on the Commission on Trial Court Appointments for Pima County, and on the disciplinary committee for the State Bar of Arizona. In addition, Mr. Bury often serves as an arbitrator and has been a guest lecturer for legal and medical organizations throughout his career.

I have every confidence that David Bury will serve with distinction on the Federal District Court for the District of Arizona.

Thank you, Mr. President.

I yield the floor.

The ACTING PRESIDENT pro tempore. The question is, Will the Senate advise and consent to the nomination of David C. Bury, of Arizona, to be United States District Judge for the District of Arizona? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

Mr. NICKLES. I announce that the Senator from Kansas (Mr. BROWNBACK), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAIG), the Senator from Tennessee (Mr. FRIST), the Senator from North Carolina (Mr. HELMS), the Senator from Arizona (Mr. MCCAIN), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Texas (Mrs. HUTCHISON) are necessarily absent.

I further announce that if present and voting the Senator from Montana (Mr. BURNS) would vote ''yea''.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 51 Ex.]

YEAS—90

Akaka	Dorgan	Lugar
Allard	Durbin	Mikulski
Allen	Edwards	Murkowski
Baucus	Ensign	Murray
Bayh	Enzi	Nelson (FL)
Bennett	Feingold	Nelson (NE)
Biden	Feinstein	Nickles
Bingaman	Fitzgerald	Reed
Bond	Graham	Reid
Boxer	Gramm	Roberts
Breaux	Grassley	Rockefeller
Bunning	Gregg	Santorum
Byrd	Hagel	Sarbanes
Campbell	Harkin	Schumer
Cantwell	Hatch	Sessions
Carnahan	Hollings	Shelby
Carper	Hutchinson	Smith (NH)
Chafee	Inhofe	Smith (OR)
Cleland	Inouye	Snowe
Clinton	Jeffords	Specter
Cochran	Johnson	Stabenow
Collins	Kennedy	Stevens
Conrad	Kerry	Thomas
Corzine	Kohl	Thompson
Crapo	Kyl	Thurmond
Daschle	Landrieu	Torricelli
Dayton	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lott	Wyden

NOT VOTING—10

Brownback	Helms	McConnell
Burns	Hutchison	Miller
Craig	Lincoln	
Frist	McCain	

The nomination was confirmed.

Mr. REID. Madam 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.

• Mr. MCCAIN. Madam President, due to my absence, I was unable to vote today on the confirmation of David C. Bury as a judge for the United States District Court for the District of Arizona, Tucson Division.

Had I been present today, I would have voted ''yea'' on Mr. Bury's nomination with whole-hearted enthusiasm for a man of outstanding character and tremendous legal talent.

Without question, Mr. Bury is well-qualified for this position. His reputation precedes him. In the State of Arizona, he has always been a well-respected and highly competent trial attorney. His unblemished 34 years in the practice of law have proven his commitment to the legal profession. Not only does he bring to the Federal bench extensive experience in civil litigation, he will bring to the bench the requisite qualities of patience, fairness and the highest ethical standards. In short, Mr. Bury will be an outstanding Federal judge for our great state of Arizona.

I congratulate him, his wife Debby and his three children on his nomination to the Federal court. They are undoubtedly proud of him not only for this high honor, but also for the rest of his professional accomplishments and his personal commitment to them.

I am very confident that Mr. Bury will be a top-notch public servant who will bring to the Federal judiciary the highest level of professionalism, leadership and dedication. He will make the people in Arizona proud. And for his public service, I thank him.•

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001—Resumed

The ACTING PRESIDENT pro tempore. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 517) to authorize funding for the Department of Energy to enhance its mission areas through technology transfer and partnerships for fiscal years 2002 through 2006, and for other purposes.

Pending:

Daschle/Bingaman further modified amendment No. 2917, in the nature of a substitute.

Feinstein amendment No. 2989 (to amendment No. 2917), to provide regulatory oversight over energy trading markets.

Kerry/McCain amendment No. 2999 (to amendment No. 2917), to provide for increased average fuel economy standards for passenger automobiles and light trucks.

Dayton/Grassley amendment No. 3008 (to amendment No. 2917), to require that Federal agencies use ethanol-blended gasoline and biodiesel-blended diesel fuel in areas in which ethanol-blended gasoline and biodiesel-blended diesel fuel are available.

Bingaman amendment No. 3016 (to amendment No. 2917), to clarify the provisions relating to the Renewable Portfolio Standard.

Lott amendment No. 3028 (to amendment No. 2917), to provide for the fair treatment of Presidential judicial nominees.

Mr. MURKOWSKI. Madam President, during this lull in the debate of the energy bill I would like to take a moment to thank the Senator from New Mexico and his staff for all of their hard work and cooperation on the Alaska gas pipeline title of this bill.

Mr. BINGAMAN. I thank the Senator for those kind words. This is an important energy policy initiative for the nation. I thought we had a good beginning with the amendments that were offered and debated last week.

Mr. MURKOWSKI. I agree, it was a good start. However, we still have a fair piece to go before we reach the end of this trail. If the Senator would recall during last week's debate I mentioned that there were a number of additional items that would need to be addressed before we completed our legislative effort on this important issue.

These additional items include crafting language that sets procedures in place for allocating initial gas capacity of the pipeline and for any subsequent expansions that might be warranted based on new discoveries or additional needs in Lower 48 markets.

Mr. BINGAMAN. Yes, I do recall the Senator's remarks and I am aware that there are several additional items that are being worked on at the staff level. I particularly hope we will be able to make some improvements that will assist in lowering the overall risk associated with this $20 billion project.

These include enhancing the ability of the Pipeline Coordinator created in the gas pipeline title to keep the numerous Federal and State agencies that will be involved in this project working in a cooperative and coordinated fashion and providing for clear and expedited procedures for resolving legal challenges that might arise during permitting and construction of the pipeline. Streamlining the permitting process will help reduce the risks of delay and added costs to the project.

Mr. MURKOWSKI. I do indeed understand what my friend from New Mexico is saying. This point is especially true when you recall that the oil and gas producers who hold the leases on the Prudhoe Bay gas have stated publicly that the project as it now stands is uneconomical. Any legislative language that adds risk or cost to the project will simply make it impossible to build the Alaska gas transportation system—and this will deny the American consumers with access to a dependable,

long-term, and economic supply of domestic natural gas.

Mr. BINGAMAN. I agree with the Senator from Alaska. We must be extremely careful in crafting language for inclusion in the gas title; poorly thought out concepts can add significant risk to this project.

I suggest that we continue our cooperative efforts as we have in the past. I believe that by working together we can get this project built, and that will benefit both the people of Alaska and the entire gas consuming public across the United States.

Mr. MURKOWSKI. I agree completely and I look forward to continuing our efforts. I particularly appreciate the Senator's understanding the need to allow Alaskans access to the North Slope gas reserves. As in the Nation, my State needs abundant and dependable gas supplies to fuel the growth of our economy over the next three decades.

The ACTING PRESIDENT pro tempore. The Senator from Utah.

Mr. BENNETT. Madam President, I ask unanimous consent I might be allowed to speak as in morning business for up to 7 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE PICKERING NOMINATION

Mr. BENNETT. Madam President, we have just confirmed a district judge, and I am delighted with that action. It is an action I wish we would take more often around here.

Last night, the Judiciary Committee refused to send to the Senate Judge Pickering, who was nominated for the circuit court. I wish to make a few comments with respect thereto, and do it in the shadow of the confirmation vote we have just had.

When this session of Congress began, the Senator from Vermont, who now chairs the Judiciary Committee, made it clear he had an extra-constitutional test he would apply to every judge. That is, he insisted we have the statement of the American Bar Association before us before we even consider a judge. I use the term ''extra-constitutional'' rather than ''unconstitutional,'' as some commentators have, because the Senator has every right to turn to any group or any area he wants in order to make his decision, but a requirement that a judge be recommended by the American Bar Association is not in the Constitution. Therefore, it is an extra-constitutional test.

When Judge Pickering came before the Judiciary Committee, he passed that extra-constitutional test. He was chosen and designated as being well qualified by the American Bar Association. Yet he was voted down by the members of the Judiciary Committee. Some of them said he had racist views. Yet the African Americans in his home State came forward in great numbers to insist that this judge did not have racist views. Indeed, these African Americans who knew him better than African Americans outside of his State insisted he was an excellent judge and an excellent choice for the circuit court. Nonetheless, he was still not sent to the Senate for a vote.

What this means is that the chairman of the Judiciary Committee has an additional extra-constitutional test he is applying to nominees. As he said before, it is his right to put whatever test he wants. But I hope, in courtesy to the Senate, that he and the other members of Judiciary Committee who voted against Judge Pickering will disclose their extra-constitutional test. They did at the beginning of the session. They said, in response to the President, they would not consider him until we have a rating from the American Bar Association. That is an extra-constitutional test we will openly and directly apply.

It is clear from what has happened to Judge Pickering that there is now another extra-constitutional test being applied in secret, that is being applied in camera, and that is being applied in the dark. Those of us who are unaware of what it is are, therefore, unable to discuss it and unable to talk about it or direct our concerns toward it.

Therefore, I formally ask the chairman of the Senate Judiciary Committee, Mr. LEAHY from Vermont, to tell us what the extra-constitutional test that he applied to Judge Pickering is.

The newspapers say he has to pass muster from groups such as People for the American Way. I would rather not get the information from the newspapers. I would rather not have a journalist tell me what is on the Senator's mind. I would rather have the Senator tell us as openly and directly as he can at the beginning of this session what it is he requires before he will vote for someone to come out of the Judiciary Committee for a Senate vote.

It is only fair that we and the constituents in Vermont understand what the test is that the chairman of the Judiciary Committee is applying. At the moment, we are left in the dark.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

(The remarks of Mr. GREGG pertaining to the introduction of S. 2020 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GREGG. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CARPER). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. At this time it appears no one is offering amendments on the energy bill. But in an effort to see if that will happen, I think the Senate would be well advised to go into a period of morning business for the next hour. So I ask unanimous consent, because there are a number of Senators wishing to speak as in morning business, that the Senate proceed to a period of morning business with Senators allowed to speak for a period up to 10 minutes each, and that the morning business time expire at 11:15 a.m. today.

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

The Senator from Wyoming.

(The remarks of Mr. ENZI pertaining to the introduction of S. 2021 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER (Mr. CARPER). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the period for morning business be extended until 12 o'clock today.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BRINGING SOUTH DAKOTA'S STRENGTH TO THE WAR AGAINST TERRORISM

Mr. DASCHLE. Mr. President, 2 months ago, I traveled with some of our other Senate colleagues to Afghanistan and other Central Asian nations.

We wanted to see what progress is being made in the war against terrorism. We also wanted to talk with our allies in the region to try to assess how we might help make their nations hospitable to freedom—and inhospitable to terrorists.

We learned a great deal.

I have already had a chance to share many of my thoughts and observations with Secretary Powell.

Today, I would like to say a few words publicly about the part of our trip that I found the most moving and impressive: the other Americans we met—men and women who are serving our Nation's interests every day in places far from home—often under incredibly challenging conditions.