

Food, Drug, and Cosmetic Act to prohibit the approval of new abortion drugs, to prohibit investigational use exemptions for abortion drugs, and to impose additional regulatory requirements with respect to previously approved abortion drugs, and for other purposes.

S. 3189

At the request of Mr. WARNER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3189, a bill to use proceeds from spectrum auctions to support supply chain innovation and multilateral security.

S. 3418

At the request of Ms. KLOBUCHAR, her name was added as a cosponsor of S. 3418, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to allow the Administrator of the Federal Emergency Management Agency to provide capitalization grants to States to establish revolving funds to provide hazard mitigation assistance to reduce risks from disasters and natural hazards, and other related environmental harm.

S. 3612

At the request of Mr. CORNYN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3612, a bill to clarify for purposes of the Internal Revenue Code of 1986 that receipt of coronavirus assistance does not affect the tax treatment of ordinary business expenses.

S. 4730

At the request of Ms. CORTEZ MASTO, the name of the Senator from Indiana (Mr. YOUNG) was added as a cosponsor of S. 4730, a bill to amend title 31, United States Code, to require the Secretary of the Treasury to mint and issue quarter dollars in commemoration of the Nineteenth Amendment, and for other purposes.

S. 4860

At the request of Mr. PORTMAN, the names of the Senator from Ohio (Mr. BROWN) and the Senator from Nevada (Ms. ROSEN) were added as cosponsors of S. 4860, a bill to exempt payments made from the Railroad Unemployment Insurance Account from sequestration under the Balanced Budget and Emergency Deficit Control Act of 1985.

S. 4927

At the request of Mr. KING, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 4927, a bill to exclude EIDL advance amounts from the calculation of loan forgiveness under the paycheck protection program, and for other purposes.

S. 4935

At the request of Mr. WYDEN, the name of the Senator from Nevada (Ms. ROSEN) was added as a cosponsor of S. 4935, a bill to provide continued assistance to unemployed workers.

S. 4966

At the request of Mrs. CAPITO, the names of the Senator from Iowa (Mr.

GRASSLEY) and the Senator from Iowa (Ms. ERNST) were added as cosponsors of S. 4966, a bill to amend the Internal Revenue Code of 1986 to provide for a 5-year extension of the carbon oxide sequestration credit, and for other purposes.

S. RES. 774

At the request of Mr. BOOZMAN, the names of the Senator from Mississippi (Mrs. HYDE-SMITH) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. Res. 774, a resolution honoring the United Nations World Food Programme on the occasion of being awarded the 2020 Nobel Peace Prize.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2705. Mr. MCCONNELL (for Mr. THUNE) proposed an amendment to the bill S. 2597, to require the National Oceanic and Atmospheric Administration to make certain operational models available to the public, and for other purposes.

SA 2706. Mr. MCCONNELL (for Mr. WICKER) proposed an amendment to the bill H.R. 4704, to direct the Director of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding of issues that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability.

SA 2707. Mr. MCCONNELL (for Mr. ALEXANDER) proposed an amendment to the bill S. 1636, to amend the Federal Food, Drug, and Cosmetic Act with respect to the scope of new chemical exclusivity.

## TEXT OF AMENDMENTS

SA 2705. Mr. MCCONNELL (for Mr. THUNE) proposed an amendment to the bill S. 2597, to require the National Oceanic and Atmospheric Administration to make certain operational models available to the public, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Learning Excellence and Good Examples from New Developers Act of 2020” or the “LEGEND Act of 2020”.

### SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term “Administration” means the National Oceanic and Atmospheric Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

(3) EARTH PREDICTION INNOVATION CENTER.—The term “Earth Prediction Innovation Center” means the community global weather research modeling system described in paragraph (5)(E) of section 102(b) of the Weather Research Forecasting and Innovation Act of 2017 (15 U.S.C. 8512(b)), as redesignated by section 4(g).

(4) MODEL.—The term “model” means any vetted numerical model and associated data assimilation of the Earth’s system or its components—

(A) developed, in whole or in part, by scientists and engineers employed by the Administration; or

(B) otherwise developed using Federal funds.

(5) OPERATIONAL MODEL.—The term “operational model” means any model that has an output used by the Administration for operational functions.

(6) SUITABLE MODEL.—The term “suitable model” means a model that meets the requirements described in paragraph (5)(E)(ii) of section 102(b) of the Weather Research Forecasting and Innovation Act of 2017 (15 U.S.C. 8512(b)), as redesignated by section 4(g), as determined by the Administrator.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to support innovation in modeling by allowing interested stakeholders to have easy and complete access to the models used by the Administration, as the Administrator determines appropriate; and

(2) to use vetted innovations arising from access described in paragraph (1) to improve modeling by the Administration.

### SEC. 4. PLAN AND IMPLEMENTATION OF PLAN TO MAKE CERTAIN MODELS AND DATA AVAILABLE TO THE PUBLIC.

(a) IN GENERAL.—The Administrator shall develop and implement a plan to make available to the public the following:

(1) Operational models developed by the Administration.

(2) Models that are not operational models, including experimental and developmental models, as the Administrator determines appropriate.

(3) Applicable information and documentation for models described in paragraphs (1) and (2).

(4) Subject to section 7, all data owned by the Federal Government and data that the Administrator has the legal right to redistribute that are associated with models made available to the public pursuant to the plan and used in operational forecasting by the Administration, including—

(A) relevant metadata;

(B) data used for operational models used by the Administration as of the date of the enactment of this Act; and

(C) a description of intended model outputs.

(b) ACCOMMODATIONS.—In developing and implementing the plan under subsection (a), the Administrator may make such accommodations as the Administrator considers appropriate to ensure that the public release of any model, information, documentation, or data pursuant to the plan under subsection (a) does not jeopardize—

(1) national security;

(2) intellectual property or redistribution rights, including under titles 17 and 35, United States Code;

(3) any trade secret or commercial or financial information subject to section 552(b)(4) of title 5, United States Code;

(4) any models or data that are otherwise restricted by contract or other written agreement; or

(5) the mission of the Administration to protect lives and property.

(c) PRIORITY.—In developing and implementing the plan under subsection (a), the Administrator shall prioritize making available to the public the models described in subsection (a)(1).

(d) EXCLUSION OF CERTAIN MODELS.—In developing and implementing the plan under subsection (a), the Administrator may exclude models that the Administrator determines will be retired or superseded in fewer than 5 years after the date of the enactment of this Act.

(e) PLATFORMS.—In carrying out subsections (a) and (b), the Administrator may

use government servers, contracts or agreements with a private vendor, or any other platform consistent with the purpose of this Act.

(f) **SUPPORT PROGRAM.**—The Administrator shall plan for and establish a program to support infrastructure, including telecommunications and technology infrastructure of the Administration and the platforms described in subsection (e), relevant to making operational models and data available to the public pursuant to the plan under subsection (a).

(g) **TECHNICAL CORRECTION.**—Section 102(b) of the Weather Research Forecasting and Innovation Act of 2017 (15 U.S.C. 8512(b)) is amended by redesignating the second paragraph (4) (as added by section 4(a) of the National Integrated Drought Information System Reauthorization Act of 2018 (Public Law 115-423; 132 Stat. 5456)) as paragraph (5).

## **SEC. 5. REQUIREMENT TO REVIEW MODELS AND LEVERAGE INNOVATIONS.**

The Administrator shall—

(1) consistent with the mission of the Earth Prediction Innovation Center, periodically review innovations and improvements made by persons outside the Administration to the operational models made available to the public pursuant to the plan under section 4(a) in order to improve the accuracy and timeliness of forecasts of the Administration; and

(2) if the Administrator identifies an innovation for a suitable model, develop and implement a plan to use the innovation to improve the model.

## **SEC. 6. REPORT ON IMPLEMENTATION.**

(a) **IN GENERAL.**—Not later than 2 years after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report on the implementation of this Act that includes a description of—

(1) the implementation of the plan required by section 4;

(2) the process of the Administration under section 5—

(A) for engaging with interested stakeholders to learn what innovations those stakeholders have found;

(B) for reviewing those innovations; and

(C) for operationalizing innovations to improve suitable models.

(b) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate; and

(2) the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives.

## **SEC. 7. PROTECTION OF NATIONAL SECURITY INTERESTS.**

(a) **IN GENERAL.**—Notwithstanding any other provision of this Act, the Administrator, in consultation with the Secretary of Defense, as appropriate, may withhold any model or data if the Administrator determines doing so to be necessary to protect the national security interests of the United States.

(b) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to supersede any other provision of law governing the protection of the national security interests of the United States.

**SA 2706.** Mr. MCCONNELL (for Mr. WICKER) proposed an amendment to the bill H.R. 4704, to direct the Director of the National Science Foundation to support multidisciplinary research on the science of suicide, and to advance the knowledge and understanding of

issues that may be associated with several aspects of suicide including intrinsic and extrinsic factors related to areas such as wellbeing, resilience, and vulnerability; as follows:

Strike all after the enacting clause and insert the following:

### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Advancing Research to Prevent Suicide Act”.

### **SEC. 2. FINDINGS.**

Congress finds the following:

(1) The rate of Americans dying by suicide is on the rise, increasing 10.7 to 14.0 deaths per 100,000 people from 2001 to 2017.

(2) Suicide is the tenth-leading cause of death among people in the United States and the second-leading cause of death for young people between the ages of 15 and 34.

(3) The National Science Foundation funds research that is improving our basic understanding of factors with potential relevance to suicide, including potential relevance to prevention and treatment.

(4) Despite progress in mental health research, current gaps exist in scientific understanding and basic knowledge of human neural, genetic, cognitive, perceptual, behavioral, social, and environmental factors with potential relevance to suicide.

### **SEC. 3. NATIONAL SCIENCE FOUNDATION RESEARCH.**

(a) **IN GENERAL.**—The Director of the National Science Foundation, in consultation with the Director of the National Institutes of Health and the Director of the National Institute of Mental Health and taking into consideration prioritized research agendas or strategic plans, as appropriate, shall, subject to the availability of appropriations, award grants on a competitive, merit-reviewed basis to institutions of higher education (or consortia of such institutions) to support multidisciplinary, fundamental research with potential relevance to suicide, including potential relevance to prevention and treatment, including, but not limited to—

(1) basic understanding of human social behavior;

(2) the neural basis of human cognition;

(3) basic understanding of cognitive, linguistic, social, cultural, and biological processes related to human development across the lifespan;

(4) basic understanding of perceptual, motor, and cognitive processes, and their interaction, in typical human behavior; and

(5) basic understanding of the relevance of drug and alcohol abuse.

(b) **ENCOURAGING APPLICATIONS FROM EARLY CAREER RESEARCHERS.**—To promote the development of early career researchers, in awarding funds under subsection (a), the Director of the National Science Foundation shall encourage applications submitted by early career researchers, including doctoral students or postdoctoral researchers.

**SA 2707.** Mr. MCCONNELL (for Mr. ALEXANDER) proposed an amendment to the bill S. 1636, to amend the Federal Food, Drug, and Cosmetic Act with respect to the scope of new chemical exclusivity; as follows:

Strike all after the enacting clause and insert the following:

### **SECTION 1. CLARIFYING THE MEANING OF NEW CHEMICAL ENTITY.**

(a) **IN GENERAL.**—Chapter V of the Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 505 (21 U.S.C. 355)—

(A) in subsection (c)(3)(E), by striking “active ingredient (including any ester or salt of the active ingredient)” each place it appears and inserting “active moiety (as defined by

the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”;

(B) in subsection (j)(5)(F), by striking “active ingredient (including any ester or salt of the active ingredient)” each place it appears and inserting “active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”;

(C) in subsection (1)(2)(A)—

(i) by amending clause (i) to read as follows:

“(i) not later than 30 days after the date of approval of such applications—

“(I) for a drug, no active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations)) of which has been approved in any other application under this section; or

“(II) for a biological product, no active ingredient of which has been approved in any other application under section 351 of the Public Health Service Act; and”;

(ii) in clause (ii), by inserting “or biological product” before the period;

(D) by amending subsection (s) to read as follows:

“(s) **REFERRAL TO ADVISORY COMMITTEE.**—The Secretary shall—

“(1) refer a drug or biological product to a Food and Drug Administration advisory committee for review at a meeting of such advisory committee prior to the approval of such drug or biological if it is—

“(A) a drug, no active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations)) of which has been approved in any other application under this section; or

“(B) a biological product, no active ingredient of which has been approved in any other application under section 351 of the Public Health Service Act; or

“(2) if the Secretary does not refer a drug or biological product described in paragraph (1) to a Food and Drug Administration advisory committee prior to such approval, provide in the action letter on the application for the drug or biological product a summary of the reasons why the Secretary did not refer the drug or biological product to an advisory committee prior to approval.”; and

(E) in subsection (u)(1), in the matter preceding subparagraph (A)—

(i) by striking “active ingredient (including any ester or salt of the active ingredient)” and inserting “active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”; and

(ii) by striking “same active ingredient” and inserting “same active moiety”;

(2) in section 512(c)(2)(F) (21 U.S.C. 360b(c)(2)(F)), by striking “active ingredient (including any ester or salt of the active ingredient)” each place it appears and inserting “active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations))”;

(3) in section 524(a)(4) (21 U.S.C. 360n(a)(4)), by amending subparagraph (C) to read as follows:

“(C) is for—

“(i) a human drug, no active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations)) of which has been approved in any other application under section 505(b)(1); or

“(ii) a biological product, no active ingredient of which has been approved in any other application under section 351 of the Public Health Service Act.”;

(4) in section 529(a)(4) (21 U.S.C. 21 U.S.C. 360ff(a)(4)), by striking subparagraphs (A) and (B) and inserting the following:

“(A) is for a drug or biological product that is for the prevention or treatment of a rare pediatric disease;

“(B)(i) is for such a drug—

“(I) that contains no active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations)) that has been previously approved in any other application under subsection (b)(1), (b)(2), or (j) of section 505; and

“(II) that is the subject of an application submitted under section 505(b)(1); or

“(ii) is for such a biological product—

“(I) that contains no active ingredient that has been previously approved in any other application under section 351(a) or 351(k) of the Public Health Service Act; and

“(II) that is the subject of an application submitted under section 351(a) of the Public Health Service Act;” and

(5) in section 565A(a)(4) (21 U.S.C. 360bbb-4a(a)(4)), by amending subparagraph (D) to read as follows:

“(D) is for—

“(i) a human drug, no active moiety (as defined by the Secretary in section 314.3 of title 21, Code of Federal Regulations (or any successor regulations)) of which has been approved in any other application under section 505(b)(1); or

“(ii) a biological product, no active ingredient of which has been approved in any other application under section 351 of the Public Health Service Act.”

(b) TECHNICAL CORRECTIONS.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq) is amended—

(1) in section 505 (21 U.S.C. 355)—

(A) in subsection (c)(3)(E), by repealing clause (i); and

(B) in subsection (j)(5)(F), by repealing clause (i); and

(2) in section 505A(c)(1)(A)(i)(II) (21 U.S.C. 355a(c)(1)(A)(i)(II)), by striking “(c)(3)(D)” and inserting “(c)(3)(E)”.

## LEARNING EXCELLENCE AND GOOD EXAMPLES FROM NEW DEVELOPERS ACT OF 2019

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 514, S. 2597.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read, as follows:

A bill (S. 2597) to require the National Oceanic and Atmospheric Administration to make certain operational models available to the public, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted is shown in italics.)

S. 2597

*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 “Learning Excellence and Good Examples from New Developers Act of 2019” or the “LEGEND Act of 2019”.

### SEC. 2. DEFINITIONS.

In this Act:

(1) ADMINISTRATION.—The term “Administration” means the National Oceanic and Atmospheric Administration.

(2) ADMINISTRATOR.—The term “Administrator” means the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.

(3) MODEL.—The term “model” means any numerical model of the Earth’s system or its components produced by scientists employed by the Administration.

(4) OPERATIONAL MODEL.—The term “operational model” means any model that has an output used by the Administration for operational or public service functions.

(5) OPEN SOURCE CODE.—The term “open source code” means computer code or programming language that is available for public use or modification.

### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to support innovation in modeling by allowing interested stakeholders to have easy and complete access to the models used by the Administration; and

(2) to use vetted innovations arising from access provided under paragraph (1) to improve modeling by the Administration.

### SEC. 4. REQUIREMENT TO MAKE CERTAIN OPERATIONAL MODELS AVAILABLE TO THE PUBLIC.

(a) IN GENERAL.—The Administrator shall make available to the public the following:

(1) Current and future operational models developed by the Administration, in the form of open source code for a period consistent with applicable records retention requirements.

(2) All Government-owned data, subject to redistribution rights, associated with such models and used in operational forecasting by the Administration, including—

(A) relevant metadata;

(B) data used for current operational forecasts; and

(C) a description of intended model outputs.

(b) DISCRETION TO MAKE EXPERIMENTAL OR DEVELOPMENT MODELS AVAILABLE.—The Administrator may make experimental or developmental models associated with development projects funded by the Administration available to the public as open source code.

(c) PLATFORM.—In carrying out subsections (a) and (b), the Administrator may use government servers, contracts or agreements with a private vendor, or any other platform consistent with the purpose of this Act.

(d) TECHNICAL CORRECTION.—Section 102(b) of the Weather Research Forecasting and Innovation Act of 2017 (15 U.S.C. 8512(b)) is amended by redesignating the second paragraph (4) (as added by section 4(a) of the National Integrated Drought Information System Reauthorization Act of 2018 (Public Law 115-423)) as paragraph (5).

(e) PHASED IMPLEMENTATION.—

(1) IMMEDIATE EFFECT FOR CERTAIN MODELS.—For operational models that, as of the date of the enactment of this Act, meet the requirements described in paragraph (5)(E)(ii) of section 102(b) of the Weather Research Forecasting and Innovation Act of 2017 (15 U.S.C. 8512(b)), as redesignated by subsection (d), the Administrator shall implement the requirements of subsection (a) as soon as practicable after such date of enactment.

(2) NEW MODELS.—For operational models that meet the requirements described in paragraph (1) and are created or substantially updated after the date of the enactment of this Act, the Administrator shall implement the requirements of subsection

(a) not later than 1 year after such date of enactment.

### SEC. 5. REQUIREMENT TO REVIEW MODELS AND LEVERAGE INNOVATIONS.

The Administrator shall—

(1) consistent with the mission of the Earth Prediction Innovation Center, periodically review innovations and improvements made by persons outside the Administration to the operational models made available to the public under section 4 in order to improve the accuracy and timeliness of forecasts of the Administration; and

(2) if the Administrator identifies an innovation for such a model the Administrator considers suitable, develop and implement a plan to use the innovation to improve the model.

### SEC. 6. REPORT ON IMPLEMENTATION.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall submit to the appropriate congressional committees a report on the implementation of this Act that includes a description of—

(1) how operational models have been made publicly available as required by section 4(a); and

(2) the process of the Administration under section 5—

(A) for engaging with interested stakeholders to learn what innovations those stakeholders have found;

(B) for reviewing those innovations; and

(C) for operationalizing innovations the Administrator considers suitable.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate; and

(2) the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives.

### SEC. 7. PROTECTION OF NATIONAL SECURITY INTERESTS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Administrator may withhold models or data used in operational weather forecasting if the Administrator determines doing so to be necessary to protect the national security interests of the United States.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to supersede any other provision of law governing the protection of the national security interests of the United States.

### [SEC. 8. AUTHORIZATION OF APPROPRIATIONS.]

There are authorized to be appropriated to the Administration for each of fiscal years 2021 through 2026 such sums as may be necessary to carry out this Act.]

### SEC. 8. FUNDING.

*The Administrator shall carry out this Act using amounts available to the Administrator for fiscal years 2021 through 2026.*

Mr. McCONNELL. I ask unanimous consent that the committee-reported amendment be withdrawn; that the Thune substitute amendment at the desk be agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

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

The committee-reported amendment was withdrawn.

The amendment (No. 2705), in the nature of a substitute, was agreed to, as follows: