

produce a stimulus package. In any event, I hope that is not a sign that it is going to be partisan because we do have a chance to produce a stimulus package that will be worthwhile.

From my standpoint, I think I am going to put together a stimulus package—what would go this with that, that with this. I might do that in the next couple days and at least come to the Chamber and talk about a stimulus package and why it is a stimulus package.

It is important to not just work on what we choose to call a stimulus package. The occupant of the chair would like to know that it produces new jobs, that it puts people to work, along with the other issues, such as unemployment compensation, perhaps some health care activity.

Clearly, we have to put some provisions in the bill that will encourage this economy in a realistic way. I will be watching. Everyone else will be watching. I hope we can get it done in due course.

I yield the floor.

#### EXECUTIVE SESSION

#### NOMINATION OF HARRIS L. HARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE TENTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 11:40 a.m. having arrived, the Senate will proceed to executive session to consider the nomination of Harris Hartz, to be U.S. Circuit Judge. The clerk will state the nomination.

The legislative clerk read the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. DOMENICI. Mr. President, is there some reason for 3 minutes or is it assumed I asked for 3 minutes?

The PRESIDING OFFICER. The Chair was under the impression the Senator wanted 3 minutes.

Mr. DOMENICI. Can I do this, so I will not feel too pressed: I ask unanimous consent that I be able to speak for up to 5 minutes, which I probably will not use.

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

Mr. DOMENICI. Mr. President, I rise to pay credit to a very distinguished lawyer and judge. His name is Harris Hartz. Today when we vote, if a majority votes for him—and I do not see why we would not; it might be a unanimous vote—he will become the U.S. Circuit Judge for the Tenth Circuit.

To the extent a Senator, based upon observing and asking other people, can fill himself or herself with knowledge about a person, I have to say he is probably one of the most qualified persons I have ever asked the President to put on the bench.

His academic background is so superb that no one can challenge it. If Harvard Law School is a good law school, and he was among its best students—magna cum laude—all of the attributes of a great mind that was being moved and melded into a great leader mind, that happened to him. From that time on, he has been engaged in various activities that have made him a broad-based lawyer to take this job.

He was a circuit judge in New Mexico, which caused him over time to publish 300 opinions, Mr. President. If people do not know him, they have not bothered to read his opinions.

Whether it is being scholarly, whether he understands, whether he plays no favorites, whether he is truly a good judge, in what judges do besides knowing the law—adding all that together, the Senator from New Mexico recommended him to the President. He was thoroughly vetted at the executive branch, and obviously the background checks have occurred, and he came forth with all the right pluses attendant his name.

Today, the 5- or 6-month ordeal which all candidates face—families worrying, wives and children wondering how much longer—will come to an end, and he will be sitting on the bench in the southwestern United States.

I ask unanimous consent that his vitae and the Department of Justice analysis of his background be printed in the RECORD.

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

#### HARRIS L. HARTZ BIOGRAPHY

Harris L. Hartz is a magna cum laude graduate of Harvard Law School, where he was selected as Case and Developments Editor of the Harvard Law Review. He received his AB degree from Harvard College summa cum laude in physics. At Harvard he was one of 9 members of his class elected to Phi Beta Kappa in their junior year.

From 1989 to 1999, Hartz served as a judge on the New Mexico Court of Appeals for eleven years. During that time he authored approximately 300 published opinions. In 1997, Judge Hartz was elevated to the position of Chief Judge. During his last year on the Court, he was a member of the Executive Committee of the American Bar Association Council of Chief Judges.

In 1999 Judge Hartz resigned from the Court of Appeals to join the law firm of Stier, Anderson & Malone as special counsel to the International Brotherhood of Teamsters. He has worked with the Union to develop a Code of Conduct and an internal system for compliance and enforcement.

Before becoming a judge, most of Judge Hartz's legal career was as a lawyer in Albuquerque, New Mexico. During his first three years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent three years with the New Mexico Governor's Organized Crime Prevention Commission, first as its attorney and then as Executive Director. For the following nine years he was in private practice, primarily in civil litigation.

Judge Hartz has been active in the American Law Institute since 1993 and now serves

as an Adviser for the Restatement of the Law (Third) Agency. He has also participated in activities of the American Bar Association, including membership on the Appellate Practice Committee of the Appellate Judges Conference and the Advisory Committee to the ABA Standing Committee on Law and National Security.

His past civic activities have included being Chair of the New Mexico Racing Commission, where his efforts against drugging of racehorses led to his nomination for the Joan Pew Award and his being appointed co-chair of the Quality Assurance Committee of the National Association of State Racing Commissioners. For the past two years Judge Hartz has been chair of the New Mexico Rhodes Scholarship Selection Committee and chair of the Selection Committee for the New Mexico Ethics in Business Awards. He is active in Rotary, and has served as President of the Rotary Club of Albuquerque.

#### HARRIS L. HARTZ RESUMÉ

Birth: January 20, 1974, Baltimore, Maryland  
Legal Residence: New Mexico

Education: 1963-1967—Harvard College, A.B. degree, summa cum laude; 1969-1972—Harvard Law School, J.D. degree, magna cum laude

Bar Admittance: 1972—New Mexico; 2000—District of Columbia

Experience: 1972-1975—U.S. Attorney's Office for the District of New Mexico, Assistant U.S. Attorney; 1976—University of Illinois College of Law, Visiting Assistant Professor of Law; 1976-1979—New Mexico Governor's Organized Crime Prevention Commission, Counsel, 1976-1977 & Executive Director, 1977-1979; 1979-1982—Poole, Tinnin & Martin, PA Associate; 1982-1988—Miller, Stratvert & Torgerson, Associate, 1982-83 & Shareholder, 1983-88; 1988-1999—New Mexico Court of Appeals Judge (Chief Judge, 1997-99); 1999-present—Stier, Anderson & Malone, LLC Special Counsel

#### HARRIS L. HARTZ SUPPORT

*Senator Jeff Bingaman, Democrat from New Mexico*

"I have known Harris Hartz for many years, and I consider him to be qualified for this position."—The Albuquerque Journal, June 22, 2001.

*Senator Peter Domenici, Republican from New Mexico*

"I am extremely pleased President Bush has nominated Harris, who has an impressive record of achievement."—The Daily Times, June 22, 2001.

"He has truly outstanding credentials and will make New Mexico proud as a new fixture on the 10th Circuit."—The Albuquerque Journal, June 22, 2001.

*Editorial, The Santa Fe New Mexican*

"The cerebral and academic Hartz is everything America wants in its judiciary."

"But even though appointment-killing has become a popular sport among both parties, Hartz has the credentials—and the class—to overcome any political pettifoggery that might arise in the course of his confirmation."

"Hartz will be making 'case law' at a high level, setting precedents to which lawyers look as they build their own cases. Both are daunting tasks—but both are well within Hartz's grasp."—June 23, 2001.

*Lance Liebman, Professor at Columbia Law School*

"I have seen his contributions to half a dozen different areas of law. Just as he was

as a student, Harris is smart, serious, balanced, and interesting. I am sure he was a good state judge and I am certain he will be a great addition [to the federal bench]. . .”—Excerpt from letter to Senators Leahy and Hatch, August 3, 2001.

*Roberta Ramo, Former President of the American Bar Association*

“As a former president of the American Bar Association, I have had the honor of knowing many of our finest judges. Among the elements of American democracy of which I am most proud stands the quality of our Federal Judiciary. Should he be confirmed by the United States Senate, I believe Mr. Hartz will, in his service, make each of us proud that we had a part in placing him on the 10th circuit.”—Excerpt from letter to Senator Hatch, August 9, 2001.

Mr. DOMENICI. Mr. President, I would like to share a quote from an editorial in one of our State’s leading newspapers, the *Santa Fe New Mexican*:

The cerebral and academic Hartz is everything America wants in its judiciary.

Before becoming a judge, most of Judge Hartz’s legal career was as a lawyer in Albuquerque, NM. During his first 3 years after law school he was an Assistant United States Attorney for the District of New Mexico. After teaching for a semester in 1976 at the University of Illinois College of Law, he spent 3 years with the New Mexico Governor’s Organized Crime Prevention Commission, first as its attorney and then as executive director.

I believe Judge Hartz will be an excellent U.S. circuit judge because above all he is a person with great strength of character. He has the courage to render decisions in accordance with the Constitution and the laws of the United States. More important, I believe Judge Hartz will respect both the rights of the individual and the rights of society and will be dedicated to providing equal justice under the law. He understands and appreciates the genius of our Federal system and the delicate checks and balances among the branches of our National Government.

Judge Hartz also understands New Mexico because he was raised in Farmington. Judge Hartz’s 29 years of experience both as a lawyer and a judge have prepared him well for the Tenth Circuit Court of Appeals. I believe Judge Hartz will be a fine circuit judge. I count him among my friends, and I recommend him highly to the Senate.

Mr. LEAHY. Mr. President, today, the Senate is taking final action on three additional judicial nominations. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today’s confirmation of 1 circuit court and 2 district court judges will bring the total number of judges confirmed this year to 21. When the Senate completes its action on the nomination of the remaining 6 district court judges, we will have confirmed 27 judges since July, including 6 to the Courts of Appeals.

I congratulate today’s nominees and their families on their nominations,

and what is soon to be their appointments to the United States Court of Appeals for the Tenth Circuit and the United States District courts for Kentucky and the District of Oklahoma. I also commend each of the Senators who worked with the committee and the majority leader to help bring these nominations forward and to have the Senate act to confirm them.

The nominee to the Tenth Circuit Court of Appeals, Harris Hartz, comes to us with the strong support of both Senator DOMENICI and Senator BINGAMAN. He was the first nominee to a Court of Appeals received by the Senate this June. His nomination is an example of the sort of progress we can make on consensus nominees with bipartisan support. The Tenth Circuit is one of many Courts of Appeals with multiple vacancies, and which has had multiple vacancies long before this summer. My recollection is that President Clinton had at least two nominees for vacancies on the Tenth Circuit pending in 1999 and for several months last year, but neither was ever accorded a hearing or a vote before the Judiciary Committee or before the Senate. Had they and other previous nominees been acted upon promptly and favorably in years just past, of course, the circumstances in the Tenth Circuit and many other courts around the country would be different today. During 6½ years, the Republican majority in the Senate allowed only 46 nominees to be confirmed to the Courts of Appeals and left dozens of vacancies unfilled.

Just as we recently proceeded to confirm the first judge to the Fifth Circuit in 7 years, we are proceeding with Judge Hartz to provide some immediate relief to the Tenth Circuit. When confirmed, Judge Hartz will be the first new member of the Tenth Circuit in the last 6 years—since judges were confirmed to that Court in 1995 from Utah and Colorado.

Over the past 6½ years the average time it has taken for the Senate to consider and confirm Court of Appeals nominees had risen to almost 350 days. The time it has taken for Judge Hartz’s nomination is about half of that, if measured from his initial nomination in June 2001. Of course, that nomination was returned to the White House when the Republican leader objected to keeping judicial nominations pending over the August recess. Accordingly, the nomination on which the Senate acts today was not received until this September. If measured from the time the committee received his ABA peer review to the time of his confirmation today, the process has taken only 112 days. He participated in one of the many October hearings and, having answered the written questions following his hearing, was reported by the committee in November.

The strong bipartisan support he has received from his Senate delegation paved the way for prompt action in one-third to one-half the time it used

to take on average to consider Court of Appeals nominees. Both of the district court nominees, Danny Reeves from the Eastern District of Kentucky and Joe Heaton for the Western District of Oklahoma, whom I supported at the committee and am pleased to support today, have moved through the process with the support of Democrats and Republicans relatively quickly.

Since July 2001, when the Senate was allowed to reorganize and the committee membership was set, we have maintained a strong effort to consider judicial and executive nominees. There are a total of nine judicial nominees who have been voted out of committee and are awaiting final action by the Senate. Today’s confirmation of one circuit court and two district court judges will bring the total number of judges confirmed to 21. When the Senate completes its action on the nomination of the remaining six district court judges, we will have confirmed 27 judges since July, including six to the Courts of Appeals. That will be almost twice the total number of judges that were confirmed in all of 1989, the first year of the first Bush administration, and will include twice as many judges to the Courts of Appeals as were confirmed in the first year of the Clinton administration. It is also more judges that were confirmed in all of the 1996 session. Thus, despite all the obstacles, we exceeded the number of confirmations of judges during the first year of the first Bush administration by six, the last year of the first Clinton term by four, and we are on pace to confirm as many judges as were confirmed in the first year of the Clinton administration.

Our total of six Court of Appeals confirmations doubles the number of appellate court judges confirmed in the entire first year of the Clinton administration, one more than the number of appellate court judges confirmed in the first full year of the first Bush administration, and six more than were confirmed in the entire 1996 session, the last year of President Clinton’s first term.

When I assumed the chairmanship, the number of vacancies on the Federal Bench was over 100 and quickly rose to 111. Since July, we have made significant progress. In spite of the upheavals we have experienced this year with the shifts in chairmanship, the vacancies that have arisen since this summer, and the need to focus our attention on responsible action in the fight against international terrorism, with the confirmation of these 9 nominees we will have reduced the number of vacancies to below 100 for the first time since early this year.

During the time a Republican majority controlled the process over the past 6½ years, the vacancies rose from 65 to at least 103, an increase of almost 60 percent. We are making strides to improve on that record. The President has yet to send nominations to fill more than half of the current vacancies. This is a particular problem with

the 71 district court vacancies, for which 49—that's 69 percent—do not have nominations pending.

We have been able to reduce vacancies over the last 6 months through hard work and a rapid pace of scheduling hearings. Until I became chairman of the Judiciary Committee, no judicial nominees had been given hearings this year. No judicial nominees had been considered by the Judiciary Committee or been voted upon by the Senate. After almost a month's delay in the reorganization of the Senate in June while Republicans sought leverage to change the way the judicial nominations had traditionally been considered and abruptly abandoned the practices that they had employed for the last 6½ years, I noticed our first hearing on judicial nominees within 10 minutes of the reorganization resolution being adopted by the Senate.

I have previously noted that during the 6½ years the Republican majority most recently controlled the confirmation process, in 34 of those months they held no confirmations for any judicial nominees at all, and in 30 other months they conducted only a single confirmation hearing involving judicial nominees. Since the committee was assigned its members in early July 2001, I have held confirmation hearings every month, including two in July, two during the August recess and three hearings during October. Only once during the previous 6½ years has the committee held as many as three hearings in a single month.

On the other hand, on at least three occasions during the past 6½ years the committee had gone more than 5 months without holding a single hearing on a pending judicial nominee. We have held more hearings involving judicial nominees since July 11, 2001, than our Republican predecessors held in all of 1996, 1997, 1999, or 2000. In the last 6 months of this extraordinarily challenging year, the committee has held 10 hearings involving judicial nominees. Just this week the committee held our tenth hearing on judicial nominations since I became chairman, when the Senate was allowed to reorganize and this committee was assigned its membership on July 10, 2001. Since September 11, the Judiciary Committee has held six judicial confirmation hearings.

We have held hearings on 33 judicial nominees, including 7 to the Courts of Appeals. Since September 11 we have held hearings on 26 judicial nominees, including 4 to the Courts of Appeals. Within 2 days of the terrible events of September 11, I chaired a confirmation hearing for the 2 judicial nominees who drove to Washington while air travel was still disrupted. Then on October 4, 2001, we held another confirmation hearing for five judicial nominees, which included a nominee from Nebraska who was unable to attend the earlier hearing because of the disruption in air travel.

On October 18, 2001, in spite of the closure of Senate office buildings in

the wake of the receipt of a letter containing anthrax spores and in spite of the fact that Senate staff and employees were testing positive for anthrax exposure, the committee proceeded under extraordinary circumstances in the U.S. Capitol to hold a hearing for five more judicial nominees. The building housing the Judiciary Committee hearing room was closed, as were the buildings housing the offices of all the Senators on the committee. Still we persevered.

On October 25, 2001, while the Senate Republicans were shutting down the Senate with a filibuster preventing action on the bill that funds our Nation's foreign policy initiatives and provides funds to help build the international coalition against terrorism, the Judiciary Committee nonetheless proceeded with yet another hearing for four more judicial nominees. On November 7, 2001, we convened another hearing for judicial nominees within 8 extraordinary weeks—weeks not only interrupted by holidays, but by the aftermath of the terrorist attacks of September 11, the receipt of anthrax in the Senate, and the closure of Senate office buildings. The hearing on November 7 was delayed by another unfortunate and unforeseen event when one of the family members of a nominee grew faint and required medical attention. With patience and perseverance, the hearing was completed after attending to those medical needs.

On December 5, 2001, we convened another hearing for another group of five judicial nominees. I thank Senator DURBIN for volunteering to chair that hearing for nominees from Alabama, Colorado, Georgia, Nevada, and Texas. We have previously considered and reported other nominees from Alabama, Georgia, and Nevada, as well. We have accomplished more, and at a faster pace, than in years past. Even with the time needed by the FBI to follow up on the allegations that arose regarding Judge Wooten in connection with his confirmation hearing, we have proceeded much more quickly than at any time during the last 6½ years. Thus, while the average time from nomination to confirmation grew to well over 200 days for the last several years, we have considered nominees much more promptly. Measured from receipt of their ABA peer reviews, we have confirmed the judges this year, including the Court of Appeals nominees, on average in less than 60 days. So, we are working harder than ever on judicial nominations despite the difficulties being faced by the Nation, the Senate, and a number of members on the committee.

We have also completed work on a number of judicial nominations in a more open manner than ever before. For the first time, this committee is making public the "blue slips" sent to home State Senators. Until my chairmanship, these matters were treated as confidential materials and restricted from public view. We have moved

nominees with little or no delay at all from hearing, on to the committee's business meeting agenda, and then out to the floor, where nominees have received timely rollcall votes and confirmations.

The past practices of extended unexplained anonymous holds on nominees after a hearing have not been evident in the last 6 months of this year as they were in the past. Indeed over the past 6½ years at least eight judicial nominees who completed a confirmation hearing were never considered by the committee but left without action. Just last year two of the three Court of Appeals nominees reported to the Senate, Bonnie Campbell of Iowa and Allen Snyder of the District of Columbia, were both denied committee consideration from their May hearings until the end of the year. Likewise the extended, unexplained, anonymous holds on the Senate Executive Calendar that characterized so much of the last 6½ years have not slowed the confirmation process this year.

Majority Leader DASCHLE has moved swiftly on judicial nominees reported to the calendar. And once those judicial nominees have been afforded a timely rollcall vote, the record shows that the only vote against any of President Bush's nominees to the Federal courts to date was cast by the Republican leader.

In addition to our work on judicial nominations, during the recent period since September 11, the committee also devoted significant attention and effort to expedited consideration of antiterrorism legislation. Far from taking a "time out" as some have suggested, the Judiciary Committee has been in overdrive since July and we have redoubled our efforts after September 11, 2001. With respect to law enforcement, I have noted that the administration was quite slow in making U.S. attorney nominations, although it had called for the resignations of U.S. attorneys early in the year.

Since we began receiving nominations just before the August recess, we have been able to report, and the Senate has confirmed, 57 of these nominations. We have only a few more U.S. attorney nominations received in November, and await approximately 30 nominations from the administration. These are the President's nominees based on the standards that he and the Attorney General have devised.

I note, again, that it is most unfortunate that we still have not received even a single nomination for any of the U.S. marshal positions. U.S. marshals are often the top Federal law enforcement officer in their district. They are an important front-line component in homeland security efforts across the country. We are near the end of the legislative year without a single nomination for these 94 critical law enforcement positions. It will likely be impossible to confirm any U.S. marshals this year having not received any nominations in the first 11 months of the year.

In the wake of the terrorist attacks on September 11, some of us have been seeking to join together in a bipartisan effort in the best interests of the country. For those on the committee who have helped in those efforts and assisted in the hard work to review and consider the scores of nominations we have reported this year, I thank them. As the facts establish and as our actions today and all year demonstrate, we are moving ahead to fill judicial vacancies with nominees who have strong bipartisan support. These include a number of very conservative nominees.

I am proud of the work the committee has done on nominations, and I am proud that by the end of the day we will have confirmed 21 judges. I hope that by the end of this session that total will rise to about 30 as the committee continues its work on the nominations heard this week and the Senate confirms the additional 6 nominees who were voted out of committee last week.

Mr. HATCH. Mr. President, I am pleased today we are considering the nominations of three extremely well-qualified individuals for the Federal bench.

Our circuit court nominee is the Honorable Harris Hartz of New Mexico, whom the President has selected to serve on the Tenth Circuit Court of Appeals. I have a personal interest in the confirmation of fair, qualified judges to serve on the Tenth Circuit since it encompasses the great state of Utah. In fact, there is an eminently well-qualified nominee from Utah for the Tenth Circuit, University of Utah Law Professor Michael McConnell, who is awaiting a hearing from the Judiciary Committee. His nomination has been pending for 211 days without a hearing. There are two other nominees for the Tenth Circuit who are also awaiting hearings on their nominations: Timothy Tymkovich of Colorado, who has been waiting 195 days, and Terrence O'Brien of Wyoming, who has been waiting 126 days.

Part of the holdup has unquestionably been due to lack of action by the Judiciary Committee, but the ABA must shoulder some of the blame as well. It took the ABA over 8 weeks to return its evaluation of Michael McConnell, which, incidentally, was a rating of unanimously well qualified, over 15 weeks for Timothy Tymkovich, and over 12 weeks for Terrence O'Brien. The last of these three ratings was submitted in October, so there is no excuse for any of these nominations stalling any longer. I look forward to the opportunity to consider their nominations at hearings so that the pending vacancies on the Tenth Circuit can be expediently filled.

Our consideration of Judge Hartz's nomination today is a positive step in that direction. His impressive legal career began—atypically—with a degree from Harvard College summa cum laude in physics. Later, he graduated magna cum laude from Harvard Law

School, where he was selected as Case and Developments Editor of the Harvard Law Review.

Judge Hartz's legal experience began in Albuquerque, NM, as an Assistant United States Attorney. After that, he taught for a semester at the University of Illinois College of Law, and then returned to New Mexico to work with the New Mexico Governor's Organized Crime Prevention Commission. For the following 9 years he was in private practice, primarily in civil litigation, and then he served for 11 years as a judge on the New Mexico Court of Appeals. Currently, Judge Hartz works as special counsel to the International Brotherhood of Teamsters, developing a Code of Conduct and an internal system for compliance and enforcement. As you can see, he is a highly competent and hard-working person who is eminently well qualified to serve as a judge on the Tenth Circuit.

In addition to Judge Hartz, we have the privilege of considering the nomination of two district court nominees. One of these nominees is Joe Heaton for the U.S. District Court for the Western District of Oklahoma. Mr. Heaton is a native Oklahoman with an outstanding record of legal experience and public service. After graduating from the University of Oklahoma College of Law—where he was Order of the Coif—he maintained a general civil practice with an emphasis in business and commercial matters. For 8 years, Mr. Heaton served as a member of the Oklahoma House of Representatives, including several years as Minority Leader. Then, in 1996, Mr. Heaton began serving in his current position as the First Assistant U.S. Attorney for the Western District of Oklahoma, where he has earned a good reputation while handling a wide variety of legal matters.

Our second district court nominee is Danny C. Reeves for the U.S. District Court for the Eastern District of Kentucky. He began his legal career as a law clerk for then-district Judge Eugene Siler, who now sits on the Sixth Circuit. Mr. Reeves then joined the Lexington office of Greenebaum, Doll & McDonald, where he rose to the rank of partner in 1988. Despite his busy legal career, he has served as a director of the Volunteer Center of the Bluegrass, the Kentucky Museum of Natural History, and the Bluegrass Youth Hockey Association.

Again, Mr. President, I am pleased to see such well-qualified nominees being brought before the Senate for consideration. Each of these nominees received unanimous support from the Members of the Judiciary Committee, and I expect that they will receive similar treatment from the full Senate. I commend President Bush for nominating persons who will bring honor and dignity to the Federal bench, and I urge my colleagues to join me in supporting their nominations.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Will the Senate advise and

consent to the nomination of Harris L. Hartz, of New Mexico, to be United States Circuit Judge for the Tenth Circuit? The yeas and nays have been ordered on the nomination. The clerk will call the roll.

The senior assistant bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mr. GRAMM) is necessarily absent.

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

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 353 Ex.]

YEAS—99

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

NOT VOTING—1

Gramm

The nomination was confirmed.

Mr. LIEBERMAN. I move to reconsider the vote.

Mr. NICKLES. I move to lay that on the table.

The motion to reconsider was laid upon the table.

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to consider en bloc Executive Calendar Nos. 585 and 588.

Mr. NICKLES. May we have order.

The PRESIDING OFFICER. The Senator is correct, the Senate is not in order.

The nominations will be stated.

#### THE JUDICIARY

The legislative clerk read the nomination of Danny C. Reeves, of Kentucky, to be United States District Judge for the Eastern District of Kentucky.

The legislative clerk read the nomination of Joe L. Heaton, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.