from North Dakota (Mr. HOEVEN), the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Florida (Mr. RUBIO) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 151, a bill to deter criminal robocall violations and improve enforcement of section 227(b) of the Communications Act of 1934, and for other purposes.

S. 178

At the request of Mr. RUBIO, the name of the Senator from Nebraska (Mr. SASSE) was added as a cosponsor of S. 178, a bill to condemn gross human rights violations of ethnic Turkic Muslims in Xinjiang, and calling for an end to arbitrary detention, torture, and harassment of these communities inside and outside China.

S. 286

At the request of Mr. BARRASSO, the names of the Senator from South Dakota (Mr. ROUNDS) and the Senator from Arizona (Ms. SINEMA) were added as cosponsors of S. 286, a bill to amend title XVIII of the Social Security Act to provide for the coverage of marriage and family therapist services and mental health counselor services under part B of the Medicare program, and for other purposes.

S. 340

At the request of Mr. LEAHY, the names of the Senator from North Dakota (Mr. CRAMER) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 340, a bill 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.

S. 362

At the request of Mr. WYDEN, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from California (Ms. HARRIS) were added as cosponsors of S. 362, a bill to amend the Internal Revenue Code of 1986 to reform taxation of alcoholic beverages.

S. 427

At the request of Mr. MENENDEZ, the names of the Senator from Florida (Mr. RUBIO), the Senator from Minnesota (Ms. KLOBUCHAR), the Senator from South Carolina (Mr. SCOTT) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 427, a bill to amend the Public Health Service Act to enhance activities of the National Institutes of Health with respect to research on autism spectrum disorder and enhance programs relating to autism, and for other purposes.

S. 470

At the request of Ms. STABENOW, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 470, a bill to amend title XVIII of the Social Security Act to provide for an option for any citizen or permanent resident of the United States age 50 to 64 to buy into Medicare.

S. 472

At the request of Mr. MARKEY, the name of the Senator from Colorado (Mr. BENNET) was added as a cosponsor of S. 472, a bill to amend title 49, United States Code, to ensure that revenues collected from passengers as aviation security fees are used to help finance the costs of aviation security screening by repealing a requirement that a portion of such fees be credited as offsetting receipts and deposited in the general fund of the Treasury.

S. 479

At the request of Mr. TOOMEY, the name of the Senator from Virginia (Mr. KAINE) was added as a cosponsor of S. 479, a bill to revise section 48 of title 18, United States Code, and for other purposes.

S. 504

At the request of Ms. SINEMA, the name of the Senator from Mississippi (Mrs. HYDE-SMITH) was added as a cosponsor of S. 504, a bill to amend title 36, United States Code, to authorize The American Legion to determine the requirements for membership in The American Legion, and for other purposes.

S. 509

At the request of Mr. MURPHY, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. JONES), the Senator from Maryland (Mr. VAN HOLLEN) and the Senator from Wisconsin (Ms. BALDWIN) were added as cosponsors of S. 509, a bill to require the Secretary of the Treasury to mint coins in commemoration of the United States Coast Guard.

S. 521

At the request of Mr. BROWN, the name of the Senator from New Hampshire (Ms. HASSAN) was added as a cosponsor of S. 521, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 590

At the request of Mr. COONS, the names of the Senator from Indiana (Mr. YOUNG), the Senator from New Mexico (Mr. HEINRICH), the Senator from Hawaii (Ms. HIRONO), the Senator from Nevada (Ms. ROSEN) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 590, a bill to award Congressional Gold Medals to Katherine Johnson and Dr. Christine Darden, to posthumously award Congressional Gold Medals to Dorothy Vaughan and Mary Jackson, and to award a Congressional Gold Medal to honor all of the women who contributed to the success of the National Aeronautics and Space Administration during the Space Race.

S. 610

At the request of Mr. BLUMENTHAL, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 610, a bill to amend title 9 of the United States Code with respect to arbitration.

S. 611

At the request of Mr. SANDERS, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 611, a bill to provide adequate funding for water and sewer infrastructure, and for other purposes.

S. 650

At the request of Mr. UDALL, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 650, a bill to assist entrepreneurs, support development of the creative economy, and encourage international cultural exchange, and for other purposes.

S. 668

At the request of Mr. BROWN, the name of the Senator from Nevada (Ms. ROSEN) was added as a cosponsor of S. 668, a bill to amend title XVIII of the Social Security Act to waive coinsurance under Medicare for colorectal cancer screening tests, regardless of whether therapeutic intervention is required during the screening.

S. 669

At the request of Ms. BALDWIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 669, a bill to protect the rights of passengers with disabilities in air transportation, and for other purposes.

S.J. RES. 4

At the request of Mr. KAINE, the names of the Senator from Alabama (Mr. JONES) and the Senator from Alaska (Mr. SULLIVAN) were added as cosponsors of S.J. Res. 4, a joint resolution requiring the advice and consent of the Senate or an Act of Congress to suspend, terminate, or withdraw the United States from the North Atlantic Treaty and authorizing related litigation, and for other purposes.

S. RES. 96

At the request of Mr. RISCH, the names of the Senator from Wisconsin (Mr. JOHNSON), the Senator from Tennessee (Mrs. BLACKBURN), the Senator from Georgia (Mr. ISAKSON) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. Res. 96, a resolution commending the Government of Canada for upholding the rule of law and expressing concern over actions by the Government of the People's Republic of China in response to a request from the United States Government to the Government of Canada for the extradition of a Huawei Technologies Co., Ltd. executive.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THUNE:

S. 700. A bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determinations of worker classification, to require increased reporting, and for other purposes; to the Committee on Finance.

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

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

S. 700

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''New Economy Works to Guarantee Independence and Growth Act of 2019'' or the ''NEW GIG Act of 2019''.

SEC. 2. DETERMINATION OF WORKER CLASSIFICATION.

(a) IN GENERAL.—Chapter 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 7706. DETERMINATION OF WORKER CLASSIFICATION.

''(a) IN GENERAL.—For purposes of this title (and notwithstanding any provision of this title not contained in this section to the contrary), if the requirements of subsections (b), (c), and (d) are met with respect to any service performed by a service provider, then with respect to such service—

''(1) the service provider shall not be treated as an employee,

''(2) the service recipient shall not be treated as an employer,

''(3) any payor shall not be treated as an employer, and

''(4) the compensation paid or received for such service shall not be treated as paid or received with respect to employment.

''(b) GENERAL SERVICE PROVIDER REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of this subsection are met with respect to any service if the service provider either—

''(A) meets the requirements of paragraph (2) with respect to such service, or

''(B) in the case of a service provider engaged in the trade or business of selling (or soliciting the sale of) goods or services, meets the requirements of paragraph (3) with respect to such service.

''(2) GENERAL REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any service if the service provider, in connection with performing the service—

''(i) incurs expenses—

''(I) which are deductible under section 162, and

''(II) a significant portion of which are not reimbursed,

''(ii) agrees to perform the service for a particular amount of time, to achieve a specific result, or to complete a specific task, and

''(iii) satisfies not less than 1 of the factors described in subparagraph (B).

''(B) FACTORS.—The factors described in this subparagraph are the following:

''(i) The service provider has a significant investment in assets or training which are applicable to the service performed.

''(ii) The service provider is not required to perform services exclusively for the service recipient or payor.

''(iii) The service provider has not been treated as an employee by the service recipient or payor for substantially the same services during the 1-year period ending with the date of the commencement of services under the contract described in subsection (d).

''(iv) The service provider is not compensated on a basis which is tied primarily to the number of hours actually worked.

''(3) ALTERNATIVE REQUIREMENTS WITH RESPECT TO SALES PERSONS.—In the case of a service provider engaged in the trade or business of selling (or soliciting the sale of) goods or services, the requirements of this paragraph are met with respect to any service provided in the ordinary course of such trade or business if—

''(A) the service provider is compensated primarily on a commission basis, and

''(B) substantially all the compensation for such service is directly related to sales of goods or services rather than to the number of hours worked.

''(c) PLACE OF BUSINESS OR OWN EQUIPMENT REQUIREMENT.—The requirement of this subsection is met with respect to any service if the service provider—

''(1) has a principal place of business,

''(2) does not provide the service primarily in the service recipient's place of business,

''(3) pays a fair market rent for use of the service recipient's or payor's place of business, or

''(4) provides the service primarily using equipment supplied by the service provider.

''(d) WRITTEN CONTRACT REQUIREMENT.—The requirements of this subsection are met with respect to any service if such service is performed pursuant to a written contract between the service provider and the service recipient or payor, whichever is applicable, which meets the following requirements:

''(1) The contract includes each of the following:

''(A) The service provider's name, taxpayer identification number, and address.

''(B) A statement that the service provider will not be treated as an employee with respect to the services provided pursuant to the contract for purposes of this title.

''(C) A statement that the service recipient or payor will withhold upon and report to the Internal Revenue Service the compensation payable pursuant to the contract consistent with the requirements of this title.

''(D) A statement that the service provider is responsible for payment of Federal, State, and local taxes, including self-employment taxes, on compensation payable pursuant to the contract.

''(E) A statement that the contract is intended to be considered a contract described in this subsection.

The contract shall not fail to meet the requirements of this paragraph merely because the information described in subparagraph (A) is collected at the time payment is made for the services and not in advance, or because the contract provides that an agent of the service recipient or payor will fulfill any of the responsibilities of the service recipient or payor described in the preceding subparagraphs.

''(2) The term of the contract does not exceed 2 years. The preceding sentence shall not prevent 1 or more subsequent written renewals of the contract from satisfying the requirements of this subsection if the term of each such renewal does not exceed 2 years and if the information required under paragraph (1)(A) is updated in connection with each such renewal.

''(3) The contract (or renewal) is signed (which may include signatures in electronic form) by the service recipient or payor and the service provider not later than the date on which the aggregate payments made by the service recipient or payor to the service provider exceeds $1,000 for the year covered by the contract (or renewal).

''(e) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of making any determination with respect to the liability of a service recipient or payor for any tax during any taxable year with respect to a service provider, the application of this section shall be conditioned on either the service recipient or the payor satisfying the reporting requirements applicable to such service recipient or payor under section 6041(a), 6041A(a), or 6050W with respect to such service provider for such period.

''(2) REASONABLE CAUSE.—For purposes of paragraph (1), such reporting requirements shall be treated as met if the failure to satisfy such requirements is due to reasonable cause and not willful neglect.

''(f) EXCEPTION FOR SERVICES PROVIDED BY OWNER.—This section shall not apply with respect to any service provided by a service provider to a service recipient or payor if the service provider owns any interest in the service recipient or the payor with respect to the service provided. The preceding sentence shall not apply in the case of a service recipient or payor the stock of which is regularly traded on an established securities market.

''(g) LIMITATION ON RECLASSIFICATION BY SECRETARY.—For purposes of this title—

''(1) EFFECT OF RECLASSIFICATION ON SERVICE RECIPIENTS AND PAYORS.—A determination by the Secretary that a service recipient or a payor should have treated a service provider as an employee shall be effective with respect to the service recipient or payor no earlier than the notice date if—

''(A) the service recipient or the payor entered into a written contract with the servvice provider which meets the requirements of subsection (d),

''(B) the service recipient or the payor satisfied the applicable reporting requirements of section 6041(a), 6041A(a), or 6050W for all relevant taxable years with respect to the service provider,

''(C) the service recipient or the payor collected and paid over all applicable taxes imposed under subtitle C for all relevant taxable years with respect to the service provider, and

''(D) the service recipient or the payor demonstrates a reasonable basis for having determined that the service provider should not be treated as an employee under this section and that such determination was made in good faith.

''(2) EFFECT OF RECLASSIFICATION ON SERVICE PROVIDERS.—A determination by the Secretary that a service provider should have been treated as an employee shall be effective with respect to the service provider no earlier than the notice date if—

''(A) the service provider entered into a written contract with the service recipient or the payor which meets the requirements of subsection (d),

''(B) the service provider satisfied the applicable reporting requirements of sections 6012(a) and 6017 for all relevant taxable years with respect to the service recipient or the payor, and

''(C) the service provider demonstrates a reasonable basis for determining that the service provider is not an employee under this section and that such determination was made in good faith.

''(3) NOTICE DATE.—For purposes of this subsection, the term 'notice date' means the 30th day after the earliest of—

''(A) the date on which the first letter of proposed deficiency which allows the service provider, the service recipient, or the payor an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent,

''(B) the date on which a deficiency notice under section 6212 is sent, or

''(C) the date on which a notice of determination under section 7436(b)(2) is sent.

''(4) REASONABLE CAUSE EXCEPTION.—The requirements of paragraphs (1)(B), (1)(C), and (2)(B) shall be treated as met if the failure to satisfy such requirements is due to reasonable cause and not willful neglect.

''(5) NO RESTRICTION ON ADMINISTRATIVE OR JUDICIAL REVIEW.—Nothing in this subsection shall be construed as limiting any provision of law which provides an opportunity for administrative or judicial review of a determination by the Secretary.

''(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as—

''(1) limiting the ability or right of a service provider, service recipient, or payor to

apply any other provision of this title, section 530 of the Revenue Act of 1978, or any common law rules for determining whether an individual is an employee, or

''(2) establishing a prerequisite for the application of any provision of law described in paragraph (1).

''(i) DEFINITIONS.—For purposes of this section—

''(1) SERVICE PROVIDER.—

''(A) IN GENERAL.—The term 'service provider' means any qualified person who performs service for another person.

''(B) QUALIFIED PERSON.—The term 'qualified person' means—

''(i) any natural person, or

''(ii) any entity if any of the services referred to in subparagraph (A) are performed by 1 or more natural persons who directly own interests in such entity.

''(2) SERVICE RECIPIENT.—The term 'service recipient' means the person for whom the service provider performs such service.

''(3) PAYOR.—The term 'payor' means—

''(A) any person, including the service recipient, who pays the service provider for performing such service, or

''(B) any marketplace platform, as defined in section 6050W(d)(3)(C).

''(j) REGULATIONS.—Notwithstanding section 530(d) of the Revenue Act of 1978, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out the purposes of this section.''.

(b) VOLUNTARY WITHHOLDING AGREEMENTS AND WORKER CLASSIFICATION.—Section 3402(p) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(4) WORKER CLASSIFICATION.—Agreements under paragraph (3) shall not be taken into account in determining whether any party to such agreement is an employee or an employer for purposes of this title.''.

(c) WITHHOLDING BY PAYOR IN CASE OF CERTAIN PERSONS CLASSIFIED AS NOT EMPLOYEES.—Section 3402 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(u) EXTENSION OF WITHHOLDING TO PAYMENTS TO CERTAIN PERSONS CLASSIFIED AS NOT EMPLOYEES.—

''(1) IN GENERAL.—For purposes of this chapter and so much of subtitle F as relates to this chapter, compensation paid pursuant to a contract described in section 7706(d) shall be treated as if it were a payment of wages by an employer to an employee.

''(2) AMOUNT WITHHELD.—Except as otherwise provided under subsection (i), the amount to be deducted and withheld pursuant to paragraph (1) with respect to compensation paid pursuant to any such contract during any calendar year shall be an amount equal to 5 percent of so much of the amount of such compensation as does not exceed $20,000.''.

(d) DIRECT SELLERS OF PROMOTIONAL PRODUCTS.—Subsection (b) of section 3508 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (2)(A)—

(A) in clause (ii), by striking ''or'' at the end,

(B) in clause (iii), by adding ''or'' at the end, and

(C) by inserting after clause (iii) the following new clause:

''(iv) is engaged in the trade or business of selling, or soliciting the sale of, promotional products from other than a permanent retail establishment,'',

(2) by redesignating paragraph (3) as paragraph (4), and

(3) by inserting after paragraph (2) the following new paragraph:

''(3) PROMOTIONAL PRODUCT.—For purposes of paragraph (2)(A)(iv), the term 'promotional product' means a tangible item with permanently marked promotional words, symbols, or art of the purchaser.''.

(e) REPORTING.—

(1) INFORMATION AT SOURCE.—Section 6041 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a)—

(i) in the heading, by striking ''$600'' and inserting ''$1,000'', and

(ii) by striking ''$600 or more in any taxable year'' and inserting ''$1,000 or more in any taxable year'', and

(B) by adding at the end the following new subsection:

''(h) SPECIAL RULES FOR CERTAIN PERSONS CLASSIFIED AS NOT EMPLOYEES.—

''(1) IN GENERAL.—In the case of any service recipient or payor required to make a return under subsection (a) with respect to compensation to which section 7706(a) applies—

''(A) such return shall include—

''(i) the aggregate amount of such compensation paid to each person whose name is required to be included on such return,

''(ii) the aggregate amount deducted and withheld under section 3402(s) with respect to such compensation, and

''(iii) an indication of whether a copy of the contract described in section 7706(d) is on file with the service recipient or payor, and

''(B) the statement required to be furnished under subsection (d) shall include the information described in subparagraph (A) with respect to the service provider to whom such statement is furnished.

''(2) DEFINITIONS.—Terms used in this subsection which are also used in section 7706 shall have the same meaning as when used in such section.''.

(2) RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.—Section 6041A of such Code is amended—

(A) in paragraph (2) of subsection (a), by striking ''$600'' and inserting ''$1,000'', and

(B) by adding at the end the following new subsection:

''(g) SPECIAL RULES FOR CERTAIN PERSONS CLASSIFIED AS NOT EMPLOYEES.—Rules similar to the rules of subsection (h) of section 6041 shall apply for purposes of this section.''.

(3) RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.—Section 6050W of such Code is amended—

(A) in subsection (d), by amending paragraph (3) to read as follows:

''(3) THIRD PARTY PAYMENT NETWORK.—

''(A) IN GENERAL.—The term 'third party payment network' means any agreement or arrangement—

''(i) which involves the establishment of accounts with a central organization or marketplace platform by a substantial number of persons who—

''(I) are unrelated to such organization or platform,

''(II) provide goods or services, and

''(III) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,

''(ii) which provides for standards and mechanisms for settling such transactions, and

''(iii) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

''(B) EXCEPTION.—The term 'third party payment network' shall not include any agreement or arrangement which provides for the issuance of payment cards.

''(C) MARKETPLACE PLATFORM.—For purposes of subparagraph (A), the term 'marketplace platform' means any person who—

''(i) operates a digital website, mobile application, or similar system that facilitates the provision of goods or services by providers to recipients,

''(ii) enters into an agreement with each provider stating that such provider will not be treated as an employee with respect to such goods or services,

''(iii) provides standards and mechanisms for settling such facilitated transactions, and

''(iv) guarantees each provider of goods or services pursuant to such agreement that the provider will be paid for such facilitated transaction.'',

(B) by amending subsection (e) to read as follows:

''(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—

''(1) IN GENERAL.—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds $1,000.

''(2) EXCEPTION.—

''(A) MARKETPLACE PLATFORMS.—In the case of a third party settlement organization which is a marketplace platform (as defined in subsection (d)(3)(C)) through which substantially all the participating payees are primarily engaged in the sale of goods, such marketplace platform shall be required to report any information under subsection (a) with respect to third party network transactions of such payee only if—

''(i) the amount which would otherwise be reported under subsection (a)(2) with respect to such transaction exceeds $5,000, or

''(ii) the aggregate number of transactions exceeds 50.

''(B) OTHER THIRD PARTY SETTLEMENT ORGANIZATIONS.—In the case of a third party settlement organization other than a marketplace platform—

''(i) the rules of subparagraph (A) shall apply in the case of information required to be reported, or which would otherwise be reported, under subsection (a) to any participating payee who is primarily engaged in the sale of goods, and

''(ii) the determination of whether a participating payee is primarily engaged in the sale of goods may be made separately for each participating payee.

''(3) ELECTION TO REPORT.—Notwithstanding paragraphs (1) and (2), a third party settlement organization may elect to report any information under subsection (a) with respect to third party network transactions of any participating payee without regard to the amount reported under subsection (a)(2) with respect to such transactions or the aggregate number of such transactions.'', and

(C) in subsection (f)—

(i) in paragraph (1), by striking ''and'' at the end,

(ii) in paragraph (2), by striking the period at the end and inserting '', and'', and

(iii) by inserting after paragraph (2) the following new paragraph:

''(3) the amount, if any, withheld pursuant to section 3402(s).''.

(f) PROCEEDINGS FOR DETERMINATION OF EMPLOYMENT STATUS.—Paragraph (1) of section 7436(b) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) PETITIONER.—A pleading may be filed under this section only by—

''(A) the person for whom the services are performed, including the service recipient or the payor, or

''(B) any service provider which the Secretary has determined should have been treated as an employee.

All terms used in this paragraph which are also used in section 7706 have the meanings given such terms in section 7706(i).''.

(g) CLERICAL AMENDMENT.—The table of sections for chapter 79 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7706. Determination of worker classification.''.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (4), the amendments made by this section shall apply to services performed after December 31, 2019 (and to payments made for such services after such date).

(2) GRACE PERIOD TO BEGIN WITHHOLDING.—A contract shall not be treated as failing to meet the requirements of section 7706(d)(1)(C) of the Internal Revenue Code of 1986 (as added by this section), and a service recipient or payor shall not be treated as failing to meet any such requirement, with respect to compensation paid to a service provider before the date that is 180 days after the date of the enactment of this Act.

(3) REPORTING.—Except as provided in paragraph (4), the amendments made by subsection (e) shall apply to returns the due date for which is after the date which is 2 years after the date of the enactment of this Act.

(4) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—The amendment made by subsection (e)(3)(B) shall apply to payments made after December 31, 2019.

By Mr. DURBIN (for himself, Mr. COONS, Mr. BOOKER, Ms. HARRIS, Mr. LEAHY, Mr. SCHATZ, and Ms. WARREN):

S. 719. A bill to reform the use of solitary confinement and other forms of restrictive housing in the Bureau of Prisons, and for other purposes; to the Committee on the Judiciary.

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

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

S. 719

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Solitary Confinement Reform Act''.

SEC. 2. SOLITARY CONFINEMENT REFORMS.

(a) AMENDMENT.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

''§ 4051. Solitary confinement

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE MAXIMUM FACILITY.—The term 'administrative maximum facility' means a maximum-security facility, including the Administrative Maximum facility in Florence, Colorado, designed to house inmates who present an ongoing significant and serious threat to other inmates, staff, and the public.

''(2) ADMINISTRATIVE SEGREGATION.—The term 'administrative segregation' means a nonpunitive form of solitary confinement that removes an individual from the general population of a correctional facility for—

''(A) investigative, protective, or preventative reasons resulting in a substantial and immediate threat; or

''(B) transitional reasons, including a pending transfer, pending classification, or other temporary administrative matter.

''(3) APPROPRIATE LEVEL OF CARE.—The term 'appropriate level of care' means the appropriate treatment setting for mental health care that an inmate with mental illness requires, which may include outpatient care, emergency or crisis services, day treatment, supported residential housing, infirmary care, or inpatient psychiatric hospitalization services.

''(4) DIRECTOR.—The term 'Director' means the Director of the Bureau of Prisons.

''(5) DISCIPLINARY HEARING OFFICER.—The term 'disciplinary hearing officer' means an employee of the Bureau of Prisons who is responsible for conducting disciplinary hearings for which solitary confinement may be a sanction, as described in section 541.8 of title 28, Code of Federal Regulations, or any successor thereto.

''(6) DISCIPLINARY SEGREGATION.—The term 'disciplinary segregation' means a punitive form of solitary confinement imposed only by a Disciplinary Hearing Officer as a sanction for committing a significant and serious disciplinary infraction.

''(7) INTELLECTUAL DISABILITY.—The term 'intellectual disability' means a significant mental impairment characterized by significant limitations in both intellectual functioning and in adaptive behavior.

''(8) MULTIDISCIPLINARY STAFF COMMITTEE.—The term 'multidisciplinary staff committee' means a committee—

''(A) made up of staff at the facility where an inmate resides who are responsible for reviewing the initial placement of the inmate in solitary confinement and any extensions of time in solitary confinement; and

''(B) which shall include—

''(i) not less than 1 licensed mental health professional;

''(ii) not less than 1 medical professional; and

''(iii) not less than 1 member of the leadership of the facility.

''(9) ONGOING SIGNIFICANT AND SERIOUS THREAT.—The term 'ongoing significant and serious threat' means an ongoing set of circumstances that require the highest level of security and staff supervision for an inmate who, by the behavior of the inmate—

''(A) has been identified as assaultive, predacious, riotous, or a serious escape risk; and

''(B) poses a great risk to other inmates, staff, and the public.

''(10) PROTECTION CASE.—The term 'protection case' means an inmate who, by the request of the inmate or through a staff determination, requires protection, as described by section 541.23(c)(3) of title 28, Code of Federal Regulations, or any successor thereto.

''(11) SERIOUS MENTAL ILLNESS.—The term 'serious mental illness' means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

''(12) SIGNIFICANT AND SERIOUS DISCIPLINARY INFRACTION.—The term 'significant and serious disciplinary infraction' means—

''(A) an act of violence that either—

''(i) resulted in or was likely to result in serious injury or death to another; or

''(ii) occurred in connection with any act of nonconsensual sex; or

''(B) an escape, attempted escape, or conspiracy to escape from within a security perimeter or custody, or both; or

''(C) possession of weapons, possession of illegal narcotics with intent to distribute, or other similar, severe threats to the safety of the inmate, other inmates, staff, or the public.

''(13) SOLITARY CONFINEMENT.—The term 'solitary confinement' means confinement characterized by substantial isolation in a cell, alone or with other inmates, including administrative segregation, disciplinary segregation, and confinement in any facility designated by the Bureau of Prisons as a special housing unit, special management unit, or administrative maximum facility.

''(14) SPECIAL ADMINISTRATIVE MEASURES.—The term 'special administrative measures' means reasonably necessary measures used to—

''(A) prevent disclosure of classified information upon written certification to the Attorney General by the head of an element of the intelligence community (as specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))) that the unauthorized disclosure of such information would pose a threat to the national security and that there is a danger that the inmate will disclose such information, as described by section 501.2 of title 28, Code of Federal Regulations, or any successor thereto; or

''(B) protect persons against the risk of death or serious bodily injury, upon written notification to the Director by the Attorney General or, at the Attorney General's direction, by the head of a Federal law enforcement agency, or the head of an element of the intelligence community (as specified or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4))), that there is a substantial risk that the communications of an inmate or contacts by the inmate with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons, as described by section 501.3 of title 28, Code of Federal Regulations, or any successor thereto.

''(15) SPECIAL HOUSING UNIT.—The term 'special housing unit' means a housing unit in an institution of the Bureau of Prisons in which inmates are securely separated from the general inmate population for disciplinary or administrative reasons, as described in section 541.21 of title 28, Code of Federal Regulations, or any successor thereto.

''(16) SPECIAL MANAGEMENT UNIT.—The term 'special management unit' means a nonpunitive housing program with multiple, step-down phases for inmates whose history, behavior, or situation requires enhanced management approaches in order to ensure the safety of other inmates, the staff, and the public.

''(17) SUBSTANTIAL AND IMMEDIATE THREAT.—The term 'substantial and immediate threat' means any set of temporary and unforeseen circumstances that require immediate action in order to combat a threat to the safety of an inmate, other inmates, staff, or the public.

''(b) USE OF SOLITARY CONFINEMENT.—

''(1) IN GENERAL.—The placement of a Federal inmate in solitary confinement within the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody shall be limited to situations in which such confinement—

''(A) is limited to the briefest term and the least restrictive conditions practicable, including not less than 4 hours of out-of-cell time every day, unless the inmate poses a substantial and immediate threat;

''(B) is consistent with the rationale for placement and with the progress achieved by the inmate;

''(C) allows the inmate to participate in meaningful programming opportunities and privileges as consistent with those available in the general population as practicable, either individually or in a classroom setting;

''(D) allows the inmate to have as much meaningful interaction with others, such as other inmates, visitors, clergy, or licensed

mental health professionals, as practicable; and

''(E) complies with the provisions of this section.

''(2) TRANSITIONAL PROCESS FOR INMATES IN SOLITARY CONFINEMENT.—

''(A) INMATES WITH UPCOMING RELEASE DATES.—The Director shall establish—

''(i) policies to ensure that an inmate with an anticipated release date of 180 days or less is not housed in solitary confinement, unless—

''(I) such confinement is limited to not more than 5 days of administrative segregation relating to the upcoming release of the inmate; or

''(II) the inmate poses a substantial and immediate threat; and

''(ii) a transitional process for each inmate with an anticipated release date of 180 days or less who is held in solitary confinement under clause (i)(II), which shall include—

''(I) substantial re-socialization programming in a group setting;

''(II) regular mental health counseling to assist with the transition; and

''(III) re-entry planning services offered to inmates in a general population setting.

''(B) INMATES IN LONG-TERM SOLITARY CONFINEMENT.—The Director shall establish a transitional process for each inmate who has been held in solitary confinement for more than 30 days and who will transition into a general population unit, which shall include—

''(i) substantial re-socialization programming in a group setting; and

''(ii) regular mental health counseling to assist with the transition.

''(3) PROTECTIVE CUSTODY UNITS.—The Director—

''(A) shall establish within the Federal prison system additional general population protective custody units that provide sheltered general population housing to protect inmates from harm that they may otherwise be exposed to in a typical general population housing unit;

''(B) shall establish policies to ensure that an inmate who is considered a protection case shall, upon request of the inmate, be placed in a general population protective custody unit;

''(C) shall create an adequate number of general population protective custody units to—

''(i) accommodate the requests of inmates who are considered to be protection cases; and

''(ii) ensure that inmates who are considered to be protection cases are placed in facilities as close to their homes as practicable; and

''(D) may not place an inmate who is considered to be a protection case in solitary confinement due to the status of the inmate as a protection case unless—

''(i) the inmate requests to be placed in solitary confinement, in which case, at the request of the inmate the inmate shall be transferred to a general population protective custody unit or, if appropriate, a different general population unit; or

''(ii) such confinement is limited to—

''(I) not more than 5 days of administrative segregation; and

''(II) is necessary to protect the inmate during preparation for transfer to a general population protective custody unit or a different general population unit.

''(4) VULNERABLE POPULATIONS.—The Bureau of Prisons or any facility that contracts with the Bureau of Prisons shall not place an inmate in solitary confinement if—

''(A) the inmate has a serious mental illness, has an intellectual disability, has a physical disability that a licensed medical professional finds is likely to be exacerbated by placement in solitary confinement, is pregnant or in the first 8 weeks of the postpartum recovery period after giving birth, or has been determined by a licensed mental health professional to likely be significantly adversely affected by placement in solitary confinement, unless—

''(i) the inmate poses a substantial and immediate threat;

''(ii) all other options to de-escalate the situation have been exhausted, including less restrictive techniques such as—

''(I) penalizing the inmate through loss of privileges;

''(II) speaking with the inmate in an attempt to de-escalate the situation; and

''(III) a licensed mental health professional providing an appropriate level of care;

''(iii) such confinement is limited to the briefest term and the least restrictive conditions practicable, including access to medical and mental health treatment;

''(iv) such confinement is reviewed by a multidisciplinary staff committee for appropriateness every 24 hours; and

''(v) as soon as practicable, but not later than 5 days after such confinement begins, the inmate is diverted, upon release from solitary confinement, to—

''(I) a general population unit;

''(II) a protective custody unit described in paragraph (3); or

''(III) a mental health treatment program as described in subsection (c)(2);

''(B) the inmate is lesbian, gay, bisexual, transgender (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), intersex (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), or gender nonconforming (as defined in section 115.5 of title 28, Code of Federal Regulations, or any successor thereto), when such placement is solely on the basis of such identification or status; or

''(C) the inmate is HIV positive, if the placement is solely on the basis of the HIV positive status of the inmate.

''(5) SPECIAL HOUSING UNITS.—The Director shall—

''(A) limit administrative segregation—

''(i) to situations in which such segregation is necessary to—

''(I) control a substantial and immediate threat that cannot be addressed through alternative housing; or

''(II) temporarily house an inmate pending transfer, pending classification, or pending resolution of another temporary administrative matter; and

''(ii) to a duration of not more than 15 consecutive days, and not more than 20 days in a 60-day period, unless—

''(I) the inmate requests to remain in administrative segregation under paragraph (3)(D)(i); or

''(II) in order to address the continued existence of a substantial and immediate threat, a multidisciplinary staff committee approves a temporary extension, which—

''(aa) may not be longer than 15 days; and

''(bb) shall be reviewed by the multidisciplinary staff committee every 3 days during the period of the extension, in order to confirm the continued existence of the substantial and immediate threat;

''(B) limit disciplinary segregation—

''(i) to situations in which such segregation is necessary to punish an inmate who has been found to have committed a significant and serious disciplinary infraction by a Disciplinary Hearing Officer and alternative sanctions would not adequately regulate the behavior of the inmate; and

''(ii) to a duration of not more than 30 consecutive days, and not more than 40 days in a 60-day period, unless a multidisciplinary staff committee, in consultation with the Disciplinary Hearing Officer who presided over the inmate's disciplinary hearing, determines that the significant and serious disciplinary infraction of which the inmate was found guilty is of such an egregious and violent nature that a longer sanction is appropriate and approves a longer sanction, which—

''(I) may be not more than 60 days in a special housing unit if the inmate has never before been found guilty of a similar significant and serious disciplinary infraction; or

''(II) may be not more than 90 days in a special housing unit if the inmate has previously been found guilty of a similar significant and serious disciplinary infraction;

''(C) ensure that any time spent in administrative segregation during an investigation into an alleged offense is credited as time served for a disciplinary segregation sentence;

''(D) ensure that concurrent sentences are imposed for disciplinary violations arising from the same episode; and

''(E) ensure that an inmate may be released from disciplinary segregation for good behavior before completing the term of the inmate, unless the inmate poses a substantial and immediate threat to the safety of other inmates, staff, or the public.

''(6) SPECIAL MANAGEMENT UNITS.—The Director shall—

''(A) limit segregation in a special management unit to situations in which such segregation is necessary to temporarily house an inmate whose history, behavior, or circumstances require enhanced management approaches that cannot be addressed through alternative housing;

''(B) evaluate whether further reductions to the minimum and maximum number of months an inmate may spend in a special management unit are appropriate on an annual basis;

''(C) ensure that each inmate understands the status of the inmate in the special management unit program and how the inmate may progress through the program; and

''(D) further reduce the minimum and maximum number of months an inmate may spend in a special management unit if the Director determines such reductions are appropriate after evaluations are performed under subparagraph (B).

''(7) ADMINISTRATIVE MAXIMUM FACILITIES.—The Director shall—

''(A) limit segregation in an administrative maximum facility to situations in which such segregation is necessary to—

''(i) implement special administrative measures, as directed by the Attorney General; or

''(ii) house an inmate who poses an ongoing significant and serious threat to the safety of other inmates, staff, or the public that cannot be addressed through alternative housing; and

''(B) issue final approval of referral of any inmate who poses an ongoing significant and serious threat for placement in an Administrative Maximum facility, including the United States Penitentiary Administrative Maximum in Florence, Colorado.

''(8) RIGHT TO REVIEW PLACEMENT IN SOLITARY CONFINEMENT.—The Director shall ensure that each inmate placed in solitary confinement has access to—

''(A) written notice thoroughly detailing the basis for placement or continued placement in solitary confinement not later than 6 hours after the beginning of such placement, including—

''(i) thorough documentation explaining why such confinement is permissible and necessary under paragraph (1); and

''(ii) if an exception under paragraph (2)(A), (3)(D), (4)(A), (4)(B), (5)(A), or (5)(B) is used to justify placement in solitary confinement or

under paragraph (1) to justify increased restrictive conditions in solitary confinement, thorough documentation explaining why such an exception applied;

''(B) a timely, thorough, and continuous review process that—

''(i) occurs within not less than 3 days of placement in solitary confinement, and thereafter at least—

''(I) on a weekly basis for inmates in special housing units;

''(II) on a monthly basis for inmates in special management units; and

''(III) on a monthly basis for inmates at an administrative maximum facility;

''(ii) includes private, face-to-face interviews with a multidisciplinary staff committee; and

''(iii) examines whether—

''(I) placement in solitary confinement was and remains necessary;

''(II) the conditions of confinement comply with this section; and

''(III) whether any exception under paragraph (2)(A), (3)(D), (4)(A), (4)(B), (5)(A), or (5)(B) used to justify placement in solitary confinement or under paragraph (1) used to justify increased restrictive conditions in solitary confinement was and remains warranted;

''(C) a process to appeal the initial placement or continued placement of the inmate in solitary confinement;

''(D) prompt and timely written notice of the appeal procedures; and

''(E) copies of all documents, files, and records relating to the inmate's placement in solitary confinement, unless such documents contain contraband, classified information, or sensitive security-related information.

''(c) MENTAL HEALTH CARE FOR INMATES IN SOLITARY CONFINEMENT.—

''(1) MENTAL HEALTH SCREENING.—Not later than 6 hours after an inmate in the custody of the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody is placed in solitary confinement, the inmate shall receive a comprehensive, face-to-face mental health evaluation by a licensed mental health professional in a confidential setting.

''(2) MENTAL HEALTH TREATMENT PROGRAM.—An inmate diagnosed with a serious mental illness after an evaluation required under paragraph (1)—

''(A) shall not be placed in solitary confinement in accordance with subsection (b)(4); and

''(B) may be diverted to a mental health treatment program within the Bureau of Prisons that provides an appropriate level of care to address the inmate's mental health needs.

''(3) CONTINUING EVALUATIONS.—After each 14-calendar-day period an inmate is held in continuous placement in solitary confinement—

''(A) a licensed mental health professional shall conduct a comprehensive, face-to-face, out-of-cell mental health evaluation of the inmate in a confidential setting; and

''(B) the Director shall adjust the placement of the inmate in accordance with this subsection.

''(4) REQUIREMENT.—The Director shall operate mental health treatment programs in order to ensure that inmates of all security levels with serious mental illness have access to an appropriate level of care.

''(d) TRAINING FOR BUREAU OF PRISONS STAFF.—

''(1) TRAINING.—All employees of the Bureau of Prisons or any facility that contracts with the Bureau of Prisons to provide housing for inmates in Federal custody who interact with inmates on a regular basis shall be required to complete training in—

''(A) the recognition of symptoms of mental illness;

''(B) the potential risks and side effects of psychiatric medications;

''(C) de-escalation techniques for safely managing individuals with mental illness;

''(D) consequences of untreated mental illness;

''(E) the long- and short-term psychological effects of solitary confinement; and

''(F) de-escalation and communication techniques to divert inmates from situations that may lead to the inmate being placed in solitary confinement.

''(2) NOTIFICATION TO MEDICAL STAFF.—An employee of the Bureau of Prisons shall immediately notify a member of the medical or mental health staff if the employee—

''(A) observes an inmate with signs of mental illness, unless such employee has knowledge that the inmate's signs of mental illness have previously been reported; or

''(B) observes an inmate with signs of mental health crisis.

''(e) CIVIL RIGHTS OMBUDSMAN.—

''(1) IN GENERAL.—Within the Bureau of Prisons, there shall be a position of the Civil Rights Ombudsman (referred to in this subsection as the 'Ombudsman') and an Office of the Civil Rights Ombudsman.

''(2) APPOINTMENT.—The Ombudsman shall be appointed by the Attorney General and shall report directly to the Director. The Ombudsman shall have a background in corrections and civil rights and shall have expertise on the effects of prolonged solitary confinement.

''(3) REPORTING.—The Director shall ensure that each Bureau of Prisons facility or any facility that contracts with the Bureau of Prisons provides multiple internal ways for inmates and others to promptly report civil rights violations and violations of this section to the Ombudsman, including—

''(A) not less than 2 procedures for inmates and others to report civil rights violations and violations of this section to an entity or office that is not part of the facility, and that is able to receive and immediately forward inmate reports to the Ombudsman, allowing the inmate to remain anonymous upon request; and

''(B) not less than 2 procedures for inmates and others to report civil rights abuses and violations of this section to the Ombudsman in a confidential manner, allowing the inmate to remain anonymous upon request.

''(4) NOTICE.—The Director shall ensure that each Bureau of Prisons facility or any facility that contracts with the Bureau of Prisons provides inmates with—

''(A) notice of how to report civil rights violations and violations of this section in accordance with paragraph (3), including—

''(i) notice prominently posted in the living and common areas of each such facility;

''(ii) individual notice to inmates at initial intake into the Bureau of Prisons, when transferred to a new facility, and when placed in solitary confinement;

''(iii) notice to inmates with disabilities in accessible formats; and

''(iv) written or verbal notice in a language the inmate understands; and

''(B) notice of permissible practices related to solitary confinement in the Bureau of Prisons, including the requirements of this section.

''(5) FUNCTIONS.—The Ombudsman shall—

''(A) review all complaints the Ombudsman receives;

''(B) investigate all complaints that allege a civil rights violation or violation of this section;

''(C) refer all possible violations of law to the Department of Justice;

''(D) refer to the Director allegations of misconduct involving Bureau of Prisons staff;

''(E) identify areas in which the Bureau of Prisons can improve the Bureau's policies and practices to ensure that the civil rights of inmates are protected;

''(F) identify areas in which the Bureau of Prisons can improve the solitary confinement policies and practices of the Bureau and reduce the use of solitary confinement; and

''(G) propose changes to the policies and practices of the Bureau of Prisons to mitigate problems and address issues the Ombudsman identifies.

''(6) ACCESS.—The Ombudsman shall have unrestricted access to Bureau of Prisons facilities and any facility that contracts with the Bureau of Prisons and shall be able to speak privately with inmates and staff.

''(7) ANNUAL REPORTS.—

''(A) OBJECTIVES.—Not later than December 31 of each year, the Ombudsman shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the activities of the Office of the Ombudsman for the fiscal year ending in such calendar year.

''(B) CONTENTS.—Each report submitted under subparagraph (A)—

''(i) contain full and substantive analysis, in addition to statistical information;

''(ii) identify the recommendations the Office of the Ombudsman has made on addressing reported civil rights violations and violations of this section and reducing the use and improving the practices of solitary confinement in the Bureau of Prisons;

''(iii) contain a summary of problems relating to reported civil rights violations and violations of this section, including a detailed description of the nature of such problems and a breakdown of where the problems occur among Bureau of Prisons facilities and facilities that contract with the Bureau of Prisons;

''(iv) contain an inventory of the items described in clauses (ii) and (iii) for which action has been taken and the result of such action;

''(v) contain an inventory of the items described in clauses (ii) and (iii) for which action remains to be completed and the period during which each item has remained on such inventory;

''(vi) contain an inventory of the items described in clauses (ii) and (iii) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Prisons who is responsible for such inaction;

''(vii) contain recommendations for such legislative or administrative action as may be appropriate to resolve problems identified in clause (iii); and

''(viii) include such other information as the Ombudsman determines necessary.

''(C) SUBMISSION OF REPORTS.—Each report required under this paragraph shall be provided directly to the Committees described in subparagraph (A) without any prior review, comment, or amendment from the Director or any other officer or employee of the Department of Justice or Bureau of Prisons.

''(8) REGULAR MEETINGS WITH THE DIRECTOR OF THE BUREAU OF PRISONS.—The Ombudsman shall meet regularly with the Director to identify problems with reported civil rights violations and the solitary confinement policies and practices of the Bureau of Prisons, including overuse of solitary confinement, and to present recommendations for such administrative action as may be appropriate to resolve problems relating to reported civil

rights violations and the solitary confinement policies and practices of the Bureau of Prisons.

''(9) RESPONSIBILITIES OF BUREAU OF PRISONS.—The Director shall establish procedures requiring that, not later than 3 months after the date on which a recommendation is submitted to the Director by the Ombudsman, the Director or other appropriate employee of the Bureau of Prisons issue a formal response to the recommendation.

''(10) NON-APPLICATION OF THE PRISON LITIGATION REFORM ACT.—Inmate reports sent to the Ombudsman shall not be considered an administrative remedy under section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 303 of title 18, United States Code, is amended by inserting after the item relating to section 4049 the following:

''4051. Solitary confinement.''.

SEC. 3. REASSESSMENT OF INMATE MENTAL HEALTH.

Not later than 180 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall—

(1) assemble a team of licensed mental health professionals, which may include licensed mental health professionals who are not employed by the Bureau of Prisons, to conduct a comprehensive mental health reevaluation for each inmate held in solitary confinement for more than 30 days as of the date of enactment of this Act, including a confidential, face-to-face, out-of-cell interview by a licensed mental health professional; and

(2) adjust the placement of each inmate in accordance with section 4051(c) of title 18, United States Code, as added by section 2.

SEC. 4. DIRECTOR OF BUREAU OF PRISONS.

Section 4041 of title 18, United States Code, is amended—

(1) by inserting ''(a) IN GENERAL.—'' before the ''The Bureau of Prisons shall be''; and

(2) by adding at the end the following:

''(b) OMBUDSMAN.—The Director of the Bureau of Prisons shall—

''(1) meet regularly with the Ombudsman appointed under section 4051(e) to identify how the Bureau of Prisons can address reported civil rights violations and reduce the use of solitary confinement and correct problems in the solitary confinement policies and practices of the Bureau;

''(2) conduct a prompt and thorough investigation of each referral from the Ombudsman under section 4051(e)(5)(D), after each such investigation take appropriate disciplinary action against any Bureau of Prisons employee who is found to have engaged in misconduct or to have violated Bureau of Prisons policy, and notify the Ombudsman of the outcome of each such investigation; and

''(3) establish procedures requiring a formal response by the Bureau of Prisons to any recommendation of the Ombudsman in the annual report submitted under section 4051(e)(6) not later than 90 days after the date on which the report is submitted to Congress.''.

SEC. 5. DATA TRACKING OF USE OF SOLITARY CONFINEMENT.

Section 4047 of title 18, United States Code, is amended by adding at the end the following:

''(d) PRISON SOLITARY CONFINEMENT ASSESSMENTS.—

''(1) IN GENERAL.—Not later than March 31 of each year, the Director of the Bureau of Prisons shall prepare and transmit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives an annual assessment of the use of solitary confinement by the Bureau of Prisons, as defined in section 4051(a).

''(2) CONTENTS.—Each assessment submitted under paragraph (1) shall include—

''(A) the policies and regulations of the Bureau of Prisons, including any changes in policies and regulations, for determining which inmates are placed in each form of solitary confinement, or housing in which an inmate is separated from the general population in use during the reporting period, and a detailed description of each form of solitary confinement in use, including all maximum and high security facilities, all special housing units, all special management units, all Administrative Maximum facilities, including the United States Penitentiary Administrative Maximum in Florence, Colorado, and all Communication Management Units;

''(B) the number of inmates in the custody of the Bureau of Prisons who are housed in each type of solitary confinement for any period and the percentage of all inmates who have spent at least some time in each form of solitary confinement during the reporting period;

''(C) the demographics of all inmates housed in each type of solitary confinement described in subparagraph (A), including race, ethnicity, religion, age, and gender;

''(D) the policies and regulations of the Bureau of Prisons, including any updates in policies and regulations, for subsequent reviews or appeals of the placement of an inmate into or out of solitary confinement;

''(E) the number of reviews of and challenges to each type of solitary confinement placement described in subparagraph (A) conducted during the reporting period and the number of reviews or appeals that directly resulted in a change of placement;

''(F) the general conditions and restrictions for each type of solitary confinement described in subparagraph (A), including the number of hours spent in 'isolation,' or restraint, for each, and the percentage of time these conditions involve single-inmate housing;

''(G) the mean and median length of stay in each form of solitary confinement described in subparagraph (A), based on all individuals released from solitary confinement during the reporting period, including maximum and high security facilities, special housing units, special management units, the Administrative Maximum facilities, including the United States Penitentiary Administrative Maximum in Florence, Colorado, Communication Management Units, and any maximum length of stay during the reporting period;

''(H) the number of inmates who, after a stay of 5 or more days in solitary confinement, were released directly from solitary confinement to the public during the reporting period;

''(I) the cost for each form of solitary confinement described in subparagraph (A) in use during the reporting period, including as compared with the average daily cost of housing an inmate in the general population;

''(J) statistics for inmate assaults on correctional officers and staff of the Bureau of Prisons, inmate-on-inmate assaults, and staff-on-inmate use of force incidents in the various forms of solitary confinement described in subparagraph (A) and statistics for such assaults in the general population;

''(K) the policies for mental health screening, mental health treatment, and subsequent mental health reviews for all inmates, including any update to the policies, and any additional screening, treatment, and monitoring for inmates in solitary confinement;

''(L) a statement of the types of mental health staff that conducted mental health assessments for the Bureau of Prisons during the reporting period, a description of the different positions in the mental health staff of the Bureau of Prisons, and the number of part- and full-time psychologists and psychiatrists employed by the Bureau of Prisons during the reporting period;

''(M) data on mental health and medical indicators for all inmates in solitary confinement, including—

''(i) the number of inmates requiring medication for mental health conditions;

''(ii) the number diagnosed with an intellectual disability;

''(iii) the number diagnosed with serious mental illness;

''(iv) the number of suicides;

''(v) the number of attempted suicides and number of inmates placed on suicide watch;

''(vi) the number of instances of self-harm committed by inmates;

''(vii) the number of inmates with physical disabilities, including blind, deaf, and mobility-impaired inmates; and

''(viii) the number of instances of forced feeding of inmates; and

''(N) any other relevant data.''.

SEC. 6. NATIONAL RESOURCE CENTER ON SOLITARY CONFINEMENT REDUCTION AND REFORM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term ''eligible entity'' means an entity, or a partnership of entities, that has demonstrated expertise in the fields of—

(1) solitary confinement, including the reduction and reform of its use; and

(2) providing technical assistance to corrections agencies on how to reduce and reform solitary confinement.

(b) REQUIREMENTS.—Not later than 180 days after the date of enactment of this Act, the Bureau of Justice Assistance shall enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of establishing a coordinating center for State, local, and Federal corrections systems, which shall conduct activities such as—

(1) provide on-site technical assistance and consultation to Federal, State, and local corrections agencies to safely reduce the use of solitary confinement;

(2) act as a clearinghouse for research, data, and information on the safe reduction of solitary confinement in prisons and other custodial settings, including facilitating the exchange of information between Federal, State, and local practitioners, national experts, and researchers;

(3) create a minimum of 10 learning sites in Federal, State, and local jurisdictions that have already reduced their use of solitary confinement and work with other Federal, State, and local agencies to participate in training, consultation, and other forms of assistance and partnership with these learning sites;

(4) conduct evaluations of jurisdictions that have decreased their use of solitary confinement to determine best practices;

(5) conduct research on the effectiveness of alternatives to solitary confinement, such as step-down or transitional programs, strategies to reintegrate inmates into general population, the role of officers and staff culture in reform efforts, and other research relevant to the safe reduction of solitary confinement;

(6) develop and disseminate a toolkit for systems to reduce the excessive use of solitary confinement;

(7) develop and disseminate an online self-assessment tool for State and local jurisdictions to assess their own use of solitary confinement and identify strategies to reduce its use; and

(8) conduct public webinars to highlight new and promising practices.

(c) ADMINISTRATION.—The program under this section shall be administered by the Bureau of Justice Assistance.

(d) REPORT.—On an annual basis, the coordinating center shall report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on its activities and any changes in solitary confinement policy at the Federal, State, or local level that have resulted from its activities.

(e) DURATION.—The Bureau of Justice Assistance shall enter into a cooperative agreement under this section for 5 years.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated—

(1) to the Director of the Bureau of Prisons such sums as may be necessary to carry out sections 2, 3, 4, and 5, and the amendments made by such sections; and

(2) to the Bureau of Justice Assistance such sums as may be necessary to carry out section 6.

SEC. 8. NOTICE AND COMMENT REQUIREMENT.

The Director of the Bureau of Prisons shall prescribe rules, in accordance with section 553 of title 5, United States Code, to carry out this Act and the amendments made by this Act.

SEC. 9. EFFECTIVE DATE.

Except as otherwise provided, this Act and the amendments made by this Act shall take effect 18 months after the date of enactment of this Act.

By Mr. KAINE (for himself and Mr. WARNER):

S. 725. A bill to change the address of the postal facility designated in honor of Captain Humayun Khan; considered and passed.

S. 725

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

SECTION 1. CAPTAIN HUMAYUN KHAN POST OFFICE.

Section 1(a) of Public Law 115–347 (132 Stat. 5054) is amended by striking ''180 McCormick Road'' and inserting ''2150 Wise Street''.

By Mrs. FEINSTEIN (for herself and Ms. COLLINS):

S. 726. A bill to amend the Federal Food, Drug, and Cosmetic Act to ensure the safety of cosmetics; to the Committee on Health, Education, Labor, and Pensions.

Mrs. FEINSTEIN. Mr. President, I am introducing bipartisan legislation with Senator COLLINS today to improve safety standards on products that affect every single American household. Most people assume that the personal care products they use every day, whether it is shampoo or shaving cream, lotion or make-up, hair dye or deodorant, have up-to-date Federal oversight.

In reality, however, the Food and Drug Administration's authority to do so is sorely outdated. In fact, even though research continues to better inform us on the safety of ingredients used in products that we absorb through our bodies, skin and even our nails, regulation of these ingredients have not kept up and little has changed over the past eight decades on how we conduct oversight of these products. It is time to modernize our safety oversight and correct this problem.

Over the last several years, Senator COLLINS and I have worked with a wide group of stakeholders that represent both industry and consumer groups. Together, we have drafted the Personal Care Products Safety Act with the support of many companies, health experts, and consumer organizations to put commonsense measures in place.

One of the most critical components of this legislation is a process for the FDA to review the safety of ingredients in personal care products. The FDA may limit the quantity of an ingredient, require specific screening protocol to ensure dangerous contaminants aren't present, or require warning labels when needed to alert consumers. If an ingredient is simply unsafe for use under any conditions, the FDA can require that it be banned from use in all personal care products.

Just this week, the FDA announced finding asbestos in several different types of make-up marketed to children and teens at the popular store, Claire's. This is a serious concern that highlights the need for Congress to move quickly to give FDA the tools they need.

Under our bill, the FDA could implement new screening protocols for contaminants like asbestos. Companies would be required to register, so it would be easier to know where products were coming from. FDA would have mandatory recall authority for personal care products like they do for food, and companies would finally be required to report adverse health events.

The Personal Care Products Safety Act is the result of many diverse groups working together with the common goal of modernizing the Federal oversight system to ensure the safest products possible are on the market. These stakeholders include small and large companies, doctors, consumer advocates, patient advocates, scientists, and the Food and Drug Administration.

This legislation recognizes the needs of businesses of all sizes to support their growth while not sacrificing high safety standards that will keep consumers safe and raise the bar for industry standards. Many companies are taking voluntary steps to do the right thing, but it is time for this to be a uniform requirement.

Another shocking example of concern is the ongoing use of formaldehyde, also called methylene glycol when in liquid form. It is used in the popular hair straightening treatment called a Brazilian blowout. During this beauty treatment, formaldehyde is released into the air and can cause shortness of breath, headaches, and dizziness in the short-term. Exposure to formaldehyde long-term has even been linked to cancer.

I am also greatly concerned about safety of salon professionals, who are exposed daily to a variety of chemicals. In addition to reviewing the safety of chemicals they may be exposed to, this legislation ensures that the salon products they use are properly labeled with ingredients and warnings.

This bill will require the Food and Drug Administration to evaluate at least five ingredients per year for safety and use in personal care products. In addition to reviewing the latest scientific and medical studies, the agency will consider how prevalent the ingredient is, the likelihood to exposure, adverse event reports, and information from public comments.

Public input will be critical to the review process. There will be opportunities for companies, scientists, consumer groups, medical professionals, and members of the public to weigh in on not only the safety of particular ingredients but also which ingredients should be a priority for review.

After review, the Food and Drug Administration may deem an ingredient safe, unsafe, or safe under certain uses or under certain conditions. The agency will also have the authority to require warning labels as needed for certain ingredients and limit the amount of an ingredient that may be used in personal care products. For example, some ingredients may only be safe for use by adults or when used by professionals in a salon or spa setting.

The Personal Care Products Safety Act will also require companies to provide the Food and Drug Administration with a list of their products' ingredients and attest to their safety.

The bill recognizes the unique nature of the American handmade cosmetic industry and meets their needs to encourage growth and innovation. This legislation provides flexibility for small businesses, particularly those making low-risk products. And this bill would not increase taxpayer obligations because it is paid for by user fees from the cosmetic industry.

I am pleased to have the support of a broad coalition, including Environmental Working Group, Endocrine Society, National Alliance for Hispanic Health, National Women's Health Network, American Autoimmune Related Diseases Association, March of Dimes, Handmade Cosmetic Alliance, and the following companies that together represent over 90 brands of products: The Estee Lauder Companies, Procter and Gamble, Revlon, Unilever, L'Oreal, Johnson and Johnson, Beautycounter, Makes 3 Organics, SkinOwl, Silk Therapeutics, and S.W. Basics.

I want to thank Senator COLLINS for her support and hard work on this important legislation. I urge my colleagues to join us in supporting this much needed legislation to modernize our outdated regulatory system for personal care products, and I hope the Senate will pass this long overdue legislation this year.

By Mr. SCHUMER (for himself, Mr. CARPER, Mr. REED, Mr. VAN HOLLEN, Mr. WHITEHOUSE, Mr. MARKEY, Mr. SCHATZ, Ms. SMITH, Mr. BLUMENTHAL, Mrs. SHAHEEN, Mr. BOOKER, Ms. STABENOW, Ms. KLOBUCHAR, Ms.

HASSAN, Mr. MERKLEY, and Mrs. FEINSTEIN):

S. 729. A bill to prohibit the use of funds to Federal agencies to establish a panel, task force, advisory committee, or other effort to challenge the scientific consensus on climate change, and for other purposes; read the first time.

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

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

S. 729

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

SECTION 1. PROHIBITION ON USE OF FUNDS TO CHALLENGE SCIENTIFIC CONSENSUS ON CLIMATE CHANGE.

No amounts appropriated or otherwise made available to a Federal agency (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) and including the Executive Office of the President) may be used to establish or operate a panel, task force, other advisory committee, or other effort intended to challenge the scientific consensus on climate change, as presented in the assessment required under section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936).

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 99—EXPRESSING THE SENSE OF THE SENATE THAT CONGRESS SHOULD TAKE ALL APPROPRIATE MEASURES TO ENSURE THAT THE UNITED STATES POSTAL SERVICE REMAINS AN INDEPENDENT ESTABLISHMENT OF THE FEDERAL GOVERNMENT AND IS NOT SUBJECT TO PRIVATIZATION

Mr. PETERS (for himself, Mr. MORAN, Mr. CARPER, Ms. MURKOWSKI, Ms. SMITH, Ms. COLLINS, Mr. JONES, Mr. SULLIVAN, Mr. SANDERS, Mr. BLUNT, Mr. WHITEHOUSE, Mr. ROBERTS, Mr. KING, Mr. VAN HOLLEN, Ms. HARRIS, Mr. UDALL, Mr. REED, Ms. BALDWIN, Mrs. SHAHEEN, Ms. DUCKWORTH, Ms. SINEMA, Mr. KAINE, Mr. TESTER, Ms. ROSEN, and Ms. HASSAN) submitted the following resolution; which was referred to the Committee on Homeland Security and Governmental Affairs:

S. RES. 99

Whereas Congress has the authority to establish post offices and post roads under clause 7 of section 8 of article I of the Constitution of the United States;

Whereas the United States Postal Service is a self-sustaining, independent establishment that relies on revenue derived from the sale of postal services and products, not on taxpayer funds;

Whereas more than 503,000 career employees work for the United States Postal Service, including more than 105,000 military veterans;

Whereas the United States Postal Service is at the center of the mailing industry, which generates $1,400,000,000,000 annually and employs approximately 7,500,000 individuals in the United States;

Whereas the United States Postal Service serves the needs of approximately 157,000,000 business and residential customers not fewer than 6 days per week, maintains an affordable and universal network, and connects the rural, suburban, and urban communities of the United States;

Whereas the United States Postal Service is consistently the highest-rated agency of the Federal Government in nonpartisan opinion polls;

Whereas the United States Postal Service is the second largest employer of veterans in the United States;

Whereas the employees of the United States Postal Service—

(1) are dedicated public servants who do more than process and deliver the mail of the people of the United States; and

(2) serve as the eyes and ears of the communities of the United States and often respond first in situations involving health, safety, and crime in those communities; and

Whereas the privatization of the United States Postal Service would—

(1) result in higher prices and reduced services for the customers of the United States Postal Service, especially in rural communities;

(2) jeopardize the booming e-commerce sector; and

(3) cripple a major part of the critical infrastructure of the United States: Now, therefore, be it

Resolved, That it is the sense of the Senate that Congress should take all appropriate measures to ensure that the United States Postal Service remains an independent establishment of the Federal Government and is not subject to privatization, in whole or in part.

SENATE RESOLUTION 100—RECOGNIZING THE HERITAGE, CULTURE, AND CONTRIBUTIONS OF AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN WOMEN IN THE UNITED STATES

Ms. MURKOWSKI (for herself, Mr. UDALL, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Ms. CANTWELL, Ms. CORTEZ MASTO, Mr. DAINES, Ms. DUCKWORTH, Ms. HARRIS, Mr. HEINRICH, Ms. HIRONO, Mr. HOEVEN, Mr. KAINE, Mr. KING, Ms. KLOBUCHAR, Mr. LANKFORD, Ms. MCSALLY, Mr. MERKLEY, Mr. MORAN, Mrs. MURRAY, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Ms. SMITH, Mr. TESTER, Ms. WARREN, and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 100

Whereas the United States celebrates National Women's History Month every March to recognize and honor the achievements of women throughout the history of the United States;

Whereas an estimated 3,081,000 American Indian, Alaska Native, and Native Hawaiian women live in the United States;

Whereas American Indian, Alaska Native, and Native Hawaiian women helped shape the history of their communities, Tribes, and the United States;

Whereas American Indian, Alaska Native, and Native Hawaiian women contribute to their communities, Tribes, and the United States through work in many industries, including business, education, science, medicine, literature, fine arts, military service, and public service;

Whereas American Indian, Alaska Native, and Native Hawaiian women have fought to defend and protect the sovereign rights of Native Nations;

Whereas American Indian, Alaska Native, and Native Hawaiian women have demonstrated resilience and courage in the face of a history of threatened existence, constant removals, and relocations;

Whereas more than 6,000 American Indian, Alaska Native, and Native Hawaiian women bravely serve as members of the United States Armed Forces;

Whereas more than 17,000 American Indian, Alaska Native, and Native Hawaiian women are veterans who have made lasting contributions to the United States military;

Whereas American Indian, Alaska Native, and Native Hawaiian women broke down historical gender barriers to enlistment in the military, including—

(1) Inupiat Eskimo sharpshooter Laura Beltz Wright of the Alaska Territorial Guard during World War II; and

(2) Minnie Spotted Wolf of the Blackfeet Tribe, the first Native American woman to enlist in the United States Marine Corps in 1943;

Whereas American Indian, Alaska Native, and Native Hawaiian women have made the ultimate sacrifice for the United States, including Lori Ann Piestewa, a member of the Hopi Tribe and the first woman in the United States military killed in the Iraq War in 2003;

Whereas American Indian, Alaska Native, and Native Hawaiian women have contributed to the economic development of Native Nations and the United States as a whole, including Elouise Cobell of the Blackfeet Tribe, a recipient of the Presidential Medal of Freedom, who—

(1) served as the treasurer of her Tribe;

(2) founded the first Tribally owned national bank; and

(3) led the fight against Federal mismanagement of funds held in trust for more than 500,000 Native Americans;

Whereas American Indian, Alaska Native, and Native Hawaiian women own an estimated 154,900 businesses;

Whereas these Native women-owned businesses employ more than 50,000 workers and generate over $10,000,000,000 in revenues as of 2016;

Whereas American Indian and Alaska Native women have opened an average of more than 17 new businesses each day since 2007;

Whereas American Indian, Alaska Native, and Native Hawaiian women have made significant contributions to the field of medicine, including Susan La Flesche Picotte of the Omaha Tribe, who is widely acknowledged as the first Native American to earn a medical degree;

Whereas American Indian, Alaska Native, and Native Hawaiian women have contributed to important scientific advancements, including—

(1) Floy Agnes Lee of Santa Clara Pueblo, who—

(A) worked on the Manhattan Project during World War II; and

(B) pioneered research on radiation biology and cancer; and

(2) Native Hawaiian Isabella Kauakea Yau Yung Aiona Abbott, who—

(A) was the first woman on the biological sciences faculty at Stanford University; and

(B) was awarded the highest award in marine botany from the National Academy of Sciences, the Gilbert Morgan Smith medal, in 1997;

Whereas American Indian, Alaska Native, and Native Hawaiian women have achieved distinctive honors in the art of dance, including Maria Tall Chief of the Osage Nation the first major prima ballerina of the United