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

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 injures 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 commonsense 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 Direct.

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 Administration 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 rulemaking 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 lameduck 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 innocent 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 to 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 Vladmir Putin's aggressions against the people of Russia, of Ukraine, and of Syria—not to regard him as an example of a leader to emmulate.

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 unanmious 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 goodbyes. 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