

CORNYN. Accompanying us were Senators COCHRAN, SESSIONS, BOZEMAN, FISCHER, and in Afghanistan, Senators MCCAIN and GRAHAM.

In Turkey and Jordan we heard about the atrocities committed by the Asad regime in Syria and the flood of refugees pouring into those neighboring countries. In Afghanistan we met with our troops and heard about the slow transition from NATO forces to Afghan security. In the United Arab Emirates we discussed the growing threat of Iran throughout the region, and we made a meaningful stop at Landstuhl Regional Medical Center in Germany to visit recently wounded Americans—and NATO partners—who have sacrificed so much in this long war against terrorism. In the voices of our troops, our diplomats, our allies, and our wounded warriors, we heard over and over again a basic question: What will America do?

Answering this question isn't easy, but I believe finding answers is made more difficult because we do not have any agreed-upon consultative process between the President and Congress. The American public needs to hear a clear dialogue between the two branches justifying decisions about the war. When Congress and the President communicate openly and reach consensus, the American public is informed and more likely to support decisions about military action. But when there is no clear process for reaching decision, public opinion with respect to military action may be divided, to the detriment of the troops who fight and making it less likely that government will responsibly budget for the cost of war.

I believe many more lawmakers, for example, would have thought twice about letting sequestration cuts take effect if there had been a clear consensus between the President and Congress about our current military posture and mission.

So at this 40th anniversary, I think it is time to admit that the 1973 resolution is a failure, and we need to begin work to create a practical process for consultation between the President and Congress regarding military action.

In 2007 the Miller Center at the University of Virginia impaneled the bipartisan National War Powers Commission under the leadership of former Secretaries of State James Baker and Warren Christopher. The Commission included legislative, administrative, diplomatic, military, and academic leadership. The Commission issued a unanimous report to the President and Congress urging the repeal of the War Powers Resolution and its replacement by a new provision designed to promote transparent dialog and decision-making. The Commission even proposed a draft statute, preserving the constitutional powers of each branch while establishing a straightforward consultative process to reach decision in a way that would gain support from the American public. The House and

Senate Foreign Relations Committees held hearings on the report in 2008, but the time was not yet right for change.

I believe the time for change is upon us. We struggle today with urgent military decisions that demand better communication between the President, Congress, and our citizens. President Obama has discussed this very need during his 2013 State of the Union Address and also during his recent speech at the National Defense University.

As we reach the 40th anniversary of the failed War Powers Resolution, Senator JOHN MCCAIN has agreed to work with me to form a group of Senators committed to finding a better way. Senator MCCAIN and I serve together on both the Armed Services and Foreign Relations Committees. I have profound admiration for his service to this country, both as a military veteran and a veteran Senator. I am a newcomer, but veterans and newcomers alike have an interest in finding a more effective process for making the most important decision that our government ever makes—whether to initiate military action. We can craft a process that is practical, constitutional, and effective in protecting our Nation. We owe this to those who fight, and we owe this to the American public.

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

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

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RUBIO. Mr. President, I ask unanimous consent that I be recognized to speak for up to 12 minutes as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### OBAMACARE

Mr. RUBIO. Mr. President, just a few moments ago I heard the President speaking from the White House regarding ObamaCare. He was lamenting, saying: Why are we still litigating old news around here? Let's move on to other things. This issue has been finished.

The reason this issue is still being talked about is because ObamaCare is a disaster. I think it is important to remember when we talk about health insurance that most Americans do have health insurance they are happy with. But no one would dispute that we have a health insurance problem in this country.

For many who have insurance the cost of their insurance is getting unaffordable, and many others have no access to insurance at all. They have a job, perhaps, that doesn't provide it or they are chronically ill so insurance is impossible for them to find or they are

young and healthy and they never go to a doctor, so they figure, why do they need it? Yes, for millions of people the cost and availability of insurance is a real problem, and we should do something about that.

The problem is ObamaCare, as a solution, is a massive government takeover of health insurance in America, and it does not fix the problem. It only makes it worse, and that is why we are still talking about it. It makes it worse for a number of reasons.

Tomorrow I am going to visit a business in Florida where the reality is growing every single day. Tomorrow I will visit Gatorland. Gatorland is in central Florida. It is a tourist destination where many Floridians and tourists have taken their kids to see alligators and to enjoy Florida's unique wildlife.

For 135 Orlando area residents, however, Gatorland is their workplace. It is their livelihood. It is how they feed their families. It is how they pay their mortgages. It is how they get ahead in life. The reason we are still litigating this, Mr. President, is because like hundreds of thousands of other businesses around the country, ObamaCare is threatening to unravel it all. It is threatening to unravel the livelihood of 135 Floridians who work at Gatorland, to shatter their financial security for them and their families.

Let me describe the problem. Gatorland has 135 full-time employees. Gatorland is currently paying 80 percent of the insurance cost for these employees. But now, under ObamaCare, evidently what they are doing is not going to be enough. ObamaCare, first of all, requires them not to just provide insurance but to provide for them a certain type of insurance, a type of insurance the government decided is enough.

Second, because of ObamaCare, the cost of the insurance that Gatorland wants to provide for its employees is going to go up; that is, if they want to continue to pay 80 percent of the insurance costs for the 135 Floridians who work there, it is going to cost them a lot more money. Those are the two problems.

No. 1 is they have to offer a certain type of insurance; the one they have potentially may not be enough according to the government. No. 2, because of all these changes, it is going to cost Gatorland more money to provide 80 percent of the cost of the insurance.

What does this mean in the real world? Here is what it means. It means that as Gatorland looks to next year and into the future, they now have a new cost on their books. As they look at their business plan for the coming year, all of a sudden they see on the cost side it has gotten more expensive. So if they want to stay in business, they are going to have to figure out a way to come up with that extra money.

What are their options to come up with this extra money? Option No. 1 is they can raise their prices. Option No.

2 is they can cut back on expenses, such as the number of employees and benefits and hours. Option No. 3 is just not to comply at all with ObamaCare and pay a fine. Basically, don't offer insurance to these employees; let them go off and find it in the so-called exchanges and pay a fine to the IRS.

I ask you, Mr. President, and I ask the people of this country, and I ask my colleagues, which one of these three options is good for our country? Which one of these three options is good for America, and which one of these three options is good for the 135 people who feed their families by working at Gatorland?

If they raise their prices, that means the cost of going to Gatorland will go up. I understand our economy is not doing very well these days. Millions of people are underemployed and unemployed. They are working twice as hard and making half as much, and you are going to make it more expensive for them to go on vacation. I would argue that raising their prices is probably not an option available to them anyway. Gatorland is not Disneyland and not Universal, and it is not one these big tourist destinations. It is a small place that has to compete, and if you raise prices there comes a point where people just will not go.

Not only is raising prices bad for our economy and people who want to visit Florida and take their families there, it might not even be feasible. So that certainly is not a good option. It may not even be an option at all.

The second option is they would have to cut down on their expenses with their employees. That means they can lay off some people; find the money by instead of having 135 employees, try to get by with 125 employees. That could mean not laying off people but as people retire or quit just not replacing them. That could also mean moving some of these people who are working full time to part time so they can get around the ObamaCare mandates, and so they can lower their costs. How is that good for our economy? How is that good for 135 people who work at Gatorland? How is that good for Florida? How is that good for us?

The third option is they could pay the fine, but it is going to cost at least 135 people in my State the insurance they are happy with. I want you, Mr. President, to remember what you said—in fact what you repeated today in your statements a moment ago at the White House. You said if you are happy with your insurance, you can keep it. For 135 people working in Gatorland in central Florida, that may not be true. They could lose their insurance that is working well for them, that they are happy with, because of this experiment. That is why we keep revisiting this issue.

Interestingly enough, by the way, that is not just me saying that. This week some prominent labor unions, labor unions who are actually in favor of this law—lead among them was the

Teamsters head, Jimmy Hoffa—wrote a letter to the President attacking this very point. They said the new law is breaking the promise that was made that if you are happy with your coverage, you are not going to lose it.

I single out Gatorland because that is the real world. That is where I am going tomorrow, and that happens to be in my State. There are thousands of businesses like this that are facing these decisions. There is not one, there are hundreds of thousands of businesses that are facing this dilemma, that have these same concerns.

By the way, this is not the only problem with ObamaCare. There are many others. The President keeps saying: There are people in town who want this plan to fail. They keep bringing up ObamaCare because they want it to fail.

The plan is already failing. It is failing by your own admission. You just had to cancel, had to suspend one of the critical components of this bill because it is not doable. This plan is already failing on its own.

By the way, if you are going to accuse us of wanting ObamaCare to fail, you better accuse the Teamsters of it because they have the same criticisms on this point that I have raised today.

I think we have reached a point where no matter how you voted on ObamaCare—I was not here, but no matter how you may have voted on ObamaCare if you were here, no matter who you voted for for President, no matter if you are a Republican, a Democrat, or an Independent, it is bigger than politics—this is really about people. Today I highlighted the plight that 135 people in Florida are facing, but hundreds of thousands if not millions of others will soon face this plight as well. As Americans, we have to come to grips with the fact that this law is a terrible mistake, and we cannot go forward with it because it is going to hurt millions of middle-class Americans in the ways I have just described.

We are going to have an opportunity to get this right in September because we are going to have to vote on a short-term budget to fund the government. I implore my colleagues to use that as an opportunity to put the brakes on this terrible mistake before more people lose their insurance, put the brakes on this before more people lose their jobs, put the brakes on this before more people lose their businesses. In that short-term funding bill, we should not pay for the implementation of ObamaCare. Let me be clear. Anyone who votes for the short-term budget that funds ObamaCare is voting to move forward with ObamaCare. Don't come here and say "I am against ObamaCare" if you are willing to vote for a budget that funds it. If you pay for it, you own it.

I want to make myself clear to the employees of Gatorland, the working people of Florida, and anyone in America who is watching that I, for one, will not vote for any bill or any budget that

funds the implementation of this disaster. Does that mean we shouldn't do anything about health insurance in America? Of course it doesn't mean that. We should do something—something that protects what is good about the current system and fixes what is bad with it. ObamaCare throws out what is good about the current system in order to try to fix what is bad with it, and in the end it messes up everything.

We should repeal ObamaCare and replace it. We should replace it with ideas that allow uninsured and underinsured Americans to find affordable insurance without taking away other people's insurance and other people's jobs.

For example, we should expand flexible savings accounts. These are accounts like the ones to which every Member of Congress has access. That allows us to take money out of our paycheck every month tax free and put it in a savings account for health purposes. We don't have to pay taxes on that money. A deposit is made every month, and it starts adding up. That money can be used to buy medicine or to pay for a copayment or any other medical expense. It is our money, and we control it. It has to be used on health care, but it is tax free. If Members of Congress get this, why shouldn't every American have a chance to have something like that?

I used that account last year to pay for my daughter's braces. Millions of Americans should have the chance to do that. Why don't they? Because ObamaCare undermines it instead of encouraging it. It lowered the amount we can save every year from \$5,000 to \$2,500. Ridiculously enough, it says that in order for me to pay for children's Advil for my kids with my flex savings account, I have to get a prescription from a doctor. Think about that. If you buy children's Advil because your child has a fever, you now have to go to a doctor and get a prescription if you want to use your money to pay for it. Instead of encouraging the flex savings account, ObamaCare undermines it.

Another good idea would be to allow people to buy insurance with their own tax-free money. Let's use the example of Gatorland. Let's say that the monthly premium is \$1,000 and Gatorland pays \$800 of it. They don't pay taxes on that \$800. But let's say that tomorrow a business like that decides it is going to give you the \$800 so you can go out and buy insurance from any company. If it does that, you have to pay taxes on the \$800. If the employer buys the insurance for you, they don't pay taxes on the money. If you buy insurance for yourself, you pay taxes on the money. That is ridiculous. That is something we should be for.

Here is another one. Why can't we Americans buy insurance from any company that will sell it to us? I live in Florida. If there is a company in Georgia that will sell me health insurance, why can't I buy it? I can't buy it

because they are not licensed by the State of Florida. This ignores the fact that every American needs a different type of health insurance.

If you are like me, with four children, you need a family plan that will cover a lot of things, and that will cost more.

What if you are a 25-year-old healthy single person who hardly ever gets sick? What you probably want is a hospitalization and catastrophic insurance account and a health savings account. The health savings account can be used if you get the flu, so you can take out \$50 or \$100 with the tax-free money you have saved and pay for the doctor's visit. If, God forbid, you get hit by a car, your insurance steps up and pays for it. A plan such as that is a lot more affordable, but right now you can't buy it. Most States have rules, and most of the rules say: You either have to sell them a Cadillac or nothing at all. What if you don't want a Cadillac? What if you want a Geo? The same is true with health insurance, and it is wrong. We should encourage those things.

It is not too late to change all of this. It would be a terrible mistake to move forward. This is not about defeating a President's agenda or wanting or rooting for it to fail. We do have a health insurance problem, and we should address it. What we are doing now is going to hurt an economy that is already struggling. There are people who will lose their jobs, lose hours at their jobs, paychecks will be cut, and they will lose the health insurance they are happy with. There are businesses in America that are going to be forced to absorb these costs by laying people off or raising prices or both. There are people who will lose coverage now and be thrown into exchanges that don't exist yet. This is a disaster. We should take the time to slow this down, and we will have a chance to do that in September.

I will repeat it. I, for one, will not vote for any budget that funds the implementation of this disaster and hurts people in this way. I hope my colleagues will put partisanship and pride aside and come together. The fact is that if ObamaCare goes through and begins to be implemented, it is going to hurt us in ways that are potentially irreversible. It is not too late to stop.

I yield the floor.

The PRESIDING OFFICER (Ms. HEITKAMP). The Senator from Iowa.

Mr. HARKIN. Madam President, I am pleased we are finally at the point where we can vote on the nomination of Thomas Perez to serve as Secretary of Labor. Indeed, it seems as though the most important question before us today has gotten lost in all of the debate. Will Tom Perez be a good Secretary of Labor? The answer is unequivocally yes. There is no question that he has the knowledge and experience needed to guide this critically important agency.

His outstanding work in Maryland as their secretary of labor has won him

the support of the business community and workers alike. Here is a quote from the endorsement letter from the Maryland Chamber of Commerce:

Mr. Perez proved himself to be a pragmatic public official who is willing to bring differing voices together. The Maryland Chamber had the opportunity to work with Mr. Perez on an array of issues of importance to employers in Maryland, from unemployment and workforce development to the housing and foreclosure crisis. Despite differences of opinion, Mr. Perez was always willing to allow all parties to be heard and we found him to be fair and collaborative. I believe that our experiences with him here in Maryland bode well for the nation.

That is a pretty strong endorsement by a chamber of commerce for a nominee whom the minority leader this morning characterized as a "leftwing ideologue . . . willing to bend the law to achieve his ideological ends." That is what the minority leader said this morning. That grossly unfair characterization is manifestly inconsistent with the experiences of the Republican leaders and business leaders who have actually worked with Tom Perez. These people clearly disagree with the minority leader's assessment of Mr. Perez's qualifications and character. I am informed that the minority leader never met with Mr. Perez. Mr. Perez offered to meet with him, but the minority leader said no. Yet the minority leader comes down here and makes these kinds of judgments as to his character and his integrity?

We have heard a lot of discussion about the controversy surrounding Mr. Perez's nomination over the last couple of days on the Senate floor. His integrity and character have been viciously and unfairly attacked.

I take particular issue with the minority leader's suggestion this morning that Mr. Perez doesn't follow the law or believe it applies to him. I respectfully suggest that the minority leader needs to check his facts. Those allegations couldn't be more to the contrary. Tom Perez believes deeply in the law. He believes that all the laws on the books, especially those that protect our most important rights—the right to vote, the right to be free from discrimination in the workplace, the right of people with disabilities to live in their own communities—Tom Perez believes strongly that these rights should be respected and enforced. These are the same laws that I sometimes think some on the Republican side would like to forget are on the books, but these laws matter. Voting rights matter. Fair housing rights matter. The rights of people with disabilities matter. And Tom Perez has fought for that.

We shouldn't shy away from using every tool in our arsenal to strengthen our enforcement of civil rights laws. These laws are part of what makes our country great. I am incredibly proud of the work Mr. Perez has done at the Department of Justice to make these rights a reality again after years of neglect. He should be applauded, not vilified, for the service he has provided to this country.

He is a leader whose career has involved passionate and visionary work for justice. Yes, he has had to make difficult decisions. He has faced management challenges. As we now know, he has been the target of accusations, mudslinging, and character assassination. I have looked carefully into Mr. Perez's background and record of service, as the chair of the authorizing and oversight committee. I can assure Senators that Tom Perez has the strongest possible record of professional integrity and that any allegations to the contrary are unfounded. They are simply unfounded allegations. There is absolutely nothing that calls into question his ability to fairly enforce the law as it is written. There is absolutely nothing that calls into question his professional integrity, moral character, or his ability to lead the Department of Labor.

I am particularly disappointed that Republicans continue to raise concerns regarding Mr. Perez's involvement in the global resolution of two cases involving St. Paul, MN—the cases called *Magner* and *Newell*. I spoke about that at length, and Republicans have talked about it. This has been debated exhaustively. Quite frankly, there is nothing there.

This is an issue the HELP Committee and the Judiciary Committee have thoroughly examined and found no cause for concern. The House Oversight and Judiciary Committees have also thoroughly explored the underlying facts. In fact, both the majority and minority staff on the House Oversight Committee have released reports on the matter. What the reports revealed is that the evidence is clear—Mr. Perez acted ethically and appropriately at all times. Indeed, he had clearance to proceed as he did from the appropriate ethics officers at the Department of Justice. Noted experts in legal ethics have confirmed this.

There is no foundation for any allegation of wrongdoing by Mr. Perez in these cases involving St. Paul, MN. Yet they keep being drummed up. But they are just allegations. Anybody can make an allegation—especially here on the Senate floor. Members can make all kinds of allegations. I simply ask for proof. Back up those allegations. There is no proof. There is nothing to back up those allegations that somehow Mr. Perez acted unethically or in violation of law.

I am also deeply disappointed that my Republican friends are suggesting that Mr. Perez has been unresponsive to requests for information by Members of this body. Nothing could be further from the truth. Mr. Perez has been as open and aboveboard as he possibly can be with both my committee and Members of the Senate. He has met with any Member personally who requested a meeting. He requested a meeting with the minority leader, and the minority leader said no. He appeared before our committee in a public hearing. He answered more than 200

written questions. He bent over backward to respond to any and all concerns raised about his work at the Department of Justice.

This administration has also been extraordinarily accommodating to my Republican colleagues—especially to their concerns about Mr. Perez's handling of the *Magner and Newell* cases while at the Department of Justice.

The administration has produced thousands of documents. They have arranged for the interview of government employees and access to transcripts of inspector general interviews. They have provided access to Mr. Perez's personal e-mails. They have facilitated almost unprecedented levels of disclosure to alleviate any concerns. They have responded to every request for information, including the letter by Chairman ISSA that Senator ISAKSON submitted for the RECORD this morning.

I ask unanimous consent to have printed in the RECORD the response to Chairman ISSA's letter from the Department of Justice at this point.

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

U.S. DEPARTMENT OF JUSTICE, OFFICE OF THE ASSISTANT ATTORNEY GENERAL,

Washington, DC, July 15, 2013.

Hon. DARRELL E. ISSA,  
Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN ISSA: This is in response to your letter, dated July 8, 2013, to Assistant Attorney General Thomas E. Perez, regarding your request for emails that existed both in Mr. Perez's personal email account and in the Department's email system.

As we explained in our letters of June 21, May 10, May 3, and April 17, 2013, we have gone to great lengths to accommodate the Committee's stated oversight interest in the Federal Records Act and the availability of emails for other records requests. The mails in question that were in Mr. Perez's personal account had also, before your inquiry, already been sent to or from a Department email address and thus were captured by the Department's system pursuant to the Federal Records Act (FRA). Nonetheless, we invited Committee staff to view the date, sender, and recipient fields of these emails so that they could confirm this fact. Indeed, following Mr. Cummings' staff's review of the emails, he wrote to the Department to state that the review had allowed him to "verify that [all the emails] were, in fact, sent from or received by official government e-mail accounts," which addressed his concerns. The substantive content of these emails is not pertinent to an inquiry into FRA compliance.

Only 5 communications initiated by Mr. Perez—and just 30 initiated by others—had not already been captured in the Department's email system prior to your inquiry. When he located these communications, Mr. Perez immediately forwarded them to a Department email address, ensuring that they are now in the Department's system. These 35 communications were made available for review by your staff.

As a result, as we explained in our letter to you on June 21, 2013, we believe that we have addressed your stated oversight interest.

Sincerely,

PETER J. KADZIK,  
Principal Deputy Assistant Attorney General.

Mr. SCOTT. Madam President, I rise today to express my opposition to the nomination of Thomas Perez to be Secretary of Labor.

Given our relentlessly high rate of unemployment over the past 55 months and stagnant economic growth, we simply must do more to foster lasting economic prosperity. After analyzing Mr. Perez's role at the Department of Justice, I do not believe he is the proper candidate to help our Nation return to full employment or reach our economic potential. I have great concerns regarding some of the decisions he has made, the professionalism and ethics of those decisions, and his overall management abilities. The Department of Labor has, unfortunately, pursued guidance and rulemakings that are daunting to large and small businesses alike, and I believe Mr. Perez would only exacerbate these problems.

Mr. Perez accrued an alarming record of mismanagement and utter politicization of the law during his tenure at the Department of Justice, DOJ. The DOJ's inspector general 2013 report gave a highly critical review of the Voting Section under Mr. Perez, citing the "politically charged atmosphere and polarization within the Voting Section" and the "dysfunctional management chain" under Mr. Perez. Furthermore, the report indicated that the handling of the New Black Panther Party case under his leadership "risked undermining confidence in the non-ideological enforcement of the voting rights laws."

When I look at the nonpartisan inspector general report and the way in which Mr. Perez has pursued policies singling out certain conservative States and industries, I simply cannot support his nomination. The Voting Section's decision to override career DOJ staff to block the implementation of my home State of South Carolina's voter ID law is a prime example of this trend. Only after South Carolina spent more than \$3.5 million suing the DOJ in Federal court did our law take effect. Yet, even on the heels of defeat in Federal court, Mr. Perez was still dissatisfied and decided to send DOJ officials down to monitor a special municipal election in Branchville, SC—a town with a voting population of 800 and where fewer than 200 people voted in the special municipal election.

Finally, I believe it is irresponsible and an abdication of congressional authority to move a nominee who has repeatedly failed to comply with an outstanding congressional subpoena. The House Oversight and Government Reform Committee issued a bipartisan subpoena on April 10, 2013, regarding 1,200 e-mails sent from Mr. Perez's non-official e-mail account that referred to official business of the Department of Justice. Mr. Perez's failure to comply with this obligation casts considerable doubt on the deference he would give to Congress as Secretary.

What we need at the Department of Labor is simple: a Secretary who will

put politics aside and a strong management structure in place to help get our economy back on track. States, businesses, and employees cannot afford to have a Secretary of Labor who seeks to micromanage and politicize the most mundane aspects of everyday life. For these reasons, I oppose Mr. Perez's nomination.

Mr. MENENDEZ. Madam President, once again I wish to reiterate my strong support for Tom Perez, a man eminently qualified to serve our country as the next Secretary of Labor.

Tom Perez was cleared by the HELP Committee over 2 months ago and should have been confirmed soon after, but we know that wasn't the case.

I am glad that Leader REID was able to break the nominations logjam this week so that we could begin confirming some very deserving nominees, including Tom Perez.

Tom Perez is the quintessential public servant. He is a consensus builder. As Secretary of Labor in Maryland, he brought together the chamber of commerce and Maryland labor unions to make sure workers received the level of wages and benefits they deserved and business had the skilled workforce they needed.

Most recently, he has served as Assistant Attorney General for the Civil Rights Division of the Department of Justice, where he increased prosecution of human trafficking by 40 percent, won \$50 million for servicemembers whose homes were improperly foreclosed on while they served, and settled the three largest fair lending cases in the history of the Fair Housing Act, recovering more money for victims in 2012 than in the previous 23 years combined.

He has spent his entire career in public service.

He is a Brown University graduate with a master's in public policy from the Kennedy School and a Juris Doctorate from Harvard Law.

He is an advocate for people with disabilities and won the largest ever disability-based housing discrimination settlement.

Tom Perez is a civil rights champion. He obtained the first convictions under the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, and has always supported ending discrimination on the basis of sexual orientation.

Tom Perez is a good man and a good nominee. So let's do what we should have done a long time ago.

He is a qualified, competent, professional public servant, nominated by the President, and already confirmed by the Senate to the post he holds today.

As I said when I first endorsed Tom Perez, and I will say again today; he is an outstanding public servant, and I applaud President Obama for selecting him to be our Nation's next Secretary of Labor.

I have no doubt that he will continue the administration's efforts to create

jobs and get people back to work. Mr. Perez has dedicated his career to championing the rights of workers and all Americans, and I am confident that he will continue to do the same if confirmed.

As former Secretary of Labor in Maryland, Mr. Perez prioritized matching community colleges, labor unions, and the private sector to help get people jobs that are in demand today and in the future—an initiative that is much needed on a national scale, and something I have proposed in legislation that would close the skills gap by training workers with the skills needed to fill such jobs.

This is a remarkable nominee who brings a compelling personal story and a wealth of knowledge and leadership to the Department of Labor.

I am very pleased the time has finally come for good people like Tom Perez to get the up-or-down vote they deserve.

I urge my colleagues to vote to confirm this qualified nominee who has waited too long.

Ms. MIKULSKI. Madam President, I rise in support of one of Maryland's favorite sons, Mr. Tom Perez, the President's nominee to lead the Department of Labor. Mr. Perez has been the Assistant Attorney General for the United States and has also been Maryland's Secretary of Labor and Licensing and also was a member of the Montgomery County Council. All three of these jobs show his expertise and his ability to navigate some very complex situations. I believe he is the right man for the job.

I support his nomination, not only because he is one of Maryland's favorite sons, but because I believe he brings integrity, competency, and commitment to the mission of the Department of Labor.

His resume is outstanding. A Harvard Law School graduate. He has served in public service at the Federal, State, and county levels and he has a commitment to the mission of each agency.

In terms of personal background, it is really the story of America. His father came to this country under very difficult circumstances. His grandfather was one of the leaders of the voices of freedom in the Dominican Republic—punished for that and declared a persona non grata. But his father was able to stay in this country as a legal immigrant, go on to military service, and become a physician. And to show his gratitude to this country, he worked only for the Veterans Administration serving the country that saved him and his family.

Tom grew up with public service in his DNA. His father died when he was a young boy and he will tell that compelling narrative, but through the dint of hard work, a loving mother, and a nation that offered opportunity—he was able to work his way through school, get the scholarships, worked even as a trash collector during summer break to be able to advance himself.

He knows what the American dream is, but he also knows what hard work is, and he knows what an opportunity ladder we need to have in this country.

But in addition to that, he brings a great deal of skill—we know Tom at the Montgomery County Council level where government is closest to the people had to really govern best. And it is a complex, growing county where you had to work with public-private partnerships.

I admire Tom so much for his work as head of the Maryland Department of Labor. They now have a letter in the RECORD recommending Tom to be the Secretary of Labor. Why? Because he listens, he learns, and he brings everybody to the table for a pragmatic, fair, and collaborative work.

That is how he earned support from worker advocates and many of the Maryland's largest employers, the Maryland University System, the Maryland Association of Community Colleges, the Maryland Minority Contractors Association, and the Greater Baltimore Committee.

I am confident Tom Perez will be an excellent Secretary of Labor. I know he will be a strong voice for the working class and for keeping the government on the side of the people who need it. I urge my colleagues to support his nomination.

Mr. LEAHEY. Madam President, today the Senate will finally proceed to a confirmation vote on the nomination of Tom Perez to serve as Secretary of the U.S. Department of Labor. This vote continues the progress we made on executive nominees this week following our bipartisan caucus on Monday night. I am pleased that six Republican Senators joined with Democratic Senators to invoke cloture on this nomination on Wednesday, and now we can proceed to getting this well-qualified nominee confirmed to lead the Department of Labor.

Tom Perez is a dedicated public servant, and since 2009, he has worked hard to restore the reputation of the Civil Rights Division at the Justice Department. This was no small task after the prior administration had amassed one of the worst civil rights enforcement records in modern American history. Under the leadership of Attorney General Holder, Tom Perez has guided the Civil Rights Division back to its core mission of vigorous civil rights enforcement. He has many accomplishments to be proud of under his stewardship of the Division. Among them is his successful implementation of legislation I offered in the Senate, the Shepard-Byrd Hate Crimes Prevention Act, which was signed into law by President Obama just after Tom Perez was confirmed as the Assistant Attorney General for the Civil Rights Division in October 2009. Under Tom Perez's leadership, the Division implemented this important law and brought several important hate crimes prosecutions. Under his leadership, the Division has also been vigilant in pro-

tecting American homeowners against discriminatory predatory lending, and in protecting our men and women in uniform from foreclosure by lenders while overseas on active duty. He also led the Division to expand the number of human trafficking prosecutions by 40 percent during the past 4 years, including a record number of cases in 2012.

I have no doubt that Tom Perez will bring to the Labor Department the same leadership and commitment that he brought to the Civil Rights Division, and our Nation will be better for it. As a former Secretary of Labor in Maryland, and a fierce defender of workers' rights and civil rights, he is uniquely suited to serve in this important post at a critical time.

Mr. HARKIN. Madam President, I ask unanimous consent for 1 more minute to conclude my remarks.

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

Mr. HARKIN. In short, the Department of Justice has made all e-mails available for review. It is true Congressman ISSA has continued to repeat his requests, but that doesn't mean Mr. Perez and the administration have not been responsive, because they have.

The fact is this nominee has been more than thoroughly vetted. He has the character and the integrity and the expertise to lead the Department of Labor. The President has chosen Mr. Perez to join his Cabinet, and there is absolutely no reason why the Senate should not consent to this choice.

I am proud to support Mr. Perez's nomination. He will be an asset to the Department of Labor and to our entire country. I look forward to the opportunity to work with him in his new position to help all working Americans.

I yield the floor.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor?

The clerk will call the roll.

The assistant bill clerk called the roll.

The result was announced—yeas 54, nays 46, as follows:

[Rollcall Vote No. 178 Ex.]

YEAS—54

Baldwin	Franken	Markey
Baucus	Gillibrand	McCaskill
Begich	Hagan	Menendez
Bennet	Harkin	Merkley
Blumenthal	Heinrich	Mikulski
Boxer	Heitkamp	Murphy
Brown	Hirono	Murray
Cantwell	Johnson (SD)	Nelson
Cardin	Kaine	Pryor
Carper	King	Reed
Casey	Klobuchar	Reid
Coons	Landrieu	Rockefeller
Donnelly	Leahy	Sanders
Durbin	Levin	Schatz
Feinstein	Manchin	Schumer

Shaheen	Udall (CO)	Warren
Stabenow	Udall (NM)	Whitehouse
Tester	Warner	Wyden

## NAYS—46

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

The nomination was confirmed.

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

The Senator from California.

NOMINATION OF REGINA MCCARTHY TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mrs. BOXER. Madam President, I ask that the Senate resume consideration of Calendar No. 98, the nomination of Regina McCarthy to be Administrator of the EPA.

The PRESIDING OFFICER. The clerk will report the nomination.

The legislative clerk read the nomination of Regina McCarthy, of Massachusetts, to be Administrator of the Environmental Protection Agency.

The PRESIDING OFFICER. Under the previous order, the time until 2:30 p.m. will be equally divided in the usual form prior to a cloture vote on the McCarthy nomination.

The Senator from California.

Mrs. BOXER. Madam President, as chairman of the EPW Committee, this is a day I have longed for for a long time. This has been the longest time the EPA has been without an Administrator in all of history. We could not have a more qualified nominee. We could not have a more bipartisan nominee.

The bottom line is Gina McCarthy has worked for five Republican Governors. She is a beloved individual. I wish to thank so many outside of this body who have weighed in on her behalf, including Christine Todd Whitman, the former Republican Administrator of the EPA, and Gov. Jodi Rell. It has meant a lot to Gina McCarthy. It has meant a lot to us who know that the EPA deserves a leader, and this woman Gina McCarthy deserves a promotion.

I will be back on the floor in about an hour or so just to make some more brief comments. But I wish to thank my colleagues from both sides of the aisle. We did avert a tough challenge for both parties. We averted that. I am very happy we did. One of the benefits of that agreement is we are having

votes on people as qualified as Gina McCarthy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I ask unanimous consent that after my remarks, Senator REED be recognized for up to 15 minutes.

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

Mr. SESSIONS. Madam President, I would like to talk about the nomination of Gina McCarthy to serve as Administrator of the Environmental Protection Agency. I had the pleasure of meeting with her earlier in the confirmation process and talking with her at length about many important issues. She is experienced. I believe she is a good person. She has given her assurance that EPA would become more responsive—at least my interpretation of her response would be that—and her management has been encouraging.

However, the Environmental Protection Agency appointment is no small matter. The job of EPA Administrator has the potential to impact the life of every American in both positive and negative ways. For example, in the 1970s, Congress passed the Clean Air Act. It focused on pollutants. We were talking about NO<sub>x</sub> and SO<sub>x</sub>, sulphur oxide, nitrogen oxide, particulates, things that adversely affect the health of Americans.

At that point in time, we had no dream in our mind of a problem—global warming—that might arise and become a big issue in the future, nor did Congress have any inclination that carbon dioxide, plant food, that product in the atmosphere that plants take in and breathe out oxygen—we breathe in oxygen and out CO<sub>2</sub>—would be declared a pollutant.

By a 5-to-4 decision, the Supreme Court seemed to declare that, although it was not absolutely mandatory, EPA could regulate CO<sub>2</sub> under the Clean Air Act. EPA has seized that authority. They say that, for example, CO<sub>2</sub> is a pollutant. Congress has never voted to declare CO<sub>2</sub> a pollutant. I believe it is a stretch and an abuse of the Supreme Court's authority to interpret the law we passed in the 1970s as including that.

If CO<sub>2</sub> is a pollutant, as the EPA now assumes and asserts it is, every backyard barbecue, every lawnmower as well as every factory and plant in America is subject to their control because they are required to limit and control pollutants. This is how things happen in America.

So we have an unelected bureaucracy, the Environmental Protection Agency, virtually unaccountable to the public, often refusing steadfastly to produce reasonable answers to inquiries put to them by the Congress. They dictate matters that impact every person in America. It is an awesome power. It is something too little discussed in America.

I am going to talk about another subject briefly. I understand Ms. McCarthy

and her experience. She is going to be elevated now from EPA's Air Office, where they have been hammering coal, hammering natural gas, and other fuels, carbon fuels, in their regulations to a degree that it is driving up the cost for every American to obtain energy, their electricity, their automobiles, and the heating in their homes.

I wish to focus for a few minutes on a central problem at the EPA: its disregard for Congress, the law as written, and the use of unlawful agency guidance.

Agency guidance. These are documents they issue to effectively rewrite the law in a way that favors the administration's policies and political agenda. That is what we are seeing too much of. People say: Oh, they just do not like the EPA. All of these complaints from farmers and businesses, it is all just overreaction. Those are guys who want to pollute the atmosphere and the farmlands and do all of these things. They are not reasonable people.

Most Americans are not dealing face-to-face with the guidance, the regulations of the EPA officials who attempt to dictate so much of what they do. There is perhaps no better illustration of the dynamic than in the context of the administration's effort to grasp control over every ditch, stream and creek and pond in the country.

We actually had a vote on this issue in May during the debate on the Water Resources Development Act. I joined with my colleague Senator BARRASSO in introducing an amendment, the Barrasso-Sessions amendment No. 868 to the Water Resources Development Act. A clear majority of the Senate, 52 Members, voted for our amendment that would stop EPA from implementing an agency guidance document that would vastly expand the Agency's jurisdiction over the Clean Water Act.

So they issue a guidance, direct it to all of their subordinates, and tell them how the law is to be enforced. So actually it becomes a new law; it becomes the effect of an actual statute. First, the problem with what they have been doing is it is contrary to the plain reading of the statute, the Clean Water Act.

This law, enacted in 1972, requires a Federal permit for activities impacting navigable waters—navigable waters. That is what is in the statute, which Congress has defined as waters of the United States. EPA's guidance document broadly interprets this term—broadly interprets it and would give Agency employees throughout the country the authority to make case-by-case determinations with virtually no jurisdictional limits whatsoever.

I recently asked Ms. McCarthy about this issue. She did not detail her views. She would not answer specific questions.

The Supreme Court has ruled several times on the meaning of this jurisdictional term, most recently in its 2006 decision, just a few years ago, Rapanos