United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159 WASHINGTON, WEDNESDAY, JULY 17, 2013 No. 102

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God our king, You rule from Your throne, sustaining us with the unfolding of Your providence. Today, abide with our Senators and all those to whom You have committed the government of this Nation. Lord, give them Your special gifts of wisdom and understanding, of counsel and strength, providing them with the insights to choose what is best. Bless them with constancy of purpose and an unfailing devotion to their duties. Answer their prayers and give them Your peace.

We pray in Your merciful Name. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 2013.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

KEEP STUDENT LOANS AFFORDABLE ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 124.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 124, S. 1238, a bill to amend the Higher Education Act of 1965 to extend the current reduced interest rate for undergraduate Federal Direct Stafford Loans for 1 year, and to modify required distribution rules for pension plans, and for other purposes.

SCHEDULE

Mr. REID. Following my remarks and those of the Republican leader, we will proceed to executive session to consider the nomination of Fred Hochberg to be president of the very important Export-Import Bank. At 10 a.m. there will be a cloture vote on the Hochberg nomination.

Following that, if cloture is invoked, we will have, as a result of some rules changes made earlier this year, 8 hours of debate. I doubt seriously if the Democrats will take any of their time, so we should be able to finish that sometime soon and have a vote on his confirmation, if we invoke cloture.

We then have left on the calendar for this week the Secretary of Labor and the head of the EPA. So we should be able to finish that tomorrow.

SENATE FRIENDSHIPS

Mr. President, I am so glad to see the Presiding Officer in the Chair. For those who perhaps are not aware, Senator LEVIN is a long-time Member of the Senate, and he has decided not to run again, which is very sad for the State of Michigan, the Senate, and the country, but that is the decision he made.

I had the good fortune—and he has heard me say this before, but I will say it again because I will never forget this—of coming to the Congress in 1982, with Senator LEVIN's brother—his older brother—and so the first time I met Senator CARL LEVIN I was contemplating whether I should run for the Senate, after having served in the House. At the very beginning of our visit—a visit in Senator LEVIN's office—I said to him: I know your brother. He and I came to Congress together a few years ago. CARL looked at me so intently and so seriously and said: Yes, he is my brother, but he is also my best friend. Well, having three brothers of my own, that was something that always stuck with me.

Senator LEVIN is our Presiding Officer today, and it doesn't happen very often, so we appreciate that. Our more senior Members don't preside as often as the more junior Members.

I also want to say, with this man in the chair, that we just had one of those rare occasions where the senior Senator from Michigan and I disagreed. The disagreement we had had nothing to do with us and everything to do with positions we had taken. We need not get into what the difference was—it was something dealing with the Senate and had nothing to do with our personalities—but I will say, as a result of the efforts of Senator LEVIN, I am sure he is as pleased as I am with what happened here in the Senate in the last couple of days.

For a number of reasons, not the least of which is the input of the Senator from Michigan, we have now started a new era—I hope a new normal era—here in the Senate where Senators, instead of talking past each

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

other, start talking to each other. So I want to publicly state I appreciate the Senator from Michigan for many different reasons.

Senator LEVIN has been a long-time protector of our military, as the chairman of the Armed Services Committee. I am not an expert on what is happening in that committee, but I do know that during the more than three decades I have been in Congress no one has been more vigilant and caring about the men and women who serve in our military. So I admire, appreciate, and have great affection for the Presiding Officer.

The burdens we as leaders here in the Senate have—and I was reflecting on this as I was walking in here this morning—whether it is the Armed Services Committee or the things I am called upon to do, are so minimal compared to the burdens of the President of the United States—whoever the President of the United States happens to be. But let's focus on Barack Obama. Every day he gets up for a briefing about what is going on around the world, and there are so many things going on around the world that are so difficult—for him, for us as a country, and for the world. The problems we have here at home, as the leader of the superpower that we are, he has to deal with every day.

I had a visit with the President yesterday on the telephone. After we worked out an arrangement here in the Senate that was pleasing to virtually everybody, he called me and said: Thanks. I know it was a lot of hard work—and all that stuff. But I commented to him: We all realize the burdens that you bear. And I think we do. If we pause and think for a minute, it is easy to understand the heavy burdens this man bears.

We all know what a fine human being he is, and we have watched him, as we have seen all Presidents change before our eyes, this vibrant young man who served here in the Senate with us, with his coal-black hair, and now, after a few years, that hair is similar to that of myself and Senator LEVIN. He is still vibrant and strong, but he has a lot of burdens on his shoulders. Having worked with him as closely as I have, I have such understanding of what I think he goes through—at least somewhat of an understanding and some empathy for what he goes through.

Maybe somebody at the White House will pass him a copy of this exchange between the Presiding Officer and myself and they will tell him how much we in the Senate, Democrats and Republicans—the Republicans may disagree with him politically, but I don't think you can find a Republican who doesn't admire him as a good human being.

RESERVATION OF LEADER TIME

Mr. President, would you announce the business of the day?

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF FRED P. HOCHBERG TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The assistant legislative clerk read the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be equally divided and controlled between the two leaders or their designees.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MURPHY). Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant 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 nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

Harry Reid, Tim Johnson, Benjamin L. Cardin, Christopher A. Coons, Patrick J. Leahy, Charles E. Schumer, Ron Wyden, Patty Murray, Heidi Heitkamp, Tom Udall, Martin Heinrich, Jack Reed, Sheldon Whitehouse, Elizabeth Warren, Richard J. Durbin, Kirsten E. Gillibrand, Robert Menendez

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States for a term expiring January 20, 2017, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 82, nays 18, as follows:

[Rollcall Vote No. 175 Ex.]

YEAS—82

Alexander	Baucus	Blumenthal
Ayotte	Begich	Blunt
Baldwin	Bennet	Boozman
Boxer	Heinrich	Nelson
Brown	Heitkamp	Portman
Burr	Heller	Pryor
Cantwell	Hirono	Reed
Cardin	Hoeven	Reid
Carper	Isakson	Rockefeller
Casey	Johanns	Sanders
Chiesa	Johnson (SD)	Schatz
Coats	Kaine	Schumer
Cochran	King	Scott
Collins	Kirk	Sessions
Coons	Klobuchar	Shaheen
Corker	Landrieu	Stabenow
Crapo	Leahy	Tester
Donnelly	Levin	Thune
Durbin	Manchin	Udall (CO)
Feinstein	Markey	Udall (NM)
Fischer	McCain	Vitter
Flake	McCaskill	Warner
Franken	Menendez	Warren
Gillibrand	Merkley	Whitehouse
Graham	Mikulski	Wicker
Hagan	Murkowski	Wyden
Harkin	Murphy	
Hatch	Murray	

NAYS—18

Barrasso	Grassley	Paul
Chambliss	Inhofe	Risch
Coburn	Johnson (WI)	Roberts
Cornyn	Lee	Rubio
Cruz	McConnell	Shelby
Enzi	Moran	Toomey

The PRESIDING OFFICER (Ms. HEITKAMP). On this vote, the yeas are 82, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Pursuant to S. Res. 15 of the 113th Congress, there is now 8 hours of postcloture debate equally divided in the usual form.

Who yields time?

If no one yields, the time will be equally divided.

The Senator from Pennsylvania.

Mr. TOOMEY. Madam President, I rise to speak for a few moments about the cloture vote we just had and the confirmation vote that is upcoming.

First of all, let me start by saying I think Mr. Hochberg is a good, capable, and competent person. The point I am making is that the candidate for President of the Ex-Im Bank, for whom we just granted cloture and are likely to confirm, is a capable individual.

I voted against cloture, and I am going to vote against this confirmation. It is not about him. I wish to explain what this is about for me and why I think this is a lost opportunity. Precisely, it is this: By invoking cloture, as we have just done, and confirming Mr. Hochberg, as we are no doubt about to do, I think we are going to miss a big opportunity to insist on some modest reforms that are necessary at the Ex-Im Bank and we are going to miss an opportunity to pressure the administration and the Ex-Im Bank to follow existing law in ways that are not currently being followed. I wish to touch on a couple of these.

First of all, just by way of background, a reminder about the Ex-Im Bank: This is a taxpayer risk. This is a bank that makes taxpayer-backed loans and guarantees to countries and companies that buy American products. In 2012 we reauthorized the ongoing existence of the Ex-Im Bank and increased its lending authority to $140

billion. Now, not only are taxpayers taking a risk every time a loan is made by the Ex-Im Bank, but the taxpayers are systematically being undercompensated for that loan. The pricing on these loans is necessarily not reflective of the full risk to the taxpayer. How do we know that? Because if they were fully pricing in the risk, then the Ex-Im Bank wouldn't have a competitive advantage over other private banks. They would be more than happy to finance exports. In fact, the export bank exists for the purpose of subsidizing these exports, and they do it in the form of consciously and intentionally underpricing the loans so that the taxpayers do not get an adequate compensation and certainly not a market compensation for the risk they take. That is just the reality. That is the nature of the Ex-Im Bank.

I would also point out that Ex-Im Bank's inspector general issued a report in September about some of the issues they discovered in the management of the Ex-Im Bank. They recommended that the Ex-Im Bank undergo stress testing. We require this of all of the big private financial institutions. They require that they go through all kinds of analyses about what would happen to their institutions under different economic and market circumstances that could occur, and then we evaluate how well they hold up to the stress of changes in interest rates, changes in economic conditions, and so on. The Ex-Im Bank has promised they will do this, but we haven't seen any results.

The inspector general also suggested some at least soft limits on concentration because the Ex-Im Bank is massively concentrated in a single industry. Almost all of the financing it provides is in a single industry, and that creates a risk to the taxpayers, of course, if there is a problem in that industry. The Ex-Im Bank has rejected considering any concentration limits.

The third thing I would point out is that the inspector general's report suggested that the board have more oversight authority. The Ex-Im Bank has not agreed to increase the board's oversight authority.

There is another problem with the Ex-Im Bank, it seems to me; that is, by its very nature it picks winners and losers in ways that are inappropriate. I will give a few examples. Because it is a government entity, it is ultimately controlled by the political class and its activities ultimately get politicized. It has already happened. For instance, in an entity that is supposed to be all about subsidizing exports for job creation purposes, there are mandates that a certain amount of their business has to be green activity. It has to be what some people think is acceptable or preferable in the energy space. That is a judgment which has nothing to do with maximizing overall exports. It is a political decision that is imposed on the Ex-Im Bank because politicians can. There is also a mandate on small business, which is to favor one sector over another.

There was an amendment when we were considering this bill. One of our colleagues offered an amendment that would force the Ex-Im Bank to make sure a certain amount of their business was subsidized loans to African companies and countries. I am sure this Senator has a very sincere interest in supporting Africa in various ways. That is fine if he has that interest, but is the Ex-Im Bank the vehicle we are supposed to use to do that? Let's keep in mind that when we establish a minimum statutory lending hurdle for some geographical area and Ex-Im is not there, they have to lower their standards to reach that goal, so it increases taxpayer risk for this political goal.

My point is that it is inevitable, it is guaranteed, it is already happening that this process becomes politicized, and that is not a good idea.

There is another problem with the activity of the Ex-Im Bank, which is that taxpayer-backed loans and guarantees also inevitably help some American companies at the expense of others. That is the nature of this, and that is a problem. One clear example is commercial air carriers. We have American companies that are airlines, they are commercial carriers, and then there are foreign companies that do this as well, and they compete directly against American carriers. Well, if you are a foreign airline, you get the Ex-Im Bank subsidy loan to buy your aircraft, and if you are an American airline, you don't. This happens. It happened recently. Air India got a $3.4 billion loan subsidy from Ex-Im Bank so they can buy their aircraft, and Air India competes directly with American companies that are not eligible for the loans because it is not considered an export.

These are the sorts of unintended consequences that occur when the government creates these mechanisms for meddling in the markets.

By the way, under current law the Ex-Im Bank is required to provide an analysis and make the analysis public about any adverse impact on American companies when they engage in this sort of activity, and we haven't seen that analysis. In fact, we have a court decision that criticizes the Ex-Im Bank. The court of appeals found that they had, in fact, failed to comply with this law about assessing the negative financial impact on U.S. companies; nevertheless, they are continuing to make these loan guarantees in this context.

All of these problems have been discussed in the past. We have had this debate before. One of the very constructive things we did in the 2012 reauthorization of the Export-Import Bank was that we said: What is the reason—why do we do all of this? The proponents always give the same argument—it is always the same—and it is that other countries around the world do this to subsidize their exports, and if we don't subsidize ours we will be at a competitive disadvantage and we can't have that.

That is the justification we always get. One can question the wisdom of that justification. We could have a big debate about that. But let's put that aside for a second because there is a potential solution to that problem. It is that in global trade talks and bilateral and multilateral trade talks, we, the United States—the world's biggest trading country, the world's biggest economy—could insist on a process by which we have a mutual wind-down of this economically unhealthy activity. The countries of the world that have these export-subsidizing banks could mutually agree to phase them out. Then we wouldn't have to do it because they do it, taxpayers wouldn't have this risk, and we wouldn't be unfairly benefiting some companies at the expense of others. We could phase this out.

In fact, that is exactly what the 2012 authorization bill requires. It requires the administration to begin negotiating with our trading partners for a mutual phaseout of all export subsidies. I believe that is the right solution to this admittedly difficult problem. Let's all agree we are going to phase out this activity.

Well, despite the fact that this mandate is in the reauthorization bill we passed a year ago—it is the law of the land—it is not happening. It is just not happening. There are no such discussions under way. There are no such negotiations. This is certainly not a priority of the administration's trading activity. I am not sure it exists at all as a priority. This is the main reason I came to the floor this morning and voted against cloture.

Cloture—the requirement to get the 60 votes to cut off debate to then consider the vote on the underlying nominee—is a very important tool. If we had held 41 votes, 41 Senators who refused to agree to cut off debate, the administration would have been in a little bit of a pickle because by the end of this month, in the absence of a newly confirmed President, the Ex-Im Bank couldn't do any business. So what would have happened? Would the Ex-Im Bank have just shut down? No. That wasn't ever going to happen. But what might have happened is we might have had a discussion: Can we get the administration to actually begin the negotiating they are supposed to do under existing law? Could they please begin to observe the law? Could the Ex-Im Bank actually begin to respond to the inspector general's reports? And in the pressure, frankly, of this moment, I think we would have had progress. Instead, we have voted for cloture. I think later today we are going to vote to confirm the nominee, who, as I said, is a very capable, very competent individual. So none of this is going to happen. What we are going to do is confirm the status quo, continue business as usual, business as it has been.

This, of course, occurs in a context, right? It occurs in the context of this argument we have been having about whether Republicans have been obstructing nominees, and I think, frankly, it infects the judgment about how Senators might consider voting on something such as a cloture measure. I would just remind everybody that going into this discussion earlier this week, the Senate had confirmed 1,560 of the President's nominees and was blocking 4—1,560 to 4. Some are suggesting that is an outrageous activity on our part because it denies the President the opportunity to assemble his team. Really? He has 1,560 confirmed, and there are 4 we are holding. That works out to 99.7 percent of the President's nominees confirmed, and we are portrayed as preventing the President from assembling his team. I completely reject that characterization. I think the President has enjoyed a tremendous opportunity and reality of getting his team in place, getting them confirmed.

We ought not relinquish the power the Constitution gives to the Senate to advise and consent. Remember, the Constitution doesn't just say that the Senate shall advise, it says advise and consent. ''Consent'' has a very specific meaning. If we do this automatically and routinely and we think that—I guess those who object to our approving 1,560 and objecting to 4—it seems to me the implication is that we are supposed to simply routinely rubberstamp everyone, there can't be any objections ever, whatsoever. That is not what the Constitution calls for. As a matter of constitutional principle, that is a very flawed analysis.

I wanted to speak this morning because this is a very real, specific case of where, had we exercised more fully, in my judgment, our opportunity to deny cloture, we would have made a little bit of progress in better observation of existing law, further reducing risk the taxpayers take, and getting the Ex-Im Bank to comply with some of the recommendations in the inspector general's report. I wanted to share that.

I know how this vote is going to go. I know Mr. Hochberg is going to be confirmed. I hope we will be able to make progress anyway, but I am sure we would have had a better chance of making meaningful progress if we had used this moment.

As we consider future nominees, I hope we will remember that this is a fundamental and important role for the Senate to play—to use confirmation as a moment to focus the attention of the administration on what is important to our constituents, to our taxpayers, and I hope we won't relinquish that opportunity.

I yield the floor.

OBAMACARE

Mr. LEE. Madam President, 2 weeks ago, while most Americans were busy getting ready for the Fourth of July holiday, the Obama administration made a stunning announcement about the President's signature legislative accomplishment, the Patient Protection and Affordable Care Act.

The President admitted to the American people that because ObamaCare was so poorly crafted, he was delaying the enforcement of the employer mandate and would not assess fines and penalties to big companies that refused to provide insurance to their employees. The President explained that businesses could not handle ''the complexity of the requirements,'' and government bureaucrats would spend the next year simplifying the reporting rules so companies could comply.

I expected that in the next paragraph he would acknowledge that American families also deserve relief because, as polls consistently reflect, they have very big problems with the requirements as well. They have concerns about the government-run health care scheme known as the exchanges.

Henry Chao, the chief technical officer in charge of implementing the ObamaCare exchanges, has said:

> I'm pretty nervous. . . . Let's just make sure it's not a third-world experience.

American families also have very grave concerns about how much ObamaCare is going to add to our national debt. The Congressional Budget Office now estimates that the cost to taxpayers over the next 10 years will be $1.8 trillion. Young Americans are particularly concerned about ObamaCare because it is becoming clear that they will see the highest increases in health care premiums.

One study published in the magazine of the American Academy of Actuaries shows that middle- and low-income single adults between 21 and 29 years of age will see their premiums rise by 46 percent even after they take the ObamaCare subsidy.

A joint report by Republicans on the House Energy and Commerce, Senate Finance, and Senate HELP Committees that looked at over 30 different studies concluded that:

> Recent college graduates with entry-level jobs who are struggling to pay off student loan debt could see their premiums increase on average between 145 and 189 percent. Some studies estimate young adults could experience premium increases as high as 203 percent.

In my State, the State of Utah, premiums for young people will jump anywhere from 56 to 90 percent. As I read this statement from the Treasury Department, I was shocked to find no mention of these people. Parents, families, students, employees, taxpayers, hard-working Americans in general were totally left out, along with their concerns about the complexity of the requirements imposed by ObamaCare.

A senior adviser to the President took to the White House blog to spin the administration's announcement before long. She said:

> In our ongoing discussions with businesses, we have heard that you need time to get this right.

But why aren't American families part of these same ongoing discussions? Isn't the White House obligated to get this right for them too, before assessing fines and penalties and forcing them into a government-run third-world experience?

We knew ObamaCare would be unaffordable, but now we know it is also going to be unfair. It is fundamentally unfair for the President to exempt businesses from the onerous burdens of his law while forcing American families and individuals into ObamaCare's unsound and unstable system. It is unfair to protect the bottom lines of big business while making hard-working Americans pay the price through higher premiums, stiff penalties, cutbacks in worker hours, and job losses.

It is unfair to give businesses more time to figure out complex regulations but force everyone else to figure out equally complex mandates and requirements applicable to individuals. This administration has chosen to put its own political preferences and the interests of various government cronies ahead of those of the American people.

Republicans in Congress must now stand up for the individuals and families who do not have the money, who do not have the lobbyists, who do not have the connections to get this administration's attention on this important issue. We should do so using one of the few constitutional powers that Congress still carefully guards: its power of the purse.

As long as President Obama selectively enforces ObamaCare, no annual appropriations bill and no continuing resolution should fund further implementation of this law. In other words, if the President will not follow it, the American people should not fund it.

Last week's admission by the administration means that after more than 3 years of preparation and trial and error, the best case scenario for ObamaCare will be rampant dysfunction, waste, and injustice to taxpayers and working families. Even the President himself is now admitting that ObamaCare will not work. It is unaffordable and unfair.

If he will not follow it, we should not fund it. The only reasonable choice now is to protect the country from ObamaCare's looming disaster, start over, and finally begin work on real health care reform that works for everyone.

I would like to shift topics and speak briefly in opposition to the confirmation of Fred Hochberg to continue as Chairman and President of the Export-Import Bank. By confirming Mr. Hochberg, we would perpetuate the existence of an organization whose sole purpose is to dispense corporate welfare and political privileges to well-connected special interests.

The Export-Import Bank, or Ex-Im as it is commonly known, is an example of everything that is wrong with Washington today. It is big government

serving the interests of big corporations at the expense of individuals, families, and small businesses throughout America.

I am, of course, not alone in this view. I have good company. In 2008, while campaigning for the office of President of the United States, then-Senator Barack Obama referred to Ex-Im as ''little more than a fund for corporate welfare.'' So it is. After all, in fiscal year 2012, $12.2 billion of Ex-Im's $14.7 billion in loan guarantees went to a single company—one company. Our free enterprise system may not be perfect, but it is fair. Crony capitalism which is promoted by the Export-Import Bank is neither.

Abraham Lincoln once said that the leading object of government was to ''lift artificial weights from all shoulders, to clear the paths of laudable pursuit for all, to afford all an unfettered start and a fair chance in the race of life.''

Crony capitalism is the opposite of this noble vision. It lays on artificial waste, obstructs paths of laudable pursuit, and makes the race of life fettered and unfair. We may have honest disagreements about when and whether and to what extent and under what circumstances it is a good idea for the government to redistribute wealth from the rich and give it to the poor, but can't we all agree it is always a bad idea to redistribute wealth from the poor and the middle class and give it to large corporations?

The saddest part is it is not even clear the bank actually helps U.S. firms to outperform their foreign competitors. Ex-Im's convoluted financing has been accused of pricing at least one U.S. airline out of being able to compete with foreign firms, and at least one court has agreed.

Cronyism is a cancer. It undermines public trust in our economy and in our political system. Ordinary Americans who have the gnawing sense that the game seems rigged against them unfortunately have good reason to feel that way. It is not the free market that serves the middle men at the expense of the middle class. It is the crony cartels of big government, big business, and big special interests conspiring against the American dream, helping each other to American taxpayers' money. The Ex-Im Bank is part of this graft.

I urge all of my colleagues to join me in opposing this nominee and the crony capitalist organization that he leads.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise to speak in support of Fred Hochberg and his nomination to the second term as Chairman of the Export-Import Bank. I have heard now two speeches on the other side of the aisle from my colleagues who not only seem to take exception with Mr. Hochberg's nomination but the Export-Import Bank in and of itself.

I think they are wrong. I think they are wrong because they do not understand Washington's need to focus on the fact that we have an export economy. We want U.S. products to be bought and sold in countries and markets all over the world. We are here today to talk about a critical vote to support 225,000 jobs that are part of our export economy. If we fail to confirm Fred Hochberg for a second term as Chairman of the Export-Import Bank, businesses across the United States will lose a key tool in job creation.

This is because his term expires, runs out, on July 20.

What would that mean? It would mean the Export-Import Bank, which needs at least three of its five board members to have a quorum, would not have a quorum and would not be able to issue any new loans. This means the transactions that U.S. companies depend on, the guarantees and the transactions to finance the sale of U.S. products and services overseas, would not be able to move forward.

If we don't confirm Mr. Hochberg this week, the bank cannot approve loans and it would take away a job-creating tool that American innovators and businesses count on. This is why I am calling on my colleagues, in a bipartisan fashion, to confirm Mr. Hochberg as the Export-Import Bank Chairman for a second term.

His nomination is supported by the Chamber of Commerce and by the National Association of Manufacturers. He has proven to be a solid leader in his organization by listening, implementing, innovating, and administering a very critical job-creation tool.

When I visited businesses across my State in 2012 to talk about the Export-Import Bank, I heard the American people wanted us to focus on job creation and supporting business. The Export-Import Bank helps American-made products to be shipped all around the world.

I saw a company in my State, Yakima, WA, the Manhasset music stand company, use the Export-Import Bank to make sure sales go all around the globe, including China.

I saw a grain silo manufacturer called SCAFCO in Spokane, which also would testify to the fact that they have been able to sell their grain to many countries around the globe because of the financing the Export-Import Bank guarantees.

Airline cockpit hardware made by the Esterline Corporation factory in Everett, WA, also testified to the same effect; that when you are looking around the globe to secure financing of U.S. products into more developing countries, it is hard to get the financing to work.

The United States can be left at the starting line or the United States can use this vital tool that I call a tactic for small business to get access to make sure their products get a final sale.

The Export-Import Bank supports 83,000 jobs in my State alone, which benefits from the finance mechanism. Over the last 5 years, it has supported many jobs throughout the United States. Overall, it supported, as I said, 225,000 jobs and more than 3,000 businesses in 2012.

In the small business area, 2,500 of those are small businesses. The notion that this is somehow crony capitalism—and maybe he is talking about the shenanigans that happened on Wall Street, but he is certainly not talking about the Export-Import Bank.

I am advocating that we keep the very positive results of this bank, keep Mr. Hochberg, and make sure we continue to sell our products from Everett, WA, or Auburn, KY, all over the globe.

Ninety-five percent of the world's consumers live outside our borders. The question is: are we going to make sure that U.S. products get into the hands of the growing middle class around the globe? In 2030, China's middle class will be 1 billion people, 1 billion middle-class people in China, up from 150 million today. India's middle class will grow 80 percent, from 50 million to 475 million.

We need our businesses, large and small, to have the tools to reach this new, growing tool of consumers. Not only does this help businesses, the Ex-Im Bank also helps taxpayers.

I don't know where the idea that this is crony capitalism comes from, but this program is a very good deal for the U.S. Department of the Treasury. In fact, it returned nearly $1.6 billion to the U.S. Treasury since 2005. It actually is helping us return money to the Treasury and it helps our businesses continue to grow in export markets.

As we speak, there are almost $4 billion in transactions awaiting approval for the bank; that is, if we don't approve the chairman, these deals might not go through. There are many American businesses counting on their transaction so they can compete in an international market.

The international competitor is not going to wait until we approve Mr. Hochberg if we delay this. They are going to go ahead, cash in on the business deals, and our competitors will win.

I think the U.S. Chamber of Commerce said it best in a 2011 letter to congressional leaders: The Export-Import Bank enables U.S. companies, large and small, to turn export opportunities into real sales that help create real jobs in the United States of America.

I was proud that Mr. Hochberg came to Seattle last year for the opening of a regional Ex-Im office, focusing on small businesses to make sure they can get the financing for end products to get to these markets. We should be moving more toward policies to help businesses, the small businesses, grow with confidence into these international markets.

I ask my colleagues to do the right thing, follow through, and confirm this chairman.

Since its creation in 1934, the Export-Import Bank was approved by unanimous consent or voice vote 24 times. For 24 times no one called this crony capitalism. No, they were supporting it. The last time we authorized it, it had 78 votes. It ended up in the House of Representatives with 330 votes.

I am pointing this out because all of the delay in Mr. Hochberg's confirmation hurts business in the end, when the majority of my colleagues do agree this is a vital tool to help boost products made in America.

In the last reauthorization we did make improvements to strengthen the Ex-Im Bank. Quarterly reports are delivered on the default rates, which now can't go above 2 percent.

The Government Accountability Office also is required to work with risk management structures to make sure loans and businesses are not too risky. Transactions above a certain dollar amount receive public comment, and they deliver a yearly report on those transactions.

I know my colleagues have mentioned this issue about aviation, and I can guarantee, as the chair of the Aviation Subcommittee, I want U.S. airline industries to be competitive in international markets. Certainly, the world community on financing of airplane sales is working together to make sure those are closer to market-based rates and working on the same page so these financing schemes work together.

The 2011 Aircraft Sector Understanding sets out the terms and conditions on how airlines can finance aircraft purchases using Government-backed financing. The Understanding requires a closer alignment with commercial market borrowing rates. This agreement covers all major trading partners except China.

All of these improvements we continue to make in the Ex-Im Bank are important. As I said, Mr. Hochberg has been open to many discussions as to how we move ahead. Let us not deny the fact that in developing markets, a financial tool such as the Export-Import Bank, that actually delivers on helping job creation in the United States by getting the sales of many different products into these developing countries and growing middle class, is very good for the United States. The fact that it returns to the taxpayer is very positive.

Let's not let this slip another moment. Let's get Mr. Hochberg back to the task at hand, which is approving these transactions so U.S. companies can continue to grow jobs here by accessing new markets overseas.

I yield the floor.

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. CORNYN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. CORNYN. Madam President, this last Monday night we had a remarkable occurrence in the Senate. Democrats and Republicans actually met together, as the Presiding Officer knows, in the Old Senate Chamber, a historic location where the Senate used to meet before we became so large and expanded to 100 Members. What was so good about that, from my perspective, was that we actually had some communication going on and we learned there were a lot of Senators who were actually frustrated by the way the Senate has been operating. It gave us all an opportunity, there in a confidential setting, to speak our mind and to share our frustrations.

But I think one of the things we have forgotten—maybe not forgotten, but need to be reminded of from time to time—is what makes the Senate unique, not just here in America and our form of government but throughout the world. Sometimes the Senate is referred to as the world's greatest deliberative body. As we all know, it has become less so in recent years. But we all remember the story of the constitutional convention in Philadelphia when they were at loggerheads in trying to figure out how to create the legislative branch. There were some who wanted a single unicameral legislative body, and there were discussions then about whether there actually needed to be a Senate in addition to the House of Representatives, which, of course, would literally be representative of the people based on their numbers as opposed to representing the respective States, which is the function of the Senate.

Late in the convention there was a compromise proposed by the Senator from Connecticut, Roger Sherman, on behalf of the small States. Of course, the small States were worried the big States would gang up on them. Ironically, under this compromise, it is now the small States that gang up on the big States, but that is another story for another day.

Under this Connecticut Compromise, the Senate came to be comprised of two Senators representing each State, no matter how big or how small the State. My State of 26 million people only gets two Senators. The Presiding Officer's State, a smaller State, also gets two Senators. That was part of the Connecticut Compromise back when the country was founded.

The Constitution could not have been ratified without this compromise. It initially failed, but Benjamin Franklin later found a better time to reintroduce it and it passed. But here is the real function of the Senate, and it comes from a story told of a conversation between Thomas Jefferson and George Washington. Of course, Washington had presided over the constitutional convention. Jefferson was in Paris. When he returned, he asked Washington why he allowed the Senate to be formed, because Jefferson had considered it unnecessary. One body based on proportional representation, Jefferson thought, should be enough. Washington then asked Jefferson if he cooled his tea by first pouring it in the saucer, which was the custom of the day. Sure, responded Jefferson. And Washington said: So it is that the Senate must cool tempers and prevent hasty legislation by making sure it is well thought out and fully debated.

I mention that story and recite a little bit of history to remind us the Senate was created not just to be another House of Representatives but for another purpose altogether. That is the other reason why Senators are elected for 6-year terms from a whole State as opposed to just a congressional district where our colleagues across the Capitol run every 2 years from smaller areas. Of course, they are supposed to be much more closely tied to their constituents. We are supposedly given a little more flexibility to take the long view and not the short-term view in how we decide matters.

That is the reason why so many of us were concerned at the threat of the majority leader to invoke the so-called nuclear option. I know for most Americans this is not something that is at the top of their list to be concerned with, but from an institutional and constitutional perspective it is absolutely critical the Senate remain true to the design of the Founders of our country as framed in our Constitution.

As a rationale to invoking the so-called nuclear option and turning the Senate into a purely majority-vote institution, there were claims this side of the aisle had been obstructing too many of President Obama's nominations. But the facts tell a far different story. Thus far, the President has nominated more than 1,560 people for various positions, and only 4—only 4—of them have been rejected by the Senate.

Since 2009, this Chamber has confirmed 199 of President Obama's article III judicial nominees and rejected 2 of them, and 80 of those nominees were confirmed by voice vote, which is essentially a unanimous vote. Another 64 were confirmed by unanimous rollcall votes. Does that sound like a crisis? Does that sound like obstructionism? I think not.

I would like to suggest it is another problem that has caused the Senate to become, in a way, a nondeliberative body and quite dysfunctional. For example, during Senator REID's tenure as majority leader, an unprecedented number of bills have come to the floor directly from the majority leader's office. Any of us who remember our high school civics lessons know that, ordinarily, committees of the Congress are supposed to write legislation. Then once the committees vote that legislation out, it comes to the Senate floor. Obviously, the purpose for that is to give everyone in the committees an opportunity to vent their concerns, to offer amendments, to debate them, and then to mark up a bill before it comes to the Senate floor so we do a better job and deal with all of the unintended

consequences and the like. But during the tenure of the current majority leader an unprecedented number of bills have simply sprung to life out of the majority leader's office.

Many of my colleagues, including Members of Senator REID's own party, have been left wondering why it is the committees actually even exist in a world where bills simply come to the Senate floor under rule XIV without the sort of deliberation and consideration they should get in committees before arriving here. When legislation arrives on the floor, Senators are routinely denied an opportunity to offer the amendments they see fit and to have debate and votes on those amendments.

To give some perspective—and I know some people will say the American people are not interested in the process, they are interested more in the policy, but this demonstrates why the process is so important to getting the right policies embraced—during the 109th Congress, when this side of the aisle, Republicans, controlled this Chamber, Senate Democrats offered more than 1,000 separate amendments—1,043 separate amendments—to legislation. During the 112th Congress, when our Democratic colleagues were in charge, Republicans were only allowed to offer 400 amendments—1,043 to 400, a big difference.

During the 109th Congress, when Republicans controlled this Chamber, there were 428 recorded votes on Senate amendments—428. In the 112th Congress, there were 224—a little more than half of the number.

Since becoming majority leader, Senator REID has blocked amendments on bills on the floor no fewer than 70 times. In the language of Senate procedure, we call that filling the amendment tree, but what it means is the minority is effectively shut out of the ability to shape legislation by offering amendments on the Senate floor. And that is no small thing. Again, I represent 26 million people in the State of Texas. Being a Member of the minority, when Senator REID blocks any amendment I wish to offer to a bill, he has effectively shut out of the process 26 million Texans. And it is not just my State, it is every State represented by the minority.

As a comparison, the previous Senate majority leader, Senator Bill Frist of Tennessee, a Republican, filled the amendment tree only 12 times in 4 years. So 70 times under Senator REID, 12 times for Senator Frist. And before him, Majority Leader Tom Daschle, a Democrat, filled the tree only once in 1½ years—once in 1½ years. When Trent Lott was the majority leader, a Republican, he did it 10 times in 5 years. George Mitchell, a Democratic majority leader, did it three times in 6 years. Majority Leader Robert C. Byrd, who was an institution unto himself here in the Senate, did it three times in 2 years. And finally, Senator Bob Dole of Kansas, the majority leader, a Republican, did it seven times in 3½ years.

My point is not to bore people with statistics but to point out the Senate has changed dramatically under the tenure of the current majority leader in a way where Members of the Senate are blocked from offering amendments to legislation in the interest of their constituents. As majority leader, Senator REID has denied those rights to the minority and the rights of the people we represent. When he refuses to let us offer amendments and debate those amendments, he refuses to let us have real debate and he is effectively gagging millions of our constituents.

One more time I would like to remind Senator REID of what he promised 6 years ago. He said: As majority leader, I intend to run the Senate with respect for the rules and for the minority the rules protect. The Senate was established to make sure that minorities are protected. Majorities can always protect themselves but minorities cannot. That is what the Senate is all about.

I would also like to remind our colleagues what President Obama said in April of 2005, when he was in the Senate. He said: If the majority chooses to end the filibuster, if they choose to change the rules and put an end to democratic debate, then the fighting, the bitterness, and the gridlock will only get worse.

My point is to say the Senate has been transformed in recent years into an image of an institution the Founders of our country would hardly recognize, nor would previously serving Senators who operated in an environment where every Senator had an opportunity to offer amendments to legislation and to get a vote on those amendments; where the minority's rights were protected by denying the majority the right to simply shut out the minority, denying them an opportunity to offer or debate important pieces of legislation.

That is what has happened under the current majority leader, and that is why I believe those meetings, such as the one we had in the Old Senate Chamber this past Monday night, are so important. But we do have to rely on the facts. Facts can be stubborn, but I think our debate ought to be based on the facts and on a rational discussion of what the Framers intended when they created the Senate and its unique role—unique not just here in America but to all legislative bodies in the world.

HEALTH CARE

Madam President, I would like to turn to another topic. Now that we have gotten past the nuclear option, at least for a time, I think it is important we return to important issues that actually affect the lives of the American people in very direct ways, and health care is one of them.

During the Fourth of July recess, the administration unilaterally delayed several provisions of the so-called Affordable Care Act, otherwise sometimes known as ObamaCare. What they did specifically is they delayed enactment of the employer mandate.

It was an implicit acknowledgement by the administration that ObamaCare is actually stifling job creation and prompting many businesses to turn from full-time employment to part time. In fact, there are now 8.2 million Americans working part-time jobs for economic reasons when they would like to work full time. That number is up from 7.6 to 8.2 million since March. And a new survey has found that 74 percent of small businesses are going to reduce hiring, reduce worker hours, or replace full-time employees with part-time employees in part in response to ObamaCare.

The House of Representatives has drafted a bill that would codify the employer mandate delay that the administration announced earlier this month. In other words, they want to uphold the rule of law. Yet the President is now threatening to veto the very legislation that enacts the policy that he himself announced, which is truly surreal. The House bill on the employer mandate would do exactly what the President has already announced he would do unilaterally. There is no conceivable reason that I can think of for the administration to oppose this legislation—unless, of course, President Obama thinks he can pick and choose which laws to enforce for the sake of his own convenience. I am afraid he does believe that, and the evidence goes well beyond ObamaCare.

Yesterday afternoon I listed several examples of the administration's persistent contempt for the rule of law.

I mentioned the government-run Chrysler bankruptcy process in which the company-secured bondholders received far less for their loans than the United Auto Workers pension funds.

I mentioned the subsequent Solyndra bankruptcy in which the administration violated the law by making taxpayers subordinate to private lenders.

I mentioned the President's unconstitutional appointments to the National Labor Relations Board and the Consumer Financial Protection Bureau. You don't have to take my word for it; that is the decision of the court of appeals. The case has now been taken up by the U.S. Supreme Court to define what the President's powers are to make so-called recess appointments. But one thing that is absolutely clear is that the President—the executive branch—can't dictate to the Senate when we are in recess, thus empowering the President to make those appointments without the advice and consent function contained in the Constitution; otherwise, the executive branch will have no checks and no balances on its power, and there will be no power on the part of the Senate to do the appropriate oversight and to confirm the President's nominees.

In addition to his recess appointments, I mentioned yesterday his decision to unilaterally waive key requirements in both the 1996 welfare reform

law and the 2002 No Child Left Behind Act, and I also mentioned his refusal to enforce certain immigration laws.

What the House of Representatives is trying to do with its employer mandate bill is to make sure that the same rules apply to everyone and that the executive branch and the White House in particular don't just pick winners and losers when it comes to the Affordable Care Act, Obamacare.

If this President or any President is allowed to selectively enforce the law based on political expediency, our democracy and adherence to the rule of law will be severely weakened.

The principle at stake is far more important than the particular legislation we are talking about. It is about the constitutional separation of powers between the executive and the legislative branches of government. By assuming to be able to unilaterally suspend laws that prove inconvenient, the President is showing disdain for those checks and balances on executive authority as well as his oath, where he pledges to faithfully execute the laws of the United States.

Those of us who support repealing ObamaCare in its entirety and then replacing it with real health care reforms that reduce costs and expand patient choice and access to quality care, while protecting Americans with preexisting conditions and saving programs such as Medicaid and Medicare, believe ObamaCare ought to be repealed in its entirety and replaced with commonsense reforms that will actually bring down the costs, increase the quality, and preserve the patient-doctor relationship when it comes to making health care choices.

Our preference would be to repeal the entire law, but we would like to work with the President and our friends across the aisle now that it appears, according to the administration's own actions, that they actually believe ObamaCare is not turning out as it was originally intended in 2010. Indeed, one of the principal architects in the Senate, the chairman of the Senate Finance Committee, Senator MAX BAUCUS of Montana, has told Secretary Kathleen Sebelius of Health and Human Services that the implementation of ObamaCare is turning out to be a train wreck. And indeed it is.

Unfortunately, the President is still refusing to acknowledge the growing evidence that ObamaCare cannot perform as was originally promised. We know that the promise that if you like the health care coverage you have, you can keep it that the President so famously made—that is not true. Seven million Americans have lost their health care coverage as ObamaCare is being implemented and many more as employers are incentivized to drop their employer-provided coverage, leaving American families to find their health insurance elsewhere. The promise the President made that the average cost of health care insurance for a family of four would go down by $2,400—we know it has gone up by $2,400 since then.

Unfortunately, it appears the wheels are coming off of ObamaCare, and the people who will suffer the most are hard-working American families we are pledged to protect and help. What we ought to be doing rather than denying the obvious is working together to try to enact commonsense reforms.

It is not an answer for the President to discard the politically inconvenient portions of ObamaCare and kick off implementation until after the next election. To me, that is one of the most amazing things about the way ObamaCare has been implemented. It passed in 2010, but very little of it actually kicked in before the Presidential election of 2012. So there is no real political accountability, no real opportunity for the voters to voice their objection once it had been implemented, if it had been implemented on a timely basis. And now, because it has proven to be politically inconvenient, the President has proposed to kick off implementation of the employer mandate until after the 2014 midterm congressional elections. That is no way to have accountability for the decisions we make here. That is the opposite.

We are simply urging the President to support the rule of law and to make sure the same rules apply to everyone—apply to Members of Congress and apply to everyone in this great country of ours. But when the administration chooses to selectively enforce or not enforce provisions of the law or issue waivers for the favored few and the rest of us end up with the harsh reality of this law that is not working out as originally intended, it undermines the rule of law and the public's confidence that the same rules will apply to everyone. That shouldn't be too much to ask.

Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. RUBIO. Madam President, there has been a lot of news over the last 24 hours about the nuclear option and how that has been averted here in the Senate and what good news that is for the institution. I do value the Senate, and I do value the ability of individual Senators—and particularly the minority, which I hope I won't be a part of forever—and of the minority to speak and to be heard. That is one of the things that make this institution unique.

But I think we have to answer a fundamental question about why we have these rules in place and in particular why we have these rules in place when we are dealing with nominees, people who are nominated to the Cabinet and other executive positions. It is because the Constitution gives the Senate the power to advise and consent, to basically review these nominees and find out information about them and then decide whether they should be confirmed.

There are two different standards with regard to that. The first standard is whether the nominee should be able to go forward, and that requires a supermajority vote—60 votes—to continue debate. It is kind of arcane and I don't want to do a tutorial on the Senate, but let me say that if you can't get those 60 votes, then you have to continue to debate that nominee. That is an important tool—not to obstruct but should be used judiciously. It is a tool that should be used to make sure that this process is being respected and that people are answering critical and valid questions. It is an important tool to use. It needs to be used judiciously. It needs to be used in a limited way. You can't do that on everybody. You shouldn't do that on everybody. Quite frankly, the minority has not done it on everybody, nor have I. I have been very careful in its use and have tried to ensure that when we do use it and when I do use it, I use it for reasons that are valid.

It is with that in mind that I am very concerned about a nominee who will be before this body as early as today on a 60-vote threshold about whether to cut off debate on this individual and proceed to final confirmation, and that is this nominee for the Secretary to head the Labor Department, which is a significant agency of our government that, quite frankly, has a direct impact on the ability of businesses to grow and hire people and so forth. This is an important nomination and one that I think deserves careful scrutiny.

Now, let me be frank and up-front. I have significant objections to this nomination on the basis of public policy, and I have stated that in the past. I believe this individual, Thomas Perez, who is currently an Assistant Attorney General, is a liberal activist who has used his position—not just in the Department of Justice but in other roles he has played—to advance a liberal agenda that, quite frankly, is out of touch with a majority of Americans and that I believe would be bad for our economy, hence the reason I don't think it is a good idea for him to head the Labor Department. But the President has a right to his nominees.

So that is a reason to vote against this nomination. That in and of itself may not always be a reason to block a nomination from moving forward. Where I do think there is a valid reason to block someone's nomination from moving forward is when that individual has refused to cooperate with the process that is in place to review their nomination.

When you are nominated to serve in the Cabinet or in the executive branch, you get asked questions about things you have done in the past, things you

have said in the past, and you are expected to answer those fully and truthfully so that the Members of this body can make a decision about your nomination based on the facts. I don't know of anyone here who would dispute that, including people in the majority. Irrespective of how you feel about the nominee, every single Senator here—and through us, the American people—has a right to fully know who it is we are confirming, whether it is to the bench or to the Cabinet or to some other executive position. That is a right that is critically important.

When a nominee refuses to cooperate with that process, I believe that is a valid reason to stand in the way of their confirmation and to block it from moving forward until those questions are fully and truthfully answered. I do believe that is a reason not to vote for what they call cloture around here. I think that is a case in point when it comes to this Labor nominee, Mr. Perez, and I want to take a few moments to argue to my colleagues why it is a bad idea for both Democrats and Republicans to allow this nomination to move forward until this nominee answers the questions he has been asked by the Congress. Let me give the background.

There was a case filed by the City of St. Paul in Minnesota, and this case had to do with a legal theory called disparate impact. It is not really on point per se, but it basically says that you look at how some policy is impacting people, and even if there wasn't the intent to discriminate against people, if the practical impact of it was that it was discriminating against people—let's say a bank was giving out loans, and although the loan officer wasn't looking to deny loans to minorities, if the way they had structured the program meant that fewer minorities were getting loans than should be under a percentage basis, then under this theory you would be allowed to go after whatever institution did that. That is the theory which is out there in law.

The City of St. Paul had a challenge to that in court that chose to define exactly what that meant, and it got all the way to the Supreme Court. It was on the Supreme Court's docket. At the same time, the Justice Department was being asked to intervene in a whistleblower case regarding Housing and Urban Development. Again, it would take too long to describe exactly why that is important, but the bottom line is that the case against the City of St. Paul, the separate case—the whistleblower case—because of the way the law is written, they couldn't move forward on that case unless the Department of Justice intervened. And that is where the nominee, Mr. Perez, stepped in. He is an enormous fan of the disparate impact theory. In fact, he had used it to go after banks, of all things, in his time at the Department of Justice.

At some point in the future I will come to the floor and detail why I object to his nomination, appointment, and confirmation, but today I am just making the argument as to why it is a bad idea to move forward on this nomination until certain questions are answered.

This is where Mr. Perez steps in. What he did is he basically went to the City of St. Paul and said: Look, if you drop your Supreme Court case, we will not intervene in the whistleblower case. It is what is known in Latin as a quid pro quo—you do this for me, I will do that for you. In essence, City of St. Paul, drop your Supreme Court case and I will not intervene on behalf of the Department of Justice.

He argues reasons why he did that were based—he told the House committee the reason why I did that is because I thought it was a bad case, I had bad facts and I didn't want to move forward on the HUD whistleblower case anyway. He claimed that. But, in fact, a subsequent investigation found that a career attorney in the Department of Justice actually did not feel that way at all. A career attorney who was involved in this case believed it was a good case and, in fact, at a meeting about the case he expressed concern that this looked like we were ''buying off'' the City of St. Paul.

Right away the nominee had, frankly, misled the congressional committee when he argued it was a bad case, everybody agreed that the facts were bad. In fact, that is not true. The career prosecutor who was looking at this case wanted to move forward and was concerned that the way this looked was that it was a buy-off.

Then the nominee was asked: By the way, did you use your personal e-mail to conduct this deal? Did you e-mail with people about it? We understand your Federal account, we have access to that, but did you use your personal accounts?

You know, we all have business accounts and we all have personal accounts. The question was did you use your personal accounts to cut this deal or negotiate this deal or even talk about it with anybody? His answer was he could not recall, he had no recollection of that.

Subsequently, however, it was discovered that, in fact, on at least one occasion initially, he had used his e-mail to discuss something with someone at the City of St. Paul. That is when the House oversight committee stepped in and it asked him voluntarily and the Justice Department voluntarily to produce any e-mails from his private account that had to do with his official capacity.

Understand the request. It wasn't: Send us e-mails between you and your children or between you and your family or about you planning your vacation. What they asked for were any e-mails from your private accounts that have to do with your official capacity.

The Justice Department responded to that request by saying: We have found 1,200 instances of the use of his personal e-mails for official business. We found at least—the number at least was 34, but then 35—instances where it violated the open records laws of the Federal Government. So he was voluntarily asked to produce these e-mails to the House. He refused.

The House then subpoenaed these records, a subpoena which has the power of Congress behind it basically compelling you: You must produce it now. Again, he refuses to produce these e-mails.

What we have before the Senate today is a nominee to head the Labor Department of the United States of America who refuses to comply with a congressional subpoena on his e-mail records regarding his official business conduct. He refuses to comply; will not even answer; ignores it.

Here is what I will say to you. How can we possibly vote to confirm somebody if they refuse to produce relevant information about their official conduct? Think about that. This is an invitation for any official in the executive branch to basically conduct all their business in their private accounts because they know they will never have to produce it, they can ignore the Congress.

The nominee, Mr. Perez, hides behind the Department of Justice and says: They are handling this for me. But the problem is the Department of Justice doesn't possess these e-mails. These are his e-mails from his personal account that he refuses to produce.

If, in fact, there is nothing to worry about—and I am not claiming—I have not seen the e-mails. I don't know what is in them. None of us do. That is the point. The fact is we are now being asked to vote to confirm someone—not just to confirm someone, to give him 60 votes to cut off debate on the nomination of someone who is in open contempt of a congressional subpoena and repeated requests, including a bipartisan request. I have it here with me, a bipartisan request signed by Mr. ISSA of California and Mr. CUMMINGS, the ranking minority member, dated May 8, 2013:

> We write to request you produce all documents responsive to the subpoena issued to you by the committee on April 10, 2013, regarding your use of a non-official e-mail account to conduct official Department of Justice business. The Department [Justice Department] has represented to the Committee that roughly 1,200 responsive e-mails exist. To allow the Committee to fully examine these e-mails, please produce all responsive documents in unredacted form to the Committee no later than Friday, May 20, 2013.

The answer: Nothing, silence, crickets.

This is wrong. How can we possibly move forward on a nominee—I don't care what deal has been cut—how can we possibly move forward on someone until we have information that they have been asked for by a congressional committee? This is outrageous. If ever there was an instance where someone's nomination should not move forward, this is a perfect example of it.

I am not standing here saying deny this nominee 60 votes because I think he is a liberal activist—I do, and I think that is the reason why he should not be confirmed. What I am saying to my Republican colleagues is: I don't care what deal you cut, how can you possibly agree to move forward on the nomination when the nominee refuses to comply with a congressional subpoena to turn over records about official business at the Justice Department?

By the way, we are not confirming him to an Ambassador post in some obscure country halfway around the world. This is the Labor Department. This is the Labor Department.

I am shocked that there are members of my own conference who would be willing to go forward, go ahead on a nomination like this, who are willing to give 60 votes on a nomination like this on a nominee who has, frankly, flat out refused to comply with a congressional subpoena and answer questions that are legitimate and important. We are about to make someone the head of one of the most powerful agencies in America, impacting the ability of businesses to grow and create jobs at a time, frankly, when our economy is not doing very well, we are about to confirm someone to chair that agency, head up that agency when that individual has refused to comply with a legitimate request. How can we possibly go along with that?

I understand how important it is to protect the rights of minorities here. I understand how important it is to protect the right of the minority party to speak out and block efforts to move forward. But, my goodness, what is the point of even having the 60-vote threshold if you cannot use it for legitimate reasons? This is not me saying I am going to block this nominee until I get something I want. This is a nominee who refuses to cooperate, who flat out has ignored Congress and told them to go pound sand. And you are going to vote for this individual and move forward before this question is answered?

I implore my colleagues, frankly on both sides of the aisle—because this sets a precedent. There will not be a Democratic President forever and there will not be a Senate Democratic majority forever. At some point in the future you will have a Republican President and they are going to nominate people and those people may refuse to comply with a records request. You are not going to want those records? In fact, you have in the past blocked people for that very purpose.

So I ask my colleagues again, how can you possibly move forward a nominee who refuses to comply with giving us the information we need to fully vet that nomination? This is a serious constitutional obligation we have. Do we have an obligation to the Senate and to this institution, being a unique legislative body? Absolutely. But we have an even more important obligation to our Constitution and to the role the Senate plays in reviewing nominations and the information behind that nomination, and we are being blatantly denied relevant information. We have colleagues of mine who say it doesn't matter, move forward. This is wrong. It is not just wrong, it is outrageous.

Again, I do not think that we should use—nor do I think we have, by the way, used the 60-vote threshold as a way to routinely block nominees from moving forward. You look at the record. This President has done very well with his nominations, across the board—judiciary, Cabinet, executive branch. But, my goodness, can we at least agree that I have a right as a Senator from Florida—as all of you have a right as Senators from your States—to have all the relevant information on these nominees before we move forward?

I am telling you, if you are going to concede that point, then what is the point of having the 60-vote threshold if you can never use it for legitimate purposes?

I would argue to my colleagues today, let's not have this vote today. Let's not give 60 votes on this nominee until he produces these e-mails and we have time to review them so we can fully understand what was behind not just this quid pro quo deal but behind his public service at the Justice Department as an assistant attorney general, frankly confirmed by this Senate with the support of Republicans.

This is not an unreasonable request. For us to surrender the right to ask these questions is a dereliction of duty and it is wrong. If ever there was a case in point for why the 60-vote threshold matters, this is an example of one. I am telling you, if this moves forward, there is no reason why any future nominee would not decide to give us the same answer; that is, you get nothing. I tell you nothing. I will tell you what I want you to know. Then we are forced to vote up or down on someone on whom we do not have information. And that is wrong.

There is still time to change our minds. I think this is a legitimate exercise—not forever. Let him produce these e-mails. Let us review these e-mails. Then bring him up for a vote and then you can vote on him, whether you like it or not based on all the information. But to allow someone to move forward who is basically telling an oversight committee of Congress: I don't have to answer your questions, I don't have to respond to your letters, I ignore you?

I want you to think about the precedent you are setting. I want you to think about how that undermines the constitutional—not just the right, the constitutional obligation of this body to produce advice and consent on Presidential nominees, and I think this is especially important when someone is going to be a member of the Cabinet and overseeing an agency with the scope and the power of the Labor Department.

I still hope there is time to convince as many of my colleagues as possible. I do not hold great hopes that I will convince a lot of my Democratic colleagues, but I hope I can convince a majority of my Republican colleagues to refuse to give the 60 votes to cut off debate on this nominee until Chairman ISSA and the oversight committee get answers to their questions that frankly we would want to know. They take leadership on asking these questions but we are the ones who have to vote on the nominee. They are doing us a favor asking these questions. We should, at a minimum, stand here and demand that these be answered before we move forward.

I yield the floor.

The PRESIDING OFFICER (Ms. BALDWIN). The Republican leader.

OBAMACARE

Mr. MCCONNELL. As I mentioned yesterday, I am glad the majority saw the light and stepped back from committing a tragic mistake. It is good news for our country and good news for our democracy. Now that that is behind us, we can get back to debating the issues our constituents are the most concerned about, and for a lot of my constituents they are concerned about ObamaCare.

This is a law that was basically passed against their will and it is a law that is now being imposed upon them by a distant bureaucracy headquartered here in Washington. If the folks in DC are to be believed, its implementation is going just swimmingly. The Democratic leader in the House of Representatives called it ''fabulous.'' The President said the law is ''working the way it's supposed to.'' And my friend the majority leader said the other day that ''ObamaCare has been wonderful for America.''

Fabulous? Wonderful? These are not the kinds of words one normally associates with a deeply unpopular law, or one that media reports suggest is already having a very painful impact on Americans we represent. Which sets up an important question for Senators to consider: Just who are we prepared to believe here when it comes to ObamaCare: the politicians who have developed it or the people who are reacting to it?

The politicians in Washington who forced this law on the country say everything is fantastic. They spent millions on slick ads with smiling actors and sunny-sounding scripts that blissfully—I am being kind here—blissfully dismiss what the reality of this law will actually look like to so many Americans, or what the reality of the law has already become for some of them. That is why the people have taken an entirely different view. They are the ones worried about losing the coverage they like and want to keep, which is understandable given the growing number of news stories about insurance companies pulling out of States and markets altogether. They are the ones worried about their jobs and pay checks.

Each anecdote we hear about a college cutting hours for its employees or a restaurant freezing hiring or a small business already taking the ax to its workforce at such an early stage—each of them is a testament to just how well this law has been working out for the people we were sent to represent.

According to the chamber of commerce's small business survey released just yesterday, anxiety about the requirements of ObamaCare now surpass economic uncertainty as the top worry for small business. The impact of ObamaCare now surpasses economic uncertainty as the top worry for small business owners.

Here is another thing: When even cheerleaders for the law start to become its critics, that is when we know there is something to this train wreck everybody keeps talking about.

Unions are livid—even though they helped pass the law—because they see their members losing care and becoming less competitive as a result of it. That is why they fired off an angry letter to Congress just this week.

The California Insurance Commissioner is troubled too—even though he has been one of ObamaCare's biggest boosters. He is so worried about fraud that he warned we might ''have a real disaster on our hands.'' Well, it is hard to argue with him.

The President was so worried about some of this law turning into a disaster that he selectively delayed a big chunk of it, but he only did that for businesses. He just delayed it for businesses.

A constituent of mine was recently interviewed by a TV station in Paducah, and here is what she said about the President's decision: ''It ain't right.'' Well, she is not alone.

We can argue about whether the President even had the power to do what he did, but here is the point today: If businesses deserve a reprieve because the law is a disaster, then families and workers do too. If this law isn't working the way it is supposed to, then it is a terrible law. If it is not working as planned, then it is not right to foist it on the middle class while exempting business.

That is why the House will vote this week to at least try to remedy that. It is an important first step to giving all Americans and all businesses what they need, which is not a temporary delay for some but a permanent delay for everyone.

The politicians pushing ObamaCare might not like that, but they are not the ones who are having to live with this thing the same way most Americans will have to live with it.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. BALDWIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. I ask unanimous consent that I be recognized as if in morning business for such time as I may consume.

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

EPA REGULATIONS

Mr. INHOFE. Madam President, last Wednesday I came to the floor and spoke about the President's global warming speech and all that the White House is doing to help frame the debate with his talking points memo which we happened to intercept, and it is very interesting.

They also had a secret meeting that took place with alarmist Senators. That is the term used over the past 12 years of those individuals who say the world is coming to an end with global warming.

First, they changed the name from global warming because it was not acceptable. Then they tried climate change. The most recent is carbon pollution. One of these days they will find something that sells, but so far they haven't.

The first thing they don't want to talk about is cost. We have had several global warming and cap-and-trade bills over the past 12 years. When the first bills came out and the Republicans were in the majority, I was the chairman of the Environment and Public Works Committee and had responsibility for defeating them, and we did.

In the beginning, with the Kyoto treaty 12 years ago, and when Al Gore came back from Rio de Janeiro, a lot of people believed this was taking place. Then a group out of the Wharton School did a study and said if we regulate emissions from organizations emitting 25,000 tons or more of CO_2 a year, the cost would be between $300 billion and $400 billion a year. As a conservative, I get the most recent information I can from my State of Oklahoma in terms of the number of people filing Federal tax returns and I do the math. At that time, it meant it would cost each person about $3,000 a year if we had cap-and-trade.

This kept going throughout the years. The most recent one was authored by now-Senator MARKEY, who up until yesterday was Congressman MARKEY. I have a great deal of respect for him, but he had the last cap-and-trade bill regulating those with emissions of 25,000 tons a year or more.

The cost has never been debated much, because Charles River Associates later came out and said it would be between $300 billion and $400 billion a year and MIT said about the same. So we know that cost is there.

To my knowledge, while no one has actually calculated this, keep in mind the President is trying to pass a cap-and-trade policy for Americans through regulation because he was not able to pass it through legislation. If you do it through regulation, it has to be under the Clean Air Act.

The Clean Air Act requires us to regulate any source that puts the emissions at over 250 tons. So instead of 25,000 tons being regulated, it would be 250 tons. That would mean every hospital, apartment building, school, oil and gas well, and every farm would come under this. No one knows exactly what it would cost the economy, but it would be staggering.

To pull this off, the EPA alone would have to spend $21 billion and hire an additional 23,000 bureaucrats. Those are not my figures; those are their figures. So you have to stop and think, if the cap-and-trade bills cost $400 billion regulating the emitters of 25,000 tons a year or more, imagine what it would be when you drop it down to 250 tons.

The second thing the President doesn't want to talk about is the fact that it is a unilateral effort. If you pass a regulation in the United States of America, it is going to only affect the United States of America.

I have always had a lot of respect for Lisa Jackson. Lisa Jackson was the Administrator of the EPA under the Obama administration. While she is liberal and I am conservative, she was always honest in her answers.

I asked her this question: If we pass, by either legislation or any other way, cap-and-trade in the United States, is that going to reduce worldwide CO_2 emissions? Her answer was: No. Because if you do that, you are doing it just on the brightest sectors of our economy. Without China, without Mexico, without India and the rest of the world doing it, then U.S. manufacturers could have the reverse effect, because they could end up going to other countries where there are not restrictions on emissions, and so they would actually be emitting more. So there goes our jobs, overseas, seeking energy in areas where they are able to afford it.

Lisa Jackson's quote exactly: ''I believe . . . that U.S. action alone will not impact CO_2 levels.''

What the President doesn't want to talk about in his lust for overregulation in this country is, one, the fact it is going to cost a lot of money and would be the largest tax increase in the history of America, without question. The second is even if you do it, it doesn't lower emissions.

A lot of people say, Why do they want to do it? And I lose a lot of people when I make this statement, but there are a lot of liberals who believe the government should control our lives more. I had this observation back when I was first elected in the House. One of the differences between liberals and conservatives is that liberals have a basic philosophy that government can run our lives better than people can.

Dr. Richard Lindzen with MIT, one of the most outstanding and recognized scientists in this country and considered to be maybe the greatest source in terms of scientific knowledge, said, ''Controlling carbon is a bureaucrat's dream. If you control carbon, you control life.''

Tomorrow the Environment and Public Works Committee is going to conduct a hearing on climate change—or whatever they call it. I think they are starting out with global warming and may call it carbon pollution. That is the new word because that is more sellable. A lot around here is done with wordsmithing. Republicans and Democrats both do it. Global warming didn't work, climate change didn't work, so now it is CO_2 pollution. They are going to have a hearing, and the chairman of the committee, BARBARA BOXER, is going to have people come in and talk about the world coming to an end. However, the interesting thing is that the administration is sending alarmists to talk about how bad global warming is and how we are going to die, but they are not taking the process seriously enough to send any real official. We have no government officials as witnesses. This is highly unusual. This doesn't happen very often, but that is what we are going to be having.

It is important for Members to understand that greenhouse gas regulations are not the only EPA regulations that are threatening our economy. Again, it is all the regulations by government getting involved in our lives.

If you look at this chart, these are the ones they are actually working on right now in either the Environment and Public Works Committee or the Environmental Protection Agency:

Utility MACT. MACT means maximum achievable control technology. So where is our technology right now? How much can we control? The problem we are having is they are putting the emissions requirements at a level that is below where we have technology to make it happen. So utility MACT would cost $100 billion and 1.56 million jobs. That is in the law already. There are a lot of coal plants being shut down right now.

But, you might ask, how can they do that when right now we are reliant upon coal for 50 percent of the power it takes to run this machine called America?

Boiler MACT. Again, maximum achievable control technology. Every manufacturer has a boiler, so this controls all manufacturers. That is estimated to cost $63.3 billion and 800,000 jobs.

The NAAQS legislation would put a lot of counties out of attainment. When I was the mayor of Tulsa County and we were out of attainment, we were not able to do a lot of the things in order to recruit industry. So this would put 2,800 counties out of attainment, including all 77 counties in my State of Oklahoma. That causes emissions to increase, and then the company would be required to find an offset.

We are kind of in the weeds here, but the simple outcome would be that no new businesses would be able to come to an out-of-attainment area, and existing businesses wouldn't be allowed to expand.

The President is also issuing a new tier 3 standard that applies to refineries as they manufacture gasoline. This rule would cause gasoline to rise by 9 cents a gallon.

The EPA is also working tirelessly to tie groundwater contamination to the hydraulic fracturing process so they and the Federal Government can regulate this. They have tried that in Wyoming in the Pavilion case, they tried it in Pennsylvania in the Dimock case, and in Texas they tried several times.

I know something about that, because hydraulic fracturing started in the State of Oklahoma in 1949. Since then, there have been more than 1 million applications for hydraulic fracturing. Hydraulic fracturing is a way of getting oil and gas out of tight formations. There has never been a confirmed case of groundwater contamination, but they still want to have this regulated by the Federal Government and the Department of Interior is pressing ahead with regulations which would apply to Federal lands.

President Obama has had a war on fossil fuels now for longer than he has been President of the United States. If they could stop hydraulic fracturing and regulate that at the Federal level, then they can stop this boom that is going on in the country. We have had a 40-percent increase in the last 4 years in our production of oil and gas, but that is all on private and State land. We have actually had a reduction in our production on Federal lands.

The EPA has been developing a guidance document for the waters of the United States which would impose the Clean Water Restoration Act on the country. They tried to introduce and pass it 2 years ago. Senator Feingold from Wisconsin and Congressman Oberstar were the authors. Not only was it defeated, but they were both defeated in their next election. That effort is something the President is again trying to do, which they were not able to do through regulations.

What it means is this: We have rules saying that the Federal Government is in charge of water runoff in this country only to the extent it is navigable. That is the word written into the law. If you take the ''navigable'' out, then if you have standing water after a rain, that would be regulated by the Federal Government. That is a major problem that our farmers have—not just the Oklahoma Farm Bureau but farm bureaus throughout America. The Water Restoration Act and the cap-and-trade are the two major issues they are concerned with.

A lot of what the EPA has done is done through enforcement. About a year ago, one of our staff persons discovered that a guy named Al Armendariz, who was a regional EPA administrator, talking to a bunch of people in Texas, said:

> We need to ''crucify'' the oil and gas industry. Just like when the Romans conquered the villages . . . in Turkish towns and they'd find the first five guys they saw and crucify them . . . . . just to show who was in charge.

This is a perspective not just of Armendariz but the entire EPA to the fossil fuel industry.

By the way, Armendariz is no longer there. He is with one of the environmental groups I know, and I am sure he is a lot happier there.

The EPA is also dramatically expanding the number of permits they are required to obtain under the Clean Air Act by counting multiple well sites as though they were one site, even though they may be spread out in as many as 42 square miles.

All of this is so they can regulate more of what goes on at the wells and underscores how adversarial they have been to us having the fuel we need to run this country. The EPA was eventually sued and lost the case over this issue, the issue of what they are doing right now throughout America to try to force all the multiple well sites into one site as they did. They lost in the Sixth Circuit Court of Appeals. But everyplace outside of the Sixth Circuit the EPA is still using their own regulation. This is one we have been talking to them about.

The EPA is also targeting the agricultural community. We talked about what their top concerns are, but in addition to that, the EPA recently released the private sensitive data of pork producers and the concentrated animal feeding operations, that is CAFOs, to environmental groups. The environmental groups hate CAFOs and the EPA knows this, so by doing this the EPA has enabled the environmental groups to target CAFOs and put them out of business.

Those are our farmers. It seems to me when people come into my office and they talk about the abuses of this overregulation, all these things, it seems the ones who keep getting hit worse and worse are the farmers. I can remember when they tried to treat propane as a hazardous waste. We had a hearing. This was some years ago. I was at that time the chairman of the Environment and Public Works Committee. I can remember when they said this only costs the average farmer in Oklahoma another $600 or $700 a year. We went through this thing and were able to defeat that.

Farmers have been hit hard, but they are not alone. All these regulations have been devastating to the entire economy and they are preventing us from achieving our economic recovery. The President is engaged in all-out war on fossil fuels, and he is intent on completing this until his assault on the free enterprise system is completed. The business community knows how bad the regulations are. They have been fighting them tooth and nail since the beginning of Obama's first term.

This chart shows the rules that were approved during the President's first term. This is what he did. If you look at it, take some time—these will be printed in the RECORD so you need to be looking them up and realizing how

serious it is. The greenhouse gas, we talked about that, the EPA, on the diesel engines. All of these regulations are costing fortunes.

The second chart—those are the ones that were approved during the President's first administration. The second is more alarming because it shows several of the major rules the President began developing during his first term but delayed their finalization until after the election. They waited until after the election, knowing the American people would realize how costly this was and that could cost his campaign. He is gaming the system using his administration to advance a critical agenda but hiding the truth from the American people and he is doing it with secret talking points and doing it with the secrecy that shrouds bad rules.

These are the rules that were delayed until after the election. You can get a good idea of the cost. We take down the cost of each one. It is just an incredible amount.

The third chart is—that is what he is doing right now with no accountability to the electorate because he can do anything he wants to right now. Groups are on record opposing this. We have all these groups that are on record opposing this: U.S. Chamber of Commerce, National Association of Manufacturers, NFIB, American Railroads—all the way down through all the agricultural groups and including a lot of labor unions. Historically, the labor unions go right along with the Democrats and with the liberals, but they realize this is a jobs bill and consequently we have the United Mine Workers and others who are being affected by this and are trying to do something about overregulation. All these groups have opposed the rules being put out by the EPA.

Even the unions have opposed the rules because they kill all kinds of jobs, union and nonunion jobs alike. Cecil Roberts, the president of the United Mine Workers, said his organization supported my Congressional Review Act.

Let me explain what that was. You may have noticed in the first chart we had the first MACT bill that was passed. That would put coal out of business. What we have in this body is a rule that nobody uses very often—it has not been used very successfully—but it says if a regulator passes something that is not in the best interests of the people, if you get past the Congressional Review Act with just 30 cosponsors in the Senate, get a simple majority, you can stop that from going into effect.

I had a CRA on that Utility MACT, and Cecil Roberts, president of the United Mine Workers, said his organization supported my CRA to overturn the Utility MACT rule because the rule poses loss of jobs to United Mine Workers Association members.

We also had something recently about Jimmy Hoffa that came out.

These are jobs. These are important. The national unemployment rate is 7.6, but guess what. In Oklahoma we are at full employment. All throughout America, people used to think of the oil belt being west of the Mississippi. That is not true anymore. With the Marcellus chain going through—you have New York, Pennsylvania—in Pennsylvania I understand it is the second largest employer up there. If we were able to do throughout America what we do in Oklahoma, we would solve the problem we have right now. But the Obama rules are there and Obama wants to pursue more that are even worse.

I mention this. We are going to have a very fine lady, Gina McCarthy, who has been the Assistant Director of EPA in charge of air regulations for about 4 years. While we get along very well, she is the one who promotes these regulations. I will not be able to support her nomination. I understand the votes are all there, and we will be having a good working relationship.

But I think it is a wake-up call to the American people. They are going to have to realize the cost. The total cost of these regulations is well over $600 billion annually, which will cost us as many as 9 million jobs. The EPA is the reason our Nation has not returned to full employment. All of this is done intentionally by the Obama administration to cater to their extreme base—right now moveon.org, George Soros, Michael Moore, and that crowd from the far left environmentalists, Hollywood and their friends.

This is going to have to change through a major education endeavor. We have a country to save.

I know there is a lot of partisan politics going on. In this case, the least known destructive force in our country now is overregulation and all of these organizations that are going to pose it are going to have to pay for it. It is going to be paid for in American dollars and American jobs.

I see my colleague from Iowa is on the floor.

I yield the floor.

The PRESIDING OFFICER (Mr. HEINRICH). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I will take a few minutes to talk about the President's nominee for Secretary of Labor Tom Perez. I have already spoken about Mr. Perez over the last few weeks. I will not repeat everything I said, but it is important for my colleagues to understand the basis of my opposition. We have had a lot of debate around here over the last few days about what grounds are appropriate to oppose an executive branch nominee. Many of my colleagues have suggested that Senators should not vote against such a nominee based on disagreement over policy. That may or may not be the appropriate view, but I am not going to get into that debate today.

I am quite sure I would disagree with Mr. Perez on a host of policy issues, but I wish to make clear to my colleagues those policy differences are not the reason I am vigorously opposed to this nominee. I am opposed to Mr. Perez because the record he has established of government service demonstrates that he is willing to use the levers of government power to manipulate the law in order to advance a political agenda.

Several of my colleagues cited examples of his track record in this regard, but in my view perhaps the most alarming example of Mr. Perez's willingness to manipulate the rule of law is his involvement in the quid pro quo between the City of St. Paul and the Department of Justice. In this deal that the Department of Justice cut with the City of St. Paul, the Department agreed not to join two False Claims Act cases in exchange for the City of St. Paul withdrawing its case before the Supreme Court in a case called Magner v. Gallagher.

Mr. Perez's actions in this case are extremely troubling for a number of reasons. At this point, no one disputes the fact that Mr. Perez actually orchestrated this entire arrangement. He manipulated the Supreme Court docket so that his favored legal theory, called disparate impact theory, would evade review by the High Court. In the process, Mr. Perez left a whistleblower twisting in the wind. Those are the facts and even Mr. Perez doesn't dispute them.

The fact that Mr. Perez struck a deal that potentially squandered up to 200 million taxpayer dollars in order to preserve a disparate impact theory that he favored is, of course, extremely troubling in and of itself. But in addition to that underlying quid pro quo, the evidence uncovered in my investigation revealed Mr. Perez sought to cover up the facts that the exchange ever took place.

Finally, and let me emphasize that this should concern all of my colleagues, when Mr. Perez testified under oath about the case, both to congressional investigators and during confirmation hearings, in those two instances, Mr. Perez told a different story. The fact is that the story Mr. Perez told is simply not supported by the evidence.

Let me begin by reviewing briefly the underlying quid pro quo. In the fall of 2011, the Department of Justice was poised to join a False Claims Act lawsuit against the City of St. Paul. That is where the $200 million comes in. That is what was expected to be recovered. The career lawyers in the U.S. Attorney's Office in Minnesota were recommending that the Department of Justice join the case. The career lawyers in the Civil Division of the Department of Justice were recommending the Department join the case. And the career lawyers in the Department of Housing and Urban Development were recommending that Justice join the case. At that point, all of the relevant components of government believed this case was a very good case.

They considered the case on the merits, and they supported moving forward, or as one of the line attorneys wrote in an e-mail in October, 2011: ''Looks like everyone is on board.'' But of course this was all before Mr. Perez got involved.

At about the same time, the Supreme Court agreed to hear the case called Magner v. Gallagher.

In Magner, the City of St. Paul was challenging the use of the disparate impact theory under the Fair Housing Act. The disparate impact theory is a mechanism Mr. Perez and the Civil Rights Division were using in lawsuits against banks for their lending practices. For instance, during this time period Mr. Perez and the Justice Department were suing Countrywide for its lending practices based upon disparate impact analysis. In fact, in December 2011 the Department announced it reached a $355 million settlement with Countrywide. Again, in July 2012 the Department of Justice announced a $175 million settlement with Wells Fargo addressing fair lending claims based upon that same disparate impact analysis. Of course, there are a string of additional examples, but I don't need to recite them here.

What is clear is that if that theory were undermined by the Supreme Court, it would likely spell trouble for Mr. Perez's lawsuits against the banks. Mr. Perez approached the lawyers handling the Magner case, and, quite simply, he cut a deal. The Department of Justice agreed not to join two False Claims Act cases in exchange for the City of St. Paul withdrawing Magner from the Supreme Court. Now we have an interference in the agenda of the Supreme Court at the same time that a deal is going to cut the taxpayers out of winning back $200 million under the False Claims Act.

In early February 2012 Mr. Perez flew to St. Paul, and he flew there solely to finalize the deal. The next week the Justice Department declined to join the first False Claims Act, called the Newell case. The next day the City of St. Paul kept their end of the bargain and withdrew the Magner case from the Supreme Court.

There are a couple of aspects of this deal that I wish to emphasize for my colleagues. First, as I mentioned, the evidence makes clear that Mr. Perez took steps to cover up the fact he had bartered away the False Claims Act cases and the $200 million.

On January 10, 2012, Mr. Perez called the line attorney in the U.S. Attorney's Office regarding the memo in the Newell case. Newell was the case that these same career attorneys I referred to and quoted previously were strongly recommending the United States join before Mr. Perez got involved. Mr. Perez called the line attorney and instructed him not to discuss the Magner case in the memo that he prepared outlining the reasons for the decisions not to join the case. Here is what Mr. Perez said on that call:

> Hey, Greg. This is Tom Perez calling you at—excuse me, calling you at 9 o'clock on Tuesday. I got your message. The main thing I want to ask you, I spoke to some folks in the Civil Division yesterday and wanted to make sure that the declination memo that you sent to the Civil Division—and I am sure it probably already does this—but it doesn't make any mention of the Magner case. It is just a memo on the merits of the two cases that are under review in the qui tam context.

It is pretty clear they didn't want anything in writing that led people to believe there was any deal being made.

After that telephone message was left, approximately 1 hour later Mr. Perez sent Mr. Brooker a followup e-mail, writing:

> I left a detailed voicemail. Call me if you can after you have a chance to review [the] voicemail.

Several hours later Mr. Perez sent another followup e-mail, writing:

> Were you able to listen to my message?

Mr. Perez's voicemail was quite clear and obvious. It told Mr. Brooker to ''make sure that the declination memo . . . doesn't make any mention of the Magner case. It is just a memo on the merits of the two cases.'' It is so very clear. In fact, it couldn't be more clear that this was an effort—that there was no paper trail that there was ever any deal made.

Yet, when congressional investigators asked Mr. Perez why he left the voicemail, he told an entirely different story. Here is what he told investigators:

> What I meant to communicate was, it is time to bring this to closure, and if the only issue that is standing in the way is how you talk about Magner, then don't talk about it.

Anyone who actually listens to the voicemail knows this is plainly not what he said in that voicemail. He didn't say anything about being concerned with the delay. He said: Make sure you don't mention Magner. It is just a memo on the merits. His intent was crystal clear.

Mr. Perez also testified that Mr. Brooker called him back the next day and refused to omit the discussion of Magner. Let's applaud that civil servant because he chose not to play that game. According to Mr. Perez, he told Mr. Brooker during this call to follow the normal process. Again, this story is not supported by the evidence.

One month later, after Mr. Perez flew to Minnesota to personally seal the deal with the city, a line attorney in the Civil Division e-mailed his superior to outline the ''additional facts'' about the deal.

Before I begin the quote, I want to give the definition of ''USA-MN,'' which stands for ''U.S. Attorney, Minnesota.''

Point 6 reads as follows:

> USA-MN considers it non-negotiable that its office will include a discussion of the Supreme Court case and the policy issues in its declination memo.

If Mr. Perez's story were true and the issue was resolved on January 11, why 1 month later would the U.S. Attorney's Office need to emphatically state that it would not hide the fact that the exchange took place?

As I just mentioned, Mr. Perez flew to Minneapolis to finalize the deal on February 3. You would think, wouldn't you, that a deal of this magnitude would be written down so the parties understood exactly what each side agreed to. But was this agreement written down? No, it wasn't. After Mr. Perez finalized the deal, the career attorneys asked if there was going to be a written agreement. What was Mr. Perez's response? He said: ''No, just oral discussions; word was your bond.''

So let me just review. At this point Mr. Perez had just orchestrated a deal where the United States declined to join a case worth up to $200 million of taxpayers' money in exchange for the City of St. Paul withdrawing a case from the Supreme Court. When the career lawyers asked if this deal will be written down, he said: ''No . . . [your] word was your bond.''

Of course, the reason you make agreements like this in writing is so that there is no disagreement down the road about what the parties agreed to. As it turns out, there was, in fact, a disagreement about the terms of this unwritten deal.

The lawyer for the city, Mr. Lillehaug, told congressional investigators that on January 9, approximately 1 month before the deal was finalized, Mr. Perez had assured him that ''HUD would be helpful'' if the Newell case proceeded after the Department of Justice declined to intervene. Mr. Lillehaug also told investigators that on February 4, the day after they finalized the deal, Mr. Perez told him that HUD had begun assembling information to assist the city in a motion to dismiss the Newell complaint on ''original source'' grounds. According to Mr. Lillehaug, this assistance disappeared after the lawyers in the Civil Division learned of it.

Why is that significant? Mr. Perez represents the United States. He represents the American people. Mr. Newell, the whistleblower, is bringing a case on behalf of the United States and indirectly the people. Mr. Perez is talking to the lawyers on the other side, and he tells the people, in essence: After the United States declines to join the case, we will give you information to help you defeat Mr. Newell, who is bringing the case on behalf of the United States.

Let me say that a different way. In effect, Mr. Perez is offering to give the other side information to help defeat his own client. Is that the way you represent the American people? Mr. Perez was asked about this under oath. Mr. Perez told congressional investigators, ''No, I don't recall ever suggesting that.''

So on the one hand, we have Mr. Lillehaug, who says Mr. Perez made this offer first in January and then again on February 4 but the assistance disappeared after the lawyers in the

Civil Division caught wind of it. On the other hand, it was Mr. Perez who testified under oath: ''I don't recall'' ever making such an offer. Whom should we believe? The documents support Mr. Lillehaug's version of the event.

On February 7, a line attorney sent an e-mail to the director of the Civil Fraud Section and relayed a conversation a line attorney in Minnesota had with Mr. Lillehaug. The line attorney wrote that Mr. Lillehaug stated that there were two additional items that were part of the deal. One of the two items was this:

> HUD will provide material to the City in support of their motion to dismiss on original source grounds.

Internal e-mails show that when the career lawyers learned of this promise, they strongly disagreed with it, and they conveyed their concern to Tony West, head of the Civil Division. During his transcribed interviews, Mr. West testified that it would have been ''inappropriate'' to provide this material outside of the normal discovery channels. Mr. West said:

> I just know that that wasn't going to happen, and it didn't happen.

In other words, when the lawyers at the Civil Division learned of this offer, they shut it down.

Again, why is this important? It is important because it demonstrates that the documentary evidence shows the events transpired exactly as Mr. Lillehaug said they did.

Mr. Perez offered to provide the other side with information that would help them defeat Mr. Newell in this case on behalf of the United States. In my opinion, this is simply stunning. Mr. Perez represents the United States. Any lawyer would say it is highly inappropriate to offer to help the other side defeat their own client.

This brings me to my final two points that I wish to highlight for my colleagues. Even though the Department traded away Mr. Newell's case and $200 million, Mr. Perez has defended his actions, in part by claiming that Mr. Newell still had his ''day in court.'' What Mr. Perez omits from his story is that Mr. Newell's case was dismissed precisely because the United States would not continue to be a party and would not be a party.

After the United States declined to join the case, the judge dismissed Mr. Newell's case based upon the ''public disclosure bar,'' finding that he was not the original source of information to the government.

I will remind my colleagues, we amended the False Claims Act several years ago precisely to prevent an outcome such as this. Specifically, the amendments made clear that the Justice Department can contest the ''original source'' dismissal even if it fails to intervene, as it did in this case.

So the Department didn't merely decline to intervene, which is bad enough, but, in fact, it affirmatively chose to leave Mr. Newell all alone in this case. And, of course, that was the whole point. That is why it was so important for the City of St. Paul to make sure the United States did not join the case. That is why the city was willing to trade away a strong case before the Supreme Court, and when the Newell case didn't go forward, they cut the taxpayers out of $200 million. The city knew if the United States joined the action the case would almost certainly go forward. Conversely, the city knew if the United States did not join the case and chose not to contest the original source, it would likely get dismissed.

The Department traded away a case worth millions of taxpayers' dollars. They did it precisely because of the impact the decision would have on the litigation. They knew as a result of their decision, the whole whistleblower case would get dismissed based upon ''original source'' grounds since the Department didn't contest it. Not only that, Mr. Perez went so far as to offer to provide documents to the other side that would help them defeat Mr. Newell in his case on behalf of Mr. Perez's client, the United States.

That is really looking out for the taxpayers. How would a person like to have a lawyer such as Mr. Perez defending them in some death penalty case? Yet when the Congress started asking questions, they had the guts to say: ''We didn't do anything improper because Mr. Newell still had his day in court.'' Well, Mr. Newell didn't have his day in court because the success of that $200 million case was dependent upon the United States staying in it.

Now, this brings me to my last point on the substance of this matter, and that has to do with the strength of the case. Throughout our investigation, the Department has tried to defend Mr. Perez's action by claiming the case was marginal and weak. Once again, however, the documents tell a far different story.

Before Mr. Perez got involved, the career lawyers at the Department wrote a memo recommending intervention in the case. In that memo, they described St. Paul's actions as ''a particularly egregious example of false certifications.''

In fact, the career lawyers in Minnesota felt so strongly about the case they took the unusual step of flying to Washington, DC, to meet with officials in the Department of Housing and Urban Development. The Department of Housing and Urban Development, of course, agreed the United States should intervene in this false claims case. But, of course, that was all before Mr. Perez got involved.

The documents make clear that career lawyers considered it a strong case, but the Department has claimed that Mike Hertz—the Department's expert on the False Claims Act—considered it a weak case. In fact, during his confirmation hearing, Mr. Perez testified before my colleagues on the Senate HELP Committee that Mr. Hertz ''had a very immediate and visceral reaction that it was a weak case.''

Once again, the documents tell a much different story than was told to Members of the Senate. Mr. Hertz knew about the case in November of 2011. Two months later, a Department official took notes of a meeting where the quid pro quo was discussed. The official wrote down Mr. Hertz's reaction. She wrote:

> Mike—odd—Looks like buying off St. Paul. Should be whether there are legit reasons to decline as to past practice.

The next day, the same official e-mailed the associate attorney general and said:

> Mike Hertz brought up the St. Paul disparate impact case in which the Solicitor General just filed an amicus brief in the Supreme Court. He's concerned about the recommendation that we decline to intervene in two qui tam cases against St. Paul.

These documents appear to show that Mr. Hertz's primary concern was not the strength of the case, as Mr. Perez led my Senate colleagues to believe. Mr. Hertz was concerned the quid pro quo Mr. Perez ultimately arranged was improper. Again, in his words, it ''looks like buying off St. Paul.'' Yet, Mr. Perez led my colleagues on the HELP Committee to believe that Mr. Hertz believed it was a bad case on the merits.

Let me make one final point regarding process and why it is premature to even be having this debate. As of today, when we vote on Mr. Perez's nomination, we will be voting on a nominee who, to date, has not complied with a congressional subpoena compelling him to turn over certain documents to Congress. I am referring to the fact that the House Committee on Oversight and Government Reform subpoenaed e-mails from Mr. Perez.

During the course of our investigation, we learned that Mr. Perez was routinely using his private e-mail account to conduct government business, including business related to the quid pro quo. In fact, the Department of Justice admitted that Mr. Perez had used his private e-mail account approximately 1,200 times to conduct government business. After Mr. Perez refused to turn those documents over voluntarily, then the House oversight committee was forced to issue a subpoena. Yet, today, Mr. Perez has refused to comply with the subpoena.

Here we have a person in the Justice Department doing all of these bad things. People want him to be Secretary of Labor, and we are supposed to confirm somebody who will not respond to a subpoena for information to which Congress is constitutionally entitled. We have people come before Congress who say, yes, they will respond to letters from Congress; they will come up and testify; they are going to cooperate in the spirit of checks and balances, and then we have somebody before the Senate who will not even respond to a subpoena.

So I find it quite troubling that this body would take this step and move forward with a nomination when the

nominee simply refuses to comply with an outstanding subpoena. Can any of my colleagues recall an instance in the past when we were asked to confirm a nominee who had flatly refused to comply with a congressional subpoena? Why would we want somebody in the Cabinet thumbing their nose at the elected representatives of the people of this country who have the constitutional responsibility of checks and balances to make sure the laws are faithfully executed? That is what they take an oath to do. It is quite extraordinary and should concern all of my colleagues, not just Republicans.

My colleagues are well aware of how I feel about the Whistleblower Protection Act, and my colleagues know how I feel about protecting whistleblowers who have the courage to step forward, often at great risk to their careers. But this is about much more than the whistleblower who was left dangling by Mr. Perez. This is about the fact that Mr. Perez manipulated the rule of law in order to get a case removed from the Supreme Court docket. And this is about the fact that when Congress started asking questions about this case, and when Mr. Perez was called upon to offer his testimony under oath, he chose to tell a different story.

The unavoidable conclusion is that the story he told is not supported by the facts. This is also about the fact that we are about to confirm a nominee who, even as of today, is still thumbing his nose at Congress by refusing to comply with a congressional subpoena.

I began by saying that although I disagree with Mr. Perez on a host of policy issues, those disagreements are not the primary reason my colleagues should reject this nomination. We should reject this nomination because Mr. Perez manipulated the levers of power available to few people in order to save a legal theory from Supreme Court review.

Perhaps more importantly, when Mr. Perez was called upon to answer questions about his actions under oath, I do not believe he gave us a straight story.

Finally, we should reject this nomination because Mr. Perez failed—and refuses still—to comply with a congressional subpoena.

For these reasons, I strongly oppose the nomination, and I urge my colleagues to do the same.

Mr. President, I have completed my statement and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, I have listened very carefully to my friend from Iowa, and I couldn't disagree with him more. I know he has very strong views about the nomination of Tom Perez, but let me go through the record.

I wish to spend a little bit of time speaking first about Tom Perez. I know him very well. We have served together in government in Maryland. He served on the county council of Montgomery County. I will mention that he was the first Latino to serve on the county council of Montgomery County. Montgomery County, which is very close to here, is larger than some of our States. It is a large government. It has very complex problems. He served with great distinction on the county council.

As the Presiding Officer knows, it is a very difficult responsibility to serve local government. One has to deal with the day-to-day problems of the people in the community. He served with such distinction that he was selected to be the president of the county council, the head of the county council of Montgomery County.

He then went on to become the Secretary of the Department of Labor, Licensing and Regulation under Governor O'Malley in the State of Maryland, which is a very comparable position to which President Obama has appointed him as Secretary of Labor in his Cabinet.

It is very interesting that as Secretary of Labor, Licensing and Regulation, he had to deal with very difficult issues—issues that can divide groups. But, instead, he brought labor and business together and resolved many issues.

It is very interesting, in his confirmation process, business leaders and labor leaders came forward to say this is the right person at the right time to serve as Secretary of Labor in the Obama administration.

I held a press briefing with the former head of the Republican party in Maryland and he was very quick to point out that Tom Perez and he did not agree on a lot of policy issues, but he is a professional, he listens, and tries to make the right judgment. That is why he should be confirmed as Secretary of Labor. That was the former head of the Republican party in Maryland who made those statements a few months ago.

Tom Perez has a long history of public service. He served originally in the Department of Justice in many different capacities. He started in the Department of Justice. He served in the Civil Rights Division and, of course, later became the head of the Civil Rights Division. He helped us in the Senate, serving as a staff person for Senator Kennedy.

I think the greatest testimony of his effectiveness is how he has taken the Civil Rights Division from a division that had lost a lot of its glamour, a lot of its objectivity under the previous administration, and is returning the Department of Justice to that great institution to protect the rights of all Americans.

Look at his record in the Department of Justice: Enforcement of the Shepard-Byrd Hate Crimes Prevention Act. The division convicted 141 defendants on hate crimes charges in 4 years. That is a 74-percent increase over the previous 4 years. The division brought 194 human trafficking cases. That is a 40-percent increase.

You could talk a good deal about what happened between 2004 and 2008 with Countrywide Financial Corporation, one of the Nation's largest residential mortgage lenders, engaging in systematic discrimination against African-American and Latino borrowers by steering them into subprime loans or requiring them to pay more for their mortgages. I know the pain that caused. I met with families who should have been in traditional mortgages who were steered into subprime loans, and they lost their homes. Tom Perez represented them in one of the largest recoveries ever. The division's settlement in 2011 required Bank of America—now the owner of Countrywide—to provide $335 million in monetary relief to the more than 230,000 victims of discriminatory lending—the largest fair lending settlement in history.

That is the record of Tom Perez as the head of the Civil Rights Division.

The division investigated Wells Fargo Bank, the largest residential home mortgage lender in the United States, alleging that the bank engaged in a nationwide pattern or practice of discrimination against minority borrowers placed, again, in subprime loans. The division's settlement—the largest per-victim recovery ever reached in a division lending discrimination case—required Wells Fargo to pay more than $184 million to compensate discrimination victims and to make a $50 million investment in a home buyer assistance program.

I could go on and on and on about the record Tom Perez has in his public service—at the county level, at the State level, and at the Federal level. He has devoted his career to public service and has gotten the praise of conservatives and progressives, Democrats and liberals, and business leaders and labor leaders. That is the person we need to head the Department of Labor.

So let my spend a few minutes talking about Senator GRASSLEY's two points that he raises as to why we should deny confirmation of the nomination of Tom Perez, the President's choice for his Cabinet.

He talked about the fact that Tom Perez has not answered all the information Senator GRASSLEY would like to see from a House committee—a partisan effort in the House of Representatives. It is not the only case. There is hardly a day or a week that goes by that there is not another partisan investigation in the House of Representatives. That is the matter the Senator from Iowa was talking about—not an effort that we try to do in this body, in the Senate, to work bipartisanly when we are doing investigations. This has been a partisan investigation.

Thousands of pages of documents have been made available to congressional committees by the Department of Justice. So let's get the record straight as to compliance. The Department of Justice, Tom Perez, has complied with the reasonable requests of

the Congress of the United States and spent a lot of time doing that. It is our responsibility for oversight, and we have carried out our responsibility for oversight. Any balanced review of the work done by the Department of Justice Civil Rights Division will give the highest marks to Tom Perez on restoring the integrity of that very important division in the Department of Justice.

Let me talk about the second matter Senator GRASSLEY brings up, and that deals with the City of St. Paul case—one case. It dealt with the city of St. Paul in the Supreme Court Magner case.

Senator GRASSLEY points out, and correctly so, this is a disparate impact case. It not only affects the individual case that is before the Court, it will have an impact on these types of cases generally. When you are deciding whether to litigate one of these cases, you have to make a judgment as to whether this is the case you want to present to the Court to make a point that will affect not only justice for the litigant but for many other litigants. You have to decide the risk of litigation versus the benefit of litigation. You have to make some tough choices as to whether the risk is worth the benefit.

In this case, the decision was made, not by Tom Perez, not by one person. Career attorneys were brought into the mix, and career attorneys—career attorneys—advised against the Department of Justice interceding in this case. HUD lawyers thought this was not a good case for the United States to intercede.

Senator GRASSLEY says: Well, this was a situation where there was a quid pro quo. It was not. There was a request that the United States intercede and dismiss. Tom Perez said: No, we are not going to do that. The litigation went forward. So a professional decision was made based upon the best advice, gotten by career attorneys—attorneys from the agency that was directly affected by the case that was before the Court—and a decision was made that most objective observers will tell you was a professional judgment that is hard to question. It made sense at the time.

I understand Senator GRASSLEY has a concern about the case. People can come to different conclusions. But look at the entire record of Tom Perez. I think he made the right decision in that case. But I know he has a proud record of leadership on behalf of the rights of all Americans, and that is the type of person we should have as Secretary of Labor.

Tom Perez has been through confirmation before. He was confirmed by the Judiciary Committee to serve as the head of the Civil Rights Division of the Department of Justice. Thorough vetting was done at that time. Questions were asked, debate was held on the floor of the Senate, and by a very comfortable margin he was confirmed to be the head of the Civil Rights Division.

Now the Health, Education, Labor, and Pensions Committee has held a hearing on Tom Perez to be Secretary of Labor. They held a vote several months ago and reported him favorably to the floor. It is time for us to have an up-or-down vote on the President's nomination for Secretary of Labor. I hope all my colleagues would vote to allow this nomination to be voted up or down.

I was listening to my distinguished friend from Iowa. I heard nothing that would deny us the right to have a vote on a Presidential nomination. That is the first vote we are going to have on whether we are going to filibuster a Cabinet position for the President of United States and a person whose record is distinguished with a long record of public service—and a proven record.

Then the second vote is on confirmation, and Senators may disagree. I respect every Senator to do what he or she thinks is in the best interests. But I would certainly hope on this first vote, when we are dealing with whether we are going to filibuster a President's nomination for Secretary of Labor, that we would get the overwhelming support of our colleagues to allow an up-or-down vote on Tom Perez to be the next Secretary of Labor.

I started by saying I have known Tom Perez for a long time, and I have. I know he is a good person, a person who is in public service for the right reasons, a person who believes each individual should be protected under our system, and that as Secretary of Labor he will use that position to bring the type of balance we need in our commercial communities to protect working people and businesses so the American economy can grow and everyone can benefit from our great economy.

I urge my colleagues to support this nomination and certainly to support moving forward on an up-or-down vote on the nomination to be Secretary of Labor.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, let me begin by concurring with the remarks of Senator CARDIN. Tom Perez will make an excellent Secretary of Labor, and I strongly support his nomination.

GLOBAL WARMING

Mr. President, it is no great secret that the Congress is currently held in very low esteem by the American people, and there are a lot of reasons for that. But I think the major reason, perhaps, is, in the midst of so many serious problems facing our country, the American people perceive that we are not addressing those issues, and they are right.

Regardless of what your political point of view may be, we are looking at a middle class that is disappearing. Are we addressing that issue? No. Poverty is extraordinarily high. Are we moving aggressively to address that? No, we are not. We have the most expensive health care system in the world, enormously bureaucratic and wasteful. Are we addressing that? No, we are not. But the issue I want to talk about today—maybe more clearly than any other issue in terms of our neglect—is the issue of global warming.

At a time when virtually the entire scientific community—the people who spend their lives studying climate change—tells us that global warming is real, that it is significantly caused by human activity, and that it is already doing great damage, it is beyond comprehension that this Senate, this Congress, is not even discussing that enormously important issue on the floor of the Senate. Where is the debate? Where is the legislation on what might be considered the most significant planetary crisis we face? I fear very much that our children and our grandchildren—who will reap the pain from our neglect—will never forgive us for not moving in the way we should be moving.

I understand that some of my colleagues, including my good friend JIM INHOFE from Oklahoma—whom I like very much—that some of my Republican friends, especially, believe global warming is a hoax. They believe global warming is a hoax perpetrated by Al Gore, the United Nations, the Hollywood elite. This is what people such as JIM INHOFE actually believe.

Well, I have to say to my good friend Mr. INHOFE that he is dead wrong. Global warming is not just a crisis that will impact us in years to come, it is impacting us right now, and it is a crisis we must address. In fact, global warming is the most serious environmental crisis facing not just the United States of America but our entire planet, and we cannot continue to ignore that reality.

Science News reports that cities in America matched or broke at least 29,000 high-temperature records last year.

According to the National Oceanic and Atmospheric Administration, 2012 was the warmest year ever recorded for the contiguous United States. It was the hottest year ever recorded in New York, in Washington, DC, in Louisville, KY, and in my hometown of Burlington, VT, and other cities across the Nation.

Our oceans also are warming quickly and catastrophically. A new study found that North Atlantic waters last summer were the warmest in 159 years of record-keeping. The United Nations World Meteorological Organization in May issued a warning about ''the loss of Arctic sea ice and extreme weather that is increasingly shaped by climate change.''

Scientists are now warning that the Arctic may experience entirely ice-free summers within 2 years. Let me repeat that. The Arctic may experience entirely ice-free summers within 2 years. Scientists are also reporting that carbon dioxide levels have reached a dangerous milestone level of 400 parts per

million, a level not seen on the planet Earth for millions of years.

In fact, the world's leading scientists unequivocally agree. A recent review of the scientific literature found that more than 98 percent of peer-reviewed scientific studies on climate change support the conclusion that human activity is causing climate change. The American Association for the Advancement of Science, one of the most important and prestigious scientific organizations in our country and the world, this is what they say:

> Among scientists, there is now overwhelming agreement based on multiple lines of scientific evidence that global climate change is real. It is happening right now. It will have broad impacts on society.

That is from the American Association for the Advancement of Science. We are not into speculation. We are not into debate. The conclusion is there. Global warming is real. It is happening right now. It is impacting the United States of America and the world right now. It will only get worse if we do not act.

The examples of that are so numerous that one can go on hour after hour. But let me give you just a few. Extreme weather events are now occurring with increased frequency and increased intensity; that is, extreme weather disturbances. In 2011 and 2012, the United States experienced an extraordinary 25 billion-dollar disasters—25 separate billion-dollar disasters, so called because they each caused more than $1 billion worth of damage.

That is unprecedented. NOAA's Climate Extreme Index, which is a system for assessing a wide range of extreme weather that includes extreme temperatures, extreme drought, extreme precipitation, tropical storms—NOAA's Climate Extreme Index tells us that 2012 was characterized by the second most extreme climate conditions ever recorded.

A number of colleagues make the point—they come up and say: Senator SANDERS and others, dealing with climate change is going to be expensive. Transforming our energy system away from fossil fuels is going to be expensive. They are right. It is going to be expensive.

But the question we have to ask is, compared to what? Compared to doing nothing? Compared to conducting business as usual? Compared to allowing a significant increase in drought, in floods, in extreme weather disturbances? Compared to that, acting now and acting boldly is cost-effective. Yes, it will be expensive. But it will be a lot less expensive, cause a lot less human pain and less human deaths than allowing global warming to continue unmitigated.

The cost—and this is an interesting point, especially for my conservative friends who look to the business community for information and for analysis. The cost of catastrophe and extreme weather events has been trending upward for 30 years. This is very much a budget and economic issue. Munich Re, the largest reinsurance company in the world, the company that insures the insurance companies, has already documented a fivefold increase in extreme weather events in North America since 1980.

They keep track of this stuff pretty closely because for them this is a dollars-and-cents issue. They are the ones who help others pay out the benefits when there is extreme damage as a result of storms and floods, et cetera. Munich Re calculated that the economic cost of damages due to natural catastrophes in the United States exceeded $139 billion in 2012 alone.

So when you talk about money and you talk about expense and you talk about cost, let's understand that we already are racking up recordbreaking costs in terms of dealing with the extreme weather disturbances we have seen in recent years.

The Allianz insurance company noted bluntly last fall, ''Climate change represents a threat to our business.'' That is an insurance company. But it is not just the insurance companies; it is the businesses that are seeing insurance become unaffordable when they are hit with floods and other disasters. That comes right out of their bottom line.

Global warming, of course, is closely tied to drought and fire as well. Last year's drought affecting two-thirds of the United States was the worst in half a century. But the United States is not the only country on Earth being impacted.

We obviously pay attention to what is happening within our borders. But global warming is having huge impacts all over this planet. Brazil is experiencing its worst drought in 50 years. It is directly affecting over 10 million people in that country. Because of impacts to wheat farms, the price of flour rose over 700 percent.

Australia just experienced a 4-month heat wave with severe wildfires, record-setting temperatures and torrential rains and flooding causing over $2 billion in damage in that country.

In recent years, other parts of the world—Russia, China, Southern Europe and Eastern Europe—have also suffered severe heat waves and droughts, with substantial impacts to agricultural communities and their economic well-being.

Just weeks ago, as everybody in America knows, we watched as fires raged across parts of the Western United States, including the massive and dangerously explosive West Fork fire in southwestern Colorado. Let me take a moment now to acknowledge the deaths of 19 unbelievably brave firefighters from Prescott, AZ, who lost their lives trying to protect their neighbors and property near Phoenix.

Wildfires such as these appear to be increasingly common. In fact, the Chief of the U.S. Forest Service Thomas Tidwell reported to Congress that America's wildfire season lasts 2 months longer than it did 40 years ago and burns twice as much land as it did then because of the hotter, drier conditions from climate change.

Last year's extraordinary wildfires burned more than 9 million acres of land, according to the National Interagency Fire Center. Chief Tidwell also warned of the increasing frequency of monster fires. When we are talking about drought, it is not just some kind of abstraction. When drought occurs, agriculture suffers. When agriculture suffers, the cost of food goes up. In parts of the world where people have very little money, this is catastrophic.

That is one of the points made by the CIA, the Department of Defense, many of our intelligence agencies. When they talk about national security issues, they often put at the top of the list or close to the top of the list global warming because they understand that drought and floods mean people do not have the food they need, people do not have the water they need, people are going to migrate from one area to another. It is going to cause tension. It is going to cause conflict. So global warming is also a major national security issue.

One of the issues we do not talk enough about—I know Senator WHITEHOUSE of Rhode Island does talk about it—is the impact that global warming is having on our oceans that is driving fish to deeper, cooler waters, threatening the fishing industry and food security. In the Pacific Northwest, for example, according to NOAA and as reported by USA Today, just this spring shellfish farmers on the west coast are increasingly experiencing collapses in both hatcheries and natural ecosystems.

Extreme weather and rising sea levels also threaten people across the planet. More than 31 million people fled their homes just last year because of disasters related to floods and storms tied to climate change. According to a number of sources, climate change will create, in years to come, even larger numbers of what we call climate refugees as low-lying countries lose land mass to rising seas and to desertification, consuming once-fertile territory.

In northern India, nearly 6,000 people are dead or missing from devastating floods and landslides just last month. Closer to home, Hurricane Sandy alone displaced three-quarters of a million people in the United States and is costing us up to 60 billion Federal dollars in helping those communities rebuild.

Permanent displacement is already occurring in the United States. In other words, people are permanently losing their residences. The Army Corps of Engineers predicted that the entire village of Newtok, AK, could be underwater by 2017, and more than 180 additional Native Alaskan villages are at risk. Parts of Alaska are literally vanishing.

Scientists believe that entire U.S. cities or parts of coastal cities are in danger of being flooded as well. In fact,

experts are telling us that cities such as Miami, Ft. Lauderdale, New York, New Orleans, and others will face a growing threat of partial submersion within just a few decades as sea levels and storm surge levels continue to climb and that entire countries—small island nations such as Micronesia and the Maldives and large nations such as Indonesia face similar risk.

Ironically, rising sea levels are even threatening key oil industry infrastructure. For example, scientists at NOAA are estimating that portions of the Louisiana State Highway 1 will be inundated by rising high tides 30 times per year. Highway 1 provides the only access to a port servicing nearly one out of every five barrels of the U.S. oil supply.

What is my point? My point is that we are facing a horrendous planetary crisis. We cannot continue to ignore it. We must act, and we must act now.

In my view, the first thing we must do is we must not make a terribly dangerous situation—i.e., global warming and greenhouse gas emissions—even worse than it is right now. We must break our dependence on fossil fuels, not expand it. We must modernize our grid and transform our energy system to one based on sustainable energy sources, and we must move aggressively toward energy efficiency.

In that process, we must reject the Keystone XL Pipeline proposal, which would dramatically increase carbon dioxide emissions, according to the EPA, by the equivalent of 18.7 million metric tons per year, releasing as much as 935 million metric tons over 50 years. In other words, the planet faces a crisis right now. Why would we think for one second about making that crisis even worse?

Further, Congress needs to end wasteful subsidies for the industries that are causing climate change. According to a report by DBL Investors, between 1918 and 2009, the oil and gas industry received government subsidies to the tune of $446 billion, to say nothing of State subsidies which have benefited from decades' worth of backroom political deals. In other words, why are we continuing to subsidize those industries that are helping to bring devastating damage to our planet.

Thirdly, even though fossil fuels are the most expensive fuels on Earth, the fossil fuel industry for too long has shifted these enormous costs onto the public, walking away with billions in profits while the American people have to bear the real costs of rising seas, monster storms, devastating droughts, heat waves, and other extreme weather. When people tell you that coal or oil is cheap, what they are forgetting about are the social costs in terms of infrastructure damage and in terms of human health. These fuels are not cheap.

As we transform our energy system away from fossil fuels, we must finally begin pricing carbon pollution emissions so the polluters themselves begin carrying the costs instead of passing them on to our children and grandchildren.

I am proud to have joined with Senator BARBARA BOXER, the chairperson of the Environment Committee in the Senate, to introduce the Climate Protection Act earlier this year. Our bill establishes a fee on carbon pollution emissions, an approach endorsed by people all across the political spectrum, including conservatives such as George Shultz, Nobel Laureate economist Gary Becker, Mitt Romney's former economic adviser Gregory Mankiw, former Reagan adviser Art Laffer, former Republican Congressman Bob Inglis, and others.

Our bill does a number of things. One of the things it does is return 60 percent of the revenue raised directly back to taxpayers in order to address increased fuel costs. It puts money, substantial sums of money, into supporting sustainable energy research, weatherizing homes, job creation, and helping manufacturing businesses save money through energy efficiency and deficit reduction.

This begins the process of transforming our energy system by imposing a fee on carbon. It deincentivizes fossil fuel by putting money into energy efficiency and sustainable energy. It helps us move in a very different and healthier direction.

Let me conclude by going back to the point that I made when we started. The American people are shaking their heads at what goes on in Washington.

This country is facing enormous problems, economic problems, social problems, and I would argue that in global warming we face a planetary crisis. The American people want us to act. It is incomprehensible that week after week, month after month, year after year, we are not addressing the issue of global warming.

I hope sooner rather than later we will bring serious legislation to the floor of the Senate, that we have that debate, and we do what the planetary crisis requires; that is, transform our energy system, move away from fossil fuel, and move to energy efficiency and sustainable energy.

I yield the floor.

The PRESIDING OFFICER (Mr. MURPHY). The Senator from Texas.

PEREZ NOMINATION

Mr. CORNYN. Mr. President, I rise to express my deep concerns over the President's nomination of Thomas Perez to be Secretary of the Department of Labor.

When executing its advice-and-consent role, which, of course, is ensconced within the Constitution itself, it is the duty of the Senate to ensure that the people the President appoints to positions of power are of the highest caliber. It is our duty to examine their record and to determine whether each nominee ought to be granted the public trust.

While no one can deny that Mr. Perez has spent his career in public service, I am afraid his record raises serious concerns over his ability to fairly and impartially lead the Department of Labor. Mr. Perez has a documented record of acting with political motivation and being a partisan, selective enforcer of the law. He has been misleading in his sworn testimony and ethically questionable in some of his actions.

For example, during his tenure at the Department of Justice, Mr. Perez has been in charge of the Civil Rights Division, which includes the voting rights section. One would hope that if any part of the Department of Justice would be apolitical, it would be the Civil Rights Division. But under Mr. Perez's watch, the voting rights section has compiled a disturbing record of political discrimination and selective enforcement of the law.

You don't have to take my word for it. All you have to do is take a look at the 258-page report issued by the Department of Justice inspector general earlier this year.

The report cites a ''deep ideological polarization'' of the voting rights section under Mr. Perez. It goes on to say this polarization ''has at times been a significant impediment to the operation of the Section and has exacerbated the potential appearance of politicized decisionmaking.''

Instead of upholding and enforcing all laws equally, Mr. Perez launched politically motivated campaigns against commonsense constitutional provisions such as voter ID both in Texas and in South Carolina.

The Supreme Court of the United States, in an opinion written by John Paul Stevens, who was, by all accounts, an independent member of the Supreme Court, the Supreme Court of the United States held that commonsense voter identification requirements are not an undue burden on the right to cast one's ballot and, indeed, are a reasonable means by which voter fraud is combated and protection of the integrity of the ballot is ensured.

Yet Thomas Perez, working at the Department of Justice, targeted the voter ID requirement passed by the Texas Legislature and blocked it effectively, and the same thing in South Carolina, based on nothing but politics—certainly not based on U.S. Supreme Court precedent that states it was not an undue burden on the right to vote, and it was a legitimate means to protect the integrity of the ballot and to combat fraud.

The inspector general goes on to describe misleading testimony that Mr. Perez gave before the U.S. Commission on Civil Rights in 2010 about a prominent voting rights case, stating that it ''did not reflect the entire story regarding the involvement of political appointees.'' This is why, when you are sworn in as a witness in court, you are asked to tell the truth, the whole truth and nothing but the truth. When what you say is the truth but you leave out other information, it can, in effect, by

its context, not be truthful. This is part of the problem with the testimony Mr. Perez gave before the U.S. Commission on Civil Rights.

Going further back, we can see Mr. Perez's ideological roots started as a local official in Montgomery County, MD. During his tenure on the county council, he consistently opposed the proper enforcement of our immigration laws. In fact, he went so far as to testify against enforcement measures that were being considered by the Maryland State Legislature.

Finally, there is the matter of Mr. Perez's quid pro quo dealings with the City of St. Paul, MN. Of course, I am referring to the well-publicized decision of Mr. Perez to withhold Department of Justice support for a lawsuit against the City of St. Paul. He did so in exchange for the city withdrawing a case that it had before the Supreme Court, a case that many would have believed would have resulted in the Court rejecting an aggressive interpretation of the Fair Housing Act that guided Mr. Perez and the Department of Justice.

In fact, that is the reason he did it. He was afraid the Supreme Court would rebuke the Department of Justice's aggressive interpretation of the Fair Housing Act. While this may not have been a direct violation of any laws, it is, at best, ethically dubious.

In summation, we have a nominee for the Department of Labor who has a record of ideological, polarizing leadership; giving incomplete and thereby misleading testimony before official tribunals; and of enforcing the law in a partisan and selective manner—in essence, a ''you scratch my back, and I'll scratch yours'' way of going about the public's business.

As citizens we should ask, Is this the type of person we would want to serve in the President's Cabinet? As Senators, we ought to ask, Is this the best we can do for the Secretary of the Department of Labor?

I believe Mr. Perez's record disqualifies him from running this or any other executive agency of the Federal Government. I fear his leadership would needlessly politicize the Department and impose top-down ideological litmus tests. For all these reasons, I oppose his nomination and encourage my colleagues to do the same.

Mr. JOHNSON. Mr. President, I rise today in strong support of the nomination of Fred Hochberg to be the President and Chairman of the Export-Import Bank of the United States.

Despite taking the helm of the Bank in the midst of the worst financial crisis since the Great Depression, Mr. Hochberg's leadership expanded financing for American exporters when private financing was nearly impossible to acquire. In 2012, the Export-Import Bank helped to support an estimated 255,000 American jobs at 3,400 companies, and 85 percent of Export-Import Bank transactions directly benefited small businesses.

The Export-Import Bank is self-sustaining, charging fees to cover its expenses and creating no cost to U.S. taxpayers. Furthermore, since 2008, the Bank has been able to send nearly $1.6 billion in profits to the U.S. Treasury.

Mr. Hochberg was first nominated to be President and Chairman of the Export-Import Bank on April 20, 2009, and he was confirmed unanimously by this body on May 14, 2009. Mr. Hochberg was renominated by President Obama on March 21, 2013, and he was approved 20–2 in the Senate Banking Committee on June 6, 2013. I urge my colleagues to once again confirm Mr. Hochberg without delay.

If we fail to confirm Mr. Hochberg before July 20, we run the risk of leaving the Bank without a quorum to act on many of the transactions before it—creating an uneven playing field for American workers and exporters.

Mr. Hochberg's nomination is supported by both labor and business groups. These two groups understand the importance of the United States not unilaterally disarming against our global competitors. The Bank plays a very important part in this country's efforts to expand exports and create good, high-paying jobs in America. Mr. Hochberg has been instrumental in this effort and should be confirmed.

I urge all my colleagues to support President Hochberg's nomination today.

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.

Mr. REID. Mr. President, I ask unanimous consent that the vote on the confirmation of the Hochberg nomination occur at 3:40 p.m. today; that if the nomination is confirmed, the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; and that President Obama be immediately notified of the Senate's action.

What time is it right now?

The PRESIDING OFFICER. It is 3:33 p.m.

Mr. REID. I wish to modify my request to reflect a voting time of 3:35.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. REID. Senators should expect two votes; the vote on confirmation of the Hochberg nomination to the Ex-Im Bank and the vote on the motion to invoke cloture on the Perez nomination.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Fred P. Hochberg to be president of the Export-Import Bank of the United States?

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. ROCKEFELLER) is necessarily absent.

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

The result was announced—yeas 82, nays 17, as follows:

[Rollcall Vote No. 176 Ex.]

YEAS—82

Alexander	Gillibrand	Murphy
Ayotte	Graham	Murray
Baldwin	Hagan	Nelson
Baucus	Harkin	Portman
Begich	Heinrich	Pryor
Bennet	Heitkamp	Reed
Blumenthal	Heller	Reid
Blunt	Hirono	Roberts
Boozman	Hoeven	Sanders
Boxer	Isakson	Schatz
Brown	Johanns	Schumer
Burr	Johnson (SD)	Scott
Cantwell	Kaine	Sessions
Cardin	King	Shaheen
Carper	Kirk	Shelby
Casey	Klobuchar	Stabenow
Chiesa	Landrieu	Tester
Coats	Leahy	Thune
Cochran	Levin	Udall (CO)
Collins	Manchin	Udall (NM)
Coons	Markey	Vitter
Corker	McCain	Warner
Crapo	McCaskill	Warren
Donnelly	Menendez	Whitehouse
Durbin	Merkley	Wicker
Feinstein	Mikulski	Wyden
Fischer	Moran	
Franken	Murkowski	

NAYS—17

Barrasso	Flake	McConnell
Chambliss	Grassley	Paul
Coburn	Hatch	Risch
Cornyn	Inhofe	Rubio
Cruz	Johnson (WI)	Toomey
Enzi	Lee	

NOT VOTING—1

Rockefeller

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table. The President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair directs the clerk to read the motion.

The bill 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 nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor.

Harry Reid, Tom Harkin, Patrick J. Leahy, Bill Nelson, Christopher A. Coons, Amy Klobuchar, Tim Kaine, Jack Reed, Barbara A. Mikulski, Sheldon Whitehouse, Sherrod Brown, Benjamin L. Cardin, Robert P. Casey Jr., Bernard Sanders, Al Franken, Robert Menendez, Barbara Boxer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The Senate will be in order.

The Senator from Florida.

Mr. RUBIO. Mr. President, I ask unanimous consent for 1 minute so that I may be able to read a letter with regard to the upcoming vote.

The PRESIDING OFFICER. Is there objection? The Senate will be in order.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, is there a unanimous consent request pending?

The PRESIDING OFFICER. There is a unanimous consent request pending. The Senator from Florida has asked unanimous consent for a minute to read a letter with regard to the nomination.

Mr. HARKIN. Then I ask for 1 minute following the Senator from Florida.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Florida? Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. RUBIO. Before we vote on this, especially to my colleagues on the Republican side, we are about to give 60 votes to a nominee who is not in compliance with a congressional subpoena.

I have in my hand a letter sent to me moments ago by DARRELL ISSA, the chairman of the Oversight Committee in the House, where he writes in part that ''Mr. Perez has not produced a single document responsive to the Committee's subpoena. I am extremely disappointed that Mr. Perez continues to willfully disregard a lawful subpoena issued by a standing Committee of the United States House of Representatives. . . . This continued noncompliance contravenes fundamental principles of separation of powers and the rule of law. Until Mr. Perez produces all responsive documents, he will continue to be noncompliant with the Committee's subpoena. Thank you for your attention to this matter.''

He goes on to note, by the way, that Mr. Perez has not produced a single document to the committee; therefore, he remains noncompliant.

Members, you are about to vote to give 60 votes to cut off debate on a nominee who has ignored a congressional subpoena from the House on information relevant to his background and to his qualifications for this office.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MENENDEZ. The Senate is not in order.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the contentions made by the Senator are absolutely wrong. We had a hearing on this. We explored it in our committee. Instead of the 1,200 e-mails they cite, we are talking about that over a 3½-year period there were 35 e-mails located on his personal emails that touched Department of Justice business and were not forwarded to the Department of Justice, and those have been looked at, and none of them demonstrate that he acted improperly or unethically. When they were discovered, the e-mails were immediately forwarded to the DOJ server and are now part of the DOJ record retention system.

I might add that the 35 e-mails were made available to the House Oversight Committee staff prior to Mr. Perez's confirmation hearing, and the Senate HELP Committee staff have also been offered access to review all of those e-mails.

The contentions made by the Senator from Florida are just absolutely wrong.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 177 Ex.]

YEAS—60

Alexander	Hagan	Murkowski
Baldwin	Harkin	Murphy
Baucus	Heinrich	Murray
Begich	Heitkamp	Nelson
Bennet	Hirono	Pryor
Blumenthal	Johnson (SD)	Reed
Boxer	Kaine	Reid
Brown	King	Rockefeller
Cantwell	Kirk	Sanders
Cardin	Klobuchar	Schatz
Carper	Landrieu	Schumer
Casey	Leahy	Shaheen
Collins	Levin	Stabenow
Coons	Manchin	Tester
Corker	Markey	Udall (CO)
Donnelly	McCain	Udall (NM)
Durbin	McCaskill	Warner
Feinstein	Menendez	Warren
Franken	Merkley	Whitehouse
Gillibrand	Mikulski	Wyden

NAYS—40

Ayotte	Fischer	Paul
Barrasso	Flake	Portman
Blunt	Graham	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Rubio
Chambliss	Heller	Scott
Chiesa	Hoeven	Sessions
Coats	Inhofe	Shelby
Coburn	Isakson	Thune
Cochran	Johanns	Toomey
Cornyn	Johnson (WI)	Vitter
Crapo	Lee	Wicker
Cruz	McConnell	
Enzi	Moran	

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 40. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

NOMINATION OF THOMAS EDWARD PEREZ TO BE SECRETARY OF LABOR

The PRESIDING OFFICER (Mr. BLUMENTHAL). Cloture having been invoked, the clerk will report the nomination.

The legislative clerk read the nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor.

The PRESIDING OFFICER. The Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. CON. RES. 25

Mrs. MURRAY. Mr. President, I am pleased that yesterday the Senate was able to come together and work out a bipartisan agreement to make some progress on approving President Obama's nominees. This is a great example of the kind of work I hope we can do more of going forward, because gridlock is getting in the way of progress on far too many issues that affect the families and communities we have a responsibility to serve.

One of the most egregious examples that still remains is the Republican leadership blocking a bipartisan budget conference—and the regular order they called for—in order, it appears, to gain leverage by manufacturing a crisis come this fall.

Democrats have come to the floor to talk about this a lot over the past few weeks. Unfortunately, it seems to be getting worse and not better.

We have heard from more and more tea party Republicans about their latest brinkmanship threat. They are now saying: Defund health care reform or we are going to shut down the government.

I wish I were making this up, but it is real. The House has already tried to repeal this law 37 times. In fact, just for good measure, they are voting on it again this week.

We all know that is not serious. It is certainly not governing. It is pointless pandering, and it does absolutely nothing to help the families and communities we represent.

There are so many real problems we all need to be focused on. We need to protect our fragile economic recovery and get more of our workers back on the job. We need to replace sequestration and we need to tackle our long-term deficit challenges responsibly. We have to stop this lurching from crisis to crisis and return to regular order and give families and communities the certainty they deserve. The only way we can do that is if we all work together, and the last thing we need to do right now is to rehash old political fights.

Based on what I am hearing more and more of in recent days, not only are tea party Republicans willing to push us toward a crisis this fall, but they will do that to cut off health care coverage for 25 million people and end the preventive care for our seniors that is free, and cause our seniors to pay more for prescriptions.

These political games may play well with the tea party base, but here is the reality: ObamaCare is the law of the land. It passed through this Senate with a majority. The Supreme Court upheld it. It is already today helping millions of Americans stay healthy and financially secure. We should all be working together right now to make sure it is implemented in the best way possible for our families and our businesses and our communities. Instead, what we are hearing is some empty political threats and a push for more gridlock here in the Senate.

I don't think it is a coincidence that the very people who are now pushing

for a government shutdown to defund the health care law are the ones who are blocking a budget conference. If the goal is to simply push this country into a crisis, as it now seems to be for the tea party and the Senate Republican leadership, then those both are ways to do it.

When the Senate budget passed, I was optimistic. We worked here for a very long time—hours and hours, well into the night, well into the hours of the morning—and we allowed everyone the opportunity to vote on their amendments. They were voted up or down, agreed to or not agreed to, and we passed a bill, because both Republicans and Democrats said they wanted to return to regular budget order, and they said if we did that, we would get back to a responsible process. I took them at their word.

At that time, we had 192 days to reach a bipartisan budget agreement. Three months later, Democrats have come to the floor 16 times to move to the next step of the process: to get us to a bipartisan budget conference with the House. Each time we have asked to do that, a tea party Republican or a Member of the Senate Republican leadership has stood up and said, No, I am not going to let us work out the differences with the House. We are not going to do a budget. We are going to allow things to plod along here until we have a crisis in the fall.

There are now less than 3 weeks before we are scheduled to return home—all of us—to our States for constituent work. If we can't get an agreement by then, we are going to return in September with very little time before a potential government shutdown on October 1.

We still have a window of opportunity to reach an agreement before we are in crisis mode. I will tell all of my colleagues, it is closing quickly.

My colleagues should ask their constituents. They are sick and tired of hearing about gridlock and partisanship coming out of Washington, DC. It has to end.

This body had a great conversation on Monday night in the Old Senate Chamber. Everybody had an opportunity to have their say. A group of Republicans, led by Senator MCCAIN, who are very interested in ending the gridlock, worked together with us to solve the problem. In fact, I have to say it has been very heartening to hear from the many Republicans who agree with the Democrats that despite our differences—and they are many—we should at least—at the very least—sit down in a bipartisan conference committee with the House and try to solve this problem and get an agreement.

It started with just a few who were willing to stand up to their leadership, but I think we all should know that chorus is getting louder. Senator MORAN, for example, said yesterday: ''I too hope we can have a budget conference because the process needs to work.''

I am sure Senator MORAN would agree with me that getting a bipartisan deal is not going to be easy. We know that. We know it is going to be difficult. But we all know it won't be easy unless we get to work now, rather than risking our economic recovery and hurting our families and communities by manufacturing a crisis this fall.

I am hopeful the bipartisan spirit we have seen this week will carry over into this budget debate, and that rather than listening to a few, Republicans will listen to the Republican Members who prefer a bipartisan, commonsense approach over brinkmanship and chaos.

We still have an opportunity to govern the way the American people rightly expect us to and to come together and try and reach an agreement. I am ready to sit down and go to work with the conservative House majority to try and solve the problem that all of us have come to Congress saying we want to work on, and that is a budget agreement.

A budget agreement means certainty for our constituents. It means the ability, no matter how tough the choices for us—and none of us are going to love any of them—to be able to give them certainty so they know how to move forward.

Mr. President, as if in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 33, H. Con. Res. 25; that the amendment which is at the desk, the text of S. Con. Res. 8, the budget resolution passed by the Senate, be inserted in lieu thereof; that H. Con. Res. 25, as amended, be agreed to; the motion to reconsider be considered made and laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate; that following the authorization, two motions to instruct conferees be in order from each side—a motion to instruct relative to the debt limit and a motion to instruct relative to taxes and revenue; that there be 2 hours of debate equally divided between the two leaders or their designees prior to the votes in relation to the motions; further, that no amendments be in order to either of the motions prior to the votes; and all of the above occurring with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Utah is recognized.

Mr. LEE. Mr. President, reserving the right to object, in a spirit of bipartisanship, I would like to ask my friend and colleague from Washington to make a very simple modification to her request. I am not objecting to a budget. I am not even objecting to the idea of having a conference. I just want the debt limit left out of the budget conference. The debt limit is a separate issue, one that warrants its own debate, its own discussion, its own legislation. My request is a simple one: no backroom deals on the debt limit.

Therefore, I ask unanimous consent that the Senator from Washington modify her request so that it not be in order for the Senate to consider a conference report that includes reconciliation instructions to raise the debt limit.

The PRESIDING OFFICER. Is there objection?

The Senator from Washington.

Mrs. MURRAY. Mr. President, reserving the right to object, let me explain so that the Senator understands. We are offering in this unanimous consent request to allow the Senate to speak on the very issue the Senator is requesting, to do it in what a democracy does, and to allow an amendment on it and let the Senate speak. That is what we do here.

I object to his request, and I reask our unanimous consent request that would allow an amendment on his issue of the debt ceiling and allow this body to speak on it before we go to conference.

The PRESIDING OFFICER. Objection is heard to the Lee unanimous consent request.

The question is on the unanimous consent request from the Senator from Washington. Is there objection?

The Senator from Utah.

Mr. LEE. Mr. President, in that case, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MCCARTHY NOMINATION

Mr. VITTER. Mr. President, I rise to speak about the Gina McCarthy nomination to head the EPA and in particular efforts I have led with my Republican colleagues on the Environment and Public Works Committee to bring a whole lot more sunshine and transparency to EPA—something that has been sorely, sorely lacking for a long time and has been a particular problem, really reached new depths in terms of a problem in the last 4 years. When this important nomination first came up, I focused specifically on these important transparency, openness issues.

I have disagreed with the Obama administration EPA on all sorts of substantive issues, including, for instance, to take the most obvious, their war on coal. I disagree with both the past Administrator and this nominee, Gina McCarthy, on all of those key substantive issues, such as this war on coal, but I specifically chose not to focus on that in the nomination. I knew President Obama won the election. I knew he had a fundamentally different view than I do on those key

environmental and economic issues. What I focused on with other Republican members of our committee was something that should be beyond dispute, beyond partisanship, really beyond debate—the need for openness and transparency with regard to what EPA does and why they do it. This has been a battle I have been waging for a long time, including on the EPW Committee. I think this is a crucial issue.

For a long time, EPA, under multiple administrations, has lost the confidence of Congress and the American people. It used to be, including when EPA was first founded, in the first decade of its existence, that it was viewed as a nonideological group of experts. It was viewed as being led by real scientists and real science—peer-reviewed expert science—not by ideology, not by political agendas, not by partisanship. Unfortunately, I think EPA—and a lot of Federal agencies, but EPA is perhaps the worst example—has gotten far afield from that, and it is viewed by most Americans, myself included, as led by ideology, motivated by partisanship and a political agenda, not sober, sound science.

That is why we need to get back to complete openness and transparency so that we see what EPA is doing, why they are doing it, and try to hold them accountable so their decisions are based on objective science, not cherry-picking science, not partisan science, not what I would call New York Times or tabloid science.

Again, those are what all of my key requests of EPA and the nominee over this Gina McCarthy nomination went to. Over many, many weeks—in fact, months—I went back and forth with Ms. McCarthy and EPA over these very basic, sound, reasonable requests. The good news is, although it took a lot of back and forth, in each of the five key categories I identified on behalf of all of the Republican members of EPW, we were able to secure real, meaningful, and substantial commitments in terms of moving the ball forward in at least four of those categories, and we are going to move the ball across the goal line in the fifth category as well. So let me briefly outline those five important categories that all relate to openness and transparency and where we are getting with regard to our agreements with the EPA over the last several weeks.

Request No. 1 had to do with FOIA, the Freedom of Information Act. As anybody knows who has followed it in the news, EPA has really dragged its feet and frustrated a lot of legitimate FOIA requests by private citizens, by States affected, by other stakeholders.

The Freedom of Information Act was designed to put sunshine on the Federal Government, to allow everyday citizens—anyone—the ability to get basic, important information from any Federal agency. Yet, as news releases and certain incidents have illustrated over the last several years, EPA has really tried to frustrate that process. In fact, in certain documents we were able to obtain, we even got an e-mail from within the General Counsel's Office at EPA instructing all of the satellite offices of EPA around the country on how to frustrate legitimate FOIA requests—how to delay, how to frustrate, how to obfuscate. It was not about a particular FOIA request that they may have thought was out of bounds or inappropriate, it was just about how to frustrate in general. That is completely inappropriate. That is beyond the bounds of the law. So we talked in great detail to EPA about how they have to change that, and this basically summarizes the agreements we reached:

First, EPA agreed to mandate the retraining of all of their workforce—17,000-plus people—to tell them not how to frustrate FOIA requests but what FOIA is about, how to live by the law, how to honor FOIA requests in an open and timely way.

Secondly, EPA committed to issuing new guidance on records maintenance and the use of personal e-mail accounts. One way a lot of folks said EPA clearly was frustrating FOIA requests is they would do official business on personal e-mail accounts. So when a FOIA request was made, their EPA e-mails were produced, but lo and behold, the really important stuff, the stuff they wanted to hide, was on their personal accounts. That is clearly a pattern that has been used at EPA and other Federal agencies to frustrate openness and transparency and FOIA. So EPA is specifically going to issue new guidance to say that is absolutely illegal, that is absolutely off limits, and, most importantly, trust but verify, and here is the verify: The independent EPA inspector general will complete an audit about all of this stuff.

So we are going to put an end to FOIA abuse, and we are going to make sure every American has FOIA as a legitimate tool for information, for openness, and for transparency, as was intended when Congress passed that law.

The second category I focused on in my discussions with EPA was e-mails and communications—exactly what I was talking about before. There has been a pattern—and several high-ranking officials were involved, including Lisa Jackson, the former Administrator—there has been a pattern of using personal e-mail accounts and also fake e-mail names, to, in my opinion, hide important information from the public. The clearest example is what I said a minute ago. If you do the really important business on your personal account and somebody sends in a FOIA request and then the agency produces your official e-mails, guess what. The really important stuff is not produced. It is hidden. That has to stop.

So we demanded a lot of things in this category.

First of all, the nominee herself—we asked her to review her personal e-mail accounts and report back that she had not used it for agency-related matters. She did that. She confirmed that.

Secondly, EPW continues to coordinate with the House Oversight and Government Reform Committee to obtain further information. We do not have—and let me be crystal clear about this—Republicans on the EPW Committee have not obtained everything we have asked for or everything we deserve with regard to e-mails and communications. So we are working with the House committee with subpoena power, and we are working closely with them, and we are going to get, even if it takes using their subpoena power, what we deserve. And then both committees recently put the EPA on notice that they are considering issuing subpoenas with regard to just that.

So this is the category where we have gotten the least from the EPA with regard to our discussions regarding the Gina McCarthy nomination, but I want to make very clear, so no one is surprised, that we are going to get what we deserve, including through House subpoenas if it takes that.

The third category I focused on in my discussions with Gina McCarthy and the EPA is underlying research data. EPA has done a lot of really important rules, rulemaking in the last several years. In each of those cases they based that rulemaking on specific research. One big problem is that the world, the public, even including Members of Congress, has not had availability of that research data so we can simply sort of compare notes and enlist outside experts to say: Look, does this data really lead to that rule? Does it really lead to that conclusion?

Well, this has been an ongoing argument for a long time. Finally, in the midst of these discussions related to the Gina McCarthy nomination, we have scored a breakthrough. EPA has absolutely, categorically committed to obtaining the requested scientific information—that data from the researchers, from the institutions that did the research. They will absolutely request that and follow up on that.

Secondly, EPA has already reached out to relevant institutions for information on how to de-identify and code personally identifying information that may be in the data. None of us want personally identifying information. None of us want versions of the data that make it clear who the individuals involved in the studies were. We do not care about that. We want the overall data. So EPA is already talking to the institutions about how to scrub the data so they do not give us what we were never interested in—personal identifying information.

Third, for the first time we should be able to determine if there is any way of independently reanalyzing the science and benefits claims for these major regulations, which are mostly the major air regulations on which the nominee Gina McCarthy led the way.

So this really is a breakthrough because it is a path forward to get the

underlying data so we can examine—independently examine—have experts look at the data and ask: Does it really lead to this regulation? Does it really justify this regulation?

The fourth category I focused on in terms of my discussions with the EPA over the Gina McCarthy nomination is economic analysis. By law, EPA, like other Federal agencies, is supposed to do a cost-benefit analysis before they do a big rulemaking. So part of their rulemaking is supposed to be a cost-benefit analysis to see if the rule is justified.

In my opinion, that cost-benefit analysis is done in such a way as to be laughable in some cases, to be ludicrous. It is designed to reach a particular result, not designed to be an objective cost-benefit analysis. So we wanted EPA to go back to the drawing board, do a fair and open-ended cost-benefit analysis, not designed to reach a particular conclusion but just designed to truly, objectively compare cost and benefits.

As a result of our discussion, EPA has committed to convene an independent panel of economic experts with experience in whole economy modeling at the macro and micro level. They are going to review EPA's modeling and the agency's ability to measure full regulatory impacts.

That is sort of a bunch of gobbledygook, particularly with whole economy modeling. But that is where we need to do a true cost-benefit analysis, to look at all of the macro impacts, all of the impacts of a rule on the whole economy, not very narrowly defined—the analysis—in order to get to a certain conclusion.

A good example is when they are doing rulemaking, we need to understand the impact on energy prices throughout the entire economy. That is often a huge impact of their rulemaking, particularly in their recent air rulemaking in the so-called war on coal. We need to see how many jobs that really cost us in the whole economy; otherwise, this idea of cost-benefit is not meaningful.

So they have committed to convene this independent panel. This panel will be tasked with making recommendations to the agency so that the EPA does it right; so that it is a significant, objective, meaningful cost-benefit analysis, not just an exercise they have to go through and that they have designed to reach a certain result.

The fifth and final category on which I focused in terms of my discussions with the EPA over the Gina McCarthy nomination was the so-called sue and settle. Sue and settle is a tool the environmental left and their allies at EPA have used with increasing frequency in the last several years—the last 5 years in particular.

When the environmental left wants to reach an objective, what they often do is sue the EPA under environmental legislation and environmental statutes. So they are the plaintiff; the Obama EPA is the defendant. They have a lawsuit. Then after a few months they agree to settle the lawsuit. The judge signs off on it. Usually the judge is more than willing to do that because it gets a big and time-consuming and complicated case out of his hands, off his docket.

What is the matter with that? Well, what is the matter with that is essentially the environmental left and the EPA are on the same side of the issue. They usually agree on the fundamentals of the issue. The folks truly on the other side, who often include stakeholders, landowners, businesses, State and local government, they never have a seat at the table with regard to the settlement.

So this is a behind-closed-doors negotiation, which is one-sided and does not include anyone on the true other side of the issue. It does not include landowners. It does not include other stakeholders. It does not include State and local governments, which are often directly affected, which often have their role in some of these matters taken away.

So we need to make that sue-and-settle process more fair. We need to take the abuse out of it because we discussed this with EPA, and we got the following important concession.

First, to help resolve some of the challenges with lack of public input in closed-door settlement agreements, otherwise referred to as sue and settle, EPA will publish on two Web sites the notices of intent to sue and petitions for rulemaking upon receipt, so at least the world out there will know what is going on at the front end. At least the stakeholders, the landowners, State and local governments, other affected parties will know what is going on.

Secondly, the Web address for the petitions for rulemaking are that, and the web address for the notices of intent to sue is that. It is very important to know this with regard to potential sue-and-settle agreements so that affected parties can begin to have input. They cannot possibly have input if they do not even know there is a discussion going on, and they do not find that out until the final result is announced.

Those are the results of our discussions with EPA. As I said at the beginning, I do not agree with Barack Obama or Gina McCarthy's positions on most of the big issues at EPA, including the war on coal. I do not agree with their actions that are costing millions of jobs around the country, that are increasing significantly the price of American energy. But I am not going to be able to fix that given the last election. President Obama was reelected.

What we attempted to do is talk to EPA about things that we should be able to agree on, things that should be beyond dispute, beyond ideology, beyond argument. That is giving the American people, including their representatives in Congress, full and adequate information about what is going on, having people get the information they deserve, having that give-and-take which is supposed to be there and assured, cleaning up abuses in FOIA, cleaning up abuses in private and hidden and fake e-mail accounts.

Those are abuses that have gone on at EPA for a long time and have been particularly problematic in the last 5 years. Those are the sort of things we are going to fix through these agreements. I think that will get us down the road to having a real discussion about the true facts behind proposed EPA regulations—the true science, the true cost and benefits, and not allowing EPA to do so much that is so important behind closed doors without that full and open discussion of the true facts.

I think it is an important step forward. That is why I agreed, as I promised to at the beginning of the process, to vote for cloture on the Gina McCarthy nomination if we made this important progress. I set that metric. I made that commitment at the beginning of the process. I did not think we would get nearly as far as we did in terms of commitments out of EPA. But since we did, since we made all of that substantive progress, I am certainly going to honor that commitment with regard to the cloture vote.

I yield the floor.

Mr. HARKIN. Mr. President, today the Senate is now considering the nomination of Thomas Perez to serve as Secretary of Labor. It has been a long road to get here. I am pleased that we finally have the opportunity to consider Mr. Perez's nomination on its merits.

Tom Perez's life is a story of the American dream. The child of immigrants from the Dominican Republic, he lost his father at a young age. He worked very hard at not very glamorous jobs to put himself through Brown University, working at a warehouse as a garbage collector and the school dining hall.

His incredible work ethic helped him graduate with honors from the Harvard Law School and the Kennedy School of Government. With such an impressive resume, Tom Perez could have done pretty much anything with those degrees and accomplishments. He could have made a lot of money in the private sector. But, instead, Mr. Perez chose to become a public servant.

He has dedicated his career to ensuring that every American has the same opportunity he had to pursue the American dream. From his early years at the Department of Justice, where he helped to prosecute racially motivated hate crimes and chaired a task force to prevent worker exploitation, to his time at the Maryland Department of Labor, where he helped struggling families avoid foreclosure and revamped the State's adult education system, Mr. Perez has demonstrated his unwavering commitment to building opportunity for all Americans.

It is this commitment to building opportunity for all that makes Tom Perez an ideal choice for Secretary of Labor. Of all the executive agencies, it may be the Department of Labor that touches the lives of ordinary Americans the most on a day-to-day basis. The Department of Labor ensures that every American receives a fair day's pay for a hard day's work and can come home from work safely in the evening.

It helps ensure that a working mother can stay home to bond with her newborn child and still have a job to return to. It helps workers who have been laid off, veterans returning from military service, others who face special employment challenges to build new skills and build opportunities for a lifetime.

It helps guarantee that hard-working people who have saved all of their lives for retirement can enjoy their golden years with security and peace of mind. As our country continues to move down the road to economic recovery, the work of the Department of Labor will become even more critical. The Department will play a vital role in determining what kind of recovery we have, a recovery that benefits only a select few or one that rebuilds a strong American middle class where everyone who works hard and plays by the rules can build a better life.

Now more than ever we need a dynamic leader at the helm of the Department of Labor who will embrace a bold vision of shared prosperity and help make that vision a reality for American families. I am confident that Tom Perez is up for that challenge.

Without question, Tom Perez has the knowledge and experience needed to guide this critically important agency. Throughout his professional experiences and especially during his work as the secretary of the Maryland Department of Labor, Licensing and Regulation—that would be Maryland's equivalent of our Secretary of Labor. During that time, he has developed strong policy expertise on the many important issues for American workers and businesses that come before the Department of Labor each day. He also clearly has the management skills to run a large Federal agency effectively. Perhaps most importantly, Tom Perez knows how to bring people together to make progress on even controversial issues.

He knows how to hit the ground running, how to quickly and effectively become an agent of real change. That is exactly the kind of leadership we need at the Department of Labor. The fact is, Tom Perez is an extraordinary nominee to serve as Secretary of Labor. I hope the Senate will overwhelmingly confirm him to this vital position.

This is not the first time this body has considered Mr. Perez's qualifications. In October 2009, on a bipartisan 72-to-22 vote, the Senate confirmed Mr. Perez to serve as Assistant Attorney General for Civil Rights. In more than 3½ years in that position, Mr. Perez has skillfully and vigorously enforced our Nation's civil rights laws and has revitalized the Civil Rights Division.

As has been documented by numerous inspector general and Office of Professional Responsibility reports, as well as congressional investigations, the Bush administration had decimated the Civil Rights Division, failed to properly enforce our most critical civil rights laws, and politicized hiring and decisionmaking. That has changed dramatically under Mr. Perez.

As Attorney General Holder has said, Mr. Perez made it clear from the moment he was confirmed that the Civil Rights Division was ''once again open for business.'' During Mr. Perez's tenure as head of the Civil Rights Division, he stepped up enforcement of civil rights laws and restored integrity and professionalism.

I wish to review some of the successes under Mr. Perez's leadership at the Civil Rights Division.

That division settled the three largest fair lending cases in the history of the Fair Housing Act. Let me repeat that—three largest cases in the history of the Fair Housing Act.

As a result, the division in 2012 recovered more money for victims under the Fair Housing Act than in the previous 23 years combined. In total, $660 million in monetary relief has been obtained in lending settlements.

Later in my remarks I will go over some of the allegations made by Senators on the other side about Mr. Perez's handling of another situation of the Civil Rights Division that was also covered by the Fair Housing Act.

I wish to make this clear, that Mr. Perez, as I said, settled the three largest fair lending cases in the history of the Fair Housing Act. This shows he was vigorous in enforcing the Fair Housing Act.

The Civil Rights Division has been involved in 44 Olmstead matters in 23 States, matters that ensure that people with disabilities have the choice to live in their own homes and communities, rather than only in institutional settings. These efforts included four settlement agreements the division has signed with the States of Georgia, Delaware, Virginia, and North Carolina.

The Civil Rights Division obtained a $16 million settlement, the largest ever, to enforce the Americans With Disabilities Act. Reached in 2011, the settlement requires 10,000 bank and financial-related retail offices to ensure access for people with speech or hearing disabilities. Imagine that, almost 20 years after the passage of the Americans With Disabilities Act, we had banks and financial offices that were not making their services available to people with disabilities. The division had to go after them and, as I said, obtained a settlement, $16 million, the largest ever in the history of the Americans With Disabilities Act.

The Civil Rights Division handled more new cases under the Voting Rights Act in 2012 than in any previous year ever. The division increased the number of human trafficking prosecutions by 40 percent during the past 4 years, including a record number of cases in 2012.

The division, since 2009, brought 46 cases to protect the employment rights of servicemembers, a 39-percent increase over the previous 4 years of the Bush administration.

Based on his stellar record of achievement at the Department of Justice alone, Mr. Perez deserves to be confirmed. But despite these accomplishments, some of my Republican colleagues have claimed Mr. Perez should not be confirmed. In fact, we had about 40 who voted against Mr. Perez to move to cloture. Now they are trying to say we should not confirm him.

As the chairman of the committee with oversight jurisdiction, and as chairman of the Appropriations subcommittee that funds the Department of Labor, I can assure you I have looked carefully into Mr. Perez's background and record of service. I can assure everyone that Tom Perez has the strongest record possible of professional integrity and that any allegations to the contrary are totally unfounded.

What is clear is that Tom Perez is passionate about enforcing civil rights laws and protecting people's rights. In my view, that passion makes him not only qualified but the ideal person to be Secretary of Labor.

I do wish to address some of the specific claims we have heard and probably will continue to hear about Mr. Perez.

First, some have harped on the Justice Department's enforcement decision involving the New Black Panther Party. I hope my colleagues don't choose to rehash this matter. Mr. Perez had no involvement in this case, zero. Mr. Perez was not at the Department of Justice when the decision concerning the Black Panthers occurred. The charges were dismissed in May of 2009. Mr. Perez was not confirmed until October of 2009.

Second, some have questioned several enforcement actions related to the Voting Rights Act and the motor voter law, most notably in Louisiana, Texas, and South Carolina. They have pointed to these cases to claim that Mr. Perez is somehow biased in his enforcement of the law.

Again, I hope my colleagues don't try to rehash these meritless claims. The Department of Justice inspector general, an independent inspector general, investigated these claims and recently concluded: ''The decisions that Division or Section leadership made in controversial [voting] cases did not substantiate claims of political or racial bias.''

The inspector general specifically noted that ''allegations of politicized decisionmaking . . . were not substantiated.'' Anybody can make allegations, but you have to substantiate

them. The allegations that he was acting in a politically motivated or biased manner were never ever substantiated.

In fact, in the election-related cases Mr. Perez's critics have focused on, the courts ended up agreeing with the Department of Justice's conclusions that the law had been broken. This means that some oppose Mr. Perez's confirmation precisely because he did his job by enforcing newly enacted laws and by pursuing meritorious cases.

Is our confirmation process here so broken that the act, that act of enforcing duly enacted laws, becomes grounds for opposing a nominee?

Third, some Republicans assert Mr. Perez masterminded an improper deal whereby the City of St. Paul dropped an appeal in a case related to the Fair Housing Act in a case called Magner. In return, the Department of Justice decided not to intervene in a False Claims Act brought by a St. Paul resident in another case called the Newell case.

During this debate, I expect we will hear a lot about the alleged millions of dollars Mr. Perez himself personally cost the Federal Government in lost damages because the government did not intervene and prevail in the Newell case.

It is clear from all of the investigations we have done that rather than being the scandal as some Republicans claim, the evidence shows that Mr. Perez acted ethically and appropriately at all times. I wish to go through this because it is important to set the record straight from these kinds of phony allegations that have been made by some here about Mr. Perez.

The Magner case was a case involving the Fair Housing Act. In 2011, the Supreme Court granted certiorari to consider whether that act permits a disparate impact claim. This is a claim challenging actions that are not intentionally discriminatory but, in essence, having a discriminatory effect, called the disparate impact claim.

The case involved an unusual set of facts. Instead of minorities and low-income persons using the Fair Housing Act to challenge improper lending practices, zoning laws, or real estate practices, as is typical with the case with most Fair Housing Act litigation, this specific case involved slumlords—not low-income renters or people being taken advantage of. This case involved slumlords in St. Paul using the Fair Housing Act to challenge the city's efforts to better enforce their housing codes against those slumlords.

Let's look at this case. Lawyers make strategic judgments all the time about which cases should be appealed. Here it is clear why the Department of Justice had a strong interest in this matter. As they have often said, as we all learned in law school, bad facts make bad law. The Justice Department did not want the Supreme Court to consider the viability of the disparate impact principle in a case where slumlords were trying to abuse the law to their advantage. There was too much at stake here.

The Civil Rights Division, under Mr. Perez, had used, applying disparate impact principle, a standard of law recognized under the Fair Housing Act by each of the 11 courts of appeal to address the issue. They had used this, as I mentioned earlier, to reach settlements totaling $644 million against lenders who discriminated against potential homebuyers in violation of the Fair Housing Act. As I said earlier, that is more money for victims under the Fair Housing Act than in the previous 23 years combined. I think it is very clear that Mr. Perez led his division in applying the disparate impact principle to gain a lot of settlements and to help people who were discriminated against.

It was vital to preserve this valuable enforcement tool. Civil rights leaders, as well as Mr. Perez, encouraged the City of St. Paul to withdraw the appeal. Mr. Perez encouraged the City of St. Paul not to appeal the case to the Supreme Court against something entirely appropriate and entirely in the interests of the United States.

When Mr. Perez reached out to the city, the City of St. Paul raised the Newell matter, another case. This was the first time Mr. Perez had heard about the case. At that time the city suggested, the City of St. Paul, suggested it would drop its Magner appeal if the Department of Justice did not intervene in Newell, an unrelated False Claims Act case in which a St. Paul resident, Mr. Newell, had alleged—had alleged—that the City of St. Paul had not met its obligation to provide sufficient minority job-training programs despite certifying to HUD that it was doing so. As I said, it is a little complicated.

At this point, the evidence further demonstrates that Mr. Perez acted with the highest integrity and ethics. After this became known to him, Mr. Perez consulted two ethics and professional responsibility experts at the Department of Justice. It was made clear to him that because the United States is a unitary actor, the two matters could be considered together as long as the Civil Division, which deals with False Claims Act matters, retained the authority over the Newell case, which was a false claims matter, not a civil rights matter.

A written response Mr. Perez received said—this again is from the ethics people at the Department of Justice—''There is no ethics rule implicated by this situation and therefore no prohibition against your proposed course of action''—your proposed course of action, which was to get the City of St. Paul to drop its appeal. At all times, Mr. Perez acted appropriately within the ethical guidance he received.

Further, contrary to some Republican claims, Mr. Perez was not responsible for the Department's decision not to intervene in Newell. In fact, the decision not to intervene in Newell was made by career attorneys and experts on the False Claims Act within the Civil Division—not by Mr. Perez, who was head of the Civil Rights Division. The head of the Civil Division Tony West at all times retained the authority to make the decision regarding the Newell case.

At the time the Supreme Court agreed to hear the Magner case, both HUD—Housing and Urban Development—and the Minnesota U.S. Attorney's Office had recommended intervening in the Newell matter.

After learning of the Department of Justice concerns with regard to the Magner appeal, the general counsel for HUD—Department of Housing and Urban Development—told the House that she reversed her recommendation, stating:

> If the decision had been totally mine in October, and there weren't any dealings with the Department of Justice that I needed to worry about in terms of a relationship with the Department of Justice, we never—we never would have recommended intervening, and if it were my decision whether to intervene or not, I never would have intervened.

At the same time, the person who led consideration of the case in the Civil Division was a very senior career attorney and an expert on the False Claims Act, Mr. Mike Hertz. Although Mr. Hertz has since passed away, colleagues testified that he told them after meeting with the City of St. Paul that Mr. Hertz said, ''This case sucks,'' meaning the Newell case. Again, this was the view of the Newell matter by Mr. Mike Hertz, the leading career expert on the False Claims Act.

So upon learning that HUD had reversed its position, the U.S. Attorney's Office became concerned about the ability to proceed with the case. Staff in the U.S. Attorney's Office told staff at the Department of Justice they were also likely to change their position on intervening in the Newell case.

As the ultimate decisionmaker in the Newell matter, the head of the Department of Justice Civil Division, Tony West, told the House:

> [B]y early, mid-January, there was a consensus that had coalesced in the Civil Division that we were going to decline the Newell case. . . . My understanding is that certainly was Mike Hertz' view, it was Joyce Branda's view, and that represented the view of the branch, U.S. Attorney's Office. Also, I think around that time period would be included in that consensus, it was my view too. It was the view of the client agency, HUD.

So what he is saying is, when we looked at this, we found the Newell case was not a very good case. Earlier today, it was suggested Mr. Perez tried to cover up the fact that the Magner appeal played a role in the Department's decision not to intervene. This is not correct.

Despite indicating that they intended to change their recommendation, by mid-January the U.S. Attorney's Office formal decision memo recommending not intervening in the Newell case had not been received. Mr. Perez reached

out to an assistant U.S. attorney, leaving a voice message suggesting that the Magner case should not be included in that formal recommendation.

When he was asked about the voice mail, Mr. Perez explained to the House his concern was not with the specifics of what was in the memo but rather was directed at trying to resolve an issue he thought might be the source of the delay. Mr. Perez told the House that when he ultimately spoke to the U.S. attorney:

> [He] promptly corrected me and indicated that the Magner issue would be part of the discussion. I said fine, follow the standard protocols. But my aim and my goal in that message and in the ensuing conversations was to get him to communicate that, so that we could bring the matter to closure.

In early February, the Civil Division formalized the decision not to intervene in the Newell case with a written memo. Unsurprisingly, that memo was completely transparent and clearly indicates that the Magner appeal was a factor in the decision not to join the Newell matter, but that the decision is largely based on the flaws in the Newell case.

As Mr. West noted:

> [Declining to intervene] was a view we had all arrived to having taken into consideration the numerous factors, including the Magner case, as really as reflected in our memo. I think the memo—the declination memo that I signed, really does encapsulate what our view was.

Republicans claim Mr. Perez singlehandedly cost the United States millions of dollars. But the damage award received from a losing case is zero—zero. According to the Justice Department's leading expert on the False Claims Act, that is likely what the Newell matter was worth—zero. So Republicans say we lost millions of dollars. How can you lose millions when the experts say their chances of succeeding at it were zero?

When the general counsel of the Department of Housing and Urban Development was asked about HUD's interest in recovering funds from the City of St. Paul, she said:

> As a hypothetical matter, sure. Did we actually think that there was the capability to do that in this case? No.

To summarize, Mr. Perez consulted with two ethics and professional responsibility experts. Those experts made clear it was appropriate to advance a global resolution of the two cases as long as the Civil Division retained authority over the Newell matter, which it did at all times. Senior career Civil Division attorneys believed the Newell case lacked merit, and the lack of merit to that case was the primary reason for the Civil Division's decision not to intervene.

Based on these facts, I do not know what the controversy is. Mr. Perez acted appropriately and ethically to advance the interests of the United States.

It is no surprise that experts in the legal community have made clear Mr. Perez acted appropriately. As Professor Stephen Gillers, who has taught legal ethics for more than 30 years at New York University School of Law, wrote, the Republican report issued last month suggesting that Mr. Perez acted improperly ''cites no professional conduct rule, no court decision, no bar ethics opinion, and no secondary authority that supports'' this argument. In fact, no authority supports it.

So you can make all kinds of allegations, and the House majority report made allegations, but they have no professional conduct rule, no court decision, no bar ethics opinion, and no secondary authority that supports their allegation. No authority supports it.

So the confirmation process has been thorough. Mr. Perez has been thoroughly vetted. He has been fully responsive, forthcoming, and cooperative, including during a thorough confirmation hearing in my committee, the Health, Education, Labor & Pensions Committee. Mr. Perez's nomination was officially received on March 19, nearly 5 months ago. In contrast, Ms. Elaine Chao was confirmed as Secretary of Labor the very same day her nomination was received in the Senate—I might add under a Democratically led committee.

These allegations are simply that—allegations made of whole cloth. Quite frankly, Mr. Perez has acted ethically and appropriately at all times. Perhaps that is why some are opposed to him. He has been vigorous in enforcing our civil rights laws, vigorous in going after slum landlords and lending agencies that abuse poor people who are trying to get decent housing. Yes, he has been vigilant at that—very vigilant, as I said, getting some of the biggest settlements ever in the history of this division.

Perhaps they are afraid Mr. Perez will be vigilant and strong in his tenure as the Secretary of Labor. We can only hope so. We can only hope he will continue in the tradition set down by the former Secretary Hilda Solis, who did an outstanding job as our Secretary of Labor. A former Member of the House of Representatives, Hilda Solis turned that department around from a department that had been moribund for 8 years.

I can assure everyone that Mr. Perez will always act appropriately and ethically, but he will always act forcefully to defend the rights of people to make sure our laws are enforced—those laws that protect the health, the education, the labor, and the pensions of the American people.

With that, I yield the floor, and 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. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, earlier today my colleague Senator RUBIO came to the floor to talk about the very serious matter of the nomination of Thomas Perez that will be before us. Senator RUBIO specifically addressed Mr. Perez's refusal to comply with a bipartisan congressional subpoena into the investigation of his orchestration of a controversial quid pro quo with the City of St. Paul in a very important legal matter. Senator RUBIO talked about that ably and eloquently, and it is a very serious matter.

I was in the Department of Justice for a number of years. I am very uneasy about the way that matter was done. I don't believe that is normal business at all.

In the course of his tenure, Mr. Perez has identified approximately 1,200 personal e-mails that were related to his official duties and are responsive to the subpoena from the House, some of which reportedly disclosed nonpublic information about publicly traded companies. Yet he still refuses to turn them over to Congress despite what appears to be a clear obligation to do so. The failure to comply with a subpoena is a very serious matter.

First, he wants to go for the Department of Justice, which issues subpoenas all the time and demands that people comply with them. It doesn't matter if the subpoena is issued to a poor person or small business, they are expected to comply with the subpoena. Congress has the ability to issue subpoenas. A member of the Department of Justice ought to respond to those subpoenas. In my opinion, he has a high duty to respond to them.

I believe the Senate was incorrect in allowing his nomination to go forward to a full vote when we have not gotten the information. The failure to vote for cloture and moving to a vote on a nomination is not a rejection of a nomination. Fundamentally, it is a statement to say we are not ready to vote on it yet. We are not ready to have this matter before us because we need more information. He is not answering a subpoena issued to him by the House of Representatives.

I will not talk about that anymore, but I think it is a big deal. This is not the first problem Mr. Perez has had in abusing the legal process. Frankly, I wish to share some thoughts about other issues. I hate to do this. I was concerned about the nomination when he came forward.

Senator TOM COBURN and I met with Mr. Perez at some length, and I came away uneasy about it. I had a feeling his ideological political agenda was so strong and his legal commitment was not strong enough. I was concerned he would use this position in the Department of Justice to advance an agenda rather than enforce the law. I am afraid that is what has happened.

Many of my colleagues will recall that on election day in 2008 three members of the New Black Panther Party

stood at the entrance of a polling station in Philadelphia brandishing nightsticks and threatening voters. What more intimidation can you have than that at the voting place? They wore military-style uniforms, combat boots, battle dress pants, military-style insignia, and used racial slurs and insults to scare away would-be voters.

One of the men was Jerry Jackson, a member of Philadelphia's 14th Ward Democratic Committee and credentialed poll watcher for the Democratic Party on election day. This is not acceptable. This is clearly voter intimidation, dramatic voter intimidation.

A video of the incident was widely distributed on the Internet, made national news and headlines. The Justice Department, under the Bush administration, secured an affidavit from Bartle Bull, a long-time civil rights activist and a former aide to Robert F. Kennedy in his 1968 Presidential campaign. Mr. Bull called the conduct ''an outrageous affront to American democracy and the rights of voters to participate in an election without fear.''

None of the defendants in the case even filed a response to the complaint against him or appeared in the Federal district court in Philadelphia to answer the lawsuit. Maybe they didn't feel like they had a defense. It appeared almost certain that the Justice Department would have prevailed in their case.

According to a May 2009 article in the Washington Times, the Justice Department had been working on the case for months and had already secured a default judgment against the defendants by April 20, 2009—3 months after President Obama took office. However, President Obama's political appointee, Mr. Thomas Perrelli, then acting head of the Civil Rights Division, overruled career prosecutors and voluntarily dismissed the charges against two of the men with no penalty. He obtained an order against the third member that merely prohibited him from bringing a weapon to the polling place in future elections, which was already against the law. What a sad end of that case, and to me it is unthinkable.

In a 2009 memo, career Appellate Chief Diana K. Flynn wrote that the Justice Department could have made a ''reasonable argument in favor of default relief against all defendants, and probably should.'' That is what the career attorney said about the matter.

The Justice Department's highly unusual dismissal of the case of dramatic voter intimidation was the subject of a year-long investigation by the U.S. Commission on Civil Rights. This is an independent commission that is set up by our government and has appointees from both parties and they are focused on ensuring that civil rights are protected. They were trying to examine how it was this case was handled in this fashion.

On April 1, 2010, Chairman Gerald Reynolds sent a letter to Attorney General Holder asking whether the Department of Justice would fully cooperate with the Civil Rights Commission's investigation and allow two Department attorneys to testify in their investigation. The letter also pointed out that the Department failed to turn over requested documents. The Commission asked for requested documents. They have a right to do that.

According to Civil Rights Commissioner Peter Kirsanow, in total, the Civil Rights Division of the Department of Justice refused to answer 18 separate interrogatories, refused to provide witness statements for 12 key witnesses, refused to respond to 22 requests for production of documents, and refused to produce a privilege log. This happened in spite of the fact that the Justice Department has a statutory obligation to fully comply with the U.S. Commission on Civil Rights and their investigations. Does the Department of Justice think they are above the law?

I spent 15 years in the Department of Justice. I loved the Department of Justice. I never saw some of the things that have happened in recent years. I believe the public needs to know more about it. I will try not to be too critical of Attorney General Holder, but I am concerned about this.

Later, two attorneys from the Department of Justice defied the Department and actually agreed to testify against the Department's recommendation before the Commission on Civil Rights at considerable risk to their careers—J. Christian Adams and Christopher Coates. Mr. Coates was the former chief of the voting rights section. Mr. Adams and Mr. Coates stated that political appointees declined to prosecute the New Black Panther case because they were interested only in civil rights cases that involved equality for racial and ethnic minorities and would not prosecute civil rights cases in a race-neutral way.

Adams called the actions in the New Black Panther case—this is what the attorney at the Department of Justice said about the case—''the simplest and most obvious violation of federal law'' that he had ever seen in his career at the Justice Department. He resigned as a result of the dismissal of the obviously justified case.

In his sworn testimony before the Commission, Mr. Perez unequivocally denied the allegations. Commissioner Peter Kirsanow asked him:

> Was there any political leadership involved in the decision not to pursue this particular case any further than it was?

The answer by Mr. Perez:

> No. The decisions were made by [Justice Department career attorneys] Loretta King in consultation with Steve Rosenbaum who is the acting Deputy Assistant Attorney General.

In a recent letter to Members of the Senate regarding Mr. Perez's nomination, Commissioner Kirsanow stated Mr. Perez's testimony ''should be a tremendous concern to all Senators regardless of party.'' Indeed it should.

In fact, it was not until a Freedom of Information Act lawsuit filed by Judicial Watch that the Justice Department finally produced a privileged log identifying more than 50 e-mails between high-level Justice Department political appointees and career attorneys regarding the government's ''decision-making process'' in this case, all around the time the Department's otherwise bewildering decision to drop a case it had already won by default.

Judge Reggie Walton, an African-American Federal judge in the U.S. District Court for the District of Columbia stated in his opinion that the internal documents ''appear to contradict Assistant Attorney General Perez's testimony that political leadership was not involved.''

Let me repeat that. This is a Federal judge in the District of Columbia who said the internal documents ''appear to contradict Assistant Attorney General Perez's testimony that political leadership was not involved.'' Indeed it does. We have a Federal judge finding this in his opinion.

Judge Walton further said, ''Surely the public has an interest in documents that cast doubt on the accuracy of government officials.'' He was referring to the fact that they weren't producing documents and that they ought to—the public was entitled to have documents that cast doubt on the accuracy of the testimony of government officials, and, he says, ''representations regarding the possible politicalization of the agency decision-making.''

Mr. Walton himself at one time was in the Department of Justice. I am sure he had to have an opinion of the Department of Justice. He is not trying to abuse them. He is just saying Department of Justice officials have an obligation to tell the truth, and if they don't, they ought to be found out.

The handling of the case was so extraordinary that the Justice Department's inspector general, appointed by President Obama, initiated an investigation of the matter. The inspector general's report confirmed testimony of Mr. Adams and Mr. Coates and, importantly, it concluded this:

> Perez's testimony did not reflect the entire story regarding the involvement of political appointees in the [New Black Panther Party] decisionmaking. In particular, Perez's characterizations omitted that [political appointees] Associate Attorney General Perrelli and Deputy Associate Attorney General Hirsch were involved in consultations about the decision as shown in testimony and contemporaneous e-mails. Specifically, they set clear outer limits on what [career attorneys] could decide on the . . . matter, (including prohibiting them from dismissing a case in its entirety) without seeking additional approval from the Office of the Associate Attorney General.

So the Department's own inspector general looked at the matter and concluded Mr. Perez's testimony that the political appointees didn't have anything to do with it—it was all career attorneys who decided on the merits not to prosecute this case—was not accurate. And he went on to explain why.

This isn't a House committee having a hearing on it; this is the inspector general of the Department of Justice, the inspector general basically appointed by President Obama and selected by the Attorney General himself.

Basically, the political appointees put a fence around the case and said you can't take any real action on it until we get our approval.

Continuing to quote:

> In his . . . interview, Perez said he did not believe that these incidents constituted political appointees being ''involved'' in the decision.

Give me a break.

> We believe these facts evidence ''involvement'' in—

Well, let me go back and get this precisely correct. This was the inspector general's report. The inspector general found:

> In his interview . . . Perez said he did not believe that these incidents constituted political appointees being ''involved'' in the decision. We believe these facts evidence ''involvement'' in the decision by political appointees within the ordinary meaning of that word, and that Perez's acknowledgment, in his statements on behalf of the Department, that political appointees were briefed on and could have overruled this decision did not capture the full extent of that involvement.

That is what the inspector general said. To me, that sounds like a bureaucratic way of saying Mr. Perez did not tell the truth to the inspector general during the course of an official investigation of his conduct. So now we are going to promote him. Apparently, that is what goes on around here.

True, the original decision to dismiss the case predated Mr. Perez's appointment to the Civil Rights Division. He was not there at that time. That is true. But instead of reinstating the case—which would have been the correct decision—he became directly involved in and managed—according to the inspector general—what was, in fact, a coverup of the processes that occurred. That in and of itself should disqualify him for this position.

This is not good, to be found by your own inspector general in the U.S. Department of Justice to not respond truthfully; to have a Federal judge find that; to have their own inspector general find that. We are far too blase about high officials in this government not telling the truth. He should not be rewarded with a promotion for his work protecting political appointees in the Department of Justice.

The inspector general's report also confirmed Mr. Perez has overseen most of the unprecedented racial polarization and politicalization of the Department of Justice Civil Rights Division. There has been a lot of turmoil there over the disagreement about what is the right thing to do. There has been a consistent theme of his, which is to advance certain political and ideological agendas, it seems to me. I will explain what I mean. I want to be fair to him, but I am not—I have been around a lot of litigation for a long time and I am not comfortable with his actions.

He has sued States for implementing voter identification laws—sued the States for that which has been rejected by Federal courts—to intimidate them and stop them from saying you have to have an identification of some kind before you are allowed to waltz in and say you are John Jones and you are entitled to vote. What if you are not John Jones? States have passed laws such as that and the Federal court has rejected his view, including a three-judge panel on the U.S. District Court for the District of Columbia in Washington, including Judge Colleen Kollar-Kotelly, who was a Clinton appointee.

Mr. Perez's arguments have been rebuked by courts in Arkansas about the Civil Rights for Institutionalized Persons Act; in New York in an education case, U.S. v. Brennan; in a Florida case where Perez's team was abusively prosecuting peaceful pro-life protesters; and in a major loss in court in Florida when he was trying to force the State not to remove noncitizens from the voter rolls. Apparently, Florida, in his mind, was violating civil rights by saying nonvoters—noncitizens—shouldn't be on the voting rolls.

Is this who is running the Department of Justice? Is this the philosophy they are having in Washington?

The Department has filed and is considering lawsuits against a growing list of States that have enacted immigration legislation, including Alabama, Arizona, Utah, Indiana, Georgia, and South Carolina. Although Mr. Perez was not involved in the Department's lawsuit against Alabama—my State—he has issued threats and engaged in intimidating tactics against Alabama law enforcement officials who reported to me shock at the nature of those events.

For example, he took the unprecedented action of creating a toll-free hotline for people to report allegations of discrimination due to Alabama's immigration law, although the Attorney General of Alabama said he will prosecute anybody who violates people's right to vote. Also, Mr. Strange said, tell me who has made complaints, that you say have made complaints, about not being treated fairly and I will investigate it. Mr. Perez said there were bullying and harassment complaints out there, but when asked to produce some of them he refused to provide the information. Alabama officials have been questioned whether reports of complaints were, in fact, true. They won't say what they are.

In October of 2011, Mr. Perez sent a letter to the superintendent of every school district in Alabama requesting the names of all students who had withdrawn from school and the date, without any apparent authority to do so. He just wanted to snoop into that, I guess.

In December of 2011, he sent a letter to all Alabama sheriffs and police departments that receive Federal funds—many of them through the Department of Justice where he was—warning them, I think without basis, not to infringe on constitutional rights in enforcing Alabama's immigration law. There is no proof anybody had violated constitutional rights in enforcing that law. Mr. Perez actually threatened to withdraw Federal funding from any of the 156 offices that implement ''the law in a manner that has the purpose or effect of discriminating against Latino or any other community.''

He also warned that the Civil Rights Division is ''loosely monitoring the impact of [the law].''

On January 20, Mr. Perez met in Tuscaloosa with Tuscaloosa County Sheriff Ted Sexton and other high public safety officers in the Federal Government in Washington, and several other sheriffs around the country. Sheriff Sexton told Mr. Perez that he perceived his letter as a threat in asking whether he should expect any lawsuits against him or any other law enforcement officials. Mr. Perez wouldn't comment.

Sheriff Sexton also pressed for examples of reports of discrimination in Alabama that Mr. Perez had purportedly received, but he again refused to comment or provide evidence. According to Sheriff Sexton, a sheriff from Georgia was present and asked another Justice Department representative who was present with Mr. Perez whether States such as Alabama and Georgia were ''being penalized for the sins of our grandfathers'' and the official reportedly responded, ''More than likely.''

I received a letter from Sheriff Huey Mack of Baldwin County, a fine sheriff who responded after 9/11 in New York and did forensic work there, and Sheriff Mack states in opposition to this nomination:

> Following the issuance of this letter, several law enforcement officers met with Mr. Perez in Mobile, Alabama . . . During this meeting, Mr. Perez made several false allegations relating to law enforcement's handling of Alabama's Immigration Law. This continued for a short period of time during which it became evident Mr. Perez was not interested in the truth, but wanted to rely strictly upon his biased and preconceived notions regarding the State of Alabama. Mr. Perez should not be confirmed to any cabinet level post. In my opinion, Mr. Perez should be relieved of all of his duties as it relates to the U.S. Federal Government and seek employment outside of serving the citizens of this Nation.

Well, I wasn't there, but I know Sheriff Mack and something was wrong for him to write such a strong letter. Sheriff Sexton was in another meeting that he was referring to, a very able sheriff.

When Mr. Perez was nominated to lead the Civil Rights Division, I had serious concerns about whether he would work to protect the civil rights of all Americans regardless of race, and whether he would ensure that the division remained free from partisanship and not be used as a tool to further an agenda or some ideology.

These concerns had a basis in fact from looking at his prior record. That was the concern I had. When he ran for the Montgomery County, MD, council,

he responded to a question asking ''What would you like the voters to know about?'' with: ''I am a progressive Democrat and always was and always will be.'' Well, that is OK. But when you get to be in the Department of Justice, you have to put that aside. So I asked him about that in our meetings.

In an April 3, 2005, Washington Post article, he was described as ''about as liberal as Democrats get.'' Well, there is nothing wrong with that. But you have to be able to put it aside if you are going to serve in the U.S. Department of Justice.

As a councilman, he expressed disdain for Republicans, at one point giving ''a 5-minute speech about how some conservative Republicans do not care about the poor.'' Well, that is his opinion, but it should not affect his duties as an official in the Department of Justice.

From 1995 to 2002, while employed as an attorney in the Civil Rights Division, he served on the board of CASA de Maryland. He later became president of that organization. CASA—which is actually an acronym for Central American Solidarity Association—is an advocacy organization with some extreme views, funded in part by George Soros, that opposes enforcement of immigration laws. They are just flat out there active about it.

In the Department of Justice, you need somebody who favors enforcing the law, not not enforcing the law. What are the prosecutors supposed to do in the Department of Justice? Undermine law or enforce law? When I was in the Department of Justice, we understood our job was to enforce the law, not make it.

For example, this CASA de Maryland group issued a pamphlet encouraging illegal aliens not to speak to police officers or immigration agents. It promoted day labor sites. That is where illegal workers go out and get jobs. So they promoted that. It fought restrictions on illegal immigrants receiving driver's licenses. And it supported in-State tuition for illegal immigrants. This is the organization he was president of.

I talked to him about that, and I was not convinced that he could set that aside when he became an official in the Department of Justice who would be required to enforce those kinds of laws passed by the Congress and the States.

Mr. Perez has spoken in favor of measures that would assist illegal aliens in skirting immigration laws. While a councilman in 2003, he supported the use of the matricula consular ID cards issued by Mexico and Guatemala as a valid form of identification for local residents who worked and used government services, without having any U.S.-issued documents to prove they are lawfully here. Notably, no major bank in Mexico accepts these identification documents. They are not a valid identification document.

Unfortunately, my initial concerns about Mr. Perez's nomination have been confirmed, I hate to say. I do not feel like—and I have to say I do not doubt—that he will continue, if confirmed as the Secretary of Labor, to do all that he can within his power to hamstring the enforcement of immigration laws and to advance his political agenda. That is what his background is, that is what he has done, as I have documented here.

His misleading testimony before the U.S. Civil Rights Commission, as Mr. Kirsanow pointed out—the veracity of which was questioned by a U.S. Federal judge here in the District of Columbia—his false statements to the inspector general of the Department of Justice—who wrote about it in his analysis and report on the incident—his refusal to comply with a congressional subpoena by the House of Representatives, and, really, his abysmal record at the Department of Justice disqualifies him, in my view, for this position.

Frankly, we should not have closed debate on his nomination and moved it forward until we got the information that is out there. What if this information is produced next month and it is very incriminating or unacceptable? Are we then going to ask him to quit? That is not the way you should do business here. We have hearings. We ask questions of nominees. If they do not answer questions, normally they do not move to the floor for confirmation.

I think this is a legitimate concern that the American people ought to know about. I believe the American people have a right to know all the information about Mr. Perez's tenure in office, the criticisms of a very serious nature that he has received, and the fact that he seems to have a strong bent toward allowing his own ideological and political views to affect his decisionmaking process—all of which is unacceptable for a high position in this government of the United States of America.

I appreciate the Chair's indulgence and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

MCCARTHY NOMINATION

Mr. MURPHY. Mr. President, I rise today to speak in support of the nomination of Gina McCarthy to be this Nation's next EPA Administrator.

Mr. President, you and I know Gina McCarthy's work firsthand because, prior to joining the EPA, she was our commissioner in the State of Connecticut of the Department of Environmental Protection, where she served under a Republican Governor and worked with both parties to advance the environmental and business interests of the State.

So first I want to very briefly share with my colleagues why I support Gina McCarthy. But then I, frankly, want to talk about why I believe my Republican colleagues—who may not be supportive every single day of the year of the mission of the EPA—should support her as well.

I support Gina McCarthy because for her entire career she has been a champion of public health. A lot of people who rise to lead Federal agencies spend the majority of their career here in Washington, and there is nothing wrong with that, but there is something special that comes with somebody like Gina McCarthy, who started her career as a local public health official in Canton, MA. She learned public health at the ground level, and she understood very early on that the government, working together with the business community, can have an enormously positive effect on the health of our Nation.

I support her because she has come up the right way, through the grassroots of America's public health infrastructure. I support her because of the great work she did in Connecticut when she was, as I mentioned, our Republican-appointed commissioner of the Department of Environmental Protection.

One of the things she did is work with States all throughout the Northeast on something called RGGI, which is a voluntary association of States throughout the Northeast region to try to reduce carbon emissions.

There is nothing but success when you tell the story of RGGI. She did this under a Republican Governor. There are a number of Republican Governors along with Democrats who participated in this plan. But over time, the plan was to reduce carbon emissions from northeastern States by 10 percent, moving toward 2018. Through this mechanism, what we have seen is not just a reduction in carbon emissions from Connecticut and the States that participate, but a pretty amazing reduction in the amount ratepayers are paying. Why? Because through this rather modest cap-and-trade regime, we were able to take the money gleaned through the system and put it right back into efficiencies so that ratepayers were paying less, so much so that the estimates are that consumer bills will be $1.1 billion less because of the work Gina McCarthy did. It is an average of about $25 off the bill of a residential homeowner, and about $181 off the bill of commercial consumers.

I support her because of what she has done since she has come to the EPA, leading the air quality initiatives at the EPA. She has made a huge difference. You take a look at the Mercury and Air Toxics Rule alone, and the estimates are almost hard to comprehend. Mr. President, 11,000 premature deaths will be prevented because of work she did on that one effort alone; 4,700 heart attacks will be prevented because of these toxins disappearing from our air; and maybe most importantly to those of us with little kids at home, 130,000 asthma attacks will not happen in this country, largely to children, because we will have cleaner air to breathe.

I support Gina McCarthy because of the work she has done her entire career

to be a great steward of the environment and a resolute champion of clean air.

But I want to talk for a few minutes about why I think our Republican colleagues should support her as well.

We had a breakthrough this week on the issue of how this body will treat at least this set of nominees. I think there was agreement between Republicans and Democrats that the President, of whatever party he or she may be, should get his or her team in place, and that this body should work to make sure that occurs, and maybe with the one caveat that there should be a responsibility of the President to put people with a pragmatic mind in charge of agencies that might be ones in which there is disagreement here over their mission. I might not expect my Republican colleagues to support somebody going to the CFPB or to the EPA who is a rigid ideologue. But I think there is agreement that if the President does choose a pragmatist—somebody who is willing to reach out across the aisle, who is willing to build coalitions—then this body should support the President's team.

I want to make the case to my Republican colleagues, as they make their final decision as to how they are going to vote on Gina McCarthy, that is exactly who she is. Lots has been made of the fact that she, with the exception of her appointment to the EPA during her tenure under President Obama, has been a Republican appointee. It was not just Governor Jodi Rell, a Republican—who I disagreed with on a lot of things back in Connecticut—who appointed her to head up our DEP, but she also, of course, got her start in the higher ranks of environmental protection from Mitt Romney in Massachusetts. So she has clearly demonstrated that she is someone who is able to work across the aisle.

But what I think Republicans want to know is, as she presides over an EPA that is going to move forward with new regulations for proposed powerplants and, we hope, will move ahead with new clean air regulations for existing powerplants, is she going to do that in a rigid, arbitrary fashion or is she going to be willing to listen to industry as well?

I want to give you a couple quotes that come from people who work in the industry, people, frankly, whom I do not agree with, that the President does not agree with, and, frankly, that Gina McCarthy is not going to agree with all the time, but people who have worked with her who have at worst a begrudging respect for the work she has done and at best, frankly, an admiration.

William Bumpers, who is a partner at a law firm in town and represents powerplants and other industry clients, says:

> [Gina McCarthy] is one of these avid environmental program managers who is exceptionally competent but practical. My experience with her in the past four years, I can meet with her. She's very forthright. There's no guile with her. While I haven't always agreed with the rules that come out of there, there's never been any guess work about what comes out of there.

Gloria Berquist, who is the vice president of the Alliance of Automobile Manufacturers, says:

> She is a pragmatic policymaker. She has aspirational environmental goals, but she accepts real world economics.

Charles Warren, who was a top EPA official in the Reagan administration and who now represents a lot of people in the industry, says:

> At EPA, as a regulator, you're also asking people to do the things they don't want to do. But Gina's made an effort to reach out to industries while they're developing regulations. She has got a good reputation.

Even the spokesman for the National Mining Association—this might come under the category of ''grudging respect,'' but he says:

> She is very knowledgeable. I don't think anyone is questioning her understanding or ability. She will not be caught off-guard in any defense of what they have done. I would expect her to be well-informed. She just doesn't strike me as an ideologue.

This is what the industry says. We know the Republicans support her because that is how she got the jobs that led to her position at the EPA. But even within industry, they recognize that they are going to disagree with her. They are not going to come down to the EPA in a parade of support for some of the things she may do. But they acknowledge that she is going to listen and that to the extent possible she is going to work with them.

I think that is what we want at the EPA. I think that is who Gina McCarthy will be. I do not think that just because of speculation, I think that because as the junior Senator from Connecticut, I watched her walk the walk and talk the talk in Connecticut. I know she did it in Massachusetts because that is why we picked her in Connecticut. I have certainly seen her do it in her years heading clean air policy at the EPA.

For my friends who want a strong, passionate advocate for clean air, you got one in Gina McCarthy. For my friends who want a pragmatist who, though they may disagree with her, is going to at least be practical in how she implements the policies of this administration, you have that voice too. Gina McCarthy will be a great pick at the EPA. I urge my colleagues to support her.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, it is a pleasure to see both Senators from Connecticut here, one speaking and one presiding. To reflect on the junior Senator's comments about the EPA nominee Gina McCarthy, who has not only worked in Connecticut but in Massachusetts, she has surrounded my State of Rhode Island. We have had plenty, I would say, indirect exposure to her. I think she is terrific. I could not agree more with the Senator's comments. I look forward to a swift confirmation for her to get to work rapidly on the issue that brings me to the floor again for the 39th time, which is to try to get this body to wake up to the threat of climate change.

SENATOR MARKEY

Speaking of Massachusetts, I will also welcome our new Senator from Massachusetts, my New England neighbor ED MARKEY. For decades Ed has been a passionate leader in Congress on energy and environmental issues. He has been a true champion on climate change. He and I serve as cochairs of the Bicameral Task Force on Climate Change, along with our colleagues Representative WAXMAN and Senator CARDIN. So I really look forward to continuing to work alongside now-Senator Markey to forge commonsense solutions to the crisis of climate change.

CLIMATE CHANGE

We need common sense in a place where the barricade of special interest influence has blocked action on climate change and where even the debate itself is polluted—polluted with falsehood and fallacy and fantasy. Look no further than the Republican response to the announcement last month of President Obama's national climate action plan.

The President described in his speech some of the overwhelming evidence that our planet is changing. The 12 warmest years in recorded history have all come in the last 15 years, he said. Last year temperatures in some areas of the ocean reached record highs, and ice in the Arctic sank to its smallest size on record faster than most models had predicted it would. These are the facts. That is what the President said.

Here in the Senate, the President's facts were challenged. Those are not the facts, Mr. President, flatly replied one of my Republican colleagues. It is not even true. So let's look. Where were the facts and where were the falsehoods?

Well, according to NASA, the President had the facts right on warming. Indeed, he may actually have understated the severity of global warming. In fact, the 13 hottest years on record—the red ones—have all occurred in the last 15 years. The 13 hottest years on record have been in the last 15 years.

I remind my colleagues that NASA is the organization that right now is driving a rover around on Mars. We might want to consider that these are scientists who know what they are talking about.

As to ocean temperatures—the other part of the President's assertion—NOAA says that ''sea surface temperatures in the northeast shelf's large marine ecosystem during 2012 were the highest recorded in 150 years.'' The President's facts were right again. This chart from the National Snow and Ice Data Center at the University of Colorado shows, just as the President said, that ''the 2012 early sea ice melt in the

Arctic smashed previous records.'' Furthermore, the data center confirms that—and I will quote them again—''ice extent has declined faster than the models predicted.''

So in the contest between fact and falsehood, the President was completely accurate on his facts. Facts, as John Adams said, are stubborn, not to be easily brushed aside for convenient falsehoods.

Falsehoods, fallacies, and fantasies. Let's go on to a fallacy. My Senate colleague warned against accepting what he called ''the extreme position of saying that carbon dioxide is the cause of climate change or of global warming.'' He suggested that carbon dioxide cannot be a threat because it is found in nature. We exhale it. Well, that is a fallacy, an incorrect argument in logic and rhetoric resulting in a lack of validity or, more generally, a lack of soundness. That is the definition of a ''fallacy.'' Arsenic is found in nature, but in the wrong concentration and in the wrong places, it is nevertheless still dangerous. And the principle that carbon dioxide warms the atmosphere dates back to the time of the American Civil War. It is not late-breaking news. It is sound, solid, established science.

Quite simply, the position that carbon dioxide is not causing climate change is the extreme one. The overwhelming majority of climate scientists—at least 95 percent of them—accept that global climate change is driven by the carbon pollution caused by our human activity.

We are having a hearing this week on climate change in the Environment and Public Works Committee. Even the witnesses invited by the minority to that EPW hearing acknowledge the effects of carbon on our climate. In a recent interview, minority witness Dr. Roy Spencer of the University of Alabama-Huntsville said:

> I don't deny that there's been warming. In fact, I do not even deny that some of the warming is due to mankind.

In another interview, he said:

> I'm one of those scientists that think adding carbon dioxide to the atmosphere should cause some amount of warming. The question is, how much?

Another minority witness, Dr. Roger Pielke of the University of Colorado, testified before the House Committee on Government Reform back in 2006. Here is what he said:

> Human-caused climate change is real and requires attention by policy makers to both mitigation and adaptation—but there is no quick fix; the issue will be with us for decades and longer.

These are statements by the witnesses invited by the Republican side.

It is simply not credible any longer to just deny climate change. The view that carbon emissions have caused climate change is shared by virtually every major scientific organization, from the American Association for the Advancement of Science, to the American Geophysical Union, to the American Meteorological Society.

But, of course, to the polluters, this is not about the facts. It is about political power. They bought this clout and they are going to use it, facts be damned.

The Republican response to the President's climate plan even served up the old climategate fantasy; that is, the faux scandal in which hacked e-mails between climate scientists were selectively quoted to try to throw doubt on years of peer-reviewed research. The scientists, my colleague said, ''were exposed for lying about the science for all those years.'' Nothing of the kind is true. None of it. Because of the kerfuffle about this, eight groups, including the Office of the Inspector General of the U.S. Department of Commerce and the National Science Foundation, reviewed those whipped-up allegations against the researchers and found no evidence of fraud—none.

It turns out the so-called climategate scandal is pure fantasy, but even that fantasy flies in low orbit compared to the high-flying Republican fantasies about what regulating carbon pollution would do. According to my colleague, putting a price on carbon pollution will cost ''about $3,000 a year for each taxpayer.'' There is some history here. This scary misleading number has been kicked around by Republicans since 2009. As the colleague noted, the $3,000-per-year figure is derived from a 2007 MIT assessment of cap-and-trade proposals. But there is more. When Politifact asked one of the study's authors what he thought of the Republican characterization of his work, here is what he said:

> It is just wrong. It is wrong in so many ways, it is hard to begin.

That is the assertion that is being quoted on the Senate floor—one that is wrong, according to the authors, wrong in so many ways, it is hard to begin.

Politifact rates political statements generally from true to false, but it reserves a special designation for fantasies. Politifact, all the way back in 2009, gave these comments that very special designation: ''Pants On Fire.''

The fact, according to the nonpartisan Congressional Budget Office, is that the cap-and-trade bill's actual costs were modest, about 48 cents per household per day. Further, it is worth noting that these environmental rules, such as the Clean Air Act—let's use that as an example—actually save money overall. In the case of the Clean Air Act, it has been documented, $40 saved for every $1 spent. There is a 40-to-1 return on the cost of the Clean Air Act for the benefit of all of us.

Just as fantastical, our colleagues claim that new Environmental Protection Agency greenhouse gas regulations would cover ''every apartment building, church, and every school.'' Here is another good one: '' . . . that EPA will need to hire 230,000 additional employees and spend an additional $21 billion to implement its greenhouse gas regime.''

That may be true in fantasyland, but in reality EPA has specifically issued a rule limiting the regulation of greenhouse gases to only the largest sources such as powerplants, refineries, and other large industrial plants while exempting smaller sources such as restaurants, schools, and other small buildings. In fact, EPA filed a court brief, a signed court brief, a representation to the courts of the United States, that regulating ''every apartment building, church and every school,'' as my colleague put it, is wholly unrealistic.

EPA has fewer than 18,000 employees. To add 230,000 new employees, it would have to increase its workforce by 1,300 percent. Really?

If EPA had 230,000 employees, it would be equivalent to the 20th largest corporation in the United States. It would be larger than General Motors and Walgreens. In fact, back here on Earth, this claim has been evaluated by PolitiFact when it was made by other Republicans. Those similar statements received a rating of ''false.''

I applaud the President for courageously taking the lead on protecting the American people and the American economy from the devastating effects of carbon pollution on our oceans and our atmosphere.

I hope my Republican colleagues would consider the differences between the administration's regulatory approach and the market-based solutions we could implement through bipartisan legislation. I hope they will decide if they are content to holler from the back seat about this or whether they are willing to come forward and join with us, put hands on the wheel, and design commonsense solutions for a very real problem.

Unfortunately, instead of seizing this opportunity, the other side of this debate can't let go of the falsehood, the fallacy, and the fantasy. We were together the other night, Monday night, as a Senate. We joined together, and we went to the Old Senate Chamber to discuss a lot of issues related to the filibuster and to the Senate. A lot of high-minded things were said that Monday night, a lot of good things about the traditions and the institution of the Senate.

Traditions of the Senate worth preserving include that we don't traffic in falsehoods, fallacies, and in ''pants on fire'' fantasies, that we face even unpleasant facts squarely—that is our job—and that we do our job. We have received credible and convincing warnings. We have received compelling calls to act. The denial position has shown itself to be nonsense, a sham. It is time to wake up and for us to do the work necessary to hold back, to mitigate, and to adapt for the climate change that our carbon pollution is causing.

Yet we sleepwalk in this Chamber. We sleepwalk in Congress.

It is time to shelve the falsehood, fallacy and fantasy and have an honest discussion about how we are going to address the very real threat of climate change.

It is time to wake up.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HEINRICH). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. WHITEHOUSE. I ask that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

EXECUTIVE NOMINATIONS

Mr. LEAHY. Mr. President, yesterday was a good day for the Senate. I want to praise the majority leader, who brought the Senate back from the brink, and the hard work of Senators from both parties who listened to each other during a lengthy discussion. In particular, I thank Senator WICKER for suggesting Monday night's bipartisan caucus, which allowed for a much needed dialogue among all Senators, and Senator MCCAIN for his efforts to bring both sides together. The last time we held a bipartisan caucus meeting, in April, it was to hear Senator MCCAIN discuss his experience as a prisoner of war. In all my time in the Senate, that was a particularly memorable evening for me. It is my hope these kinds of bipartisan discussions, like the one we had Monday night, will lead to better communication in the Senate and help us work together more effectively so we can address the problems that Americans face.

Until yesterday, Senate Republicans had been blocking votes on several important Executive nominations, including Richard Cordray to be Director of the Consumer Financial Protection Bureau; Gina McCarthy to be Administrator of the Environmental Protection Agency; Tom Perez to be Secretary of Labor; and three of the five nominees to the National Labor Relations Board. Rather than arising from substantive opposition to these individual nominees, this obstruction was a partisan attempt to sabotage and eviscerate these agencies which protect consumers, the clean air and water that the American people want and deserve, and American workers. For example, I am unaware of any personal opposition to Richard Cordray, but Senate Republicans simply refused even to allow a confirmation vote for the director of an agency that they dislike. His confirmation last night, 2 years after he was first nominated, means that the CFPB is now truly empowered to protect American consumers.

During my 38 years in the Senate, I have served with Democratic majorities and Republican majorities, during Republican administrations and Democratic ones. Whether in the majority or the minority, whether the chairman or ranking member of a committee, I have always stood for the protection of the rights of the minority. Even when the minority has voted differently than I have or opposed what I have supported, I have defended their rights and held to my belief that the best traditions of the Senate would win out and that the 100 of us who represent over 310 million Americans would do the right thing.

Yet over the last 4 years, Senate Republicans have changed the tradition of the Senate with their escalating obstruction, and these actions threaten the Senate's ability to do the work of the American people.

Instead of trying to work across the aisle on efforts to help the American people at a time of economic challenges, Senate Republicans have relied on the unprecedented use of the filibuster to thwart progress. They have long since crossed the line from use of the Senate rules to abuse of the rules, exploiting them to undermine our ability to solve national problems.

Filibusters that were once used rarely have now become a common occurrence, with Senate Republicans raising procedural barriers even to considering legislation or to voting on the kinds of noncontroversial nominations the Senate once confirmed regularly and quickly by unanimous consent. The majority leader has been required to file cloture just to ensure that the Senate makes any progress at all to address our national and economic security, and a supermajority of the Senate is now needed even to allow a vote on basic issues.

That is not how the Senate should work or has worked. The Senate has a tradition of comity, with rules that function only with the kind of consent that previously was almost always given. The rules are not designed to encourage Senators to obstruct at every turn. The Senate does not function if an entire caucus takes every opportunity to use obscure procedural loopholes to stand in the way of a vote because they might disagree with the result. Without serious steps to curtail these abuses, the approach taken during the Obama administration by Senate Republicans risks turning the rules of the Senate into a farce and calls into question the ability of the Senate to perform its constitutional functions.

I was hopeful that the agreement reached earlier this year by the majority leader and the Republican leader represented a serious step toward restoring the Senate's ability to work for the American people. I was hopeful that the Republican Senators who joined with Senate Democrats in January would follow through on their commitment to curtail the abuse of Senate rules and practices that have marred the last 4 years.

That is why I was so disappointed by the continued obstruction President Obama's nominees have been facing. This obstruction has serious consequences for the American people. The harm being done is no more readily apparent than with the Republican effort to shut down the National Labor Relations Board. It was critical that we reach a workable agreement with Senate Republicans to confirm nominees to the NLRB to ensure it will be able to function—rather than leave it in its current situation of facing a shutdown due to lack of quorum at the end of next month. Shutting down the NLRB would deny justice to American workers, stripping them of their right to organize and to speak out in favor of fair wages and decent working conditions without fear of retaliation. It would also prevent employees from creating a union, or for that matter, voting to end union representation. Without an NLRB, employers will also be hurt because they will be unable to stop unlawful activities by unions, including unlawful strikes. Workers and employers depend on the NLRB, and Senate Republicans should allow votes on the President's nominees so that the Board can do its job.

Last week, some Senate Republicans declared that they could never allow a vote on the NLRB nominees who had received recess appointments to those positions, because the recess appointments have been determined by the DC Circuit to be illegal. However, according to that ruling by the DC Circuit, a total of 141 of President Bush's recess appointments were illegal. I do not recall any Senate Republicans arguing that those nominees should not be allowed a vote.

Senate Republicans should have considered President Obama's NLRB nominees on their own merits, and, even if they would ultimately have opposed them, they should have allowed the Senate to hold an up-or-down vote. I have no doubt that if considered on their own merits the two previously recess-appointed NLRB nominees would have been confirmed and would have continued to serve the Nation well.

These filibusters have been damaging to the Senate and our Nation. When it comes to Executive nominations, a President should have wide discretion to staff his or her administration.

Our form of representative democracy requires a degree of self-restraint from all of us for the legislative system to work for the good of the Nation and for the well-being of the American people. I believe that the strong cloture and confirmation votes on Richard Cordray's nomination yesterday reflect an acknowledgement of this principle by some Senate Republicans. While this deal leaves in place both the majority's ability to pursue further rules reform and the minority's ability to filibuster executive branch nominations, I hope that neither tool will be used. If the Senate Republicans who voted with us yesterday to invoke cloture on Richard Cordray continue to cooperate and work with us to allow

fair consideration of President Obama's, or any President's, executive branch nominations, the deal reached yesterday will rightfully be seen as an important step in restoring the Senate's ability to function.

SAFE ACT

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD the following seven letters expressing support for S. 1270, the Secure Annuities for Employee (SAFE) Retirement Act of 2013: Fidelity Investments, National Benefit Services, LLC, National Rural Electric Cooperative Association, Principal Life Insurance Company, Small Business Council of America, Transamerica Retirement Solutions, and the U.S. Chamber of Commerce.

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

FIDELITY INVESTMENTS,
July 11, 2013.

Hon. ORRIN HATCH,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATCH: On behalf of Fidelity Investments, I would like to thank you for advancing the discussion on retirement security. The private employer pension system has been a great success; however, we share your concerns that more needs to be done to ensure that millions of Americans are ready for retirement.

The SAFE Retirement Act of 2013 includes several provisions that will improve retirement security. For example, the bill would enhance the use of automatic enrollment—a tool that has proven to increase participation in workplace savings plans. We recordkeep over 20,000 corporate defined contribution plans, representing over 12 million participants. Our data and analysis reveal that participation rates in plans with automatic enrollment is on average 90%. Currently 60% of those defined contribution plans that offer automatic-enrollment have elected the safe harbor default deferral of three percent. A higher minimum default rate, such as six percent in the bill, may result in more participants saving at higher rates sooner.

The bill also facilitates electronic delivery and includes other provisions that would simplify plan administration, making it easier for small businesses to adopt plans. Our data show that participants who receive electronic statements and notices are more likely to take actions than participants who receive paper statements and communications. We find that electronic mail yields response rates three times higher than print (13.7% vs. 3.8%).

We applaud your leadership on retirement security and appreciate your efforts to advance needed reforms to the private retirement system. We look forward to working with you on these important issues.

Regards,

PAMELA D. EVERHART,
Senior Vice President.

NATIONAL BENEFIT SERVICES, LLC,
Jordan, UT, June 24, 2013.

Hon. ORRIN HATCH,
Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: I am writing to you to express my support for the Pension Reform Bill, a New Pension Plan for State and Local Governments. The Pension Bill proposes many improvements and needed changes to the pension/retirement system. Among its many proposed improvements, it supports and strengthens the need to work through employers to promote retirement savings programs. In my opinion, the proposal would make it easier and less costly for an employer to implement and maintain a retirement plan for either employees. The Multiple Employer Plan proposals are particularly encouraging, as many employers and administrators are discouraged with the current statute of the law in this area. As you may know, National Benefit Services, LLC (''NBS'') is committed to helping employers design and maintain productive retirement savings programs. As a whole, the Pensions Bill is important to NBS because we have experienced firsthand how positive legislation can help small employers offer a full-fledged retirement program to employees at a fraction of the cost.

Thank you for the opportunity to share my views on the Pension Bill. I support and appreciate your offices efforts in improving the retirement system. If there is anything I can do to help in your further pension reform efforts, please let me know. Thank you again for your time and interest.

Sincerely,

SCOTT F. BETTS,
Senior Vice President,
National Benefit Services, LLC.

NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION,
Arlington, VA, July 3, 2013.

Re SAFE Retirement Act of 2013.

Hon. ORRIN HATCH,
Ranking Republican Member, U.S. Senate, Committee on Finance, Washington, DC.

DEAR SENATOR HATCH: Thank you for your consistent leadership on so many issues affecting rural electric cooperatives in Utah, and throughout the country.

NRECA members are committed to preserving and enhancing the voluntary employer-sponsored retirement system and the tax policies that support it. We applaud your consistent leadership on private retirement plan issues, and look forward to working with you on your most recent bill, the ''SAFE Retirement Act of 2013'', which would help address many critical challenges facing the private retirement plan system.

NRECA is proud that the vast majority of its members offer comprehensive retirement benefits through a traditional defined-benefit plan (the NRECA Retirement Security Plan) and a defined-contribution plan (the NRECA 401(k) Plan). Both of these critical ''multiple-employer'' benefit plans (under § 413(c) of the Internal Revenue Code) are operated to maximize retirement savings for employees, retirees and their families and provides each co-op employee the financial means to enjoy a comfortable and secure retirement.

Your support for rural electric cooperatives has been critical to our success, and we look forward to continuing our work with you on the important issues that impact our dedicated employees and our consumer-owners.

Sincerely,

KIRK D. JOHNSON,
Senior Vice President, Government Relations.

PRINCIPAL LIFE INSURANCE COMPANY,
Des Moines, IA, July 2, 2013.

Re Title II of ''Secure Annuities for Employee Retirement Act of 2013''.

Hon. ORRIN HATCH,
U.S. Senate,
Washington, DC.

DEAR SENATOR HATCH: Employer sponsored 401(k) plans and other worksite retirement plans have helped millions of workers save trillions of dollars. These plans have proven to be resilient even in challenging times but more is needed to expand access to worksite retirement plans. By removing barriers to new retirement plan formation and encouraging plan designs that increase participation and savings, more Americans can gain access to retirement plans and be encouraged to save more effectively through them.

On behalf of Principal Financial Group, I want to thank you for furthering this discussion through the inclusion of Title II, ''Private Pension Reform'' as contained in ''Secure Annuities for Employee Retirement Pension Act of 2013.'' In our view, the key challenges that need to be addressed to expand retirement savings are: expand coverage of employees in voluntary, employer-sponsored retirement plans; increase retirement savings to adequate levels; and secure income to last through retirement. Each of these areas is addressed in the proposed legislation.

Thank you for your leadership in this area. We are still reviewing the specifics of the bill and look forward to working with you as the process continues. Seeking solutions to these important policy considerations to expand the current employer based retirement system is vital to the economic wellbeing of millions of future retirees.

Sincerely,

GREGORY J. BURROWS,
Senior Vice President.

SMALL BUSINESS COUNCIL OF AMERICA,
July 2, 2013.

Hon. ORRIN HATCH,
Ranking Member, Senate Finance Committee,
Washington, DC.

DEAR RANKING MEMBER HATCH: On behalf of the members of the Small Business Council of America (''SBCA'') and its advisory boards, we want to thank you for all of your efforts in support of the private retirement system and express our strong support for the private retirement system provisions in Title II and 111 of the SAFE Retirement Act of 2013.

The Small Business Council of America (SBCA) is a national nonprofit organization which has represented the interests of privately-held and family-owned businesses solely on federal tax, health care, pension and other employee benefit matters since 1979. The SBCA, through its members, represents well over 20,000 enterprises in retail, manufacturing and service industries, virtually all of which provide health insurance and retirement plans. SBCA's Advisory Boards contain many of the nation's leading small business advisors in the legal, actuarial, accounting and plan administration fields. The expertise of these board members in the small business retirement plan area is unmatched in the small business world.

Longer life expectancies are requiring increased retirement savings. The present qualified retirement plan system, which is largely dependent on federal tax laws, has been very successful in providing retirement security. However, there is still room for significant improvement. By simplifying the administrative requirements of sponsoring a qualified retirement plan and providing employers with new options, the private pension reform provisions of the SAFE Retirement Act will encourage employers to both maintain existing plans as well as to establish new plans.

The existing notice and other administrative requirements of sponsoring a plan are costly and burdensome. For small business owners, the decision of whether to sponsor a qualified retirement plan is largely based on the balance between the burdens of sponsoring a plan and the benefit to its key employees. By simplifying the operation of

qualified retirement plans, the SAFE Retirement Act will make it easier for small business owners to rationalize sponsoring plans.

The SBCA believes that this bill will increase the retirement security of small business employees throughout the nation and we will make ourselves available to fully support your efforts to protect America's retirement system.

Sincerely yours,

PAULA CALIMAFDE, ESQ.,
SBCA, Chairman.

TRANSAMERICA®,
Harrison, NY, July 3, 2013.

Re Discussion Draft SAFE Retirement Act of 2013.

Hon. ORRIN HATCH,
U.S. Senate, Hart Office Building, Washington, DC.

DEAR SENATOR HATCH: As President & CEO of Transamerica Retirement Solutions, I would like to thank you for your leadership on retirement security issues as most recently evidenced by your discussion draft of the SAFE Retirement Act of 2013.

Your discussion draft addresses in a comprehensive manner problems faced by small and large employers in providing their employees the means to save for a secure retirement, as well as by individuals in trying to achieve a secure retirement through workforce savings. In particular, removing impediments to the adoption of multiple employer plans, expanding the auto enrollment safe harbor, facilitating the use of in-plan annuities and providing annuities as a distribution option are matters in which Transamerica has been extremely active, both from a policy and market development standpoint. I and others at Transamerica look forward to working with you and your staff as you finalize these and other provisions of the SAFE Retirement Act of 2013.

The Transamerica companies market life insurance, annuities, pensions and supplemental health insurance, as well as mutual funds and related investment products throughout the U.S. and in selected countries worldwide. Transamerica Retirement Solutions provides and services workforce retirement savings plans in the small and mid-large employer markets. Transamerica helps more than three million retirement plan participants save and invest wisely to secure their retirement dreams. The Transamerica companies are ranked among the top insurance groups in the U.S., based on admitted assets, and employ approximately 12,000 people nationwide.

Please do not hesitate to contact either me or Jeanne de Cervens, VP, Transamerica Federal Government Affairs, if I can provide any specific information regarding our retirement plan business or market expertise to support your efforts.

Very truly yours,

PETER KUNKEL,
President & CEO.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC, July 8, 2013

Hon. ORRIN HATCH,
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, thanks you for introducing the ''Secure Annuities for Employees (SAFE) Retirement Act of 2013. '' Retirement security is a critical issue facing all Americans, and our members support your efforts to encourage participation in retirement savings plans.

The SAFE Retirement Act includes several provisions that the Chamber believes are important reforms to the retirement system: enhancing the start-up credit for small businesses; eliminating barriers to the use of multiple employer plans; reducing discrimination testing and other administrative burdens; reducing administrative restrictions on hardship distributions; and simplifying notice requirements. Overall, the Chamber believes that the SAFE Retirement Act would provide meaningful reform and encourage participation by both plan sponsors and plan participants in the employer-provided retirement system.

The Chamber appreciates your leadership on this issue, and looks forward to working with you and your colleagues to enact this legislation.

Sincerely,

R. BRUCE JOSTEN.

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD two letters expressing appreciation for my having introduced S. 1270, the Secure Annuities for Employees—SAFE—Retirement Act of 2013. One is from the National Association of Insurance Commissioners and the other is from the National Organization of Life and Health Insurance Guaranty Associations.

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

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS,
Washington, DC, July 2, 2013.

Hon. ORRIN G. HATCH,
Ranking Member, U.S. Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MEMBER HATCH: I write on behalf of the National Association of Insurance Commissioners (NAIC)[1] to express our appreciation for your reaching out to the NAIC with respect to your legislative proposal to address pension issues and retirement planning needs. We also appreciate your long history of support for state-based insurance regulation.

We note that the draft bill would rely on state insurance regulators' oversight of the life insurance and annuities industry. State insurance regulators have a strong track record of protecting policyholders by ensuring the solvency of insurers and ensuring policyholders are treated fairly. We appreciate your leadership in seeking to find solutions to our nation's retirement and lifetime income needs, and we look forward to continuing to work with you as you move forward with your legislation.

Sincerely,

COMMISSIONER JAMES J. DONELON,
NAIC President and Louisiana Insurance Commissioner.

[1] The NAIC is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.

NATIONAL ORGANIZATION OF LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATIONS,
Herndon, VA, July 4, 2013.

Hon. ORRIN G. HATCH,
Ranking Member, U.S. Senate Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR RANKING MEMBER HATCH: I write to offer my personal thanks to you for supporting the prudent use of annuities to help meet Americans' retirement needs.

Secure lifetime retirement income is a priority for Americans. Annuities are an important option that should be considered as part of the solution for meeting this need. Annuities historically have proven to be safe and prudent components of a sound financial plan, thanks to the efforts of a financially conservative insurance industry, effective regulation, and an established consumer safety net system.

You and your colleagues are to be lauded for encouraging the consideration of annuities to help Americans meet their overall retirement security objectives.

In my personal opinion, facilitating the consideration of annuities to help achieve secure, lifetime retirement income will redound significantly to the benefit of both individual retirees and the overall American economy, and I appreciate your leadership on this important matter.

Sincerely,

PETER G. GALLANIS,
President.

CORDRAY CONFIRMATION

Mr. JOHNSON of South Dakota. Mr. President, 3 years ago this week, the Senate passed the Wall Street reform act to address the historic instability of our financial system. Turmoil in our financial system had revealed that many Americans were trapped with financial products they did not fully understand, and that no Federal agency was looking out for consumers. This act created the Consumer Financial Protection Bureau—the first Federal agency tasked with putting consumers first—and over the past 2 years, the Bureau has taken significant steps to improve the consumer experience in many parts of the financial marketplace.

The Senate has taken a crucial step for consumers in confirming the first Director of the CFPB, Richard Cordray, to a 5-year term. I am glad that the Senate set aside partisan politics and allowed this vote on Mr. Cordray's merits to go forward. Mr. Cordray has done excellent work at the CFPB, first as its first head of enforcement, and as President Obama's first nominee to head the Bureau. I am confident that the CFPB will continue to flourish under Mr. Cordray's leadership.

TRIBUTE TO ELIZABETH CHING

Mr. BAUCUS. Mr. President, today I wish to pay tribute to a very special person who has served the people of Montana for 37 years: Elizabeth Ching. Our Liz retired from the U.S. Senate on June 30, 2013. Of course, she started her new job the very next day, on July 1. Her so-called retirement lasted less than 24-hours. That is the kind of work

ethic that has made Liz famous. When she has a task to accomplish, she simply doesn't rest until it is done.

She is a workhorse and one of the kindest, most dedicated people I know.

Liz was a staff assistant on the Select Committee for Presidential Campaigns and the Budget Committee before joining my team in the U.S. House of Representatives in 1975. Liz continued her career in the U.S. Senate. As one of the first members of my team, Liz has literally helped thousands of Montanans over the years.

She has also worn many hats over the last thirty-seven years proving that no job is too small or too large for her to tackle with heart and soul.

In many ways, Liz and I grew up together learning the ropes of Congress. Little did we know back in 1975 when I first hired her how much we would be able to accomplish for Montanans. She has helped support Montana outreach efforts on three farm bills, four highway bills, four major rural water project bills, and the Affordable Care Act.

In her early years in my Washington, DC office, she was my office manager. In 1995, she moved to Montana to be assistant to the state director. Her titles from 1996 through today include grants coordinator, State casework director, agriculture issues eastern Montana and director of constituent services, and Montana economic development director. As our economic development director, Liz has played a key role in making our Montana Economic Development Summits a success—helping make connections that have resulted in hundreds of Montana jobs. More recently, she has been an ambassador to energy-impacted communities in the Bakken region helping them to understand and access the myriad of Federal programs available to absorb the pressures of the Bakken oil and gas boom. While we will all miss having her on staff, I am thrilled to know that she will have the opportunity to continue serving Montanans through her passion for economic development.

Liz has worked on more than 17,000 cases for Montanans on issues such as small business, labor, agriculture, veterans, appropriations, transportation, housing, postal services, health, environment, energy, banking, and economic issues. I have always been thankful to have Liz in my corner. I can only imagine how each and every one of those 17,000 individuals felt knowing that Liz answered the call when they needed help.

In addition to her legislative achievements and impressive constituent work, Liz mentored thousands of interns and young staff assistants over the years, gently educating them in all facets of protocol, policy, and poise.

Always on the road, working tirelessly on individual casework and larger community issues, often I received e-mails and notes from Montanans sharing their gratitude for Liz's support and knowledge of the issues that matter most to them. One of her greatest talents is bringing key people together for discussions and setting the table for meaningful teamwork.

While she is known statewide for her work, Liz is truly a pillar of the Billings community. Whether there is a road to build, a bridge to fix, a new store opening, or a building burnt down, Liz has always been there to uplift those in need or help with the groundbreakings, ribbon-cuttings, dedications, and donations. I cannot fully express how amazing Liz has been as a liaison for our office.

While I could go on and on about Liz's professional accomplishments, I know she is most proud of her wonderful marriage to Kevin Dowling and the beautiful family they have raised together. Her amazing family is truly a testament to the type of person she is. Liz and Kevin have three terrific children: Tierney, Aidan, and Seanan, and one grandson Kaiven.

Everyone privileged to know Liz is touched by her contagious zest for life and endless energy. Her colleagues in Washington, DC, and Montana have the highest regard and appreciation for her many years of service, friendship, and determination to do everything she can for all Montanans in need of any kind of assistance.

I personally owe her a big thank-you. Liz, you are truly one of a kind. We are all rooting for you on your new adventures.

HONORING STAFF SERGEANT JEFFREY KEAS

Mr. COBURN. Mr. President, as we confront the many challenges facing this institution, it can be easy to lose sight of what is so unique and special about America. From time to time, though, we are reminded of the America we all know and love—a Nation filled with men and women of character and a remarkable ability to put the interest of others ahead of self.

I was recently reminded of the true American character in reading the story of an Oklahoman and true American patriot, SSG Jeffrey Keas, who recently succumbed to cancer at the age of 44.

As the Tulsa World recently reported, Jeff's journey to military career began at an age when others are usually leaving the service. At the age of 38, Jeff attended a local baseball game that paid tribute to active duty military and veterans. He later told family members that he felt ashamed that he could not stand with his son that day, a recent enlistee, as service men and women were asked to rise for recognition. So Jeff signed up for a long-term commitment with the Army and went on to serve our Nation in Iraq and Korea and most recently at Fort Hood, TX.

At the time of his enlistment, Jeff's dad asked him, ''Why in the world, at your age, would you do this, Jeff, when the military is designed for a 19-year-old?''

Jeff's answer says a lot about him and the country he loved so dearly. He said, ''If I can go to Iraq or Afghanistan, and that can allow some 19-year-old to come home to his mom and dad or girlfriend, then that's what I want to do.''

Tragically, SSG Jeffrey Keas passed from this world earlier this month, but not before he inspired countless Americans with his selflessness, his courage, and his service.

With men and women like SSG Jeffrey Keas, we should never count America out. We face many challenges, but this land of freedom and opportunity was built and is defended by men and women like Staff Sergeant Keas. I am in awe of the example he set for his own family, his neighbors and all those who came in contact with him.

This is the America I know.

On behalf of my fellow Oklahomans, I want to thank Staff Sergeant Keas for this remarkable example and to share our great sadness with the Keas family. Thank you for your sacrifices, and for sharing Jeff, as he served so honorably.

375TH ANNIVERSARY OF PORTSMOUTH, RHODE ISLAND

Mr. REED. Mr. President, I am pleased to join with my colleague, Senator WHITEHOUSE, to help mark the 375th anniversary of the settlement of Portsmouth, RI.

Portsmouth is predominantly located on Aquidneck Island in Narragansett Bay, and also encompasses a number of smaller islands including Prudence, Hog, Patience, and Hope. It is the second oldest community in Rhode Island and is home to over 17,000 people. With over 50 miles of coastline, Portsmouth enjoys beautiful views of the surrounding bay and islands.

Portsmouth has a long and rich history. In 1638, Roger Williams convinced religious dissenters from the Boston Colony to settle the area now known as Portsmouth. One of these dissenters, Anne Hutchinson, perhaps the most well-known of the founders of Portsmouth, rebelled against the Puritanical lifestyle in Massachusetts Bay, undergoing a rigorous trial before being banished and excommunicated from the Boston Church. Hutchinson founded the town of Portsmouth with fellow colonists who were also searching for religious freedom. Portsmouth is believed to be the first town in the New World that was established by a woman. The signing of the Portsmouth Compact in March of 1638 created the first true democracy in America.

The town played a role in our Nation's fight for independence. The Battle of Rhode Island, which took place in 1778, was significant to the history of the Revolutionary War because it was the first joint operation of American and French forces and also was the only battle in which black Americans fought as their own unit as part of the First Rhode Island Regiment, alongside Native Americans. The site

of the battle is designated as a National Historic Landmark by a plaque and monuments at Patriots Park. Portsmouth was also home to a general army hospital that treated thousands of wounded Union soldiers and Confederate prisoners during the Civil War.

With its vast shoreline, Portsmouth's maritime legacy is historically noteworthy. It was the site of the Navy's first PT-boat training facility, the Motor Torpedo Boat Squadron Training Center in Melville, where President John F. Kennedy trained. Portsmouth is now fittingly the home of US Sailing, which is the governing body for the sport of sailing in the United States.

As we celebrate the 375th anniversary of Portsmouth's settlement, I would like to recognize the residents of Portsmouth for all of their efforts to preserve one of our country's most treasured places. Like the town's motto for this anniversary celebration proclaims, Portsmouth has a proud heritage and a bright future. Congratulations to the Town of Portsmouth on its 375th anniversary.

Mr. WHITEHOUSE. Mr. President, in 1638—375 years ago—a small, brave group of free thinkers banded together to establish an independent democratic community founded upon civil liberty and religious toleration.

The settlers were followers of Anne Hutchinson, a highly educated midwife and controversial figure in the Massachusetts Bay Colony, where ideological conformity was enforced by the gallows and the lash. Hutchinson and many of her allies were banished from Massachusetts for challenging the orthodoxy of the Puritan establishment. At the urging of Roger Williams, who had founded the colony of Providence Plantation just 2 years earlier, they settled on nearby Aquidneck Island in Narragansett Bay. The group called themselves the freemen of Pocasset, after the Native American name for the area. Eventually the new community settled on the name of Portsmouth.

With the signing of the Portsmouth Compact on March 7, 1638, these religious dissenters, including John Clarke and William Coddington, formed a ''Bodie Politick'' that held forth the freedom to worship according to one's own conscience. Together with Roger Williams and his Providence colony, they blazed the path for American freedom of religion, one of our enduring national blessings.

Their bold declaration would echo 25 years later in the Royal Charter granted in 1663 by King Charles II to establish the colony of Rhode Island and Providence Plantations in New England, which provided the world's first formal establishment of freedom of religion. Their principles of tolerance are the foundation upon which our State, and afterwards our Nation, were built.

Portsmouth, RI, was also the first community in the New World to be founded by a woman. It was in Portsmouth in 1778 that the First Rhode Island Regiment, with its complement of over 100 African-American soldiers, valiantly repulsed British forces in the Battle of Rhode Island. And it was Portsmouth abolitionist and suffragist Julia Ward Howe who penned the patriotic poem, ''The Battle Hymn of the Republic,'' in 1861. The history of Portsmouth is a legacy of America.

I am proud to join with our State's senior senator, JACK REED, and all Rhode Islanders in congratulating the people of Portsmouth on this historic milestone.

RECOGNIZING THE BUFFALO SOLDIERS

Ms. LANDRIEU. Mr. President, I rise today to ask my colleagues to join me in recognizing the 9th and 10th (Horse) Cavalry Association of the Buffalo Soldiers, who on July 22–28, 2013, will celebrate their 147th Anniversary Reunion in New Orleans, LA. The cavalry association will honor allied members who have demonstrated tremendous work and leadership in the association, their community, or the United States through their exceptional service.

On July 28, 1866, the 29th Congress passed the Army Organization Act, creating two cavalry and six overall regiments of African-American troops. The 9th Cavalry was activated in New Orleans, LA, and the 10th was called into service at Fort Levenworth, KS, beginning the Buffalo Soldiers' rich heritage of professional service to their communities and the Nation. The cavalry units of the Buffalo Soldiers played an integral role in the settlement and development of the West in the crucial years that followed the Civil War, serving courageously and victoriously on the frontier from Texas to Montana.

Buffalo Soldiers wear the name proudly and respectfully, sharing a common passion for the historical significance and contributions of those who have served before them. The Buffalo Soldiers performed admirably in and out of battle, assisting in the economic growth and cultural development of Western territories and communities. Today, the Buffalo Soldiers honor their heritage through mentorship, community service, and volunteerism. In this capacity, the soldiers work tirelessly to provide education and support services in numerous communities throughout the Nation. Their outstanding leadership in these endeavors and services they perform continue to provide unparalleled contributions to the citizens and communities impacted and will benefit generations to come.

In 2001, at the 135th Anniversary Reunion of the 9th and 10th Cavalry Association, Mr. George Jones, along with nine members of the cavalry association, was awarded a national charter to form the Greater New Orleans Area Chapter #22. This chapter was the first in the State of Louisiana to receive a chapter charter from the national office. The Greater New Orleans Area Chapter has embodied the values and mission embraced by the 9th and 10th Cavalry for 147 years, and has continuously educated Louisiana's communities on the invaluable traditions and contributions of the Buffalo Soldiers in the service of the United States.

The 9th and 10th (Horse) Cavalry Association of Buffalo Soldiers has been and continues to be an inspiration to all those who have been impacted by their tireless service. It is with my greatest sincerity that I ask my colleagues to join me in recognizing the hard work, dedication, and many accomplishments of these incredible leaders.

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO THE FORMER LIBERIAN REGIME OF CHARLES TAYLOR THAT WAS ESTABLISHED IN EXECUTIVE ORDER 13348 ON JULY 22, 2004—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within 90 days prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication stating that the national emergency and related measures dealing with the former Liberian regime of Charles Taylor are to continue in effect beyond July 22, 2013.

Although Liberia has made advances to promote democracy, and the Special Court for Sierra Leone recently convicted Charles Taylor for war crimes and crimes against humanity, the actions and policies of former Liberian President Charles Taylor and other persons, in particular their unlawful depletion of Liberian resources and their removal from Liberia and secreting of Liberian funds and property, could still challenge Liberia's efforts to strengthen its democracy and the orderly development of its political, administrative, and economic institutions and resources. These actions and policies continue to pose an unusual and extraordinary threat to the foreign policy of the United States. For this reason, I have determined that it is necessary to continue the national emergency with respect to the former Liberian regime of Charles Taylor.

BARACK OBAMA.

THE WHITE HOUSE, *July 17, 2013.*

MESSAGE FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1848. An act to ensure that the Federal Aviation Administration advances the safety of small airplanes, and the continued development of the general aviation industry, and for other purposes.

H.R. 2576. An act to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes.

H.R. 2611. An act to designate the headquarters building of the Coast Guard on the campus located at 2701 Martin Luther King, Jr., Avenue Southeast in the District of Columbia as the ''Douglas A. Munro Coast Guard Headquarters Building'', and for other purposes.

The message also announced that pursuant to section 13101 of the Health Information Technology for Economic and Clinical Health (HITECH) Act (Public Law 111–5), the Minority Leader reappoints the following member on the part of the House of Representatives to the HIT Policy Committee for a term of 3 years: Mr. Paul Egerman of Weston, Massachusetts.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1848. An act to ensure that the Federal Aviation Administration advances the safety of small airplanes, and the continued development of the general aviation industry, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2576. An act to amend title 49, United States Code, to modify requirements relating to the availability of pipeline safety regulatory documents, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 1911. To amend the Higher Education Act of 1965 to establish interest rates for new loans made on or after July 1, 2013, to direct the Secretary of Education to convene the Advisory Committee on Improving Postsecondary Education Data to conduct a study on improvements to postsecondary education transparency at the Federal level, and for other purposes.

S. 1315. A bill to prohibit the Secretary of the Treasury from enforcing the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010.

S. 1316. A bill to repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–2276. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; The Boeing Company Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2012–0856)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2277. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2012–1000)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2278. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. (BELL) Helicopters'' ((RIN2120–AA64) (Docket No. FAA–2013–0470)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2279. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier, Inc. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2012–0930)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2280. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce plc Turbojet Engines'' ((RIN2120–AA64) (Docket No. FAA–2012–1331)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2281. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; DASSAULT AVIATION Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2012–1322)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2282. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Embraer S.A. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2012–1227)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2283. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Iniziative Industriali Italiane S.p.A. Airplanes'' ((RIN2120–AA64) (Docket No. FAA–2013–0455)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2284. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Boca Grande, FL'' ((RIN2120–AA66) (Docket No. FAA–2012–1337)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2285. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Sanibel, FL'' ((RIN2120–AA66) (Docket No. FAA–2012–1334)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2286. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Captiva, FL'' ((RIN2120–AA66) (Docket No. FAA–2012–1335)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2287. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Pine Island, FL'' ((RIN2120–AA66) (Docket No. FAA–2012–1336)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2288. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Boothbay, ME'' ((RIN2120–AA66) (Docket No. FAA–2012–0792)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2289. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Linton, ND'' ((RIN2120–AA66) (Docket No. FAA–2012–1097)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2290. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Immokalee-Big Cypress Airfield, FL'' ((RIN2120–AA66) (Docket No. FAA–2012–1051)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2291. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Bend, OR'' ((RIN2120–AA66) (Docket No. FAA–2013–0026)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2292. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Blue Mesa, CO'' ((RIN2120–AA66) (Docket No. FAA–2013–0193)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2293. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D and Class E Airspace and Establishment of Class E Airspace; Pasco, WA'' ((RIN2120–AA66) (Docket No. FAA–2012–1345)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2294. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Tobe, CO'' ((RIN2120–AA66) (Docket No. FAA–2013–0194)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2295. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Clifton/Morenci, AZ'' ((RIN2120–AA66) (Docket No. FAA–2012–1237)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2296. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Atwood, KS'' ((RIN2120–AA66) (Docket No. FAA–2011–1431)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2297. A communication from the Paralegal Specialist, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; La Pryor, Chaparrosa Ranch Airport, TX'' ((RIN2120–AA66) (Docket No. FAA–2012–1099)) received in the Office of the President of the Senate on July 9, 2013; to the Committee on Commerce, Science, and Transportation.

EC–2298. A communication from the Director of the Regulatory Management Division, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hexythiazox; Pesticide Tolerances'' (FRL No. 9391–1) received during adjournment of the Senate in the Office of the President of the Senate on July 12, 2013; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2299. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of an officer authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–2300. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of ten (10) officers authorized to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–2301. A communication from the Acting Under Secretary of Defense (Personnel and Readiness), transmitting the report of six (6) officers authorized to wear the insignia of the grade of brigadier general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–2302. A communication from the Assistant Secretary of Defense (Global Strategic Affairs), transmitting, pursuant to law, a report entitled ''Report on Proposed Obligations for Cooperative Threat Reduction'' ; to the Committee on Armed Services.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BARRASSO (for himself, Mr. ENZI, and Mr. BROWN):

S. 1311. A bill to provide for phased-in payment of Social Security Disability Insurance payments during the waiting period for individuals with a terminal illness; to the Committee on Finance.

By Mr. COBURN (for himself, Mr. ALEXANDER, Mr. BARRASSO, Mr. BURR, Mr. CORNYN, Mr. ENZI, Mr. INHOFE, Mr. ISAKSON, Mr. LEE, Mr. PORTMAN, Mr. RISCH, Mr. RUBIO, Mr. THUNE, Mr. VITTER, and Mr. JOHNSON of Wisconsin):

S. 1312. A bill to amend title 5, United States Code, to limit the circumstances in which official time may be used by a Federal employee; to the Committee on Homeland Security and Governmental Affairs.

By Mr. RUBIO:

S. 1313. A bill to promote transparency, accountability, and reform within the United Nations system, and for other purposes; to the Committee on Foreign Relations.

By Ms. KLOBUCHAR:

S. 1314. A bill to amend title 31, United States Code, to provide that the President's annual budget submission to Congress list the current fiscal year spending level for each proposed program and a separate amount for any proposed spending increases, and for other purposes; to the Committee on the Budget.

By Mr. CORNYN:

S. 1315. A bill to prohibit the Secretary of the Treasury from enforcing the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010; read the first time.

By Mr. CORNYN:

S. 1316. A bill to repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board; read the first time.

By Mr. NELSON (for himself and Mr. ROCKEFELLER):

S. 1317. A bill to authorize the programs of the National Aeronautics and Space Administration for fiscal years 2014 through 2016 and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURPHY:

S. Res. 197. A resolution recommending the posthumous award of the Navy Cross to Lieutenant Thomas M. Conway of Waterbury, Connecticut; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 217

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 217, a bill to amend the Elementary and Secondary Education Act of 1965 to require the Secretary of Education to collect information from coeducational elementary schools and secondary schools on such schools' athletic programs, and for other purposes.

S. 323

At the request of Mr. DURBIN, the names of the Senator from Maine (Mr. KING) and the Senator from Massachusetts (Ms. WARREN) were added as cosponsors of S. 323, a bill to amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients and other renal dialysis provisions.

S. 411

At the request of Mr. ROCKEFELLER, the names of the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Minnesota (Mr. FRANKEN) were added as cosponsors of S. 411, a bill to amend the Internal Revenue Code of 1986 to extend and modify the railroad track maintenance credit.

S. 635

At the request of Mr. BROWN, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. 635, a bill to amend the Gramm-Leach-Bliley Act to provide an exception to the annual written privacy notice requirement.

S. 695

At the request of Mr. BOOZMAN, the name of the Senator from Kansas (Mr. MORAN) was added as a cosponsor of S. 695, a bill to amend title 38, United States Code, to extend the authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to disabled veterans training or competing for the Paralympic Team and the authorization of appropriations for the Secretary of Veterans Affairs to provide assistance to United States Paralympics, Inc., and for other purposes.

S. 734

At the request of Mr. NELSON, the names of the Senator from North Carolina (Mrs. HAGAN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 734, a bill to amend title 10, United States Code, to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation.

S. 892

At the request of Mr. KIRK, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 892, a bill to amend the Iran Threat Reduction and Syria Human Rights Act of 2012 to impose sanctions with respect to certain transactions in foreign currencies, and for other purposes.

S. 917

At the request of Mr. CARDIN, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 917, a bill to amend the Internal Revenue Code of 1986 to provide a

reduced rate of excise tax on beer produced domestically by certain qualifying producers.

S. 971

At the request of Mr. WYDEN, the name of the Senator from Florida (Mr. RUBIO) was added as a cosponsor of S. 971, a bill to amend the Federal Water Pollution Control Act to exempt the conduct of silvicultural activities from national pollutant discharge elimination system permitting requirements.

S. 987

At the request of Mr. SCHUMER, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 987, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1048

At the request of Mr. ISAKSON, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S. 1048, a bill to revoke the charters for the Federal National Mortgage Corporation and the Federal Home Loan Mortgage Corporation upon resolution of their obligations, to create a new Mortgage Finance Agency for the securitization of single family and multifamily mortgages, and for other purposes.

S. 1272

At the request of Mr. ROBERTS, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1272, a bill to provide that certain requirements of the Patient Protection and Affordable Care Act do not apply if the American Health Benefit Exchanges are not operating on October 1, 2013.

S. 1279

At the request of Ms. LANDRIEU, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1279, a bill to prohibit the revocation or withholding of Federal funds to programs whose participants carry out voluntary religious activities.

S. 1303

At the request of Mr. BLUMENTHAL, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 1303, a bill to amend certain appropriations Acts to repeal the requirement directing the Administrator of General Services to sell Federal property and assets that support the operations of the Plum Island Animal Disease Center in Plum Island, New York, and for other purposes.

S. 1310

At the request of Mr. PORTMAN, the names of the Senator from North Dakota (Mr. HOEVEN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Arkansas (Mr. BOOZMAN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 1310, a bill to require Senate confirmation of Inspector General of the Bureau of Consumer Financial Protection, and for other purposes.

S.J. RES. 18

At the request of Mr. TESTER, the name of the Senator from Alaska (Mr. BEGICH) was added as a cosponsor of S.J. Res. 18, a joint resolution proposing an amendment to the Constitution of the United States to clarify the authority of Congress and the States to regulate corporations, limited liability companies or other corporate entities established by the laws of any State, the United States, or any foreign state.

S.J. RES. 19

At the request of Mr. UDALL of New Mexico, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Alaska (Mr. BEGICH) were added as cosponsors of S.J. Res. 19, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S. CON. RES. 15

At the request of Mr. HARKIN, the name of the Senator from North Dakota (Ms. HEITKAMP) was added as a cosponsor of S. Con. Res. 15, a concurrent resolution expressing the sense of Congress that the Chained Consumer Price Index should not be used to calculate cost-of-living adjustments for Social Security or veterans benefits, or to increase the tax burden on low- and middle-income taxpayers.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN:

S. 1315. A bill to prohibit the Secretary of the Treasury from enforcing the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010; read the first time.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Keep the IRS Off Your Health Care Act of 2013''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) On May 10, 2013, the Internal Revenue Service admitted that it singled out advocacy groups, based on ideology, seeking tax-exempt status.

(2) This action raises pertinent questions about the agency's ability to implement and oversee the Patient Protection and Affordable Care Act (Public Law 111–148) and the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

(3) This action could be an indication of future Internal Revenue Service abuses in relation to the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010, given that it is their responsibility to enforce a key provision, the individual mandate.

(4) Americans accept the principle that patients, families, and doctors should be making medical decisions, not the Federal Government.

SEC. 3. PROHIBITING ENFORCEMENT OF PPACA AND HCERA.

The Secretary of the Treasury, or any delegate of the Secretary, shall not implement or enforce any provisions of or amendments made by the Patient Protection and Affordable Care Act (Public Law 111–148) or the Health Care and Education Reconciliation Act of 2010 (Public Law 111–152).

By Mr. CORNYN:

S. 1316. A bill to repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board; read the first time.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting Seniors' Access to Medicare Act of 2013''.

SEC. 2. REPEAL OF THE INDEPENDENT PAYMENT ADVISORY BOARD.

Effective as of the enactment of the Patient Protection and Affordable Care Act (Public Law 111–148), sections 3403 and 10320 of such Act (including the amendments made by such sections) are repealed, and any provision of law amended by such sections is hereby restored as if such sections had not been enacted into law.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 197—RECOMMENDING THE POSTHUMOUS AWARD OF THE NAVY CROSS TO LIEUTENANT THOMAS M. CONWAY OF WATERBURY, CONNECTICUT

Mr. MURPHY submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 197

Whereas, on July 16, 1945, the USS Indianapolis departed San Francisco carrying the trigger and radioactive core for the atomic bomb Little Boy, destined to be dropped on Hiroshima;

Whereas upon completing its delivery mission to Tinian Island on July 26, the USS Indianapolis proceeded to Okinawa in order to join a larger naval fleet in preparation for an invasion of the Japanese mainland;

Whereas in the early hours of July 30, the USS Indianapolis was critically damaged by 2 torpedoes from a Japanese submarine;

Whereas the USS Indianapolis sunk as a result of the damage, killing some 300 of the 1,196 sailors aboard;

Whereas most of the estimated 900 survivors relied only on their kapok life jackets and belts and some did not even have that equipment;

Whereas Lieutenant (Chaplain) Thomas M. Conway and the rest of the remaining crew were set adrift in the shark-infested waters

with no way of further notifying Navy command;

Whereas with complete disregard for his own safety, Lieutenant Conway swam back and forth among terrified crew members, administered aid to them, dragged loners back to the growing mass of survivors, organized prayer groups, and urged the increasingly dehydrated and delirious men not to give up hope of rescue;

Whereas Lieutenant Conway expired on the third day, shortly before the remaining 321 sailors were rescued after being spotted by Navy pilots;

Whereas the sinking of the USS Indianapolis was the single greatest loss of life at sea in the history of the Navy;

Whereas the successful completion of the mission of the USS Indianapolis was critical to ending World War II; and

Whereas Lieutenant Conway risked his own life in order to retrieve fellow sailors and went from lifeboat to lifeboat in shark-infested waters to tend to the dying and dispirited, acting in a manner far above the call of duty: Now, therefore, be it

Resolved, That the Senate—

(1) honors Lieutenant Conway for his heroics, which were above reproach, reflect great credit upon himself, and upheld the highest traditions of the U.S. Navy;

(2) recognizes that the courageous and selfless actions of Lieutenant Conway saved the lives of many of his fellow sailors;

(3) concurs that the actions of Lieutenant Conway are in the spirit and tradition of the Navy Cross; and

(4) recommends that Lieutenant Conway posthumously be awarded the Navy Cross.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing entitled, ''Reauthorization of the Commodity Futures Trading Commission,'' during the session of the Senate on July 17, 2013 at 2:30 a.m. in room SH–216 of the Hart Senate Office Building.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 17, 2013 at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''E-Rate 2.0: Connecting Every Child to the Transformative Power of Technology.''

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

COMMITTEE ON FINANCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 17, 2013, at 10 a.m. in room SD–215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Health Information Technology: A Building Block to Quality Health Care.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 17, 2013 at 10 a.m.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on July 17, 2013 at 2:30 p.m.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. CARDIN. 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 July 17, 2013, at 10 a.m. to conduct a hearing entitled ''The Department of Homeland Security at 10 Years: Harnessing Science and Technology to Protect National Security and Enhance Government Efficiency.''

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

COMMITTEE ON THE JUDICIARY

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on July 17, 2013, at 1 p.m., in room SD–226 of the Dirksen Senate Office Building, to conduct a hearing entitled ''From Selma to Shelby County: Working Together to Restore the Protections of the Voting Rights Act.''

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate on July 17, 2013, at 3 p.m. in room 428A Russell Senate Office building to conduct a hearing entitled ''Small Business Tax Reform: Making the Tax Code Work for Entrepreneurs and Startups.''

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on July 17, 2013, at 10 a.m. in room SR–418 of the Russell Senate Office Building.

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

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to hold a meeting during the session of the Senate on July 17, 2013, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, ''The Expansion of Internet Gambling: Assessing Consumer Protection Concerns.''

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

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER PROTECTION

Mr. CARDIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing and Urban Affairs Subcommittee on Financial Institutions and Consumer Protection be authorized to meet during the session of the Senate on July 17, 2013, at 10 a.m., to conduct a hearing entitled ''Shining a Light on the Consumer Debt Industry.''

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

SUBCOMMITTEE ON SEAPOWER

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet during the session of the Senate on July 17, 2013, at 9:30 a.m.

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

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. CARDIN. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces of the Committee on Armed Services be authorized to meet during the session of the Senate on July 17, 2013 p.m.

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Carly Rush and Colby Steele, interns with my HELP Committee staff, be granted floor privileges for the remainder of the debate on the confirmation of Thomas Perez.

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

COMMEMORATING THE RELAUNCHING OF 172-YEAR-OLD CHARLES W. MORGAN

Mr. WHITEHOUSE. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. Res. 183 and the Senate proceed to its consideration.

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

The clerk will report the resolution by title.

The assistant legislative clerk read the title as follows:

A resolution (S. Res. 183), commemorating the relaunching of 172-year-old Charles W. Morgan by Mystic Seaport: The Museum of America and the Sea.

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

Mr. WHITEHOUSE. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table, with no intervening action or debate.

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

The resolution (S. Res. 183) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of June 24, 2013, under ''Submitted Resolutions.'')

MEASURES READ THE FIRST TIME EN BLOC—S. 1315, S. 1316, AND H.R. 1911

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

The PRESIDING OFFICER. The Senator is correct. The clerk will read the titles of the bills en bloc.

The assistant legislative clerk read as follows:

A bill (S. 1315) to prohibit the Secretary of the Treasury from enforcing the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010.

A bill (S. 1316) to repeal the provisions of the Patient Protection and Affordable Care Act providing for the Independent Payment Advisory Board.

A bill (H.R. 1911) to amend the Higher Education Act of 1965 to establish interest rates for new loans made on or after July 1, 2013, to direct the Secretary of Education to convene the Advisory Committee on Improving Postsecondary Education Data to conduct a study on improvements to postsecondary education transparency at the Federal level, and for other purposes.

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

The PRESIDING OFFICER. Objection having been heard, the bills will be read for a second time on the next legislative day.

ORDERS FOR THURSDAY, JULY 18, 2013

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, July 18, 2013; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that the majority leader be recognized; that following the remarks of the two leaders, the Senate be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the first half controlled by the majority and the second half controlled by the Republicans; that following morning business, the Senate resume executive session to consider Calendar No. 99, the nomination of Thomas Perez to be Secretary of Labor, postcloture; further, that all time during adjournment, morning business, legislative session, and recess count postcloture on the Perez nomination.

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

PROGRAM

Mr. WHITEHOUSE. Mr. President, I am informed by the leader that we hope to confirm both the Perez and McCarthy nominations on Thursday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 7:25 p.m., adjourned until Thursday, July 18, 2013, at 9:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 17, 2013:

EXPORT-IMPORT BANK OF THE UNITED STATES

FRED P. HOCHBERG, OF NEW YORK, TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2017.