

such assets are purchased may not pay dividends in a cumulative amount that is higher in the current or a future fiscal year than the cumulative dividends paid in the fiscal year immediately preceding the sale of the troubled assets until such time as the troubled assets are no longer owned by the Secretary."

#### SEC. 202. REDUCING DIVIDENDS TO PAY FOR EXCESSIVE EXECUTIVE COMPENSATION.

Section 111(b)(2) of the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "and"; and

(3) by adding at the end the following:

"(D) a reduction in dividends paid by the institution in its next fiscal year equal to the executive compensation paid to senior executive officers in excess of \$500,000 per officer in the current fiscal year."

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 706—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN PETER BERGEL V. PACIFIC GAS & ELECTRIC

Mr. REID (for himself and Mr. MCCONNELL) submitted the following resolution; which was considered and agreed to:

##### S. RES. 706

Whereas, in the case of Peter Bergel v. Pacific Gas & Electric, No. 0712-15723, pending in Multnomah County Circuit Court in Portland, Oregon, the defendant has requested testimony from Denise Racanelli, an employee in the office of Senator Gordon Smith;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved*, That Denise Racanelli is authorized to testify in the case of Peter Bergel v. Pacific Gas & Electric, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Denise Racanelli in connection with the testimony authorized in section one of this resolution.

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON FINANCE

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Monday, November 17, 2008, at 2

p.m., in room 215 of the Dirksen Senate Office Building.

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

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Monday, November 17, 2008, at 10 a.m.

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

##### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on Monday, November 17, 2008, at 2:30 p.m.

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

#### UNITED STATES ARMY COMMEMORATIVE COIN ACT

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5714, which was received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5714) to require the Secretary of the Treasury to mint coins in recognition and celebration of the establishment of the United States Army of 1775, to honor the American soldier of both today and yesterday, in wartime and in peace, and to commemorate the traditions, history, and heritage of the United States Army and its role in American society, from the Colonial period to today.

There being no objection, the Senate proceeded to consider the bill.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 5714) was ordered to a third reading, was read the third time, and passed.

#### CHILD SAFE VIEWING ACT

Mr. WHITEHOUSE. Madam President, I ask the Chair to lay before the Senate a message from the House with respect to S. 602.

The PRESIDING OFFICER (Ms. STABENOW) laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 602) entitled "An Act to develop the next generation of parental control technology", do pass with the following amendment:

Strike section 2 and redesignate section 3 as section 2.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the

Senate concur in the House amendment and the motion to reconsider be laid upon the table, with no intervening action or debate.

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

#### SENATE LEGAL COUNSEL AUTHORIZATION

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 706, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 706) to authorize testimony and legal representation in Peter Bergel v. Pacific Gas & Electric.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this resolution concerns a request for testimony in a civil action in Multnomah County Court in Portland, OR. In this action, the plaintiff, an anti-war protester, seeks damages for an alleged false arrest in March 2007 in the lobby of a private office building housing Senator SMITH's Portland, OR office. The defendant owner of the building has requested that an employee in the Senator's Portland office provide in connection with upcoming summary judgment proceedings a declaration concerning relevant communications the employee had with building security officers related to the events in question. Senator SMITH would like to cooperate by providing testimony from that employee. This resolution would authorize that employee to testify in connection with this action, with representation by the Senate Legal Counsel.

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc with no intervening action or debate, and any statements be printed in the RECORD.

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

The resolution (S. Res. 706) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

##### S. RES. 706

Whereas, in the case of Peter Bergel v. Pacific Gas & Electric, No. 0712-15723, pending in Multnomah County Circuit Court in Portland, Oregon, the defendant has requested testimony from Denise Racanelli, an employee in the office of Senator Gordon Smith;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under

the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

*Resolved* that Denise Racanelli is authorized to testify in the case of Peter Bergel v. Pacific Gas & Electric, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Denise Racanelli in connection with the testimony authorized in section one of this resolution.

#### MEASURES READ THE FIRST TIME—S. 3688, S. 3689, H.R. 6867, AND H.R. 7110

Mr. WHITEHOUSE. Madam President, I understand that there are four bills at the desk and I ask for their first reading en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the titles of the bills en bloc.

The legislative clerk read as follows:

A bill (S. 3688) to provide for additional emergency unemployment compensation, to amend the Emergency Economic Stabilization Act of 2008 to authorize loans to automobile manufacturers and component suppliers, and for other purposes.

A bill (S. 3689) making supplemental appropriations for job creation and preservation, infrastructure investment, and economic and energy assistance for the fiscal year ending September 30, 2009, and for other purposes.

A bill (H.R. 6867) to provide for additional emergency unemployment compensation.

A bill (H.R. 7110) making supplemental appropriations for job creation and preservation, infrastructure investment, and economic and energy assistance for the fiscal year ending September 30, 2009, and for other purposes.

Mr. WHITEHOUSE. I now ask for a second reading en bloc and object to my own request en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will receive their second reading on the next legislative day.

#### APPOINTMENTS

The PRESIDING OFFICER. The Chair announces the following appointment made by the majority leader during the recess of the Senate pursuant to the unanimous consent agreement of October 2, 2008:

Pursuant to provisions of Public Law 110-343, the appointment of Elizabeth Warren, of Massachusetts, as a member of the Congressional Oversight Panel.

The Chair announces the following appointment made by the majority leader of the Senate, after consultation with the Republican leader of the Senate, and the Speaker of the House during the recess of the Senate pursuant to the unanimous consent agreement of October 2, 2008:

Pursuant to provisions of Public Law 110-343, appointment of Damon Silvers, of Mary-

land, as a member of the Congressional Oversight Panel.

#### ORDERS FOR WEDNESDAY, NOVEMBER 19, 2008

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Wednesday, November 19; 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 the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each; that following morning business, the Senate resume consideration of the motion to proceed to S. 3297.

I further ask unanimous consent that with respect to the measures read for the first time, they be considered as having been read a second time on Tuesday for the purpose of placing the bills on the calendar with respect to rule XIV.

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

#### ADJOURNMENT UNTIL WEDNESDAY, NOVEMBER 19, 2008, AT 9:30 A.M.

Mr. WHITEHOUSE. If there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 6:03 p.m., adjourned until Wednesday, November 19, 2008, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate:

##### DEPARTMENT OF THE TREASURY

NEIL M. BAROFSKY, OF NEW YORK, TO BE SPECIAL INSPECTOR GENERAL FOR THE TROUBLED ASSET RELIEF PROGRAM. (NEW POSITION)

##### DEPARTMENT OF TRANSPORTATION

ROBERT A. DEHAAN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION, VICE TYLER D. DUVALL.

##### DEPARTMENT OF STATE

MICHAEL JONATHAN GREEN, OF MARYLAND, TO BE SPECIAL REPRESENTATIVE AND POLICY COORDINATOR FOR BURMA. WITH THE RANK OF AMBASSADOR. (NEW POSITION)

##### STATE JUSTICE INSTITUTE

STEVEN C. HOLLON, OF OHIO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010, VICE ROBERT NELSON BALDWIN, TERM EXPIRED.

JOSEPH E. LAMBERT, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2009, VICE ROBERT A. MILLER, TERM EXPIRED.

GAYLE A. NACHTIGAL, OF OREGON, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2009, VICE SOPHIA H. HALL, TERM EXPIRED.

ARTHUR G. SCOTLAND, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2010, VICE FLORENCE K. MURRAY, TERM EXPIRED.

GERALD W. VANDEWALLE, OF NORTH DAKOTA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 2009, VICE ARTHUR A. MCGIVERIN, TERM EXPIRED.

##### FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF AG-

RICULTURE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER:

ASIF J. CHAUDHRY, OF WASHINGTON

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

GARY C. GROVES, OF TEXAS

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

ALAN D. HRAPSKY, OF TEXAS

##### IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50A:

##### To be vice admiral

REAR ADM. JOHN P. CURRIER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDER, PACIFIC AREA OF THE UNITED STATES COAST GUARD AND TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 50:

##### To be vice admiral

REAR ADM. JODY A. BRECKENRIDGE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203(A):

##### To be captain

KENT P. BAUER  
MARK S. MACKAY

##### PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE COMMISSIONED CORPS OF THE U. S. PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

##### To be medical director

PAUL J. ANDREASON  
WANDA D. BARFIELD  
CHARLES H. BEYMER  
SUSAN BLANK  
MICHAEL J. BOQUARD  
BRENTON T. BURKHOLDER  
JAY C. BUTLER  
MICHAEL A. CAROME  
MARTIN S. CETRON  
SUSAN T. COOKSON  
MICHAEL M. ENGELGAU  
CAROL FRIEDMAN  
RICHARD P. HEDLUND  
DALE J. HU  
STEPHEN G. KALER  
NEWTON E. KENDIG  
JEFFREY B. KOPP  
ERIC A. MANN  
AUBREY K. MILLER  
ERIC D. MINTZ  
ALLYN K. NAKASHIMA  
ELENA H. PAGE  
BRENT PENNINGTON  
CALMAN P. PRUSSIN  
STEVEN G. SCOTT  
ROBERT J. SIMONDS  
MARK J. TEDESCO  
DOUGLAS B. TROUT  
JONATHAN T. WEBER  
JANE R. ZUCKER

##### To be senior surgeon

KENNETH L. BROOKS  
ERLINDA R. CASUGA-MARQUEZ  
AHMED M. ELKASHEF  
DOUGLAS H. ESPOSITO  
ALICIA M. FRY  
ROSEMARIE HIRSCH  
STEPHEN P. KACHUR  
CHARLES E. LEE  
SARAH R. LINDE-FEUCHT  
JULIE M. MAGRI  
KATHERINE C. PALATIANOS  
MARY C. PORVAZNIK  
STEPHEN M. RUDD  
TARAZ SAMANDARI  
JULIA A. SCHILLINGER  
MICHAEL G. WILCOX  
JASON J. WOO  
DARIUS S. YORICHI

##### To be surgeon

ANTHONY M. DUNNIGAN  
MARK R. DYBUL  
NANCY W. KNIGHT  
DIANNA L. MAHONEY  
KELTON H. OLIVER  
PRAGNA PATEL  
TOBE M. PROBST  
JEFFREY D. SCHULDEN  
DAVID L. SPRENGER  
GREGGORY J. WOITTE  
DAVID WONG

##### To be senior assistant surgeon

DAISY Y. ENG  
DANIEL MOLINA