each year than all the American lives lost in the 9/11 attacks . . . and the Iraq war and the Afghanistan war combined. Every day provides some grim reminder of the toll of gun violence in our nation. And today marks yet another sad anniversary.

Five years ago today, on February 14, 2008, a gunman entered a lecture hall on the campus of Northern Illinois University in DeKalb. The gunman opened fire on the students gathered in the hall, taking the lives of five students and wounding 17 others. The five Illinoisans we lost that day were: Gayle Dubowski, 20 years old, from Carol Stream, who sang in her church choir and enjoyed working as a camp counselor; Catalina Garcia, of Cicero, age 20, who had a glowing smile and who hoped to be a teacher someday; Juliana Gehant, of Mendota, age 32, a veteran of the United States Army and Army Reserve who also dreamed of becoming a teacher; Ryanne Mace, of Carpentersville, only 19 years old, who aspired to work as a counselor so she could help others; and Daniel Parmenter, 20 years old, from Westchester, a rugby player and a gentle giant who died trying to shield his girlfriend from the shooter.

This day was devastating for the families of the victims, for the NIU community, and for our nation. We were heartbroken by the senseless murders of these young Americans who had hopes and dreams and bright futures. The Northern Illinois University community came together in response to the tragedy. They held each other close, and continued to move ''forward, together forward'' in the words of the Huskie fight song. But no family and no community should have to suffer like this. And those who were scarred by the shooting but survived will never forget that day and never fully heal from it.

There are things that we can do to move forward together on this issue of gun violence. Just the other day I received an email from Patrick Korellis, of Gurnee, IL, who was in the NIU lecture hall on that day 5 years ago. He was shot in the head but survived. Patrick wrote me because he believes Congress needs to act to prevent and reduce gun violence. He wrote in support of the proposals that the President has put forward and that we will soon consider in the Senate Judiciary Committee. These proposals will not stop every shooting in America. But they will stop many of them. And lives will be saved if we can move forward and put them into effect.

We know what we need to do. Earlier this week I chaired a hearing in the Subcommittee on the Constitution, Civil Rights and Human Rights to discuss ways we can protect our communities from gun violence while respecting the Second Amendment. We discussed a number of common sense proposals. First, we need to have a system of universal background checks for all gun sales. This idea is a no-brainer. Universal background checks will ensure that those who are prohibited by law from buying a gun, like felons, fugitives, and the mentally ill, cannot get one from a private seller at a gun show or over the Internet. Universal background checks are not controversial. In fact, the idea is supported by 74 percent of the members of the NRA, according to a poll conducted last year by Republican pollster Frank Luntz.

We should also stop the flood of new military-style assault weapons onto our streets. When you talk to hunters, they tell you that these kinds of weapons are not needed for hunting. And these weapons are not designed for self-defense. These are weapons of aggression, designed to spray a large number of bullets in a short time with minimal reloading. And they were used to commit mass slaughter in places like Newtown and Aurora. Our children and our first responders should not have to face these weapons of aggression. Surely we can agree on reasonable limits for military-style assault weapons.

We should also limit the capacity of ammunition magazines—to a level that allows for reasonable self-defense but that reduces the scope of carnage that a mass shooter can cause. This would have saved lives in Tucson and in other mass shootings.

We should crack down on the straw purchasers who buy guns and then give them to criminals and other prohibited purchasers. Straw purchasing fuels the criminal gun market, and it costs lives. But right now federal law only allows straw purchasers to be charged with a paperwork violation for lying on the gun sale form. At the hearing I chaired earlier this week, we learned from U.S. Attorney Timothy Heaphy of the Western District of Virginia that these ''paperwork prosecutions'' are difficult to prove and usually carry only minor penalties. That is not good enough. We need to create a strong deterrent to these unlawful straw purchases so we can stop this supply chain of guns to criminals.

At the hearing I chaired, we also heard powerful testimony from Sandra Wortham of the South Side of Chicago. Sandra's brother, Officer Thomas Wortham the Fourth, was shot and killed by gang members on May 19, 2010, in front of his parents' home. Thomas was a Chicago Police Officer, a community leader and a combat veteran who had served two tours in Iraq. Some say that the answer to gun violence in America is simply to arm more good guys with guns so they can shoot back. But both Thomas Wortham and his father, a retired Chicago police officer, were armed that night, and they shot back at the men who pulled a gun on Thomas. Even so, those men killed Thomas Wortham with a straw-purchased handgun.

These were men who were not allowed to legally buy a handgun, but they got one all too easily on the streets—a gun that was straw purchased in Mississippi and trafficked up to Chicago. As Sandra Wortham said so eloquently in her testimony, ''the fact that my brother and father were armed that night did not prevent my brother from being killed. We need to do more to keep guns out of the wrong hands in the first place. I don't think that makes us anti-gun, I think it makes us pro-decent, law abiding people.''

I agree with Sandra. We can take steps, consistent with our Constitution and the Second Amendment, to limit access to dangerous weapons and keep them out of the hands of those prohibited from using them.

I believe the Wortham family deserves a vote here in the United States Senate. They deserve a vote on common sense reforms that would keep guns out of the wrong hands. We owe that to them, and I look forward to that vote.

Whether it strikes in a college lecture hall in DeKalb or on the sidewalks of the South Side of Chicago, gun violence is a tragedy. Today we mourn the loss of those taken from us at NIU 5 years ago. And we mourn Thomas Wortham and the tens of thousands of other Americans we have lost in violent shootings since that day. But the time is coming soon when we will be able to vote on measures to save families from the suffering that the Worthams and so many others have experienced. And I hope the Senate will make those families proud.

THE TIME IS NOW

Mr. LEVIN. Mr. President, as President Obama reminded us in his State of the Union Address this week, 2 months have passed since the heartbreaking school shooting in Newtown, CT. Since then, we have mourned the loss of the 20 wonderful children and 6 extraordinary adults who were murdered that day. Their lives were taken by a mentally deranged individual who easily obtained a semi-automatic military-style assault rifle with a high capacity ammunition magazine.

It has been estimated that there are currently 18 million assault weapons in circulation around the United States. If no action is taken, this number will continue to grow. Across our Nation, any dangerous individual can walk into a gun show and walk out with the same type of weapon that the perpetrator in Newtown used to murder so many innocent people. These weapons, along with high-capacity ammunition magazines, can easily escalate confrontation into murder, petty crime into tragedy, and a killing of one or two people into a massive slaughter.

The weight of evidence shows that since Congress allowed the Federal assault weapons ban to expire in 2004, the use of military style assault weapons in crime has surged around our Nation. For example, a 2010 study conducted by the Police Executive Research Forum found that since the ban lapsed, 37 percent of police agencies have reported increases in criminals' use of assault

weapons. A separate Washington Post analysis revealed that the ban was associated with a 60 percent decline in the number of guns with high-capacity magazines recovered at Virginia crime scenes between 1998 and 2004. But since the ban expired in 2004, the number of guns recovered with high-capacity magazines has more than doubled. A Department of Justice study of several cities found that high-capacity magazines are used in 14 to 26 percent of gun crimes and in 31 to 41 percent of fatal police shootings in the cities analyzed.

It is long past time to take concrete action to support our law enforcement communities and to prevent more of these massacres. That is why I am a cosponsor of the Assault Weapons Ban of 2013. By preventing the future possession, manufacture, sale and importation of assault type weapons and high-capacity ammunition magazines, this bill would stop the flood of these weapons of war into our communities. It would support law enforcement officers across our Nation, who should not be forced to confront lawbreakers armed with military weapons. And it would protect the rights of hunters by specifically naming thousands of firearms with legitimate sporting, sentimental or other value that would remain legal to possess.

Mr. President, we must face reality. We live in a nation trapped in an epidemic of gun violence. Where a day at the mall or a trip to the movies can become a nightmare. Where parents send their children to school and have to worry about whether they will come home.

Is this the Nation we want, or the Nation we want to leave to our children? We must not wait for the next madman to easily and legally purchase a military-style assault weapon and a high capacity magazine. I urge my colleagues to protect the American people by enacting measures to stem the tide of gun tragedies. It is long past time for this kind of violence to end.

TANF

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD the GAO opinion letter dated September 4, 2012, and the TANF Information Memorandum dated July 12, 2012.

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

U.S. GOVERNMENT
ACCOUNTABILITY OFFICE,
Washington, DC, September 4, 2012.

Hon. ORRIN HATCH,
Ranking Member, Committee on Finance, U.S. Senate.

Hon. DAVE CAMP,
Chairman, Committee on Ways and Means, House of Representatives.

By letter of July 31, 2012, you asked whether an Information Memorandum issued by the Department of Health and Human Services (HHS) on July 12, 2012 concerning the Temporary Assistance for Needy Families (TANF) program constitutes a rule for the purposes of the Congressional Review Act (CRA). The CRA is intended to keep Congress informed of the rulemaking activities of federal agencies and provides that before a rule can take effect, the agency must submit the rule to each House of Congress and the Comptroller General. For the reasons discussed below, we conclude that the July 12, 2012 Information Memorandum is a rule under the CRA. Therefore, it must be submitted to Congress and the Comptroller General before taking effect.

BACKGROUND

The Temporary Assistance for Needy Families block grant, administered by the U.S. Department of Health and Human Services, provides federal funding to states for both traditional welfare cash assistance as well as a variety of other benefits and services to meet the needs of low-income families and children. While states have some flexibility in implementing and administering their state TANF programs, there are numerous federal requirements and guidelines that states must meet. For example, under section 402 of the Social Security Act, in order to be eligible to receive TANF funds, a state must submit to HHS a written plan outlining, among other things, how it will implement various aspects of its TANF program. More specifically, under section 402(a)(1)(A)(iii) of the Social Security Act, the written plan must outline how the state will ensure that TANF recipients engage in work activities. Under section 407 of the Social Security Act, states must also ensure that a specified percentage of their TANF recipients engage in work activities as defined by federal law.

In its July 12 Information Memorandum, HHS notified states of HHS' willingness to exercise its waiver authority under section 1115 of the Social Security Act. Under section 1115, HHS has the authority to waive compliance with the requirements of section 402 in the case of experimental, pilot, or demonstration projects which the Secretary determines are likely to assist in promoting the objectives of TANF. In its Information Memorandum, HHS asserted that it has the authority to waive the requirement in section 402(a)(1)(A)(iii) and authorize states to ''test approaches and methods other than those set forth in section 407,'' including definitions of work activities and the calculation of participation rates. HHS informed states that it would use this waiver authority to allow states to test various strategies, policies, and procedures designed to improve employment outcomes for needy families. The Information Memorandum sets forth requirements that must be met for a waiver request to be considered by HHS, including an evaluation plan, a set of performance measures that states will track to monitor ongoing performance and outcomes, and a budget including the costs of program evaluation. In addition, the Information Memorandum provides that states must seek public input on the proposal prior to approval by HHS.

ANALYSIS

The definition of ''rule'' in the CRA incorporates by reference the definition of ''rule'' in the Administrative Procedure Act (APA), with some exceptions. Therefore, our analysis of whether the July 12 Information Memorandum is a rule under the CRA involves determining whether it is rule under the APA and whether it falls within any of the exceptions contained in the CRA. The APA defines a rule as follows:

''[T]he whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing[.]''

This definition of a rule has been said to include ''nearly every statement an agency may make.''

The CRA identifies 3 exceptions from its definition of a rule: (1) any rule of particular applicability; (2) any rule relating to agency management or personnel; or (3) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3).

The definition of a rule under the CRA is very broad. See B–287557, May 14, 2001 (Congress intended that the CRA should be broadly interpreted both as to type and scope of rules covered). The CRA borrows the definition of a rule from 5 U.S.C. §551, as opposed to the more narrow definition of legislative rules requiring notice and comment contained in 5 U.S.C. §553. As a result, agency pronouncements may be rules within the definition of 5 U.S.C. §551, and the CRA, even if they are not subject to notice and comment rulemaking requirements under section 553. See B–316048, April 17, 2008 (the breadth of the term ''rule'' reaches agency pronouncements beyond those that require notice and comment rulemaking) and B–287557, cited above. In addition to the plain language of the CRA, the legislative history confirms that it is intended to include within its purview almost all rules that an agency issues and not only those rules that must be promulgated according to the notice and comment requirements in section 553 of the APA. In his floor statement during final consideration of the bill, Representative McIntosh, a principal sponsor of the legislation, emphasized this point:

''Although agency interpretive rules, general statements of policy, guideline documents, and agency policy and procedure manuals may not be subject to the notice and comment provisions of section 553(c) of title 5, United States Code, these types of documents are covered under the congressional review provisions of the new chapter 8 of title 5.

Under section 801(a), covered rules, with very few exceptions, may not go into effect until the relevant agency submits a copy of the rule and an accompanying report to both Houses of Congress. Interpretive rules, general statements of policy, and analogous agency policy guidelines are covered without qualification because they meet the definition of a 'rule' borrowed from section 551 of title 5, and are not excluded from the definition of a rule.''

On its face, the July 12 Information Memorandum falls within the definition of a rule under the APA definition incorporated into the CRA. First, consistent with our prior decisions, we look to the scope of the agency's action to determine whether it is a general statement of policy or an interpretation of law of general applicability. That determination does not require a finding that it has general applicability to the population as a whole; instead, all that is required is that it has general applicability within its intended range. See B–287557, cited above (a record of decision affecting the issues of water flow in two rivers was a general statement of policy with general applicability within its intended range). Applying these principles, we have held that a letter released by the Centers for Medicare and Medicaid Services to state health officials concerning the State Children's Health Insurance Program