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 or (202) 715–0806.

Sincerely,

FAIZ SHAKIR,
Director, Washington Legislative Office.
VANIA LEVEILLE,
Senior Legislative Counsel, Washington 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 disorders 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 requirement 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 Supreme 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