

(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section changes or affects any Federal, State, or local law or the obligation of any person to comply with such law.

(2) EXCEPTION.—(A) Elemental mercury that the Secretary is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). For the purposes of section 3004(j) of the Solid Waste Disposal Act, a generator accumulating elemental mercury destined for a facility designated by the Secretary under subsection (a) for 90 days or less shall be deemed to be accumulating the mercury to facilitate proper treatment, recovery, or disposal.

(B) Elemental mercury that is stored at a facility with respect to which a permit has been issued under section 3005(c) of the Solid Waste Disposal Act (42 U.S.C. 6925(c)) shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)) if—

(i) the Secretary is unable to accept the mercury at a facility designated by the Secretary under subsection (a) for reasons beyond the control of the owner or operator of the permitted facility;

(ii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will ship the mercury to the designated facility when the Secretary is able to accept the mercury; and

(iii) the owner or operator of the permitted facility certifies in writing to the Secretary that it will not sell, or otherwise place into commerce, the mercury.

This subparagraph shall not apply to mercury with respect to which the owner or operator of the permitted facility fails to comply with a certification provided under clause (ii) or (iii).

(h) STUDY.—Not later than July 1, 2011, the Secretary shall transmit to the Congress the results of a study, conducted in consultation with the Administrator of the Environmental Protection Agency, that—

(1) determines the impact of the long-term storage program under this section on mercury recycling; and

(2) includes proposals, if necessary, to mitigate any negative impact identified under paragraph (1).

SEC. 6. REPORT TO CONGRESS.

At least 3 years after the effective date of the prohibition on export of elemental mercury under section 12(c) of the Toxic Substances Control Act (15 U.S.C. 2611(c)), as added by section 4 of this Act, but not later than January 1, 2014, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the global supply and trade of elemental mercury, including but not limited to the amount of elemental mercury traded globally that originates from primary mining, where such primary mining is conducted, and whether additional primary mining has occurred as a consequence of this Act.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Boxer substitute amendment be agreed to, the committee-reported substitute amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5673) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 906), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

ALCOHOL AND DRUG ADDICTION RECOVERY DAY

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 1084, S. Res. 659.

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

The legislative clerk read as follows:

A resolution (S. Res. 659) designating September 27, 2008, as Alcohol and Drug Addiction Recovery Day.

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

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

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

The resolution (S. Res. 659) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 659

Whereas treatment and long-term recovery from substance use disorders can offer a renewed outlook on life for those who are addicted and their family members;

Whereas more than 23,000,000 people in the United States struggle with substance use disorders;

Whereas people who receive treatment for substance use disorders can lead more productive and fulfilling lives, personally and professionally;

Whereas studies have consistently found that treatment is essential for people to be successful in their paths of recovery;

Whereas real stories of long-term recovery can inspire others to ask for help and improve their own lives, the lives of their families, and the entire community;

Whereas it is critical that we educate our community members that substance use disorders are treatable chronic diseases, and that by reaching out to those who suffer from these disorders we can improve the quality of life for the entire community;

Whereas, to help achieve this goal, the Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the National Council on Alcoholism and Drug Dependency, the Partnership for a Drug-Free America, and A&E Television Networks, along with thousands of people from across the country, will hold a Recovery Rally on the Brooklyn Bridge and in City Hall Park in New York City on September 27, 2008; and

Whereas the Recovery Rally will be part of National Alcohol and Drug Addiction Recovery Month: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 27, 2008, as Alcohol and Drug Addiction Recovery Day; and

(2) calls upon the people of the United States to observe this day with appropriate programs, activities, and ceremonies.

50TH ANNIVERSARY OF THE FOUNDING OF AARP

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration, and the Senate now proceed to S. Res. 666.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 666) recognizing and honoring the 50th anniversary of the founding of AARP.

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

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 666) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 666

Whereas AARP is a nonprofit, nonpartisan organization with more than 40,000,000 members that is dedicated to improving the quality of life of people who are 50 years of age or older;

Whereas Ethel Percy Andrus, a retired educator from California, founded AARP in 1958 to promote independence, dignity, and purpose for older people in the United States and to encourage current and future generations "to serve, not to be served";

Whereas the vision of AARP is "a society in which everyone ages with dignity and purpose and in which AARP helps people fulfill their goals and dreams";

Whereas the mission of AARP is to enhance the quality of life of all people as they age, to promote positive social change, and to deliver value to its members through information, advocacy, and service;

Whereas the nonpartisan advocacy activities of AARP help millions of people participate in the legislative, judicial, and administrative processes of the United States;

Whereas AARP is a trusted source of reliable information on health, financial security, and other issues important to people 50 years of age and older;

Whereas AARP provides an opportunity for volunteerism and service so that its millions of members can better their families, communities, and the Nation;

Whereas AARP Services has become a leader in the marketplace by influencing companies to offer new and better services for the members of AARP;

Whereas AARP Foundation, the philanthropic arm of AARP, delivers information, education, and direct service programs to the most vulnerable people in the United States aged 50 and over;

Whereas the job placement program of AARP Foundation has helped more than 400,000 low-income older people in the United States find jobs, contributing to their sense of purpose and dignity;

Whereas the Driver Safety Program of AARP has helped more than 10,000,000 older drivers sharpen their driving skills;

Whereas 2008 is the 50th anniversary of the founding of AARP; and

Whereas, in honor of its 50th anniversary, AARP renewed its commitment to improving

the quality of life for all older people in the United States and helping people of all generations fulfill their goals and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) commends AARP for 50 years of outstanding service to people aged 50 and older; and

(2) recognizes AARP's commitment to serving future generations.

EXECUTIVE SESSION

NOMINATION DISCHARGED

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Intelligence Committee be discharged of PN1791, the nomination of J. Patrick Rowan, to be an Assistant Attorney General; that the Senate then proceed to the nomination; that the nomination be confirmed and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD, as if read; that the President be immediately notified of the Senate's action; that the Senate resume legislative session; and that no further motions be in order.

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

The nomination considered and confirmed is as follows:

DEPARTMENT OF JUSTICE

J. Patrick Rowan, of Maryland, to be an Assistant Attorney General.

Mr. LEAHY. Mr. President, today, the Senate confirmed the nomination of J. Patrick Rowan to be Assistant Attorney General in charge of the National Security Division at the Department of Justice.

We continue in our efforts to rebuild the Department of Justice after the scandals of the Gonzales era and the Bush administration. We have already confirmed 35 executive nominations so far this Congress, including the confirmations of 12 U.S. attorneys, seven U.S. Marshals, and a new Attorney General, Deputy Attorney General, and Associate Attorney General. We are poised to add to this total, having reported out of committee this month another 6 high-level executive nominations, including the nomination of Greg Garre to be Solicitor General of the United States, one of the highest and most prestigious positions at the Department of Justice.

At the beginning of this Congress, the Judiciary Committee began its oversight efforts. Over the 9 nine months, our efforts revealed a Department of Justice gone awry. The leadership crisis came more and more into view as I led a bipartisan group of concerned Senators to consider the United States Attorney firing scandal, a confrontation over the legality of the administration's warrantless wiretapping program, the untoward political influence of the White House at the Department of Justice, and the secret legal memos excusing all manner of excess and subverting the rule of law.

What our efforts exposed was a crisis of leadership that took a heavy toll on the tradition of independence that has long guided the Justice Department and provided it with safe harbor from political interference. It shook the confidence of the American people. Through bipartisan efforts among those from both sides of the aisle who care about federal law enforcement and the Department of Justice, we joined together to press for accountability.

That resulted in a change in leadership at the Department, with the resignations of the Attorney General and virtually all of its highest-ranking officials.

But the oversight efforts did not complete our work. We continue in the waning days of the Bush administration to try to return to the right track and ensure that the rule of law is restored as the guiding light for the work of the Department. Mr. Rowan, who currently serves as acting head of the National Security Division, has an opportunity now and if confirmed to play a significant role in that restoration.

In the wake of the tragic attacks on September 11, 2001, and toward the end of President Bush's first year in office, this country had an opportunity to show that we could fight terrorism, secure our Nation, and bring the perpetrators of those heinous acts to justice, all in a way that was consistent with our history and our most deeply valued principles. A number of us reached out to the White House in an effort to craft a thoughtful, effective bipartisan way forward. The White House, supported by the Republican leadership in Congress, chose another path. They diverted our focus from al-Qaida and capturing Osama bin Laden to war and occupation in Iraq. They chose to enhance the power of the President and to turn the Office of Legal Counsel, OLC, at the Department of Justice into an apologist for White House orders—from the warrantless wiretapping of Americans to torture. In my view, that approach has made our country less safe.

We are all too familiar now with the litany of disastrous actions by this administration: rejecting the Geneva Conventions—which the President's counsel referred to as “quaint”—against the advice of the Secretary of State; establishing a system of detention at Guantanamo Bay in an effort to circumvent the law and accountability; attempting to eliminate the Great Writ of habeas corpus for any non-citizen designated by the President as an enemy combatant; setting up a flawed military commission process that, after 6 years, has finally resulted in its first trial of a terrorist after more than 80 have been tried successfully in our court system; and permitting cruel interrogation practices that in the worst cases amount to officially sanctioned torture.

These misguided actions and policies have rested upon a legal edifice built in

secret by OLC opinions that have turned the rule of law on its head by interpreting laws Congress has passed. This week the Judiciary Committee authorized subpoenas relating to those opinions. For the better part of 8 years, OLC's work has largely been kept secret from this oversight Committee, despite our efforts. Keeping binding interpretations of secret law from Congress is wrong.

The advice we have seen from OLC has been deeply flawed, sloppy, and flat out wrong—but it has been permitted to happen because secrecy has prevented our oversight. Unjustified secrecy continues to prevent the review by this Committee that would provide a check and some control on how the administration is interpreting the law that is Congress's constitutional responsibility to write. That obsessive secrecy even prevents us from knowing the subject matter on which OLC has written opinions.

There is no justification for keeping OLC legal interpretations secret from this committee, let alone the index I have long sought. That is why I sought and now have the authorization for subpoenas after years of being rebuffed and slow-rolled in our attempts to find out how this administration has interpreted and applied the laws written by Congress.

Another one of the misguided policies of the Bush-Cheney administration was rebuked earlier this summer in the Supreme Court's 5-4 decision in *Boumediene v. Bush*. That decision reaffirmed our core American values by concluding that detainees at Guantanamo have the right to bring habeas corpus claims in Federal court. I applauded that decision because I have maintained from the beginning that the provisions of the Military Commission Act that purported to strip away those rights were unconstitutional and un-American.

This should not have been a hard decision, but I hope Mr. Rowan understands that it was a vitally important one. The Courts have a long history of considering habeas petitions and of handling national security matters, including classified information. I have great confidence in our system of justice and its ability to handle these issues. The administration made this mess by seeking to avoid judicial review at all costs, causing years of delay and profound uncertainty. It has now been rebuked four times by the Supreme Court. Habeas Corpus is the ultimate guarantee of fairness and a check on executive excess.

It is vital that we ensure that we have a functioning, independent Justice Department, and that this sad era in the history of the Department is not repeated. We have seen what happens when the rule of law plays second fiddle to a President's agenda and the partisan desires of political operatives. It is a disaster for the American people. Both the President and the Nation are best served by a Justice Department