funds when issuing certain geographic targeting orders, and for other purposes.

SA 5128. Mr. MCCONNELL (for Mrs. ERNST) proposed an amendment to the bill S. 3336, to provide installation reutilization authority for arsenals, depots, and plants.

SA 5129. Mr. MCCONNELL (for Mrs. ERNST) proposed an amendment to the bill S. 3336, supra.

SA 5130. Mr. MANCHIN (for himself and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table.

SA 5131. Ms. WARREN (for herself and Mr. MERKLEY) submitted an amendment intended to be proposed by her to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5132. Ms. WARREN submitted an amendment intended to be proposed by her to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5133. Mr. FLAKE submitted an amendment intended to be proposed by him to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5134. Mr. MERKLEY (for himself and Ms. WARREN) submitted an amendment intended to be proposed by him to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5135. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5136. Mr. LEAHY (for himself, Mr. GRASSLEY, Ms. KLOBUCHAR, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 34, supra; which was ordered to lie on the table.

SA 5137. Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to the concurrent resolution H. Con. Res. 174, directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 34.

TEXT OF AMENDMENTS

SA 5127. Mr. MCCONNELL (for Mr. SHELBY (for himself and Mr. BROWN)) proposed an amendment to the bill H.R. 5602, to amend title 31, United States Code, to authorize the Secretary of the Treasury to include all funds when issuing certain geographic targeting orders, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—ENHANCING ANTITERRORISM TOOLS OF THE DEPARTMENT OF THE TREASURY

SEC. 101. INCLUSION OF ALL FUNDS.

(a) IN GENERAL.—Section 5326 of title 31, United States Code, is amended—

(1) in the heading of such section, by striking ''coin and currency'';

(2) in subsection (a)—

(A) by striking ''subtitle and'' and inserting ''subtitle or to''; and

(B) in paragraph (1)(A), by striking ''United States coins or currency (or such other monetary instruments as the Secretary may describe in such order)'' and inserting ''funds (as the Secretary may describe in such order),''; and

(3) in subsection (b)—

(A) in paragraph (1)(A), by striking ''coins or currency (or monetary instruments)'' and inserting ''funds''; and

(B) in paragraph (2), by striking ''coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order)'' and inserting ''funds (as the Secretary may describe in the regulation or order)''.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 53 of title 31, United States Code, is amended in the item relating to section 5326 by striking ''coin and currency''.

SEC. 102. IMPROVING ANTITERROR FINANCE MONITORING OF FUNDS TRANSFERS.

(a) STUDY.—

(1) IN GENERAL.—To improve the ability of the Department of the Treasury to better track cross-border fund transfers and identify potential financing of terrorist or other forms of illicit finance, the Secretary shall carry out a study to assess—

(A) the potential efficacy of requiring banking regulators to establish a pilot program to provide technical assistance to depository institutions and credit unions that wish to provide account services to money services businesses serving individuals in Somalia;

(B) whether such a pilot program could be a model for improving the ability of United States persons to make legitimate funds transfers through transparent and easily monitored channels while preserving strict compliance with the Bank Secrecy Act (Public Law 91–508; 84 Stat. 1114) and related controls aimed at stopping money laundering and the financing of terrorism; and

(C) consistent with current legal requirements regarding confidential supervisory information, the potential impact of allowing money services businesses to share certain State examination information with depository institutions and credit unions, or whether another appropriate mechanism could be identified to allow a similar exchange of information to give the depository institutions and credit unions a better understanding of whether an individual money services business is adequately meeting its anti-money laundering and counter-terror financing obligations to combat money laundering, the financing of terror, or related illicit finance.

(2) PUBLIC INPUT.—The Secretary should solicit and consider public input as appropriate in developing this study.

(b) REPORT.—Not later than 270 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate a report that contains all findings and determinations made in carrying out the study required under subsection (a).

SEC. 103. SENSE OF CONGRESS ON INTERNATIONAL COOPERATION REGARDING TERRORIST FINANCING INTELLIGENCE.

It is the sense of the Congress that the Secretary, acting through the Under Secretary for Terrorism and Financial Crimes, should intensify work with foreign partners to help the foreign partners develop intelligence analytic capacities, in a finance ministry or other appropriate agency, that are—

(1) commensurate to the threats faced by the foreign partner; and

(2) designed to better integrate intelligence efforts with the anti-money laundering and counter-terrorist financing regimes of the foreign partner.

SEC. 104. EXAMINING THE COUNTER-TERROR FINANCING ROLE OF THE DEPARTMENT OF THE TREASURY IN EMBASSIES.

Not later than 180 days after the enactment of this Act, the Secretary shall submit to the Committee on Financial Services and the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate a report that contains—

(1) a list of the United States embassies in which a full-time Department of the Treasury financial attaché is stationed and a description of how the interests of the Department of the Treasury relating to terrorist financing and money laundering are addressed (via regional attachés or otherwise) at US embassies where no such attachés are present;

(2) a list of the United States embassies at which the Department of the Treasury has assigned a technical assistance advisor from the Office of Technical Assistance of the Department of the Treasury;

(3) an overview of how Department of the Treasury financial attachés and technical assistance advisors assist in efforts to counter illicit finance, to include money laundering, terrorist financing, and proliferation financing; and

(4) an overview of patterns, trends, or other issues identified by Department of the Treasury attachés and whether resources are sufficient to address these issues.

TITLE II—NATIONAL STRATEGY FOR COMBATING TERRORIST AND OTHER ILLICIT FINANCING

SEC. 201. DEVELOPMENT OF NATIONAL STRATEGY.

(a) IN GENERAL.—The President, acting through the Secretary shall, in consultation with the Attorney General, the Secretary of State, the Secretary of Homeland Security, the Director of National Intelligence, and the appropriate Federal banking agencies, develop a national strategy for combating the financing of terrorism and related forms of illicit finance.

(b) TRANSMITTAL TO CONGRESS.—

(1) IN GENERAL.—Not later than January 31, 2018, the President shall submit to the appropriate congressional committees a comprehensive national strategy developed in accordance with subsection (a).

(2) UPDATES.—Not later than January 31, 2020, and January 31, 2022, the President shall submit to the appropriate congressional committees updated versions of the national strategy submitted under paragraph (1).

(c) SEPARATE PRESENTATION OF CLASSIFIED MATERIAL.—Any part of the national strategy that involves information that is properly classified under criteria established by the President shall be submitted to the Congress separately in a classified annex and, if requested by the chairman or ranking Member of one of the appropriate congressional committees, as a briefing at an appropriate level of security.

SEC. 202. CONTENTS.

(a) IN GENERAL.—The strategy described in section 201 shall contain the following:

(1) EVALUATION OF EXISTING EFFORTS.—An assessment of the effectiveness of and ways in which the United States is currently addressing the highest levels of risk of various forms of illicit finance, including those identified in the documents entitled ''2015 National Money Laundering Risk Assessment'' and ''2015 National Terrorist Financing Risk Assessment'', published by the Department of the Treasury and a description of how the strategy is integrated into, and supports, the broader counter terrorism strategy of the United States.

(2) GOALS, OBJECTIVES, AND PRIORITIES.—A comprehensive, research-based, long-range, quantifiable discussion of goals, objectives, and priorities for disrupting and preventing illicit finance activities within and transiting the financial system of the United States that outlines priorities to reduce the incidence, dollar value, and effects of illicit finance.

(3) THREATS.—An identification of the most significant illicit finance threats to the financial system of the United States.

(4) REVIEWS AND PROPOSED CHANGES.—Reviews of enforcement efforts, relevant regulations and relevant provisions of law and, if appropriate, discussions of proposed changes determined to be appropriate to ensure that the United States pursues coordinated and effective efforts at all levels of government, and with international partners of the United States, in the fight against illicit finance.

(5) DETECTION AND PROSECUTION INITIATIVES.—A description of efforts to improve detection and prosecution of illicit finance, including efforts to ensure that—

(A) subject to legal restrictions, all appropriate data collected by the Federal Government that is relevant to the efforts described in this section be available in a timely fashion to—

(i) all appropriate Federal departments and agencies; and

(ii) as appropriate and consistent with section 314 of the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (31 U.S.C. 5311 note), to financial institutions to assist the financial institutions in efforts to comply with laws aimed at curbing illicit finance; and

(B) appropriate efforts are undertaken to ensure that Federal departments and agencies charged with reducing and preventing illicit finance make thorough use of publicly available data in furtherance of this effort.

(6) THE ROLE OF THE PRIVATE FINANCIAL SECTOR IN PREVENTION OF ILLICIT FINANCE.—A discussion of ways to enhance partnerships between the private financial sector and Federal departments and agencies with regard to the prevention and detection of illicit finance, including—

(A) efforts to facilitate compliance with laws aimed at stopping such illicit finance while maintaining the effectiveness of such efforts; and

(B) providing guidance to strengthen internal controls and to adopt on an industry-wide basis more effective policies.

(7) ENHANCEMENT OF INTERGOVERNMENTAL COOPERATION.—A discussion of ways to combat illicit finance by enhancing—

(A) cooperative efforts between and among Federal, State, and local officials, including State regulators, State and local prosecutors, and other law enforcement officials;

(B) cooperative efforts with and between governments of countries and with and between multinational institutions, including the Financial Action Task Force, with expertise in fighting illicit finance.

(8) TREND ANALYSIS OF EMERGING ILLICIT FINANCE THREATS.—A discussion of and data regarding trends in illicit finance, including evolving forms of value transfer such as so-called cryptocurrencies, other methods that are computer, telecommunications, or Internet-based, cyber crime, or any other threats that the Secretary may choose to identify.

(9) BUDGET PRIORITIES.—A multiyear budget plan that identifies sufficient resources needed to successfully execute the full range of missions called for in this section.

(10) TECHNOLOGY ENHANCEMENTS.—An analysis of current and developing ways to leverage technology to improve the effectiveness of efforts to stop the financing of terrorism and other forms of illicit finance, including better integration of open-source data.

TITLE III—DEFINITIONS

SEC. 301. DEFINITIONS.

In this Act—

(1) the term ''appropriate congressional committees'' means—

(A) the Committee on Financial Services, the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on the Judiciary, Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs, the Committee on Foreign Relations, Committee on Armed Services, Committee on the Judiciary, Committee on Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate;

(2) the term ''appropriate Federal banking agencies'' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(3) the term ''Bank Secrecy Act'' means—

(A) section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b);

(B) chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951 et seq.); and

(C) subchapter II of chapter 53 of title 31, United States Code;

(4) the term ''illicit finance'' means the financing of terrorism, money laundering, or other forms of illicit financing domestically or internationally, as defined by the President;

(5) the term ''money services business'' has the meaning given the term under section 1010.100 of title 31, Code of Federal Regulations;

(6) the term ''Secretary'' means the Secretary of the Treasury; and

(7) the term ''State'' means each of the several States, the District of Columbia, and each territory or possession of the United States.

SA 5128. Mr. MCCONNELL (for Mrs. ERNST) proposed an amendment to the bill S. 3336, to provide installation reutilization authority for arsenals, depots, and plants; as follows:

On page 1, strike lines 3 and 4 and insert the following:

SECTION 1. INSTALLATION REUTILIZATION AUTHORITY FOR ARSENALS, DEPOTS, AND PLANTS.

On page 1, line 6, strike ''arsenal, the Secretary concerned'' and insert ''arsenal, depot, or plant, the Secretary of the Army''.

On page 2, line 4, insert '', depot, or plant'' after ''arsenal''.

On page 2, line 8, insert '', depot, or plant'' after ''arsenal''.

On page 2, line 12, insert '', depot, or plant'' after ''arsenal''.

On page 2, line 17, strike ''Secretary concerned'' and insert ''Secretary of the Army''.

On page 2, line 21, insert '', depot, or plant'' after ''arsenal''.

On page 4, line 3, insert '', DEPOT, OR PLANT'' after ''ARSENAL''.

On page 4, line 5, insert '', depot, or plant'' after ''arsenal''.

On page 4, line 6, strike ''Department of the Defense'' and insert ''Army''.

SA 5129. Mr. MCCONNELL (for Mrs. ERNST) proposed an amendment to the bill S. 3336, to provide installation reutilization authority for arsenals, depots, and plants; as follows:

Amend the title so as to read: ''A bill to provide installation reutilization authority for arsenals, depots, and plants.''.

SA 5130. Mr. MANCHIN (for himself and Mr. BROWN) submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE XIX—MINERS PROTECTION

SEC. 19001. SHORT TITLE.

This title may be cited as the ''Miners Protection Act of 2016''.

SEC. 19002. INCLUSION OF CERTAIN RETIREES IN THE MULTIEMPLOYER HEALTH BENEFIT PLAN.

(a) IN GENERAL.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232) is amended—

(1) in subsection (h)(2)(C)—

(A) by striking ''A transfer'' and inserting the following:

''(i) TRANSFER TO THE PLAN.—A transfer'';

(B) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving such subclauses 2 ems to the right; and

(C) by striking the matter following such subclause (II) (as so redesignated) and inserting the following:

''(ii) CALCULATION OF EXCESS.—The excess determined under clause (i) shall be calculated by taking into account only—

''(I) those beneficiaries actually enrolled in the Plan as of the date of the enactment of the Miners Protection Act of 2016 who are eligible to receive health benefits under the Plan on the first day of the calendar year for which the transfer is made, other than those beneficiaries enrolled in the Plan under the terms of a participation agreement with the current or former employer of such beneficiaries; and

''(II) those beneficiaries whose health benefits, defined as those benefits payable directly following death or retirement or upon a finding of disability by an employer in the bituminous coal industry under a coal wage agreement (as defined in section 9701(b)(1) of the Internal Revenue Code of 1986), would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012 or 2015.

''(iii) ELIGIBILITY OF CERTAIN RETIREES.—Individuals referred to in clause (ii)(II) shall be treated as eligible to receive health benefits under the Plan.

''(iv) REQUIREMENTS FOR TRANSFER.—The amount of the transfer otherwise determined under this subparagraph for a fiscal year shall be reduced by any amount transferred for the fiscal year to the Plan, to pay benefits required under the Plan, from a voluntary employees' beneficiary association established as a result of a bankruptcy proceeding described in clause (ii).

''(v) VEBA TRANSFER.—The administrator of such voluntary employees' beneficiary association shall transfer to the Plan any amounts received as a result of such bankruptcy proceeding, reduced by an amount for administrative costs of such association.''; and

(2) in subsection (i)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

''(4) ADDITIONAL AMOUNTS.—

''(A) CALCULATION.—If the dollar limitation specified in paragraph (3)(A) exceeds the aggregate amount required to be transferred under paragraphs (1) and (2) for a fiscal year, the Secretary of the Treasury shall transfer an additional amount equal to the difference

between such dollar limitation and such aggregate amount to the trustees of the 1974 UMWA Pension Plan to pay benefits required under that plan.

''(B) CESSATION OF TRANSFERS.—The transfers described in subparagraph (A) shall cease as of the first fiscal year beginning after the first plan year for which the funded percentage (as defined in section 432(i)(2) of the Internal Revenue Code of 1986) of the 1974 UMWA Pension Plan is at least 100 percent.

''(C) PROHIBITION ON BENEFIT INCREASES, ETC.—During a fiscal year in which the 1974 UMWA Pension Plan is receiving transfers under subparagraph (A), no amendment of such plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

''(D) TREATMENT OF TRANSFERS FOR PURPOSES OF WITHDRAWAL LIABILITY UNDER ERISA.—The amount of any transfer made under subparagraph (A) (and any earnings attributable thereto) shall be disregarded in determining the unfunded vested benefits of the 1974 UMWA Pension Plan and the allocation of such unfunded vested benefits to an employer for purposes of determining the employer's withdrawal liability under section 4201.

''(E) REQUIREMENT TO MAINTAIN CONTRIBUTION RATE.—A transfer under subparagraph (A) shall not be made for a fiscal year unless the persons that are obligated to contribute to the 1974 UMWA Pension Plan on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of the Miners Protection Act of 2016.

''(F) ENHANCED ANNUAL REPORTING.—

''(i) IN GENERAL.—Not later than the 90th day of each plan year beginning after the date of enactment of the Miners Protection Act of 2016, the trustees of the 1974 UMWA Pension Plan shall file with the Secretary of the Treasury or the Secretary's delegate and the Pension Benefit Guaranty Corporation a report (including appropriate documentation and actuarial certifications from the plan actuary, as required by the Secretary of the Treasury or the Secretary's delegate) that contains—

''(I) whether the plan is in endangered or critical status under section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 as of the first day of such plan year;

''(II) the funded percentage (as defined in section 432(i)(2) of such Code) as of the first day of such plan year, and the underlying actuarial value of assets and liabilities taken into account in determining such percentage;

''(III) the market value of the assets of the plan as of the last day of the plan year preceding such plan year;

''(IV) the total value of all contributions made during the plan year preceding such plan year;

''(V) the total value of all benefits paid during the plan year preceding such plan year;

''(VI) cash flow projections for such plan year and either the 6 or 10 succeeding plan years, at the election of the trustees, and the assumptions relied upon in making such projections;

''(VII) funding standard account projections for such plan year and the 9 succeeding plan years, and the assumptions relied upon in making such projections;

''(VIII) the total value of all investment gains or losses during the plan year preceding such plan year;

''(IX) any significant reduction in the number of active participants during the plan year preceding such plan year, and the reason for such reduction;

''(X) a list of employers that withdrew from the plan in the plan year preceding such plan year, and the resulting reduction in contributions;

''(XI) a list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability;

''(XII) any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year;

''(XIII) any scheduled benefit increase or decrease in the plan year preceding such plan year having a material effect on liabilities of the plan;

''(XIV) details regarding any funding improvement plan or rehabilitation plan and updates to such plan;

''(XV) the number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries;

''(XVI) the information contained on the most recent annual funding notice submitted by the plan under section 101(f) of the Employee Retirement Income Security Act of 1974;

''(XVII) the information contained on the most recent Department of Labor Form 5500 of the plan; and

''(XVIII) copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown of administrative expenses of the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, copies of collective bargaining agreements, and financial reports, and such other information as the Secretary of the Treasury or the Secretary's delegate, in consultation with the Secretary of Labor and the Director of the Pension Benefit Guaranty Corporation, may require.

''(ii) ELECTRONIC SUBMISSION.—The report required under clause (i) shall be submitted electronically.

''(iii) INFORMATION SHARING.—The Secretary of the Treasury or the Secretary's delegate shall share the information in the report under clause (i) with the Secretary of Labor.

''(iv) PENALTY.—Any failure to file the report required under clause (i) on or before the date described in such clause shall be treated as a failure to file a report required to be filed under section 6058(a) of the Internal Revenue Code of 1986, except that section 6652(e) of such Code shall be applied with respect to any such failure by substituting '$100' for '$25'. The preceding sentence shall not apply if the Secretary of the Treasury or the Secretary's delegate determines that reasonable diligence has been exercised by the trustees of such plan in attempting to timely file such report.

''(G) 1974 UMWA PENSION PLAN DEFINED.—For purposes of this paragraph, the term '1974 UMWA Pension Plan' has the meaning given the term in section 9701(a)(3) of the Internal Revenue Code of 1986, but without regard to the limitation on participation to individuals who retired in 1976 and thereafter.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to fiscal years beginning after September 30, 2016.

(2) REPORTING REQUIREMENTS.—Section 402(i)(4)(F) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(4)(F)), as added by this section, shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 19003. CLARIFICATION OF FINANCING OBLIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 9704 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (3),

(2) by striking ''three premiums'' and inserting ''two premiums'', and

(3) by striking '', plus'' at the end of paragraph (2) and inserting a period.

(b) CONFORMING AMENDMENTS.—

(1) Section 9704 of the Internal Revenue Code of 1986 is amended—

(A) by striking subsection (d), and

(B) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(2) Subsection (d) of section 9704 of such Code, as so redesignated, is amended—

(A) by striking ''3 separate accounts for each of the premiums described in subsections (b), (c), and (d)'' in paragraph (1) and inserting ''2 separate accounts for each of the premiums described in subsections (b) and (c)'', and

(B) by striking ''or the unassigned beneficiaries premium account'' in paragraph (3)(B).

(3) Subclause (I) of section 9703(b)(2)(C)(ii) of such Code is amended by striking ''9704(e)(3)(B)(i)'' and inserting ''9704(d)(3)(B)(i)''.

(4) Paragraph (3) of section 9705(a) of such Code is amended—

(A) by striking ''the unassigned beneficiary premium under section 9704(a)(3) and'' in subparagraph (B), and

(B) by striking ''9704(i)(1)(B)'' and inserting ''9704(h)(1)(B)''.

(5) Paragraph (2) of section 9711(c) of such Code is amended—

(A) by striking ''9704(j)(2)'' in subparagraph (A)(i) and inserting ''9704(i)(2)'',

(B) by striking ''9704(j)(2)(B)'' in subparagraph (B) and inserting ''9704(i)(2)(B)'', and

(C) by striking ''9704(j)'' and inserting ''9704(i)''.

(6) Paragraph (4) of section 9712(d) of such Code is amended by striking ''9704(j)'' and inserting ''9704(i)''.

(c) ELIMINATION OF ADDITIONAL BACKSTOP PREMIUM.—

(1) IN GENERAL.—Paragraph (1) of section 9712(d) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 9712(d) of such Code is amended—

(A) by striking subparagraph (B),

(B) by striking '', and'' at the end of subparagraph (A) and inserting a period, and

(C) by striking ''shall provide for—'' and all that follows through ''annual adjustments'' and inserting ''shall provide for annual adjustments''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 2016.

SEC. 19004. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking ''September 30, 2025'' and inserting ''May 6, 2026''.

(b) RATE FOR MERCHANDISE PROCESSING FEES.—Section 503 of the United States–Korea Free Trade Agreement Implementation Act (Public Law 112–41; 19 U.S.C. 3805

note) is amended by striking ''September 30, 2025'' and inserting ''May 6, 2026''.

SA 5131. Ms. WARREN (for herself and Mr. MERKLEY) submitted an amendment intended to be proposed by her to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3037.

SA 5132. Ms. WARREN submitted an amendment intended to be proposed by her to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3033.

SA 5133. Mr. FLAKE submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION C—FEDERAL RESEARCH TRANSPARENCY AND ACCOUNTABILITY

SEC. 20001. SHORT TITLE.

This division may be cited as the ''Federal Research Transparency and Accountability Act of 2016''.

SEC. 20002. DEFINITIONS.

In this division—

(1) the term ''agency'' has the meaning given the term in section 551 of title 5, United States Code; and

(2) the term ''covered study'' means any study that—

(A) is carried out in whole or in part with Federal funds; and

(B) is published, presented at a conference or meeting, or otherwise made publicly available.

SEC. 20003. FEDERALLY FUNDED RESEARCH DISCLOSURES AND DATABASE.

(a) PREVENTION OF DUPLICATIVE RESEARCH FUNDING.—The Director of the Office of Management and Budget shall coordinate with each agency that provides funding to entities to carry out research and development to establish a system to detect potential duplicative applications for funding in order to prevent duplicative funding.

(b) DATABASE OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Each agency shall include in a publicly accessible database a searchable listing of each unclassified research and development project that is funded by the agency, including a contract, grant, cooperative agreement, or task order.

(2) CONTENTS.—A database described in paragraph (1) shall, with respect to each unclassified research and development project of an agency, contain—

(A) the agency component that is carrying out or providing funding or other assistance for the project;

(B) the name of the project;

(C) an abstract or summary of the project;

(D) the funding level for the project;

(E) the duration of the project;

(F) the name of any contractor, subcontractor, or grantee;

(G) the title of any published study funded by or related to the project; and

(H) expected objectives and milestones for the project.

(3) EXISTING DATABASE.—An agency may satisfy the requirements under this subsection if the Director of the Office of Management and Budget determines that the agency maintains a publicly accessible database, including a database operated by or shared with another agency, that substantially meets the requirements of this subsection.

(c) REQUIREMENT FOR ACKNOWLEDGMENT IN COVERED STUDIES.—The acknowledgment section in each covered study shall include—

(1) the name of each agency that provided funding for the covered study;

(2) the project or award number associated with the covered study; and

(3) an estimate of the total cost of the covered study.

(d) STUDY.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study and make publicly available a report, which shall—

(1) analyze the compliance of agencies, contractors, subcontractors, and grantees with the requirements of this division;

(2) identify any obstacles that remain to prevent the public from accessing the cost and findings of covered studies and other research and development projects funded by agencies; and

(3) analyze efforts by agencies to prevent duplicative spending.

SA 5134. Mr. MERKLEY (for himself and Ms. WARREN) submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 5009 and 5011.

SA 5135. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 5002, 5003, 5004, and 5012 of division A.

SA 5136. Mr. LEAHY (for himself, Mr. GRASSLEY, Ms. KLOBUCHAR, and Mr. LEE) submitted an amendment intended to be proposed by him to the bill H.R. 34, to authorize and strengthen the tsunami detection, forecast, warning, research, and mitigation program of the National Oceanic and Atmospheric Administration, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title III of division A, add the following:

Subtitle K—CREATES Act

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the ''Creating and Restoring Equal Access to Equivalent Samples Act of 2016'' or the ''CREATES Act of 2016''.

SEC. 3202. FINDINGS.

Congress finds the following:

(1) It is the policy of the United States to promote competition in the market for drugs and biological products by facilitating the timely entry of low-cost generic and biosimilar versions of those drugs and biological products.

(2) Since their enactment in 1984 and 2010, respectively, the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417; 98 Stat. 1585) and the Biologics Price Competition and Innovation Act of 2009 (Subtitle A of title VII of Public Law 111–148; 124 Stat. 804), have provided pathways for making lower-cost versions of previously approved drugs and previously licensed biological products available to the people of the United States in a timely manner, thereby lowering overall prescription drug costs for patients and taxpayers by billions of dollars each year.

(3) In order for these pathways to function as intended, developers of generic drugs and biosimilar biological products (referred to in this section as ''generic product developers'') must be able to obtain quantities of the reference listed drug or biological product with which the generic drug or biosimilar biological product is intended to compete (referred to in this section as a ''covered product'') for purposes of supporting an application for approval by the Food and Drug Administration, including for testing to show that—

(A) a prospective generic drug is bioequivalent to the covered product in accordance with subsection (j) of section 505 of the Federal, Food, Drug, and Cosmetic Act (21 U.S.C. 355), or meets the requirements for approval of an application submitted under subsection (b)(2) of that section; or

(B) a prospective biosimilar biological product is biosimilar to or interchangeable with its reference biological product under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)), as applicable.

(4) For drugs and biological products that are subject to a risk evaluation and mitigation strategy, another essential component in the creation of low-cost generic and biosimilar versions of covered products is the ability of generic product developers to join the manufacturer of the covered product (referred to in this section as the ''license holder'') in a single, shared system of elements to assure safe use and supporting agreements, or secure a variance therefrom, as required by section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1).

(5) Contrary to the policy of the United States to promote competition in the market for drugs and biological products by facilitating the timely entry of lower-cost generic and biosimilar versions of those drugs and biological products, certain license holders are preventing generic product developers from obtaining quantities of the covered product necessary for the generic product developer to support an application for approval by the Food and Drug Administration, including testing to show bioequivalence, biosimilarity, or interchangeability to the covered product, in some instances based on the justification that the covered product is subject to a risk evaluation and mitigation strategy with elements to assure safe use under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1).

(6) The Director of the Center for Drug Evaluation and Research at the Food and Drug Administration has testified that some manufacturers of covered products have used REMS and distribution restrictions adopted by the manufacturer on their own behalf as reasons to not sell quantities of a covered product to generic product developers, causing barriers and delays in getting generic products on the market. The Food and Drug

Administration has reported receiving significant numbers of inquiries from generic product developers who were unable to obtain samples of covered products to conduct necessary testing and otherwise meet requirements for approval of generic drugs.

(7) The Chairwoman of the Federal Trade Commission has testified that the Federal Trade Commission continues to be very concerned about potential abuses by manufacturers of brand drugs of REMS or other closed distribution systems to impede generic competition.

(8) Also contrary to the policy of the United States to promote competition in the market for drugs and biological products by facilitating the timely entry of lower-cost generic and biosimilar versions of those drugs and biological products, certain license holders are impeding the prompt negotiation and development on commercially reasonable terms of a single, shared system of elements to assure safe use, which may be necessary for the generic product developer to gain approval for its drug or licensing for its biological product.

(9) While the antitrust laws may address the refusal by some license holders to provide quantities of a covered product to a generic product developer, a more tailored legal pathway would help ensure that generic product developers can obtain necessary quantities of a covered product in a timely way for purposes of developing a generic drug or biosimilar biological product, facilitating competition in the marketplace for drugs and biological products.

(10) The antitrust laws may address actions by license holders who impede the prompt negotiation and development of a single, shared system of elements to assure safe use, and the Food and Drug Administration has some authority to waive the requirement of a single, shared system. Clearer regulatory authority to approve different systems that meet the statutory requirements to ensure patient safety, however, would limit the effectiveness of bad faith negotiations over single, shared systems to delay generic approval. At the same time, clearer regulatory authority would ensure all systems protect patient safety.

SEC. 3203. ACTIONS FOR DELAYS OF GENERIC DRUGS AND BIOSIMILAR BIOLOGICAL PRODUCTS.

(a) DEFINITIONS.—In this section—

(1) the term ''covered product''—

(A) means—

(i) any drug approved under subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or biological product licensed under subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262);

(ii) any combination of a drug or biological product described in clause (i); or

(iii) when reasonably necessary to demonstrate sameness, biosimilarity, or interchangeability for purposes of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355), or section 351 of the Public Health Service Act (42 U.S.C. 262), as applicable, any product, including any device, that is marketed or intended for use with such drug or biological product; and

(B) does not include any drug or biological product that the Secretary has determined to be currently in shortage and that appears on the drug shortage list in effect under section 506E of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356e), unless the shortage will not be promptly resolved—

(i) as demonstrated by the fact that the drug or biological product has been in shortage for more than 6 months; or

(ii) as otherwise determined by the Secretary;

(2) the term ''device'' has the meaning given the term in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321);

(3) the term ''eligible product developer'' means a person that seeks to develop a product for approval pursuant to an application for approval under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or for licensing pursuant to an application under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k));

(4) the term ''license holder'' means the holder of an application approved under subsection (c) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) or the holder of a license under subsection (a) or (k) of section 351 of the Public Health Service Act (42 U.S.C. 262) for a covered product;

(5) the term ''REMS'' means a risk evaluation and mitigation strategy under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1);

(6) the term ''REMS with ETASU'' means a REMS that contains elements to assure safe use under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1);

(7) the term ''Secretary'' means the Secretary of Health and Human Services;

(8) the term ''single, shared system of elements to assure safe use'' means a single, shared system of elements to assure safe use under section 505–1 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355–1); and

(9) the term ''sufficient quantities'' means an amount of a covered product that allows the eligible product developer to—

(A) conduct testing to support an application—

(i) for approval under subsection (b)(2) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355); or

(ii) for licensing under section 351(k) of the Public Health Service Act (42 U.S.C. 262(k)); and

(B) fulfill any regulatory requirements relating to such an application for approval or licensing.

(b) CIVIL ACTION FOR FAILURE TO PROVIDE SUFFICIENT QUANTITIES OF A COVERED PRODUCT.—

(1) IN GENERAL.—An eligible product developer may bring a civil action against the license holder for a covered product seeking relief under this subsection in an appropriate district court of the United States alleging that the license holder has declined to provide sufficient quantities of the covered product to the eligible product developer on commercially reasonable, market-based terms.

(2) ELEMENTS.—

(A) IN GENERAL.—To prevail in a civil action brought under paragraph (1), an eligible product developer shall prove, by a preponderance of the evidence—

(i) that—

(I) the covered product is not subject to a REMS with ETASU; or

(II) if the covered product is subject to a REMS with ETASU—

(aa) the eligible product developer has obtained a covered product authorization from the Secretary in accordance with subparagraph (B); and

(bb) the eligible product developer has provided a copy of the covered product authorization to the license holder;

(ii) that, as of the date on which the civil action is filed, the product developer has not obtained sufficient quantities of the covered product on commercially reasonable, market-based terms;

(iii) that the eligible product developer has requested to purchase sufficient quantities of the covered product from the license holder; and

(iv) that the license holder has not delivered to the eligible product developer sufficient quantities of the covered product on commercially reasonable, market-based terms—

(I) for a covered product that is not subject to a REMS with ETASU, by the date that is 31 days after the date on which the license holder received the request for the covered product; and

(II) for a covered product that is subject to a REMS with ETASU, by 31 days after the later of—

(aa) the date on which the license holder received the request for the covered product; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with subparagraph (B).

(B) AUTHORIZATION FOR COVERED PRODUCT SUBJECT TO A REMS WITH ETASU.—

(i) REQUEST.—An eligible product developer may submit to the Secretary a written request for the eligible product developer to be authorized to obtain sufficient quantities of an individual covered product subject to a REMS with ETASU.

(ii) AUTHORIZATION.—Not later than 90 days after the date on which a request under clause (i) is received, the Secretary shall, by written notice, authorize the eligible product developer to obtain sufficient quantities of an individual covered product subject to a REMS with ETASU for purposes of—

(I) development and testing that does not involve human clinical trials, if the eligible product developer has agreed to comply with any conditions the Secretary determines necessary; or

(II) development and testing that involves human clinical trials, if the eligible product developer has—

(aa)(AA) submitted protocols, informed consent documents, and informational materials for testing that include protections that provide safety protections comparable to those provided by the REMS for the covered product; or

(BB) otherwise satisfied the Secretary that such protections will be provided; and

(bb) met any other requirements the Secretary may establish.

(iii) NOTICE.—A covered product authorization issued under this subparagraph shall state that the provision of the covered product by the license holder under the terms of the authorization will not be a violation of the REMS for the covered product.

(3) AFFIRMATIVE DEFENSE.—In a civil action brought under paragraph (1), it shall be an affirmative defense, on which the defendant has the burden of persuasion by a preponderance of the evidence—

(A) that, on the date on which the eligible product developer requested to purchase sufficient quantities of the covered product from the license holder—

(i) neither the license holder nor any of its agents, wholesalers, or distributors was engaged in the manufacturing or commercial marketing of the covered product; and

(ii) neither the license holder nor any of its agents, wholesalers, or distributors otherwise had access to inventory of the covered product to supply to the eligible product developer on commercially reasonable, market-based terms; or

(B) that—

(i) the license holder sells the covered product through agents, distributors, or wholesalers;

(ii) the license holder has placed no restrictions, explicit or implicit, on its agents, distributors, or wholesalers to sell covered products to eligible product developers; and

(iii) the covered product can be purchased by the eligible product developer in sufficient quantities on commercially reasonable, market-based terms from the agents, distributors, or wholesalers of the license holder.

(4) REMEDIES.—

(A) IN GENERAL.—If an eligible product developer prevails in a civil action brought under paragraph (1), the court shall—

(i) order the license holder to provide to the eligible product developer without delay sufficient quantities of the covered product on commercially reasonable, market-based terms;

(ii) award to the eligible product developer reasonable attorney fees and costs of the civil action; and

(iii) award to the eligible product developer a monetary amount sufficient to deter the license holder from failing to provide other eligible product developers with sufficient quantities of a covered product on commercially reasonable, market-based terms, if the court finds, by a preponderance of the evidence—

(I) that the license holder delayed providing sufficient quantities of the covered product to the eligible product developer without a legitimate business justification; or

(II) that the license holder failed to comply with an order issued under clause (i).

(B) MAXIMUM MONETARY AMOUNT.—A monetary amount awarded under subparagraph (A)(iii) shall not be greater than the revenue that the license holder earned on the covered product during the period—

(i) beginning on—

(I) for a covered product that is not subject to a REMS with ETASU, the date that is 31 days after the date on which the license holder received the request; or

(II) for a covered product that is subject to a REMS with ETASU, the date that is 31 days after the later of—

(aa) the date on which the license holder received the request; or

(bb) the date on which the license holder received a copy of the covered product authorization issued by the Secretary in accordance with paragraph (2)(B); and

(ii) ending on the date on which the eligible product developer received sufficient quantities of the covered product.

(C) AVOIDANCE OF DELAY.—The court may issue an order under subparagraph (A)(i) before conducting further proceedings that may be necessary to determine whether the eligible product developer is entitled to an award under clause (ii) or (iii) of subparagraph (A), or the amount of any such award.

(c) LIMITATION OF LIABILITY.—A license holder for a covered product shall not be liable for any claim arising out of the failure of an eligible product developer to follow adequate safeguards to assure safe use of the covered product during development or testing activities described in this section, including transportation, handling, use, or disposal of the covered product by the eligible product developer.

(d) RULE OF CONSTRUCTION.—

(1) DEFINITION.—In this subsection, the term ''antitrust laws''—

(A) has the meaning given the term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12); and

(B) includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section applies to unfair methods of competition.

(2) ANTITRUST LAWS.—Nothing in this section shall be construed to limit the operation of any provision of the antitrust laws.

SEC. 3204. REMS APPROVAL PROCESS FOR SUBSEQUENT FILERS.

Section 505–1 of the Federal Food Drug and Cosmetic Act (21 U.S.C. 355–1) is amended—

(1) in subsection (g)(4)(B)—

(A) in clause (i) by striking ''or'' after the semicolon;

(B) in clause (ii) by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(iii) accommodate different approved risk evaluation and mitigation strategies for a reference drug product and a drug that is the subject of an abbreviated new drug application.''; and

(2) in subsection (i)(1), by striking subparagraph (B) and inserting the following:

''(B) Elements to assure safe use, if required under subsection (f) for the listed drug.

''(i) Subject to clause (ii), a drug that is the subject of an abbreviated new drug application may use—

''(I) a single, shared system with the listed drug under subsection (f); or

''(II) a different, comparable aspect of the elements to assure safe use under subsection (f).

''(ii) The Secretary may require a drug that is the subject of an abbreviated new drug application and the listed drug to use a single, shared system under subsection (f), if the Secretary determines that no different, comparable aspect of the elements to assure safe use could satisfy the requirements of subsection (f).''.

SA 5137. Mr. MCCONNELL (for himself and Mr. REID) proposed an amendment to the concurrent resolution H. Con. Res. 174, directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 34; as follows:

Beginning on page 1, line 7, strike ''following correction:'' and all that follows and insert the following:

''following corrections:

''(1) Amend the long title so as to read: 'An Act to accelerate the discovery, development, and delivery of 21st century cures, and for other purposes.'.

''(2) Amend the section heading for section 1001 so as to read: '**BEAU BIDEN CANCER MOONSHOT AND NIH INNOVATION PROJECTS**'.

''(3) Amend the table of contents in section 1 so that the item relating to section 1001 reads as follows:

''''1001. Beau Biden Cancer Moonshot and NIH innovation projects.'.''.

ACTION VITIATED—H.R. 5602, S. 3336, AND CALENDAR NOS. 675 THROUGH 683

Mr. MORAN. Mr. President, I ask unanimous consent to vitiate all action taken during today's session of the Senate on H.R. 5602, S. 3336, and Calendar Nos. 675 through 683.

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

ORDERS FOR TUESDAY, DECEMBER 6, 2016

Mr. MORAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Tuesday, December 6; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; further, that following leader remarks, the Senate resume consideration of the House message to accompany H.R. 34 postcloture; finally, that all time during adjournment and recess of the Senate count postcloture on the motion to concur.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

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

There being no objection, the Senate, at 6:52 p.m., adjourned until Tuesday, December 6, 2016, at 10 a.m.