



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 115<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 163

WASHINGTON, TUESDAY, FEBRUARY 14, 2017

No. 26

## Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. HATCH).

### PRAYER

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

Let us pray.

Accept, O Lord, our thanks and praise for all You have done for us. We thank You for the splendor of creation, for the wonder of life, and for the mystery of love. We thank You for work that demands our best efforts and for the satisfaction of a job done well.

As our lawmakers strive to please You in working to fulfill Your purposes, inspire them with Your Spirit to glorify You in their thoughts, words, and actions. Lord, endue them with courage and loyalty, whether their duties are large or small. Give them an eternal perspective on the myriad issues they face.

We pray in Your great Name. Amen.

### PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

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

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. SASSE). The majority leader is recognized.

### NOMINATIONS

Mr. McCONNELL. Mr. President, over the past several weeks, we have seen unprecedented obstruction from our colleagues across the aisle. This made the confirmation of the President's nominees the slowest in modern history. It has left several key depart-

ments without a permanent secretary at the helm for far too long. What is the point of the needless delay? What is the point? Our friends are slow-walking votes, not changing outcomes.

We took several important steps last night to move the nominations process forward. We confirmed Steve Mnuchin as Treasury Secretary. After 8 years of failing economic policy, stagnant growth, and a tough job market, it is clear we need a new direction to get our country back on track. We need a new direction on regulations—smarter and pro-growth. We need a new direction on taxes—simpler and pro-jobs. If we are going to accomplish either of those goals, we are going to need new leadership at the helm of the Treasury Department. Secretary Mnuchin has real-world understanding of the private sector, and he is ready to work with both sides to get the economy moving.

Second, we confirmed Dr. David Shulkin as Secretary of Veterans Affairs. The debt we owe our servicemembers and their families extends far beyond any program or benefit the government can provide, but through the VA, we should be doing everything we can to fulfill our commitments to veterans and their families, like the more than 300,000 veterans who call Kentucky home. Secretary Shulkin will be tasked with overseeing that our veterans in Kentucky and across the Nation receive quality and timely care. It is a heavy burden, but he seems up to the task. The chairman of the Veterans' Affairs Committee, Senator ISAKSON, has a well-deserved reputation for working tirelessly on behalf of our veterans, which makes it notable that his committee voted unanimously to recommend Dr. Shulkin to the Senate and the full Senate confirmed him unanimously too.

We haven't seen much of that lately. I am confident that Secretary Shulkin will work with Congress to build on the progress we have already made in expanding accessibility and improving accountability at the VA.

Third, I took the necessary procedural steps last night to allow us to confirm the rest of the nominees on the calendar: Representative MICK MULVANEY, the nominee for Director of the Office of Management and Budget, who can help get our Nation back on track fiscally; Scott Pruitt, the nominee for Administrator of the Environmental Protection Agency, who can bring much needed change after 8 years of heavyhanded, job-killing regulations; Wilbur Ross, nominee for Commerce Secretary, who can help promote job creation and economic growth; Representative RYAN ZINKE, nominee for Interior Secretary, who can help improve our Nation's land use and conservation policies; Dr. Ben Carson, nominee for Secretary of Housing and Urban Development, who can help reform HUD to better serve the American people; and Governor Rick Perry, nominee for Energy Secretary, who can help guide us toward smarter energy policies to grow our economy and strengthen national security.

Beginning with Representative MULVANEY, we can get each of these nominees confirmed soon. With cooperation from across the aisle, we can put them to work for the American people even sooner.

We will be able to put another important nominee to work just this morning, one who understands how to help businesses flourish. The last 8 years have been very difficult for our economy, for workers, and for small businesses. I am confident that the President's pick to lead the Small Business Administration, Linda McMahon, will prioritize growing jobs over growing government bureaucracy. In so many States, including mine, that is a welcome change of pace from Washington. Small businesses help drive America's economy, and they help drive Kentucky's economy as well. Almost half of all the private sector jobs in Kentucky—about 700,000—come from the more than 340,000 small businesses

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



Printed on recycled paper.

S1135

across the Commonwealth. These small businesses not only grow the economy, but they also serve important roles in our communities.

Mrs. McMahon, who has built a company from the ground up, understands the many challenges small businesses can face. She certainly has come a long way from sharing a desk with her husband and leasing a typewriter. I commend her for her willingness to serve her country, and I look forward to her confirmation later this morning.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Mr. President, the Democratic leader, Senator SCHUMER, is likely to come to the floor soon, and I will certainly defer to him at a later time, but I ask unanimous consent to speak as in morning business.

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

### RUSSIA

Mr. DURBIN. Mr. President, November 8, 2016, was not just election day. It was a day that will live in cyber infamy because it turns out that one of the leading enemies of the United States, the nation of Russia, was directly engaged in the Presidential campaign that resulted in the election on November 8. This is not speculation. It is a fact based on conclusions that came from 17 different intelligence agencies that confirmed this reality. This is the first time we can point to where a foreign power has tried to influence the outcome of a Presidential election in the United States. Their goal was clear: to elect Donald Trump, to defeat Hillary Clinton. They hacked into computers. They released information on a selective basis. They created fake news stories. They used WikiLeaks—everything within their cyber power to influence the outcome of the election. That was the reality.

This morning we were awakened to the headline that President Trump's head of the National Security Council, LTG Michael Flynn, has resigned. That is an incredible blockbuster of a story. And what was the reason for his resignation? It turns out that he had a direct conversation with the Russian Ambassador to the United States, Mr. Kislyak, and that conversation included references to sanctions that President Obama was imposing on Russia because of their involvement in our election. What led to his resignation, of course, was that he misled both the Vice President and the President about that conversation. When the facts came out, he was forced to resign.

This is not business as usual in Washington. What we are dealing with here is, in fact, a historic event—a powder keg in history—when it comes to the United States and its security. The obvious question is, Will this Congress of the United States, this branch of our government, respond? Will we initiate thorough investigations as to the involvement of the Russians in that elec-

tion campaign and, specifically, any involvement with any Presidential campaign during that time?

Twenty years ago, when I was elected to the Senate, there was an investigation initiated by the Republicans at the suggestion—the suggestion—that the Chinese Government played some role in the Clinton-Gore campaign. The Governmental Affairs Committee of the Senate was entrusted with the responsibility to do a thorough investigation of that allegation, and Fred Thompson, the Senator from Tennessee, was the chairman of that committee, with John Glenn as the ranking Democrat.

The hearings went on for weeks—ultimately, for months—and then there was a formal report issued. No credible evidence was found of the suggestion, but it was taken that seriously by the Republican-led Congress that the Chinese may have been involved in a Democratic Presidential campaign.

How seriously is the Republican Congress taking the allegations and statements from our intelligence agencies that the Russians were involved in this last Presidential campaign?

It is time for us to have an independent, bipartisan commission beyond Congress to look into this and give us solid answers. We need to appoint people to head this commission of the stature of GEN Colin Powell and Sandra Day O'Connor, who served on the Supreme Court, who are credible people to lead this effort and this investigation and give America the truth.

A week or so ago the New York Times published the results of a recent poll that asked Americans what other nations they considered to be our closest allies and worst enemies. The results weren't surprising. Canada, the UK, and Australia topped the list of our best allies. Of America's enemies, the top nations were different, but they included North Korea, Iran, and Russia. That makes me wonder why President Trump, in the span of a week, managed to insult and hang up on the telephone call with the Prime Minister of Australia and then go on national news to once again defend Russian dictator Vladimir Putin, in light of what I just said earlier. Just a few days later, it is revealed that his National Security Advisor, General Flynn, the one who was fired by the previous administration and led chants unworthy of a great democracy about locking up a political opponent, was, in fact, speaking to a Russian official as a private citizen before President Trump took office.

Monday, we learned that former Acting Attorney General Sally Yates, whom President Trump abruptly fired, had warned the White House that General Flynn had misled senior administration officials about his communications with the Russian Ambassador and warned he was potentially vulnerable to Russian blackmail. Understand what I have just said. The man who was picked by President Trump as his top

National Security Advisor misled the President and the Vice President about a telephone conversation with the Russian Ambassador and, in the opinion of our top law enforcement officials, left himself vulnerable to Russian blackmail.

In the last days of the Obama administration, then Director of National Intelligence James Clapper and CIA Director John Brennan reportedly shared Yates' concerns and concurred with the recommendation to inform the Trump White House. Now that General Flynn has resigned, leaving an already chaotic National Security Council in even greater disarray, perhaps this isn't all that surprising anymore, but it certainly should be.

This President has a troubling habit of lashing out at everyone and anyone involved in a perceived slight—dangerous and unbecoming behavior when granted the privilege to become President of this great Nation. In fact, the number and range of those attacked or insulted by Twitter is so significant I wouldn't even start to list them, but it is important to note the list includes Republicans, Democrats, labor leaders, businesses, retired generals, and others in almost every conceivable category. Actually, one looks at the list and you quickly realize the only unifying factor is not about putting America first or America's image but instead about protecting a deeply fragile ego.

Listen to this excerpt from a vast list of those who have been attacked by President Trump: President George Bush, President George W. Bush, Speaker PAUL RYAN, Florida Gov. Rick Scott, Federal judges, former Governor of New Hampshire John Sununu, the Republican establishment, NATO, Major League Baseball, Macy's Department Store, European leaders, Britain, Germany, New Jersey, the American delegate system, the "Today" show, "Saturday Night Live," "The View," Chief Justice John Roberts, Colin Powell, President of United Steelworkers Local 1999, ABC News, NBC News, FOX News, and seemingly every other media outlet.

Now that we are in the category of those who have been attacked, we can't leave Nordstrom off the list. The President even insulted the former Governor of South Carolina, then chose her to be U.N. Ambassador. In fact, there are hundreds upon hundreds on this list—a list that in a foreboding, Nixonian way keeps on growing.

So if you make any criticism or joke about President Trump, make any perceived slight, run a department store that doesn't carry his daughter's products, lead a labor union, or do just about anything, be prepared for an attack by a Trump tweet—except if you happen to be the former Communist KGB official who now leads the one nation that actually recently attacked our Nation. That would be Vladimir Putin.

How is it possible?

Russian President Putin launched a cyber attack of war on the United

States. He interfered in our election and tried to affect the outcome and pick the winner. The evidence is overwhelming. It has been available in increasing amounts over the last several months. Yet we have a President who not only denies the Russian attack but has a strange infatuation with President Putin—but is also suggesting policies that dangerously puppet those of Putin.

It is now revealed that Trump's National Security Advisor, LTG Michael Flynn, lied about discussing sanctions with the Russian Ambassador immediately after the Obama administration announced new sanctions for the attack on our election. Not only had General Flynn and the White House suddenly remembered the facts differently, but more dangerously, did Flynn's conversation undercut U.S. sanctions, especially after Russia's assault on our election? And who instructed General Flynn to have these suspiciously timed conversations with the Russian Ambassador?

It is deeply troubling to imagine what might have been insinuated in those talks, but given the blinders this President has shown in ignoring President Putin so far, I worry about a suggested or hinted trading for U.S. sanctions on Russia for little in return.

Quite simply, you don't make America great by selling out to a former Communist KGB official. You only negotiate with such a dictator from a position of strength, not denial or naivete.

So what has been the response to the cyber attack of war on America, Flynn's dalliance with the Russians, and the dangerous disarray at the Trump National Security Council from the party of Ronald Reagan, who knew the Communist mind pretty well? Near silence. The party of Ronald Reagan has spoken zero times about the Russian attack or Flynn's actions on the floor of the Senate since early October. I waited this morning for the Senate Republican leader to raise the obvious front-page story across America about the resignation of President Trump's National Security Advisor, and not a word was mentioned.

Compare this to the 36 times the Republicans have come to the floor to talk about stripping health care away from millions of Americans in the last several weeks. Even President Trump's new Attorney General, who brazenly changed his tune on Russia once having joined the Trump campaign, said he had not yet read intelligence reports on the Russian attack—a position even more stunning in light of the recent reports of Sally Yates' warnings. Yet, incredibly, his colleagues were ready to confirm him for the highest law enforcement position in the land.

I see the Democratic leader here, and I want to yield the floor to him, but I will close with this. Are we going to have a fulsome, honest, independent investigation of the Russian involvement in this election campaign? We know it

happened. Seventeen of our intelligence agencies confirm it.

We also know that an investigation is underway by the Federal Bureau of Investigation about this campaign and the involvement of the Russians, and we know as well now that because of the conversations of our National Security Advisor with the Russian Ambassador, he was forced to resign in the first 4 weeks of this administration.

This calls out for a thorough investigation. The Republican Party in Congress, which spent hours and days and weeks and months in investigations involving Hillary Clinton, should at least acknowledge the gravity of this matter and bring this to a full investigation—an open and public one that can be trusted, an independent investigation—that stands up for our basic democracy and does not allow the invasion of the Russians or any other country into our democratic process.

Mr. President, I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

#### NOMINATIONS

Mr. SCHUMER. Mr. President, I thank the Democratic whip for his remarks, and I will have much more to say on the circumstances surrounding General Flynn's resignation as National Security Advisor later today.

This morning, I rise to speak about the nominee on the floor, Representative MULVANEY, to be the Director of OMB.

Each nominee who comes before this body seems to be another indication of a Cabinet whose ideology is so far removed from the American mainstream and whose ethical conduct is more questionable than any other in our Nation's history. Representative MULVANEY is a walking demonstration of both shortcomings in this Cabinet.

First, on his views, which are way out of touch with most Americans, with average Americans. Representative MULVANEY has been a consistent ideological warrior against crucial safety net programs like Social Security and Medicare. He said it plain as day: "We have to end Medicare as we know it. . . . Medicare as it exists today is finished."

That is from his mouth, and President Trump appoints this man head of OMB, one of the most powerful agencies in the government. Not only has Mr. MULVANEY advocated for cutting benefits, he wants to jack up the retirement age for Medicare to 67, and for Social Security he wants to raise it to 70.

After the confirmation of Representative Price to lead HHS last week, the confirmation of Representative MULVANEY will be the launch of week 2 of the Republican war on seniors.

Let's be clear. These are fringe positions, way out of touch with how most

Americans feel about these programs, and it just proves that when our Republican colleagues go back home to campaign, not one of them says: Raise the age to 70. I don't see Republican ads saying that. They say they are going to protect Medicare. Well, where are they now? You can't go home and campaign one way and then vote for MULVANEY, who wants to do the opposite and hurt our seniors—a war on seniors.

Literally, tens of millions of Americans rely on these programs and don't want to see their benefits cut. Millions more are on the cusp of retirement and know it is deeply unfair to move the goalpost on qualifying for these programs—changing the rules in the middle of the game—to hurt those who have spent their whole lives working and are now looking forward to receiving Social Security and Medicare. That is not what most Americans voted for, whether they pulled the lever for Secretary Clinton or Mr. Trump.

Candidate Trump promised that he was "not going to cut Social Security like every other Republican and I'm not going to cut Medicare or Medicaid," but then he turns around and nominates a man to OMB who has relentlessly argued the opposite. He nominates a Secretary of Health and Human Services who has also argued that, with all of our Republican colleagues voting for him—none of us. So if people think Donald Trump is going to be a defender—I saw the AARP ads—I would like those ads to mention the nominations of MULVANEY and Price. If people think Donald Trump is going to be a defender of Social Security and Medicare, these nominees seem to indicate a far different approach.

Candidate Trump didn't run as a far-right conservative. He ran as a populist against both establishments, but both Representative MULVANEY and Representative Price were plucked out of the very conservative wing of a very conservative House caucus and will be placed in charge of the budget and every American's healthcare—where they can effectively wage the war on seniors they have been plotting throughout their careers.

Unfortunately, both the OMB Director and the Secretary of HHS have hundreds of ways that don't go through the Congress of undercutting Medicare and Social Security, Medicare and Medicaid in particular. They can undercut them in a whole variety of different ways. Given their ideology and given their careers, that is just what they will do.

So the nominations of these two men are exhibits A and B that President Trump plans to run his administration from the hard right, rather than follow through on his populist rhetoric that defined his campaign, and frankly is what elected him. If he had run on the campaign views of these two nominees, he might have gotten 100 electoral votes. He might have gotten 100 electoral votes.

Second, on ethics. Again, this Cabinet is not only challenged on their views so far away from what the average American believes, but it is the most unethical Cabinet I have ever seen nominated, at least in my lifetime.

Representative MULVANEY is unfortunately an example of a Cabinet member that is too far compromised by potential conflicts of interest and other ethics challenges. It has been disclosed that Representative MULVANEY neglected to pay \$15,000 in taxes on a household employee. A similar revelation sunk the nomination of a former Member and leader of this body, Senator Tom Daschle. Senator Daschle was relentlessly attacked by the Republican side on this issue. He withdrew his nomination. Representative MULVANEY hasn't withdrawn his nomination, and we haven't heard a peep out of the Republican side on the same—very similar—transgression that was disqualifying, at least to our Republicans, for Senator Daschle, nor has the nominee for Secretary of Labor withdrawn his nomination. He has a similar situation.

The fact that the Republican majority is proceeding on both of their nominations is a dangerous abandonment of public ethics.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### EXECUTIVE SESSION

#### EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Linda E. McMahon, of Connecticut, to be Administrator of the Small Business Administration.

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. will be equally divided in the usual form.

The minority whip.

NICS

Mr. DURBIN. Mr. President, later today we are going to consider an effort under the Congressional Review Act to change America's background check system when it comes to the purchase of firearms.

For months, I have been listening to President Trump and the Republicans talk about gun violence in the city of Chicago. It is a heartbreaking reality. More than 4,300 people were shot in Chicago last year and over 400 so far this year. It is not just Chicago. The American Medical Association has de-

clared that gun violence is a public health crisis in our Nation.

So what is Congress doing to save lives in Chicago and across the Nation from gun violence? What is the Senate doing to protect people from being shot? Nothing.

Instead, the Republican Congress is trying to weaken one of the gun laws on the books—the NICS Improvement Amendments Act. This is the law passed unanimously by Congress after the Virginia Tech massacre and signed into law in 2008 by President George W. Bush.

This law says that every Federal agency needs to let the FBI NICS background check system know when the agency has information about people who fall within the legal prohibitions on gun possession. Everyone agreed we needed to get these records into the NICS system, especially records about those who are seriously mentally unstable, such as the Virginia Tech shooter. That man had a history of mental illness, but he was able to buy guns and kill 32 people because his records were not in the background check system known as NICS.

There is a longstanding Federal prohibition on gun possession by those who are suffering from mental illness. This prohibition is so well established that the late Justice Antonin Scalia cited it in the Supreme Court's *Heller* decision as an example of a restriction that is presumptively lawful and consistent with the Second Amendment.

There have been tragic cases where people with serious mental illnesses have used guns to cause great harm. The Newtown, CT, shooter showed signs of severe mental health problems that went untreated before he killed 20 students and 6 educators at Sandy Hook Elementary School. The Tucson, AZ, shooter, who shot Congresswoman Gabby Giffords and killed six others, was diagnosed after the shooting with schizophrenia. And it was 9 years ago today when a gunman who had been diagnosed and treated for mental illness killed 5 people and injured 17 in a classroom building at Northern Illinois University in DeKalb.

About two-thirds of shooting deaths each year are suicides. Last year, there were more than 21,000 suicides by gun. The National Alliance on Mental Illness reports that "about 90% of individuals who die by suicide experience mental illness."

Mental illness is a challenging issue for our society. I have worked to expand treatment and coverage for mental illness, including through the Affordable Care Act, one of the most important single laws we have ever passed to address mental illness. I wish those who are trying to repeal this common-sense gun safety regulation would drop that effort and join us in stopping this repeal of the Affordable Care Act. We need more and better services for people with mental illness.

The reality is that the gun laws on the books are narrowly drawn when it

comes to mental illness and so is the rule we are being asked to repeal today. Current Federal law says that a person who has been "adjudicated as a mental defective" is prohibited from gun possession. The phrase "adjudicated as a mental defective" is defined in the law as a determination by "a court, board, commission, or other lawful authority that a person, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease: (1) is a danger to himself or others; or (2) lacks the mental capacity to contract or manage his own affairs."

The 2008 NICS Improvement law, signed into law by President George W. Bush, directed Federal agencies to send their relevant records to the NICS system. Last year, the Social Security Administration issued a rule to implement this law after concluding that certain determinations by the Social Security Administration qualify as an adjudication of mental defectiveness.

Let me explain what the SSA rule says. Under this rule, starting in December of this year, the Social Security Administration will begin sending to NICS—the body which gathers information and records for background checks before the possession of firearms—the name, date of birth, and Social Security number of people who meet each of the five threshold criteria. The person must be between the ages of 18 and 65, have filed a claim with SSA for benefits based on disability, have been diagnosed with a serious, long-term mental disorder, have been determined by SSA to be disabled and unable to perform substantial work because of the mental disorder, and have been subject to determination by the Social Security Administration that the mental disorder is so serious that the person needs to have a representative appointed to manage the person's benefits.

This is not a situation where the Social Security Administration would notify NICS just because a person can't balance his checkbook. There must be a seriously debilitating, medically diagnosed mental illness involved.

The rule is prospective only. Current Social Security disability beneficiaries are not subject to it. The rule is predicted to cover about 75,000 Americans, once it takes effect, out of the estimated 10 million suffering from a serious mental illness.

I might add here for the record, I do not suggest that every person who has any form of mental illness is a danger. In fact, exactly the opposite is true. But we do know that those who suffer from serious mental conditions many times are engaged in violent conduct and many times with horrible results when they have firearms.

The rule we are being asked to repeal on the floor of the Senate provides for advance notice of the Social Security Administration determination and the right to appeal through an administrative process and in court. A person can

obtain relief from the firearms prohibition by having healthcare providers and character witnesses submit statements that the person is not a danger to himself or others.

Every politician claims they want to keep deadly firearms out of the hands of those who are seriously mentally unstable. A statement made by a Republican Senator from Texas, Senator CORNYN, the senior Senator from Texas and my counterpart on the Republican side; he said in March 2013:

If there was a common thread in the Virginia Tech, Tucson, Aurora, and Newtown massacres, it was the mental illness of the shooter. . . . We should refocus our effort to make sure the current background check system works to screen out the dangerously mentally-ill.

Reasonable people can disagree over whether the SSA's rule gets it exactly right. There are mental health groups that have concerns about it, and I respect that. But using the Congressional Review Act is a blunt tool. Instead of fixing the rule, the Congressional Review Act would repeal the rule and—listen to this—permanently bar the Social Security Administration from adopting any substantially similar rule. So it likely would bar the Social Security Administration from ever implementing a rule to submit mental health records to NICS in the future.

If there are problems with this rule, they can be addressed by fixing it. But the Republican response is always repeal first. This time, they want to repeal a rule that doesn't start until December and its repeal would preclude the Social Security Administration from even fixing or positively changing it.

We also had disputes over the process the Department of Veterans Affairs used to submit names of people with mental illness to the same NICS background check system. Last December, we fixed it on a bipartisan basis. We passed language in the 21st Century Cures Act to ensure that a person can have his own doctor and lawyer involved in the process. If the Social Security Administration rule needs fixing, we can fix it too. But this Congressional Review Act is a sledgehammer, not a tool to fix it.

We are being asked to vote today to ban an agency permanently from complying with the NICS law that we enacted in 2008. We are being asked to undermine the gun laws that are on the books.

I urge my colleagues to listen to the opposition of this resolution of disapproval. Read the letter from the U.S. Conference of Mayors, who say that the Social Security Administration rule "is critically important to the fabric of our nation's background check system." Read the editorials in newspapers across the country that oppose repealing this rule.

Mr. President, I ask unanimous consent that the editorial from the Chicago Tribune be printed in the RECORD.

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

[From the Chicago Tribune, Feb. 10, 2017]  
EDITORIAL: GUNS AND MENTAL ILLNESS: DON'T SCRAP THIS RULE  
(By Editorial Board)

If someone has a mental illness severe enough that he cannot work or manage his own money, should he be allowed to own a gun?

In the waning weeks of his presidency, Barack Obama answered that question. Motivated by Adam Lanza's bloody rampage at an elementary school in Newtown, Conn., that killed 20 children and six educators in 2012, Obama imposed a rule that barred gun ownership for people who qualify for Social Security disability insurance because their mental illness keeps them from working, and who cannot manage their benefits. That pool is small—just 75,000 Americans.

The GOP-led U.S. House just voted to scrap that rule. Bad move. The Senate now decides whether to back that bad move. If it does, President Trump would decide whether to go along or disagree.

Republican lawmakers hang their case on the argument that the rule stigmatizes people with disabilities as dangerous. "There are people who need help and seek help, but that is not a criteria for taking away one's constitutional right" to own a gun, Texas Rep. Pete Sessions said.

Sessions implicitly exaggerates the impact of the rule. As gun control measures go, the scope of this one is narrow. Its goal is to keep guns out of the hands of people on record as having a disabling mental disorder. The standard for taking that gun away is steep—they have to be on Social Security because their psychiatric disorder keeps them from working, and they cannot manage their own affairs. Both conditions must be met. Even if the rule keeps someone from owning a gun, that person can pursue an appeal.

America has seen what can happen when someone with severe psychiatric issues has access to firearms. Their names and crimes live in infamy:

In 2007, Seung Hui Cho shot to death 32 people at Virginia Tech University before killing himself. Two years earlier, a judge had deemed Cho an "imminent danger" because of mental illness and ordered him to seek treatment. But because he was never committed, that assessment never got recorded in the federal database of people ineligible to buy guns. Cho passed the background check and bought the guns he would wield at Virginia Tech.

In 2011, Jared Loughner shot U.S. Rep. Gabrielle Giffords in the head and murdered six other people in Tucson, Ark.

In 2012, James Holmes strode into a packed movie theater in Aurora, Colo., and opened fire, killing 12 people.

And there's Lanza, who went through months of hysterical crying, stretches of lethargy and self-imposed isolation from his family before unleashing terror at Sandy Hook Elementary School. "I didn't understand that Adam was drifting away," his father, Peter Lanza, told *The New Yorker* in 2014.

These crimes showcase the dangers in allowing severely troubled individuals to buy firearms. The rule the House voted to scrap doesn't cast so wide a net that it applies to anyone seeking psychiatric treatment. It's specific in scope, and anchored by a common-sense premise that many House Republicans ignored: If a person's psychiatric disorder is disabling enough that the individual cannot work or deal with money-managing, bright red flags are being raised about his or her capacity for sound judgment.

To us, that's a logical, well-grounded reason why he or she shouldn't own a gun.

Mr. DURBIN. We can also read editorials in the *St. Louis Post-Dispatch*,

the *Charlotte Observer*, the *New York Times*, and more.

Now listen specifically to the pleas of gunshot victims and their family members. Listen to Patrick Korellis, of Chicago, whom I have met. He was shot in a classroom 9 years ago at Northern Illinois University by a man who had a serious mental illness. He wrote to me and he said:

I was shot in my classroom by someone who was mentally ill, and was able to obtain guns and a lot of ammunition because the background checks weren't strong enough. Rolling back some of these background checks doesn't make any sense, and will allow more people to get through the loopholes.

Now listen to Janet Delana of Wellington, MO. She wrote to Congress:

My daughter Colby, a diagnosed paranoid schizophrenic who lived at home with her father and I, received monthly Social Security disability payments for her mental illness. In 2012 she used the money from her disability check to buy a gun at a local gun dealer. Because she was ill and suicidal, I had contacted the gun dealer and begged him not to sell her a gun. However, my pleas were ignored and the dealer sold her a gun anyway because Colby passed the background check. An hour later, she shot her father to death and tried once again to take her own life. She is now in an institution for life, and my husband is gone.

Janet said:

This SSA Rule is vital. I am very concerned this resolution would preclude SSA and possibly even other agencies from enacting any future regulations on this or related matters.

We have a public health crisis when it comes to gun violence—in Chicago and in communities across the Nation. We have a responsibility to do what we can on the Federal level to reduce the violence and protect our citizens from getting shot. Voting for this resolution of disapproval today would be a step backward. It would weaken the gun laws on the books and make it easier for severely mentally ill people to get guns. On this, the ninth anniversary of the shooting at Northern Illinois University in DeKalb, it is unthinkable that we are going to try to revoke a rule that would keep guns out of the hands of those who should have no business owning them.

Let me conclude with a statement from Bloomberg business magazine, published in an edition several weeks ago:

Advocates for the mentally ill caution that mental illness shouldn't be equated with a penchant for violence. They're right. But America's tragic experience with mentally ill gunmen—from shootings at Virginia Tech in 2007 to Newtown, Connecticut, in 2012—shows the folly of simply dismissing the danger.

In recent years Republicans have prioritized instant gratification for anyone who desires to buy a gun. Last year the National Rifle Association spent \$50 million on the campaigns of Donald Trump and six Republican senators. NRA leader Wayne LaPierre, who met with Trump this week, wants payback.

The Obama rule established a process for identifying only Social Security beneficiaries who would be prohibited from possessing guns under existing law. It required

that beneficiaries be notified of the prohibition, and it provided means to appeal the determination before an administrative law judge or a federal court.

Such provisions would safeguard individual rights. But they offend the fundamental principle that drives the NRA, and thus Republican, gun politics: Anyone should be able to get a gun at any time for any reason and bring that weapon, loaded, anywhere.

Common sense dictates that we be careful to keep guns out of the hands of those who would misuse them. I sincerely hope that gun owners across my State and across the Nation—and I respect them and their constitutional right—will understand that reasonable limitations on the possession and ownership of firearms is in the best interest of protecting their Second Amendment rights as well.

I yield the floor.

Mr. CARDIN. Mr. President, I would like to express my support for the nomination of Linda McMahon to the position of Administrator of the U.S. Small Business Administration.

Linda McMahon is an interesting candidate for this position. As the co-founder and former CEO of the WWE, she built a small regional business into an entertainment behemoth. Along the way she struggled to meet payroll, market the business, learn State and Federal regulatory regimes, manage a traveling workforce, learn new media platforms, and navigate new revenue streams.

Each of these accomplishments is impressive. But what makes Linda McMahon unique for this role is the fact that, on her path to success, she made serious enough mistakes that she was forced to declare personal bankruptcy and apply for government assistance. I think having an Administrator who has started her own small business and met and overcame significant challenges along her way is of tremendous value. Having been in the trenches herself, she will really be able to evaluate the efficacy of current small business programs, and she may very well be able to suggest substantive improvements or even new directions.

I was also particularly impressed with Mrs. McMahon's performance during her confirmation hearing. When she knew the answer to a question posed by a Senator, she answered it. When she didn't know the answer, she said so. She appeared to have an open mind about issues and struck me as sincerely interested in working on all issues with all of the Senators, regardless of political or geographical affiliations.

Linda McMahon has expressed her interest in helping small businesses thrive. She understands how difficult it can be for entrepreneurs to access capital. She knows that small businesses have a hard time competing for Federal contracts. She knows that small business owners sometimes need advice and guidance—and she believes in the value of training and support programs.

I support Linda McMahon's nomination because, not only is she interested

in having the job of Administrator, she appears to have genuine interest in doing the job. She clearly enjoys using her business skills and experience to mentor entrepreneurs, and I believe that she will apply her tenacity to protecting and hopefully improving Federal support systems for America's entrepreneurs.

Mr. VAN HOLLEN. Mr. President, Congress created the Small Business Administration in 1953 to "aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns." The SBA now provides financial assistance, help with Federal contract procurement, and management assistance. The agency makes specialized outreach to women, minorities, and veterans. SBA also provides loans to victims of natural disasters and specialized advice and assistance in international trade.

The President has nominated Linda McMahon to run the SBA. Mrs. McMahon and her husband founded Titan Sports in 1980. The business grew dramatically under their leadership. Mrs. McMahon became president in 1993 and CEO of the company in 1997. The company became World Wrestling Entertainment and then simply WWE.

Unfortunately, the McMahons appear to have grown their business at least in part using business practices that disadvantaged their employees. The Connecticut Post and the Hartford Courant reported that WWE did not offer its wrestlers health insurance, as McMahon argued the company's wrestlers were independent contractors. And the Connecticut Post reported that Connecticut audited McMahon's company to determine if WWE improperly classified employees as independent contractors.

An investigation led by Representative Henry Waxman found that McMahon's WWE did not do enough to prevent steroid use. Representative Waxman's committee found that, at one point, 40 percent of WWE's wrestlers tested positive for steroids and other drugs, even after being warned in advance that they were going to be tested. A WWE "house doctor" was reportedly convicted and sentenced to prison for steroid trafficking. And the New York Daily News reported that an Albany district attorney probe into a widespread Internet doping scandal involved several WWE wrestlers.

And more than 50 former professional wrestlers sued McMahon's WWE, charging that the company was responsible for repeated head trauma that they suffered, often involving specific moves scripted and choreographed by WWE.

The SBA needs strong leadership to advance the interests of our Nation's hard-working small businesses, but it does not need a leader who will advance profits at workers' expense. Mrs. McMahon's business experience leads me to be concerned that she will not put people over profits, and thus, I must oppose the nomination.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, I ask unanimous consent to speak on the Republican time for up to 10 minutes, with 5 minutes reserved for Senator RISCH, on the nomination of Linda McMahon to serve as Administrator of the Small Business Administration.

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

Mrs. SHAHEEN. Mr. President, today, in just a few minutes, the Senate will be voting on the nomination of Linda McMahon to serve as Administrator of, I believe, one of the very important agencies within the Federal Government that sometimes doesn't get the recognition it deserves; that is, the Small Business Administration.

Before I begin my remarks, I wish to take a minute to acknowledge the good work of two previous SBA Administrators, Karen Mills and Maria Contreras-Sweet. Both served in this very important role during the Obama administration and, particularly during the financial crisis, really served as a lifeline for so many of our small businesses. So I thank these two leaders for their tireless work.

When I was first elected to the Senate in 2008, one of the reasons I joined the Small Business Committee was its reputation as a place where you could work across the aisle to get things done in a bipartisan way because supporting small businesses is not a Republican or a Democratic issue; it is an American issue.

That dynamic was on display at Mrs. McMahon's confirmation hearing, where not one but two of her former rivals introduced her. Senators BLUMENTHAL and MURPHY, both of whom ran very spirited campaigns against Ms. McMahon—and both of whom defeated her—actually testified to her passion for small business and her qualifications for this new responsibility. After the hearing, the Small Business Committee favorably reported her nomination to the Senate by a vote of 18 to 1. I thank my colleague Chairman RISCH for working with me during this process and ensuring that the nomination was thoroughly vetted.

While I have opposed a number of President Trump's nominees, I want to take a few minutes to explain why I will support Linda McMahon for this important position.

My home State of New Hampshire is a small business State. More than 96 percent of our employers are considered small businesses, according to the SBA's Office of Advocacy.

But small businesses aren't just important in New Hampshire. They are really the engine that drives our national economy. Small businesses create two out of every three new jobs in the United States. They are also leaders when it comes to innovation, producing 14 times more patents than large businesses.

Unfortunately, like so many of our larger businesses, many of our small businesses still have not fully recovered from the great recession. For our



economy to continue to improve, we need to level the playing field for small businesses and unleash their potential. That is why the SBA and its programs are so critical. Last year alone, the SBA backed more than 70,000 loans to small businesses, supporting \$29 billion in lending and nearly 700,000 jobs. The SBA also helped small businesses win more than \$90 billion in Federal contracts, provided counseling to more than 1 million entrepreneurs, and helped many small businesses reach foreign markets.

I was in the New Hampshire State Senate in the early nineties when we experienced a recession that closed five of the State's seven largest banks and put so many of our small businesses into bankruptcy. The one Federal agency that helped keep our small businesses going in New Hampshire during those very dark years was the SBA. I have seen very directly what a difference SBA makes to businesses in New Hampshire and across this country.

As part of the confirmation process, I was able to work with my colleagues on the Small Business Committee to look into Mrs. McMahon's background as a successful entrepreneur, as well as her vision for the SBA. I was pleased to learn that Mrs. McMahon shares my vision for a strong SBA that will support America's entrepreneurs. I was particularly pleased to learn, unlike some previous reports, that she opposes efforts to merge the SBA into another agency, so she does not believe it should be part of the Department of Commerce. Maintaining the SBA's independence and keeping the Administrator of the SBA as a Cabinet-level position is essential to ensuring that the voices of small businesses are heard in Washington.

We also need to make sure the SBA programs are valued in this administration. We have seen what can happen when SBA does not receive the respect it deserves from the White House. The George W. Bush administration cut the SBA's budget dramatically, by 32 percent—more than any other agency during those years. We can't afford to repeat that mistake. Entrepreneurs across this country, from rural communities to inner cities, rely on the SBA and its programs.

I could cite countless success stories, but let me just note one example I recently heard in New Hampshire from Julie Lapham, who is founder and chief sales officer of a startup in Dover, NH, called Popzup.

Popzup is a family-owned business that provides a new popcorn product for health-conscious consumers. Julie's inspiration for her business was her mother, who is diabetic and had started to eat popcorn every day because of the food's low glycemic index. Julie wanted to give her mother more options than the microwave popcorn you see in the grocery store, so she created a convenient product that doesn't use chemicals, plastic, or silicone. Her

company's popcorn is environmentally friendly and sourced from American farms that don't use GMO products.

As a startup, Julie faces a lot of challenges: getting funding to expand her business, keeping the books, figuring out how to market her products. Large companies have the resources to figure these things out, but Julie needs a level playing field to compete, and that is where the SBA and its resource partners come in.

Julie wrote:

We often feel vulnerable because we are self-funded and need to master all aspects of running our business; marketing, manufacture, selling, and accounting.

Julie has been working with advisers at the New Hampshire Small Business Development Center, SBDC. They operate in every State, and they are resource partners who provided counseling to Julie and also provide counseling to small businesses like Julie's across the country.

I don't think there is a week that goes by when we are not stopping by each other's offices, emailing, and talking on the phone. I can honestly state that we would not have a chance at success without their ongoing support and encouragement.

I am sure my colleagues in the Senate are aware of similar SBA success stories in their own States.

We all know this agency plays a vital role in our economy, but there is more that can be done. For our economy to thrive, we need to focus on ways to further strengthen the SBA so that it can increase opportunities for entrepreneurs to start new ventures and help existing small businesses grow. That is especially important in largely rural States like New Hampshire where it can be harder to get a loan or counseling. Entrepreneurs like Julie need a strong Administrator who understands the value of programs like the Small Business Development Centers. They need someone who will be their voice in Washington and bring out the best in the SBA. During the confirmation process, Mrs. McMahon pledged that she shares this view and wants to strengthen the role SBA plays in assisting our Nation's small businesses. In fact, she said she was passionate about small business.

For these reasons, I intend to support her confirmation today. I look forward to continuing to work with Chairman RISCCH as we support SBA in the coming years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

MR. RISCCH. Mr. President, first of all, let me say thank you to my friend and colleague, the ranking member of the Committee on Small Business and Entrepreneurship. We have worked together successfully on several projects, and I have no doubt that we will continue to work together to benefit small businesses and entrepreneurship here in America.

I rise today to support the nomination by President Trump of Linda

McMahon to head the Small Business Administration. Linda McMahon has strong bipartisan support, which is rare here in Washington, DC, these days. At the confirmation hearing, Mrs. McMahon was introduced by, endorsed by, and spoken well of by her two Connecticut Senators, Senator BLUMENTHAL and Senator MURPHY. Perhaps for the first time in history, we had a member of the opposite party supported by the two Senators from that State, from the other party. But most importantly, she had run against both of those people, so they had been adversaries previously, but they appeared before the committee to enthusiastically endorse her as the head of the SBA and as President Trump's appointee.

Senator BLUMENTHAL said: "She is an excellent fit for this agency based on her experience and her expertise as a business leader."

Senator MURPHY stated: "I will never question whether she has the experience and the determination necessary to lead this great agency."

These are strong endorsements by people of the other party for a person who has been nominated by President Trump.

This is an important agency. It is not a particularly large agency, but it certainly services one of the, if not the most important sector of our economy.

It is important to note that these two colleagues of ours came and supported Mrs. McMahon before the committee.

Those people who have been watching what is going on in this city since the election, particularly in regard to the appointment by President Trump of his Cabinet, as he has attempted to fill his Cabinet and seen the obstructionism that has taken place as he tries to fill that Cabinet, know that this city has become a caldron of anger, bitterness, and acrimony since the States came together and selected Donald Trump to be the President of these United States. So it is good for a bipartisan effort on one of these Cabinet members, and Linda McMahon is that person.

Linda McMahon is not a bureaucrat. She is about as far from that as you possibly can get. In 1982 she and her husband took over a small business and turned it into a family business and have operated it since 1982. Of particular importance was her description of how she and her husband got there and their struggles as they started with a small business that actually failed. I think her description of that and her feelings about that and how she and her family struggled with that built the character they needed to start the business they did in 1982. They took that business from 1982 from a small company, very few employees and family only, to what is now a publicly traded company with a global brand.

Mrs. McMahon has the experience in the small business world, from her struggles at the beginning and her

great success as she worked through making this business succeed, to actually understand what small businesses go through.

In meeting with her and discussing with her the importance of what we do on the Small Business Committee, I can tell you that she shares the passion that I have about what we can do with the Committee on Small Business and Entrepreneurship and, indeed, all committees in the U.S. Senate; that is, get the government out of the way while Americans attempt to build a business. She shares the passion that I have with reducing to a bare minimum the regulatory structure that has grown up in America today and is really stifling businesses at all levels but particularly businesses at the small end of the scale.

We all know that when the government enacts a regulation, which happens all too frequently—hourly, every day, several every day—and they are laid down in front of businesses, a large business really has substantially less difficulty dealing with those.

Large businesses will tell you that is the largest challenge they have today, the most significant challenge they have; that is, overcoming the barriers that are put in place by the government as they attempt to succeed and as they attempt to do business. When a regulation is laid down, a large business has an army and a fleet of lawyers and compliance officers and accountants who can work through these regulations. If you are a small business and you are fixing lawn mowers in your garage and you get a 30-page questionnaire from the government that has significant implications for what is going to happen to you, it is very burdensome and cuts deeply into the progress you are trying to make as a small business and provide for your family.

We have an operation within the Small Business Administration called the Office of Advocacy. The committee has attempted to grow and strengthen its independence. The purpose of the Office of Advocacy is to stand up whenever the government acts in a way that affects small businesses and say: Wait. Stop. Think about this. Look what you are doing and look how this is going to affect business—and particularly small business—in America, the regulations you are attempting to impose.

Linda McMahon shares my passion in that regard. I have every reason to believe she is going to assist in strengthening that particular division within the Small Business Administration.

Based upon her qualifications, based upon her view of small business and entrepreneurship, based upon her experience in small business and in growing small business, and based upon what I think perhaps is going to be one of the only bipartisan efforts we make to construct the Cabinet or assist the President in constructing his Cabinet, I strongly recommend and join my colleague the ranking member in urging

all Members of the Senate to support Linda McMahon in this effort and in her confirmation.

With that, Mr. President, I yield the floor.

I yield back all time.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the McMahon nomination?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 81, nays 19, as follows:

[Rollcall Vote No. 65 Ex.]

YEAS—81

Alexander	Feinstein	Menendez
Barrasso	Fischer	Moran
Bennet	Flake	Murkowski
Blumenthal	Franken	Murphy
Blunt	Gardner	Nelson
Boozman	Graham	Paul
Burr	Grassley	Perdue
Cantwell	Hassan	Peters
Capito	Hatch	Portman
Cardin	Heitkamp	Risch
Carper	Heller	Roberts
Casey	Hirono	Rounds
Cassidy	Hoeven	Rubio
Cochran	Inhofe	Sasse
Collins	Isakson	Scott
Coons	Johnson	Shaheen
Corker	Kaine	Shelby
Cornyn	Kennedy	Stabenow
Cortez Masto	King	Strange
Cotton	Klobuchar	Sullivan
Crapo	Lankford	Tester
Cruz	Leahy	Thune
Daines	Lee	Tillis
Donnelly	Manchin	Toomey
Duckworth	McCain	Warner
Enzi	McCaskill	Wicker
Ernst	McConnell	Young

NAYS—19

Baldwin	Markey	Udall
Booker	Merkley	Van Hollen
Brown	Murray	Warren
Durbin	Reed	Whitehouse
Gillibrand	Sanders	Wyden
Harris	Schatz	
Heinrich	Schumer	

The nomination was confirmed.

The PRESIDING OFFICER (Mr. FLAKE). 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.

#### LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

#### PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE SOCIAL SECURITY ADMINISTRATION—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to H.J. Res. 40.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

Motion to proceed to H.J. Res. 40, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Social Security Administration relating to Implementation of the NICS Improvement Amendments Act of 2007.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

#### PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE SOCIAL SECURITY ADMINISTRATION

The PRESIDING OFFICER. The clerk will report the joint resolution.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 40) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Social Security Administration relating to Implementation of the NICS Improvement Amendments Act of 2007.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today I come to the floor to address my colleagues about the bipartisan resolution of disapproval that I introduced on January 30, along with Senator CRAPO and 24 other cosponsors. This resolution now has 32 cosponsors, and of course this resolution of disapproval is absolutely necessary.

The resolution of disapproval is a procedure, as we know, under the Congressional Review Act for repealing executive branch regulations. The regulation at issue here in this disapproval resolution was issued by the Social Security Administration under President Obama. This regulation unfairly stigmatizes people with disabilities. If the regulation is not repealed, it will allow the agency to very unfairly deprive Social Security recipients of their Second Amendment rights. The regulation would result in disability recipients being reported to the National Instant Criminal Background Check System as ineligible to own a firearm and, thus, have their Second Amendment rights violated.

This is essentially a national gun ban list. The agency accomplishes this by doing two things: determining if a person has a disorder on a vague "mental disorders" list, and, two, appointing a representative payee to manage benefit payments.

This process has been in place for years to merely assign a representative payee. That is merely someone who is authorized to deal with the bureaucracy on behalf of that Social Security recipient to help a recipient with their finances. Now it is being used to report beneficiaries to a list so that they cannot buy or own a gun. Of course, once on that list, individuals are prohibited, as I have already inferred, from purchasing, owning, and possessing firearms, thus violating Second Amendment rights.

The regulation is flawed beyond any kind of repair. It results in reporting



people to the gun ban list that should not be on that list at all. It deprives those people of their constitutional rights and, in a very important way, violates their constitutional rights without even due process.

Under current Federal law, one must first be deemed “mentally defective” before being reported to the gun ban list. However, the mental disorder list in this regulation is filled with vague characteristics that do not fit into the Federal “mentally defective” standard.

The disorder list is inconsistent with the Federal mentally defective standard. More importantly, the list was never designed to regulate firearms. As such, it is improper to use it for that purpose.

Many of the disorders on the list are unrelated to gun safety. For example, the disorders list includes eating disorders, disorders that merely impact sleep or cause restlessness, and even disorders that could cause “feelings of inadequacy.”

Because the Second Amendment is a fundamental right, the government must have a very compelling reason to regulate, and the regulation must be very narrowly tailored. It unfairly stigmatizes people with disabilities. The government is essentially saying that a person with a disability, such as an eating disorder, is more likely to be violent and should no longer be allowed to own a gun.

There is no evidence to support that general idea and, consequently, people being denied constitutional rights without due process. And if a specific individual is likely to be violent due to the nature of their mental illness, then the government should have to prove it. It is pretty basic constitutional law: The government should have to carry the burden before denying a constitutional right.

The National Council on Disability—and that happens to be a nonpartisan and independent Federal agency—has said this:

The rule stigmatizes a group of people who are not likely to perpetuate the kind of violence the rule hopes to address. Furthermore, it deprives a much broader class of individuals of a constitutional right than was intended by Federal law.

In addition, the American Civil Liberties Union has said:

We oppose this rule because it advances and reinforces the harmful stereotype that people with mental disabilities, a vast and diverse group of citizens, are violent. There is no data to support a connection between the need for a representative payee . . . and a propensity toward gun violence.

That was a quote from the American Civil Liberties Union.

The Consortium for Citizens with Disabilities—and that is a coalition of 100 national disability groups—shares the same concerns about regulations, and I will quote from them:

The current public dialogue is replete with inaccurate stereotyping of people with mental disabilities as violent and dangerous, and there is a real concern that the kind of policy change encompassed by this rule will reinforce those unfounded assumptions.

In other words, those unfounded assumptions are about who might be disabled or not.

I ask unanimous consent to have these letters printed in the RECORD.

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

NATIONAL COUNCIL ON DISABILITY,  
Washington, DC, January 24, 2017.

Hon. MITCH MCCONNELL,  
Majority Leader, U.S. Senate,  
Washington, DC.

Hon. PAUL RYAN,  
Speaker of the House, U.S. House of Representatives,  
Washington, DC.

DEAR MAJORITY LEADER MCCONNELL AND SPEAKER RYAN: I write on behalf of the National Council on Disability (NCD) regarding the final rule the Social Security Administration (SSA) released on December 19th, 2016, implementing provisions of the National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007, 81 FR 91702. In accordance with our mandate to advise the President, Congress, and other federal agencies regarding policies, programs, practices, and procedures that affect people with disabilities, NCD submitted comments to SSA on the proposed rule on June 30th, 2016. In our comments, we cautioned against implementation of the proposed rule because:

“[t]here is, simply put, no nexus between the inability to manage money and the ability to safely and responsibly own, possess or use a firearm. This arbitrary linkage not only unnecessarily and unreasonably deprives individuals with disabilities of a constitutional right, it increases the stigma for those who, due to their disabilities, may need a representative payee[.]”

Despite our objections and that of many other individuals and organizations received by SSA regarding the proposed rule, the final rule released in late December was largely unchanged. Because of the importance of the constitutional right at stake and the very real stigma that this rule legitimizes, NCD recommends that Congress consider utilizing the Congressional Review Act (CRA) to repeal this rule.

NCD is a nonpartisan, independent federal agency with no stated position with respect to gun-ownership or gun-control other than our long-held position that restrictions on gun possession or ownership based on psychiatric or intellectual disability must be based on a verifiable concern as to whether the individual poses a heightened risk of danger to themselves or others if they are in possession of a weapon. Additionally, it is critically important that any restriction on gun possession or ownership on this basis is imposed only after the individual has been afforded due process and given an opportunity to respond to allegations that they are not able to safely possess or own a firearm due to his or her disability. NCD believes that SSA’s final rule falls far short of meeting these criteria.

Additionally, as NCD also cautioned SSA in our comments on the proposed rule, we have concerns regarding the ability of SSA to fairly and effectively implement this rule—assuming it would be possible to do so—given the long-standing issues SSA already has regarding long delays in adjudication and difficulty in providing consistent, prompt service to beneficiaries with respect to its core mission. This rule creates an entirely new function for an agency that has long noted that it has not been given sufficient resources to do the important work it is already charged with doing. With all due respect to SSA, our federal partner, this rule

is simply a bridge too far. In fact, it is conceivable that attempts to implement this rule may strain the already scarce administrative resources available to the agency, further impairing its ability to carry out its core mission.

The CRA is a powerful mechanism for controlling regulatory overreach, and NCD urges its use advisedly and cautiously. In this particular case, the potential for real harm to the constitutional rights of people with psychiatric and intellectual disabilities is grave as is the potential to undermine the essential mission of an agency that millions of people with and without disabilities rely upon to meet their basic needs. Therefore, in this instance, NCD feels that utilizing the CRA to repeal the final rule is not only warranted, but necessary.

Regards,

CLYDE E. TERRY,  
Chair.

AMERICAN CIVIL LIBERTIES UNION,  
February 9, 2017.

Vote YES on the Resolution of Disapproval, S.J. Res. 14 (Social Security Administration NICS Final Rule).

Vote NO on the Resolution of Disapproval, S.J. Res. 12 (Federal Acquisition Regulation/Fair Pay and Safe Workplaces EO).

DEAR SENATORS: On behalf of the American Civil Liberties Union (ACLU), we urge members of the Senate to support the resolution disapproving the final rule of the Social Security Administration which implements the National Instant Criminal Background Check System Improvement Amendment Acts of 2007.

Additionally we urge members to oppose the resolution of disapproval of the rule submitted by the Department of Defense, the General Services Administration, and NASA relating to the Federal Acquisition Regulation that implement the Fair Pay and Safe Workplace Executive Order 13673.

SOCIAL SECURITY ADMINISTRATION (SSA)’S IMPLEMENTATION OF THE NICS IMPROVEMENT AMENDMENT ACTS OF 2007 HARMS PEOPLE WITH DISABILITIES

In December 2016, the SSA promulgated a final rule that would require the names of all Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefit recipients—who, because of a mental impairment, use a representative payee to help manage their benefits—be submitted to the National Instant Criminal Background Check System (NICS), which is used during gun purchases.

We oppose this rule because it advances and reinforces the harmful stereotype that people with mental disabilities, a vast and diverse group of citizens, are violent and should not own a gun. There is no data to support a connection between the need for a representative payee to manage one’s Social Security disability benefits and a propensity toward gun violence. The rule further demonstrates the damaging phenomenon of “spread,” or the perception that a disabled individual with one area of impairment automatically has additional, negative and unrelated attributes. Here, the rule automatically conflates one disability-related characteristic, that is, difficulty managing money, with the inability to safely possess a firearm.

The rule includes no meaningful due process protections prior to the SSA’s transmittal of names to the NICS database. The determination by SSA line staff that a beneficiary needs a representative payee to manage their money benefit is simply not an “adjudication” in any ordinary meaning of the word. Nor is it a determination that the person “lacks the mental capacity to contract or manage his own affairs” as required

by the NICS. Indeed, the law and the SSA clearly state that representative payees are appointed for many individuals who are legally competent.

We recognize that enacting new regulations relating to firearms can raise difficult questions. The ACLU believes that the right to own and use guns is not absolute or free from government regulation, since firearms are inherently dangerous instrumentalities and their use, unlike other activities protected by the Bill of Rights, can inflict serious bodily injury or death. Therefore, firearms are subject to reasonable regulation in the interests of public safety, crime prevention, maintaining the peace, environmental protection, and public health. We do not oppose regulation of firearms as long as it is reasonably related to these legitimate government interests.

At the same time, regulation of firearms and individual gun ownership or use must be consistent with civil liberties principles, such as due process, equal protection, freedom from unlawful searches, and privacy. All individuals have the right to be judged on the basis of their individual capabilities, not the characteristics and capabilities that are sometimes attributed (often mistakenly) to any group or class to which they belong. A disability should not constitute grounds for the automatic per se denial of any right or privilege, including gun ownership.

#### FAIR PAY AND SAFE WORKPLACES REGULATIONS ADVANCE WORKER SAFETY AND RIGHTS

The rules implementing the Fair Pay and Safe Workplaces Executive Order take an important step towards creating more equitable and safe work conditions by ensuring that federal contractors provide workplaces that comply with federal labor and civil rights laws.

Employers that have the privilege of doing business with the federal government must meet their legal obligations. The Fair Pay and Safe Workplace regulations are crucial because they help ensure that federal contractors behave responsibly and ethically with respect to labor standards and civil rights laws and that they are complying with federal labor and employment laws such as the Fair Labor Standards Act (which includes the Equal Pay Act), Title VII of the Civil Rights Act, the Americans with Disabilities Act of 1990 and the Occupational Safety and Health Act, and their state law equivalents. The Executive Order also bans contractors from forcing employees to arbitrate claims under Title VII of the Civil Rights Act as well as claims of sexual harassment and sexual assault.

Congress should stand with workers, increase the accountability of federal contractors and oppose any attempts to undo the Fair Pay and Safe Workplaces regulations. These rules will help ensure that the federal government does not contract with employers that routinely violate workplace health and safety protections, engage in age, disability, race, and sex discrimination, withhold wages, or commit other labor violations.

If you have any questions, please feel free to contact Vania Leveille, senior legislative counsel, at [vleveille@aclu.org](mailto:vleveille@aclu.org) or (202) 715-0806.

Sincerely,

FAIZ SHAKIR,  
*Director, Washington  
Legislative Office.*

VANIA LEVEILLE,  
*Senior Legislative  
Counsel, Wash-  
ington Legislative  
Office.*

CONSORTIUM FOR  
CITIZENS WITH DISABILITIES,  
*Washington, DC, January 26, 2017.*

Hon. MITCH MCCONNELL,  
*Senate Majority Leader,  
Washington, DC.*

Hon. CHUCK SCHUMER,  
*Senate Minority Leader,  
Washington, DC.*

DEAR MAJORITY LEADER MCCONNELL AND MINORITY LEADER SCHUMER: The Co-Chairs of the Rights Task Force of the Consortium of Citizens with Disabilities (CCD) urge you to support a Congressional Review Act (CRA) resolution to disapprove the Final Rule issued by the Social Security Administration (SSA) on December 19, 2016, "Implementation of the NICS Improvement Amendments Act of 2007." This rule would require the Social Security Administration to forward the names of all Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefit recipients who use a representative payee to help manage their benefits due to a mental impairment to the National Instant Criminal Background Check System (NICS).

The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

Prior to the issuance of the Final Rule, the CCD Rights Task Force conveyed its opposition to the rule through a letter to the Obama Administration and through the public comment process. We—and many other members of CCD—opposed the rule for a number of reasons, including:

The damaging message that may be sent by a SSA policy change, which focused on reporting individuals who receive assistance from representative payees in managing their benefits to the NICS gun database. The current public dialogue is replete with inaccurate stereotyping of people with mental disabilities as violent and dangerous, and there is a real concern that the kind of policy change encompassed by this rule will reinforce those unfounded assumptions.

The absence of any data suggesting that there is any connection between the need for a representative payee to manage one's Social Security disability benefits and a propensity toward gun violence.

The absence of any meaningful due process protections prior to the SSA's transmittal of names to the NICS database. Although the NICS Improvements Act of 2007 allows agencies to transmit the names of individuals who have been "adjudicated" to lack the capacity to manage their own affairs, SSA's process does not constitute an adjudication and does not include a finding that individuals are broadly unable to manage their own affairs.

Based on similar concerns, the National Council on Disability, an independent federal agency charged with advising the President, Congress, and other federal agencies regarding disability policy, has urged Congress to use the Congressional Review Act to repeal this rule.

We urge Congress to act, through the CRA process, to disapprove this new rule and prevent the damage that it inflicts on the disability community.

On behalf of the CCD Rights Task Force, the undersigned Co-Chairs,

DARA BALDWIN,  
*National Disability  
Rights Network.*  
SAMANTHA CRANE,  
*Autistic Self-Advocacy  
Network.*

SANDY FINUCANE,  
*Epilepsy Foundation  
Law.*

JENNIFER MATHIS,  
*Bazelon Center for  
Mental Health.*

MARK RICHERT,  
*American Foundation  
for the Blind.*

Mr. GRASSLEY. Mr. President, some of the supporters of the new gun ban have brought forth arguments to try to discredit the other side. They have said that repealing the agency rule will allow the mentally ill to acquire firearms.

Let me tell you why that is not true. Under this regulation, the Social Security Administration never, ever determines a person to be mentally ill before reporting them to this gun ban list. It does not provide due process before reporting them to the list. Once the agency places a person on this disordered list, it then moves to assign a representative payee. But that is a very flawed process as well.

The former Social Security Administration inspector general said the following last year in testimony before a committee about assigning a representative payee. This will be a very short quote from the inspector general: "It's not a scientific decision; it's more of a personal opinion."

It is quite obvious under our Constitution's due process clause that the personal opinion of a bureaucrat cannot be the basis for taking away a person's Second Amendment rights.

Further, a June 2015 internal Social Security report found significant shortcomings in the representative payee process, namely that—and I will quote from the Social Security report—"the Social Security Administration's capability determinations were undeveloped, undocumented, or insufficiently documented."

A very legitimate question can be raised: How can any of us be comfortable allowing our fellow citizens to be subjected to such a process, a process that leads to the violation of constitutional rights? The regulation does not then require a formal hearing at any point.

Federal law and other regulations require that a formal hearing take place.

Mr. President, 18 U.S.C. 922(d)(4) requires adjudication before depriving someone of the right to own a firearm due to mental illness. There can be no adjudication if there is no hearing.

A 1996 ATF Federal Register Notice says "the legislative history of the Gun Control Act makes it clear that a formal adjudication is necessary before firearms disabilities are incurred."

The Obama administration knew that fundamental rights required constitutional due process. At the bare minimum, that requires a hearing. Yet, in this rule, no hearing is being afforded to that individual that will eventually have their constitutional rights abrogated. Of course, that ought to be considered not only a travesty but a travesty on the Constitution as

well. The constitutional due process is entirely nonexistent because there is absolutely no opportunity for an individual to challenge the proceedings against them.

The American Civil Liberties Union has echoed the same concerns, stating that “the rule includes no meaningful due process protections prior to the Social Security Administration’s transmittal of the names to the National Instant Criminal Background Check System database.”

The Second Amendment is very much being tossed aside without a formal dispute process to challenge the action before the constitutional right is abridged. On these facts alone, the regulation should be repealed. Yet there is more.

The regulation fails to establish that a person is a danger to themselves or a danger to others before taking away the constitutional rights the Second Amendment allows. If a rule premised on safety is to have any credibility, one would obviously think that the government needs to prove a person is dangerous, but this rule fails in that regard because it does not require the agency to find a person is, in fact, dangerous. The Second Amendment is a fundamental right requiring the government to carry the burden showing a person has a dangerous mental illness. This regulation obviously and simply does not achieve that requirement.

To be clear, however, if this regulation is repealed, Federal gun prohibitions will still exist. Individuals who have been determined to be a danger to themselves or others will still be prohibited from purchasing firearms. Also, individuals who are found to have a dangerous mental illness will be prohibited from purchasing a firearm. A person convicted of a felony or a misdemeanor crime of domestic violence will still be prohibited from purchasing, owning, and possessing a firearm. The same is true for those involuntarily committed to a mental institution.

As government expands, liberty contracts. It follows that with the expansion of government, power is centralized here, in this island surrounded by reality that we call Washington, DC, rather than with the American people. Often with that centralization of power, fairness does not necessarily follow, as demonstrated by this regulation. This Obama-era regulation is a perfect example of government wielding too much power—the power to deny people due process, the power to deny people their constitutional rights under the Second Amendment.

The process described herein is extremely problematic and necessitates being done away with by the passing of this resolution of disapproval. It is not clear that any of these disorders a person is labeled with has anything whatsoever to do with a person’s ability to responsibly own a firearm, and there is insufficient due process to ensure that a person actually has a given disorder

that would interfere with their safe use of a firearm. Notably, even if a representative payee has been assigned, the individual still maintains the capacity to contract.

Thus, the government is subject to a very low threshold to report names to the gun list and no burden of proof is required. By contrast, under this regulation, those who are reported to the list must prove the negative. They have to prove that the government is wrong. They must prove they are not a danger in order to get their name off that gun ban list. For the government to shift the burden to the citizen whose rights are being deprived is clearly unfair and unconstitutional. The failure to determine if a person is mentally ill or a danger to self or others is a material defect to this regulation, as is the failure to afford constitutional due process. There is no reasonable basis under this regulation to justify abridging that very important, fundamental constitutional right, and that is why this regulation must be repealed through the passage of this resolution of disapproval.

I yield the floor.

#### ORDER FOR RECESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. today.

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

The Senator from Utah.

Mr. HATCH. Mr. President, the Senate is now considering H.J. Res. 40, a resolution of disapproval regarding a misguided Social Security Administration regulation that infringes on many Americans’ Second Amendment rights. As a cosponsor of the Senate companion to this resolution, which was filed by Chairman GRASSLEY, I would like to add my voice to that of the many advocates, including the National Disabilities Rights Network and groups such as the National Rifle Association that work to protect the rights of law-abiding gun owners who have expressed support for this important legislation.

I would also like to express my appreciation to Chairman GRASSLEY and others for their leadership on this issue. This ill-advised regulation not only stigmatizes individuals with disabilities, it also violates the Second Amendment and due process rights of many Americans, and it should be repealed.

As a longtime supporter of Americans’ constitutional right to keep and bear arms, I was deeply troubled by this regulation, which allows the Social Security Administration to report individuals they consider, in the words used in the regulation, to be “mentally defective” to the National Instant Criminal Background Check System, or NICS, if they have “mental impairments,” receive disability insurance benefits, and receive those benefits through a representative payee.

When someone receives benefits through SSA’s representative payee

program, SSA field office employees have deemed them unable to manage their finances. However, SSA’s representative payee program itself is, by many accounts, ineffectively administered.

You don’t have to take my word for it. As recently as 2013, the Government Accountability Office identified that SSA “struggles to effectively administer its Payee Program.” There are unexplained and large discrepancies across various regions of the country that SSA serves in numbers of beneficiaries who are assigned by SSA field offices to be in the payee program. Yet, despite these known gaps and discrepancies, SSA apparently thought that this system was sufficient to determine whether some beneficiaries should be afforded a constitutional right.

Let’s be clear. Under SSA’s rule, individuals who are not found by SSA employees or any other competent authority to be a danger to themselves or others but rather simply need help managing their finances will be prohibited from legally purchasing a firearm. While we all want to make sure that the NICS system works effectively to prevent violent criminals and those who actually do pose a threat from purchasing firearms, this regulation is exceedingly overbroad. Moreover, it is not at all clear to me that SSA employees in field offices should be put in charge of deciding who can legally purchase a firearm. Of course, the bureaucrats at SSA who were prodded by the Obama administration to write the rule say they will create some sort of internal structure to allow beneficiaries to appeal the decisions of SSA employees. Of course, that means SSA would need to construct a new costly adjudication system to review decisions that its employees are not well-equipped to make in the first place. This is particularly strange, given that it is standard practice at SSA to decry the agency’s funding levels while also claiming it is already unable to adequately serve its beneficiaries due to budgetary shortfalls.

All of this simply does not add up. The SSA is not at all equipped for this kind of decisionmaking; moreover, the standards that would apply under the regulation for SSA to report a beneficiary to the NICS represent a much lower bar than the one anticipated in the applicable Federal statutes to determine the eligibility to purchase a firearm. That being the case, we need to pass Chairman GRASSLEY’s resolution of disapproval, which has already been approved by the House of Representatives with bipartisan support.

I encourage my colleagues to join me in voting in favor of this resolution.

I thank my friend from Oregon for allowing me to go forward on this short set of remarks.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I listened carefully to my colleagues on the

other side, and I want to make sure people really understand what this debate is all about. This debate is about background checks. It is about mental health. It is not about taking away constitutional rights. I am struck—and I know the distinguished Presiding Officer has taken part in a lot of these debates as well—that whenever there is a discussion about guns in the U.S. Senate, Senators get up and say: We shouldn't be debating guns, we ought to be debating mental health. That is what we are talking about today—mental health and background checks.

The fact is, we can go into townhall meetings in any part of America and hear extraordinary support for the whole idea of background checks. Background checks are right at the heart of this morning's debate and supporting background checks is not some extreme far-out position to hold. In fact, opposing background checks is the view that is way out of the mainstream of American political thought.

A recent poll found that 92 percent of gun owners supported expanded background checks. Let me just repeat that 92 percent of gun owners in America support expanded background checks. As the courts continue to interpret the language of the Second Amendment, one matter has been made clear: background checks are a constitutional part of the exercise of those rights.

So what I am going to do is describe what this is all about, but I want to, as we get going, make sure people understand that fundamentally this is about background checks, and it is about mental health. It is not about taking away somebody's constitutional rights.

Here is how the proposal under discussion works. If there is an individual with a severe mental impairment that means that another person—perhaps a family member—is in charge of their Social Security benefits, then the background check is to be informed by Social Security that the person with a severe mental impairment is ineligible to buy a gun. The fact is, we can always talk about tailoring the rule in a slightly different way. It is critically important that individuals who wind up in the background check system are not treated unfairly, but the fact is, anyone who thinks they have been unfairly affected by this proposal can appeal, and they are most likely going to win, as long as they are not a danger to themselves or anyone else. If the Social Security Administration says no, that person has the power to take their case to court.

What we are talking about here is, in my view, not about Democrats or Republicans, liberals and conservatives; I think we are just talking about plain old, unvarnished common sense. We want to, all of us—all of us—stop shootings by those who are in danger of hurting themselves or other persons.

The rule came out last year, but it goes back to the shootings at Virginia Tech and Sandy Hook. What the previous administration sought to do was

to find some commonsense gun safety steps that could be taken under laws on the books. I want to emphasize this as well because whenever we talk about guns, what Senators always say is: Let's use the laws on the books. Let's use the laws on the books. We don't need to chase new laws and the like.

So the administration sought to use the laws on the books—the previous administration—to prevent the horrendous acts of violence that have so scarred our country in recent years. I know the distinguished Presiding Officer knows something about that from his own State.

I hope my colleagues will oppose the resolution. I think we are all aware in the Senate that whenever you have an issue that even touches on guns, everybody goes into their corners. They go into their respective corners.

My own view is—and I represent a State with a great many gun owners. I have had more than 750 townhall meetings at home. A lot of them—a lot of them—involve debates about guns. Overwhelmingly, in a State like mine, where there are a lot of gun owners, gun owners support making sure there are background checks. They want to address this as a mental health issue. Gun owners overwhelmingly say they have just had it with Congress doing absolutely nothing when it comes to practical, commonsense gun measures like background checks. They look at what goes on in Washington, DC—and I have had so many gun owners—and this comes up not just at town meetings. We have an icon in our State, Fred Meyer, a store. I think I have had chicken in every Fred Meyer in the State of Oregon. People come up and talk about issues like this in a Fred Meyer, and they ask: Why in the world can't there be Democrats and Republicans who just come together and do something that helps make our country a little bit safer? That is what this is all about.

I am not here to say this measure is a panacea; that somehow this is a magical elixir that is going to reduce gun violence in America. That wouldn't be right and certainly not part of how I see these debates. I see this as addressing a commonsense, practical measure relating to background checks and mental health.

I listened to my colleague, my friend from the Finance Committee, Senator GRASSLEY. If Members of the Senate feel so strongly that this particular rule needs addressing, then there ought to be a debate. The Senate, Democrats and Republicans, should get together and figure out how to improve the rule.

What is important is that is not going to be possible if this resolution passes. If this rule is struck down under the Congressional Review Act, it wouldn't just scrap this particular background check, it would salt the Earth. It would prevent this issue from being addressed for quite a number of years.

I am going to close by talking a bit personally for a minute about why I

feel so strongly about this. My late brother Jeff, who passed at the age of 51, suffered from schizophrenia, a serious mental impairment. He started to withdraw in his teens. His condition got worse over the next few years. We were close. He was just a couple of years younger than I. I watched the continuing odyssey that Jeff went through of various mental health facilities, run-ins with the law on the streets.

I will say to the Presiding Officer that not a day went by in the Wyden household when we weren't worried that Jeff was going to hurt himself or somebody else. That was the reality for the Wyden family, and that is a fear that I know is felt in households all across the country, day in and day out.

My brother received benefits from public programs while he struggled with a mental impairment. My dad wrote a book about it because we were so hopeful at one time. He wrote a book called "Conquering Schizophrenia." We thought there was a breakthrough drug known as olanzapine.

We always felt during those years that it would be a big mistake if Jeff Wyden could buy a gun. He would have been a danger to himself. He would have been a danger to others. I don't think Americans should have to carry that burden and experience that kind of worry that comes along with the danger we felt week after week for years in the Wyden household and that I know other families across the country feel as well.

(Mr. CRUZ assumed the Chair.)

The Presiding Officer wasn't in the Chair when this began, and I started off by way of saying that, to me, this is about background checks, it is about mental health; it is not about taking away people's constitutional rights, but I can understand why other people would have a difference of opinion. That is what the Senate is about. That is what the Senate is supposed to do—to debate these issues. So if somebody said: Well, there is a better way to do this, to improve it, count me in—count me in to talk with colleagues, the Presiding Officer, and others—but if you support this resolution today, you close off that door. You preempt that possibility because of the way the Congressional Review Act actually works.

I urge my colleagues to oppose this. This is what the Senate says it wants to do when we talk about guns. I wish I had a nickel, in fact, for every time the Senate talked about guns—I wish I had a nickel for each time a Senator got up and said: We shouldn't be working on guns. We ought to be working on mental health. That is what this is about, mental health and background checks.

I urge my colleagues to oppose the resolution.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Connecticut.

Mr. MURPHY. Mr. President, I have heard my Republican friends tell those

of us who want the laws of this country changed to protect our constituents against gun violence that what we should focus on is enforcing the existing law; that we don't need any new laws, all we need to do is focus on enforcing the existing law.

Senator WYDEN said he wished he had a nickel for every time he has been told our focus should be on background checks. Well, I wish I had a nickel for every time my colleagues told me we should focus on enforcing the existing law. Yet I would also be a rich man if I had a nickel for every time Republicans came to the floor and tried to undermine the existing law, tried to rewrite the existing law to make it harder to enforce it.

The Appropriations Act is, on an annual basis, loaded up with riders that hamstring enforcement agencies, don't allow them to actually enforce existing laws. The CRA we have before us today will make it harder for the Federal Government to do what we have told them to do for decades, which is to put dangerous people and people who are seriously mentally ill on the list of those who are prohibited from buying guns. That is the existing law. The existing law says that if you are convicted of a serious crime or you have a serious mental illness and you have gone through a process by which a determination has been made by a government agency as such, that you should not be able to buy a weapon.

Why do we have that law on the books? Why have we come together as Republicans and Democrats to say that people with serious mental illness or people who have been adjudicated of a violent crime shouldn't be able to buy weapons? It is because the evidence tells us over and over again that if you have committed a violent crime, you are likely—more likely than if you haven't committed a violent crime—to commit another one. And over and over again, as we have seen these mass shooters walk into places like Sandy Hook Elementary School or a movie theater in Colorado or a classroom in Blacksburg, we know that people with serious mental illness in this country can go buy a very powerful weapon and do great damage with it.

That does not mean there is an inherent connection between mental illness and violence. In fact, we know the opposite to be true. If you are mentally ill, you are probably more likely to be the victim of violence than you are to be the perpetrator of it. But we do know that in this country, given the fact that weapons are so easy to come by, people with mental illness—serious mental illness—who have an intersection with visions of violence often do great harm. So we made a collective decision as Republicans and Democrats that if you have a serious mental illness, you probably shouldn't be able to go and buy an assault weapon. That is what the law says.

Section 101 of the NICS Improvement Act is titled “Enhancement of require-

ment that Federal departments and agencies provide relevant information to the National Instant Criminal Background Check System.” That is a piece of legislation which both Republicans and Democrats supported. It commands that Federal agencies provide relevant information to the criminal background check system.

What is relevant information? ATF defines someone who should not be able to buy a gun as one who “lacks the mental capacity to manage his own affairs.” So there is the existing statute. The existing statute says that relevant agencies should forward information to the criminal background check system on individuals who are prohibited from owning guns, and that is defined in part as an individual who “lacks the mental capacity to manage his own affairs.”

That is exactly what the regulation proffered by the Obama administration at the end of last year does. It says that individuals who have filed a claim for disability, who meet the requirements of one of Social Security's mental disorders listing of impairments, have been found to be so severely impaired that they are unable to work, and have been found, with due process, to be incapable of managing their own benefits and have had a representative appointed to them to manage their disability benefits, that those individuals meet the definition of someone who lacks the mental capacity to manage their own affairs.

If you are supporting this CRA today, then you are undermining the ability of law enforcement to do their job to enforce the law as Congress has passed. So spare me this rhetoric about passing no new laws because we should just focus on enforcement. Once again, with this CRA, you are undermining the ability of the Federal Government and of law enforcement to enforce the law.

Let's be clear about what the danger is. It is correct to state that there is no inherent connection between being mentally ill and being dangerous, but the risk is not just that an individual is going to buy a gun and use it themselves; the risk is that someone who literally can't deposit their own paycheck probably can't or likely can't responsibly own and protect a gun.

I could sit here for the rest of the day and recite the number of times a gun owned by one individual got used in an accidental shooting, got taken illegally, stolen from their premises, and used in a crime. The danger of an individual who has severe mental incapacity is not just that they are going to take that weapon and fire it but that they are not going to own, keep, and protect it responsibly. If you can't manage your own financial affairs, how can we expect that you are going to be a responsible steward of a dangerous, lethal firearm?

We are talking about a very limited group of individuals here—who, by the way, under the regulation, have due process to contest the determination.

First of all, they have an ability to contest the determination by Social Security that they shouldn't be able to manage their own financial affairs, and then the regulation secondarily gives them the ability to specifically contest their limitation on gun ownership. So there is full ability for the individual or for the family to contest this limitation, which makes it completely constitutional. Nonsense that this is a restriction of a constitutional right.

The Heller decision, which does hold that an individual has a right to gun ownership, also makes it explicit in Justice Scalia's opinion that there are limitations on that right, and the Scalia decision itself lists as one of those conditions the restriction of gun ownership by people who are seriously mentally ill.

The law is clear that Federal agencies are required to upload information onto NICS of those individuals who cannot manage their own financial affairs because of mental illness. The Supreme Court is clear that this is entirely constitutional. So why are we doing this? Why are we having a debate about rolling back the criminal background check system when 90 percent of Americans support it?

No matter what State you live in, sit down with your constituents and tell them that you voted to allow people who are seriously mentally ill to be able to buy guns. You are not going to get a lot of takers. And it is not because people don't have compassion for people with mental illness. I have worked for the last 2 years to pass the most substantial mental health reform act that this body has seen in a decade. I have spent as much or more time than anybody in this Chamber advocating for the rights of people with mental illness and for their treatment. But I also understand that when people are so mentally ill that they can't manage their own financial affairs, they probably shouldn't buy a gun. That is a small class of people.

What makes me so angry about this is I have no idea how to go back to the people whom I represent in Connecticut and tell them that in the 4 years since the massacre in a smalltown elementary school, not only has Congress passed no law, made no change in statute to try to keep dangerous weapons out of the hands of would-be shooters, but that today we are doing exactly the opposite. The response to the epidemic of mass shootings in this country is to make it easier for people with serious mental illness to get guns. How do I explain that to people in Connecticut?

How do the folks representing areas where shootings are a regular occurrence explain that Congress has done nothing to address mass shootings, to address the epidemic rates of gun violence in our cities, and yet we think it is so important to undermine the criminal background check system—not strengthen it, undermine it—that in the first month of this new administration and this new Congress, we are

rushing through this repeal of a commonsense regulation? That is deeply offensive to the majority of Americans, who think we should be strengthening our criminal background checks system, not undermining it. Ninety percent of Americans think we should have universal background checks. Not only are we not listening to them, we are undermining the criminal background checks system today.

I get that the gun lobby is pretty powerful in this place. I get that they have stood in the way of changes in our criminal background checks system that were supported by 90 percent of Americans. But even I wasn't cynical enough to think they had so much power that they could get Congress to roll back, to undermine the criminal background check system in the wake of this continued horrific level of gun violence all across the country.

Senator WYDEN is right. The danger in this is not just that it has the immediate impact of undermining the criminal background check system, but it potentially blocks our ability to get this right in the future. We don't know what the precedent is for CRAs because we haven't done them before. What we know is that it says you can't pass any regulation that is substantially similar to the regulation that you legislated on. Well, what does that mean in the context of keeping people with serious mental illness off the criminal background check system? Does that mean we can't ever legislate or regulate on the narrow issue of individuals who have had their right of financial affairs restricted through Social Security, or is that a broader prohibition that limits the administration's ability to regulate on strengthening of the criminal background check system in a much more comprehensive way?

We are playing with fire here because this is a precedent we know nothing about. We are playing with fire because we are potentially limiting the ability to ever get this issue right in the future when 90 percent of Americans want us to work together on it.

I understand this issue is a sensitive one. Having spent my entire career working hand in hand with committed advocates for people with mental illness, I understand the danger of conflating mental illness with violence. But this is a narrow category of individuals who by definition fit the parameters in existing law for those who are supposed to be on the NICS system.

For all the things that we disagree about on gun policy—I don't suspect we are going to get a meeting of the minds this Congress on whether all gun sales should be subject to background checks. I don't suspect we are going to figure out a way to work together on restricting access to high-capacity magazines or assault weapons. I thought at least we agreed on keeping the background check system that we have.

The existing law says that individuals who lack the mental capacity to

manage their own affairs should be included on the list of those who are prohibited from buying weapons, and today we are undermining that existing law. We are undermining the enforcement of current statute—something Republicans have said over and over again they are not interested in doing.

I strongly urge my colleagues to vote against this measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I ask unanimous consent to be able to complete my remarks before the Senate recesses.

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

#### CABINET NOMINATIONS

Mr. THUNE. Mr. President, yesterday we began yet another week of considering Cabinet nominations in the Senate—our fourth week, to be precise—and we still have a long way to go. If anyone is wondering whether this is a normal confirmation process, the answer is no, it is not. Historically, Senate practice has been to quickly confirm a President's Cabinet nominees. President Obama had six nominees confirmed on his first day as President and nearly all the rest within the first 2 weeks. This tradition of speedy confirmation goes back a long way. By the point in every Presidency since President Eisenhower's, most, if not all, of the President's Cabinet nominees had been confirmed by now. Between 1881 and 1933, every incoming President had all of his Cabinet nominees confirmed on day one.

What is the reason for this? Historically, Senators of both parties have recognized that Cabinet officials play an essential part in getting an administration up and running, doing the business of the American people. Once the American people elect a President, the thinking historically has gone that it is only right that the President be given the advisers he needs to do the job he was elected to do—that is, until now.

This year, Democrats decided that they have had enough of timely Cabinet confirmations, that they have had enough of bipartisanship. Since President Trump was inaugurated, Democrats have done everything they can to drag out his Cabinet nominations. We don't have to take my word for it; here is what Politico had to say:

Senate Democrats . . . are slow-walking the installation of Trump's Cabinet to a historic degree. . . . They are voting against Trump's Cabinet picks in unprecedented numbers.

Two weeks ago, the Washington Post published a piece titled "Trump's confirmations really are taking longer than his predecessors."

"Democrats," the Post noted, "have tried to slow the process, invoking arcane parliamentary procedure to force delays, and boycotting committee meetings to prevent votes."

For a party that has spent a lot of time complaining about obstruction, Democrats really are taking it to new heights. Thanks to Democrats' obstruction, the Senate has had to spend so much time confirming nominees that we have had very little time for actual legislative business. We still have a long way to go to finish confirming the President's Cabinet, unless the Democrats decide to stop their obstruction. Democrats aren't even really accomplishing anything with their delays.

Thanks to the rules change that they put in place in 2013—that was something that was engineered in 2013 where they literally broke the rules to change the rules—they can't actually prevent President Trump's nominees from being confirmed. The only thing they can do is to tie up the business of the Senate and delay work on legislation to address the challenges that are facing American families.

Democrats may not like President Trump, but it is high time they get used to the fact that he is our President. Democrats are not helping anyone by preventing the President from having a fully functioning administration. It is time for Democrats to abandon the obstruction, confirm the President's nominees, and allow the Senate to move forward with the business of the American people.

#### NOMINATION OF NEIL GORSUCH

Mr. President, in addition to Cabinet nominees, the Senate will be considering another key nomination in the coming weeks, and that is Judge Neil Gorsuch's nomination to the Supreme Court.

I met with Judge Gorsuch last week, and our meeting confirmed my opinion that President Trump could not have made a better pick for the Court. By now, I think Judge Gorsuch's qualifications are well known: his exceptional intelligence, his gift for the written word, his outstanding resume, and, most of all, his clear understanding of the proper role of a judge.

In his remarks at the White House after accepting the nomination, Judge Gorsuch spoke of judges' obligation to follow the law "as they find it and without respect to their personal political beliefs."

"A judge who likes every outcome he reaches is very likely a bad judge." Judge Gorsuch has said those words more than once. Why? Because a judge who likes every outcome he reaches is likely making decisions based on something other than the law.

That is a problem. The job of a judge is to interpret the law, not write it—to call the balls and strikes, not to rewrite the rules of the game. Everyone's rights are put in jeopardy when judges step outside of their role and start changing the meaning of the law to suit their personal opinions.

Judge Gorsuch doesn't just understand judges' responsibility; he lives it. He has won respect from liberals and conservatives alike for his deep commitment to following the law wherever



it leads, even when he doesn't like the results.

Here is what Neal Katyal, an Acting Solicitor General for President Obama, had to say about Judge Gorsuch:

I have seen him up close and in action, both in court and on the Federal Appellate Rules Committee (where both of us serve); he brings a sense of fairness and decency to the job, and a temperament that suits the nation's highest court. . . . I, for one, wish it were a Democrat choosing the next justice.

But since that is not to be, one basic criteria should be paramount: Is the nominee someone who will stand up for the rule of law and say no to a president or Congress that strays beyond the Constitution and laws?

I have no doubt that if confirmed, Judge Gorsuch would help to restore confidence in the rule of law.

His years on the bench reveal a commitment to judicial independence—a record that should give the American people confidence that he will not compromise principle to favor the president who appointed him.

Again, those are not the words of a Republican. That is what Neal Katyal, formerly an Acting Solicitor General for President Obama, had to say about Judge Gorsuch. It is pretty high praise coming from a Democrat.

One of the Democrats' favorite tactics is to accuse Republican nominees of being extremists, no matter how mainstream they actually are. No matter how hard they try, I don't think they are going to have much success with that tactic against Judge Gorsuch.

When liberal after liberal attests to his fairness and impartiality, it is pretty hard to pretend he is anything but an excellent pick for the Supreme Court.

Then there are the stats from his time on the Tenth Circuit. Last week, the Wall Street Journal reported:

Judge Gorsuch has written some 800 opinions since joining the Tenth Circuit Court of Appeals in 2006.

Only 1.75 percent (14 opinions) drew dissents from his colleagues.

That makes 98 percent of his opinions unanimous, even on a circuit where seven of the 12 active judges were appointed by Democratic Presidents and five by Republicans.

So it is a very divided circuit court in terms of the composition. Let me repeat that last line.

That makes 98 percent of his opinions unanimous even on a circuit where seven of the 12 active judges were appointed by Democratic Presidents and five by Republicans.

When 98 percent of your opinions are unanimous, it is pretty much impossible to argue that you are somehow outside of the judicial mainstream. Very few of Judge Gorsuch's decisions have gone to the Supreme Court. When they have, they have been almost universally upheld—often, unanimously. I wish Democrats luck in portraying Judge Gorsuch as an extremist. I think they are going to have a very uphill climb.

Both liberals and conservatives recognize that Judge Gorsuch is a supremely qualified jurist who would make a terrific addition to the Su-

preme Court. I hope that Senate Democrats will listen to the consensus in favor of his nomination and abandon their threats of obstruction. Democrats spend a lot of time talking about the importance of confirming a ninth Justice to the Court. Now they are going to have a chance to confirm an outstanding nominee. I hope they take it. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his suggestion?

Mr. THUNE. I withhold my suggestion.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the President Officer (Mr. PORTMAN Presiding).

## PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE SUBMITTED BY THE SOCIAL SECURITY ADMINISTRATION—Continued

The PRESIDING OFFICER. The majority whip.

### CABINET NOMINATIONS

Mr. CORNYN. Mr. President, for the last several weeks, we have been doing all we can to take up and consider the President's nominations for his Cabinet, even though we have had little or no cooperation from the other side of the aisle.

Last night, we confirmed the President's top economic adviser—something you would think people would think was pretty important—the Secretary of the Treasury, and we did confirm the President's Secretary of Veterans Affairs. Ironically, the vote for the Secretary of Veterans Affairs was 100 to 0. So maybe somebody can explain to me what was the necessity of delaying the confirmation of the Secretary of Veterans Affairs for 3 weeks, leaving that important agency without a designated and Senate-confirmed head?

Earlier today, we considered the nomination of Linda McMahon to serve as the next head of the Small Business Administration, to help our country's job creators reach their potential. Again, we had an overwhelming vote for Linda McMahon for the SBA. So, again, my question is, What purpose is served by delaying, by foot-dragging, and by obstructing the President's choice of his Cabinet members?

We are glad we finally confirmed them, but to be honest, it is not much to celebrate. By carrying out this unprecedented obstruction of qualified nominees, our friends across the aisle are simply precluding the Senate from considering other acts of legislation that would actually be helpful to the American people. From my vantage

point, it is pretty clear. While they are headed down this self-destructive path, our friends continue to listen and, sadly, cater to radical elements of their own party that simply haven't gotten over the election and have decided to obstruct the President and his agenda at all cost.

But we know for a fact, from our private conversations, that our Democrat friends are not—well, they are fractured. Some of them remembered what happened in 2014, when, under the leadership of then-Majority Leader Reid, essentially everybody was frozen out of offering legislation or amendments to legislation on the floor, including Members of the majority party—then, Democrats, at the time. That strategy really backfired, resulting in a huge Republican class of outstanding Senators in 2014.

People don't like that across the country. They think we are sent here to solve problems, and we work together and make progress on behalf of the American people. This sort of mindless obstruction or foot-dragging for foot-dragging's sake doesn't make any sense to them, and it doesn't make any sense to me either.

Now, I realize the minority leader—the Democratic leader—probably has the toughest job in Washington, DC—to try to keep the far left fringes of his party happy, while trying to do the work of the American people who sent us here to legislate. I do know that there are Members of the Democratic caucus who are very interested in trying to demonstrate their effectiveness by working on bipartisan legislation. Some of them happen to be running for election in 2018 in States carried by President Trump. You would think they would be incentivized to tell the leadership of their own party—or the far left of their party, which wants to do nothing but resist the Trump agenda and our bipartisan agenda in the Senate—to stand down or that they are not going to participate in that sort of mindless obstruction, because I think their enlightened self-interest tells them that not only is this what the American people sent us to do—to be productive on a bipartisan basis—but it is also in their electoral self-interest, as well.

As long as the Democratic leader caters to the fringe of his own party and resists any sort of cooperation, I think they can expect the same sort of results after Senator Reid led his party down that path in 2014. We are now headed into the fourth week of the new administration, and we have only confirmed a handful of this President's Cabinet picks. That is bad news not just for us but for the American people, as well.

Surely, after the election of November 8, when President Obama said he wanted to make sure he participated in a peaceful transition of power to the next administration, he was appealing to the better angels of all of those who perhaps were disappointed by the outcome of the election. But that is what

we do as Americans. We pull together in the best interest of the entire country. We get together and we fight, perhaps, and we take opposing parties in elections. But once the election is over, after the ballots are counted, we work together in the best interest of the American people.

But that is not happening, and that is really not just bad for the Senate. That is bad for the country. Our job in the Senate is to consider these nominees and to move on them so that the President of the United States can be surrounded by the people he has chosen to help him lead the country. I will tell you that I have been incredibly impressed by the quality of people he has selected. So as we begin to consider the remaining nominees put forward by President Trump, I hope our friends on the other side will start to realize the ramifications of their quest to stop the Senate or to drag out these deliberations and preclude us from doing other constructive work.

One thing I can promise you is that, thanks to the efforts of Senator Reid in the last Congress, all of these nominees will be confirmed. Our colleagues face the same choice they have had all along. They can either work with us to help get these advisers vetted and then confirmed, or they can make it painful for all of us for no good reason and reveal to the country just how ineffective they truly are when it comes to trying to obstruct this confirmation process.

My hope is that they will decide to course-correct and determine for the good of the entire country that the right thing to do is to move forward on these nominees. We were able to take up the VA Secretary and the Administrator of the SBA, basically by consent, by agreement, without having to grind through this lengthy process that we are having to do on the Mulvaney and the Pruitt nominations, just to get those done before Saturday. It is not necessary, and it is not going to change the outcome.

Mr. President, we are also going to take up an important congressional resolution of disapproval. The rule in question allows the Social Security Administration to report folks who may need help managing their money to the National Instant Criminal Background Check System, also known as NICS.

This is just another chapter in the same story that we heard last year when we successfully pushed back on the Veterans' Administration for trying to do the same thing—bureaucrats unilaterally taking away people's constitutional rights without even notifying them of the reason, much less without giving them an opportunity for a due process hearing. Well, this isn't a small matter. We have to make sure that the bureaucracies can't continue to infringe on fundamental rights guaranteed to all Americans. Now we have a chance to repeal this unconstitutional rule and to protect those just trying to receive the Social Security benefits they have earned.

I look forward to doing away with this particularly noxious rule soon, this week.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

#### CALLING FOR A SPECIAL COUNSEL

Mr. BLUMENTHAL. Mr. President, I am here principally to speak about the NICS Social Security Act, Congressional Review Act resolution that is before our Chamber, but events of the last 24 hours really raise before us the urgent and unavoidable issue of needing an investigation into the recent activities of Michael Flynn. He resigned as the National Security Advisor last night after revelations that he misled Vice President MIKE PENCE and other top White House officials. He may have misled the President and others in the White House, but there are also very serious questions about who knew what when. These classic what did they know and when did they know it questions must be answered by an independent counsel or commission, and the reason it must be independent is the same very profoundly important reason that I gave to then-Nominee Jeff Sessions, now Attorney General.

The Attorney General must appoint a special counsel in cases where there is reason to question his complete impartiality and objectivity; the reality as well as the appearance mandate here that there be an independent investigation by a special counsel.

Only a special counsel, independent of the Attorney General and of the White House, can ask with penetrating, aggressive, unflinching analysis whether the President knew before Michael Flynn made those phone calls to the Russian Ambassador and other phone calls to other foreign powers what the subjects of the conversations were, even whether they were going to be made, and only an independent counsel can know, with complete credibility and being regarded that way by the public, as to what happened and who knew what happened and when they knew.

This issue is about more than just a phone call to the Russian Ambassador. It is about the integrity and honesty of public officials, about the protections we give to our intelligence, and about the independence of our justice system.

I certainly have respect for the Office of Attorney General, but Jeff Sessions was deeply involved in President Trump's campaign and in the Presidential transition. I expressed to him in the hearing on his nomination that he would have to distance himself from an investigation of exactly these issues to maintain impartiality and objectivity in that investigation. So I will

write to him today, and the letter will be made public shortly, asking for an independent counsel, a special investigator who can produce the information that is necessary for the public to be assured that there has been an inquiry that is impartial, objective, comprehensive, and thorough. It has to be unflinching and unstinting, and it should be done as soon as possible.

Mr. President, I want to address the issue that is before us on the floor relating to the Congressional Review Act resolution that we will vote on shortly and in my view that will undermine existing law if it is passed. Too many times in recent years we have had the terrible responsibility of bearing witness to the trauma and grief that follow gun violence. We see it in our streets every day, not just in Sandy Hook, which every day weighs on our minds and thoughts and hearts in Connecticut but the more than 30,000 deaths every year and countless injuries all across the country in big and small towns, the streets of Hartford as well as rural and suburban communities.

I am far from the only one in this Chamber who has borne witness to that trauma and grief. Gun violence has claimed too many lives in too many places, through mass shootings in movie theaters as well as the constant drumbeat of shootings that never make the headlines. Our constituents count on us to make them safe. That is one of the fundamental responsibilities of our government. And by overwhelming majorities, including majorities of Republicans and of gun owners, they support commonsense steps to keep guns out of the hands of dangerous people. In failing to move forward with legislation that would advance those goals, Congress has been complicit in this ongoing epidemic. It is truly a public health crisis. If more than 30,000 people died every year from disease or other kinds of communicable illnesses, there would be a call for drastic action.

This kind of public health crisis must be met with strong steps. When many of us in this body who believe that Congress must now take action to stem the scourge of gun violence hear one refrain from our colleagues—"enforce the law; enforce the law that already exists"—we must heed that cry.

Enforcing the law that already exists is exactly what this regulation entails. So we must be ready to move forward. Yet, as my friend and colleague Senator MURPHY noted earlier, the Congressional Review Act resolution we are about to vote on will not only fail to enforce existing law, it will undermine existing law. Federal law prohibits those who have severe mental health issues—that is to say, issues that would prevent them from safely handling a gun, from possessing a gun.

Federal law also requires agencies that have information indicating that people are disqualified from gun possession to share that information with the NICS background check system. Under this regulation, the Social Security Administration has proposed to do

exactly that. Pursuant to the 2007 NICS Improvement Amendments Act—a law passed in the wake of the horrific Virginia Tech shooting to address significant loopholes in the background check system—the Social Security Administration will submit records to NICS for Social Security recipients who meet a specific set of carefully defined criteria. The regulation will apply only to a subset of Social Security disability recipients. It does not apply to those who are receiving Social Security retirement benefits. It applies only to those disability recipients who have been found, based on the Social Security Administration's established criteria, to be severely impaired due to a mental disability and who are therefore unable to perform substantial work or manage their own disability benefits.

Repealing this regulation could lead to great harm, exacerbating loopholes and failings in the background check system that erode public safety.

I have a letter from the United States Conference of Mayors, which represents city leaders from across our country. It says that “due to loopholes in current law, too many mass murderers are still able to too easily obtain guns. This includes the individual responsible for killing 32 people and injuring 17 others at Virginia Tech in 2007 that led to the enactment of the NICS Improvement Amendments Act. These killings must stop and this rule, as implemented last year, will help to do that.”

I ask unanimous consent to have printed in the RECORD a letter from the United States Conference of Mayors, as well as a letter from the National League of Cities.

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

THE UNITED STATES CONFERENCE  
OF MAYORS,  
February 9, 2017.

DEAR SENATOR: I write on behalf of the nation's Mayors to urge you to strongly oppose Senate Joint Resolution 14 (S.J. Res. 14), a bill to revoke a rule finalized last year by the Social Security Administration (SSA), which strengthens our nation's background check system for gun purchases by adding the names of people who are severely incapacitated by their condition and unable to manage their own finances.

The rule implements existing law, which required the SSA to send the names of those identified as prohibited people to the National Instant Background Check System (NICS). This rule finally brings SSA in compliance with the NICS Improvement Amendments Act (NIAA), a law that Congress passed on a bipartisan basis and President Bush signed into law in 2007. It also is consistent with ATF's direction for complying with the law.

The rule has a limited scope but is critically important to the fabric of our nation's background check system. Under the rule, people who receive benefits from the Social Security Administration due to a severe “mental impairment” and require a fiduciary representative to manage their benefits would be notified and reported to the FBI's NICS. The rule affects anyone 18 and

older who qualifies for disability because of a primary designation of “mental impairment” that prevents the person from working and who must have a “representative payee” for handling his or her finances. This includes people who have been certified to be afflicted with severe mental health disorders, such as schizophrenia and other psychotic disorders, personality disorders, intellectual disabilities, anxiety-related disorders, substance addiction disorders and autistic disorders. These individuals have the right to appeal and a clear process for doing so.

We all know that it is due to loopholes in current law that too many mass murderers are still able to too easily obtain guns. This includes the individual responsible for killing 32 people and injuring 17 others at Virginia Tech in 2007 that led to enactment of the NIAA. These killings must stop and this rule, as implemented last year, will help to do that.

We urge you to help stop the killing and oppose S.J. Res. 14 or any other efforts to undermine or otherwise compromise the national Brady background check system that has stopped over 3 million prohibited purchasers from acquiring guns since its enactment.

Thank you for anticipated time and consideration of this critical matter.

Sincerely,

TOM COCHRAN,  
CEO and Executive Director.

NATIONAL LEAGUE OF CITIES,  
February 14, 2017.

DEAR SENATOR: On behalf of the 19,000 cities and towns represented by the National League of Cities, I write to express strong opposition to Senate Joint Resolution 14 (S.J. Res. 14) that will revoke a common-sense rule finalized last year by the Social Security Administration (SSA). The rule finally brings the SSA in compliance with the NICS Improvement Amendments Act of 2007 (NIAA), a law that Congress passed on a bipartisan basis and President Bush signed into law in 2007. The law requires SSA to send the names of mentally ill people, who have been determined to be a danger to themselves or others by a physician, to the gun purchase background check system. It is troubling that Senate is now considering S.J. Res. 14, which threatens to undermine this reasonable, bipartisan legislation that is making cities, and police officers, more safe.

The rule is limited in scope and critically important to the fabric of our nation's background check system. Under the rule, people who receive benefits from the Social Security Administration due to a severe “mental impairment” and require a fiduciary representative to manage their benefits would be notified and reported to the FBI's NICS. The rule affects anyone 18 and older who qualifies for disability because of a primary designation of “mental impairment” that prevents the person from working and who must have a “representative payee” for handling his or her finances. This includes people who have been certified to be afflicted with severe mental health disorders, such as schizophrenia and other psychotic disorders, personality disorders, intellectual disabilities, anxiety-related disorders, substance addiction disorders and autistic disorders.

Loopholes in the NICS law have allowed people who are clearly a danger to themselves or others to obtain guns. This includes the individuals responsible for killing 32 people and injuring 17 others at Virginia Tech in 2007; killing six people and injuring 13 others, including Congresswoman Gabrielle Giffords in Tucson in 2011; killing 12 people and injuring 70 others in Aurora in 2012; and killing 26 people, including 20 children in Newtown in

2012. These killings must stop and this rule, as implemented last year, will help to do that.

We urge you to oppose S.J. Res. 14 or any other efforts to undermine or otherwise compromise the national Brady background check system that has stopped over 3 million prohibited purchasers from acquiring guns since its enactment.

Sincerely,

CLARENCE E. ANTHONY,  
CEO and Executive Director.

Mr. BLUMENTHAL. It is critical to note that neither I nor any proponents of the Social Security Administration's rule believe that all or most or even a significant percentage of those suffering from mental health issues are dangerous—far from it. The overwhelming majority of people who confront mental health issues are peaceful and law-abiding citizens who seek only the treatment that should be everybody's right. In fact, I have been a strong advocate over many years of mental health parity, beginning when I was attorney general in the State of Connecticut. The very first Federal law on this issue that was passed was modeled in many ways after the State law that I championed. I was proud to support the passage of a bill last year to provide more resources to those seeking treatment, and I hope that it moves this country toward providing everyone with the care they need.

Mental health issues should be no cause for fear, no reason for stigma, no excuse for shame. Those who have come forward and been open about the treatment they have sought, in fact, have done themselves and their communities and country a great service. If I thought SSA regulations unfairly targeted people with mental illness or that it advanced the perception that they are inherently dangerous, I would oppose it with every fiber of my being, but that is not the regulation we have here.

As Senator DURBIN said this morning and my colleague Senator MURPHY reiterated, this rule is not one loosely applied to anyone who has some trouble balancing a checkbook; it applies only to those disability recipients with a serious and debilitating mental health issue. That is estimated to be about 75,000 people nationwide out of approximately 10 million Americans who suffer from a serious mental illness. Everyone who suffers from mental illness should have a right to treatment, but not all should have a gun. It is very unlikely that people who meet these criteria will be able to safely handle a gun or to safely store it in their home and prevent its misuse by themselves or by others.

It is possible that SSA's initial determination will be wrong. That is why crucially—please understand—crucially the regulation also provides due process. In fact, these due process protections are necessary when a constitutional right is at stake. This right, the Second Amendment right, must be respected as the law of the land. The regulation entitles those who are affected

by it to advanced notice. When going through the process to appoint someone else to handle their benefits, they are told that they will forfeit their firearms right. They are given that notice, and they are given due process. If they believe this is inappropriate or unnecessary, the regulation gives them that process to appeal. It is one that allows SSA to grant relief upon a determination that the beneficiary will not be "dangerous to public safety," a term that has meaning.

SSA is also required to notify the NICS background check system if the name should be removed, whether it was submitted in error or because a beneficiary has recovered from the condition or because they were granted relief through the appeals process. Those are rights with real remedies, with due process, with fairness.

If I thought this regulation failed to provide adequate process that every individual is due, regardless of how much I support its goal, I would oppose it with, again, every fiber of my being because it should be and it is the law of the land.

Of course there may be ways that this regulation, like any regulation, could be improved if the criteria could be better targeted or if the due process protections could be made stronger or if the administration could be made more efficient. We should not hesitate to make those improvements. I would welcome suggestions for enhancements, but the methods chosen by my colleagues to attack this regulation—the Congressional Review Act—prevent any and all of those improvements.

Severely limiting the time for debate denies us adequate consideration. Much worse, it is a blunt-force instrument that will prevent the Social Security Administration from issuing any "substantially similar" regulation in the future. So the passage of this resolution will prevent the SSA from complying with the legal requirement for submitting legal records for a background check in the future. It will hamstring this agency and prevent it from fulfilling its obligation to public safety—that is regardless of whether new information comes to light or whether it would be possible to devise a better method of submitting these records.

In the words of the well-known and respected group Americans for Responsible Solutions, using the CRA to undo this rule would "not only allow guns to be placed into the hands of individuals determined to be legally incapable of using them safely, but it also creates an irresponsible, irreversible precedent."

As I have always said, I will work with my colleagues on any good-faith steps to stem the tide of gun violence in this country, and I would be more than happy—in fact, I am eager—to work with them to fix flaws they see in this regulation. We need to come together to improve the integrity and efficiency of the national background

check system and keep guns out of the hands of people who cannot safely handle them. People who are dangerous to themselves or others—it may be a very small number, but they can do great tragic damage. The resolution we will vote on shortly accomplishes neither of these goals. It does nothing to answer my constituents who ask me time and time again why Congress does nothing to confront the epidemic of gun violence in this country. It would create an irresponsible, irreversible precedent. More important than the precedent is the consequence in real lives of the death and injury that could result. Those deaths and injuries are truly irreversible and irresponsible, and we can help to stop them by taking the right stand on this resolution.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. MARKEY. Mr. President, it is Valentine's Day, and Senate Republicans and President Trump want to deliver a love letter to their sweetheart, the National Rifle Association. To the Republicans and President Trump, nothing says "I love you" like "let's weaken background checks on gun sales" because that is exactly the issue before us today.

Today, Republicans in Congress and President Trump want to gut a commonsense safety measure that would help keep guns out of the hands of people who should not have them. After the tragedy in Newtown, CT, the Obama administration undertook a comprehensive review of Federal law to identify "potentially dangerous individuals" who should not be trusted with firearms.

The Social Security Administration was required to identify and report to the National Instant Criminal Background Check System those people who received Social Security benefits due to severe mental impairment and who require a fiduciary representative to manage those benefits.

That is a sensible policy. If you can't manage your disability benefits because of a mental impairment, you probably shouldn't be trying to manage a gun. Indeed, current law prohibits individuals from purchasing a firearm if a court, a board, a commission, or other lawful authority has determined that a mental health issue makes them a danger to themselves or to others or that they lack the mental capacity to contract or manage their own affairs.

The purpose of the rule is, simply, to include in the Federal background check system information from the Social Security Administration that it already has about beneficiaries whom

current law already prohibits from possessing a firearm. Even this fair, reasonable, and commonsense limitation on gun purchasing is too much for the NRA and its Republican congressional allies. So they have turned, this afternoon, to the Congressional Review Act to roll back this rule. By doing so, they would block the Social Security Administration from issuing a similar rule on this subject in the future. This is shortsighted on the one hand and very dangerous on the other for a long, long time in our country because it is these loopholes in the background check system that have already allowed people to obtain guns, despite being judged a danger to themselves or to others, especially family members.

Loopholes in the system allowed the Virginia Tech, Tucson, Aurora, and Newtown shooters to obtain guns. We need to close loopholes like the ones that allow people who are mentally impaired from buying guns. Repealing this rule only keeps the loophole open.

Recent polls show that 92 percent of Americans support background checks for all gun buyers—including 87 percent of Republicans in our country support background checks on who is, in fact, purchasing a gun in our country—but not the National Rifle Association. The National Rifle Association sent an action alert to its membership on this current attempt to repeal the background check rule stating: "The first pro-gun legislative act of the Trump era and Congress is on the verge of success, but it needs your help to get it over the line." That is all you need to know.

So on this Valentine's Day, the U.S. Senate should show some real love and compassion. Let us open our hearts to the American people who overwhelmingly are demanding commonsense gun control efforts like the one this rule puts in place. Let us defeat this ill-advised effort to roll back this rule which keeps guns out of the hands of people who should not have them.

This is the job of the Congress. This is the carnage we see in America. It is the indiscriminate issuing of licenses for guns to people who have not gone through the background checks that ensure they are qualified for the handling of a weapon within our society. Everyone else can get the weapon. Everyone else who goes through the check gets the weapon but not people who should not have them.

So this is a big moment here. It, unfortunately, gives an insight into what the Republican agenda is going to be this year. It is a radical agenda. It is an agenda which says to the National Rifle Association: We are going to pass your agenda, no matter how radical, out here on the floor of the Senate. What the American people are saying is they want the NRA to stand for "not relevant anymore" in American politics. That is what they want it to say, especially with the polling so overwhelmingly bipartisan, Democrats and Republicans, in terms of commonsense

background checks that are in the law to protect innocent families in our country.

All I can say is this isn't anything that is radical, this regulation. It is something that is common sense. It is something that protects American families, and I urge strongly that the U.S. Senate reject the removal of this regulation from the statutes of our country.

Mr. President, I yield back the remainder of my time.

Mr. CRAPO. Mr. President, today I wish to urge support for H.J. Res. 40. The Second Amendment to our U.S. Constitution reads, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." The fact that our Nation's Founding Father's penned this constitutional right to follow another central freedom—the constitutional right to free speech—speaks to the importance of this basic right.

H.J. Res. 40, the resolution currently under consideration, would protect Social Security beneficiaries from having their constitutional rights arbitrarily revoked by the Social Security Administration. As a cosponsor of the Senate companion resolution introduced by Senator GRASSLEY, I support this critically important effort. The resolution would halt a rule issued by the Social Security Administration in the waning days of the outgoing Obama administration.

The previous administration, I might add, continuously sought to take away the Second Amendment rights of Americans through Executive orders and rulemaking. This is yet another example of an unjust leftover of that effort that needs to be corrected. In December 2016, under the direction of the Executive branch, the Social Security Administration issued a final rule to gather and submit information to the National Instant Criminal Background Check System, NICS, on individuals who are determined to be what NICS refers to as "mentally deficient." In this case, a person can be reported to NICS simply for using a representative payee in managing their benefits.

It is not uncommon for the Social Security Administration to appoint someone to act as representative payee for a beneficiary who may need assistance to manage their benefits. The use of a representative payee is not indicative of mental deficiency. In fact, over 8 million beneficiaries need help managing their benefits, according to the Social Security Administration. Statute requires that, for an individual to be deemed "mentally deficient," a court, board, or other lawful authority must find that the person is a danger to themselves or others or is unable to contract or manage their own affairs.

Under the rule that went into effect last week, SSA will be required to report individuals who have been appointed a representative payee to NICS. The Social Security Administra-

tion is not a court of law, and SSA officers are not a "lawful authority." Equally alarming is the lack of an established appeals process to enable the removal of names from the system once entered. The Administration's lack of regard for due process is unacceptable.

We must reject the Obama administration's improper assumption that individuals are a danger to themselves or society because they participate in SSA's representative payee system. A January 2016 White House fact sheet estimated that SSA's rule would add 75,000 beneficiaries to the NICS list each year. The number of law-abiding individuals who will be added to the NICS list will likely be much higher. Thousands, if not millions, of Americans stand to lose their Second Amendment rights.

Over 91,000 comments were submitted to the Social Security Administration following the publication of the proposed NICS rule. I, along with several of my colleagues, wrote the Social Security Administration on four occasions to express our concerns about the proposed rule. Our concerns, and the concerns of 91,000 Americans, were clearly not factored into the rule-making process.

Old age does not make someone a threat to society, and having a representative payee is not grounds to revoke constitutional rights. Millions of seniors are at risk of having their Second Amendment rights arbitrarily revoked on behalf of an Executive that is no longer in office. This is a brazen attack on our constitutional right to keep and bear arms. Please join me in stopping this outrageous rule that was finalized in the waning weeks of a lame-duck administration. Join me in protecting the constitutional rights of law-abiding citizens.

The PRESIDING OFFICER (Mr. LANKFORD). Who yields time?

If no one yields time, time will be charged equally to both sides.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we have a very bad regulation that has been put out by the Social Security Administration that needs to be obliterated, so we are using a process called the Congressional Review Act to show Congress's displeasure with the Social Security Administration and to get this regulation off the books.

Now, there has been a lot of talk about how the Congressional Review Act is the wrong vehicle to repeal the disastrous regulation. So I want to quote a contrary opinion from the National Coalition for Mental Health Recovery saying this:

The CRA—

Meaning the Congressional Review Act—

is a powerful mechanism for controlling regulatory overreach, and NCMHR urges its use advisedly and cautiously. In this particular case, the potential for real harm to the constitutional rights of people with psychiatric and intellectual disabilities is grave as is the

potential to undermine the essential mission of an agency that millions of people with and without disabilities rely upon to meet their basic needs. Therefore, in this instance, NCMHR feels that utilizing the CRA to repeal the final rule is not only warranted, but necessary.

I would add to it that it is obviously necessary.

I ask unanimous consent that the letter be printed in the RECORD.

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

NATIONAL COALITION FOR  
MENTAL HEALTH RECOVERY,

Washington, DC, January 29, 2017.

Hon. MITCH MCCONNELL,  
Senate Majority Leader,  
Washington, DC.

Hon. CHUCK SCHUMER,  
Senate Minority Leader,  
Washington, DC.

DEAR MAJORITY LEADER MCCONNELL AND MINORITY LEADER SCHUMER: I write on behalf of the National Coalition for Mental Health Recovery (NCMHR) regarding the final rule the Social Security Administration (SSA) released on December 19th, 2016, implementing provisions of the National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007, 81 FR 91702.

In accordance with our mandate to advise the President, Congress, and other federal agencies regarding policies, programs, practices, and procedures that affect people with disabilities, NCMHR submitted comments to SSA on the proposed rule. In our comments, we cautioned against implementation of the proposed rule because there is no causal connection between the inability to manage money and the ability to safely and responsibly own, possess or use a firearm. This arbitrary linkage not only unnecessarily and unreasonably deprives individuals with disabilities of a constitutional right, it increases the stigma for those who, due to their disabilities, may need a representative payee.

Despite our objections and that of many other individuals and organizations received by SSA regarding the proposed rule, the final rule released in late December was largely unchanged. Because of the importance of the constitutional right at stake and the very real stigma that this rule legitimizes, NCMHR recommends that Congress consider utilizing the Congressional Review Act (CRA) to repeal this rule.

NCMHR is a nonpartisan, is nonpartisan nonprofit with no stated position with respect to gun-ownership or gun-control other than our long-held position that restrictions on gun possession or ownership based on psychiatric or intellectual disability must be based on a verifiable concern as to whether the individual poses a heightened risk of danger to themselves or others if they are in possession of a weapon. Additionally, it is critically important that any restriction on gun possession or ownership on this basis is imposed only after the individual has been afforded due process and given an opportunity to respond to allegations that they are not able to safely possess or own a firearm due to his or her disability. NCMHR believes that SSA's final rule falls far short of meeting these criteria.

The CRA is a powerful mechanism for controlling regulatory overreach, and NCMHR urges its use advisedly and cautiously. In this particular case, the potential for real harm to the constitutional rights of people with psychiatric and intellectual disabilities is grave as is the potential to undermine the

essential mission of an agency that millions of people with and without disabilities rely upon to meet their basic needs. Therefore, in this instance, NCMHR feels that utilizing the CRA to repeal the final rule is not only warranted, but necessary.

Sincerely,

DANIEL B. FISHER, MD, PhD,

*Chair NCMHR.*

Mr. GRASSLEY. Mr. President, there has also been talk about how supposedly dangerous it will be if this Social Security regulation is terminated. I don't see how that can possibly be realistic if the Social Security Administration doesn't even determine whether a person is dangerous in the first place—and “dangerous” meaning in regard to whether or not they ought to be able to make use of the constitutional right of the Second Amendment to own and possess firearms.

Others in this debate continue to mention that mentally ill people will be able to acquire firearms. Now this is very important. The Social Security Administration does not determine a person to be mentally ill prior to reporting their names to the gun ban list, and being on the list denies you your constitutional rights. The agency has confirmed this in writing to my office:

Yes, you are correct. The Social Security Administration does not diagnose individuals as mentally ill.

Supporters of this gun ban failed to address why individuals are not provided formal due process before reporting their name to the list. Supporters have also failed to talk about how the regulation is inconsistent with the statutory standard of “mental defective.”

An existing statute requires agencies to report individuals to the gun ban list who are ineligible under current law for possessing firearms. That requirement does not require the existence of any regulation to be effective. So it is plainly wrong to claim, as was said this very day by the people opposed to what we are doing, that if the regulation is disapproved, agencies will no longer have to report prohibited persons. The reverse, in fact, is true.

The regulation usurps unlawful authority to report people to the gun ban list who are not barred from owning guns under current law and that the agency is prohibited from reporting under current law, especially without the adjudication that is required under current law.

Opponents of the regulation base their opposition on the language of the regulation, existing law, and the Constitution, citing the Constitution to say that you don't have a constitutional right to own arms under the Second Amendment, which is contrary to two recent Supreme Court decisions that verify that that applies to an individual. That is why the regulation's supporters must resort to arguments that lack legal and factual foundation.

Supporters of this gun ban also fail to address how overly broad this regulation is, as written. It will capture in-

nocent Americans, denying innocent Americans their constitutional rights. Sadly, then, we know how this will play out if this regulation were allowed to go forward because we have the example of the Department of Veterans Affairs reporting hundreds of thousands of veterans to the National Instant Criminal Background Check System without adequate due process. That is the same system that Social Security was going to report people to.

Veterans were reported just because some lonely bureaucrat wanted to report them, with no opportunity to first have a neutral authority hold a hearing, finding that that individual is dangerous or actually has a dangerous condition. These were veterans who needed financial help managing their benefit payments.

It is common sense that needing help with your finances should not mean that you have surrendered a fundamental constitutional right of self-defense that you have under the Second Amendment.

Just like the Social Security Administration, the VA does not determine whether a veteran is dangerous before reporting his name to the gun ban list and denying that veteran his Second Amendment constitutional rights to own and possess firearms. The VA regulation is eerily similar to what the Social Security Administration wants to do.

On May 17, 2016, Senator DURBIN and I debated my amendment that would require the Department of Veterans Affairs to first find veterans to be a danger before reporting their names to the gun ban list. Now that is common sense; isn't it? You ought to find out if they are really dangerous before they are denied a constitutional right.

During the course of that debate, Senator DURBIN admitted that the list was broader than it should have been. He said:

I do not dispute what the Senator from Iowa suggested, that some of these veterans may be suffering from a mental illness not serious enough to disqualify them from owning a firearm, but certainly many of them do.

Senator DURBIN also said:

Let me just concede at the outset, reporting 174,000 names goes too far, but eliminating—

As my legislation proposed to do—174,000 names goes too far.

For the record, though, it wasn't really 174,000 names going too far. It was actually 260,381 names that the VA sent to the gun ban list. Now that happens to be 98.8 percent of all names that are in the alleged “mental defective” category.

The Department of Veterans Affairs reported more names by far than any other agency without sufficient justification. Senator DURBIN's staff and mine have met over these issues since that debate, and I appreciate and thank him for that outreach.

Now we have the Social Security Administration problem and, through the

Congressional Review Act, we can do something about it. We don't have to pass a separate piece of legislation, like we are going to have to do to straighten out the VA. So the Social Security Administration is about to make the same mistake as the VA unless we stop it right here and right now.

If this regulation is not repealed, the agency has informed my staff that approximately 15,000 to 75,000 beneficiaries of Social Security may be reported annually, denying them their constitutional right to bear, possess, and own firearms. That figure of 15,000 or even more so—the higher figure of 75,000—will add up very quickly.

In my earlier speech today on this topic, I made clear that the agency regulation is defective in many ways; namely, the regulation does not require the agency to find a person dangerous or mentally ill. The regulation provides no formal hearing before a person is reported to the gun ban list.

Supporters have also said that repeal of this regulation will interfere with enforcement of gun prohibition laws. Such a position is without any merit—denying people constitutional due process.

As I made clear in my earlier speech, important Federal gun laws are still on the books, even if the agency rule is repealed. This is so because this new regulation is actually inconsistent with those existing Federal gun laws. For example, individuals who have been determined to be dangerous or mentally ill will be prohibited, as will those convicted of a felony or a misdemeanor crime of domestic violence, and the same for those involuntarily committed to mental institutions.

While discussing the faults and defects of the rule, I think it is important to highlight that the issues I have pointed out are also the solution to the problem. If the supporters of the agency rule want the Social Security Administration to report individuals to the gun ban list, changes need to be made. Individuals must first be determined by a neutral authority after a fair hearing meeting the requirements of the U.S. Constitution. If they are dangerous and have a dangerous mental illness, then they could constitutionally be denied that right. Constitutional due process is a very important part of that process.

If we do not act, the agency will erroneously report tens of thousands of people per year to the gun ban list, and not one of them will have been adjudicated to be dangerous after a hearing with due process, not one of them will have been adjudicated to be mentally ill after a hearing with due process, and all of them will have had the government's burden shifted to them to prove they are not dangerous in order to get their name off the gun ban list. It is common sense, isn't it? It ought to be that you are innocent until proven guilty. If you can't have a gun, common sense tells me you ought not have



to prove that you can have a gun to the government; the government has to prove that you should not have a gun.

Any way you look at it, the regulatory scheme is patently unfair. If the government wants to regulate firearms, it needs to produce a clearly defined regulation that is very narrowly tailored to identify individuals who are actually dangerous and who actually have a dangerous mental illness. The government must also afford constitutional due process.

What we are dealing with here is a fundamental constitutional right backed up by two Supreme Court decisions in the last 10 years. With that type of constitutional status, the Second Amendment requires greater effort and greater precision from the government in order to fairly regulate how the American people exercise that constitutional right. This regulation simply doesn't meet that standard.

I urge my colleagues to support the resolution of disapproval.

Mr. President, I don't know whether anybody else is coming to seek the floor. If I am infringing upon somebody else's time, I will yield the floor, but in the meantime, I ask unanimous consent to speak as in morning business.

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

#### NOMINATION OF NEIL GORSUCH

Mr. GRASSLEY. Mr. President, I rise today to discuss some criticism I have heard about the nominee to fill the seat on the Supreme Court. That nominee is Neil Gorsuch.

My colleague, the minority leader, met with the nominee last week. Afterward, he told reporters that he had "serious, serious concerns" about the judge. Well, I guess I shouldn't be surprised—after all, it seems the minority leader had concerns about the nominee even before the nominee was announced.

Before Judge Gorsuch was announced, the minority leader made clear that any nominee must be "mainstream." But it became clear immediately that this nominee is widely regarded as a mainstream judge with impeccable credentials. Liberal law professor Laurence Tribe says that "he's a brilliant, terrific guy who would do the Court's work with distinction." Alan Dershowitz, who certainly is no conservative, says that Judge Gorsuch will be "hard to oppose on the merits." Even President Obama's Acting Solicitor General, Neal Katyal, said Judge Gorsuch "would help to restore confidence in the rule of law." The chorus goes on.

Apparently, because the nominee is so obviously mainstream, the benchmark for my colleague's concerns keeps changing. The minority leader has conveniently developed a new test. Now he says the benchmark is independence: "The bar for the Supreme Court nominee to prove that they can be independent, has never, never been higher."

Well, fortunately for the minority leader, Judge Gorsuch passes that bar

with flying colors, just like he passed the "mainstream" test with flying colors. The nominee's record makes clear that he is an independent and fair-minded judge who is deeply committed to the separation of powers.

Here is just one example from his many opinions on this point. Just last year, Judge Gorsuch had to decide a case about the authority of the Board of Immigration Appeals, or the BIA, which answers to the Attorney General. The BIA wanted to change the Attorney General's power to waive immigration requirements for illegal immigrants, and it wanted the new rules to apply to undocumented immigrants whose waiver applications were already in the works. The nominee said no to this executive agency. To be clear, Judge Gorsuch was asked to decide whether an executive agency in charge of immigration laws could change the law on a whim in a way that many believed was unfair to immigrants who had already sought waivers. He said no.

With due respect to my friend the minority leader, there is no doubt that Judge Gorsuch would say no to this or any other part of the executive branch that oversteps its bounds.

Here is what the nominee wrote about the separation of powers and executive branch overreach. For him to defer to the executive agency in that case would be "more than a little difficult to square with the Constitution of the framers' design." That is because doing so would allow agency bureaucracy to "swallow huge amounts of core judicial and legislative power," which the Constitution assigns to separate branches of government. So the nominee was concerned about the separation of powers. He was concerned about people whose liberties might be impaired, and because of those concerns, he said no to the immigration agency's policy whim of the day.

Judge Michael McConnell, a former colleague of Judge Gorsuch on the Tenth Circuit, makes the same observation about this case. He says the scope of executive power arguably "will be the most common Supreme Court issue of the coming decade." He says the nominee analyzes that issue in a way that is faithful to the Constitution and to the independence of the judiciary, and he points to the nominee's thinking on this question. Judge Gorsuch wrote:

What would happen . . . if the political majorities who run the legislative and executive branches could decide cases and controversies over past facts? They might be tempted to bend existing laws, to reinterpret them . . . [this would] risk the possibility that unpopular groups might be singled out for this sort of mistreatment—and [would] rais[e] along the way, too, grave due process, fair notice, and equal protection problems. . . . It was to avoid dangers like these, dangers the founders had studied and seen realized in their own time, that they pursued the separation of powers.

That is the writing of an independent judge who believes in the separation of powers.

You know, there is a bit of irony to some of the criticism I have heard leveled against Judge Gorsuch. On the one hand, I have heard that he will have to be independent and that he won't rubberstamp the President's agenda. On the other hand, I have heard that he will be way too tough on the executive branch as it fulfills the President's agenda. It is quite obvious that, common sense tells us as we look at those two arguments that we can't have it both ways.

Judge Gorsuch has shown he is faithful to the separation of powers in the Constitution. That means he will be an independent judge who will say no when the other branches of government overreach.

You don't need to take my word for it. Listen to President Obama's Acting Solicitor General, Neal Katyal. He is no fan of the President's Executive order, but he says that Judge Gorsuch "will not compromise principle to favor the President who appointed him." Instead, the Solicitor General said the nominee "would help to restore confidence in the rule of law."

Judge Gorsuch's record and reputation leave no room to doubt that he is a mainstream, independent judge. He will apply the law fairly, and he won't be afraid to say no when the Constitution requires it.

Every time my colleague the minority leader has set out a standard for filling this Supreme Court seat, this judge has met it. He is mainstream. He is independent. And when my colleague chooses a new standard, I bet the nominee will also meet that new standard.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### REMEMBERING AL BOSCOV

Mr. CASEY. Mr. President, I rise this afternoon to pay tribute to a Pennsylvanian who passed away this past week, Al Boscov.

Al was known not only in Pennsylvania, but beyond, as the owner of Boscov's Department Stores, a very, very successful retail department store chain. I rise not just to pay tribute to his life, his work, and his success but, most importantly, what he meant to the people of Pennsylvania—all that he did above and beyond in addition to his great business success.

I want to extend condolences to the Boscov family—to his wife Eunice, their children and grandchildren, and, of course, to the people of Reading and

Berks County, and, by extension, our entire Commonwealth because of what Al meant to his community and the larger community in eastern Pennsylvania but also all the way up to my home area of northeastern Pennsylvania.

I live in Scranton. One of his stores was, and still is, in the downtown business district in Scranton. So this is personal to me as well.

Al leaves two generations who will carry on his legacy in so many ways: his three daughters, Ruth, Ellen, and Meg, and his five grandchildren.

Al was born on September 22, 1929. He was the youngest son of Solomon and Ethel Boscov. He first made a name for himself as an expert flycatcher in his father's neighborhood store at Ninth and Pike. In those days, when he was just learning skills that would help him later in the business world, obviously people could see a great future for this young man.

He was a graduate of Reading Senior High School. He also graduated with a business degree from Drexel University, where he started his first business—a delivery service for hero sandwiches—which would presage a great career in business.

Al received an honorary doctor of humanities degree from Albright College in Reading, a doctor of arts and letters degree from King's College in Wilkes-Barre, PA, and, finally, a doctor of public service from Kutztown University. So three distinguished Pennsylvania universities paid tribute to him by way of a doctorate degree.

He served in the Navy during the Korean war. After service, Al returned home to join the family business and, in 1962, opened Boscov's first full-service department store, Boscov's West, in suburban Reading. Since that time, the Boscov chain has become the largest family-owned department store chain in the Nation, with 45 stores in 7 States, employing some 7,500 coworkers.

Here is what Al said about his store, which shows the attitude he conveyed as a businessperson and a member of the community. When he talked about people visiting his stores, he said:

We like to give people a reason for coming to Boscov's even when they don't want to buy anything. They enjoy themselves and hopefully we make a friend.

What a great attitude for any business leader, especially one who opened his business in the town in which he grew up.

Al's family remains especially proud of his continual efforts to fight prejudice and promote cultural understanding. For example, at times of growing racial tension in Reading years ago, Al used his three Reading stores to present a heritage festival, providing the opportunity for the African-American community to share various aspects of Black culture, whether food, art, writing, or entertainment.

Similarly, Al Boscov presented a Puerto Rican heritage festival in both

his Reading and Lebanon stores—Lebanon being in the middle of Pennsylvania—again, bringing together the Hispanic, White, and Black communities with a theme of “Knowing is Understanding.” His belief that we all must take time to know each other and to take care of each other remains as one of the most important and, his family hopes, lasting legacies.

As the chairman of Boscov's, Al set new standards for successful retailing, community involvement, and civic duty. He founded and led the nonprofit Our City Reading, Inc., to assist Reading in restoring abandoned homes and to bring about a resurgence in downtown Reading. Under his leadership, more than 600 families had the opportunity to own and live in a new home. He led the efforts to equip a senior citizens center in downtown Reading. The Horizon Center provides seniors with hot meals and activities. I could go on and on, but I will not this afternoon.

It is clear from his life that he was very successful. It is also clear from his life that he gave and gave, not only to his home community of Reading, but well beyond. I know from my own personal experience what he did for northeastern Pennsylvania, for Lackawanna County, Luzerne County, and a lot of other counties as well.

So we are thinking of Al Boscov today, remembering his generosity, remembering his legacy, and remembering the many contributions he made to the Commonwealth of Pennsylvania.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader.

#### ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following leader remarks on Wednesday, February 15, there be 10 minutes of debate remaining, equally divided, on H.J. Res. 40; that the resolution be read a third time, and the Senate vote on passage of the joint resolution without intervening action or debate; further, that following disposition of H.J. Res. 40, there be 10 minutes of debate, equally divided, prior to a vote on the motion to invoke cloture on Executive Calendar 16, MICK MULVANEY to be the Director of the Office of Management and Budget, and if cloture is invoked, time be counted as if invoked at 1 a.m. that day.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, there will be no more votes this evening. We will have two votes tomorrow morning.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I rise to engage in a colloquy with my colleague the senior Senator from Texas.

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

Mr. TOOMEY. Mr. President, I think a little background will be helpful. The Social Security Administration has

promulgated a rule regarding when its employees should be sending names to be added to the NICS system. The NICS system is the system by which a person, when they are added to it, may not legally possess a firearm.

The rule has been finalized, but it has not yet gone into effect. It is scheduled to go into effect on December 19 this year. I wish to say, I think the rule has the right intention. Under Federal statute, the NICS Improvement Amendments Act of 2007 stipulates that every quarter each Federal agency must send to the Attorney General any information it has showing that any person is disqualified from possessing a gun.

Each agency also has the responsibility to correct or update any information it sends to the Attorney General. There is no question the Social Security Administration has a duty to send information to the NICS system.

The purpose of the rule is to send to NICS the names of individuals who are dangerously mentally ill and thus are not legally entitled to a firearm. There are some protections that are provided in this rule. For instance, under the rule promulgated by the Social Security Administration, a third party cannot get a gun owner declared mentally ill without the gun owner's knowledge or consent. Under this rule, the individual has to file a disability claim for himself or herself.

The rule provides some mechanisms for individuals to challenge their inclusion in the NICS system if they wish to do so. There is serious disagreement and confusion about some other very important aspects of this rule.

For instance, I have heard from advocates for people with disabilities. They are very concerned that the list of mental illnesses, for instance, is too expansive and might very well sweep in people who have mental health issues but are not at all dangerous to themselves or to others.

These advocates for people with disabilities have also expressed the concern that the rule doesn't require that a medical professional actually be involved in the determination of whether a person is dangerously mentally ill.

These disability rights advocates raise the concern that an agency bureaucrat without any medical expertise could potentially add someone to the NICS system without a doctor being involved and without that person being in any way dangerous.

These advocates also argue that there is not a sufficient process for individuals who are wrongly denied their Second Amendment rights. For instance, under the rule, it appears it could take years for an individual to adjudicate this question if there was a case of mistaken identity or they were deemed to have a mental health issue that they challenged. It could take years for them to resolve. All that time they would be disqualified from owning a firearm. Even if that individual prevailed and it turned out that the Social

Security Administration had mistakenly put them in the NICS system, their legal fees would still have to be incurred by the individual, despite the fact that they had no responsibility for this.

I agree something ought to be done in this area, but I am not fully confident this rule gets it exactly right. My preferred outcome here, my ideal, would be for the Social Security Administration to produce a new rule—one that takes into account these legitimate concerns that have been raised, especially by people in the disability rights community. I would look forward to working with the Social Security Administration, and I could very well support such a rule, and I would support such a rule if they addressed these things properly.

I would further say that we have time to do this. As I mentioned earlier, while the rule has been finalized, it has not yet gone into effect. It doesn't go into effect until December 19 of this year. We have over 10 months to reconsider and get this right.

Some have suggested, wait a minute, we will never have a chance to redo this if we pass the Congressional Review Act, which repeals this rule because it will preclude the Social Security Administration from promulgating a new version of the rule.

People say that because the Congressional Review Act states that if we enact this resolution of disapproval "a new rule that is substantially the same as such a rule may not be issued."

It is my opinion that a new rule issued by the Social Security Administration that addresses appropriately the concerns I mentioned would certainly not be substantially the same as the current rule. It would be a very different rule. Since it would not be substantially the same, it would be permissible under the Congressional Review Act for the Social Security Administration to correct these flaws and come up with a new rule.

I want to ask the senior Senator from Texas, the majority whip and a member of the Senate Judiciary Committee, is it your opinion that if subsequent to passage of the Congressional Review Act with respect to this rule, if the Social Security Administration promulgated a new rule that met the standards I have set forth, that in that case, the new rule would not be substantially the same as the current rule and therefore would not be precluded by passage of the Congressional Review Act; is that the opinion of the Senator from Texas?

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I agree with my friend and colleague from Pennsylvania. If the Social Security Administration were to amend the rule to include the front-end due process and a finding of dangerous mental illness, that would be a fundamentally different rule that is not substantially similar.

Under the current rule, merely filing for a disability benefit on the grounds of a condition, for example, like anxiety can trigger a permanent deprivation of constitutional rights without any physician or adjudicative body finding the person is dangerously mentally ill.

I certainly agree with the concerns raised by my friend and our colleague from Pennsylvania that the rule he is describing would not be substantially similar to the rule currently in effect and that would be no bar to the Social Security Administration writing a substitute rule in accordance with the views he has expressed.

There may still be a few differences between us in terms of what exactly the rule would be, but there is no distance between us in terms of the conclusion that a replacement rule that provides for due process would not be substantially similar and would not be barred under the Congressional Review Act.

Mr. TOOMEY. I thank the Senator from Texas for joining me in this discussion. We certainly share the view about the possibility of a future different rule, and I look forward to working with the Senator from Texas as well as people at the Social Security Administration to achieve that.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### RUSSIAN ATROCITIES IN ALEPPO

Mr. LEAHY. Mr. President, we have heard a lot about President Trump's admiration of Russian President Vladimir Putin, whom most objective observers regard as a murderous thug and a kleptocrat. As we consider the President's statements lauding Putin for being a "strong leader" and his silence about the imprisonment and assassinations of Putin's critics and Russia's invasion of Ukraine, annexation of Crimea, and atrocities in Syria, I am reminded of the remarks delivered on December 13 by Samantha Power, former Permanent Representative to the United Nations, at the U.N. Security Council.

Ambassador Power delivered a passionate appeal to the Security Council

to take action to protect civilians under assault in Aleppo, including to hold in contempt the governments of Syria, Russia, and Iran for their war crimes in Syria. Her remarks stand as a stark contrast to what we are hearing from the White House today. This is a time to condemn Vladimir Putin's aggressions against the people of Russia, of Ukraine, and of Syria—not to regard him as an example of a leader to emulate.

It is also a time for Republicans to stand up for our own democracy, after the Russian Government, at Putin's direction, actively sought to sway the outcome of the U.S. Presidential election. The unanimous conclusion of U.S. intelligence agencies is that Putin, a former KGB agent, ordered a cyber attack on our electoral system in favor of Donald Trump. Russia's goals "were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency." Yet the White House and Republican leaders in Congress have been silent, apparently unconcerned about a foreign assault on our electoral system, refusing to even support an independent investigation. Imagine what they would be saying if their candidate had lost. They would be demanding a new election and trying to shut down the government.

I ask unanimous consent that Ambassador Power's remarks be printed in the RECORD to serve as a reminder of the scale of the humanitarian disaster in Syria perpetrated by Bashar al-Assad and Vladimir Putin and our moral obligation to pursue accountability for those responsible.

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

Remarks at a UN Security Council Emergency Briefing on Syria  
Ambassador Samantha Power  
U.S. Permanent Representative to the United Nations  
U.S. Mission to the United Nations  
New York City  
December 13, 2016

AS DELIVERED

Thank you. Here is what is happening right now in eastern Aleppo. Syrians trapped by the fighting are sending out their final appeals for help, or they are saying their good-byes. A doctor named Mohammad Abu Rajab left a voice message: "This is a final distress call to the world. Save the lives of these children and women and old men. Save them. Nobody is left. You might not hear our voice after this." A photographer named Ameen Al-Halabi wrote on Facebook: "I am waiting to die or be captured by the Assad regime. Pray for me and always remember us." A teacher named Abdulkafi Al-Hamdo said: "I can tweet now but I might not do it forever. Please save my daughter's life and others. This is a call from a father." Another doctor told a journalist: "Remember that there was a city called Aleppo that the world erased from the map and history."

This is what is happening in eastern Aleppo. This is what is being done by Member States of the United Nations who are sitting around this horseshoe table today. This is what is being done to the people of eastern

Aleppo, to fathers, and mothers, and sons, and daughters, brothers, and sisters like each of us here.

It is extremely hard to get information, of course, out of the small area still held by the opposition. You will hear this as an alibi as a way of papering over what video testimony, phone calls, and others are bringing us live. You will hear this invoked—that it is hard to verify. It is deliberate. The Assad regime and Russia backed by Iran using militia on the ground have done everything they can to cut off the city. So you will hear, “well, we don’t really know, maybe it’s made up”—but they are hiding what is happening from the world. It would be easy for independent investigators to get in along with food, health workers, and others; but instead, the perpetrators are hiding their brutal assault from the world willfully. But consider the accounts that have made it out—so many of them—first responders describing children’s voices from beneath the rubble of collapsed buildings. There are no first responders or equipment left to dig them out, and no doctors left to treat them. Bodies lying in the streets of eastern Aleppo, but no one dares collect them, for fear of getting bombed or shot to death in the process. Up to a hundred children are reportedly trapped right now, in a building under heavy fire. Terrorists. Clearly—young children—they must be terrorists because everybody being executed, everybody being barrel bombed, everybody who’s been chlorine attacked, you’re going to be told they are all terrorists—every last one of them, even the infants.

The regime of Bashar Al-Assad, Russia, Iran, and their affiliated militia are the ones responsible for what the UN called “a complete meltdown of humanity.” And they are showing no mercy:

No mercy despite their territorial conquests—even now, no mercy. In the last 24 hours alone, pro-Assad forces reportedly killed at least 82 civilians, including 11 women and 13 children.

These forces are reportedly entering homes and executing civilians on the spot, as we have heard. And according to the Office for the High Commissioner for Human Rights, foreign militias like Iraqi Harakat Al-Nujaba organization are involved in these killings. Where civilians are able to run the gauntlet and make it across the frontlines, Syrian intelligence agencies are pulling people aside and sending them away, perhaps to be gang-pressed to the front lines, likely to the same prisons where we know the Assad regime tortures and executes those in its custody.

In light of these reports, we join others, especially the Secretary-General, in one of his final appeals, reiterating our call to the Assad regime and Russia to stop their assault on Aleppo, to protect civilians. We call on Russia and Assad to allow impartial, international observers into the city to oversee the safe evacuation of the people who wish to leave, but who justifiably fear that if they try, they will be shot in the street or carted off to one of Assad’s gulags.

The Assad regime and Russia appear dead set on seizing every last square inch of Aleppo by force, no matter how many innocent bodies pile up in their wake. But we keep insisting on answering the UN call for access, for safe and orderly evacuation, because we are not willing to accept that innocent men, women, and children can be butchered simply because they happen to live in a conflict area. Our shared humanity and security demands that certain rules of war hold, the most basic. And it is up to each and every one of us here to defend those rules.

To the Assad regime, Russia, and Iran—three Member States behind the conquest of

and carnage in Aleppo—you bear responsibility for these atrocities. By rejecting UN-ICRC evacuation efforts, you are signaling to those militia who are massacring innocents to keep doing what they are doing. Denying or obfuscating the facts—as you will do today—saying up is down, black is white, will not absolve you. When one day there is a full accounting of the horrors committed in this assault of Aleppo—and that day will come, sooner or later—you will not be able to say you did not know what was happening. You will not be able to say you were not involved. We all know what is happening. And we all know you are involved.

Aleppo will join the ranks of those events in world history that define modern evil, that stain our conscience decades later. Halabja, Rwanda, Srebrenica, and, now, Aleppo. To the Assad regime, Russia, and Iran, your forces and proxies are carrying out these crimes. Your barrel bombs and mortars and airstrikes have allowed the militia in Aleppo to encircle tens of thousands of civilians in your ever-tightening noose. It is your noose. Three Member States of the UN contributing to a noose around civilians. It should shame you. Instead, by all appearances, it is emboldening you. You are plotting your next assault. Are you truly incapable of shame? Is there literally nothing that can shame you? Is there no act of barbarism against civilians, no execution of a child that gets under your skin, that just creeps you out a little bit? Is there nothing you will not lie about or justify?

To the members of this Council, and all Member States of the United Nations: Know that the ghastly tactics we are witnessing in Aleppo will not stop if the city falls. The regime and its Russian allies will only be emboldened to replicate their starve-and-surrender-and-slaughter tactics elsewhere. This will be their model for attempting to retake cities and towns across Syria.

It will not end with Aleppo. And it will not focus on terrorists. It never has, and there is no evidence that it will.

This is why it is so essential that each of us right here—no matter how small a country you are, no matter what your view of sovereignty, if you share our view that terrorism is one of the singular causes on earth worth fighting, it doesn’t matter—you have a responsibility to denounce these atrocities. We have just heard the Secretary-General state it plainly. You have to tell those responsible that they must stop. This isn’t the time for more equivocation, for self-censoring, for avoiding naming names, for diplomatic niceties of the kind that are so well-practiced here on the Council. Say who is responsible. Appeal to Moscow, to Damascus, to Tehran, that they have to stop. Use every channel you have—public, private, bankshot, through someone who knows someone. The lives of tens of thousands of Syrians still in eastern Aleppo—between 30,000–60,000 people—and hundreds of thousands more across the country who are besieged, depend on it.

I thank you.

## COMMITTEE ON ARMED SERVICES

### RULES OF PROCEDURE

Mr. MCCAIN. Mr. President, the rules governing the procedure of the Committee on Armed Services have not changed for the 115th Congress. Pursuant to rule XXVI, paragraph 2, of the Standing Rules of the Senate, on behalf of myself and Senator REED, I ask unanimous consent that a copy of the committee rules be printed in the RECORD.

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

#### UNITED STATES SENATE COMMITTEE ON ARMED SERVICES RULES OF PROCEDURE, 115TH CONGRESS

1. **REGULAR MEETING DAY**—The Committee shall meet at least once a month when Congress is in session. The regular meeting days of the Committee shall be Tuesday and Thursday, unless the Chairman, after consultation with the Ranking Minority Member, directs otherwise.

2. **ADDITIONAL MEETINGS**—The Chairman, after consultation with the Ranking Minority Member, may call such additional meetings as he deems necessary.

3. **SPECIAL MEETINGS**—Special meetings of the Committee may be called by a majority of the members of the Committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. **OPEN MEETINGS**—Each meeting of the Committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the Committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the Committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) will relate solely to matters of Committee staff personnel or internal staff management or procedure;

(c) will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. **PRESIDING OFFICER**—The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the Ranking Majority Member present at the meeting or hearing shall preside unless by majority vote the Committee provides otherwise.

6. **QUORUM**—(a) A majority of the members of the Committee are required to be actually present to report a matter or measure from

the Committee. (See Standing Rules of the Senate 26.7(a)(1)).

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, nine members of the Committee, including one member of the minority party; or a majority of the members of the Committee, shall constitute a quorum for the transaction of such business as may be considered by the Committee.

(c) Three members of the Committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full Committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. PROXY VOTING—Proxy voting shall be allowed on all measures and matters before the Committee. The vote by proxy of any member of the Committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which the member is being recorded and has affirmatively requested that he or she be so recorded. Proxy must be given in writing.

8. ANNOUNCEMENT OF VOTES—The results of all roll call votes taken in any meeting of the Committee on any measure, or amendment thereto, shall be announced in the Committee report, unless previously announced by the Committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the Committee who was present at such meeting. The Chairman, after consultation with the Ranking Minority Member, may hold open a roll call vote on any measure or matter which is before the Committee until no later than midnight of the day on which the Committee votes on such measure or matter.

9. SUBPOENAS—Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued, after consultation with the Ranking Minority Member, by the Chairman or any other member designated by the Chairman, but only when authorized by a majority of the members of the Committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. HEARINGS—(a) Public notice shall be given of the date, place and subject matter of any hearing to be held by the Committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the Committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the Committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the Committee or subcommittee conducting such hearings.

(d) The Chairman of the Committee or subcommittee shall consult with the Ranking Minority Member thereof before naming witnesses for a hearing.

(e) Witnesses appearing before the Committee shall file with the clerk of the Committee a written statement of their proposed testimony prior to the hearing at which they are to appear unless the Chairman and the Ranking Minority Member determine that there is good cause not to file such a statement. Witnesses testifying on behalf of the Administration shall furnish an additional 50 copies of their statement to the Committee. All statements must be received by the Committee at least 48 hours (not including weekends or holidays) before the hearing.

(f) Confidential testimony taken or confidential material presented in a closed hearing of the Committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the Committee or subcommittee.

(g) Any witness summoned to give testimony or evidence at a public or closed hearing of the Committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(h) Witnesses providing unsworn testimony to the Committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the Chairman.

11. NOMINATIONS—Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least seven (7) days before being voted on by the Committee. Each member of the Committee shall be furnished a copy of all nominations referred to the Committee.

12. REAL PROPERTY TRANSACTIONS—Each member of the Committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than \$50,000. Any member of the Committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the Chairman of the Committee within thirty (30) days from the date of submission.

13. LEGISLATIVE CALENDAR—(a) The clerk of the Committee shall keep a printed calendar for the information of each Committee member showing the bills introduced and referred to the Committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the Committee. A copy of each new revision shall be furnished to each member of the Committee.

(b) Unless otherwise ordered, measures referred to the Committee shall be referred by the clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the Committee. Each subcommittee of the Committee is part of the Committee, and is therefore subject to the Committee's rules so far as applicable.

15. POWERS AND DUTIES OF SUBCOMMITTEES—Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full Committee on all matters referred to it. Subcommittee chairmen, after consultation with Ranking Minority Members of the subcommittees, shall set dates for hearings and meetings of their respective subcommittees after consultation with the Chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full Committee and subcommittee meetings or hearings whenever possible.

## RECOGNIZING NEW JERSEY'S POLICE AND FIRST RESPONDERS

Mr. BOOKER. Mr. President, today I wish to recognize and pay tribute to New Jersey's heroic police officers and first responders. Their quick and decisive actions over one tense weekend this past September helped to apprehend a suspect in three bombings in New Jersey and New York, a potential terrorist attack on American soil in which one of the three bombings alone injured 31 people in Manhattan.

As they do every day, these police officers, firefighters, and first responders worked swiftly and efficiently to protect our communities from further harm. Their courage, spirit of service, and commitment to protecting our communities ultimately helped to apprehend an individual who, according to the Federal Bureau of Investigation, was an admirer of Osama bin Laden and Anwar al Awlaki.

I greatly appreciate the efforts of the Linden, NJ, police officers who apprehended the suspect following a shootout between the suspect and law enforcement. Authorities located the suspect in Linden after a collective manhunt was organized by officers from Manhattan, Elizabeth, Linden, and communities along the Jersey Shore. A trial is now pending.

I am grateful for the close coordination of New York and New Jersey law enforcement at the municipal, county, State, and Federal levels. Everyone worked together and shared actionable intelligence in real time, which ultimately led to the capture of a suspect before more bombings could occur. This critical sharing of information, paired with the swift action of law enforcement, played a key role in preventing further casualties.

We owe a great debt of gratitude to the first responders who risk their lives each and every day for the safety of our communities. Our police officers and first responders represent the best of who we are as a nation, and we, as citizens, have an enduring responsibility to support them. As President Obama said during the hunt for the perpetrator of these bombings, "We all have a role to play as citizens in making sure we don't succumb to that fear. And there's no better example of that than the people of New York and New Jersey."

These American heroes answered our call when we needed them the most, and we stand together as a grateful nation in expressing our undying gratitude. Thank you.

## ADDITIONAL STATEMENTS

### REMEMBERING MICHAEL "MIKE" ILITCH

• Mr. PETERS. Mr. President, today I wish to remember Michael "Mike" Ilitch of Detroit, MI, founder of Little Caesars Pizza and owner of the Detroit Tigers and Detroit Red Wings. Sadly,

Mr. Ilitch passed away last week at the age of 87. Mr. Ilitch was enthusiastic about sports, passionate about the city of Detroit, and dedicated to his family.

Mr. Ilitch was born in Detroit, MI, on July 20, 1929, to Macedonian immigrants, Sotir and Sultana. After graduating from Cooley High School, Mr. Ilitch served 4 years in the U.S. Marine Corps before returning to Detroit to play minor league baseball for the Tigers. Following a knee injury, Mr. Ilitch worked as a door-to-door salesperson, selling awnings, pots, and pans, in order to save enough money to start his own business.

In 1959, Mr. Ilitch and his wife, Marian, opened their first pizza store in the Detroit suburb of Garden City: Little Caesars Pizza. While Mr. Ilitch initially named the pizzeria Pizza Treat, his wife Marian convinced him to change it to Little Caesar, her nickname for him. Over four decades, Mr. Ilitch expanded the business to approximately 4,000 stores across North America and parts of Europe. The chain became well-known for its commercial tagline, "Pizza! Pizza!"

As Little Caesars grew to be one of the largest carryout pizza chains in the United States, Mr. Ilitch purchased the Detroit Red Wings hockey team in 1982, recognizing the great potential of a then failing team. By stocking the team with promising college players, Mr. Ilitch revitalized the Red Wings. Under Mr. Ilitch, the Red Wings won four Stanley Cup titles in 1997, 1998, 2002, and 2008, which led him to be inducted into the Hockey Hall of Fame in 2003, as well as the U.S. Hockey Hall of Fame in 2004.

In 1992, Mr. Ilitch acquired the Detroit Tigers baseball team—the same team that contracted him in the minor leagues. The Tigers reached the World Series twice under Mr. Ilitch's stewardship in 2006 and 2012.

An icon and pillar of the community, Mr. Ilitch never lost faith in the resurgence of the city of Detroit and the resilience of the people he loved so much. During the city's most challenging times, he poured his heart and passion into Detroit's renaissance. Mr. Ilitch played an active role in the community, supporting local organizations and residents. In 1987, Mr. Ilitch and his wife bought and restored the historic Fox Theater, rejuvenating the entertainment scene in downtown Detroit. He privately assisted civil rights activist, Rosa Parks, paying her rent when she moved into the Riverfront Apartments in 1994. In 2007, the U.S. Department of Veterans Affairs awarded Mr. Ilitch with the Secretary's Award for the "Little Caesars Veteran Program," which provided business opportunities to nobly discharged war veterans.

As an entrepreneur, leader, and kind-hearted family man, Mr. Ilitch will be greatly missed across Michigan as he touched the lives of many people throughout the State. Mr. Ilitch is survived by his wife of 63 years, Marian; 7

children, Denise, Ron, Michael, Jr., Lisa, Atanas, Christopher, and Carole; 22 grandchildren; and 3 great-grandchildren.

I cannot express enough the impact Mr. Mike Ilitch had on the city of Detroit and the State of Michigan. He was truly a treasure to our community and an example of the American Dream. His passion, dedication, and leadership will be missed. However, I am confident his legacy will continue to inspire others to take action to strengthen the city of Detroit, the community he served with his whole heart.●

#### TRIBUTE TO CRADDOCK MORRIS

● Mr. SCOTT. Mr. President, today, I would like to honor and thank Mr. Craddock Morris of St. Matthews, SC for 87 years of valuable reporting in Calhoun County. The Calhoun Times, a small weekly paper in our great state, has decided to cease publication after a truly amazing run of nearly nine decades of providing town residents with community news.

The Times was created by Craddock Morris's father in 1929. John Bunyan Morris, Sr., a 1950 graduate of The Citadel, ran it until his retirement in 1956, when Craddock took over. Although this local newspaper, based in St. Matthews, will no longer be published, I am sure the Morris family's legacy of good work will remain with residents all over Calhoun County.

I would like to recognize Mr. Craddock Morris, and his son Edwin C. Morris who joined the Times after serving in the Armed Forces, and their families for 87 years of delivering essential news to the people of Calhoun County.●

#### MESSAGE FROM THE HOUSE

At 11:12 a.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 244. An act to encourage effective, voluntary investments to recruit, employ, and retain men and women who have served in the United States military with annual Federal awards to employers recognizing such efforts, and for other purposes.

H.R. 512. An act to amend title 38, United States Code, to permit veterans to grant access to their records in the databases of the Veterans Benefits Administration to certain designated congressional employees, and for other purposes.

H.R. 609. An act to designate the Department of Veterans Affairs health care center in Center Township, Butler County, Pennsylvania, as the "Abie Abraham VA Clinic".

H.R. 974. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans.

The message further announced that pursuant to section 931(c) of the Comprehensive Addiction and Recovery Act of 2016 (Public Law 114-198), and the

order of the House of January 3, 2017, the Speaker appoints the following individuals on the part of the House of Representatives to the Creating Options for Veterans' Expedited Recovery Commission: Captain John M. Rose, United States Navy, Retired, Kenosha, Wisconsin and Lieutenant Colonel Jamil S. Khan, United States Marine Corps, Retired, Janesville, Wisconsin.

The message also announced that pursuant to 20 U.S.C. 2103(b), and the order of the House of January 3, 2017, the Speaker appoints the following individual to the Board of Trustees of the American Folklife Center in the Library of Congress on the part of the House of Representatives for a term of 6 years: Ms. Patricia A. Atkinson of Carson City, Nevada.

The message further announced that pursuant to section 553(b) of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328), and the order of the House of January 3, 2017, the Speaker appoints the following individual on the part of the House of Representatives to the National Commission on Military, National and Public Service: Mr. Thomas Kilgannon of Centreville, Virginia.

The message also announced that pursuant to section 3(b) of the Public Safety Officer Medal of Valor Act of 2001 (42 U.S.C. 15202), and the order of the House of January 3, 2017, the Speaker appoints the following individuals on the part of the House of Representatives to the Medal of Valor Review Board for a term of 4 years: Mr. Brandon Clabes of Choctaw, Oklahoma and Mr. Brian Murphy of Milwaukee, Wisconsin.

The message further announced that pursuant to section 1238(b)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (22 U.S.C. 7002), amended, and the order of the House of January 3, 2017, the Speaker appoints the following individuals on the part of the House of Representatives to the United States-China Economic and Security Review Commission for a term expiring on December 31, 2018: Mr. Larry Wortzel of Williamsburg, Virginia and Mr. Robert Glenn Hubbard of New York, New York.

#### MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 244. An act to encourage effective, voluntary investments to recruit, employ, and retain men and women who have served in the United States military with annual Federal awards to employers recognizing such efforts, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 512. An act to amend title 38, United States Code, to permit veterans to grant access to their records in the databases of the Veterans Benefits Administration to certain designated congressional employees, and for other purposes; to the Committee on Veterans' Affairs.



H.R. 609. An act to designate the Department of Veterans Affairs health care center in Center Township, Butler County, Pennsylvania, as the "Abie Abraham VA Clinic"; to the Committee on Veterans' Affairs.

H.R. 974. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans; to the Committee on Veterans' Affairs.

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of nominations were submitted:

Mr. MCCAIN. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Army nominations beginning with Jeremy D. Karlin and ending with Irahim A. Sanchez, which nominations were received by the Senate and appeared in the Congressional Record on January 9, 2017.

Navy nomination of Mathew M. Lewis, to be Lieutenant Commander.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. TILLIS, and Mr. MANCHIN):

S. 367. A bill to amend section 3606 of title 18, United States Code, to grant probation officers authority to arrest hostile third parties who obstruct or impede a probation officer in the performance of official duties; to the Committee on the Judiciary.

By Mr. FLAKE:

S. 368. A bill to require the Director of the United States Fish and Wildlife Service to issue a scientifically valid and State-supported recovery plan for the Mexican gray wolf; to the Committee on Environment and Public Works.

By Ms. BALDWIN (for herself and Mr. TILLIS):

S. 369. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRUZ (for himself, Mr. LEE, Mr. PAUL, Mr. INHOFE, and Mr. ROUNDS):

S. 370. A bill to eliminate the Bureau of Consumer Financial Protection by repealing title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly known as the Consumer Financial Protection Act of 2010; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORKER:

S. 371. A bill to make technical changes and other improvements to the Department of State Authorities Act, Fiscal Year 2017; to the Committee on Foreign Relations.

By Mr. PORTMAN (for himself, Ms. KLOBUCHAR, Mr. RUBIO, and Ms. HASSAN):

S. 372. A bill to amend the Tariff Act of 1930 to ensure that merchandise arriving through the mail shall be subject to review by U.S. Customs and Border Protection and to require the provision of advance electronic information on shipments of mail to U.S. Customs and Border Protection and for other purposes; to the Committee on Finance.

By Mr. HATCH:

S. 373. A bill to require the Secretary of Defense to submit to Congress a report on hearing loss, tinnitus, and noise pollution due to small arms fire; to the Committee on Armed Services.

By Mr. BLUNT (for himself and Mr. NELSON):

S. 374. A bill to enable concrete masonry products manufacturers to establish, finance, and carry out a coordinated program of research, education, and promotion to improve, maintain, and develop markets for concrete masonry products; to the Committee on Commerce, Science, and Transportation.

By Mr. CORNYN (for himself, Mr. CRUZ, Mr. BOOZMAN, Mr. CRAPO, Mr. FLAKE, Mr. ROBERTS, and Mr. WICKER):

S. 375. A bill to amend the Endangered Species Act of 1973 to establish a procedure for approval of certain settlements; to the Committee on Environment and Public Works.

By Mr. CORNYN (for himself, Mr. CRUZ, Mr. CRAPO, Mr. DAINES, Mr. FLAKE, and Mr. ROBERTS):

S. 376. A bill to amend the Endangered Species Act of 1973 to require publication on the Internet of the basis for determinations that species are endangered species or threatened species, and for other purposes; to the Committee on Environment and Public Works.

By Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. KAINE, and Mr. GARDNER):

S. 377. A bill to amend the Trafficking Victims Protection Act of 2000 to clarify report dates, modify the criteria for determinations of whether countries are meeting the minimum standards for elimination of trafficking, and highlight the importance of concrete actions by countries to eliminate trafficking, and for other purposes; to the Committee on Foreign Relations.

By Mr. BARRASSO (for himself, Mr. GRASSLEY, Mr. FLAKE, Mr. RISCH, and Mr. ENZI):

S. 378. A bill to amend titles 5 and 28, United States Code, to require the maintenance of databases on awards of fees and other expenses to prevailing parties in certain administrative proceedings and court cases to which the United States is a party, and for other purposes; to the Committee on the Judiciary.

#### ADDITIONAL COSPONSORS

S. 94

At the request of Mr. CARDIN, the names of the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Alaska (Mr. SULLIVAN) were added as cosponsors of S. 94, a bill to impose sanctions in response to cyber intrusions by the Government of the Russian Federation and other aggressive activities of the Russian Federation, and for other purposes.

S. 203

At the request of Mr. BURR, the names of the Senator from Georgia (Mr. PERDUE) and the Senator from Arkansas (Mr. COTTON) were added as cosponsors of S. 203, a bill to reaffirm that the Environmental Protection

Agency may not regulate vehicles used solely for competition, and for other purposes.

S. 234

At the request of Mr. DONNELLY, the names of the Senator from Michigan (Mr. PETERS) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 234, a bill to provide incentives for businesses to keep jobs in America.

S. 242

At the request of Mr. CASSIDY, the names of the Senator from Georgia (Mr. PERDUE) and the Senator from North Carolina (Mr. TILLIS) were added as cosponsors of S. 242, a bill to amend title 38, United States Code, to permit veterans to grant access to their records in the databases of the Veterans Benefits Administration to certain designated congressional employees, and for other purposes.

S. 243

At the request of Mr. THUNE, the name of the Senator from North Dakota (Mr. HOEVEN) was added as a cosponsor of S. 243, a bill to provide for a permanent extension of the enforcement instruction on supervision requirements for outpatient therapeutic services in critical access and small rural hospitals.

S. 247

At the request of Ms. STABENOW, the name of the Senator from Indiana (Mr. DONNELLY) was added as a cosponsor of S. 247, a bill to provide an incentive for businesses to bring jobs back to America.

S. 251

At the request of Mr. WYDEN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 251, a bill to repeal the Independent Payment Advisory Board in order to ensure that it cannot be used to undermine the Medicare entitlement for beneficiaries.

S. 253

At the request of Mr. CARDIN, the names of the Senator from Delaware (Mr. COONS), the Senator from Michigan (Ms. STABENOW) and the Senator from West Virginia (Mrs. CAPITO) were added as cosponsors of S. 253, a bill to amend title XVIII of the Social Security Act to repeal the Medicare outpatient rehabilitation therapy caps.

S. 266

At the request of Mr. HATCH, the names of the Senator from Georgia (Mr. PERDUE), the Senator from Maryland (Mr. VAN HOLLEN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Oregon (Mr. MERKLEY) were added as cosponsors of S. 266, a bill to award the Congressional Gold Medal to Anwar Sadat in recognition of his heroic achievements and courageous contributions to peace in the Middle East.

S. 268

At the request of Mr. YOUNG, the name of the Senator from Arkansas

(Mr. COTTON) was added as a cosponsor of S. 268, a bill to provide the legal framework necessary for the growth of innovative private financing options for students to fund postsecondary education, and for other purposes.

S. 272

At the request of Mr. SCHATZ, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 272, a bill to enhance the security operations of the Transportation Security Administration and the stability of the transportation security workforce by applying a unified personnel system under title 5, United States Code, to employees of the Transportation Security Administration who are responsible for screening passengers and property, and for other purposes.

S. 301

At the request of Mr. LANKFORD, the name of the Senator from Arkansas (Mr. BOOZMAN) was added as a cosponsor of S. 301, a bill to amend the Public Health Service Act to prohibit governmental discrimination against providers of health services that are not involved in abortion.

S. 324

At the request of Mr. HATCH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 324, a bill to amend title 38, United States Code, to improve the provision of adult day health care services for veterans.

S.J. RES. 8

At the request of Mr. UDALL, the name of the Senator from Indiana (Mr. DONNELLY) was added as a cosponsor of S.J. Res. 8, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

S.J. RES. 16

At the request of Mr. WYDEN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S.J. Res. 16, a joint resolution approving the discontinuation of the process for consideration and automatic implementation of the annual proposal of the Independent Medicare Advisory Board under section 1899A of the Social Security Act.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORNYN (for himself, Mr. CRUZ, Mr. BOOZMAN, Mr. CRAPO, Mr. FLAKE, Mr. ROBERTS, and Mr. WICKER):

S. 375. A bill to amend the Endangered Species Act of 1973 to establish a procedure for approval of certain settlements; to the Committee on Environment and Public Works.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 375

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. DEFINITIONS.

Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by redesignating—

(A) paragraphs (1) through (4) as paragraphs (2) through (5), respectively;

(B) paragraphs (5) through (10) as paragraphs (7) through (12), respectively; and

(C) paragraphs (12) through (21) as paragraphs (13) through (22), respectively;

(2) by adding before paragraph (2) (as so redesignated) the following:

“(1) AFFECTED PARTIES.—The term ‘affected party’ means any person, including a business entity, or any State, tribal government, or local subdivision the rights of which may be affected by a determination made under section 4(a) in a suit brought under section 11(g)(1)(C).”; and

(3) by adding after paragraph (5) (as so redesignated) the following:

“(6) COVERED SETTLEMENT.—The term ‘covered settlement’ means a consent decree or a settlement agreement in an action brought under section 11(g)(1)(C).”.

#### SEC. 2. INTERVENTION; APPROVAL OF COVERED SETTLEMENT.

Section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended—

(1) in paragraph (3), by adding at the end the following:

“(C) PUBLISHING COMPLAINT; INTERVENTION.—

“(i) PUBLISHING COMPLAINT.—

“(I) IN GENERAL.—Not later than 30 days after the date on which the plaintiff serves the defendant with the complaint in an action brought under paragraph (1)(C) in accordance with Rule 4 of the Federal Rules of Civil Procedure, the Secretary of the Interior shall publish the complaint in a readily accessible manner, including electronically.

“(II) FAILURE TO MEET DEADLINE.—The failure of the Secretary to meet the 30-day deadline described in subclause (I) shall not be the basis for an action under paragraph (1)(C).

“(ii) INTERVENTION.—

“(I) IN GENERAL.—After the end of the 30-day period described in clause (i), each affected party shall be given a reasonable opportunity to move to intervene in the action described in clause (i), until the end of which a party may not file a motion for a consent decree or to dismiss the case pursuant to a settlement agreement.

“(II) REBUTTABLE PRESUMPTION.—In considering a motion to intervene by any affected party, the court shall presume, subject to rebuttal, that the interests of that party would not be represented adequately by the parties to the action described in clause (i).

“(III) REFERRAL TO ALTERNATIVE DISPUTE RESOLUTION.—

“(aa) IN GENERAL.—If the court grants a motion to intervene in the action, the court shall refer the action to facilitate settlement discussions to—

“(AA) the mediation program of the court; or

“(BB) a magistrate judge.

“(bb) PARTIES INCLUDED IN SETTLEMENT DISCUSSIONS.—The settlement discussions described in item (aa) shall include each—

“(AA) plaintiff;

“(BB) defendant agency; and

“(CC) intervenor.”;

(2) by striking paragraph (4) and inserting the following:

“(4) LITIGATION COSTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the court, in issuing any final order in any suit brought under para-

graph (1), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

“(B) COVERED SETTLEMENT.—

“(i) CONSENT DECREES.—The court shall not award costs of litigation in any proposed covered settlement that is a consent decree.

“(ii) OTHER COVERED SETTLEMENTS.—

“(I) IN GENERAL.—For a proposed covered settlement other than a consent decree, the court shall ensure that the covered settlement does not include payment to any plaintiff for the costs of litigation.

“(II) MOTIONS.—The court shall not grant any motion, including a motion to dismiss, based on the proposed covered settlement described in subclause (I) if the covered settlement includes payment to any plaintiff for the costs of litigation.”; and

(3) by adding at the end the following:

“(6) APPROVAL OF COVERED SETTLEMENT.—

“(A) DEFINITION OF SPECIES.—In this paragraph, the term ‘species’ means a species that is the subject of an action brought under paragraph (1)(C).

“(B) IN GENERAL.—

“(i) CONSENT DECREES.—The court shall not approve a proposed covered settlement that is a consent decree unless each State and county in which the Secretary of the Interior believes a species occurs approves the covered settlement.

“(ii) OTHER COVERED SETTLEMENTS.—

“(I) IN GENERAL.—For a proposed covered settlement other than a consent decree, the court shall ensure that the covered settlement is approved by each State and county in which the Secretary of the Interior believes a species occurs.

“(II) MOTIONS.—The court shall not grant any motion, including a motion to dismiss, based on the proposed covered settlement described in subclause (I) unless the covered settlement is approved by each State and county in which the Secretary of the Interior believes a species occurs.

“(C) NOTICE.—

“(i) IN GENERAL.—The Secretary of the Interior shall provide each State and county in which the Secretary of the Interior believes a species occurs notice of a proposed covered settlement.

“(ii) DETERMINATION OF RELEVANT STATES AND COUNTIES.—The defendant in a covered settlement shall consult with each State described in clause (i) to determine each county in which the Secretary of the Interior believes a species occurs.

“(D) FAILURE TO RESPOND.—The court may approve a covered settlement or grant a motion described in subparagraph (B)(ii)(II) if, not later than 45 days after the date on which a State or county is notified under subparagraph (C)—

“(i)(I) a State or county fails to respond; and

“(II) of the States or counties that respond, each State or county approves the covered settlement; or

“(ii) all of the States and counties fail to respond.

“(E) PROOF OF APPROVAL.—The defendant in a covered settlement shall prove any State or county approval described in this paragraph in a form—

“(i) acceptable to the State or county, as applicable; and

“(ii) signed by the State or county official authorized to approve the covered settlement.”.

By Mr. CORNYN (for himself, Mr. CRUZ, Mr. CRAPO, Mr. DAINES, Mr. FLAKE, and Mr. ROBERTS):

S. 376. A bill to amend the Endangered Species Act of 1973 to require

publication on the Internet of the basis for determinations that species are endangered species or threatened species, and for other purposes; to the Committee on Environment and Public Works.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 376

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “21st Century Endangered Species Transparency Act”.

#### SEC. 2. REQUIREMENT TO PUBLISH ON INTERNET BASIS FOR LISTINGS.

Section 4(b) of the Endangered Species Act (16 U.S.C. 1533(b)) is amended by adding at the end the following:

“(9) PUBLICATION ON INTERNET OF BASIS FOR LISTINGS.—The Secretary shall make publicly available on the Internet the best scientific and commercial data available that are the basis for each regulation, including each proposed regulation, promulgated under subsection (a)(1), except that, at the request of a Governor or legislature of a State, the Secretary shall not make available under this paragraph information regarding which the State has determined public disclosure is prohibited by a law of that State relating to the protection of personal information.”.

#### AUTHORITY FOR COMMITTEES TO MEET

Mr. THUNE. Mr. President, I have four requests for committees to meet during today's session of the Senate. They have the approval of the Majority and Minority leaders.

Pursuant to Rule XXVI, paragraph 5(a), of the Standing Rules of the Senate, the following committees are authorized to meet during today's session of the Senate:

##### COMMITTEE ON ARMED SERVICES

The Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, February 14, 2017, at 9:30 a.m.

##### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

The Committee on Banking, Housing, and Urban Affairs is authorized to meet during the session of the Senate on February 14, 2017, at 10 a.m., in order to conduct a hearing entitled “The Semiannual Monetary Policy Report to Congress.”

##### SELECT COMMITTEE ON INTELLIGENCE

The Senate Select Committee on Intelligence is authorized to meet during

the session of the 115th Congress of the U.S. Senate on Tuesday, February 14, 2017, from 2 p.m. to 3:30 p.m., in room SH-219 of the Senate Hart Office Building.

##### SUBCOMMITTEE ON PERSONNEL

The Subcommittee on Personnel of the Committee on Armed Services is authorized to meet during the session of the Senate on Tuesday, February 14, 2017, at 2:30 p.m.

#### PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that floor privileges be granted this Congress for Darren Dodd, a detailee from the U.S. Secret Service, and Saleela Salahuddin, a detailee from the Department of Justice.

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

#### PROMOTING WOMEN IN ENTREPRENEURSHIP ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 5, H.R. 255.

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

The legislative clerk read as follows: A bill (H.R. 255) to authorize the National Science Foundation to support entrepreneurial programs for women.

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

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

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

The bill (H.R. 255) was ordered to a third reading, was read the third time, and passed.

#### INSPIRE WOMEN ACT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 6, H.R. 321.

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

The legislative clerk read as follows:

A bill (H.R. 321) to inspire women to enter the aerospace field, including science, technology, engineering, and mathematics, through mentorship and outreach.

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

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be considered read a third time.

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

The bill was ordered to a third reading and was read the third time.

Mr. McCONNELL. I know of no further debate on the bill.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 321) was passed.

Mr. McCONNELL. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

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

#### ORDERS FOR WEDNESDAY, FEBRUARY 15, 2017

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Wednesday, February 15; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate resume consideration of H.J. Res. 40, as under the previous order.

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

#### ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

There being no objection, the Senate, at 5:59 p.m., adjourned until Wednesday, February 15, 2017, at 10 a.m.

#### CONFIRMATION

Executive nomination confirmed by the Senate February 14, 2017:

##### SMALL BUSINESS ADMINISTRATION

LINDA E. MCMAHON, OF CONNECTICUT, TO BE ADMINISTRATOR OF THE SMALL BUSINESS ADMINISTRATION.