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 emails 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