today's children will die prematurely from smoking-caused illnesses.

In addition, the Center on Addiction and Substance Abuse at Columbia University has found that smoking is a gateway to the use of illegal drugs. Children between the ages of 12 and 17 who smoke are 12 times more likely to use heroin and 19 times more likely to use cocaine than nonsmokers. The younger a person begins to use tobacco, the higher the likelihood of regular drug use as adults.

By providing the full $34 million that President Clinton requested to implement photo I.D. checks for the purchase of tobacco products by anyone under the age of 27, the Senate can make an important difference in reducing tobacco use among the Nation's youth.

The additional Federal funds in the Harkin amendment to enforce the FDA tobacco regulations are clearly needed, and I urge the Senate to approve the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 969 TO AMENDMENT NO. 968

(Purpose: To impose an assessment on ethanol manufacturers)

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself, and Mr. FAIRCLOTH, proposes an amendment numbered 969 to amendment numbered 968.

Strike all after the first word and insert the following:

ASSESSMENT FOR ETHANOL PRODUCERS.

(a) IN GENERAL.—For fiscal year 1998, the rate of tax otherwise imposed on a gallon of ethanol under the Internal Revenue Code of 1986 shall be increased by 3 cents and such rate increase shall not be considered in any determination under section 9503(f)(3) of the Internal Revenue Code of 1986.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Anti-Smoking Activities' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section (a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, as estimated by the Secretary.

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary of Health and Human Services for anti-smoking programs through the Substance Abuse and Mental Health Administration.''.

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

''SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply fuel removed after September 30, 1997.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

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

Mr. HELMS. Mr. President, I ask for the yeas and nays on the underlying amendment.

The PRESIDING OFFICER. It would take unanimous consent to have the vote on underlying amendment.

Is there objection?

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

Mr. BYRD. Mr. President, I am pleased to cosponsor the HARKIN amendment to fund the Food and Drug Administration's youth smoking prevention initiative at $34 million for fiscal year 1998. This is a worthwhile amendment which has my support. I applaud the efforts of Mr. HARKIN to provide funding for this important initiative. Tobacco use among minors is illegal, and we should make every effort to prevent it.

I am particularly pleased that the amendment by Mr. HARKIN has been strengthened at my urging to encourage 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.

Alcohol is the drug of choice among teens as well as a lot of adults, I am sorry to say, and the consequences are devastating. According to statistics compiled by the National Center on Addiction and Substance Abuse, among children between the ages of 16 and 17, 69.3 percent have at one point in their lifetime experimented with alcohol. In the last month, approximately 8 percent of the Nation's eighth graders have been drunk.

Think of that, eighth graders. Approximately 8 percent of the Nation's eighth graders have been drunk. What's the matter with the parents? I wonder what the parents are doing letting their children in the eighth grade drink. I wouldn't consider myself much of a parent if I let my children drink. If they do that, I blame myself. But the fact is that 8 percent of the Nation's eighth graders have been drunk. It is pretty hard to believe. That would not have happened in my day going to school.

In 1995, there were 2,206 alcohol-related fatalities of children between the ages of 15 and 20. According to the National Center on Addiction and Substance Abuse at Columbia University, 37.5 percent of the young people who have consumed alcohol have also used some illicit drug, while only 5 percent of young people who have never consumed alcohol have used some illicit drug; 26.7 percent of those who have consumed alcohol have tried marijuana, while of those who have never consumed alcohol only 1.2 percent have tried marijuana. And 5 percent of youths who have partaken of alcohol have tried cocaine, while of those who do not drink alcohol only one-tenth of 1 percent have tried cocaine.

So it is not just that alcohol is a real starter not only for more alcohol but for illicit drugs, for marijuana, for cocaine.

Every State has a law prohibiting the sale of alcohol to individuals under the age of 21. How is it then that two out of every three teenagers who drink report that they can buy their own alcoholic beverages? Again, what is wrong with the parents? The parents are sleeping on the job. Two out of every three teenagers who drink report that they can buy their own alcoholic beverages. In my case, they would buy a good basting as well. My parents, they would not have put up with that, not with me, nor would other parents back in those days. We are living in a time, of course, when anything goes.

Our children are besieged with media messages that create the impression that alcohol can help to solve life's problems, lead to popularity, and enhance athletic skills. Do you want to be a good athlete? Drink. Drink beer. Do you want to be popular with the girls? Drink beer. Do you want to be popular with the boys? Drink beer. The media messages help to leave that impression. These messages, coupled with insufficient enforcement of laws prohibiting the consumption of alcohol by minors, give our Nation's youth the impression that it is OK for them to drink. This impression has deadly consequences. In the three leading causes of death for 15- to 24-year-olds—accidents, homicides and suicides—alcohol is a factor. Alcohol is involved in the three leading causes of death for 15- to 24-year-olds.

Efforts to curb the sale of alcohol to minors have high payoffs in helping to prevent children from drinking and driving death or injury. So I urge my colleagues to join me in support of the Harkin amendment to actively address two areas that so seriously harm the physical and mental health of our Nation's children. We have seen a great drive on in recent years by our Nation to curb the use of tobacco. All that is very well and good. I am not against that at all. But who has the nerve to raise the finger against alcohol? Who has the nerve to say, ''Don't drink, period.'' ''Don't drink, period.''

I congratulate my colleague, and I thank him for allowing me to join in the support of his amendment and for allowing me to add the language of my proposal that deals with drinking.

Mr. HARKIN. Will the Senator yield?

Mr. BYRD. I will yield provided, Mr. President, I do not lose the floor. I have to do this——

Mr. HARKIN. I understand.

Mr. BYRD. Yes.

Mr. HARKIN. I just wanted to thank the Senator from West Virginia for his addition to this amendment. The Senator from West Virginia, as I mentioned earlier, is the leading voice in this Chamber about the dangers of alcohol and alcohol addiction, especially drinking under age. It has become, like tobacco, the scourge of our Nation, especially, as the Senator said, beer drinking among teenagers in college, and that is just a gateway to harder alcohol and other drugs.

The Senator from West Virginia has done us a great service because most of the data that we have seen indicate that the teenagers who illegally buy tobacco also illegally buy alcohol.

Sometimes we tend to get blinders on around here; we don't see other things, and I would admit freely and openly that I had been focusing on the teenage smoking and had not thought about the other aspects of the teenager who walks in to buy the tobacco. And you can bet your bottom dollar, I say to my friend from West Virginia, that if this

girl here—as I said earlier, which one of these is underage—you really cannot tell—Melissa or Amy. This one looks the youngest. She has a pair of overalls on. This one looks older. But it turns out this one is 16 and this one is 25.

And you bet your bottom dollar, I ask the Senator from West Virginia, if this one, who is 16, walks in and is successful in buying cigarettes, then the next thing might be, well, as long as she got by with that, how about a six-pack of beer, too.

Mr. BYRD. Sure. Why not?

Mr. HARKIN. Why not? So the Senator is right on the mark. As long as you ID them, you better make sure they don't get the alcohol, too.

So I thank the Senator from West Virginia for helping us take the blinders off to see this has broader implications than just tobacco. This can help us cut down a lot on teenage drinking, and I thank my friend.

Mr. BYRD. Absolutely. And I say this not in defense of smoking, but the young lady or the young man who buys alcohol, or who buys tobacco is not likely to go out and take a smoke and wrap his car around the telephone pole killing himself or possibly some other teenagers or striking an automobile and killing a lady and her daughter who are out grocery shopping.

Mr. HARKIN. The Senator is right on the mark.

Mr. BYRD. I thank the Senator.

Mr. HARKIN. I thank the Senator.

Mr. BYRD. Mr. President, I promised the distinguished Senator from North Carolina, [Mr. HELMS], if he would have no objection in my calling off the quorum, I would ask for a quorum when I completed my statement.

Mr. CHAFEE. Mr. President, I ask the distinguished Senator from North Carolina whether——

Mr. BYRD. Mr. President, I yield for that purpose, for the purpose——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. The Senator is asking a question of the Senator from North Carolina.

Mr. HELMS. I will if the Senator will ask for the yeas and nays on the second-degree amendment.

Mr. CHAFEE. I do not want to get involved in the second-degree amendment. I just want to deliver a few pearls of wisdom in connection——

Mr. HELMS. Mr. President, I object.

Mr. CHAFEE. With the underlying amendment.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I promised the Senator from North Carolina, the State whose motto is ''To Be Rather Than To Seem,'' that I would suggest the absence of a quorum when I had finished. I will keep my promise. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. HARKIN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued to call the roll.

Mr. HELMS. 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. HELMS. Mr. President, I ask unanimous consent the following, and I believe it has been agreed to on the other side. One, that the yeas and nays be deemed to have been ordered on the second-degree amendment, the perfecting amendment; two, that the yeas and nays will be deemed to have been ordered on the underlying amendment; and then, at the appropriate time, that the vote to proceed, first on the second-degree perfecting amendment, and, if that fails, then there be an up-or-down vote on the underlying amendment—meaning that there will be roll-call votes, up or down, on both amendments.

AMENDMENT NO. 969, AS MODIFIED

First of all, I send to the desk a modification, before this is acted on.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 969), as modified, is as follows:

Strike all after the first word and insert the following:

ASSESSMENT FOR ETHANOL PRODUCERS.

(a) IN GENERAL.—For fiscal year 1998, the rate of tax otherwise imposed on a gallon of ethanol under the Internal Revenue Code of 1986 shall be increased by 3 cents and such rate increase shall not be considered in any determination under section 9503(f)(3) of the Internal Revenue Code of 1986.

(b) ESTABLISHMENT OF TRUST FUND.—

(1) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

''SEC. 9512. TRUST FUND FOR ANTI-SMOKING ACTIVITIES.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Anti-Smoking Activities' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or transferred to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—The Secretary shall transfer to the Trust Fund an amount equivalent to the net increase in revenues received in the Treasury attributable to section (a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1998, as estimated by the Secretary.

''(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to the Secretary of Health and Human Services for anti-smoking programs through the Substance Abuse and Mental Health Administration.''. The Secretary is directed to encourage States, in carrying out their responsibilities under the youth tobacco use prevention initiative, to coordinate their enforcement efforts with enforcement of laws that prohibit underage drinking.

(2) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following new item:

''Sec. 9512. Trust Fund for Anti-Smoking Activities.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply fuel removed after September 30, 1997.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving right to object.

The PRESIDING OFFICER. There is an objection?

Mr. BYRD. Reserving the right to object, and I will object. I certainly have no objection to having the yeas and nays, but I prefer to do it in the constitutional route, have them ordered by one-fifth of the Senators who are present. For years we have objected to ordering the yeas and nays by unanimous consent.

Mr. HELMS. Very well.

Mr. BYRD. So I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HELMS. I object to the same thing, but I tried to hasten it a little bit.

I ask for the yeas and nays on the second-degree amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. The second-degree amendment, as modified, of course.

The PRESIDING OFFICER. It has already been modified.

Mr. HARKIN. We ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection to ordering the yeas and nays on the first amendment?

Mr. BYRD. No objection.

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

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARKIN. Parliamentary inquiry. I just want to know where we stand. We have now ordered the yeas and nays on both the underlying amendment and on the perfecting amendment, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. As I further understand——

Mr. HELMS. As modified.

Mr. HARKIN. As I understand it——

Mr. HELMS. No, I mean the second-degree perfecting amendment, as modified.

Mr. HARKIN. I understand. As I further understand, the Senator from North Carolina asked consent that we have an up-or-down vote on his amendment, his perfecting amendment, and then an up-or-down vote on the underlying amendment.

Mr. HELMS. If the perfecting amendment is defeated.

Mr. HARKIN. If the perfecting amendment is defeated. Is that correct?

The PRESIDING OFFICER. That amendment was objected to.

Mr. COCHRAN. Reserving the right to object, this is a new request, as I understand it.

Parliamentary inquiry. Would this Senator have the right, for example, when Senators have indicated that they do not care to debate the issue any further, to move to table the underlying amendment and get the yeas and nays and have a vote on the motion to table the underlying amendment?

The PRESIDING OFFICER. Not if this agreement were entered into.

Mr. COCHRAN. Further inquiring of the Chair, there have been two unanimous-consent requests granted, or there have been the yeas and nays ordered on two amendments.

The PRESIDING OFFICER. That is correct.

Mr. COCHRAN. But now there is a request pending that there be an up-or-down vote on both amendments; is that a correct understanding of the request?

The PRESIDING OFFICER. Is the Senator from Iowa making that request?

Mr. HARKIN. Mr. President, let this Senator be clear. This Senator, in good faith, just went over to my friend from North Carolina and asked if we could get past this impasse in the following manner: Could we agree to have the yeas and nays on this Senator's underlying amendment, then to let the Senator from North Carolina modify his amendment and then ask for the yeas and nays on that amendment, and further, we agreed and shook hands that we would then have a vote on his amendment up or down, and then if he failed, then we would have a vote up or down on my amendment. I believe that was what the agreement was.

Mr. HELMS. Mr. President, let me be sure I understand the Senator. The first vote would be on the perfecting amendment, is that it?

Mr. HARKIN. That is correct. It would be an up-or-down vote on the perfecting amendment.

Mr. HELMS. I have no objection to that.

Mr. COCHRAN. And that is the amendment of the Senator from North Carolina, is that correct?

Mr. HELMS. Yes, the perfecting amendment, as modified.

Mr. HARKIN. And then if that amendment failed, then there would be an up-or-down vote on the underlying amendment, and that is what we are asking the Senate to do, to carry out that agreement that we made.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Then I gather the Senator from Iowa is making the point that a motion to table the underlying amendment would not be in order.

Mr. HARKIN. That is correct.

Mr. MCCONNELL. Under this request.

Mr. HARKIN. That is correct.

Mr. MCCONNELL. That is an agreement we have already entered into?

The PRESIDING OFFICER. Not yet.

Mr. FORD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. Senator from Kentucky.

Mr. FORD. I think I am getting to the point here where I don't like this agreement, and, I say with all respect, of what we are trying to do. One, if this agreement is accepted, then as I understand it—and I am not as good at the rules as I used to be or should be—but this precludes a tabling motion on the underlying amendment if we agree to this.

The PRESIDING OFFICER. That is correct.

Mr. FORD. And, second, if we agree to this and the second-degree amendment is defeated, then I am precluded from offering another amendment in the second degree.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Then I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I suggest the absence of a quorum. We are going to be here for a long time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

CONDEMNING THE GOVERNMENT OF CANADA

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to Senate resolution 109. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 81, nays 19, as follows:

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—81

Abraham	Cochran	Glenn
Akaka	Collins	Gorton
Allard	Conrad	Grams
Ashcroft	Coverdell	Grassley
Baucus	Craig	Gregg
Bennett	D'Amato	Hagel
Bond	Daschle	Harkin
Boxer	DeWine	Hatch
Brownback	Domenici	Helms
Bryan	Dorgan	Hollings
Bumpers	Enzi	Hutchinson
Burns	Faircloth	Hutchison
Byrd	Feingold	Inhofe
Campbell	Feinstein	Inouye
Cleland	Ford	Jeffords
Coats	Frist	Johnson
Kempthorne	Murray	Smith (NH)
Kohl	Nickles	Smith (OR)
Levin	Reed	Snowe
Lieberman	Reid	Specter
Lott	Robb	Stevens
Lugar	Roberts	Thomas
Mack	Rockefeller	Thompson
McConnell	Roth	Thurmond
Mikulski	Santorum	Torricelli
Moseley-Braun	Sessions	Warner
Murkowski	Shelby	Wyden

NAYS—19

Biden	Gramm	Leahy
Bingaman	Kennedy	McCain
Breaux	Kerrey	Moynihan
Chafee	Kerry	Sarbanes
Dodd	Kyl	Wellstone
Durbin	Landrieu	
Graham	Lautenberg	

The resolution (S. Res. 109) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas, Canadian fishing vessels blockaded the M/V MALASPINA, a U.S. passenger vessel operated by the Alaska Marine Highway System, preventing that vessel from exercising its right to innocent passage from 8:00 a.m. on Saturday, July 19, 1997 until 9:00 p.m. Monday, July 21, 1997;

Whereas the Alaska Marine Highway System is part of the United States National Highway System and blocking this critical link between Alaska and the contiguous States is similar in impact to a blockade of a major North American highway or air-travel route;

Whereas the M/V MALASPINA was carrying over 300 passengers, mail sent through the U.S. Postal Service, quantities of fresh perishable foodstuff bound for communities without any other road connections to the contiguous States, and the official traveling exhibit of the Vietnam War Memorial;

Whereas international law, as reflected in Article 17 of the United Nations Convention on the Law of the Sea, guarantees the right of innocent passage through the territorial sea of Canada of the ships of all States;

Whereas the Government of Canada failed to enforce an injunction issued by a Canadian court requiring the M/V MALASPINA to be allowed to continue its passage, and the M/V MALASPINA departed only after the blockaders agreed to let it depart;

Whereas, during the past three years U.S. vessels have periodically been harassed or treated in ways inconsistent with international law by citizens of Canada and by the Government of Canada in an inappropriate response to concerns in Canada about the harvest of Pacific salmon in waters under the sole jurisdiction of the United States;

Whereas Canada has failed to match the good faith efforts of the United States in attempting to resolve differences under the Pacific Salmon Treaty, in particular, by rejecting continued attempts to reach agreement and withdrawing from negotiations when an agreement seemed imminent just before the Canadian national election of June, 1997;

Whereas neither the Government of Canada nor its citizens have been deterred from additional actions against vessels of the United States by the diplomatic responses of the United States to past incidents such as the imposition of an illegal transit fee on American fishing vessels in June, 1994: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) The failure of the Government of Canada to protect U.S. citizens exercising their right of innocent passage through the territorial sea of Canada from illegal actions and harassment should be condemned;