

A few months ago, the Washington Post reported approvingly of the Democratic leadership's message strategy. The article referred to a blackboard with a basic daily or weekly message. Apparently, yesterday's message was to attack a good-faith Republican caucus position and to attack me. I guess I say good job, or congratulations are in order, because the people who did it pulled off a well-coordinated attack.

What did such a harsh attack accomplish? When I go back to my farm this weekend, I imagine some of the folks back home might ask what the point of all that was. That is where I am, Mr. President. What is the point of this excessive partisan gamesmanship? What is the point of dumbing down the level of civility around here?

I say all these things in a constructive manner—from a person who just yesterday met with Senator BAUCUS to talk about a process of getting a stimulus package—hopefully, a bipartisan stimulus package—to the floor of the Senate. Although the transgressors in this case were Democrats, at times even my own Republicans have done the same thing. In this case, though, there really seems to be a Democratic rule book that includes a double standard.

So as one who practices bipartisanship, I say to those who talk about it: Practice what you preach.

As I said, I will have more to say in a comprehensive way about some of Senator CONRAD's attacks on the specific pieces of the Senate Republican stimulus package.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DEPARTMENTS OF LABOR, HEALTH, AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2002—Continued

Mr. SPECTER. Mr. President, there have been very extensive discussions on the issue relating to stem cells, which is in the bill, relating to what President Bush did on August 9 using existing stem cell lines, in an effort to codify that and give the President authority to move in that direction. The stem cell issue has been very controversial for reasons which do not have to be amplified at this time.

A good bit of the debate on the subject has been between the Senator from Kansas, Mr. BROWNBACK, and myself. Senator BROWNBACK has posed a series of amendments, which he intends to bring up on this bill, of a very complex nature. The amendments Senator BROWNBACK has proposed to bring up involve the questions of the human

germ line gene which I will not begin to explain at the moment, issues about therapeutic cloning, where science has given a name which suggests reproductive cloning, which it is not, but very complicated as to how it is worked out; amendments on the prohibition of the mixing of human and animal gametes where there has been some scientific thought that although very repugnant on its face, there are some important scientific issues involved.

One of the matters was submitted to the American Society for Reproductive Medicine, and they have not even taken a position on it, which shows the complexity of the issue.

Were we to proceed with these amendments, on which we have consulted with the Parliamentarian, who says they are germane because there is some sufficient—it does not require a whole lot to make them appropriate, and the Senator from Kansas has every right to bring them. I do not know how long it would take to debate them.

In the course of the past 2 days, we have talked about second-degree amendments, and we have talked about many subjects which are extraordinarily complicated. I have been trying to get up to speed to know what to say about them.

The concerns I have involve the issue of unintended consequences. That is a doctrine well-known in our culture. When one deals with these scientific issues, many scientists have told me it would stultify their activities, or at a minimum have a profoundly chilling effect.

So after very extensive discussions, what we have decided to do is to defer this matter to another day. The reason we have decided to defer this matter to another day is we have a very important appropriations bill funding the Departments of Labor, Education, and Health and Human Services, and the completion of this bill at an early date is important so we can go to conference.

Ten days ago, I had a long discussion with Senator LOTT about seeing the need to conclude our work by November 16, which is the week before Thanksgiving. I have found my constituents in Pennsylvania are more interested in hearing what is going on in Washington now than they have ever been in the 21 years I have been in the Senate. It is obvious, with the war on terrorism going on, with the fighting in Afghanistan against the Taliban, and the bombing and the complexities there, then with the anthrax, there is an enormous concern across the country about bioterrorism. There is a real need, it seems to me, for Senators to be in their States and Members of the House to be in their districts to talk to their constituents, to tell them we do have a plan, we do know what is going on, and we are working constructively on these issues.

Ideally we should complete work on these appropriations bills as of September 30, but we know from practice

we have continuing resolutions and the complexities of our work take us beyond that point. What really happens is that among the 535 of us, and add the executive branch, we debate and argue and hassle until we have our backs against the wall and really have to conclude our deliberations.

I said to Senator LOTT about 10 days ago I thought all of us were going to have to make concessions on some of the issues which we thought were of enormous importance and had to be resolved, and I am prepared to do that today. Senator BROWNBACK is prepared to do that today.

These issues will be taken up, though, and in the very near future. Senator BROWNBACK and I talked to the majority leader, Senator DASCHLE, who agreed to bring up the stem cell issue with an opportunity for Senator BROWNBACK to raise his issues in the February/March timeframe. I consulted with Senator LOTT, in the event Senator LOTT is the majority leader at that time, and got a similar commitment from Senator LOTT to bring up stem cells and Senator BROWNBACK's issues in the February/March timeframe.

Senator LOTT had agreed to have a freestanding bill when he was majority leader, where we deferred action on stem cells going back to September in the fall of 1999. It was a very different issue, and he wanted to await developments as to what would be happening on the scientific front.

These discussions were held. Senator REID was a party to them.

I yield to the Senator from Nevada to confirm the representations I have made about Senator DASCHLE's commitment to have a freestanding bill in the February/March timeframe.

Mr. REID. The majority leader understands how important this is to the Senator from Pennsylvania. I am a member of the subcommittee he chaired and of which he is now the ranking member. He has held a number of extremely interesting hearings on this subject and has really perked everyone's interest in the Senate on this issue.

Senator BROWNBACK feels just as fervently, and I think it is extremely appropriate, as does the majority leader, that there be a discussion on this issue, as indicated by the Senator from Pennsylvania. I know the Senator from Pennsylvania, with Senator HARKIN, will hold a number of hearings on this prior to that date. I look forward to the discussion.

I think it is really good these two fine Senators worked out this arrangement because I think everyone needs more knowledge. This is a new area, a new field of science, at least for most of us. I think with the passage of a few months we will be in much better shape to listen intelligently, and perhaps a number of us will be able to join in the debate. If we had these votes today, a lot of us would be really in uncharted territory. We have not had

hearings on a lot of these issues. There is not a lot of material we have had to go through, and so I applaud and compliment these two Senators for allowing us to work this out. I know Senator HARKIN feels the same way.

Mr. SPECTER. I thank my colleague from Nevada for those comments. He is correct on the issue of holding the hearings.

I have conferred with the chairman of the subcommittee, Senator HARKIN, who agrees we need to have the hearings. I have discussed it with Senator BROWNBAC. These issues are extraordinarily complicated. We are going to have to have a whole series of hearings with regard to the complicated issues so we can know what we are doing on making public policy, especially in the context where Senator BROWNBAC's amendments carry penal sanctions, jail terms and fines, so that we can know what we should be doing in the public interest but not stifling science.

Senator BROWNBAC and I have worked together over the years on a great many items, and we have had some lively television discussions. I think when we finally get around to this discussion it will be lively as well.

I yield to my colleague from Kansas. The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBAC. Mr. President, I thank my colleagues, and particularly Senator SPECTER from Pennsylvania who has been quite patient and diligent in working with me. I might also note that Bettilou Taylor on his staff has been wonderful to work with, as well as Senator REID from Nevada, who has really worked to try to push these issues forward so we can get to some point of resolution on the underlying bill. I am not unaware of the need to move this bill through. We need to get the appropriations bills moved. We need to get this done so we can get to the economic stimulus package and be able to conclude it. I am pleased to see we have some resolution on the overall issue.

I will point out what I am talking about in the amendments I was proposing. We had filed four of these amendments and were willing to put them into one amendment, have one vote, and have a moratorium for 1 year on several items. The moratorium would include human cloning. No human cloning, whether it be reproductive, or so-called their futuristic-type, for 1 year, a 1-year moratorium on germ line manipulation, where you insert a snippet of a genetic code from a cow or pig into the egg or sperm of a human, so that once they connect to each other they become fertilized. It goes on to future generations. It would ban that for a year's period of time. It would ban for a year's period of time, embryo "farming" where embryos were created just for research purposes.

That was the series of amendments we put forward and were germane to this debate.

We have had extensive negotiations and discussions back and forth. The be-

lief is that Members could be more up to speed on these topics come February or March. The majority leader has agreed to a free-standing bill at that point in time in order to get direct votes on these issues. That is the more appropriate way. It is the right way. I am appreciative of the majority leader and Senator REID for agreeing to that taking place so we can take this up at a more prudent time, with hearings in between taking place.

It is my understanding what we would agree to would be that I not offer these amendments at this time; that we will have free-standing debate, discussion and vote come the February-March timeframe on these topics and the topics Senator SPECTER is putting forward, with direct votes up or down on the topics, and none in the second degree or tabled. These are direct votes. And the language Senator SPECTER inserted that was in the appropriations bill, which was beyond what the President was asking for on stem cell research, would not be in the final Labor-HHS appropriations bill as it passes out of the Senate.

This is good progress on a very difficult issue. By that point in time, we will be on board with the executive branch on the biomedical research. They are enormously important.

I enter one quick note into the record. Scientists say the first human clone is near—a group says within the end of the year.

I ask unanimous consent to have several other articles printed in the RECORD at the conclusion of this colloquy, including a story about the rhesus monkey which has been cloned. That was announced this week. That is the closest model to a human off which we work. If you can do it there, you can probably do it in a human. The technology leap is not far.

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

(See Exhibit No. 1)

Mr. BROWNBAC. For these reasons I think it is an appropriate way to proceed. I am pleased Senator SPECTER has been so kind in working with us. Senator REID and Senator DASCHLE, the majority leader, have agreed to this.

I yield the floor.

Mr. SPECTER. Mr. President, the language which will be stricken appears on page 91 and reads as follows:

Subject to the provisions of section 510(a) and (b), Federal dollars are permitted at the discretion of the President solely for the purpose of stem cell research on embryos that have been created in excess of clinical need and will be discarded and donated with the written consent of the progenitors.

That will be stricken.

I have legislation pending which would permit the use of Federal funding to extract stem cells from embryos. The precise format of the legislation which I will propose will be determined, and I will give Senator BROWNBAC ample notice as to what I intend to do. We will have the hearings on that, and we will have the hearings

on the issue which Senator BROWNBAC has raised with Senators.

It is worthwhile making one comment on the nature of complexity as to concerns which my staff and I have had. I echo Senator BROWNBAC's praise for Bettilou Taylor and also acknowledge the contribution of Dr. Sudip Parikh, an assistant with us, and also Mr. Rob Wasinger, who is with Senator BROWNBAC. A concern expressed to me by many doctors has been whether there would be a danger of eliminating therapeutic cloning. Regrettably the words "cloning" and "therapeutic cloning" have given it a very bad name.

What it amounts to—and this is an illustration—is taking a cell, for example, from a woman who has Parkinson's; take the nucleus out of the cell and take an egg from a woman donor whose nucleus has been removed, and put the nucleus from the cell of the woman who is the patient, put it into the egg where the nucleus has been removed. You wait 5 to 7 days, and then you have a blastocystic state of an embryo. The stem cell which is extracted can then be used on the patient, who is a woman, to cure Parkinson's.

That is a very brief statement, but in the complexities of the amendments we might not have had that opportunity. We will be going into these issues and a great many others. I think had we debated it on the Senate floor today, as Senator REID has said, it would have been very difficult to grasp these issues.

When Members want to have penal provisions, jail sentences and fines, those are matters which require a lot of deliberation as to what is appropriate for deterrence and what is appropriate as a punishment.

The arrangement we have worked out today is an important arrangement. Most fundamentally, it allows moving forward on this bill, conclude this bill, go to conference, and get it passed. To pick up on the conversation with Senator LOTT, we show our willingness to make concessions on matters we would like to work on now, but it can wait until the February-March timeframe.

I hope my colleagues in the House and Senate will undertake the same kind of consideration to decide what we have to decide now, move ahead with airport security and the stimulus package and the matters of absolute necessity, the appropriations bills. If matters can be deferred, as Senator BROWNBAC and I have deferred until March, that should be the order of the day so we can go back to our States or districts and explain to people of America what is going on so they know with some confidence we do have a plan, we do have a program, and we are working in a constructive way in the Federal Government.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBAC. I would like to make sure from Senator REID of Nevada we have accurately reflected this

in the RECORD. I hope this is accurately reflected as to when Senator REID and the majority leader agreed on bringing up this issue.

Mr. REID. I say to my friend from Kansas, the statement made by you and the Senator from Pennsylvania is accurate. I was in on the conversation of the majority leader and he, without any hesitation, indicated he would hold the hearings within the timeframe you indicated, the February–March time period.

We all acknowledge it is the right thing to do, and it is something we need to do. The statement made by the Senator from Pennsylvania and the Senator from Kansas is absolutely accurate.

EXHIBIT No. 1

[From Reuters, Oct. 5, 2001]

SCIENTIST SAYS FIRST HUMAN CLONE IS NEAR (By Michele Kambas)

NICOSIA (REUTERS).—Scientists could create the first cloned human before the end of the year, a doctor with the controversial project said on Friday. Dr. Panayiotis Zavos, who along with his Italian colleague Dr. Severino Antinori has triggered worldwide . . . with plans to create tailor-made offspring, said research was going faster than initially expected. The team has been banned from carrying out research in most European Union (news—web sites) countries. Zavos said that was not hindering progress. “It is going well enough so we may attempt the first production of embryos—cloned embryos—in the very near future. That is, 3 or 4 months from now,” Cypriot-born Zavos told Reuters in an interview on Friday.

Human cloning could effectively create a replica of another living or dead person. But Zavos, who said the “genie was out of the bottle” when researchers cloned the first mammal, Dolly the sheep, insisted there was nothing sinister in the endeavor. He said he was not in the business of creating “genetically-modified doppelgangers,” but in helping infertile couples have a child. “We are not interested in cloning the bin Ladens of this world, the Michael Jacksons or the Michael Jordans of this world,” the Kentucky-based fertility specialist added. “We are not interested in the replica of dead people. We are interested in assisting a father who does not have sperm to have a biological child of his own . . . in assisting couples to reproduce.”

Countries like France and Germany have appealed to the United Nations (news—web sites) to get human cloning banned in an international treaty. Religious groups are also enraged at what they view as the doctors’ attempts to play God. But Zavos, whose partner Antinori hit the headlines by helping a woman of 62 have a child in 1994, dismissed suggestions they were only interested in cloning for its own sake. He said thousands of childless people from all over the world were helping in their research.

Though regarded as something of a maverick in the medical world, Zavos’s medical accomplishments are a source of pride for many Cypriots. He emigrated to the United States more than 30 years ago but retains close . . . with the island. Zavos declined to say where the research was under way, but indicated it was in more than one country. He added that governments that had banned human clone tests were making a mistake in mixing politics with medical issues. “They are trying to make a political decision for a procedure which is medically oriented. This is not a popular decision, this is a medical

decision that needs to be made by physicians and their patients and not by politicians,” he stated.

But Zavos said the ban was not in any way hindering progress. “We have options we are exercising—beyond Europe, of course. This is the world we are talking about. This is not Europe, this is not America.”

[From Reuters, Oct. 5, 2001]

CYPRIOT RESEARCHER SEES HUMAN CLONE IN FOUR MONTHS (By Michele Kambas)

NICOSIA (REUTERS).—Scientists could create the first cloned human before the end of the year, a doctor working on the controversial project said on Friday. Dr. Panayiotis Zavos, who along with his Italian colleague Severino Antinori has triggered worldwide alarm with plans to create tailor-made offspring, said research was going faster than initially expected. The team has been banned from carrying out research in most European Union (news—web sites) countries, but Zavos said that was not hindering progress. “It is going well enough so we may attempt the first production of embryos, cloned embryos in the very near future. That is, three or four months from now,” Cypriot-born Zavos told Reuters in an interview on Friday.

Human cloning could effectively create a replica of another living or dead person. But Zavos, who said the “genie was out of the bottle” when researchers cloned the first mammal, Dolly the Sheep, insisted there was nothing sinister in the endeavor. He said he was not in the business of creating “genetically-modified doppelgangers,” but in helping infertile couples have a child. “We are not interested in cloning the bin Ladens of this world, the Michael Jacksons or the Michael Jordans of this world,” the Kentucky-based fertility specialist added. “We are not interested in the replica of dead people. We are interested in assisting a father who does not have a sperm to have a biological child of his own . . . in assisting couples to reproduce.”

CLONING BAN

Countries like France and Germany have appealed to the United Nations (news—web sites) to get human cloning banned in an international treaty. Religious groups are also enraged at the doctors’ attempts to play God. But Zavos, whose partner, Dr. Antinori, hit the headlines by helping a woman of 62 have a child in 1994, dismissed suggestions they were only interested in cloning for its own sake.

He said thousands of childless people from all over the world were helping in their research. Though regarded something of a maverick in the medical world, Zavos’ medical accomplishments are a source of pride for many Cypriots. He emigrated to the United States more than 30 years ago but retains close family ties with the island. Zavos declined to say where the research was under way, but indicated it was in more than one country. He added that governments which had banned human clone tests were making a mistake in mixing politics with medical issues. “They are trying to make a political decision for a procedure which is medically oriented. This is not a political decision, this is a medical decision that needs to be made by physicians and their patients and not by politicians.”

But Zavos said the ban was not in any way hindering progress. “We have options we are exercising, beyond Europe, of course. This is the world we are talking about, this is not Europe, this is not America.” Zavos said countries which took a stand against cloning embryos could possibly end up at a disadvantage because the technology would inevi-

tably catch up. “This is not an issue of morality, this is not an issue of being ethical or unethical, but rather assisting people to have children and that is the business we are in.”

[From The Daily Telegraph (London), Oct. 29, 2001]

MONKEY TESTS RAISE HUMAN CLONE FEARS (By Ellie Addison)

Scientists have taken a big step towards creating the world’s first cloned monkey, raising fears that a human clone will not be far behind. Embryos cloned from a rhesus monkey are being prepared in the United States and could be implanted into a surrogate mother. The first monkey clone could be born within months. The work, by Don Wolf, of the Oregon Regional Primate Research Centre, has successfully combined techniques in the cloning of embryonic cells with somatic cells, which make up adult animal bodies.

Prof. Wolf deplores human reproductive cloning and says he wants to produce genetically identical laboratory monkeys to accurately test drugs and therapies. But the research is being closely watched by groups interested in creating the first human clone. Severino Antinori, an Italian fertility specialist, has set up a group of researchers who hope to create the first human clone “within months”.

The new discoveries have been described as “a significant step in the wrong direction” by the Pro Life Alliance. Bruno Quintavalle, its spokesman, said: “Cloning has so far been confined to livestock animals for which there can, arguably, be agricultural reasons for cloning research. ‘But what possible reason can there be for replicating a rhesus monkey? There is no reason we can see, other than to formulate and clarify processes which can be used later for cloning humans.’ The alliance will take the Government to the High Court on Wednesday to seek a judicial review of Britain’s cloning legislation. The group says the laws are full of loopholes.

[From the Sunday Times (London), Oct. 28, 2001]

MONKEY TEST BREAKTHROUGH BRINGS HUMAN CLONES CLOSER

(By Jonathan Leake, Science Editor)

Scientists have created the first embryonic clones of an adult primate and are preparing to implant them into surrogate mothers. The work—involving embryos cloned from a rhesus monkey—is a significant development in cloning technology. Until now all the research had suggested that primates would be far more difficult to clone than species such as sheep and goats, which have already been used successfully in experiments. The primate breakthrough is certain to be seen as powerful evidence that it is now possible to clone a human being. The researchers have predicted that they will achieve the live birth of a non-human primate within months.

The latest results were achieved in America by Professor Don Wolf, of the Oregon Regional Primate Research Center, who is one of the most respected workers in the field. Cloning cells from embryos is known to be relatively easy. This weekend, however, Wolf said the same technique was working well with somatic cells—the kind that make up the bodies of adult animals. He said: “We have been working with somatic cells and believe that success is just around the corner as the cloned embryos created from them are growing well in vitro.”

Wolf was unable to say when the embryos might be implanted into surrogate mothers. The females need to be at exactly the right stage of their oestrous cycles, and this is hard to predict.

Wolf's interest in such work has nothing to do with human reproductive cloning—a concept that he and most other serious researchers deplore. Their aim is to create lines of genetically identical laboratory animals that can be used to test drugs and therapies much more accurately. Additionally, cloning technology holds out the possibility that humans could one day grow replacement tissues for damaged organs.

There are, however, a number of other groups that are intensely interested in using the work done by researchers such as Wolf to clone humans. One group of researchers is led by Dr. Severino Antinori, the Italian fertility specialist, who has set up a consortium in an attempt to create the first human clone “within the next few months”.

Some researchers say such a venture is fraught with danger since cloned animals seem to be prone to a number of genetic defects that could also affect a human child. The validity of such fears has been borne out by the latest results from a second team of researchers, which is also working on cloning rhesus monkeys. Its leader, Professor Gerald Schatten, of Pittsburgh University, said that like Wolf he had also recently created embryonic cloned rhesus monkeys—and had already attempted to implant them into females. So far, however, he has been unable to achieve a pregnancy, and last week his analysis suggested that this was because the cloning process had disrupted the organization of the chromosomes that carry the animals' DNA.

[From The Sunday Times, Oct. 22, 2001]

FIRST PRIMATE EMBRYOS CLONED

(By Jonathan Leake)

Scientists have created the first embryonic clones of an adult primate and are preparing to implant them into surrogate mothers. The project—involving embryos cloned from a rhesus monkey—is a significant development in the technology of cloning. Until now research had suggested primates would be far more difficult to clone than species such as sheep and goats, which have already been successfully duplicated.

The primate breakthrough is seen as strong evidence it is possible to clone a human being. The researchers say they will achieve the live birth of a primate within months. The results were achieved in the US by Don Wolf of the Oregon Regional Primate Research Centre. Cloning cells from embryos is relatively easy, and Professor Wolf said the same technique was working well with somatic cells from adult animals.

The next step is for the embryos to be implanted into surrogate mothers. This process needs the females to be at exactly the right stage of their oestrous cycles, and this is hard to predict.

Professor Wolf's work has nothing to do with human reproductive cloning—a concept he and most other serious researchers deplore. Their aim is to create lines of genetically identical laboratory animals that can be used to test drugs and therapies much more accurately than is now possible. However, a number of groups are keen to use the work done by researchers such as Professor Wolf to clone humans. One body of researchers is led by Severino Antinori, the Italian fertility specialist who has set up a consortium in an attempt to create the first human clone “within the next few months”.

Mr. BROWNBACK. I yield the floor.

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

The PRESIDING OFFICER (Ms. CANTWELL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. HARKIN. Madam President, I was unavoidably absent from the Chamber a few minutes ago, but I want to compliment my distinguished ranking member, Senator SPECTER, for working out an agreement on the vital issue of stem cell research. I know there are Senators who feel strongly about this one way or the other. I understand that. But I believe the agreement Senator SPECTER has worked out is one that will serve us well. We will have hearings. We will welcome all to come in and testify at these hearings on stem cells. I understand the agreement is that prior to the end of March, sometime in either February or March of next year, both the majority leader and minority leader have agreed that we will bring a stem cell research bill to the floor of the Senate.

With that agreement, I think it paves the way for us to have some more in-depth hearings on whether or not we have enough stem cell lines to do the kind of research that needs to be done, or whether we do, in fact, need some more stem cell lines to conduct this kind of robust research. We will be having those hearings.

Sometimes Senator SPECTER chairs them and sometimes I do. But we will continue to have those hearings throughout the next few months. Even though the Senate may not be in session, we will continue to have those hearings to try to get a better understanding of what we need to do to provide the ethical guidelines and the kind of monetary support that we need for our science to conduct embryonic stem cell research.

Because I was missing from the Chamber when that agreement was worked out, I wanted to compliment Senator SPECTER and other Senators for working out an agreement on that issue.

Lastly, we are on the floor. Debate on the Labor, Health and Human Services, Education, and related agencies appropriations bill is about over. There are some amendments to offer. I ask Senators who have amendments to please come to the floor and offer those amendments. The sooner we get to amendments, the sooner we will get out of here.

I just had one Senator come up to me asking about catching a flight out tonight. I say to my fellow Senators, if you will come over and offer the amendments, we can have a legitimate debate and vote on them. Then people could get out of here. The longer people stay away from the floor and don't offer their amendments, people can't get out of here.

Mr. REID. Madam President, if the Senator will yield, this is the third day that the Senator from Iowa and Senator SPECTER have managed this bill. Significant progress has been made, es-

pecially today. But I think enough time has gone by to wait for people to arrive. I hope that in a reasonable period of time, if people are not here to offer their amendments, the Senator from Iowa and the Senator from Pennsylvania would move to third reading. It is not fair to keep people waiting around. I, as the Senator from Iowa, have been approached several times. People say they have things to do rather than waiting around doing nothing.

What drives people to distraction, and rightfully so, is when we are in these endless quorum calls waiting for people to come over with amendments. They are not doing us a favor by offering the amendment, but it is a right established under the precedents of the Senate.

I hope the two managers of the bill, in a reasonable period of time if we don't have people offering amendments, will move to third reading. We have a lot of other things to do tonight. We have three conference reports that have been approved by the House. We have to take care of those today if we want to be out of session tomorrow. The leader indicated to me just a short time ago that he would like to not have any votes tomorrow. But he is going to have votes tomorrow if we don't complete this bill.

With the progress the Senator from Iowa and Senator SPECTER have made during the time since the vote expired, I think we can clearly finish the bill tonight. If not, we will drag this bill on. I repeat for the third time that if Members are not coming to offer their amendments, we will go to third reading.

Mr. HARKIN. Madam President, I thank our assistant majority leader for his great leadership in pulling people together and getting this legislation moving, as he has done on so many other bills. He has been stalwart here on the floor to make this place work right and to make it work fairly so people can offer their amendments to make sure we move in an expeditious manner. I thank the Senator for his leadership in getting the Senate to do its work.

I yield the floor.

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

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

Mr. INHOFE. I ask unanimous consent to speak as in morning business.

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

Mr. INHOFE. Madam President, I have an amendment I will be offering having to do with impact aid. That is a very significant issue. One of the best programs Congress put together was way back in the 1950s. That was when

they made a determination that if the Federal Government came in and federalized land, either for military purposes, Indian schools, or any other purpose, and took the land off the tax rolls, they would still have to educate the kids. Slowly over the years, politicians—none in this Chamber, I am sure—have been taking money out of the impact aid account, so it has gone down to about 25 percent of what it really should be.

I will be offering that amendment and wanting to discuss it.

(The further remarks of Mr. INHOFE are located in today's RECORD under "Morning Business.")

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

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

AMENDMENT NO. 2018

Mr. INHOFE. Madam President, I call up amendment No. 2018 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 2018.

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

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

The amendment is as follows:

(Purpose: To amend the funding levels for certain activities under the Impact Aid program under the Elementary and Secondary Education Act of 1965)

On page 56, strike lines 5 through 17, and insert the following:

For carrying out programs of financial assistance to federally affected schools authorized by title VI of the Elementary and Secondary Education Act of 1965, as redesignated and amended by H.R. 1 of the 107th Congress, as passed by the House of Representatives on May 23, 2001, \$1,130,500,000, of which \$982,500,000 shall be for basic support payments under section 8003(b), \$50,000,000 shall be for payments for children with disabilities under section 8003(d) \$35,000,000 shall be for construction under section 8007, \$55,000,000 shall be for Federal property payments under section 8002, and \$8,000,000, to remain available until expended, shall be for facilities maintenance under section 8008.

Mr. INHOFE. Madam President, this is an issue we have addressed many times. We addressed it first during the budget consideration when we were going to increase impact aid by \$300 million. Unfortunately, the appropriators have brought it down to an amount a little less than half that.

Democrats and Republicans have set a goal so we will have impact aid fully funded sometime in the next 4 or 5 years. This will bring the amount of basic support for impact aid equal to the House figure.

That is essentially the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I have checked with the manager of the bill on this side. He has no objection to the amendment. We are confident there is no objection on the other side.

I say to my friend from Oklahoma, if some small chance there is a problem with the minority, we will come back to the Senator.

Mr. INHOFE. That would be fine. I will accept it.

Mr. REID. I ask approval of this amendment.

Mr. INHOFE. Yes, with that agreement.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 2018) was agreed to.

Mr. REID. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, we have been waiting literally all afternoon for two Senators to offer amendments. I don't really think it is fair to the rest of the Senate to wait around here as we have. Calls have been made. I don't know what more we can do other than move to third reading. At the appropriate time this afternoon, that is what we are going to do. Everyone should be on notice that is going to be done. I know we talk about it all the time. I guess it is like the proverbial crying of wolf all the time. We do everything we can for people to come and offer their amendments. I really think it is unfair that everyone is waiting.

At least 10 Senators are wanting to know what the schedule is and whether they can make certain arrangements for travel tonight or tomorrow afternoon or tomorrow morning. We do not know. We are waiting for people to come to offer amendments.

I hope Senators will be more considerate of the other 98 Senators, plus all the staff and everyone else trying to get this bill completed. I think it is really unfair that we have waited as long as we have.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. I ask unanimous consent that the pending amendments be temporarily laid aside.

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

AMENDMENTS NOS. 2062 THROUGH 2073, EN BLOC

Mr. REID. On behalf of Senator HARKIN, I send a managers' package to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for Mr. HARKIN and Mr. SPECTER, proposes amendments Nos. 2062 through 2073, en bloc.

Mr. REID. Madam President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2062

(Purpose: To provide for an election of an annuity under section 377 of title 28, United States Code, for any qualified magistrate judge)

At the appropriate place, add the following:

SEC. 519. (a) DEFINITION.—In this section the term "qualified magistrate judge" means any person who—

(1) retired as a magistrate judge before November 15, 1988; and

(2) on the date of filing an election under subsection (b)—

(A) is serving as a recalled magistrate judge on a full-time basis under section 636(h) of title 28, United States Code; and

(B) has completed at least 5 years of full-time recall service.

(b) ELECTION OF ANNUITY.—The Director of the Administrative Office of the United States Courts may accept the election of a qualified magistrate judge to—

(1) receive an annuity under section 377 of title 28, United States Code; and

(2) come within the purview of section 376 of such title.

(c) CREDIT FOR SERVICE.—Full-time recall service performed by a qualified magistrate judge shall be credited for service in calculating an annuity elected under this section.

(d) REGULATIONS.—The Director of the Administrative Office of the United States Courts may promulgate regulations to carry out this section.

AMENDMENT NO. 2063

(Purpose: To require the Inspector General of the Department of Health and Human Services to audit all Federal amounts allocated for AIDS prevention programs and to report to Congress concerning programs offering sexually explicit workshops using any of such amounts)

On page 54, after line 15, insert the following:

SEC. 220. (a) FINDINGS.—Congress finds that—

(1) according to the Centers for Disease Control and Prevention, over 765,000 people in the United States have been diagnosed with the virus that causes AIDS since 1981, and over 442,000 deaths have occurred in the United States as a result of the disease;

(2) Federal AIDS prevention funds should be used to provide resources, training, technical assistance, and infrastructure to national, regional, and community-based organizations working to educate the public on the virus that causes AIDS and stopping the spread of the disease;

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Inspector General of the Department of Health and Human Services shall conduct an audit of all Federal amounts allocated for AIDS prevention programs and report to Congress with their findings.

AMENDMENT NO. 2064

(Purpose: To provide for a study and report regarding Federal student loan disbursements to students attending foreign schools)

On page 73, after line 4, add the following:
SEC. 306. (a) FINDINGS.—Congress makes the following findings:

(1) The number of students applying for loans and claiming to attend foreign institutions has risen from 4,594 students in 1993 to over 12,000 students in the 1998–1999 school year.

(2) Since 1995 there have been at least 25 convictions of students who fraudulently claimed they were attending a foreign institution, then cashed the check issued directly to them, and did not attend the foreign institution.

(3) Tighter disbursement controls are necessary to reduce the number of students fraudulently applying for loans under title IV of the Higher Education Act of 1965 and claiming they are going to attend foreign institutions. Funds should not be disbursed for attendance at a foreign institution unless the foreign institution can verify that the student is attending the institution.

(b) STUDY AND REPORT.—

(1) STUDY.—The Comptroller General shall conduct a study regarding—

(A) Federal student loan disbursements to students attending foreign schools; and

(B) fraud, waste, and abuse in the Federal Family Education Loan Program as the fraud, waste, and abuse relates to students receiving funding in order to attend a foreign school.

(2) REPORT.—The Comptroller General shall report to Congress regarding the results of the study.

(3) REPORT CONTENTS.—The report described in paragraph (2) shall—

(A) include information on whether or not there are standards that a foreign school must meet for an American student to attend and receive a federally guaranteed student loan;

(B) compare the oversight controls for loans dispensed to students attending foreign schools and domestic institutions;

(C) examine the default rates at foreign schools that enroll American students receiving federally guaranteed student loans and determine the number of students that are receiving loans in multiple years; and

(D) make recommendations for legislative changes that are required to ensure the integrity of the Federal Family Education Loan Program.

AMENDMENT NO. 2065

On page 93, after line 12, insert:

SEC. 520. Nothing in Section 134 of H.R. 2217 shall be construed to overturn or otherwise effect the decision of the U.S. Court of Appeals for the Tenth Circuit in the case of *Sac and Fox Nation v. Norton*, 240 F.3d 1250 (10th Cir. 2001), or to permit gaming under the Indian Gaming Regulatory Act on lands described in Section 123 of Public Law 106–291 or any lands contiguous to such lands that have or have not been taken into trust by the Secretary of the Interior.

AMENDMENT NO. 2066

(Purpose: To provide funding for services for children relating to crises)

On page 57, line 24, insert before the period the following: “: *Provided further*, That of the funds made available to carry out subpart 2 of part A of title IV of the Elementary and Secondary Education Act of 1965, as amended by H.R. 1 as passed by the Senate on June 14, 2001, \$9,000,000 shall be made available to enable the Secretary of Education to award

grants to enable local educational agencies to address the needs of children affected by terrorist attacks, times of war or other major violent or traumatic crises, including providing mental health services to such children, and \$1,000,000 shall be made available to enable the Secretary of Education, in consultation with the Secretary of Health and Human Services, to develop recommendations and models to assist communities in developing evacuation and parental notification plans for schools and other community facilities where children gather”.

AMENDMENT NO. 2067

(Purpose: To express the sense of the Senate concerning the provision of assistance for airport career centers to enable such centers to serve workers in the airline and related industries who have been dislocated as a result of the September 11, 2001 attack on the World Trade Center)

On page 22, after the period on line 3, insert the following:

SEC. 103. It is the sense of the Senate that amounts should be appropriated to provide dislocated worker employment and training assistance under the Workforce Investment act to airport career centers (to be located with the Port Authority of New York and New Jersey) to enable such centers to provide services to workers in the airline and related industries (including ground transportation and other businesses) who have been dislocated as a result of the September 11, 2001 attack on the World Trade Center.

AMENDMENT NO. 2068

(Purpose: To express the sense of the Senate concerning assistance for individuals with disabilities who require vocational rehabilitation services as a result of the September 11, 2001 attack on the World Trade Center)

At the appropriate place in title I, insert the following:

SEC. 104. It is the sense of the Senate that amounts should be appropriated to provide adult employment and training activities to assist individuals with disabilities from New York and New Jersey who require vocational rehabilitative services as a result of the September 11, 2001 attack on the World Trade Center in order to permit such individuals to return to work or maintain employment.

AMENDMENT NO. 2069

(Purpose: To express the sense of the Senate regarding reimbursement of certain hospitals testing and treating individuals for exposure to anthrax)

On page 54, between lines 15 and 16, insert the following:

SEC. 221. It is the sense of the Senate that the Secretary of Health and Human Services should fund and reimburse hospitals and medical facilities in States that have tested and treated federal workers that have been exposed to anthrax and continue to test and treat, federal workers that have been determined by the Centers for Disease Control and Prevention as at risk for exposure to anthrax.

AMENDMENT NO. 2070

(Purpose: To express the sense of the Senate regarding lead poisoning screenings and treatments under the medicaid program)

On page 54, between lines 15 and 16, insert the following:

SEC. 222. It is the sense of the Senate that the Secretary of Health and Human Services should ensure that each contract entered into between a State and an entity (including a health insuring organization and a medicaid managed care organization) that is

responsible for the provision (directly or through arrangements with providers of services) of medical assistance under a State medicaid plan should provide for—

(1) compliance with mandatory blood lead screening requirements that are consistent with prevailing guidelines of the Centers for Disease Control and Prevention for such screening; and

(2) coverage of lead treatment services including diagnosis, treatment, and follow-up furnished for children with elevated blood lead levels in accordance with prevailing guidelines of the Centers for Disease Control and Prevention.

AMENDMENT NO. 2071

(Purpose: To express the sense of the Senate that States should be authorized to use SCHIP funds for lead poisoning screenings and treatments)

On page 54, between lines 15 and 16, insert the following:

SEC. 223. It is the sense of the Senate that States should be authorized to use funds provided under the State children's health insurance program under title XXI of the Social Security Act to—

(1) comply with mandatory blood lead screening requirements that are consistent with prevailing guidelines of the Centers for Disease Control and Prevention for such screening; and

(2) provide coverage of lead treatment services including diagnosis, treatment, and follow-up furnished for children with elevated blood lead levels in accordance with prevailing guidelines of the Centers for Disease Control and Prevention.

AMENDMENT NO. 2072

(Purpose: To express the sense of the Senate that the Secretary of Health and Human Services should establish a bonus program for improvement of childhood lead screening rates.)

On page 54, between lines 15 and 16, insert the following:

SEC. 224. It is the sense of the Senate that the Secretary of Health and Human Services should establish a program to improve the blood lead screening rates of States for children under the age of 3 enrolled in the medicaid program under which, using State-specific blood lead screening data, the Secretary would annually pay a State an amount to be determined.

(1) For each 2 year-old child enrolled in the medicaid program in the State who has received the minimum required (for that age) screening blood lead level tests (capillary or venous samples) to determine the presence of elevated blood lead levels, as established by the Centers for Disease Control and Prevention.

(2) For each such child who has received such minimum required tests.

(3) For each such child who has received such minimum required tests.

AMENDMENT NO. 2073

(Purpose: To strike new language regarding allowable use of federal funds for stem cell research)

On page 91, strike lines 13 through 18.

Mr. REID. These amendments have been reviewed by staff and cleared by both managers.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Madam President, I concur with what the Senator from Nevada has said.

The PRESIDING OFFICER. The question is on agreeing to the amendments, en bloc.

The amendments (Nos. 2062 through 2073) were agreed to en bloc.

Mr. REID. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will the Senator yield?

Mr. HUTCHINSON. I yield.

Mr. REID. Madam President, the Senator from Arkansas, Mr. Hutchinson, has an amendment dealing with charitable giving. It is one of two amendments we believe remain on this bill. I have spoken with the distinguished Senator from Arkansas, and he has indicated that his side will agree to 20 minutes, and this side will certainly agree to 20 minutes. So it will be 40 minutes equally divided. This will work out perfectly so we can have a vote prior to the briefing which is going to take place in S-407. I propound that as a unanimous consent request.

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

Mr. REID. Madam President, the only exception I did not include is that there will be no second-degree amendments in order prior to the vote.

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

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I ask unanimous consent that the pending amendments be laid aside.

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

AMENDMENT NO. 2074

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. HUTCHINSON], for himself and Mr. NICKLES, proposes an amendment numbered 2074.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds under the National Labor Relations Act for the finding of unfair labor practices relating to certain no-solicitation or no-access rules)

On page 22, between lines 3 and 4, insert the following:

SEC. . . None of the funds made available under this Act shall be used under the National Labor Relations Act to make a finding

of an unfair labor practice relating to a published, written, or posted no-solicitation or no-access rule that permits solicitation or access only for charitable, eleemosynary, or other beneficent purposes.

Mr. HUTCHINSON. Madam President, my amendment will allow employers to permit solicitations by charitable groups without subjecting themselves to what I believe is unfair and frivolous union litigation. It may sound odd that a law is needed to protect charitable giving, but currently when an employer permits such solicitations, it is likely to be found by the National Labor Relations Board to have engaged in unlawful discrimination unless it provides unions equal access to the employer's property to engage in solicitation or distribution for union purposes.

In the wake of the September 11 attacks, the need for legislation of this type has never been greater. Currently, the NLRB interprets, I think wrongly, the National Labor Relations Act to require that a retailer that regularly allows charities or civic organizations to solicit or distribute material on the retailer's premises must also grant similar access to labor unions who are seeking to organize the retailer's employees attempting to communicate a message to the retailers' customers.

Because of this, many of the Nation's largest retailers have adopted blanket no-solicitation rules which, unfortunately, include charitable organizations, to avoid being found in violation of unfair labor practices.

I want to mention a couple of the many examples that can be given of retailers that are affected by the current interpretations of the NLRB.

Example one: Prior to 1994, Meijer, Inc., located in Grand Rapids, MI, exercised its commitment to their communities and use of private property rights by allowing various charitable, religious, civic, community, and government groups for activities such as fundraising activities by groups such as United Way, Salvation Army, VFW, Lions Club, Shriners, school groups, and other national and local organizations; placement of collection or drop-off boxes by groups such as Goodwill, Toys for Tots, Lions eyeglass collection program and various community recycling programs; community service activities, such as immunization clinics or other medical screening activities run by private or government agencies, drug enforcement agencies, and the Armed Forces; and the use of conference rooms for meetings and use of parking lots for driver training, skill rodeos for public safety organizations and as staging areas for groups assembling for bus or other trips.

In May of 1994, the Ohio UFCW Local 954 struck Meijer's four Toledo stores. Through the course of events that took place during the strike, Meijer prohibited the union from striking on their property. The union activity occurred in front of the doors to their stores and blocked the entry to the store.

After successfully obtaining restraining orders, union picketers were required to move to the public right-of-way. Prior to the strike settlement, the union filed unfair labor practice charges with the NLRB. They claimed that Meijer discriminated against the union by prohibiting access to Meijer property while allowing other organizations permission, charitable groups that were soliciting. In the union's charge, they specifically pointed to the Salvation Army and the VFW as examples.

Before the NLRB could complete its investigation to make a final decision, there was a settlement that was reached and the charges were dropped. As a result of this action, Meijer decided the only certain way to keep union picketers from their doors in the future was to bar all outside groups from access to their property—no more solicitation, no more charitable efforts, no more contributions to worthy causes. This was a difficult decision because Meijer had always striven to be a good corporate citizen and wholeheartedly supported the kinds of charitable activities described.

Example two: Wawa, Inc., based in Wawa, PA, owns and operates 550 convenience stores in New York, Pennsylvania, Delaware, Maryland, and Virginia. For years, unions have been trying to unionize their labor force and because of this, Wawa instituted a no-solicitation rule. Last year, Wawa had to turn down hundreds of worthwhile charities, including groups such as the American Veterans of Foreign Wars, because of this policy. Because of the events that took place on September 11, those tragic attacks upon our Nation, Wawa decided to open its doors to the American Red Cross to assist in the fundraising effort for the victims of the terror attacks in New York and in the Nation's Capital. To date, Wawa has raised over \$2 million for this effort. By allowing Wawa to open its doors to several other charities, they would be able to raise funds for not only the American Red Cross but also the Girl Scouts, the American Veterans of Foreign Wars, and other worthy causes.

Convenience stores are on nearly every street corner and provide an easy and reliable dropoff point for charities. Convenience stores have nearly 1,000 customers a day and are able to reach out to thousands of individuals a week for their contributions. Wawa, because of the current NLRB ruling, is putting the future of the company in jeopardy. This amendment will provide them protection and provide greater resources for American charities.

When retailers do allow charities to set up shop outside their doors, they often have to do so with extreme caution to shield the company from unfair litigation. Such is the case for an Arkansas firm that I am very proud of, and that is Wal-Mart Inc., in Bentonville, AR, which does currently allow charitable organizations on their property. They are putting their neck

on the line to do so. Because they believe in this, they are doing it. They understand it benefits the community. But we are asking them to remain vulnerable until we have an amendment such as this that would provide them protection.

The current NLRB solicitation rule has a profound impact on the neediest citizens of our country. These solicitation rules deny charitable and civic organizations the opportunity to raise hundreds of millions of dollars a year from retail customers.

The magnitude of this loss cannot be overstated. Charitable donations raised through Wal-Mart alone are over \$127 million annually. Because many retailers are forced to deny access to everyone, there are now fewer hot meals for the hungry, fewer toys for poor children, and less clothing and shelter for the homeless.

This amendment is not meant to target unions. Unions are the largest contributors to the United Way. They are among the leaders in the country in charitable acts. The amendment simply recognizes private property rights. There is a distinction between what a union does in front of a store and what local charities and civic groups are there to do. They should not be treated the same.

This amendment permits retailers to support their communities' charitable and civic activities without requiring them to open their property to union activity which could, in fact, drive away customers or force themselves to face unfair or even frivolous litigation.

In light of the September 11 terrorist attacks, we need to do all we can to encourage charitable giving. I have heard from thousands of people since September 11 asking how they can help those directly affected by the terrorist attacks. By allowing retailers to open their doors to charitable groups, we make it possible for the American people to play an even greater role in this recovery effort.

I received a letter from the chief counsel at Wal-Mart, and I want to read part of what he said:

Wal-Mart's solicitation policy provides charities with access to our stores and customers. Each year over \$100 million is raised by local grass-roots charitable organizations in front of Wal-Mart Stores and Sam's Clubs. Other retailers have chosen to avoid a controversy over various forms of solicitation by simply adopting a no solicitation policy. It is vitally important that our country have a policy that allows retailers to work with local charities to better serve their communities.

Madam President, I ask unanimous consent that the Wal-Mart letter be printed in the RECORD.

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

WAL-MART,
THOMAS D. HYDE, EXECUTIVE VICE
PRESIDENT AND SENIOR CORPORATE
COUNSEL,
November 1, 2001.

Hon. DON NICKLES,
133 Hart Building, Washington, DC.

DEAR SENATOR NICKLES: We appreciate your support of legislation that encourages retailers to allow charitable solicitation at their stores. The Senate amendment you have proposed would enable retailers to open their doors to charitable organizations without being compelled to allow other forms of solicitation.

Wal-Mart's solicitation policy provides charities with access to our stores and customers. Each year over \$100 million is raised by local grassroots charitable organizations in front of Wal-Mart Stores and Sam's Clubs. Other retailers have chosen to avoid a controversy over various forms of solicitation by simply adopting a no solicitation policy.

It is vitally important that our country have a policy that allows retailers to work with local charities to better serve their communities. We are grateful for your leadership on this issue.

Sincerely,

THOMAS D. HYDE.

Mr. HUTCHINSON. I also have a letter from the United States Chamber of Commerce, and I would like to read that into the RECORD.

I am writing on behalf of the U.S. Chamber of Commerce, the world's largest business federation representing over three million businesses and organizations of every size, sector and region, to express the Chamber's support for the Preserve Charitable Giving Act.

This bill will provide a much-needed change in the National Labor Relations Act so that it will no longer serve as an impediment to employers that wish to maintain and enforce a valid no-solicitation/no-distribution policy and also wish to allow charitable fund-raising or other beneficent acts on their premises.

We appreciate your sponsorship of S. 929 and encourage you to take appropriate steps to assure its prompt passage in the Senate.

My concern and the reason for this amendment is that retailers fearful of extensive litigation will likely err on the side of caution and not permit these acts of kindness and generosity to occur. In the end, it is the public that suffers. An approach that allows charitable solicitation as an exception to an otherwise valid no-solicitation/no-distribution rule is in the public interest and recognizes the valid distinctions between the kinds of activities engaged in by charitable groups and those of labor unions.

I ask my colleagues to untie the hands of retailers and consumers all across America that want to do all they can to help heal this country. Allow Americans to stretch out their arms to carry a coat, donate blood or reach into their pockets when they travel to their local retail or convenience store so they can help those who have been so deeply affected during this time of great need in our Nation's history.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Madam President, I certainly applaud and support all retailers

who have joined with charities to permit access to solicitation in light of the events of September 11 and those that were doing it prior to September 11. What my friend, the distinguished Senator from Arkansas, has said is that many retailers have adopted a blanket no-solicitation rule to avoid having to create a similar form for labor unions. In effect, that is what he said.

There has been an assertion made that this interferes with their ability to raise charitable donations. Yet his own materials, which certainly are available to anyone, show last year charities raised over \$100 million at the storefronts of Wal-Mart and Sam's Club alone, just those stores.

That is great. I think that is very nice. But it seems to me the retailers, Wal-Mart and Sam's Club, have done very well without this amendment.

This amendment prohibits funds to the NLRB, the National Labor Relations Board, to enforce the laws and rules that require employers to provide access to all charitable and civic and labor organizations.

If the employer provides selective access, it is prohibited. For example, if Wal-Mart allows Girl Scouts to sell on the property, or they allow the United Way to distribute literature to Wal-Mart employees, technically, they have to allow labor unions to distribute their literature. That is what this amendment attempts to prevent.

Wal-Mart has been doing this; Sam's Club has been doing this. The NLRB takes this on a case-by-case basis. They are not looking for somebody to go after. There has to be some case made, and certainly there hasn't been one made of which I am aware.

The law prohibits selective access or discrimination in places of employment. That is clearly what it does. Even when discriminatory access is alleged, the National Labor Relations Board examines the facts of the case on a case-by-case basis. It has found in different cases in favor of both the employer and the union through the case-by-case method outlined in the National Labor Relations Act. The current process of permitting the NLRB to examine the facts is appropriate, and it is has worked. This has been in existence for many years.

There is no need for Congress to arbitrarily discriminate against labor unions. That is what this does. This amendment tips the scales in favor of the employers in labor-management disputes. That is simply wrong. This amendment presumes all union solicitations are directed at disrupting employers' businesses. That is not the case.

Labor unions are active participants in many charitable activities. We have seen them on Labor Day at a stoplight. They have the boots in which they ask drivers to put the money. The United Way does a lot of work, as well as many food drives and local community charities. Local firefighters, commercial food workers, and other union

members are active in many charities and organizations. I applaud the retailers who joined with charities to permit access to solicitation in light of the events of September 11. That is very important.

Let's be clear: This amendment is not about increasing charitable giving but about discriminating against American workers. That is what it is.

The present system is working very well. This amendment is not needed to sustain or even increase these charitable efforts. Frankly, it is inappropriate to use the events of September 11 as an excuse to pass antiworker legislation. It is discriminatory. This amendment would essentially allow employers to be engaged in selective discrimination.

Current law allows retailers to support charitable and civic activities. This law prohibits discrimination. In this context, it prohibits discrimination against verbal communication and distribution of literature when companies grant access to outside groups to engage in communications or solicitations, including charities.

This basic principle of labor and employment law dates back to the 1930s. This has been going on for almost 70 years. We don't need to change it. In essence, a company cannot prohibit certain types of activities that it permits others to conduct based on race, sex, age, or, in this case, on workers trying to exercise their legal rights to organize a union, to register voters, or to encourage participation in civic activities.

The present system works. Worker organizations should be included in the list of those who legally can communicate within the rules established by retailers. If a group violates these rules, the National Labor Relations Board examines the case and determines if there is something that should be done. This is done on a factual, case-by-case basis.

I repeat: The present process has worked. This is an issue of fairness. This amendment promotes selective discrimination against workers. I urge my colleagues to oppose this amendment. It is simply wrong. Most important, it is unnecessary.

I appreciate the fact that Wal-Mart is based in Arkansas. I met with the representative of Wal-Mart the other day. They have a million employees—a million employees. They certainly don't need this to protect them. They are a very large corporate giant. They can protect themselves. The problem in America today is that we have a lot of corporate giants and we have very few people speaking out for workers. This law has been in effect for more than 70 years. We don't need to change it now.

I repeat, Wal-Mart has done very well. At Wal-Mart, Sam's Club, over \$100 million in charities was raised within their doors last year. That is great. They should continue doing it the way they have and not have a program that would allow discrimination against workers.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I pick up on a point the distinguished majority whip made about Wal-Mart's great success in charitable giving. That is one thing on which we certainly agree. That is, that Wal-Mart has been enormously generous, giving last year over \$100 million to charity.

The distinguished former majority leader of the Senate just visited the Senate, Senator Bob Dole. Senator Dole said: Tell 'em that Wal-Mart gave \$17.5 million to the World War II memorial. And they did. And we are all immensely proud of that and everything else that Wal-Mart has done.

This is the reality: Wal-Mart has been generous. Their customers have been generous. And their employees have been generous at the risk of the future of the company.

To say it is working fine is not the case because the vulnerability that Wal-Mart faces, that Target faces, that every retailer faces, that every convenience store faces—somewhere along the line, a labor union may decide to put pickets out in front, and as the customers try to go in the door, they will get the message: This company, we don't like.

That company is going to then face the choice, Do we want to continue to allow solicitations for charities or are we going to have to adopt an absolute "no solicitation" policy that will exclude good charities? Right now, we are being forced by a misunderstanding, a misinterpretation of the National Labor Relations Act, to allow these pickets in front of our door.

I don't think it is reasonable to expect that generous companies with generous employees and generous management should have to subject themselves to that in order to do the right thing. That is what we are asking them to do now. That is wrong.

This has nothing to do with saying we are anti-union; it has everything to do with saying you don't treat a union activity in front of a store the same as you treat a Salvation Army bell ringer at Christmastime in front of that store. That is the issue. Let's unlock that generous spirit of America.

We should not require the same kind of treatment for a labor union and a charitable organization soliciting in front of a retail establishment. It is not the same. I think we all realize it is not the same. That is all this amendment does.

For a year, in the wake of the September 11 attack and the incredible need our Nation has, let's not make it more difficult for the American people to give and give and give, as they so generously want to do.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I acknowledge the great work the Salvation Army does. Bell ringing time is fast approaching. I hope we are not here when they are ringing their bells.

Anything that happens now under the present rules and laws with the NLRB does not prevent a single Salvation Army person from taking their bucket and ringing a bell. I know of not a single case that the NLRB has brought against an establishment for having Salvation Army people collecting money there—none. This is a guise, in my opinion, to keep unions out of these places.

Maybe somebody wants to try to organize Wal-Mart. I don't know of anyone who does. Maybe they do. The Salvation Army is entitled to fairness. But so are workers.

We do not need to pick on Wal-Mart. We have talked about Wal-Mart. Of course this applies to businesses other than Wal-Mart. These businesses should be treated no differently tomorrow than they are today.

I think it is totally appropriate that we look; if someone is abusing what they are doing with charitable donations, then the NLRB can take a look at it. But there are no cases where that has happened. This is only an effort to inflict further punishment on the organized labor movement in this country. No one wanted to prevent, either prior to September 11 or after September 11, charitable organizations from being charitable or collecting money.

I understand the intentions of my good friend from Arkansas, but I believe this amendment would do far more harm than it would do good.

I am sorry I didn't make my notes more legible, even to me. But this does not affect picketing, only literature and donations. This has nothing to do with picketing.

I hope all Members will recognize this amendment as one of simple fairness—leave things the way they have been for 70 years. I know of no abuses that have taken place. The NLRB, in Republican administrations and Democratic administrations, has approached this on a case-by-case basis. What are the facts in the particular case? As far as I am concerned, they have been pretty fair for 70 years.

Madam President, how much time does the Senator from Arkansas and the Senator from Nevada have?

The PRESIDING OFFICER. The Senator from Arkansas has 6 minutes remaining. The Senator from Nevada has 10 minutes.

The Senator from Arkansas.

Mr. HUTCHINSON. Madam President, the Senator raises some questions. He says there is no problem. So perhaps this letter from a retailer I mentioned earlier, the Meijer Company, which is headquartered in a wonderful State, in Grand Rapids, MI, answers that. Do we have a problem? I think they make it very clear in this correspondence we just received:

As a mid-west based retailer, we care deeply about the communities we serve. As a corporate citizen, we want them to grow and thrive. That is why we are pleased to contribute to so many local programs.

However, since 1994, we have been prevented from providing certain support to

charitable and civic organizations due to language contained in the National Labor Relations Act. The language stipulated that if we provided access to our property to outside groups, then we would also be required to provide access to union organizations for the purposes of organizing, solicitation, distribution, picketing or other union purposes. Clearly, we believe there to be a difference between charitable and civic groups, and union activity.

Additionally, while Americans have generously responded to our national crises, we are beginning to learn how local and state-based charities are beginning to suffer. We believe that your amendment is well suited for this present time, and will permit us to work with such worthy causes.

This is very simple. The issue is simple and clear. Should union activity, including picketing, be treated the same as the Salvation Army bell ringer, the VFW, or the Salvation Army and other good groups soliciting for good causes? Should community-based charities be prohibited from soliciting funds in front of a retailer if that retailer would like them to, simply because of a decision by the National Labor Relations Board that says if they do one, they have to allow picketing and distribution of union material in front of that store? That is the issue.

Clearly, they should not be treated the same. They are totally different causes. Retailers, while having great incentive to help charities, are not going to have an incentive to do something that is going to impede their own businesses. We should make that distinction, and this amendment would allow that for this year in this appropriations bill, and would allow for this year—a year clearly that our Nation is in crisis—to encourage that kind of charitable activity on the part of our Nation's retailers.

I retain the remainder of our time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the time will be charged equally to both sides.

Mr. REID. Madam President, I have spoken to the Senator from Arkansas, and he is going to yield back his time. I will yield back my time. There are a number of Members in the Chamber. We can start the vote. I yield my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Alabama (Mr. SESSIONS) is necessarily absent.

The PRESIDING OFFICER (Mr. DAYTON). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—40

Allard	Frist	McConnell
Allen	Gramm	Miller
Bennett	Grassley	Murkowski
Bond	Gregg	Nickles
Brownback	Hagel	Roberts
Bunning	Hatch	Santorum
Burns	Helms	Shelby
Cochran	Hutchinson	Smith (NH)
Craig	Hutchison	Thomas
Crapo	Inhofe	Thompson
DeWine	Kyl	Thurmond
Domenici	Lott	Warner
Ensign	Lugar	
Enzi	McCain	

NAYS—59

Akaka	Dodd	Lincoln
Baucus	Dorgan	Mikulski
Bayh	Durbin	Murray
Biden	Edwards	Nelson (FL)
Bingaman	Feingold	Nelson (NE)
Boxer	Feinstein	Reed
Breaux	Fitzgerald	Reid
Byrd	Graham	Rockefeller
Campbell	Harkin	Sarbanes
Cantwell	Hollings	Schumer
Carnahan	Inouye	Smith (OR)
Carper	Jeffords	Snowe
Chafee	Johnson	Specter
Cleland	Kennedy	Stabenow
Clinton	Kerry	Stevens
Collins	Kohl	Torricelli
Conrad	Landrieu	Voinovich
Corzine	Leahy	Wellstone
Daschle	Levin	Wyden
Dayton	Lieberman	

NOT VOTING—1

Sessions

The amendment (No. 2074) was rejected.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Gramm second-degree amendment No. 2055.

Mr. REID. Mr. President, will the Senator yield for a unanimous consent request?

Mr. CAMPBELL. Yes.

Mr. REID. Mr. President, I appreciate the courtesy of my friend from Colorado.

UNANIMOUS CONSENT AGREEMENT—H.R. 2590 AND H.R. 2311

Mr. REID. Mr. President, I ask unanimous consent that the Chair lay before the Senate the conference report accompanying H.R. 2590, the Treasury-Postal appropriations bill; that there be a time limitation of 6 minutes for debate with respect to the report, with the time divided as follows: 3 minutes for the chairman and 3 minutes for the ranking member; that upon the use or yielding back of all time, the conference report be laid aside and the Senate then proceed to consideration of the conference report to accompany H.R. 2311, the energy and water appropriations bill; that there be 60 minutes for debate, with the time controlled as follows: 10 minutes each for the chair and ranking member of the subcommittee, Senators STABENOW and

BURNS, and 20 minutes under the control of Senator MCCAIN; that upon the use or yielding back of the time, the Senate proceed to vote on adoption of the conference report to accompany H.R. 2311, the energy and water bill, to be followed by a vote on adoption of the conference report to accompany H.R. 2590, the Treasury-Postal bill, with no further intervening action, and that these votes occur at a time to be determined by the majority leader following consultation with the Republican leader.

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

Mr. REID. Mr. President, if the Senator from Colorado needs more time, please let us know.

TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 2002—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the conference report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2590) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 2002, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to the respective Houses this report, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Friday, October 26, 2001.)

Mr. DORGAN. Mr. President, I want to take this opportunity to talk about the conference report we have now completed with the House of Representatives. It has been a delight and pleasure to work with Senator CAMPBELL. I very much appreciate his work and the work of Patricia Raymond and Lula Edwards, and my staff: Chip Walgren and Matt King and Nicole Rutberg. They have been exceedingly helpful in putting together a very substantial conference report on a lot of subjects.

Let me describe some of these issues. Some bills we consider when we have the conference report in front of the Senate consist primarily of salaries and expenses for a number of agencies in the Federal Government. About 40 percent of the Federal law enforcement functions are funded in this appropriations bill: The Customs Service; the Bureau of Alcohol, Tobacco, and Firearms; the Secret Service; the Financial Crimes Enforcement Network; and other law enforcement agencies, including the IRS criminal investigation division, as well as the Postal Inspection Service, which a lot of people don't think much about—they don't spend a lot of time thinking about it,