

Hatch  
Helms  
Hutchinson  
Kyl  
Lott

Mack  
McConnell  
Nickles  
Roberts  
Sessions

Shelby  
Smith (NH)  
Smith (OR)  
Thomas  
Thompson

## NOT VOTING—16

Akaka  
Biden  
Durbín  
Fitzgerald  
Harkin  
Inhofe

Kerry  
Leahy  
Lincoln  
McCain  
Mikulski  
Murkowski

Santorum  
Specter  
Torricelli  
Voinovich

The nomination was confirmed.

Mr. LOTT. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

## ORDER OF BUSINESS

Mr. LOTT. Mr. President, what is the pending business now?

The PRESIDING OFFICER. Interior appropriations bill, H.R. 4578.

Mr. LOTT. I believe we are working to go forward tonight on the Defense authorization bill. I see the managers are on the floor, the chairman and ranking member, and I presume that will be something we can do around 6:30 or 7 o'clock.

I will check with the managers of the Interior appropriations bill and see if there is any further business they need to do on that bill tonight before we go to Defense authorization.

I see the distinguished Senator from West Virginia on the floor. As one of the managers, does Senator BYRD know if there is further business on the Interior appropriations bill tonight?

Mr. BYRD. Mr. President, in talking a little earlier with the distinguished Senator from Washington, Mr. GORTON, he indicated to me that we had completed our work today on that bill and we would be back on it tomorrow. I assume he did not anticipate anything further today.

Mr. LOTT. Mr. President, that was my understanding also, but I wanted to doublecheck. We will make one last check with Senator GORTON on that. We are hoping good progress can be made on the Interior appropriations bill tomorrow, hopefully even finish it tomorrow, if at all possible, and we will be glad to work with the managers on that.

I yield to Senator KENNEDY.

Mr. KENNEDY. I thank the leader.

Mr. LOTT. I yield to Senator KENNEDY.

Mr. KENNEDY. Just for a question.

As I understand it, the majority leader is going to propound a unanimous consent request to consider the Defense authorization bill. I will not object to that. But I hope the leader would consider moving back to the consideration of the Elementary and Secondary Edu-

cation Act at an evening session following the disposition.

I do not want to object to moving to this particular proposal, but I expect to object to going to other proposals if we are not given at least some assurance that we are going to revisit the Elementary and Secondary Education Act.

I commend the leader for having the night sessions. I think this is challenging all of us. I think we ought to be responsive to that. I certainly welcome the leader's determination to move the process forward in the Senate, but I hope at least the leader could work out, with our leadership, some opportunity for an early return to the Elementary and Secondary Education Act.

I will not object on this particular request this evening, but I do want to indicate, as that debate is going on for tonight and tomorrow evening, I hope we will have the opportunity for the leader to speak with Senator DASCHLE and work out a process. If we are not going to do that, then I will be constrained to object in the future, until we have some opportunity, with certainty, of revisiting the elementary and secondary education legislation, which is so basic and fundamentally important to families in this country.

I thank the leader for yielding.

Mr. LOTT. Mr. President, if I could respond to Senator KENNEDY's question, first of all, I, too, would very much like to see us complete the Elementary and Secondary Education Act. The committee did very good work on that legislation. The Senate spent a week, over a week perhaps, having amendments offered and voted on.

With regard to the underlying Elementary and Secondary Education Act and other nongermane amendments that were offered, that delayed our ability to complete that legislation. But I feel very strongly about getting it done. I am very pleased with the condition the bill is in. I think it might be a good idea that we workout an arrangement on the Elementary and Secondary Education Act for next week, perhaps similar to what we have done with the DOD authorization bill, hoping to work on that bill tonight and having votes on amendments, if any are ordered, in the morning; the same thing tomorrow night with votes occurring the next morning. We could do the same thing on the Elementary and Secondary Education Act.

But there is a key thing here. On the Elementary and Secondary Education Act, some nongermane amendments were offered delaying our ability to complete our work on that, and some that were germane. But we reached a point where we needed to try to find an agreement to complete our work.

After being abused severely by both sides of the aisle, perhaps, depending on your point of view—the Defense authorization bill had all kinds of nongermane amendments offered to it—after a period of time, there was an agreement that we needed to see if we could complete action on this very im-

portant Department of Defense authorization bill; it provides very important changes in the law, things that cannot be done just with the Defense appropriations bill, including improvements in the health care benefits for our military men and women and their families, and our retirees. We have to do this bill to get it done.

Therefore, under the persistent leadership of the Senator from Virginia and the Senator from Michigan, the managers, we came to an agreement last week, a unanimous consent agreement, that nongermane amendments would not be offered any longer and all amendments had to be offered by the close of business Friday.

While they have a long list of amendments they have to work through, I am satisfied they can get it done now that they are focused on amendments related to the Department of Defense authorization bill.

I would be glad to pursue a similar type arrangement with the Democratic leadership, with Senator KENNEDY involved, where we could maybe get a list of amendments by the close of business Friday, work on the bill at night but limit it to germane amendments that could be debated and voted on and complete action, hopefully, in a relatively reasonable period of time.

Mr. KENNEDY. If the Senator can yield for a very brief observation?

Mr. LOTT. I yield to Senator KENNEDY.

Mr. KENNEDY. I think that is a very reasonable request, with the understanding that school safety and security is also of fundamental importance to families and to schools. I think we have had good debates on class size, on afterschool programs, on well-trained teachers, new technologies, on accountability, measures about training programs and other programs. We can debate all of those matters. If we do not have safety in the schools as well, those matters will have much less relevance than they otherwise might.

I guess we still have some differences with the majority leader on the issue of school safety. I think most parents in the country believe that is a relevant amendment. Under the particular procedures of the Senate, it might be declared not to be, but certainly I think, for most Members of the Senate, it would be.

I, for one, would be willing to let that decision be made by the Senate, if we could have a vote up or down on that issue, about whether it is relevant or not relevant. I have not mentioned it or talked it over with the sponsors of the amendment or the leader, but I would think we could have a judgment made on that by the Senate itself in a very quick order and have that resolved and then move to the other amendments, if it is agreeable with the majority leader.

Mr. LOTT. As I say, we will work with the Democratic leadership and see if we can work out an agreement similar to the one we have on the Department of Defense authorization bill.

Let me make it clear. Being the son of a schoolteacher—in public schools, I might add—I know the importance of safety. I also know the importance of discipline because I have been the beneficiary of discipline from my mother, the schoolteacher.

I also know Americans all over this country, in every State, would like to have our schools be safe and drug free. So the idea that we would have metal detector devices where that is called for in certain schools, and where we would have other efforts to make sure the schools are safer, that is something, certainly, we should all work toward. Hopefully, we could do that when we take up the legislation.

I understand there was a suggestion earlier that there had been some delay in calling up the legislation referred to generally as H-1B legislation, that is, S. 2045, which would allow for certain high-tech workers to come into the country on a limited basis and for a limited period of time, and that, for some reason, had not been called up because of something that we had not been doing.

Let me emphasize that I want this legislation to be considered. I would like us to move it as quickly as possible. The problem we got into earlier when we were trying to work out an agreement was we were told there would have to be numerous amendments—I don't know, six or eight amendments, that were nongermane that would be in order for us to consider this very important legislation that I think has bipartisan support and that many people in this country, in business and industry and high tech, say addresses a major problem because the number that is allowed is now being reached and we need this legislation. I want to make it very clear we are not only willing to move it; we are anxious.

I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 490, S. 2045, the H-1B legislation, and I further ask unanimous consent the committee substitute be agreed to, the bill be read the third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

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

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I say to my friend, the leader, I know how difficult his job is, but, in spite of the difficulty of his job, H-1B is something that we on the minority side believe should have its day in the Senate. I have been assigned by our leader to come up with a number of amendments on our side. We have whittled it down from 10. I think we could get back on six or seven amendments. We would have short time agreements on every one of those. Most of them would be relevant, would be germane. They relate to the subject at issue.

I say to my friend from Mississippi, it reminds me of Senator MOYNIHAN. He wrote a very nice piece called "Defining Deviancy Down" a few years ago, indicating although we believed some things were real bad, with the encroachment of time and change of mores, we started accepting those things that at one time were bad. That does not make it good that we are accepting it, but that is what Senator MOYNIHAN wrote about, and I am confident he was right.

I say to my friend, the majority leader, that is kind of what we have here—not defining deviancy, but defining Senate procedure down. We are not filibustering H-1B. We want to have this. We believe it could be completed in 1 day.

If you look at the definition of "filibuster," we are not filibustering anything. This is the definition from the dictionary: The use of irregular or obstructive tactics, such as exceptionally long speeches by a member of a minority in a legislative assembly to prevent the adoption of a measure generally favored or to force a decision almost unanimously disliked.

We are not filibustering. We want H-1B to come before this body. We want to work with you. We agree it is important legislation, but can't we have a few amendments? We are going to have short time agreements. We are not asking that things that are not relevant be brought up. We have matters that relate to immigration in this country.

As I say, I have been given the assignment by our leader to see how we can squeeze down these amendments. I feel almost as if we have lost by doing this. We do not like that, but we have agreed to work with the leader and have a number of amendments, have time agreements, to move this legislation forward.

I hope the leader will allow us that luxury, and I say "luxury" in the sense recognizing what Senator MOYNIHAN wrote. A year or two ago, we would never have considered this because that was not the way we did things in the Senate. We believe matters should be brought up and handled as they have for over 200 years in this body, unless someone else wants to speak.

Mr. KENNEDY. Will the Senator yield?

Mr. REID. Reserving my objection.

Mr. KENNEDY. Will the Senator be willing to go to H-1B tonight, ask consent to go without the restrictions? I certainly urge our Democratic leadership to go to it. If he wants to go to it, let's go to H-1B.

Mr. REID. We have a number of amendments, I say to my friend from Massachusetts.

Mr. KENNEDY. Let the Senate work its will. He indicated he would. After he objects, our Democratic leader will ask to go to that, will move to go to H-1B, put it before the Senate, and let's go ahead and consider it.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I did ask consent, as a matter of fact. That is what the reservation is on: that we go to this bill, and we pass this bill tonight.

I might also add, earlier I asked consent that we go to the bill and that there be five relevant amendments on each side of the aisle, that second-degree amendments be in order, which would have brought it to 20 amendments, and that was objected to on the Democratic side of the aisle. Even the idea of 10 amendments with second-degree amendments in order was objected to.

First of all, I assume this is not controversial. I assume it has broad support on both sides of the aisle. I assume it is something the Senate wants to get done. That is all I am trying to do. I heard today the Democratic leaders saying they want to do this bill; that we were holding it up. I am trying to find a way to move it. Let me emphasize this, too.

Some people say: Why don't you just call it up and let it go the way Senators would like to handle it, amendments and everything else.

Here is what we have to do this week alone: The Interior appropriations bill; we are going to be doing the Defense authorization bill at night; we are going to have a procedure to finally eliminate the death tax; we are going to have a procedure to get a vote on eliminating the marriage penalty tax. That is all this week.

Also along the way, we are going to try to get an agreement to take up the Thompson nonproliferation language with regard to China so that we can find a time to go to the China PNTR bill. We also have to do the Agriculture appropriations bill, the energy and water appropriations bill, Housing and Urban Development and Veterans appropriations bill, the Commerce-State-Justice appropriations bill, and the DC appropriations bill.

We should do all of those before we recess for the August recess. We have done six so far, and that has been with a lot of cooperation on both sides and a lot of pushing and pleading because every time an appropriations bill is offered, 100 amendments appear. On the Defense authorization bill, I think there are 200 amendments.

As far as this job of trying to coordinate all these different interests being a problem, I do not view it that way. It is just we have to have some reasonable understanding of how we are going to proceed to get four major bills done this week, to get five more appropriations bills done before the August recess, to get the Thompson nonproliferation language considered, and to get the China PNTR legislation considered as soon as possible.

We would like to find a way to work in among that, maybe at night, the Elementary and Secondary Education Act. I would love to pass that legislation just as it is or even after some more amendments, but we have to find

a time. We can do that at night. We can work day and night for the next 3 weeks.

I would like to do the H-1B. I tried to offer an agreement that could have led to 20 amendments. That was objected to on the other side. I am trying to find a way to get all these good things done. I will continue to try and hopefully we will be able to work out an agreement to consider them all. These appropriations bills are high priority. That is the people's business.

If we do not get the appropriations bills done, Housing and Urban Development is going to have a problem with housing in which they are involved. The energy and water appropriations bill has a lot of very important energy- and water-related issues. Certainly both sides of the aisle would like to see us get to the Agriculture appropriations bill at the earliest possible date, hopefully next Tuesday at the latest. Those are all the things we have to do.

I want to make sure—I am willing to go to H-1B right away, pass it or to get some agreement that will not take 3, 4 days on one bill in among all these other urgent bills we have to do.

Mr. REID. If my friend will allow me—

The PRESIDING OFFICER. Is there objection?

Mr. REID. If I may make a statement on my reservation. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. We really should have H-1B passed. It does not mean everybody is in favor of it, but it is something that needs to be done. It is very important legislation. We need to have the matter debated. I hope the leader will take back the colloquy today. The Senator misspoke. He said 20 amendments. I think he meant 10 amendments with five on each side. Ten on each side would be a deal. We can do that this instant. I think the majority leader made a mistake.

Mr. LOTT. Actually, it is five on each side, which would be 10, plus second-degree amendments would have been in order, which could have brought it to 20.

Mr. REID. I hope the Senator will withdraw his unanimous consent request; otherwise, we will object to it. We first should see if it can be brought up and debated as any other matter. I think I know the answer to that question. Then the Senator should review his suggestion that we have five amendments per side and, of course, if relevant includes immigration-related and training-related amendments, we may not be able to do five. But I did indicate to the Senator, we were already down to seven. We are down to seven amendments on our side. We would agree—

Mr. LOTT. Seven amendments on H-1B or seven amendments on estate tax.

Mr. REID. H-1B. We should revisit this issue. If the Senator wants to re-introduce his unanimous consent re-

quest tomorrow, fine. Let's see if we can come up with something that will meet the timeframe of what the majority leader wishes. As I have indicated, this is not my preference in doing business, but this legislation is very important, and I want to spread upon the RECORD the fact we are not trying to hold up this legislation. The minority wants to move forward, as Senator DASCHLE indicated today. If the Senator persists in his unanimous consent request, I will object. I hope the Senator will withdraw that and see if in the next 24 hours we can work something out on this important legislation.

Mr. LOTT. So the record will be clear, I am trying hard to find a way to get this considered. I won't insist on my unanimous consent request, but since we are working night and day and looking for ways to get these things done, if you are down to seven, if you can get it down to five relevant amendments, and we can continue to work on this, maybe this would be a bill we could do at night the third week, but we are willing to see if we can find a way to get it done.

Mr. REID. I think this is Mississippi math because we started at 10 and kind of split the difference.

Mr. LOTT. No, no. It was 5 and 5.

Mr. REID. No, but it was 10 on our side. We said 10; you said 5. But now I said we are down to 7.

Mr. LOTT. You are headed in the right direction. Just keep working. You are making progress.

Mr. REID. So I hope we can work something out on this. In the meantime, Mr. President—

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I am a little uncomfortable with the discussion here. The discussion is: Under what conditions will the majority leader allow us to consider this bill? I understand that amendments are inconvenient, but the rules of the Senate allow people to be elected to the Senate and offer amendments and consider legislation.

The unanimous consent request offered by the majority leader was to take up this bill and pass it without any discussion or any amendments. Now there is a negotiation here saying: Maybe I will allow it to be brought to the floor if the Senator from Nevada would, on behalf of his side, agree to no more than five amendments.

The fact is, it seems to me if we fretted a little less about what someone might do when they bring something to the floor and started working through it, it would probably take a whole lot less time.

I happen to be supportive of the H-1B legislation, but I am not very supportive of some notion of anybody in

the Senate saying: Here are the conditions under which we will consider it—and only these conditions—and if you don't like it, we won't consider it.

I hope the Senator from Nevada—if the majority leader insists on his unanimous consent request—will make a unanimous consent request following that similar to the one suggested by the Senator from Massachusetts, a unanimous consent request to bring the issue to the floor under the regular order at this time.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I now ask unanimous consent that the Senate proceed to morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. REID. If the Senator would withhold, I do ask unanimous consent that the H-1B legislation be brought before the Senate at this time, that we be allowed to proceed on that.

Mr. LOTT. Mr. President, I withhold that UC request I made, but I object to the one that was just made.

The PRESIDING OFFICER. Objection is heard.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I renew my unanimous consent request that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001

Mr. WARNER. Mr. President, while the distinguished leader is on the floor, there was some hope we could bring up the military authorization bill tonight. Senator LEVIN and I consulted with you on this, I say to the majority leader. We will have for our joint leadership tomorrow a list of amendments, with time agreements, and be ready to go. I say to the majority leader, you can splice this in as you see fit. I assure the majority leader—I see my distinguished colleague from Michigan on the floor—my colleague from Michigan is ready to join me on this. We will present to our joint leadership specific germane amendments on the list, and move along on this bill.

Mr. LOTT. Mr. President, if the Senator would yield, I am not sure what that means. That means, I think, you are not going to be able to consider any amendments tonight.

Mr. WARNER. That is correct. We made a strong effort.

Mr. LOTT. When you say you will present a list of amendments, and will try to work them through the process, that does mean, I take it, the amendments still would be debated, if they have to be debated.