

“(4) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission under paragraph (3) shall not continue in effect.

“(5) COMPLIANCE WITH ORDERS.—A member of a trading facility, introducing broker, dealer, floor broker, or floor trader shall not effect any transaction in, or induce the purchase or sale of, any regulated instrument in contravention of an order of the Commission under this subsection, unless the order—

“(A) has been stayed, modified, or set aside as provided in paragraph (6); or

“(B) has ceased to be effective on direction of the President as provided in paragraph (4).

“(6) LIMITATIONS ON REVIEW OF ORDERS.—

“(A) IN GENERAL.—An order of the Commission pursuant to this subsection shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit.

“(B) BASIS.—A review of an order under subparagraph (A) shall be based on an examination of all the information before the Commission at the time the order was issued.

“(C) STANDARD FOR FINDINGS.—The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the action of the Commission is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

“(g) OTHER AUTHORITY TO ISSUE ORDERS.—The Commission may issue such other orders as are necessary to ensure compliance with this title (including regulations promulgated under this title).

“(h) TRADING FEES TO SUPPORT COMMISSION ACTIVITIES.—

“(1) IN GENERAL.—To support oversight by the Commission of markets under this title, each registered trading facility shall charge a trading fee, per transaction, to be established by the Commission at a level not to exceed ½ of 1 percent of the value of the contract being executed.

“(2) REMITTANCE OF FEES.—Each registered trading facility shall submit fees charged under this subsection to the Commission on such schedule as the Commission shall designate.

#### “SEC. 209. CIVIL JUDICIAL ENFORCEMENT.

“(a) IN GENERAL.—If it appears to the Commission that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this title (including a regulation promulgated or order issued under this title), the Commission may bring a civil action in the appropriate United States district court or United States court of any territory or other place subject to the jurisdiction of the United States—

“(1) to enjoin the act or practice; or

“(2) to enforce compliance with this title (or a regulation or order promulgated or issued under this title).

“(b) FORMS OF RELIEF.—

“(1) INJUNCTIVE RELIEF; RESTRAINING ORDER.—On a proper showing, a court described in subsection (a) shall grant a permanent or temporary injunction or issue a restraining order, without bond.

“(2) CIVIL MONEY PENALTY.—

“(A) IN GENERAL.—The Commission may seek and the court, on a proper showing, shall have jurisdiction to impose on any person found in the civil action brought under this section to have committed a violation, a civil penalty in an amount that is not more than the greater of—

“(i) \$100,000; or

“(ii) triple the monetary gain to the person for the violation.

“(B) ENFORCEMENT OF PENALTY BY THE ATTORNEY GENERAL.—If a person on whom such a penalty is imposed fails to pay the penalty

within the time prescribed in the order of the court, the Commission may refer the matter to the Attorney General, who shall recover the penalty by action in the appropriate United States district court.

#### “SEC. 210. CRIMINAL ENFORCEMENT.

“(a) VIOLATIONS GENERALLY.—A person that knowingly violates section 204 (or any regulation promulgated under section 204), or willfully violates any other provision of this title (or a regulation promulgated under this title) the violation of which is made unlawful or the observance of which is required by or under this title, shall—

“(1) be fined not more than \$1,000,000 (or not more than \$500,000, if the violator is an individual), imprisoned not more than 5 years, or both; and

“(2) shall pay the costs of prosecution.

“(b) FAILURE TO COMPLY WITH CEASE AND DESIST ORDER.—

“(1) IN GENERAL.—If, after the period allowed for appeal of an order issued under section 206(e) or after the affirmation of such an order, a person subject to the order fails or refuses to comply with the order, the person shall be—

“(A) fined not more than the greater of \$100,000 or triple the monetary gain to the person, imprisoned not less than 180 days nor more than 1 year, or both; or

“(B) if the failure or refusal to comply involves a violation referred to in subsection (a), subject to the penalties provided in that subsection for the violation.

“(2) SPECIAL RULE.—Each day during which a failure or refusal to comply with such an order continues shall be considered to be a separate offense for purposes of paragraph (1).

#### “SEC. 211. MARKET REPORTS.

“(a) COLLECTION AND ANALYSIS OF INFORMATION.—The Commission shall, on a continuous basis, collect and analyze the following information on the functioning of the markets for regulated instruments established under this title:

“(1) The status of, and trends in, the markets, including prices, trading volumes, transaction types, and trading channels and mechanisms.

“(2) Spikes, collapses, and volatility in prices of regulated instruments, and the causes of the spikes, collapses, and volatility.

“(3) The relationship between the market for emission allowances, offset credits, and allowance derivatives, and the spot and futures markets for energy commodities, including electricity.

“(4) Evidence of fraud or manipulation in any such market, the effects on any such market of any such fraud or manipulation (or threat of fraud or manipulation) that the Commission has identified, and the effectiveness of corrective measures undertaken by the Commission to address the fraud or manipulation, or threat.

“(5) The economic effects of the markets, including to the macro- and micro-economic effects of unexpected significant increases and decreases in the price of regulated instruments.

“(6) Any changes in the roles, activities, or strategies of various market participants.

“(7) Regional, industrial, and consumer responses to the market, and energy investment responses to the markets.

“(8) Any other issue relating to the markets that the Commission determines to be appropriate.

“(b) QUARTERLY REPORTS TO CONGRESS.—Not later than 30 days after the end of each calendar quarter, the Commission shall submit to the President, the Committee on Energy and Commerce of the House of Representatives, the Committee on Energy and

Natural Resources of the Senate, and the Committee on Environment and Public Works of the Senate, and make available to the public, a report on the matters described in subsection (a) with respect to the quarter, including recommendations for any administrative or statutory measures the Commission considers necessary to address any threats to the transparency, fairness, or integrity of the markets in regulated instruments.

#### “SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

“In addition to any fees collected by the Commission under this Act, there are authorized to be appropriated such sums as are necessary to carry out this title.”

(b) CONFORMING AMENDMENT.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 1a (7 U.S.C. 1a) the following:

#### “TITLE I—REGULATION OF COMMODITY EXCHANGES”.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 207—RECOGNIZING THE 100TH ANNIVERSARY OF THE INDIANAPOLIS MOTOR SPEEDWAY

Mr. BAYH (for himself and Mr. LUGAR) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 207

Whereas the Indianapolis Motor Speedway is the largest spectator sporting facility in the world, with more than 250,000 permanent seats;

Whereas founders Carl G. Fisher, Arthur C. Newby, Frank H. Wheeler, and James A. Allison pooled their resources in 1909 to build the Indianapolis Motor Speedway 5 miles from downtown Indianapolis as a testing ground to support the growing automotive industry of Indiana;

Whereas, on August 14, 1909, the first motorized races, using motorcycles, took place on the recently completed 2.5-mile oval, which had a racing surface composed of crushed stone and tar;

Whereas, on August 19, 1909, the first 4-wheeled automobile races at the Indianapolis Motor Speedway took place;

Whereas, for 63 days in late 1909, 3,200,000 paving bricks, each weighing 9.5 pounds, were laid on top of the crushed stone and tar surface to upgrade the Indianapolis Motor Speedway, leading the facility to be nicknamed “The Brickyard”;

Whereas a 3-foot horizontal strip of that original brick remains exposed at the start and finish line, known as the “Yard of Bricks”;

Whereas, on May 30, 1911, the first Indianapolis 500-mile race (in this preamble referred to as the “Indianapolis 500”) took place and was won by Ray Harroun at an average speed of 74.602 miles per hour;

Whereas the Indianapolis Motor Speedway was a pioneer in introducing seating areas specifically for people with disabilities;

Whereas the race car of Ray Harroun, the Marmon “Wasp”, was the first automobile to use a rearview mirror, one of many innovations in automotive technology and safety devised or developed at the Indianapolis Motor Speedway, including in 1911 the first use of a Pace Car, in 1921 the first use of 4-wheel hydraulic brakes, in 1935 the first installation of color warning lights, in 1935 the first mandatory use of helmets, in 1993 the first use of crash-data recorders, and in 2002 the steel and foam energy reduction

(SAFER) barrier, an energy-absorbing barrier affixed to concrete walls that has become the standard at all major oval tracks in the United States;

Whereas the Indianapolis 500, the largest single-day spectator sporting event in the world, has occurred on every Memorial Day weekend since 1911, except during the involvement of the United States in world wars from 1917 through 1918 and 1942 through 1945;

Whereas, in 1977, Janet Guthrie became the first woman to compete in the Indianapolis 500, making the competition the first and only major sport in which men and women compete, according to the same rules, against one another;

Whereas, in 1991, Willy T. Ribbs became the first of several African-American drivers to compete in the Indianapolis 500;

Whereas, in 2005, Danica Patrick became the first female driver to lead the Indianapolis 500 when she took the lead near the 140-mile mark;

Whereas, in 2009, Helio Castroneves became a 3-time winner of the Indianapolis 500 and Danica Patrick finished in third place, the best finish ever by a woman in the sport;

Whereas the Indianapolis Motor Speedway, by hosting the IndyCar Series, the NASCAR Sprint Cup Series, the MotoGP Series, and the Formula One Series, is the only facility in the world that has played host to 4 elite racing series;

Whereas nearly every international motorsport icon has competed and won at the Indianapolis Motor Speedway, including A.J. Foyt, Al Unser, Rick Mears, Dale Earnhardt, Mario Andretti, Graham Hill, Jeff Gordon, Tony Stewart, Jimmie Johnson, Michael Schumacher, Lewis Hamilton, and Valentino Rossi;

Whereas every May since 1981 the Indianapolis Motor Speedway has served as the backdrop for the annual Armed Forces Induction Ceremony, in which citizens of Indiana who have volunteered to serve in the Armed Forces are administered the oath of enlistment;

Whereas, in 1987, the Indianapolis Motor Speedway was officially listed on the National Park Service list of National Historic Landmarks as the oldest continuously operated automobile racecourse; and

Whereas, the Indianapolis Motor Speedway has played an enormous part in shaping and defining the City of Indianapolis, the State of Indiana, United States motorsports, and the United States automobile industry, and is a great source of pride to all citizens of Indiana: Now, therefore, be it

*Resolved*, That the United States Senate recognizes the 100th anniversary of the Indianapolis Motor Speedway.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1369. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1365 proposed by Mr. NELSON of Nebraska (for himself and Ms. MURKOWSKI) to the bill H.R. 2918, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes.

SA 1370. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 1365 proposed by Mr. NELSON of Nebraska (for himself and Ms. MURKOWSKI) to the bill H.R. 2918, supra.

#### TEXT OF AMENDMENTS

**SA 1369.** Mr. COBURN submitted an amendment intended to be proposed to amendment SA 1365 proposed by Mr.

NELSON of Nebraska (for himself and Ms. MURKOWSKI) to the bill H.R. 2918, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . REPORTING REQUIREMENT.

Section 105(a) of the Legislative Branch Appropriations Act 1965 (Public Law 88-454; 2 U.S.C. 104a) is amended—

(1) in the last sentence of paragraph (1), by striking “shall” and inserting “may”; and

(2) by adding at the end the following:

“(6) Beginning with the report covering the first full semiannual period of the 112th Congress, the Secretary of the Senate—

“(1) shall publicly post on-line on the website of the Senate each report in a searchable itemized format as required under this section;

“(2) shall issue each report required under this section in electronic form; and

“(3) may issue each report required under this section in other forms at the discretion of the Secretary of the Senate.”.

**SA 1370.** Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 1365 proposed by Mr. NELSON of Nebraska (for himself and Ms. MURKOWSKI) to the bill H.R. 2918, making appropriations for the Legislative Branch for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . ENGRAVING OF THE PLEDGE OF ALLEGIANCE TO THE FLAG AND THE NATIONAL MOTTO IN THE CAPITOL VISITOR CENTER.

(a) ENGRAVING REQUIRED.—The Architect of the Capitol shall engrave the Pledge of Allegiance to the Flag and the National Motto of “In God We Trust” in the Capitol Visitor Center, in accordance with the engraving plan described in subsection (b).

(b) ENGRAVING PLAN.—The engraving plan described in this subsection is a plan setting forth the design and location of the engraving required under subsection (a) which is prepared by the Architect of the Capitol and approved by the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

Mr. MERKLEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Calendar Nos. 197 and 258; that the nominations be confirmed en bloc; the motions to reconsider be laid upon the table en bloc; that no further motions be in order and any statements relating thereto be printed in the RECORD; the President be immediately notified of the Senate’s action and the Senate then resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

#### ENVIRONMENTAL PROTECTION AGENCY

Stephen Alan Owens, of Arizona, to be Assistant Administrator for Toxic Substances of the Environmental Protection Agency.

#### DEPARTMENT OF DEFENSE

Daniel Ginsberg, of the District of Columbia, to be an Assistant Secretary of the Air Force.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

#### MEASURE READ FIRST TIME—H.R. 2454

Mr. MERKLEY. Mr. President, I understand that H.R. 2454 has been received from the House and is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. MERKLEY. I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2454) to create clean energy jobs, achieve energy independence, reduce global warming pollution and transition to a clean energy economy.

Mr. MERKLEY. Mr. President, I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

#### ORDERS FOR TUESDAY, JULY 7, 2009

Mr. MERKLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. tomorrow, July 7; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business for 1 hour, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half, with Senators permitted to speak therein for up to 10 minutes each; that following morning business, as previously ordered, the Senate proceed to H.R. 2892, the Homeland Security appropriations bill; finally, I ask that the Senate recess from 12:30 until 2:15 p.m. to allow for the weekly caucus luncheons.

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

#### PROGRAM

Mr. MERKLEY. Mr. President, tomorrow, we will begin consideration of the Homeland Security appropriations bill. Rollcall votes are expected to occur throughout the day. As stated earlier today, at approximately 12:15 tomorrow, Senator-elect Al Franken will be sworn in to be U.S. Senator from the State of Minnesota.