

designee, it stand adjourned until 2 p.m. on Tuesday, June 2, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, May 21, 2009, through Sunday, May 24, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, June 1, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

#### AUTHORITY TO MAKE APPOINTMENTS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

#### AUTHORITY TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the Senate's recess, committees be authorized to report legislative and executive matters on Friday, May 29, from 10 a.m. to 12 noon.

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

#### AUTHORITY TO SIGN DULY AUTHORIZED BILLS AND JOINT RESOLUTIONS

Mr. REID. Mr. President, I ask unanimous consent that during the adjournment of the Senate, Mr. REED of Rhode Island be authorized to sign duly authorized bills or joint resolutions.

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 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. Without objection, it is so ordered.

#### FAREWELL TO JOE LAPIA

Mr. REID. Mr. President, while we are waiting tonight for the staff to get the necessary closing papers ready so we can go out for the recess, I wish to say a couple of things about someone I have gotten to know over the past decade—Joe Lapia. I am going to miss tremendously, when we come back next work period, Joe not being in the cloakroom. He has been there for 10 years. He is a fixture in the cloakroom.

He is someone who is dependable, a great sport, and he is somebody who is so much fun to deal with. I love to talk sports with him. He is from Pittsburgh. I had to tell him—and I spread it on the record here—that the Pittsburgh teams have never been one of my favorites, but they are his. He went to Penn State. They have also not been one of my favorite teams, but they are his. And the records of the Steelers and Penn State speak for themselves—the great Joe Paterno and the wonderful records the Steelers have made. And Joe went to the White House today to see the world champion Super Bowl winners—the Pittsburgh Steelers.

Another thing I am going to miss is every time he went home—which was quite often, frankly—his mom would cook stuff. And maybe she thinks he ate it all, but he didn't. He brought stuff back, and we shared treats Mrs. Lapia fixed. Brownies were my favorite, but there were other things she cooked.

I think I can speak for the entire Senate family, the people who are here who make this place work, when I say we will all miss Joe. He is going to go off into the private sector now, which disappoints me because it is always hard getting used to new things. No matter who replaces Joe, there is only one Joe Lapia. He is someone I will always remember and I will always consider my friend.

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

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

#### RAILROAD ANTITRUST ENFORCEMENT ACT OF 2009—MOTION TO PROCEED

##### CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 33, S. 146, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

##### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close de-

bate on the motion to proceed to Calendar No. 33, S. 146, the Railroad Antitrust Enforcement Act of 2009.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Robert Menendez, Robert P. Casey, Jr., Charles E. Schumer, Kay R. Hagan, Max Baucus, Kirsten E. Gillibrand, Richard Durbin.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion to proceed is withdrawn.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT—MOTION TO PROCEED

##### CLOTURE MOTION

Mr. REID. Mr. President, I move to proceed to Calendar No. 47, H.R. 1256, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

##### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 47, H.R. 1256, the Family Smoking Prevention and Tobacco Control Act.

Harry Reid, Tom Harkin, Edward E. Kaufman, Mark Begich, Bernard Sanders, Michael F. Bennet, Mark Udall, Patty Murray, Claire McCaskill, Carl Levin, Jack Reed, Sheldon Whitehouse, Christopher J. Dodd, Jeff Merkley, Robert Menendez, Charles E. Schumer, Max Baucus.

Mr. REID. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. Without objection, the motion to proceed is withdrawn.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I now, as in executive session, ask unanimous consent that on Tuesday, June 2, after a period of morning business, the Senate proceed to executive session to consider Calendar No. 63, the nomination of Regina McCarthy to be an Assistant Administrator of EPA; that immediately after the nomination is reported the Senate proceed to vote on the confirmation of the nomination; upon confirmation, the motion to reconsider be laid on the table, the President be immediately notified of the Senate's action, and no further motions be in order and any statements relating to the nomination be printed in the RECORD; that the Senate then resume legislative session; that upon resuming legislative session, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to S. 146.

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

## THANKING SENATORS AND STAFF

Mr. REID. Mr. President, I want the record to reflect the cooperation of Dr. Barrasso, Senator BARRASSO. He had some concerns about this. We did our best to answer them. He has been very positive in his approach. He had some questions that needed to be answered. I think they have been answered, and I appreciate very much his being as courteous as he was through this whole process. He has been a real gentleman, and I appreciate it a lot.

Mr. President, let me express my appreciation to the Presiding Officer. All Senators are very busy, but you have been presiding for hours. That is a real burden. We all appreciate it, especially other Senators appreciate it. We have to have someone presiding.

I am so impressed with the skills that the Senator from Colorado has brought to us. I didn't know you before you were appointed by the Governor to come, but the people of Colorado should understand, using an over-worked term, you hit the ground running. You have done so well. You adjusted so well to Senate life.

I say it twice tonight, I am very impressed, and I hope the people of Colorado understand what a good choice Governor Ritter made, choosing you to fill the seat of a terrific person, Ken Salazar.

Mr. President, I want all the staff to know of my appreciation. I speak for all of us. Every Senator would come and say the same thing, but I am the one here to express our appreciation for helping this process go forward. It is not easy.

As much time as I have spent over the years on this floor—and it amounts to, all added up—it has probably been years. As familiar as I am with everything, I couldn't do it without the help of the staff.

It is not only Lula Davis—she has been such a wonderful asset to the Democratic caucus—but also the help that I get from the Republican side, the staff. I think we were always very worried after Marty decided to go downtown. We wanted to make sure the same goodwill prevailed between David Schiappa and Lula Davis as we had before.

It is as good if not better. I am very happy with the cooperation we get. I wish I could express this personally to Senator McCONNELL, but I think he will get the word.

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**ORDERS FOR MONDAY, JUNE 1,  
2009**

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it adjourn under the provisions of H. Con. Res. 133 until 2 p.m., Monday, June 1; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there

then be a period of morning business until 3 p.m., with Senators permitted to speak for up to 10 minutes each; I also ask that following morning business, the Senate resume consideration of the motion to proceed to Calendar No. 33, S. 146, the railroad antitrust legislation.

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

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**PROGRAM**

Mr. REID. There will be no rollcall votes on Monday, June 1. The next vote will be around 11 o'clock on Tuesday, June 2. The vote will be on the nomination of Virginia McCarthy to be Administrator of the Environmental Protection Agency.

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**ADJOURNMENT UNTIL MONDAY,  
JUNE 1, 2009, AT 2 P.M.**

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent it adjourn under the previous order.

There being no objection, the Senate, at 9:51 p.m., adjourned until Monday, June 1, 2009, at 2 p.m.

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**NOMINATIONS**

Executive nominations received by the Senate:

**ENVIRONMENTAL PROTECTION AGENCY**

PAUL T. ANASTAS, OF CONNECTICUT, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE GEORGE M. GRAY, RESIGNED.

**DEPARTMENT OF STATE**

NANCY J. POWELL, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE DIRECTOR GENERAL OF THE FOREIGN SERVICE, VICE HARRY K. THOMAS, JR., RESIGNED.

**DEPARTMENT OF JUSTICE**

CRANSTON J. MITCHELL, OF VIRGINIA, TO BE A COMMISSIONER OF THE UNITED STATES PAROLE COMMISSION FOR A TERM OF SIX YEARS. (REAPPOINTMENT)

**IN THE AIR FORCE**

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

*To be major*

JOSHUA D. ROSEN

**IN THE ARMY**

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

STUART W. SMYTHE, JR.

**IN THE NAVY**

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

SCOTT K. RINEER

*To be commander*

CYNTHIA S. SIKORSKI

*To be lieutenant commander*

MARY P. COLVIN

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**CONFIRMATIONS**

Executive nominations confirmed by the Senate, Thursday, May 21, 2009:

**DEPARTMENT OF COMMERCE**

CAMERON F. KERRY, OF MASSACHUSETTS, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE.

**DEPARTMENT OF THE INTERIOR**

MICHAEL L. CONNOR, OF MARYLAND, TO BE COMMISSIONER OF RECLAMATION.

**DEPARTMENT OF STATE**

PHILIP J. CROWLEY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (PUBLIC AFFAIRS).  
DANIEL BENJAMIN, OF THE DISTRICT OF COLUMBIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**

PRISCILLA E. GUTHRIE, OF VIRGINIA, TO BE CHIEF INFORMATION OFFICER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

**THE JUDICIARY**

FLORENCE Y. PAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS.

**DEPARTMENT OF COMMERCE**

REBECCA M. BLANK, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS.

**DEPARTMENT OF TRANSPORTATION**

JOHN D. PORCARI, OF MARYLAND, TO BE DEPUTY SECRETARY OF TRANSPORTATION.  
J. RANDOLPH BABBITT, OF VIRGINIA, TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION FOR THE TERM OF FIVE YEARS.

**EXECUTIVE OFFICE OF THE PRESIDENT**

ANEESH CHOPRA, OF VIRGINIA, TO BE AN ASSOCIATE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

**DEPARTMENT OF STATE**

JUDITH A. MCHALE, OF MARYLAND, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.  
ROBERT ORRIS BLAKE, JR., OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE ASSISTANT SECRETARY OF STATE FOR SOUTH ASIAN AFFAIRS.

**DEPARTMENT OF LABOR**

SETH DAVID HARRIS, OF NEW JERSEY, TO BE DEPUTY SECRETARY OF LABOR.

**NATIONAL MEDIATION BOARD**

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2009.

LINDA A. PUCHALA, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2012.

**DEPARTMENT OF EDUCATION**

JOHN Q. EASTON, OF ILLINOIS, TO BE DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCE, DEPARTMENT OF EDUCATION FOR A TERM OF SIX YEARS.

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

SANDRA BROOKS HENRIQUEZ, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

**DEPARTMENT OF TRANSPORTATION**

PETER M. ROGOFF, OF VIRGINIA, TO BE FEDERAL TRANSIT ADMINISTRATOR.

**DEPARTMENT OF THE TREASURY**

MICHAEL S. BARR, OF MICHIGAN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

**IN THE AIR FORCE**

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8036 AND 601:

*To be lieutenant general*

MAJ. GEN. CHARLES B. GREEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. HERBERT J. CARLISLE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE